

**QUESTION TO BE ASKED OF THE PRESIDENT OF THE HOME AFFAIRS COMMITTEE ON
TUESDAY 18th MARCH 2003, BY SENATOR P.V.F. LE CLAIRE**

Question

Would the President advise members –

- (a) whether there are any restrictions on Polish workers taking their driving tests in Jersey, and, if so, why such restrictions apply?;
- (b) whether there are any restrictions on other foreign workers taking their driving tests in Jersey, and, if so, which nationalities are concerned? and,
- (d) whether the Committee sought legal advice confirming that any such restrictions do not contravene Human Rights legislation, and, if so, what this legal advice stated?

Answer

- (a) In order to undertake a driving test a candidate has to obtain a Jersey provisional licence. In order to obtain a Jersey provisional licence the applicant must apply to the parochial authority on the prescribed application form under Article 2 of the Motor Vehicles (Driving Licences) (Jersey) Order 2003. The prescribed application form, (Schedule 2 of the same order), requires the applicant to provide a permanent Jersey address.

In common with other countries, Jersey only issues provisional and full licences to permanent residents. Polish workers who work in the Island as seasonal labour can only do so for a maximum period of nine months and are here on immigration permit, so, therefore, are not permanent residents.

- (b) This restriction is not placed only on Polish workers as all non EEA (European Economic Area) citizens are subject to immigration controls and are not normally entitled to take up permanent residence and therefore not entitled to hold a Jersey licence. In the case of Polish and all non EEA workers, they cannot become residents without immigration clearance. In the event of being allowed to remain for longer than 12 months they become entitled and, indeed must, obtain a Jersey licence. As Polish licences are not exchangeable the prescribed Jersey test would have to be passed.

Those who are working for the season on permit are entitled to drive in the island on their own country's licence. If the employer wished his/her worker to drive as part of his/her employment he/she should perhaps first have checked that a licence was held by that employee.

- (c) As Human Rights legislation has yet to be implemented in the Island, advice was sought from the DVLA in Swansea as this legislation has been in force in the UK for over a year. The advice received was that there is no definitive right to drive.

As a result of the Senator's question additional clarification is being sought from the Law Officers' Department.