

## **2.7 Deputy G.P. Southern of the Minister for Economic Development regarding licences granted under the Regulation of Undertakings and Development (Jersey) Law 1973 for construction contracts of between 3 and 12 months in 2011:**

Will the Minister inform members which 20 companies were issued licences under the Regulation of Undertakings and Development (Jersey) Law 1973 for construction contracts of between 3 and 12 months in 2011, and indicate what building projects these were for and how many locally qualified and non-locally qualified employees were approved under each licence?

### **Senator A.J.H. Maclean (The Minister for Economic Development):**

I am going to disappoint the Deputy because I cannot name the 20 companies or the number of employees per entity. My department has been asked this question before and has previously sought legal advice on this type of disclosure. The advice confirmed that although no statutory prohibition exists in disclosing licence information there is, and I quote: "Implied duty of confidentiality in respect of information obtained in the exercise of information obtained in the exercise of statutory functions can, and in the case of the Regulation of Undertakings and Development (Jersey) Law, does exist." The advice goes on to say that this duty of confidentiality is greater when it comes to more sensitive data. To my mind these details relate to people who have been employed by specific undertakings. However, what I can tell Members is that much of the work undertaken by these 20 companies was largely subcontracting for local main contractors. This involved a total of 140 non-locally qualified individuals during 2011.

### **2.7.1 Deputy G.P. Southern:**

Is the Minister aware that in the construction industry in particular the use of short term contracts and the licences attached to them are the most obvious way of avoiding the R.U.D.L. (Regulation of Undertakings and Development Law) regulations on employment of locals over non-local employees? Will he seek to close this particular avenue which enables companies to get away with not employing locals to do jobs that locals could perfectly well do.

Senator A.J.H. Maclean:

I am always more than happy to look at issues that circumvent the law, as Members would expect. What I can say is that in the construction industry as a whole no more than 7 per cent of total employees are, in fact, non-locally qualified. That is in the construction industry as a whole. That might be surprising to Members but that level of non-locals in the construction industry is lower than many perhaps perceive. But, as I have said, I am more than happy to consider any areas of abuse if they can indeed be proven.

### **2.7.2 Deputy R.G. Le Hérissier:**

Would the Minister not concede that he has, in a sense, hidden behind procedural advice and would he not further accept that given the strong political concern on the issue of training in the industry, the issue of whether there is proper succession planning, proper apprenticeship schemes, *et cetera*, means that he should be talking continually to the big employers and carrying out very rigorous inquiries into their employment policies. There is an awful lot of anecdotal information of which he must be a recipient. Why is he not engaged in ongoing discussion?

Senator A.J.H. Maclean:

The Deputy will be pleased to know that I am and he will also be pleased to know – and perhaps surprised – that it is in fact the larger construction firms that take on board their responsibility with regarding to training, apprenticeships and so on. They do take a high percentage in that regard. If anything, one might say that there is more work to be done with smaller companies. Indeed we engage broadly across the spectrum of the industry to try and improve training skills and to ensure that local people have a fair and good opportunity to get jobs in the construction industry. The level of employment in construction is high at the moment, which I am pleased to say.

Deputy M. Tadier:

I do not need to ask my question now.

### **2.7.3 Deputy J.H. Young:**

In view of the present unemployment situation and the strategic importance of the construction industry to local people, would he not be prepared to take further advice on whether or not the disclosure of this information is an important public policy matter and overrides the provisions which he referred to preventing him from disclosing this? Would he give an undertaking to the House that he will look at the overriding public interest, which I would suggest to him is a data protection exception for disclosure.

Senator A.J.H. Maclean:

This is clearly - and I understand - a sensitive issue. I would say in answer to the Deputy's question that in fact the new Control of Housing and Work Law will indeed give some additional controls, it will also allow for a little bit more flexibility in terms of changing licences and it will also provide for the publication on a register of companies which will give more detail, hopefully to Members and to members of the public.

[10:45]

I think that is a step forward. I do take the Deputy's point but I think if we are going to be more open and more transparent - which I would favour - we can do it in terms of looking forward, not look backwards when obviously companies have been operating under a particular regime and that is the issue and the legal advice that we have had. So looking forward I think we can have a different process to perhaps we have had in the past.

### **2.7.4 Deputy G.P. Southern:**

The Minister misunderstood the thrust of my question, it was not about avoiding the regulations, it was about using the regulations. These are regulations contained in our R.U.D.L. Will the Minister consider tightening up these R.U.D.L. regulations on short-term contracts and will he further explain exactly how the new Control of Housing and Work Law will be used to tighten up in this particular area?

Senator A.J.H. Maclean:

Short term contracts... and I think the Deputy is referring in particular to the 3-12 month contracts. I have mentioned already the subcontractors largely that come into the Island as a result of main contracting work, largely in relation to specialist roles. Obviously when assessing these matters the department has to consider whether or not the expertise is available on-Island for such specialist roles. The department also has to consider whether or not local companies have had an opportunity

to tender, should that expertise exist locally. We are - I would hopefully give some reassurance to the Deputy – tightening-up on the regulation of undertakings. There are, indeed, less non-locally qualified people working in the Island - not just I might add in construction but in many other industries - than there was some considerable time ago. I think that is absolutely right in the current climate. We want to get local people into jobs and it is right that we look carefully in order to do that. The final point, the Deputy asked about the Control of Housing and Work Law: this law does give an opportunity to have more controls and be more transparent, as I have already pointed out. I think with that coming into force, obviously it is going to be towards the end of the year, it does not mean that we should not continue to tighten-up and be responsible in terms of the application of the law as it stands.

Deputy G.P. Southern:

The question was would he issue a document, if you like, explaining how this is going to tighten-up in this particular area, because it obviously needs it, and can he release the figures that show how many of these 140 jobs were, in fact, specialist?

**Senator A.J.H. Maclean:**

Yes, I will.