

2021.09.14

6 Deputy M. Tadier of the Minister for Social Security regarding short-term incapacity allowance for seasonal workers (OQ.194/2021)

Given that eligibility to claim short-term incapacity allowance requires 2 quarters of contributions, what action, if any, is the Minister taking to address the fact that seasonal workers who are only allowed to stay in Jersey for up to 9 months a year are unable to claim this benefit during their first 6 months of work, despite having paid the social security contributions?

Deputy J.A. Martin (The Minister for Social Security):

The same eligibility rules apply to everyone whether they are permanent residents or seasonal workers but Ministers are committed to review all government funding services for migrant workers, including social security contributions and benefits eligible towards the end of 2022 or early 2023.

8.6.1 Deputy M. Tadier:

It is difficult to know how the Minister can commit to doing something after her term of office, so I am more interested in finding out what this Minister and her ministerial colleagues are doing now and will do before the end of this term of office. Can she clarify that she understands this is an issue for seasonal workers who are not allowed to stay longer and therefore will always be in this cycle of not having contributions or getting them perhaps at the last 3 months of their stay, only to come back to the Island potentially next year and find out that they do not have the contributions from the previous 2 quarters because they were not allowed to be in the Island? Can she acknowledge that she recognises that specific issue for a group of workers in Jersey and that it is something that needs to be thought about now and not left to a future set of Ministers who may be different?

Deputy J.A. Martin:

Yes, I do exactly understand, and this was all brought up when I was on the Population Policy Board. People, if they are working 9 months, January to September, and leave, then when they come back they are entitled straight away to 6 months of S.T.I.A. (short-term incapacity allowance). But that is not good enough, we know that, and the work will follow on from the work that we are doing on the migration project, that this will establish a stronger framework for migrant workers. But it is important we do that work first so any benefits are aligned with the migration control that we have changed.

8.6.2 Deputy I. Gardiner:

I would like to ask the Minister to clarify who is currently responsible that the seasonal workers during their first 6 months have their health cover and short-term incapacity allowance?

Deputy J.A. Martin:

Well that is the confusion. So health, there is a slightly different way to get into the health service; again, you have to pay your first 2 quarters before you are allowed to have S.T.I.A., which is your short-term sickness benefit. Education, again, is different; you can go straight into education if you bring children. They all need to align as soon as we have got a proper population policy and we know people are going to be maybe 9 months occasionally or 2 or 3 years and that was all reported in the big, big report on the population policy going forward.

8.6.3 Deputy I. Gardiner:

Apologies, the question was our situation currently who is responsible; if it is the employer or employee responsible to ensure that these seasonal workers have health cover for the first 6 months. I understand it is not us, not the States who will have the reviews, but currently who is responsible: employer or employee?

Deputy J.A. Martin:

If they are employed, which I imagine every single immigrant is working here, especially with the new rules coming through the migration, through Home Affairs, they will have an employer who will pay their part social security and the employee will pay their part social security. Then they will be paid out after it has been paid for 2 quarters.

8.6.4 Deputy R.J. Ward:

Part of my question has been asked but I suppose I would just ask the Minister whether she believes that the current situation is adequate to protect seasonal workers and whether she believes that there does need to be some form of insurance provided for seasonal workers in those first 6 months, particularly if they are manual jobs which may be at risk of injury?

Deputy J.A. Martin:

I can only repeat, this was all discussed on the policy board looking at immigration, population policy. I do not agree that if people are only coming here for a short time and they are going to have an accident in the first few weeks, we need to really readdress this and make sure there could be a type of insurance policy, et cetera, et cetera. But until we change the population policy we know what we are dealing with and then we need to start talking to employers and say: "If you are going to bring these people in, we need to make sure they are insured, they get healthcare straightaway if they have an accident early on" and then they would do away with the S.T.I.A. if it is not. If they are only going to come for one year, it is not really much help for them.

8.6.5 Deputy R.J. Ward:

Does the Minister feel that the current situation being inadequate puts us at risk and is one of the reasons why it is very difficult to attract workers to work in some industries here? It is one of the problems that we have and the industry faces as well.

Deputy J.A. Martin:

I would not say this is the main one that is having difficulty attracting workers here. We have got Brexit, we have got COVID, a lot of people have decided to stay at home, and we have got different rules going through getting a visa which normally these people that are coming through visas now would have just been able to walk back into Jersey. So there are lots of things I would imagine put people off but for us we should make sure that if we are bringing people here they are covered by our Employment Law, they are covered by health. As I say, it will not be done today, we need to do the population policy first, we decide how long people can come for, and then we make sure, when they are here, all the right safeguards are in place.

8.6.6 Senator S.Y. Mézec:

Can the Minister confirm, based on what she said up until this point, that the direction of travel she would like to see us go down is one where at the end, through at least one mechanism or another, seasonal workers in Jersey have protection in some form for instances where they may become incapacitated while they are on-Island irrespective of how long they have been on the Island, how

many times they have been on the Island but that in their moment of need they will not be denied help in some shape or form?

Deputy J.A. Martin:

When I was on the Population Policy Board, yes, this is what was discussed and that would be my preference. I think that was around the table, the majority, I would say, preference. Bring people in, you do not know, especially manual work, you could have a broken leg in the first week, they are our responsibility.

8.6.7 Deputy G.P. Southern:

Does the Minister accept that it is not just this group of workers who are failed by our system but that those people who work zero hours, and might only have 15 or 20 hours for significant periods of time, may well be unable to claim sickness benefit because they have fallen out of the safety net that is set up there for them to apply?

Deputy J.A. Martin:

That may affect some workers, yes, but I was asked about migrant workers. But there are workers, I will call them, in the social security system - we are discussing one later today about the 8-hour rule - people who are not paying in because they only work 8 hours a week. I am running out of time. If the Deputy wants us to have like a complete review again of all the benefits, it will be the next Minister.

8.6.8 Deputy G.P. Southern:

Could the Minister address this issue and state what she might be prepared to do about this in the short term?

Deputy J.A. Martin:

I said, Deputy, I am running out of time. I am not going to reinvent the whole of the short-term and long-term incapacity. There is a piece of work that is ongoing that may be lodged before Christmas but it is in principle and there are lots and lots and lots of laws. I think the Deputy may remember this when he was my Assistant Minister. So I am not saying that it is not being done; it is being done slowly and it needs to be done but I cannot see it being done within the next 6 months.

8.6.9 Deputy M. Tadier:

First of all, can I thank the Minister that she has addressed the question and that she understands it is an issue. Could I ask her to confirm that there is a seriousness around this problem now? We have got seasonal workers who report working very long hours, 70 to 80 hours a week sometimes, in an agricultural setting on the minimum wage, paying their social security contributions, yet being unable to claim any of the benefits that go with that social security contribution and never being able to accrue the time to be able to claim that in the future.

[12:30]

Does the Minister agree with me that this cannot wait for the population policy to be sorted but that there are simple things that can be done now such as conversations with employers in the agricultural sector to establish codes of conduct and an expectation about insurance cover being provided for those workers, perhaps in exchange for a waiver of social security contributions from her department? Is that something she can undertake to do now while she is still in office rather than leaving it to any future iteration of Government who may not share her concerns?

Deputy J.A. Martin:

I think the Deputy is wrong. The Minister or the Assistant Chief Minister who is dealing with population does completely share my concerns and wants to do this very quickly. In the answer to the next question, the Deputy is asking about breaks in employment laws, I think we need to educate the employers who are bringing people in and make sure they know their rights and absolutely the workers know their rights. If it could go to an insurance base very early, that is going to still have to be a discussion. As I say, Health works differently to Social Security. I think as long as you are on the Island for 6 months you automatically will get a doctor and be seen at the hospital. Social Security only helps you come back next year, then you are covered straight away for 6 months. So, it is not good but we need to do more and I am prepared to work with all the Ministers just to even get out there what the rights are of these workers. Something went very wrong this summer, I have been told.