

STATES OF JERSEY



POPULATION AND MIGRATION REVIEW – PART 2 (S.R.2/2013) – RESPONSE OF THE CHIEF MINISTER

**Presented to the States on 5th March 2013
by the Chief Minister**

STATES GREFFE

POPULATION AND MIGRATION REVIEW – PART 2 (S.R.2/2013) – RESPONSE OF THE CHIEF MINISTER

Ministerial Response to: S.R.2/2013
Ministerial Response required by: 2nd April 2013
Review title: Population and Migration Review – Part 2
Scrutiny Panel: Corporate Services Sub-Panel

INTRODUCTION

The Report of the Sub-Panel is firmly welcomed, and the majority of its recommendations accepted as helpful contributions toward creating a more effective and efficient means of limiting immigration.

Some of these recommendations and findings will be incorporated immediately, for example, it is accepted that more resources need to be directed toward compliance and data management functions. This will be facilitated by a streamlining of administration to free up staff for these tasks, and additional staff as required, funded through fees.

Other recommendations will form the basis of a post-implementation review of the Law, with a view to making any changes that need to be made in the first 12 months, for example, the question of a photograph on the registration card, the 90 day exemption for individual visiting workers to register (noting that their employer nevertheless needs a licence to employ them), and the 5 year rule for employment.

Having noted this, the new Law will bring a sizeable number of benefits which the Sub-Panel have acknowledged in the body of the Report, which is very pleasing: for example, the ability to vary licences, detailed employee returns from businesses, new powers to require illegal activities to immediately cease, and the sharing of information to support compliance activities.

FINDINGS

	Findings	Comments
1	As of yet and for whatever reason, no decisions have been made by the Chief Minister with regard to extending the qualifying period for access to work from 5 years back to 10 years.	The extension of the qualifying period for work from 5 years to 10 years is a complex issue, recognising that any increase in qualification periods either has the effect of disadvantaging individuals, or involves transitional and saving provisions to protect those individuals, which then need to be administered in respect of the individuals thereon protected. There is also the question of to what extent, if at all, businesses are

	Findings	Comments
		compensated for the increase in the qualification period by way of an extension of their licence, recognising that not all the skills required by a business are readily obtained in Jersey, especially for more complex and specialised roles. All these issues will be considered in depth following the introduction of the new Law, findings reported, and a proposed response recommended.
2	There has been too much lenience in the past with regard to the number of non-qualified licences issued to businesses.	The levels of population and immigration seen in recent years have manifold reasons which cannot simply be attributed to the number of licences issued, most notably, the census results indicated a higher than expected number of individuals remaining longer in the Island – this meant that more people were gaining their 5 year qualifications than expected, and more licences were thereon freed up to be used by new migrants. The new Law has been developed with the express intention of limiting this going forward, for example, through the maintenance of a population register to closely monitor actual migration, and provision to remove licences.
3	The ability to vary a licence for unqualified staff at any time under the Control of Housing and Work Law will provide the States with greater control than they have under the current system.	Agreed.
4	Work has already begun to remove non-qualified licences from businesses. Despite this, however, a significant number of unutilised licences of this category still remain.	The power under the new Law to remove licences will substantially address this issue.
5	Subsequent to a Sub-Panel Public Hearing with the Chief Minister, it has now been agreed by the Council of Ministers to introduce a fee for all Registered licences.	This proposal is subject to finalisation and publication.

	Findings	Comments
6	Tighter controls on unqualified licences will not independently solve the current unemployment situation.	It is clearly the case that the answer to unemployment is not simply being stricter on the ability to employ migrants, but also investment by businesses and government in the skills and job readiness of locally qualified people. It is for this reason that the “Back to Work” Programme has been developed, in conjunction with a number of Departments, including the Population Office.
7	It is obvious that some local people need to be educated and trained to undertake work in areas that are traditionally associated with non-qualified people.	Agreed.
8	The existence of the Registration Card will make it easier for businesses to comply with the new legislation and their licence allocation.	Agreed.
9	New arrivals will be exempt from registering for the first 3 months of living in the Island, provided they do not work within that time period.	Agreed.
10	The proposal to exempt short-term workers from registering under a 3 month period could significantly affect the States ability to monitor transient populations and may increase the risk of non-compliance.	<p>The Sub-Panel’s concerns are understood and will be considered as part of a post-implementation review of the new regime.</p> <p>However, the policy intent is clear: it is to require a visiting contractor to have a business licence restricting the number of people who can be employed by that contractor, but not to require every single worker engaged by that visiting contractor to register in person. This would create significant additional work for Departments, without appreciable gain in the ability to control migration.</p> <p>Indeed, the only exemption period that eliminates risk is one that is nil, i.e. that a registration card is always needed before any work was undertaken. This is easily policed – as in that circumstance, any person</p>

	Findings	Comments
		on any site would need a card and this could be checked. (In the absence of this, a person on a site could always claim to a compliance inspector that they have only just arrived in the Island and are within whatever period is set). An immediate registration requirement, however, means all workers, even if only here for a day, need a registration card. This creates significant burdens for government and impedes the operation of an effective economy which inevitably has some reliance on visiting workers, for example, regional managers visiting Jersey branches, auditors of various kinds, visiting architects, etc. Some exemption period is therefore required, and investment must take place in ensuring it is policed involving spot site visits and monitoring workers from site to site, with the findings assessed with a view to determining whether the period should be changed post implementation.
11	The Sub-Panel has not been convinced that adequate consideration has been given to the inclusion of a photograph on the new Registration Card.	It has been outlined that a photograph on the card is an unnecessary addition insofar as the registration card should be used alongside existing photographic identification, and that some fraud risks and costs are associated with creating a card with a photograph that could gain wider currency as a form of identification. This will be considered further as part of a post-implementation review of the new regime.
12	In the absence of a photograph, it is imperative that a form of identification is shown alongside the new Registration Card for all transactions as a method of validation.	Agreed.
13	At point of implementation, the Register of Names and Addresses will be linked up to the databases held at Social Security, Income Tax and the Population Office.	Agreed. The database will be created from name and address information from a range of public authority sources.

	Findings	Comments
14	There is a great deal of uncertainty as to when the Population Register can be relied upon as a rolling measure of Jersey's Population.	It is for the Statistics Unit to validate the Population Register to their robust requirements, and they will require a number of data points before are able to confirm their satisfaction that the Population Register is maintained over time. However, the objective of the Chief Minister's Department is to have a Population Register that aligns sufficiently with published Statistical Information within 2013.
15	A considerable amount of work still needs to be undertaken by the Population Office before the Register will be complete.	Agreed. The task of aligning data held by a number of Departments is a significant one, but it is essential as a foundation going forward for the streamlining of approaches to customers and as a current record of our population. For this reason, work will continue in order to achieve a complete and accurate database.
16	The Population Office significantly underestimated the resources needed to implement the Register of Names and Addresses.	As noted above, this is a complex but essential task, and providing advance estimates is inherently challenging until administrators begin the task of aligning those databases. However, the work is significantly advanced and progressing satisfactorily.
17	Any significant delay in the completion of the Register will have a considerable effect on the new system and its ability to control population and migration levels.	Agreed. At the same time, other elements of the new Law are also important in achieving objectives; for example, the registration card, the detailed returns from businesses, the enhanced compliance powers, etc., all contribute in the round to a more effective regime.
18	The new Combined Return will provide the States with a much improved depth of information which in turn should allow for better licence enforcement.	Agreed.
19	If the IT system works as envisaged, there is a high chance that improved sharing of information will lead to a more efficient and effective compliance operation.	Agreed.

	Findings	Comments
20	In order to reap the real benefits of the Register, it is imperative that as soon as non-compliance is identified officers are sent to investigate, and if necessary take action.	Agreed.
21	The number of compliance checks carried out under the existing system is inadequate.	Agreed. The new Law will facilitate a much greater investment in compliance resource backed by new legal powers.
22	There is a great deal of uncertainty as to whether the proposed increase in manning levels from 1.5 to 2.5 ‘boots on the ground’ staff will be sufficient to enforce compliance with the Control of Housing and Work Law.	It is accepted that the more resources that can be diverted from administration and toward compliance, the more effective the regime. On this basis, the increase in compliance FTE by 1 is the minimum requirement, and a more significant increase is expected and necessary.
23	A culture of ‘whistle-blowing’ in Jersey could be key to ensuring that the new system is enforced.	Agreed. This will be promoted alongside the new Law.
24	The real success of the new legislation is dependent on the extent to which it is policed and enforced.	Agreed.
25	Provided they are exercised, the new powers to cease illegal activity immediately will provide an important means of enforcing compliance with the Law.	Agreed.
26	The Population Office must work <i>with</i> businesses to ensure that the new law is understood and managed in a fair and pragmatic way.	Agreed.
27	The issue of political responsibility for the implementation of the Control of Housing and Work Law has not yet been fully resolved.	The Chief Minister is legally solely responsible for the new Law. Other Ministers will advise in securing a balanced policy position.

RECOMMENDATIONS

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
1	The Chief Minister should now urgently set out to ensure that once the Law has been implemented, due consideration is given to an extension of the qualifying period for access to work from 5 to 10 years, and the potential implications for population and migration levels.		Accept	This will be considered as part of the post-implementation review.	2013
2	The Chief Minister should undertake a thorough and accurate audit of the number of non-qualified licences issued to businesses every 6 months and in advance of any Population Policy debate. Furthermore, these findings should be published in a report and presented to the States.		Accept	The actions of the Migration Advisory Group in 2012 demonstrate a firm commitment to removing permissions for the employment of new migrants in favour of locally qualified people, and in this vein, a review of licences will take place in 2013, and using the new powers, licence capacity will be removed following evaluation and with a firm presumption toward local employment.	Ongoing
3	In line with the States' top priority to manage population and migration levels, the Chief Minister should consider quickly and effectively removing unutilised non-qualified licences at the point of implementation of the new legislation.		Substantially Accepted	The actions of the Migration Advisory Group in 2012 demonstrate a firm commitment to removing permissions for the employment of new migrants in favour of locally qualified people, and in this vein, a review of licences will take place in 2013, and using the new powers, licence capacity will be removed following evaluation and with a firm presumption toward local employment.	2013

	Recommendations	To	Accept/ Reject	Comments	Target date of action/completion
4	Effective enforcement measures must be developed alongside the new charge for Registered licences to minimise the risk of non-compliance amongst businesses.		Accept	It is accepted that more resources should be diverted from administration and toward compliance. On this basis, the increase in compliance FTE by 1 is the minimum requirement, and a more significant increase is expected.	2013
5	The Chief Minister should review the 90 days' grace period as it is likely that it will lead to inaccuracies in the Register.		Substantially Accepted	This will be considered as part of the post-implementation review to assess the level of impact, although at present it is considered reasonable to set a registration period that does not capture short-stay visitors who are not working or transacting property, for example, visiting family members, who may be elderly.	2013
6	With regard to the proposal to exempt short-term workers from registering under a 90 day period, the Chief Minister should ensure that every individual employed under a legitimately licensed contractor is required to Register, before they can begin work.			This will be considered as part of the post-implementation review. In addition, see comments in Finding 10 above.	2013
7	The Chief Minister should review the current policy on photographic identification within 12 months of the new Law being implemented.		Accept	This will be considered as part of the post-implementation review.	2013

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
8	The Chief Minister should ensure that the public are sufficiently informed regarding the rules and procedures for checking Registration Cards prior to the new Law being implemented.		Accept	Guidance materials and public information campaign is being prepared for release following debate on the Regulations. This will include radio adverts, posters and leaflets at prominent locations, including points of entry, online and social media presence, and use of the government website.	March and April 2013 and ongoing
9	Further consideration should be given to the establishment of a refund system for the Registration Card in order to help monitor population levels for efficiently.		Accept	This will be considered as part of the post-implementation review, noting the merit in the proposal.	2013
10	The Chief Minister should ensure that more frequent compliance checks are carried out at the appropriate locations to ensure that the new legislation is being adhered to. Failure to do so could significantly reduce the effectiveness of the new control mechanisms.		Accept	It is accepted that the more resources should be diverted from administration and toward compliance. On this basis, the increase in compliance FTE by 1 is the minimum requirement, and a more significant increase is expected and necessary.	2013
11	When the new Law is in operation, the number of officers available to the Population Office should be reassessed to ensure that it is adequate.		Accept	It is accepted that the more resources should be diverted from administration and toward compliance. On this basis, the increase in compliance FTE by 1 is the minimum requirement, and a more significant increase is expected and necessary.	2013

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
12	The Chief Minister should ensure that members of the public are actively encouraged to report any suspected non-compliant activity to the Population Office so that it can be further investigated.		Accept	The Population Office will develop and introduce a “hot-line” to report non-compliance in 2013.	2013
13	Once the Regulations have been agreed by the States Assembly, and in advance of the new system coming into force, the Chief Minister should ensure that the general public are sufficiently notified regarding the provisions of the new legislation.		Accept	Guidance materials and public information campaign is being prepared for release following debate on the Regulations. This will include radio adverts, posters and leaflets at prominent locations, including points of entry, online and social media presence, and use of the government website.	March and April 2013 and ongoing
14	The Chief Minister should ensure that the structure of the Migration Advisory Group is included in his assessment of the effectiveness of the new legislation.		Accept	The Chief Minister is legally solely responsible for the new Law. Other Ministers will advise in securing a balanced policy position.	2013
15	The Chief Minister should give due consideration to increasing the resources available to the Population Office to ensure that the Register of Names and Addresses is fully functional before the Population Policy debate in order to inform decisions regarding the Island’s future.		Accept	Data management is an essential component of the new regime and a foundation for a more streamlined approach to Islanders by government. For this reason, existing resource within the Population Office will be directed toward data management functions.	2013

CONCLUSION

It is a priority to introduce more effective controls immediately via the new Law, and with this objective in mind, the findings of the Sub-Panel are firmly welcomed, and their report supported as a thorough and constructive examination of the issues.

Many of the Recommendations will be reflected immediately, and others taken into account in 2013 as part of a post-implementation review, with the findings of that review reported to the Assembly and available for further Scrutiny.