

Ministerial Response: S.R.5/2022

Ministerial Response to be presented to States by: 6th May 2022

Review title: Seasonal Workers and the Rural Economy

Scrutiny Panel: Economic and International Affairs Scrutiny Panel

Minister's Introduction:

The impact of the UK's decision to leave the European Union (the EU) has been extensive and significant, not least in regard to the movement of people. As of the 1 January 2021, it is no longer possible for those with EU nationality to move to Jersey for the purposes of work or settlement without obtaining an immigration permission in advance. It is acknowledged that there have been significant consequences arising from this for Jersey businesses who have previously relied upon the ease of acquiring seasonal workers from Europe. This affects businesses across several sectors, including the hospitality sector, construction sector and the agricultural sector.

The Work Permit Policy was amended and published in January 2021 in response to the anticipated need for a much greater volume of workers who would require an immigration permission to work in the Island, in wider range of vocations than previously provided for. The amended WPP provided for both long term skilled routes, which were designed to potentially lead to settlement, and temporary routes which would provide a temporary labour source for the Island.

Temporary routes were made available initially to those working in the agriculture, fishing and hospitality industries. These routes enabled employees to work in Jersey in one of the specified industries for a limited period (9 months) which would have to be followed by a period of absence from the island.

The WPP provides that, where a role does not fall within the scope of the Policy, submissions can be made for the consideration of the Minister for Home Affairs for amendments or exceptions to the policy. The Policy is therefore evolving in line with such submissions. It is noted that since the introduction of the 9 month agricultural route neither JCIS nor the Minister have received any further submission from Jersey Hospitality Association (JHA) or Jersey Royal.

It should also be noted that, at the time of the Panel's Review, the new Work Permit Policy has been in operation for less than two full years, and during only one summer season. It is considered that there is not yet sufficient experience of, or data about, the operation of the work permit policy in the post-Brexit and post-Covid climate to consider making fundamental changes at this point.

As a member of the Common Travel Area (CTA), Jersey has a responsibility to uphold an equally robust immigration control as the rest of the CTA. It should be noted in that context that Jersey's offering with regard to temporary work permit routes already goes beyond that which is

offered by the United Kingdom. There is a very careful balance to be struck in this regard, Jersey must adhere to its responsibilities as a member of the CTA and seek to minimise deviation from the immigration policies of the UK, but equally it is acknowledged that the needs of the local labour market in Jersey do differ from the UK and our immigration policies must be responsive to this.

It is acknowledged that the impacts of Brexit, and the unprecedented global pandemic, as well as a changing economic context, have created significant challenges for the industry. However, it is not considered that the recommendations the Panel have made are the appropriate ways to address these issues at the present time.

Findings:

	Findings	Comments
1	Work permits are a legal requirement for persons who do not have a right of abode in Jersey under the Immigration (Work Permit) (Jersey) Rules 1995 and the application must be made by the person wishing to employ the entrant.	Noted.
2	The Work Permit Policy sets out the rules to which employers must adhere when employing seasonal and temporary workers. The policy document shows the main routes to employers for employing migrant workers.	Noted.
3	The employer is also required to meet the requirements of the Control of Housing and Work (Jersey) Law 2012 and hold the requisite registered or licensed permission if the person does not hold Entitled or Entitled for Work status.	
4	The Panel heard from employers that the Jersey Immigration office was considered efficient, helpful and responsive.	Noted.
5	The Panel heard from key stakeholders that, at times, delays to work visas issued in the UK happened	Noted. UK employers equally have no means by which they can contact UK Visa & Immigration service to discuss the status of a visa.

	without any explanation. In addition, there was no direct contact for the Jersey employer to contact the UK Immigration Service to discuss the status of visa applications.	
6	Discussions were in place to bring certain aspects of the visa processing service to Jersey. This was viewed as welcome news to the Panel as it could speed up and streamline part of the application process.	All working visas for those coming to Jersey are referred to JCIS from the UK already. However, before the end of 2022 this process will speed up as these referrals will happen much earlier in the UK's process.
7	The Panel calculates combined fees for each employee prior to commencing employment could be in excess of £1900.	The employer pays fees to JCIS for a 9 month work permit of £115 The employee pays for a 9 month visa to the UK of £244 Social security card (if not already issued in a previous year) is £80 There may be travel costs but these are not fees charged by a government body, it is an employer's choice where they wish to source their labour from
8	There was no increase in the offset for accommodation in 2022 despite the minimum wage increasing by almost 11%. The figure remained at £91 per week despite the increase in salary	
9	The Minister for Social Security did not ask the Employment Forum to consult on the levels of the minimum wage and offsets for 2022 and instead, carried out her own assessment. This was reportedly due to the Covid-19 pandemic and the States Assembly agreed to allow the Minister to use Covid-19 emergency powers to override the provisions of the Employment Law, which ordinarily require the Forum to consult.	
10	Both the Jersey Farmers' Union and the Jersey Royal Company expressed disappointment that the offset in	

	accommodation had not increased in line with the minimum wage in 2022 as it had done year on year since the minimum wage was introduced.	
11	The Panel was informed that, to make Jersey attractive to seasonal workers, certain facilities had to be offered in addition to subsidised accommodation, which included transport to and from work and use of the company vehicles.	
12	The Minister for Social Security informed the Panel that she had no plans in the final months of this Government's term to alter the current offset rates; however, going forward, in the next few months the Employment Forum will be asked to consider the appropriate level of both the minimum wage and offset rates for 2023.	
13	Anyone coming to work in Jersey is not entitled to social security benefits for the first 6 months of employment. Seasonal workers who return year on year are not entitled to social security benefits for the first 6 months of employment in their returning year. Private health insurance is regularly taken out by the employer to cover this period at a cost of approximately £150 per person.	
14	Currently, any new worker to the Island is not entitled to Health and Community Care costs for their first 6 months on the Island. The Panel is pleased to note that the Minister for Health and Social Services is in the process of bringing revised rules forward to the existing policy which will provide that returning workers may access free health care on their return to the	

Island if they had lived and worked in Jersey for at least six months continuously during the three years immediately prior to the date of the required treatment.	
--	--

Recommendations:

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
1	The Minister for Home Affairs should instruct officers to urgently review the Work Permit Policy document to set some flexibility within the seasonal and temporary work permit arrangements to align with the business need. It is acknowledged that this work may need to be revisited as and when the secondary legislation and regulations for the amended Control of Housing and Work Law are proposed by a future Council of Ministers.	MHA	Reject	This recommendation is not very specific. The Work Permit Policy is a live document and constantly being reviewed following submissions from employers. However, since the introduction of the 9 month agricultural route neither JCIS nor the Minister have received any further submission from JHA or Jersey Royal.	N/A
2	The Minister for Home Affairs should establish a direct line of contact with the UK Immigration Services to ensure employers can receive an update on the status of delayed visas. The contact should be between Jersey Immigration Officers and the UK Immigration Officers only and not Jersey employers. This should be carried out within 6 months of presentation of this report.	MHA	Reject	JCIS already has access to UK visa data, however visa applications are made by the employee and data protection will only allow information to be provided to the applicant. There is no ability for UK Visa & Immigration service to notify JCIS for any delayed visa applications.	N/A

				Equally UK employers do not receive information concerning the status of their employees' visa applications.	
3	The Minister for Home Affairs should ensure that provided there are no changes to the application from the previous year, the work permit fee of £115 be waived for each consecutively returning employee to help bring the costs of employment down. This should be implemented within 6 months of presenting this report.	MHA	Reject	As there is no reduced level of scrutiny or 'checks' conducted by JCIS on repeat work permit applications there is no justification to reduce or remove the cost for consecutive work permit applications.	N/A
4	The Minister for Social Security should increase the offset in accommodation rates in line with that of the minimum wage for 2022. This would align with what has been implemented year on year in the past and should be applied without delay.				
5	The Minister for Social Security should implement a system whereby seasonal workers who return following a previous, consecutive 9-month contract of employment can freeze social security payments for the 3 months they are off-island. The employee should then be able to unfreeze these on their return the following year and have access to the social security system. This should be a legacy from the existing Minister to the incoming Minister following the end of this term of office.				