
STATES OF JERSEY



SEASONAL WORKERS AND THE RURAL ECONOMY (S.R.5/2022): RESPONSE OF THE MINISTER FOR SOCIAL SECURITY

**Presented to the States on 6th May 2022
by the Minister for Social Security**

STATES GREFFE

**SEASONAL WORKERS AND THE RURAL ECONOMY (S.R.5/2022):
RESPONSE OF THE MINISTER FOR SOCIAL SECURITY**

Ministerial Response to:	S.R.5/2022
Ministerial Response required by:	6th May 2022
Review title:	Seasonal Workers and the Rural Economy
Scrutiny Panel:	Economic and International Affairs Scrutiny Panel

INTRODUCTION

The Minister for Social Security notes the response made by the Minister for Home Affairs. The introduction from that response is copied below as it provides a useful context to the overall review.

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.

In respect of areas specifically relevant to the Minister for Social Security, the contribution rules within the Social Security system are applied fairly to all types of worker. The government has already acknowledged the need for a review of this issue in P.137/2020.

The report includes the following section:

Migrants Rights

Migrants form a valued part of the island community, having made large contributions to our culture, society and economy over many centuries. Jersey is always likely to require the qualifications, experience, skills and talents that migrants bring to fill vital roles that the resident population is unable to provide for.

The Common Strategic Policy agreed by the States Assembly includes a commitment (4.2.2) to “provide clear rights to new residents as part of an agreed migration policy” and recognises that the failure to support the integration of new migrants into Jersey society can exacerbate income equality and lead to social divisions, as it hampers people achieving their full potential.

Migrant access to services such as healthcare, education and benefits is currently complicated and can be confusing with different rules operating in different parts of government.

It is right to ensure that those accessing public services have paid/or will pay a fair amount of contributions into the system that they are using, and also that those who have paid a fair amount of contributions into the system should be able to access public services appropriately.

Workers today are operating in a global market where multiple jurisdictions are competing for their services. A migrant considering moving to work in Jersey will wish to be fully aware of the services that they can, or cannot access, prior to their arrival.

Therefore, the services that a migrant can access in Jersey need to be clear, fair, attractive and well communicated.

A fair package of rights and benefits is important to ensure that migrants see themselves as valued and integrated members of our community, and that Jersey remains an attractive destination for the essential migrants that we require.

Ministers will undertake a review of all government funded services that include residency requirements with the aim that access to benefits and services is fair and aligned across all areas.

The timing of this review has been delayed due to Covid-19 but remains a high priority and this existing commitment will be communicated to the incoming Council of Ministers.

In line with the concluding remarks of the Minister for Home Affairs it is acknowledged that the industry faces significant challenges but the recommendations made by the Panel cannot be accepted in their current form.

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.	
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.	
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	

	Findings	Comments
	considered efficient, helpful and responsive.	
5	The Panel heard from key stakeholders that, at times, delays to work visas issued in the UK happened 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.	
7	The Panel calculates combined fees for each employee prior to commencing employment could be in excess of £1900.	
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	Noted
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.	Noted
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.	Noted

	Findings	Comments
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.	Noted
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.	Noted
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.	<p>This finding is not correct.</p> <p>Access to Social Security benefits is available once a worker has made six months of contributions. The worker then has a contribution record and any claim for benefit includes a test for contributions received in a recent period. It is correct that a seasonal worker who does not work for 12 months of the year will have periods when the test for a recent record looks back to a period during which they were away from the island. However, it is not correct that the worker needs to wait for six months during each new period of employment. The contribution record runs from year to year and it would be likely that a worker returning after a three month break and then requiring a sickness benefit would be covered by the final three months of their previous spell in Jersey.</p> <p>In terms of the cover provided by the Health Insurance Law, there is only a single qualifying period of six months when the individual first arrives in Jersey. Any subsequent periods in Jersey, whether or not consecutive, are fully covered by the Health Insurance Law.</p>

	Findings	Comments
		Private health insurance is not relevant to the benefits provided through the contributory system.
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.				
2	The Minister for Home Affairs should establish a				

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	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.				
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.				
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.	MS S	Reject	Offset rates can only be amended by Regulation. The last date for propositions to be lodged before the election was 10 March, before the publication of this report. A change to the offset rates in autumn 2022 will be too late for the 2022 main agricultural season. A review of the level of offset rates for 2023 is included in the minimum wage review instructions recently provided to the Employment Forum.	N/A

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
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.	MS S	Reject	<p>Social Security benefits are funded from contributions made by employers and employees. Benefits are provided in line with a set of rules that are applied in the same way to all contributors.</p> <p>If contributions are not paid for a number of weeks or months, this will lead to a future period in which benefits are provided at a reduced rate or cannot be claimed. In general, eligibility is refreshed on a quarterly cycle.</p> <p>A proposal to allow one specific category of worker to have access to benefits judged against a more generous set of rules would require very careful justification against other categories of workers, who may also have gaps in their record, and do not qualify for benefit following a gap in contributions.</p> <p>There is an existing commitment (P.137/2020) to review access to benefits for all migrants. This work has been delayed due to COVID but will be followed through into the next Assembly.</p>	N/A