

# STATES OF JERSEY



## **DRAFT CONTROL OF HOUSING AND WORK (JERSEY) LAW 201- (P. 37/2011): AMENDMENT**

---

**Lodged au Greffe on 20th June 2011  
by Deputy S. Power of St. Brelade**

---

**STATES GREFFE**

DRAFT CONTROL OF HOUSING AND WORK (JERSEY) LAW 201- (P.37/2011):  
AMENDMENT

---

**1 PAGE 59, ARTICLE 1 –**

In paragraph (1) in the definition “Minister” for the words “Chief Minister” substitute the words “Minister for Housing”.

**2 PAGE 65, ARTICLE 7 –**

(a) in paragraphs (4), (5), (6) and (7) for the words “3 months” in each place those words appear substitute the words “7 days”;

(b) in paragraph (6) for the words “3 month” substitute the words “7 day”.

**3 PAGE 69, ARTICLE 13 –**

In paragraph (1)(b) delete the words “for Housing” each time those words appear.

**4 PAGE 95, ARTICLE 48 –**

In paragraph (3) delete the words “the Minister for Housing and”.

DEPUTY S. POWER OF ST. BRELADE

## REPORT

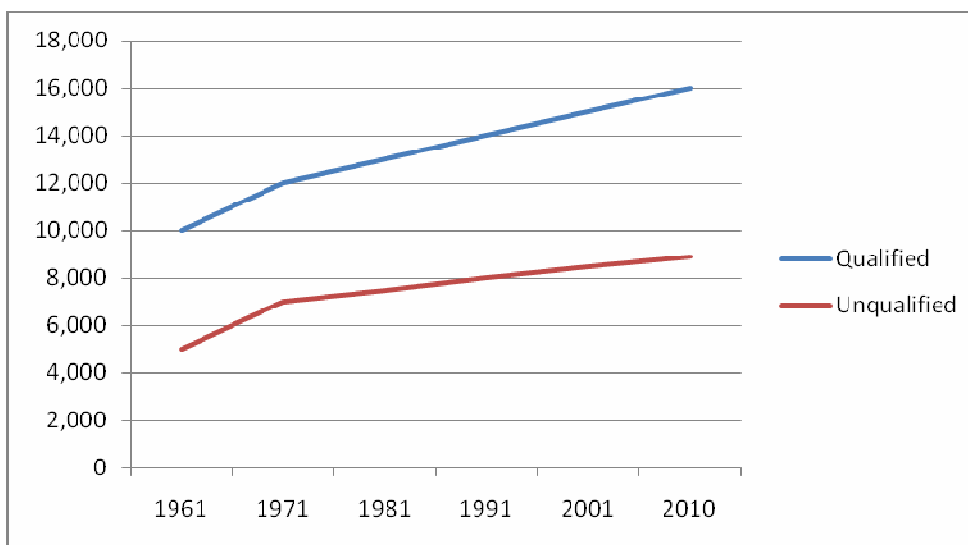
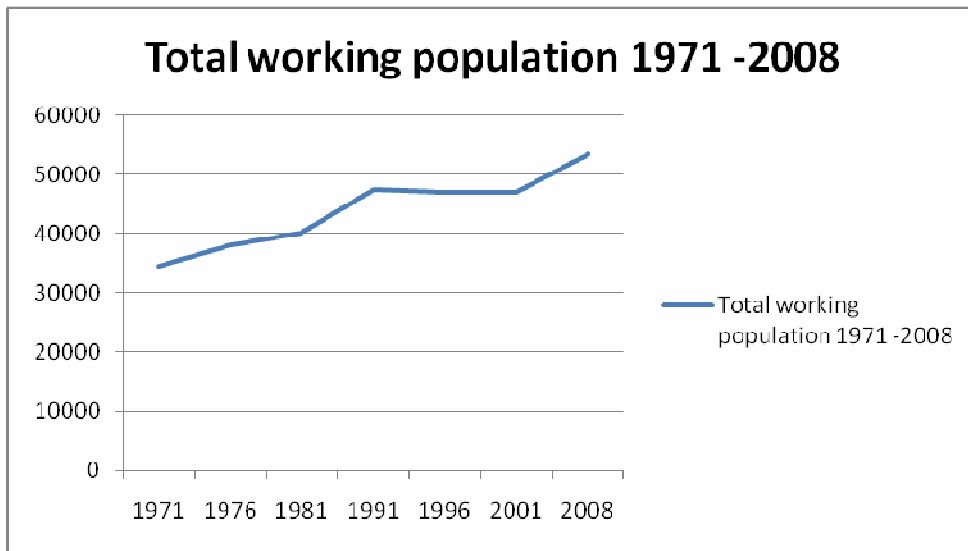
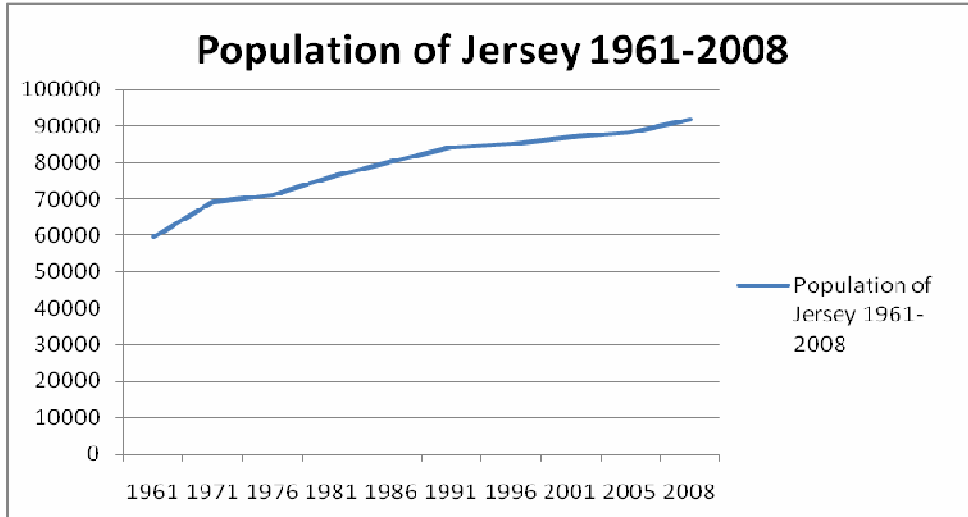
I have lodged this amendment because I have misgivings about the mechanisms and the way we manage population and migration. My misgivings are carried forward into the possible effectiveness of the new proposals in this draft Law.

I became more aware of this in early 2009. This was mainly as a result of being allowed to sit on the Migration Advisory Group (MAG). My then Minister, Senator Le Main, had asked me to be his Assistant Minister at the end of 2008 and he invited me to sit with him on MAG. MAG is chaired by an Assistant Minister from the Chief Minister's Department. The Economic Development Department (EDD) is represented by another Assistant Minister, as is Social Security when invited to do so by the Chairman. It became clear to me that the Population Office sits uneasily between 3 Ministers, the Minister for Housing, the Minister for Economic Development and the Chief Minister. That means that no one Minister has control of migration, and the result is this occluded approach.

The Chief Minister essentially controls the Population Office budget and structure. The Minister for Economic Development has responsibility for the Regulation of Undertakings Law (RUDL). The Minister for Housing has responsibility for the Housing Law, Lodging Houses Law and Regulations, the issuing of housing qualifications under the current Regulations for (g), (h), (j) and (k) categories. This loose amalgam constitutes the Migration Advisory Group.

On a number of occasions I expressed a view to the Director of the Population Office, and both in written e-mail and at meetings, that I was unhappy with the manner of the administration and application of migration policy. At MAG meetings, I frequently questioned the decision-making process. As the drafting of the Migration Policy advanced through 2009 and 2010, I became unhappy with the language of the draft policy and the difficulties of understanding it. For example, the section and definition of a hawker confirms this in Part 7, Article 22, on pages 76 and 77 of the Project, P.37/2011. My own preference all along was that the States should pursue a more aggressive frontier-type enforcement policy with an integrated migration office. I also feel that many parts of the Regulations of Undertakings Law were a misuse of Population Office resource, and that if resources were better deployed that there might then be a movement away from RUDL.

RUDL came about in 1974 and has had little effect in influencing migration. All the historical evidence highlights the fact that RUDL has had little impact on the numbers in work, and in turn the overall population of Jersey. Even Planning has had to bend to the needs of the economy by continually allowing more and more unqualified accommodation. The new proposal would seem to make perfect sense. The simplifying of data collection should help the States' decision-making process when it comes to determining how the Island's limited resources are used to best effect, whilst at the same time reducing red tape for business. This though misses the point entirely; how exactly do the States determine what the optimum size of the working population should be? RUDL says they can, yet this flies in the face of all academic thinking.



*Regulation of Undertakings Law introduced in 1974*

All the historical evidence highlights the fact that RUDL has had little impact on the numbers in work, and in turn the overall population of Jersey. Even Planning has had to bend to the needs of the economy by continually allowing more and more unqualified accommodation.

The fundamental problem with RUDL is the lack of a level playing-field between small and large businesses. Which politician is going to decline big bank, wealth management company or large supermarket group request for, say, 30 qualified staff and 20 unqualified staff, when the choice is that they move to another jurisdiction which is more understanding? It is far easier then to make a decision against a one-off request from a small business and be seen to be following the rules. As far as I am concerned, what on earth is the States doing telling a hairdresser or a landscape gardener who it might or might not employ?

The answer is to control the potential employee or sub-contractor at the point of entry. Whether we like it or not, many employers use non-registered sub-contracts, sub-contractors and persons that do not register straightaway.

My own experience on MAG for over 2 years tells me this. I had asked on many occasions for the Population Office to check the arrival of what I call “White Van Man” arriving at the Port of Jersey to carry out days, weeks or months of on-Island work. These migratory workers sometimes stay, sometimes go, some end up in A&E, some end up in the Court system. The problem is that they are not registered and therefore make no contribution.

There appears to be a particular problem with migratory unregistered labour entering the Jersey Labour market in the Construction Industry and the Hospitality Industry.

I visited the Isle of Man in early 2010 to see their system in action. It is far more frontiers-orientated, with a robust, almost zero-tolerance policy for both the Construction Industry and the Hospitality Industry. There are as little as zero days of grace in operation and up to 40 days of grace before registering.

It also appears that the Population Office has no effective Compliance policy team. On the one occasion in 2010, when Population Office staff worked with Customs, Immigration and Social Security at the Harbour, it had no power to stop or detain vans or contractors that were coming off the ferry to work locally when not registered under RUDL.

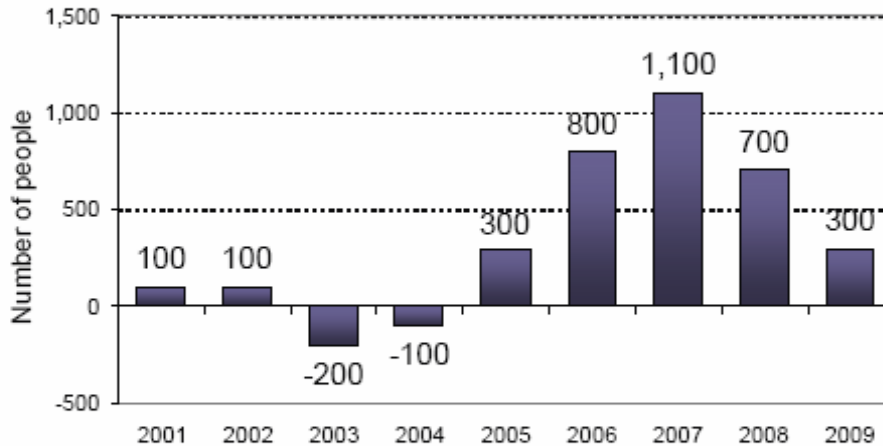
The recent increase in migration over and above the 2008 Strategic Plan objective also proves that we have an ongoing problem and the new draft Law simply will not deal with this. I enclose an extract from “Jersey In Figures 2010”. If we are to manage migration, we must have the control mechanisms.

“Jersey in Figures 2010” (page 38 states) –

## Migration

Migration into and out of the Island consists of a dynamic 'ebb and flow' of migrants in both directions (excluding the annual movement of several thousand short-term seasonal workers present in the Island for less than one year). The net migration in a given calendar year is therefore the difference between those arriving and those leaving.

**Figure 11.2 Net Migration, 2001-2009**



Years 2001 and 2002 were characterised by small net inward migration of around 100 persons per year, reflecting the general stability of the labour market during this period (Figure 11.2). In contrast, 2003 and 2004 saw net outward migration, reflecting the falls in private sector employment seen in those years.

Driven by increased employment in the private sector, reflecting an improvement in the Island's economy, the period 2006 - 2007 saw relatively larger levels of net inward migration.

I seek therefore to have a new improved Ministerial portfolio in a Minister for Housing; and the first step in this is to have these 2 Laws assigned to the Minister for Housing.

The same applies to the Name and Address Register.

In my view, if this new Control of Housing and Work were to be approved, then it should be positioned in a Department of the States that is not in any way enabling economic growth or is an economic driver.

This Island is not an Independent Constitutional Crown Sovereign State. If we were, we could control better the right to work and live.

As it is, I propose in this amendment that we reduce the days of grace to register to 7 days from 90 days and that this Law be under the Minister for Housing.

I ask Members to support this Amendment.

### **Financial and manpower implications**

In my view, there would be no financial or manpower implications for the States arising from the adoption of this amendment.