

INTRODUCTION OF WORK PERMITS (P.105/99): REPORT

**Presented to the States on 14th September 1999
by the Policy and Resources Committee**



STATES OF JERSEY

STATES GREFFE

175

1999

P.105/99 Rpt.

Price code: A

Report

The Policy and Resources Committee believes that Deputy Le Claire's report and proposition on the introduction of work permits should not be debated ahead of a comprehensive debate on Immigration and Population Policy. We are confident that the House will agree it would be unwise to debate such a fundamental issue as work permits separate from the full debate on population and all associated issues. The Committee believe that the House will wish to have a fully informed debate covering all the issues involved. The Committee has met with States Members and Chief Officers, and with private sector organisations, and is in the process of completing a report and proposition on Immigration and Population Policy, which it is hoped the States will debate in the current Session, together with the separate propositions of Deputy Johns (P.110/99) and Deputy Le Claire (P.105/99). If, notwithstanding the Committee's advice, the States should decide to debate Deputy Le Claire's proposition in advance of the proposed general debate, then the Committee would wish to make the following additional comments on the Deputy's report and proposition.

The Deputy, in proposing the introduction of a work permit scheme, states that "Work permits are seen as a means of protecting employment opportunities for local workers and as a means of controlling overpopulation. They are not intended to act as a restraint of trade." While work permits are used as a means of protecting employment opportunities for local workers in many countries - and this is provided for, if ever needed, by enabling legislation on the statute book in the form of the Protection of Employment Opportunities (Jersey) Law 1988 - the Committee has not seen the relevance for work permits in the circumstances that exist in Jersey, where, with over full employment, there is no shortage of employment opportunities for local residents. The Committee also does not consider that in the absence of effective control over the creation of additional jobs in conditions of over full employment of Island residents, work permits are an effective means of controlling overpopulation and of achieving the States' population policy objective.

The Deputy is also proposing that those already living in the Island who do not have residential qualifications would need to obtain a permit. The proposal, therefore, is that it should be retrospective in its application, and the Law Officers' Department has indicated that this is likely to be in contravention of the European Human Rights Convention. The Committee considers that any such doubt must be removed before the States can consider the matter and vote upon it.

The main advantage advanced by the Deputy for his proposals over the present controls is that they would enable the authorities to check on the background of immigrant labour, would allow controls to be exercised over the extent to which immigrant employees bring members of their family to the Island, and would place a limit on each individual immigrant worker's period of residence. What is proposed in this respect would apply only to those taking up employment. If the States wish to exercise control over such matters they would be better to consider the option of residence permits or occupancy control rather than work permits. Residence permits or occupancy control would be all-embracing and would cover both active and non-active immigrants. Relevant to these measures is the work the Committee is currently engaged on regarding the introduction of a Smart Card.

The main disadvantage of the Deputy's proposals by comparison with the present controls is that it is not at all clear from his report how the introduction of work permits would control overpopulation. The Committee's understanding of the Deputy's report is that the Regulation of Undertakings and Development Law would no longer be used to control job growth in respect of existing firms - notwithstanding that this law is proving effective in reducing the rate of job growth, as is evident from the most recent quarterly manpower statistics - and would be used solely to restrict Jersey residents from setting up new businesses that did not satisfy certain criteria. Under these arrangements, those firms able to obtain the local labour available, through having the greatest ability to pay, would be able to expand without restriction. Other local firms would then find that they would only be able to stay in business if they were able to obtain immigrant labour, and would have to apply for a work permit in respect of that labour. If such a work permit was refused, they would be put out of business. However, the criteria identified by the Deputy in his report for considering whether a work permit should be issued would suggest that if local labour is not available, and the immigrant labour on offer is of a satisfactory nature, a work permit would be granted and the population increased accordingly. This arrangement would seem to be in accord with those who have made representations to the Committee that the population of the Island should be allowed to grow, providing that the growth in numbers takes the form of persons on limited period contracts. The Committee's view is that an additional number of immigrant employees on limited period contract will still represent a growth in the Island's resident population, and the environmental and other pressures that come from that growth will still be experienced.

The Finance and Economics Committee, in applying the Regulation of Undertakings and Development Law, has experience of the difficulties that arise when refusing to grant permissions for the employment of non-local labour when that labour is required by small local businesses. The difference between the present controls and those proposed by the Deputy is that, under the present controls, action is being taken by the Finance and Economics Committee to limit the number of new jobs being created by existing firms. This would not be the case with the controls being proposed by the Deputy, which, in addition to not tackling the problem of population growth, would be extremely labour-intensive in their application.

When work permits have been considered previously, particular difficulties have been highlighted in respect of seasonal workers and those employed by the construction industry. The advertising criteria referred to by the Deputy in his report would not easily fit in with the circumstances when firms recruit either category of employee.

The Deputy has referred in discussion with the Committee to the position of the Isle of Man on work permits. The Isle of Man provides evidence, if it is needed, that a non-discriminatory work permit can be applied to protect job opportunities for local persons. What the Isle of Man work permit arrangements are not being used for, however, is to control the Isle of Man's resident population, which is expected to continue to grow. The Isle of Man Government has included in its legislative programme a Residence Bill, which will provide powers to limit excessive immigration, but, to quote from that Government's Policy Review 1998 "it is not intended that the Bill should be brought into effect unless and until circumstances arise which make that necessary. Such circumstances do not exist at present, nor are they seen as likely to develop in the short to medium term."

The Committee will be developing further its thoughts on the best approach to population control in its shortly-to-be-presented report and proposition.