

23.05.02

15 Deputy M. Tadier of the Minister for Home Affairs regarding seasonal workers and parental leave entitlement (OQ.86/2023)

Will the Minister confirm whether, under the current immigration rules, a seasonal worker on a 9-month temporary work permit is allowed to remain in the Island to claim their 6-week parental leave entitlement; in particular if this overlaps with the expiration of their permit?

Deputy H. Miles (The Minister for Home Affairs):

I thank the Deputy for his question. This question is related to the earlier question answered by the Minister for Social Security. An individual employed in Jersey under the work permit policy in any of the temporary work permit routes is not permitted to bring their dependents with them to the Island. This includes a spouse, civil partner or child. Under the Employment (Jersey) Law 2003, an individual working in Jersey under work permit conditions shall be entitled to parental leave. However, their right to parental leave ends on the date that their employment is terminated. On the expiration of a work permit or visa, an individual would no longer be in employment in Jersey and, therefore, no longer able to meet the requirements for which the work permit or visa has been issued and would, therefore, no longer qualify for parental leave. There is an expectation for the individual to leave the C.T.A. (Common Travel Area) no later than the expiry date printed on their work permit or visa.

4.15.1 Deputy M. Tadier:

I am trying to get my head around the fact that we would possibly deport somebody who has just given birth in the Island because they are no longer allowed to stay, but I cannot formulate a question on the hoof on that. What I will ask is the same question I asked the Minister for Social Security: does she believe that there is a duty of care on the part of Government towards seasonal employees and, of course, to employers, to make sure that the rights they have and the rights they have in practice and the complexities are understood by both parties before they come to the Island, to avoid any potential hardship?

Deputy H. Miles:

Thank you for the question. The first thing I would like to say is that the Immigration Department most certainly would not be deporting a woman that had just given birth if she was on a work permit. It is fair to say that we would deal with each case on a case-by-case basis. Providing a pregnant woman has employment, she is permitted to stay until the end of her permit. If she is due to give birth towards the end of that permit, she would be allowed to remain here and then leave at the appropriate time. The second part of the question: we have started to undertake specific pieces of work around informing permit workers of their rights and responsibilities. As the Minister for Social Security said, those are translated into different areas and we have more information on the website than we had previously.

4.15.2 Deputy L.V. Feltham:

Can the Minister confirm that should a work permit holder become pregnant during their tenure of the permit that they could take some leave under the employment law, including the 6 weeks parental leave, and still be employed and not be in breach of their permit?

Deputy H. Miles:

Yes, I can confirm that is the case.

[11:15]

4.15.3 Deputy L.V. Feltham:

I thank the Minister for that answer. Can she inform the Assembly whether the employers that are employing people on work permits are, in fact, informed about what they need to do in order to comply with the employment law?

Deputy H. Miles:

That is a matter for the Employment Law rather than the Home Affairs Department. Any employer would know that their employees have day one rights.

4.15.4 Deputy M. Tadier:

The Minister will be aware that it is not just 9-month contract workers we are talking about and it is not just 6 weeks leave. There is also an entitlement from day one to 52 weeks unpaid leave. Would the Minister explain what would happen if somebody on a seasonal permit gave birth 6 months into their contract and decided they wanted to take 52 weeks unpaid leave? Would they then be asked to leave the Island or would they be expected to remain on unpaid leave for the rest of their contract?

Deputy H. Miles:

A person has permission to stay as long as the work permit is valid. That would mean that at the end of the work permit, depending on the circumstances, they would have to leave. The complication arises as to whether the employer then applies for an extension of that work permit.