



Economic and International Affairs Scrutiny Panel

Review of Seasonal Workers and the Rural Economy

Witness: The Minister for Home Affairs

Monday, 21st February 2022

Panel:

Deputy D. Johnson of St. Mary (Chair)

Deputy S.G. Luce of St. Martin (Vice-Chair)

Senator S.W. Pallett

Witnesses:

Deputy G.C. Guida of St. Lawrence, The Minister for Home Affairs

Deputy L.B.E. Ash of St. Clement, Assistant Minister for Home Affairs

Mr. L. Goddard, Acting Director for Customs and Immigration

[14:03]

Deputy D. Johnson of St. Mary (Chair):

Good afternoon, everyone, and welcome to this hearing of the Economic and International Affairs Scrutiny Panel in connection with our review into seasonal workers and the rural economy. I will begin by introducing members of the panel, which consists of myself, David Johnson, the Deputy of St. Mary, Chair.

Deputy S.G. Luce of St. Martin (Vice-Chair):

Vice-Chair is Deputy Steve Luce, Deputy of St. Martin.

Senator S.W. Pallett:

Panel member, Senator Steve Pallett.

The Deputy of St. Mary:

Minister, would you like to introduce your team?

The Minister for Home Affairs:

This is Luke Goddard.

Acting Director for Customs and Immigration:

Luke Goddard, Acting Director for Customs and Immigration with responsibility for immigration matters.

The Minister for Home Affairs:

Deputy Ash, Assistant Minister for Home Affairs.

Assistant Minister for Home Affairs:

Deputy Lindsay Ash, St. Clement, Assistant Minister for Home Affairs.

The Minister for Home Affairs:

Gregory Guida, Minister for Home Affairs.

The Deputy of St. Mary:

Thank you. You are aware of what we are about and the first area of questions relates to the work permit policy, the procedure document, of which I have a copy. I am not sure whether Mr. Goddard is the one to respond to this but is this the main document we work off and employers work off at the moment or are there any current variations on it?

Acting Director for Customs and Immigration:

The last one you had is dated 1st December. The most recent one unfortunately has the wrong date on the front. It is actually 14th February 2021 and it should be 2022, but it is the one that I believe your link is to within your online document.

The Deputy of St. Mary:

It says 1st December 2021 but it should be updated, should it?

Acting Director for Customs and Immigration:

It should be 14th February 2022.

The Deputy of St. Mary:

No, that is not the one.

Acting Director for Customs and Immigration:

If you were to go to our work permit application page on gov.je, there is a link to the work permit that exists and the current up-to-date work permit process.

The Deputy of St. Mary:

Are there any variations?

Acting Director for Customs and Immigration:

Very minor.

The Deputy of St. Mary:

This document is a bible, is it, effectively as far as work is concerned?

Acting Director for Customs and Immigration:

It is, yes. That is what the officers will be working to and it is obviously a public document for employers and employees to be aware of in terms of the requirements.

The Deputy of St. Mary:

Again, an obvious question, to follow the route, the applications come through which department?

Acting Director for Customs and Immigration:

So within Customs and Immigration we have an immigration team that are Customs and Immigration officers. They are responsible for all aspects of pre-entry and post-entry, so these are people applying for visas or work permits prior to arrival, and also for those people extending their leave after they arrive. That is different to on-entry which is uniformed officers at the controls when you come off a ferry or off a plane. They will be the ones who are responsible for examining the applications that come in, ensuring that they are compliant with the work permit policy and then issuing the work permit itself.

The Deputy of St. Mary:

Thank you. On the next question, just by way of background, we have had hearings with the J.F.U. (Jersey Farmers' Union) and the problems they perceive. I am aware of the distinction between the Home Affairs Department, effectively, and the work permit side, which is possibly a question of who does what to some extent. Can I ask the basic question: the relationship between the 2 departments, is there much collaboration or do they deal with separate items?

The Minister for Home Affairs:

Are you talking about preparation?

The Deputy of St. Mary:

No, the issue of the work permit as opposed to the issue of the visa? What connection is there between the 2?

The Minister for Home Affairs:

They do collaborate but the work permit is a local thing done by Jersey but the visa is done by the U.K. (United Kingdom) and that is through the U.K.

The Deputy of St. Mary:

So the extent of through the U.K. (audio cuts out) through your department?

The Minister for Home Affairs:

It starts from the country of origin of the people, so they have to ask for a visa from where they are.

The Deputy of St. Mary:

Are you saying they do not ... I am trying to get the connection between the ultimate employee, shall I say, and the person who issues the visa and the extent to which Jersey plays a part in that as opposed to the U.K.

The Minister for Home Affairs:

They need a complete file before they can get the visa, so they need to make sure that everything is in order here and then they can apply for a visa to one of the agencies abroad, which are also in the U.K. We do not have agencies here. They will issue a visa according to those documents.

The Deputy of St. Mary:

Again, I am still slightly unclear. What input does Jersey have in this as opposed to the U.K.?

Acting Director for Customs and Immigration:

The application for the visa is made once the work permit has been issued. That work permit is used to support the application for the visa. Visas are applied through the U.K.'s access to the U.K. online system. Once the application is received by the U.K. it is submitted and referred to our officers in Jersey. Our officers make the determination as to whether it will be granted and authorised or do not authorise the visa. That response is given back to the U.K. who then issue the visa on our behalf and the physical visa vignette that goes into the applicant's passport is done abroad at the visa application centres.

The Deputy of St. Mary:

Okay.

Acting Director for Customs and Immigration:

In fact, we are using the U.K.'s international system and benefiting from access to that to allow those from abroad to apply to us. So it is basically just a conduit to be used in order for foreign applicants to get the application to us for authorisation and review.

The Deputy of St. Mary:

Yes, I accept that. With certain reviews can Jersey control or could that be lost in the scheme of things? There is the connection between the Jersey end of that aspect and the U.K.

Acting Director for Customs and Immigration:

It has been working like for the last ...

The Deputy of St. Mary:

It works well.

Acting Director for Customs and Immigration:

There are occasional human errors but in general there is no issues.

The Deputy of St. Martin:

Just to be clear, for somebody from the Philippines for example, the Jersey Farmers' Union will apply for a permit, a permit will be granted. The permit is sent to the Philippines and then the Philippines apply for the visa.

Acting Director for Customs and Immigration:

An individual from the Philippines.

The Deputy of St. Martin:

Yes, sorry, that is what I mean. At that point the U.K. contacts us to make sure that they are going to ...

Acting Director for Customs and Immigration:

No, it is the other way around. They present the whole document to us for us to make that determination on whether it should be granted or not in accordance with our immigration laws. Then

we advise the U.K. that they have or have not gone through that process and that they can issue the visa.

The Deputy of St. Martin:

So the U.K. visa office makes no decision at all other than to accept a recommendation from you when they apply?

Acting Director for Customs and Immigration:

On working visas.

The Deputy of St. Martin:

Okay. That is very interesting. I do not know when we want to talk about visas, Chair, but obviously we have heard now from 2 people, and I will use this example, who have both said: "We will submit a block of visa applications and some will come back quite quickly and some submitted at the same time come back quite a distance later." Do you get blocks of visa applications coming to you from the U.K.?

Acting Director for Customs and Immigration:

We do at times. They come through at different times. They are initiated at the point at which the person attends the visa application centre. That is when the process begins and it is after that point that we get the referral to us, normally towards the end of the U.K.'s process. They wash some of the ... all the data through some very basic data controls in the U.K., terrorism checks, but we have not had one fail through that. Then the information is passed to us, as I said towards the end of the processing that they have. This is very shortly, within the next 6 months, to be changed where we will be receiving the applications directly when they are submitted at the point that they attend the visa application centre. That is the beginning of, if you like, the time period S.L.A. (service-level agreement) of the 3 weeks that the U.K. has in place for the returning of visas. That is obviously dependent on the U.K. and us having received all the information that we asked for in the process of the application. There are times when some of the data is unreadable or missing and, therefore, it will take longer.

The Deputy of St. Martin:

But that might be one of the reasons why with a block of 30 visas, half might come back almost immediately and half would be delayed is because there may be something in the paperwork which might cause need for further investigation?

Acting Director for Customs and Immigration:

And to separate the difference between submitting the application online and the date at which they attend the visa application centre. So the process starts at the point they visit the visa application centre, so we do not know that all 30, for instance, had an appointment on that day.

The Deputy of St. Martin:

So that I am clear in my simple mind, somebody may have submitted 30 visas applications online from the Philippines but it is only when the individual people attend the office in the Philippines that the process actually starts?

Acting Director for Customs and Immigration:

Correct, and it is for the individual to make those appointments.

The Deputy of St. Martin:

That is interesting. I think that is a detail in the process which had not become clear to us in either of the interviews that we have had.

The Deputy of St. Mary:

We have this term "visa application centre, so every jurisdiction from whom we recruit has one; is that the point?

Acting Director for Customs and Immigration:

It is an entity that is employed by U.K. Home Office. Nationwide they have centres. The majority are in the capitals of most countries and normally there is only one. Some larger countries have 2. So most will have that.

The Deputy of St. Martin:

In the Philippines, for example, there would be probably only one.

Acting Director for Customs and Immigration:

Probably.

The Deputy of St. Martin:

There is a number of outlying islands, because it is an archipelago, so it may take longer for some people to get to the visa office.

Acting Director for Customs and Immigration:

It may do.

The Deputy of St. Mary:

Again, I am going on what we have been told, these are personal appearances by the applicant; is that right?

Acting Director for Customs and Immigration:

It is an opportunity that they have to fulfil in order to submit the biometrics, in other words a photograph of themselves.

The Deputy of St. Mary:

Yes, I see. So in the larger countries, which may be essentially rural, it might be quite a performance to get there.

Acting Director for Customs and Immigration:

To give you an example, a lot of not necessarily so much agricultural but some of the Madeirans have to fly to Lisbon to attend their visa application.

The Deputy of St. Mary:

Just talking generally, at some of the public hearings we have had we have been told of delays, et cetera. Is there any way you can see of short circuiting that?

Acting Director for Customs and Immigration:

There have been some delays over the last couple of years due to COVID.

The Deputy of St. Mary:

I appreciate that.

Acting Director for Customs and Immigration:

Some visa application centres have had to close and only partially open. The majority are now open and almost back to normal now, so that has caused some delays as a result. Those are the only ones that we are really aware of. The only other delays are those who ... as I said, there is an issue with the application that needs to be followed up on so it cannot be processed in the normal time.

The Deputy of St. Martin:

Do you have any direct link face to face ... well, not face to face but person to person with anybody at the U.K. visa office at all? Would somebody in your department speak regularly to the same person.

[14:15]

Acting Director for Customs and Immigration:

Not regularly. We can do. I have got direct openings to do that but we very much rely on them to do their job and they normally do it very well. I always account for human error. I am sure there are occasions where things get delayed and we have had occasions, not really around working visas but certainly those people who apply for settlement when children are involved and there is delays due to the requirements to produce things like birth certificates and marriage certificates and having to have them authorised. They can be delayed and obviously those are the kinds of things that cause more concern. In those exceptional circumstances we would go to the U.K. to try to determine what the situation is. We have access online to some of the U.K.'s processing but usually nothing more than "in process", so we have no idea where it is. The fact that the majority are handled very well, if anything we can almost cause issues if we start putting our thumb into the middle of a process of the U.K. If we were to ask: "What is going on? Why have we not got this?" only to find out that in fact the applicant had not submitted the paperwork and we have caused another step in the delay by asking about it and taking an officer's time away from that case.

The Deputy of St. Martin:

Okay. You say that some time in the near future the processing of visa applications will come over to Jersey and be taken across the ...

Acting Director for Customs and Immigration:

Yes. We have been working on this for some time, not in specific relation to this but in fact just to make the process easier to allow us to receive the applications really without manual intervention in the visa application centre. So at the moment it goes through some processing there before they press the button and, in effect, email it to us. It is not quite like that but that is pretty much what happens. However, the new process will mean that the moment they attend at the visa application centre we will automatically get all the documents sent to us, which will probably speed things up a little bit.

The Deputy of St. Martin:

That will be very good news. Certainly those farming companies that we have spoken to have intimated that they have an excellent working relationship with your department over here, good rapport, easy to contact and solve issues. I think their issue is more with the U.K. visa part of it where they just do not know when the application is going to be processed and they get permission to start. They are very wary of the fact that the date that the visa starts is the moment that the person

attends the office and thereby if there is a delay of a month or 6 weeks, that 6 weeks comes off the 9-month period, so that can be really important to them. That is the impression I was given.

Acting Director for Customs and Immigration:

It comes off the 9-month period?

The Deputy of St. Martin:

Well, if they have a visa for 9 months, if the process starts the moment a person attends the office.

Acting Director for Customs and Immigration:

It does not. The application that is made is for a set period that they choose in the future. If they choose it too close to the period in which they apply they may end up eating into that, but obviously the majority of our applicants are applying year after year and they are familiar with how long it should take. We make it clear that they should give themselves 8 weeks even though 6 is probably enough before the start of the work permit ... of the period to start, so that they do not waste any time within the visa actual time limit that is given.

The Deputy of St. Martin:

The relevance of, let us say, the Filipino person attending the office in the Philippines is to start the process of looking at the application?

Acting Director for Customs and Immigration:

Processing the application. So before that ...

The Deputy of St. Martin:

It may be submitted but it is not processed until a person ...

Acting Director for Customs and Immigration:

For instance, if a person was to apply in January, they may apply with the expectation that the person is going to start on, let us say, 1st April and it may take them possibly 6 weeks to 2 months to go through the process of getting the visa, work permit and the visa. They should still have a month left over in order to prepare themselves to travel and start on the day of the validity of their work permit.

The Deputy of St. Martin:

Can I ask you something that occurred to me when you said that? You used 1st January and 1st of April. Am I right in thinking you cannot apply for a new visa until the person who has ... say you

apply in 2022, the person goes home and they want to come back next year and apply for another visa. They cannot start that process of reapplication until they are back home; is that right?

Acting Director for Customs and Immigration:

Correct, and also we would not normally process an application unless it is within 3 months of their arrival date because of the potential for things to change in between time. We are following U.K. policy in that regard.

The Deputy of St. Martin:

Sorry, could you just say that again? You would not start the process until 3 months after their arrival date back in the Philippines?

Acting Director for Customs and Immigration:

On the basis of them ... no, having left Jersey. They do not need to arrive in the Philippines.

The Deputy of St. Martin:

Sorry.

Acting Director for Customs and Immigration:

We would not normally accept an application for a work permit unless someone is out of the Island, correct. But, in effect, a work permit is at a point prior to the visa application. It is the visa specifically that needs to be applied for while they are out of country and we would not prevent someone from submitting an application for a work permit if the individual is still in the Island. We would not process it until we are within 3 months of the start date anyway, so it tends to cover it on both ends.

The Deputy of St. Mary:

Can we go back to the simpler area, the 9-month permit at the moment? We are that it would be beneficial for some workers, especially the higher skilled ones, to be able to go beyond that. Is the main purpose of the 9 months to create this 3-month break so they do not have residential requirements or is it partly to do with U.K. general requirements?

The Minister for Home Affairs:

I will just start but you can help me with the many details. Basically there is a very large difference between temporary workers and skilled workers, who are meant to settle in the country that they move to. One of the issues is their human rights. It is the fact that when somebody is supposed to leave the country, they cannot really establish, they cannot bring their family, they cannot bring their wives. They are supposed to stay for a limited period of time, go back, enjoy their family in their normal life and then eventually come back. So it is very, very difficult to stretch the period when you

have people who may come back regularly, so that is the principle. In the U.K. you have to understand that there is only the skilled path and that they have one exception for fruit pickers, which is a 6-month temporary visa. So we have already stretched the U.K. system to allow for 9 months because we have a different need, but to extend it makes it more and more difficult for those people to go back home.

The Deputy of St. Mary:

How do we cope with the extension to the tourism industry and the permits (several inaudible words)?

The Minister for Home Affairs:

It is a renewal. It is a possibility because you do ask only for 9 months visa and you get a renewal for another 9 months but then you do not come back. So we could do that but it does not work for the agricultural industry that needs, if possible, the same people to come back each season.

The Deputy of St. Mary:

You mentioned the human rights situation. Are you saying it is for their own benefit that they cannot spend more than a certain time away from family?

The Minister for Home Affairs:

Absolutely. If we get people here for say ... if we said it is 2 years and then they have to go back, we would be taking them from their home for 2 years without letting them establish here. So this is very, very marginal in terms of human rights. Your wife and kids may be in a different country and you certainly do not have the money to go back and forth and see them at the weekends.

The Deputy of St. Mary:

That is the situation if you have a family but there are many professions where ... you would not be a chalet girl or a chalet boy if you were married, would you? It is single people, so does that apply to everyone?

The Minister for Home Affairs:

They still have parents. Again, the problem is to bring them long enough here that the separation that is legal that has to accept their family coming to Jersey. Once their family is in Jersey it is much more difficult to tell them to go away. That is why there are different systems. Seasonal is seasonal. It is a certain path; it is that way. If you want to bring in people for ever, it is a different path and different conditions.

The Deputy of St. Martin:

Could you talk a little bit more, please, Minister, about the list of skilled workers and why some jobs appear on that list and others do not?

The Minister for Home Affairs:

We simply follow the U.K. in those terms. The U.K. has, of course, changed the way they deal with immigration and now work with sponsored skills and minimum salary and we are just mirroring them, almost mirroring them because we do have a few ... when we need more doctors, if there is a specific job that we need more here we will, of course, make sure that the path is available to those people, but if it is small changes. We need to go back one step and remember that all of this is about being part of the C.T.A., the Common Travel Area. So, somebody coming into Jersey on any of these visas is actually entering the U.K. They can go to the U.K. if they want or Northern Ireland or Scotland or Wales. So we are opening the whole of the U.K. to people who come to Jersey, in the same way that the whole of the U.K. is opening so anybody coming into the U.K. can come here. There are other licences and qualifications to adhere to to work in Jersey but they can travel to Jersey. So we do try to mirror the rules of the C.T.A. as much as we can, otherwise Jersey would be a soft point of entry into the U.K. in general.

The Deputy of St. Martin:

We have some areas in our law on housing and work, for example, where we are different from everybody else.

The Minister for Home Affairs:

We have further conditions. There is a visa that allows you physical presence but then you need to be able to work, you need to be able to reside somewhere. There are clearly other conditions but those 2 are the ones of human rights compliance in very small jurisdictions.

The Deputy of St. Martin:

Hopefully just to be clear, the 9-month, 3-month comes from the C.T.A. and that is drawn on some human rights legislation?

The Minister for Home Affairs:

Again, we mirror what the U.K. did. The U.K. did the 6-month route and we used that saying: "Well, we would like the same, please, but we would like it to 9 months because it works better for us." They cannot stop us from doing it, so we have got a bit of freedom on that except at the point where they think that Jersey should not belong in the C.T.A. We can stretch a little bit where it suits us, and we go down routes that are suited to our professional environment, but there is only so far that you can stretch at which point the U.K. will say: "Sorry, now we are so different people will just stream into Jersey and go into the U.K. and we cannot allow that."

The Deputy of St. Martin:

We have had it put to us, Minister, that it would be much easier for some of the employers who have skilled staff, particularly in high technology areas or even tractor driving these days is quite a skilled job because of the electronics, et cetera ... it would be much easier for them with these higher paid workers if they did not have to send them home after 9 months, if they could maybe extend that to a longer period, of years maybe, because that would work very much better for them. I guess we would need to change legislation so that those people did not accumulate any residential status at all.

The Minister for Home Affairs:

Again, that would be very difficult. After a certain period it becomes really difficult to send people away, so we do have to make a difference. I think our problem is beyond immigration. Our problem is about the pipeline of immigrants. So, yes, we could say: "I want a tractor driver, it is a skilled job. I am ready to pay him or her enough" because that is one of the conditions of those visas into the U.K. "I am ready to pay my tractor driver £30,000 and get him on that route." What happens then is that the tractor driver changes jobs, does not remain a tractor driver. He goes into the finance industry and then you need another one, and that is what happens.

The Deputy of St. Martin:

Well, that has been the problem over the years but ...

The Minister for Home Affairs:

Not with agriculture because they were always temporary, but that is one of our problems with jobs is that they come in for hospitality, to be a hotel manager, and very, very quickly they need a new hotel manager.

The Deputy of St. Mary:

But is it not within our restrictions to be able to prevent that?

The Minister for Home Affairs:

Again, it would be very difficult. You do have to separate seasonal work, temporary work from permanent entry. They are 2 very different paths. Permanent entry you work towards making people welcome and help them settle. That is a physical thing that we do.

The Deputy of St. Martin:

It has been pointed out to us, Minister, and I am sure you will know this, that we have a number of people in the agricultural industry, the vast majority of which want to come to Jersey, work as many

hours as they can, earn as much money as they can over a period of time, whether that is 5 years, 10 years, 15 years, and then go back to their country of origin, build their home and retire. They have no interest in staying in Jersey further than that.

The Minister for Home Affairs:

That is a problem. First of all, we do not know that, they do not know that. Nobody coming here and saying: "I am only here for 4 years" knows anything, especially if they are single when they come in. Second, that definitely does not qualify with the C.T.A., so we would be stretching the rules of the C.T.A. to a point where the U.K. would say: "Well, sorry ..."

The Deputy of St. Mary:

The rules of the ...

The Minister for Home Affairs:

The Common Travel Area.

[14:30]

Acting Director for Customs and Immigration:

Can I just add? For clarity, there are 2 routes, the temporary route and the skilled route. So all those who come on skilled routes have a route to settlement and the majority of people who come on the skilled route do end up settling. Certainly prior to Brexit, all those who applied, 95 per cent-plus of them, remained for up to 5 years, applied for indefinite leave to remain and at that point were free from immigration restrictions, could get a work permit, could live and work here as you and I can. That is available to all people who come in the skilled route. Those people who may have skills that lead them to a higher level of an agricultural worker, if they fit within the list that is there at the moment, can apply for skilled route. The majority of skilled routes start with a 3-year permission. At the 3-year point they make an application for an extension of either 2 or 3 years to get up to 5 years and then apply for indefinite leave to remain. The temporary working route is to fulfil our immediate labour needs. The skilled route is to allow those people who have skills to come and live here permanently if they wish to and also obviously fulfil that labour route for the skilled route.

The Deputy of St. Martin:

There is an initial 3-year skilled route permit available to the agricultural industry should they choose to use it?

Acting Director for Customs and Immigration:

If they are listed within ... their particular vocation is listed within annexe 1 of the work permit policy. Coming back to your question about whether it is the bible, in that sense it is.

The Deputy of St. Martin:

My original question to the Minister was about the list of skilled workers or skilled jobs on that. This has been the work permit and could be amended to include parts of the agricultural sector?

Acting Director for Customs and Immigration:

What we will do, we have taken about 100 vocations from the U.K.'s list and put them through here. Most of the agricultural ones are on that but there are a few in the U.K. list that we have not brought across simply because there were so many that would not be completely of any use here. If there is a skill where an individual employer comes to us and says: "This is the person I want to employ", and we have had this on a number of occasions now, "but it is not listed in your rules, in your work permit policy" we will find it within the U.K. rules and determine whether it falls in the U.K. rules as a skilled route or an unskilled route. Our annexe 1 is 100 or so vocations and skills and annexe 2 are those that are ineligible for skilled route because they do not fulfil the criteria.

The Deputy of St. Martin:

If they are not on the U.K. list as a skill, they will be ... or if they cannot be added to the annexe on the permanent list?

Acting Director for Customs and Immigration:

We would not add it. If we wanted to, the Minister has the ability to do that but we would need a really good reason why we would go outside of the U.K. We have not done so on any occasion other than a couple of the exemptions on annexe 3 and that is not to do with the vocation. It is to do with the criteria to meet it and they are nearly all based around the annual salary where an application has been made to us to verify. Chefs is a good one where there is a definite need for them as a skilled route but £30,000 is too high a mark to achieve. They were still skilled but only get paid £25,000. We adopted that and the U.K. has a similar kind of system within the points-based system that allows lesser thresholds for salaries in particular vocations. We are just doing it in a different way, but what we do not do is introduce a vocation that is ineligible in the U.K. route into the eligible route. Most of the ineligible routes are picked up within the temporary positions, lesser skilled.

The Deputy of St. Martin:

I know I am playing devil's advocate here, Minister, but it might be the case that in a small Island jurisdiction like Jersey we may have a particular industry that is very different to anything else. We

might develop a skill that would not appear on the U.K. list because they do not have that particular industry in the U.K.

The Minister for Home Affairs:

Yes, and it is always something that we could look at. However, remember the salary problem, remember the income problem.

The Deputy of St. Martin:

The example I would give is that the Jersey Royal is a potato unique to Jersey, it cannot be grown anywhere else. Should we come up with some computer technology that would allow us to harvest Jersey Royals and a particular skill was used for that, a particular skill for computer ...

The Minister for Home Affairs:

Well then it is probably already on the U.K. list. It is a very extensive list and, again, it is about skills.

The Deputy of St. Martin:

The salary would be considerably higher if you had a person able to do that.

The Minister for Home Affairs:

But that is the same. It depends on whether you are looking at skills you cannot find, in which case it is quite likely that they are on the list, or you are just looking for cheap labour, in which case it is absolutely guaranteed not to be on the list.

The Deputy of St. Martin:

I am certainly not coming from the point of view of cheap labour, because the people who have been speaking to us are talking about what they generally consider to be skills do not appear on the list, but I am sure they can take that up with you. I think one of their other gripes, if you like, is the fact that some of their skilled labour comes for 9 months and goes back for 3, and they had to replicate that skill in the 3 months by using somebody else who has to be trained at a certain level. So we are just intimating to you some of the challenges that the industry face.

The Minister for Home Affairs:

One possibility, because we do not talk to farmers individually, we talk to organisations, so the J.F.U. has been our first interpreter and they regrouped the needs of all of the adherents to the package with us, which worked extremely well. Jersey Royals was the second one, and again they are a group of farmers and they came to us with a second demand, which we treated separately. Considering the output of farmers it would not be terribly difficult for them to use a rotation system where they have a pool of workers if they are the same and they come back. One goes in September

because it is 9 months, but you get another one immediately afterwards so you rotate. The first tranche was 118, so out of 118 workers, instead of having them all arrive on the same day in Jersey, you could spread them.

The Deputy of St. Martin:

Certainly one of the large farming companies that we have spoken to told us only last week they are now running a 3-year diary. It is the only way that they can maintain a standard workforce over a long period of time.

The Minister for Home Affairs:

Good, so that is a possibility then.

The Deputy of St. Mary:

The skilled workers group, do they eventually get qualifications then or can you be a skilled worker and not?

The Minister for Home Affairs:

You get Jersey qualifications after 10 years, the same as everybody else.

The Deputy of St. Mary:

Yes, I appreciate the ...

The Minister for Home Affairs:

Unless with your qualified entry comes a licence, which is quite a strong possibility. Population is very likely to grant a licence to somebody that is following that route.

The Deputy of St. Mary:

Going back to the rationale for the 9-month route, which as you say is human rights to an extent, we do have the one-year route available to the construction industry, which currently can be extended for the full 4 years. How do we reconcile that?

The Minister for Home Affairs:

The idea here is that construction works is projects so if you get people here to build a hospital, the hospital is a 4-year project but it is only a 4-year project. You do not get a job for life because your employer is very likely to be a foreign company on top of that, so we have helped them by allowing them to work in just the one chunk of time that matches that project, so people are not expected to come back. It is facilitating that system.

The Deputy of St. Mary:

I understand that, but the justification of the 9 months is that you cannot be away from your family for a long time. You are saying in a separate situation it is okay for them to be away for 4 years, which could be at the most critical time for the family development or whatever. I do not see the logic between the 2.

Acting Director for Customs and Immigration:

The construction industry came to us about 18 months ago at the end of 2020 asking for a route similar to hospitality and agriculture, and we talked about the seasonal route and quite clearly they are not seasonal and so that was not going to work for what they were going to be doing. However, there were real concerns in extending any period beyond that, but it was obviously not going to work in terms of them being able to complete their projects. They made a sound argument that a person could take a number of months to train to be useful, train on different pieces of equipment, and then to have to send them away after a year would be completely counterproductive. That does not apply to the hospitality and agriculture routes but it was very specific to the construction routes. Then 3 months' break, while it does incorporate some human rights aspects it is very much about breaking the residential period that someone is here and then using this towards the potential for settlement. Even though it is quite clear that they should not do, it adds to the nature of what this work should be is temporary. So the construction route was given the ability to go to 4 years but we will always assess it every year. The permission is only given for one year at a time. We need to be satisfied that the project they are working on is still in place, they are still a required individual for that project and they need to carry on. They may carry on to 4 years and it was very much the hospital that was used as an argument in order to say that we need to go that far. Potentially we will keep that in place because there are other large projects that may take as long. However, there are a number of people that come in currently, have not started yet in any way, but are now on 18-month contracts and they all need to leave at that time. The break in their continuity for the construction route is that they will have to be absent for the same period of time that they are here, which makes a significant break in their residency here, so potentially someone who works here for 4 years will have to be absent for 4 years before they can come back. As a result of that, we have determined that we will only by an absolute exception consider applications for dependants to join construction workers.

The Deputy of St. Martin:

Under the new migration controls, could those that have been here on the 4 years then potentially apply for a 10-year permit?

Acting Director for Customs and Immigration:

I think you are possibly talking about the difference between the Population permissions and the Immigration permissions. Even though we work with the Population Office, it is not part of that, that

goes towards it. So we are in effect preventing someone from coming up to 5 years, which is very much an absolute ability to apply for indefinite leave to remain. So that is very much why we could not go any further than that. Whether or not they are eligible to receive any additional permissions through Population I would need to double check, because it is whether their time here as temporary workers counts towards their ability to get local domestic ...

The Deputy of St. Martin:

So that is a key issue. I just wonder, do you need to check?

Acting Director for Customs and Immigration:

I will, but in my opinion I would support the fact that it would not because the whole idea is that at the end of 4 years they need to leave for 4 years.

The Deputy of St. Martin:

I accept that.

Acting Director for Customs and Immigration:

But the other thing that is very much worth talking about on the temporary routes, construction, agriculture and hospitality, we have made it clear to the employers that we will allow those people to apply for skilled routes while they are in-country if they can fulfil that criteria and if there is an employer who wishes to make an application for that. So they can switch to a skilled route while here if they fulfil the criteria, and then on that skilled route their time qualifies towards the 5 years and at that point they would certainly be eligible for any kind of Population permission.

The Deputy of St. Martin:

So the time they have been here previously is not counted?

Acting Director for Customs and Immigration:

Is now a temporary worker. It does not count towards their settlement and it is absolutely clear on the information that we provide. Everything in the work permit policy is live and the fact that we have a work permit procedure for the construction route does not mean that it will always remain as it is. My recommendations to the Minister may change but at the moment we are satisfied that we can control it as we do, but it is probably my biggest concern in terms of the immigration risk.

The Deputy of St. Mary:

I accept the population increase, et cetera. Going back to the one-year construction worker who has extended and that is an absolute bargain, another employer cannot employ him thereafter, he cannot come in on a different guise on a different contract, can he?

Acting Director for Customs and Immigration:

On the temporary routes he cannot. We put a restriction on the fact that any employee must remain with the employer. The only circumstance where we would allow someone to change is if the employer, usually through unforeseen circumstances, may close their business for instance and they still have permission remaining on their original licence or a work permit has been issued to them. We would then consider that period, should a new employer want to take them up and then continue with that work permit.

The Deputy of St. Mary:

Back to your construction worker at the hospital who is here for 4 years, if suddenly there is a Fort Regent project or something completely new, no new employer could employ him?

Acting Director for Customs and Immigration:

No, and even within that same employer, if a single employer has ... a lot of large building companies have a number of projects running at one time. They are employed for that single project. The fact that there may be a vacancy available in another project, that person would need to go home and apply again for it, and home for the period of time that they were here for anyway. Positions should be filled as they are needed by the employer, not deliberately left open so they can be filled by someone who is already here.

The Deputy of St. Mary:

I am not saying that, but I am just thinking of someone who genuinely liked working here and was not concerned with building their residential qualifications - back to the original point - if you went away, why could a new employer not employ him again on a similar basis for one year or whatever without him building up obligations? Can we not insert into our own legislation provisions which prevent him adding ...

[14:45]

The Minister for Home Affairs:

They are British provisions to gain your settled status or your British nationality by getting up to 5 years, so it does not matter how you provide them. That is why we must be very careful how many years people spend here.

The Deputy of St. Mary:

But our own internal housing qualifications are ...

The Minister for Home Affairs:

Separate, but the C.T.A. rules are about immigration to the C.T.A. So if we gave somebody several contracts and they swapped between employers they will just get their 5 years, they just become a British citizen.

Acting Director for Customs and Immigration:

We found a way around the U.K.'s requirements to prevent that happening if we were to allow it to happen.

The Deputy of St. Mary:

Yes, I think I understand where we are going with this, okay.

The Deputy of St. Martin:

Before we leave the issue of visas and move on, I have a question I just wanted to ask, if I could. What is the date that we might take over the processing of the visa applications, roughly? You did mention a time.

Acting Director for Customs and Immigration:

We are processing them now. You mean when they will come direct to us?

The Deputy of St. Martin:

Yes, sorry.

Acting Director for Customs and Immigration:

It is going to be before the end of the year and probably well before the end of the year but I do not want to give any hope that it is going to be a lot sooner.

The Deputy of St. Martin:

But would it be the hope of the agriculture industry at that point that if they were waiting for a specific period they could phone your office and speak to somebody that they know and have a conversation?

Acting Director for Customs and Immigration:

It is more likely that we would be able to deal with them directly on the processing of the paperwork, yes, again, following the date of the visa application centre appointments. We would not know anything until that point.

The Deputy of St. Mary:

I have one further area which I am not sure we are allowed to mention. We have an Assistant Minister here who is well qualified to answer on the taxation front but we have not approached you on it. It is the question of ... perhaps we can raise and you can throw it back. At the moment employees basically pay an I.T.I.S.(Income Tax Instalment System) and the amount deducted is on the basis that they are effectively on an annual salary when they know they are only going to be here for 9 months, so they might get a deduction of say 20 per cent when it is going to be 8 per cent. Is there any way that can be accommodated from the outset so they are ...

Assistant Minister for Home Affairs:

I am not sure it is from the outset. Obviously you can claim it back later because you have not ...

The Deputy of St. Mary:

I appreciate the claim back but ...

Assistant Minister for Home Affairs:

I do not think you can do it from the outset because you do not know whether someone will work for X amount of time and leave and you will have given money back from the outset, so ...

The Deputy of St. Mary:

Well, you do to a certain extent. The work permits prevent them from working beyond a certain date, so you know it is not going to go beyond that date.

Assistant Minister for Home Affairs:

Well, most tax rebates here or the U.K. will happen at the end of the year once you can see the whole situation. Technically it could be changed but I do not see it happening.

The Deputy of St. Martin:

It has been demonstrated to us, Assistant Minister, that until fairly recently the agricultural industry had some rapport with the people in Revenue over I.T.I.S., so if there was an issue with a member of staff they could talk with somebody on the other end of the phone and not necessarily negotiate but work out what was going on and reach a number. They have indicated to us most recently that rapport has just disappeared completely and they just now get issued with a standard 20 per cent I.T.I.S. rate. It would appear that they are doing very much like you say, which is overcharging and giving the money back at the end of the year, which does not please their workers very much. Is there something we could do about that?

Assistant Minister for Home Affairs:

I can have someone look at that and see what we can do. It is not an easy thing. It sounds very simple but when you are running a whole tax system, to make separate issues for different areas is not easy. We have obviously come a long way in our tax system because what used to happen - and I am sure we are all old enough probably to remember it around this table - is where people paid their tax a year behind and most people had gone. So particularly in the construction industry loads of people disappeared after a year, came back under a different name and never paid any tax at all. So we have now got that position where you cannot do that anymore because you pay there and then and unfortunately some people might be overcharged initially. I will look into whether we can do something for the agricultural and the 9-month contracts, but it is not always easy to tailor things specifically because it has manpower implications.

The Deputy of St. Martin:

Yes, and it may well be a manpower implication because the information was until very recently they always had the ability to speak to somebody in the office and very quickly reach a conclusion as to what should be happening with any individual with their employer. But most recently that contact has been chopped and any inquiry is now "20 per cent, 20 per cent".

Assistant Minister for Home Affairs:

Well, as I say, I will have a word with the Comptroller and see if we can ...

The Deputy of St. Mary:

I appreciate what you say about a rebate at the end and I will know the reasons why it is reduced to start with, but some of these workers are from countries where basically they do not trust governments, and they probably need the money during the course of their stay rather than at the end, so glad if you look into it.

The Deputy of St. Martin:

The feeling was that in the normal course of events they would end up paying 7 or 8 per cent, just what the I.T.I.S. would normally be, and being told "Well, pay 20 and you will get it back at the end of the year" is not quite what they wanted to hear.

Acting Director for Customs and Immigration:

Can I add something on that question? Obviously to bear in mind the restriction to the 9 months is only for those people who are not British or Irish. Now, I have no idea how many who do not have a work permit work within the agricultural industry seasonally, but clearly on a tax basis there will be nothing to prevent them staying as long as they want. So it would take it again another technical issue in there that the individual would have to be determined as having had a restricted period of work.

The Deputy of St. Mary:

I take your point.

Acting Director for Customs and Immigration:

It just adds a further complication to it.

The Deputy of St. Martin:

I do not think there is any doubt that the person phoning up on behalf of the individual to the tax office would be saying that this person is only going to be here for 9 months.

Acting Director for Customs and Immigration:

I understand. I am just making the point that there may be others who are not restricted to have to leave.

The Deputy of St. Mary:

Yes, I suspect that those who are British or Irish are probably very much a minority that we are talking about, but I take your point.

The Deputy of St. Martin:

While we are on the question of parting with money, could I ask, Minister, about the renewal charges for permits? Obviously we have a number of people who come here every year who are repeat. They have been here the previous year and maybe been here for 5 years before. They are only away for 3 months and yet when they come to apply for their new permit they are still charged the same amount of money as they would have been when they originally applied. Is there a reason for that?

The Minister for Home Affairs:

Are we talking about the permit or the visa?

The Deputy of St. Mary:

I think both, are we not?

The Minister for Home Affairs:

Yes, I think they need to renew both, but the permit - which is something that stays in Jersey - is only about £115 whereas the visa is quite a bit more expensive but that pays for the U.K. infrastructure. There is no shrinking debt. Having a visa office in a capital costs money.

The Deputy of St. Martin:

I appreciate that and I know there was a cost associated with both, Minister, but the point has been made that when you apply for a permit in year 1 and you are charged £100 and whatever pounds, you apply in year 2 and your circumstances have not changed, why the cost is still £100 and whatever pounds and why it could not be reduced?

Acting Director for Customs and Immigration:

Yes, I can answer that. The work permit structure and the fees have been there for a long time, not to say that they should not be reviewed and considered. They very, very rarely are increased in value. The condition for renewing your work permit still requires a body of work for my team to work through and it is basically based around cost recovery in terms of the cost for that, it is not excessive for it. The same amount of work has to be done year on year by the officers for doing that. The work permit is given for the period of that work. We have never been in a process where we could give a work permit for a longer period and require a gap in the middle. The difficulty is this permit is used, as well as anything else, to assist them to get through the U.K.'s processes. If they were to fly, for instance, through Gatwick or Heathrow, as many do, they would need to present their work permits, which are aligned to that of the U.K. and are specific for one period. It would cause real confusion if it was for any longer period than that.

The Deputy of St. Martin:

I am not suggesting for one minute that we should give them a permit for more than a year or more than 9 months. All I am saying is in year 1 the first time the person comes to the Island they fill in a big, long application form and you have those due processes to go through, quite rightly. In year 2 if there was a tick box that said: "Have any of your circumstances changed?" and they ticked it, do you still feel the need under those circumstances to do all that work again?

Acting Director for Customs and Immigration:

We could certainly look at it. It is something I can take away and consider whether it is something we can look at in the future. One of the concerns we have got is to make ourselves either more or less attractive than our colleagues in the U.K. or counterparts in the U.K. where the seasonal workers there have to make an application each year for their version of the work permit, and I am pretty confident that they have to pay the same every year as it goes through. If we suddenly make ourselves that much more attractive to the U.K., even though in some ways we are a tiny pool compared to that of the U.K., our counterparts may be a little uncomfortable if we are doing so, reducing the attractiveness of the U.K. by making it more attractive here.

The Deputy of St. Martin:

Is the cost of a visa still paid to the U.K.?

Acting Director for Customs and Immigration:

It is, yes.

The Deputy of St. Martin:

Will that remain the same when your officers are processing the application?

Acting Director for Customs and Immigration:

Yes, because it is more to do with the infrastructure that they have, the worldwide network that we have access to by using the system.

The Deputy of St. Martin:

But are the U.K. going to pay your officers to do the work?

Acting Director for Customs and Immigration:

Well, most of the work was done by us anyway, to be honest. It was just that there was usually either a recommendation from them and they compiled the necessary parts of the paperwork for us to be sent through. What will happen is everything will be sent through to us immediately without any recommendations, so it is not a great deal more work. The U.K. in fact are doing less work, in effect.

The Deputy of St. Martin:

There is no case to be made for reduction of the visa fee?

Acting Director for Customs and Immigration:

Our visa fees are completely aligned to that of the U.K., as are our further leave to remain, because they literally give the same permissions as the U.K. do. The work permit is the one area where we could consider alternatives.

The Deputy of St. Mary:

As Steve said, I appreciate the work permit fee is relatively small, but certainly one of the organisations we have been speaking to, they pay it so it is a cost to them, as it were.

The Minister for Home Affairs:

Absolutely, something that has been mentioned is that we do not get money for the visas.

The Deputy of St. Mary:

Sorry, the work permit rather than the visa.

The Minister for Home Affairs:

Yes, we do not get money for the visa despite the fact that we do quite a lot of work on the visas, so the work permit is one way of recouping that.

The Deputy of St. Mary:

Perhaps you should. You do the work.

Acting Director for Customs and Immigration:

Let us start negotiation with the Common Travel Area team and see what we can do.

The Deputy of St. Martin:

I just wondered whether there was a possibility of applying to be allowed into the Common Travel Area to issue our own visas rather than the U.K., but I guess that is probably pushing things.

Acting Director for Customs and Immigration:

Funnily enough, we are examining all opportunities and it is not that that was so left-field that it was not even spoken about. The difficulty is literally us having to still need a worldwide network in order for us to have the ability to claim biometrics, and very much so that the actual vignettes, the sticker that goes in the passport, which is your visa, has some quite intricate security details put into it that cost hundreds of thousands of pounds. For us to decide we are going to build our own ... it is the same with our passports. They are British passport books with all the security features of the U.K.'s passports; they just have Jersey written on the front.

The Deputy of St. Mary:

This is almost a social question. Going back to the earlier dialogue we had about the justification for families not being parted, et cetera, is there some form of exchange or major work on that, given by lawyers or the like, as to setting out the parameters of that and the whole rationale as to why 9 months and not 6 months, et cetera? Is there some paper on that?

The Minister for Home Affairs:

Most probably, yes, but it is more likely that there will be court cases where somebody is pushed out of the country because they have spent their 18 months permit and they have to go back, and then they say: "Yes, but I have got my kids here, they are in school" and they cannot ...

Assistant Minister for Home Affairs:

Away from human rights, there is a financial cost. If we have people coming over doing agricultural work which, as we have already discussed, is not the best paid, so we are not getting a big tax take

back ... if it is just them themselves and they are housed in fairly reasonable accommodation, if there is such a thing left in Jersey, and they are here for 9 months, they go back and the Jersey Royals or whoever get a worker for that, it is not the end of the world. If they bring their wife and 2 children over here we have got to educate the 2 children, and I do not know what that is, £15,000 a year, that is £30,000.

The Deputy of St. Mary:

I fully accept that.

Assistant Minister for Home Affairs:

So it is partly that, I think, is one of the reasons why from an economic point of view - this is my point of view rather than a Home Affairs point of view - to keep it 9 months is quite important, because the moment you say: "You are welcome to come here and stay here" there is some serious financial implications.

The Deputy of St. Mary:

I fully accept that where families are involved, but I am just trying to ... I mean, lots of people are ... if you are single man you might take jobs on that you would not as a married man with children, and some might like to return year after year on that basis. Okay, so if I pursue my earlier comment about any major work, I had better ask the Attorney General maybe. Do either of the 2 Steves have any more?

The Deputy of St. Martin:

I do not think so.

The Deputy of St. Mary:

I would like to thank you for clarifying it. You have in some ways but you clarified the unclarity.

[15:00]

The Minister for Home Affairs:

All of these are rules to prevent immigration.

The Deputy of St. Mary:

Sorry?

The Minister for Home Affairs:

All of these are rules to prevent immigration. They are not rules to facilitate immigration. We are quite happy to work with agriculture, to work with all the businesses in the Island to make sure that they can survive and they can work. They come to us separately and we try to adapt the rules as much as we can for them, and I think we have shown quite a lot of flexibility and most of them are quite happy with what they have.

The Deputy of St. Martin:

I can certainly vouch for that, Minister. We have not had anybody in here making even the slightest of issue over that. They are very, very happy with that. They have been a little bit more detached from the U.K. visa application process. We know that there is the direct contact that they might have here in Jersey and they are a little bit bemused by putting in a block of 30 applications and getting the responses back in dribs and drabs, especially when they would wish in many cases to bring those blocks to the Island as a block because they may have been friends of colleagues or they have to do a specific job. In many cases they apply at the visa office, not at the office but when they put the application in originally, there may be a block of people who are used to working together. So they are trying to avoid those sorts of issues but they may well be helped by the fact that locally we may be doing more processing of that in the future and may be able to find a way of shortening that.

The Minister for Home Affairs:

Obviously the level of detail this is done with and, therefore, for the employer if they are looking at, say, 100 workers, it is 100 people, 100 different persons, so their situation might be extremely different when they go to the visa application centre. So as far as the employer is concerned he has got a list of people who all have the same characteristics but once in Manila we have 30 people show up at the centre who are all different, they all have different situations. The files from there are not processed at the same speed depending on: "Yes, I do have a record. Okay, so we need to look at your record." It changes once you get person to person and it is individual. So something that looks like a package from here, once you encounter it, they will come in at a different time of the day or different day of the week and their circumstances are going to be different. It is very difficult to keep it as a package.

The Deputy of St. Martin:

That has been made very much clearer to us this afternoon. It is not quite the way it was put to us in the last week or so and so we are grateful for that clarification.

The Minister for Home Affairs:

It will be much easier when we get the details as soon as they have seen the centre in-country because that will keep them closer together, and because we know where they are going here we

can keep them as a package a little bit more if it helps the industry. It may also save a few days also, I am not quite sure. It will get better.

The Deputy of St. Mary:

Thanks for clarifying things to make it clearer in our minds as to where we are. Thank you, Minister and Assistant Minister. I close the meeting. Thank you.

[15:03]