

STATES OF JERSEY



INTERIM POPULATION POLICY: 2014 – 2015 (P.10/2014) – SECOND AMENDMENT (P.10/2014 Amd.(2)) – COMMENTS

**Presented to the States on 28th April 2014
by the Council of Ministers**

STATES GREFFE

COMMENTS

Introduction

The Council of Ministers does not support this Amendment.

The Amendment demonstrates a clear understanding of the necessity of supporting established Islanders into work and securing limited, higher value migration.

However, the Amendment does not fully consider the practicalities of administration, or the impact on businesses, while also not clearly adding to our ability to limit migration. Notably, the Amendment does not provide any evidence that increasing the qualification period would have any effect on whether migrants move to Jersey in the first place.

The new Control of Housing and Work Law contains a range of new and significant controls, including compliance powers, which are now starting to have effect, and the Report accompanying the Interim Population Policy outlines how these controls are to be applied. These controls are subject to ongoing review to deliver any enhancements that may be necessary, with the first reporting of recommended enhancements due in July 2014.

If the Amendment is accepted, this would remove in full the Report accompanying the Interim Population Policy, and therefore not provide the necessary guidance. In that sense, the policy ceases to be credible and serious in achieving limited migration without damaging economic strategies. For example, the Report accompanying the Proposition, as outlined in Finding 5, places an emphasis on supporting high economic and social value activities, and removing unused permissions. Accepting this Amendment deletes this, and other matters. If we are to limit migration while supporting our economy, we must focus migration on the areas that generate the greatest value.

The Amendment replaces this with proposals to the effect that we should (a) increase the 5 year “entitled to work” period to 7 years; (b) introduce an annual registration process limiting the sectors within which migrants can work; and (c) review businesses who have permissions that enable them to employ more than 50% of their workforce as migrant workers.

While the principle of part (c) is accepted, it is less effective than is proposed in the Interim Population Policy. Parts (a) and (b) are not accepted at this time in advance of much deeper analysis, which is underway, and public consultation.

Comments on each part of the Amendment

Part (a):

This part of the Amendment proposes an increase in the qualification period to become “entitled to work” from 5 to 7 years.

There is no evidence, however, that this will reduce migration. Instead, it simply makes migrants wait longer, deferring any associated challenges by 2 years.

We have to remember that the key purpose of our migration controls is to limit the number of employment opportunities for newer migrants – recognising that most migrants come to Jersey to work.

It is therefore not the qualification period that matters most, but the number of permissions that businesses hold for migrant labour.

This is why the Report accompanying the Interim Population Policy deals with the number of permissions that exist, and outlines how this will be limited using the new Control of Housing and Work Law.

As to changing the Law, a review of the Law is underway, and its findings will be published as part of a Post-Implementation Review due in July 2014. This will include increasing the qualification period. This will need to be considered alongside the implications for Income Support qualification periods, and other qualification periods for other services.

Furthermore, if the qualification period were to be increased, that would need certain conditions to be fair and balanced, including: (i) that the new rule would only apply to people who arrived after its introduction, i.e. so it did not unfairly affect, for example, someone who has been in the Island for 4 years and 11 months; and (ii) that businesses would need to be compensated to some extent by being granted more licences where local labour is not available, for example, in more skilled areas.

On this basis, one has to question what an increase in the qualification period achieves, if it is simply offset by more permissions and it would take 5 years before it had an impact.

At the least, we need to recognise that the Interim Population Policy is precisely that, a short-term direction, and that long-term decisions, such as qualification periods, need to be fully considered with full evidence.

Furthermore, the views of business need to be considered. What message does this send out about Jersey and the ability to do business here? What impact will it have on established businesses' ability to recruit, or their incentives to remain in Jersey, or the preparedness of businesses to relocate to Jersey?

These issues need full and detailed analysis, engagement, and debate, and in advance, care needs to be taken not to make isolated changes.

Part (b):

This part of the Amendment proposes annual re-registration of migrant workers. This may seem attractive as a means of applying more control, but it has serious difficulties.

Firstly, it makes little economic sense to prevent a person moving into a more appropriate position. Indeed, the very notion seems designed to secure and ring-fence on an ongoing basis a migrant workforce for lower value sectors. This is counter to our economic strategies of supporting higher value activities and goes against the efficient allocation of resources across our economy.

Secondly, this proposal provides no security – employee and employer alike would operate without any certainty of employment beyond 12 months. What does that mean for business investment if all permissions are restricted to 12 months? Would businesses feel that Jersey is a secure place to move to when they have such fundamental uncertainties?

In short, this amendment is the worst of all worlds – it provides an instrument to support some industries so they can continue to employ migrants and do not lose them to other sectors, while also providing fundamental uncertainty as to whether employees will be re-registered after 12 months.

Thirdly, the proposal means that an additional 6,000+ people would have to register each year with the States of Jersey, more if the qualification period is increased to 7 years. How are we to decide who is registered, and with what conditions, and who is not going to be allowed to register? This assumes government are better at assessing potential recruits than businesses.

Fourthly, we need to examine the legal and constitutional implications of saying, for example, to a British National, that they can only work in one sector, or indeed, cannot work anywhere in the Island. This would need more detailed proposals as to how the system would actually work. We should also recognise that this proposal goes much further than the other Crown Dependencies.

- In Guernsey, many jobs require a housing licence, but equally, many do not, for example, if a person lives in an open-market property, including multiple occupancy units, or some staff accommodation, they are “permit free”.
- The Isle of Man does have a work permit system, but they are reducing their qualification period down to 5 years, and while permit requests are coming down significantly (in the same way as permissions in Jersey are declining) they rarely refused. Indeed, in 2013, 4,240 applications were approved and only 103 were refused.

Finally, are we the sort of society that wants to impose a requirement on newer migrants to visit a government department each and every year so they can be registered, processed, and assessed? What message does that send out about our culture, and how would other jurisdictions respond?

Part (c):

This part of the Amendment calls for less than the Interim Population Policy.

For example, the Interim Population Policy says that all businesses whose staffing exceeds the industry average will be reviewed. The Amendment calls only for those over 50% to be reviewed.

In an industry such as general retail, the industry average is 12%, and no single business of any size has more 50% or more of its staff as migrant workers – yet a number of large businesses have a migrant workforce which is 20% of their workforce. As such, the Amendment implies that the whole of the general retail sector should not be affected by the policy, and importantly, no mandate is provided to take that action.

While this part is consistent with the Interim Population Policy, it is less effective, so is not supported.

Financial and manpower implications

The Amendment will have a significant financial and manpower implication, contrary to what the Amendment says, most prominently because it requires annual registration for all registered workers. The total estimated financial implications of this Amendment are £240,000 per annum, with consequent manpower implications of 6 FTE. Within the existing MTFP envelope, these costs could not be met.

Conclusions

The new Control of Housing and Work Law already has a wide range of powers that can and will be applied in support of the Interim Population Policy, as outlined in the accompanying Report, including –

- Removing unused permissions from businesses
- Imposing conditions, for example, that all new recruits must be “entitled” or “entitled to work”, or, that by a specified time that the number of “registered” employees is reduced.

The Law can even impose conditions as to specific individuals who can work for a business, for how long they can work for that business, and where they can live. These powers will be available to the Control of Housing and Work Advisory Group as it considers applications, for example, in relation to specific construction projects. In doing this, the application of these powers would include an individual assessment of each businesses need, including as to the support they need, for example, as part of the “Back to Work” programme.

The Amendment calls for very significant changes, by way of a short report, while deleting the whole of the Interim Population Policy Report and the guidance that provides to decision-makers. In doing so, it does not materially improve the level of control we have over migration levels.

We have recently introduced a new Control of Housing and Work Law which has significant powers, and where that needs enhancing, that should take place based on detailed evidence, with proper engagement, and being subject to Scrutiny and a full and informed debate.

The Council of Ministers therefore asks Members to reject all parts of this Amendment.