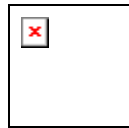


## INTRODUCTION OF WORK PERMITS

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**Lodged au Greffe on 20th July 1999  
by Deputy P.V.F. Le Claire of St. Helier**

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**STATES OF JERSEY**

**STATES GREFFE**

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## PROPOSITION

### THE STATES are asked to decide whether they are of opinion -

- (1) to agree, in principle, that all persons who are not eligible for consent to lease or purchase residential accommodation in accordance with the provisions of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, should be required to obtain a work permit before taking up employment in the Island;
- (2) to charge the Policy and Resources Committee to bring forward proposals for the implementation of a work permit scheme as set out in the Appendix to the report of Deputy Paul Vincent Francis Le Claire of St. Helier dated 8th June 1999.

### DEPUTY P.V.F. LE CLAIRE OF ST. HELIER

Notes: 1. The Finance and Economics Committee sees no merit in the proposals for the introduction of work permits as put forward by Deputy Le Claire.

The Committee considers that the introduction of the proposed work permit scheme will, as well as being divisive, also have significant unquantified resource implications and would cause considerable damage to the local economy.

The Committee also believes that of all the instruments currently identified to assist in controlling the Island's population, the Regulation and Undertakings Law is the least difficult to administer and the least damaging to the economy.

2. The Policy and Resources Committee maintains the view that in the current circumstances of virtual full employment there is no case for, or merit in, the introduction of work permits.

The Committee also considers that a work permit scheme as proposed by Deputy Le Claire could be in conflict with the Human Rights legislation that is in prospect, and the Committee has referred this matter to the Attorney General for his views.

On the general subject of population control, the Committee is shortly to circulate an “issues” document for discussion with States members, and representatives of the private sector, prior to a report and proposition being presented to the States.

3. The Establishment Committee notes that, although not detailed, there are potentially substantial manpower implications in the report and proposition regarding the introduction of work permits. Subject to the approval of the proposition, the Committee requests that any proposals for the implementation of such a scheme should detail and consider any manpower implications in light of both the States’ policy on manpower and the principles of the Regulation of Undertakings and Development Law.

## REPORT

The Policy Advisory Committee in a Report submitted to the States in 1974 laid down an economic strategy which served an objective to hold the rate of population increase to below 500 a year and to limit the level of population to 80,000.

### **Background to population growth control**

The States adopted a proposition of the Defence Committee on 26th September 1972 to set up a special Committee of the States to submit recommendations with the object of providing the Island with means of protection against immigration and unemployment. This Committee essentially followed on from the Immigration Working Party appointed on 9th July 1968 to report on all the implications of continuing and increasing immigration to the Island and the desirability and practicability of imposing some form of control thereon. The special Immigration Committee reported in March 1973. The major recommendations to the conclusion of that report which had the greatest bearing on States policies were that the average annual net rate of immigration should be such that by **1995** the population would not exceed 80,000. Some nine years ahead of those recommendations in **1986** the population reached **80,212**.

**(I draw from the work produced by the States Environmental Advisor.)**

The view is frequently expressed that there has been a lack of political will to tackle the issue of immigration and that the present population level has led to much loss of the "Jersey character". A manifestation of that problem is well-demonstrated with the Island Plan. It based its policies on a States agreement to limit population to 80,000, and it has had to grapple with the fact that, throughout the operation of the Island Plan policies, that level has been significantly exceeded.

The feelings of the Island's public on this issue are virtually unanimous. The 1995 MORI survey revealed that over 90 per cent of respondents did not wish to see the population increase, with over 60 per cent wanting to see a decrease. This was strongly reinforced in the Focus Group study. A preliminary questionnaire survey revealed a 70 per cent dissatisfaction with the population level and 90 per cent wishing to see it remain at its present level or decrease. A further reinforcement came from the actual focus groups, who expressed a strong consensus across all the groups that population is the prime cause of the Island's current environmental and social problems. Resolving the population issue must be the key objective of the States. The States have already responded to the strong concerns expressed on this issue with its endorsement of the 1997 Strategic Review and Action Plan, e.g. the recent amendment of the Regulation of Undertakings and Development Law. As the latest manpower returns indicate, there is absolutely no room whatsoever for complacency.

All the indicators point to the fact that the population is still growing at a significant rate and the need to dampen the demand pressures in our local economy persist. Adverse reaction to the recent tightening of the Regulation of Undertakings and Development Law must be tempered with a realisation that the Island has no choice but to face up to the population issue and no solution will be easy.

*Given the anecdotal and other evidence of continuing population growth, other methods, e.g. identity/work permits, may need to be seriously considered without delay. (Jersey In The New Millennium, October 1998.)*

It is all too evident with the recent announcements concerning our schools, our prison, our social amenities, our policing difficulties, our transportation, housing provisions, States workers' pension fund, residents' pension fund, our health services, sheltered houses, increased calls for more public sector employees and the desire to implement outsourcing of States' functions, that we are likely to see an enormous increase to our social welfare bill, with the effect of a decreased quality of life. In the future there is no absolute guarantee of the continued very high financial gains that are provided by our primary, and almost only, industry that is the finance sector.

It is a fact that we are trying to control population through the Regulation of Undertakings and Development Law, which is in fact a law to control provision of workers to businesses, a mechanism that does not take into account the quality of arriving or existing workers, the number of their dependants and their backgrounds, all of whom need access to our social and community benefits, and the possible desire of locally resident people that wish to fill the upcoming vacancies. The Policy and Resources President has indicated quite clearly that Jersey is signed up to the Rio Agreement and yet, in respect of Agenda 21, there is no communicative participation and implementation of an effective immigration policy as desired by the residents of Jersey.

There are two important needs of our community that should be addressed. The first is the need for properly skilled employees, and the second is the need to ensure that Jersey residents come first when they have the skills that are needed. These two needs often seem to be in conflict with one another. Employers often feel immigration is not responsive to their needs, and Jersey residents often feel immigration is not responsive to their aspirations. Jersey needs a properly skilled work force to guarantee that we are able to compete in the world's economy, and a mechanism to ensure training and employing capable Jersey residents is the most desirable route for employers to take. The recent high levels of academic achievements

being attained in our schools, in such things as GCSE and GCE 'A' levels gives evidence to this fact. The future work force for this Island, and indeed other Islands, can be better served by employing locally educated people, rather than importing people with arguably more verbal confidence in their abilities, than documentary evidence to support it. Jersey students' achievements are indicated in the following -

'A' levels - proportion entries recorded at A-B in 1998 were 38.6 per cent, which was better than the United Kingdom, where students' proportion entries recorded at grades A-B were 35.7 per cent, which approaches three per cent higher. A higher proportion of our youngsters take 'A' levels than is the case in the United Kingdom. A-C entries recorded by Jersey students was 64.1 per cent, and in all the United Kingdom it was 56.5 per cent, which was nine per cent ahead.

For GCSEs (the replacement for the old 'O' level) and CSEs recorded in Jersey in 1998, using the proportion of students who recorded five or more grades A\* which is better than A-C in Jersey achieved 59.9 per cent in the United Kingdom for the same year it was recorded at 46.3 per cent. If we look at the number of subject entries at A\*-C in Jersey it was 65.3 per cent, and in the United Kingdom 54.8 per cent, again ten or 11 per cent ahead of the United Kingdom.

This reflects three things in relation to our ongoing investment within the Island, and in our children, through our education system.

1. That education is something that is still valued by the majority of people in the Island as providing a means for advancement.
2. Through the revenue budget the States shows its commitment to providing an education service of high quality, thus we invest more in individual pupils than in many places in the United Kingdom, as is shown by smaller class sizes. (When people buy private education they are normally buying smaller class sizes.)
3. That we are continuing to invest heavily to provide a world class educational infrastructure through our capital programme.

*The proportion of youngsters that go on to Universities and Colleges in Jersey varies by year to year, but in 1998 it was running at between 40-45 per cent. The figure in the United Kingdom in 1998 was 33 per cent.*

The practice of placing people on short-term contracts to avoid the expense of pensions and holiday pay seems to have added to the problem of overpopulation, and may have helped add to the anticipated shortfall in funds for pensions in the future. This in turn has brought in qualified people from abroad, which has arguably been unnecessary and definitely discouraging to our youth, who feel they are being sold out. Many people are repeatedly voicing concerns of children with grandchildren in tow giving up on their Island, because long ago the Island gave up on them. Increased measures of immigration will guarantee and allow Jersey youngsters an opportunity to realise their full employment potential by conserving and creating employment opportunities in Jersey.

The main consideration before granting work to a non-Jersey resident is whether there is a suitable qualified Jersey resident who is interested in the job. An employer who applies to employ a non-Jersey resident in a job for which there was a Jersey resident applicant is required to give clear, satisfactory reasons for not employing the Jersey resident. It should be appreciated though that the department issuing the work permit cannot force an employer to employ a particular Jersey resident, only prevent him from employing a non-Jersey resident by not granting them a work permit.

These policies are intended to protect the interest of Jersey residents, while at the same time not to be so restrictive that they act to the detriment of Jersey as a whole. Those who feel they are too restrictive, as well as those who feel they are not restrictive enough, are reminded that ultimately if we are to contain our never-ending housing problems, preserve the environment of the Island, slow down and reverse the increase of crime and drugs that is on the rise in an alarming way and avoid even greater problems in the future, then such policies are essential.

Jersey must get to grips with the population, immigration and housing issues sooner rather than later, before the Island risks alienating those living here, both transient and resident, through our lack of courage in getting to grips with the issues that go to make up these growing problems.

So far Jersey has relied on the fact that there is no unemployment benefit, inadequate accommodation, and the Regulation of Undertakings and Development Law to keep the population down, but this is unacceptable. The Island is heavily dependent on importing people to work as teachers, nurses and in the tourism and retail industries, and while such people are not residentially qualified, many become residentially qualified through marriage. Checks into their backgrounds and history are

almost non-existent and no provision is made to identify the number of family members that accompany them to the Island, which in turn leads to greater pressure on our infrastructure.

There is an ever-increasing underground work force reported in the Island by small businesses. Unscrupulous businesses and criminal elements are not likely to heed such weak control mechanisms such as the ones that are currently in place. We have evidence to that fact, as seen recently with serious criminal offenders being sought by United Kingdom authorities that are known to Jersey Police. The Regulation of Undertakings and Development Law is currently being hailed as a cure-all solution. Whilst it is important to recognise the important role this idea has to play within effective population management, it is also responsible for us to acknowledge its shortcomings. The department continues to allow more businesses to open in the Island. Some of these establishments are flatly, directly and unambiguously at variance with the criteria set out by themselves and have little or no Justification for being granted licences at all, and yet they draw upon other establishments' work forces to operate and encourage yet more immigration.

Many people hold several part-time jobs in the Island at fewer than eight hours per week. No tax is paid by these individuals, who can be heard boasting as to how much of a soft touch Jersey is. They travel back and forth to the Island at regular intervals to avoid having to pay taxes here, whilst building homes of their own in their native countries that Jersey residents who do pay tax will never aspire to achieve. Work permits will stop this type of abuse and mismanagement of resources.

The reason for proposing the implementation of work permits as a means of controlling the population has been made in many reports over many years. It is now time to put the dialogue to rest and to implement the wishes of the people.

The accompanying Appendix gives details as to what a work permit system would entail, having taken into account many people's views, from constitutional lawyers to general members of the public, under a working party that was set up by myself, Deputy P.V.F. Le Claire of St. Helier.

## WORK PERMITS IN JERSEY

The following are details of a work permit scheme as proposed by Deputy P.V.F. Le Claire of St. Helier.

### Introduction

Work permits are seen as a means of protecting employment opportunities for local workers and are a means of controlling overpopulation. They are not intended to act as a restraint of trade. The system applies only to work carried out in Jersey and is not the same as that for overseas workers, to whom immigration restrictions apply as in the United Kingdom.

This leaflet is intended as a general guide and should not be seen as a complete and authoritative statement of the law.

For further information or advice please contact -

The Employment Office  
*Address*

### The requirement for a work permit

#### Persons who require permits

Except in the case of a small number of occupations, anyone who does not possess FULL RESIDENTIAL HOUSING QUALIFICATIONS requires a permit to take up employment, including self-employment in Jersey. The people that possess full housing qualifications for the purposes of clarification shall be known in relation to these matters as “native Jersey residents”.

#### Employment for which permits are not required

Temporary employment for not more than three days. This is meant to cover the situation where someone comes to the Island, carries out a specific job and goes away, not to return. Someone who makes repeated short-term visits to the Island is counted as having built up a pattern of employment in the Island and requires a permit.

Temporary employment for more than three days where the Employment Centre is satisfied that there are good reasons to grant an exemption. This applies, for example, to persons directly involved in the Battle of Flowers or other large and specialised events where it is obvious that there are no locals available.

In addition, special exemptions are made by Order to cover certain situations -

#### *Civil emergencies*

Persons in temporary employment, mainly in relation to criminal investigation or similar, i.e. in connection with court proceedings.

Non-resident, non-executive directors who visit the Island for not more than three days in any calendar month. The intention of this is that they can come to the Island to attend board meetings.

### **Right to work applications**

#### How to apply for a permit

Application forms are obtained from -

The Employment Centre  
*address*

The employer is responsible for applying for the permit, but part of the application has to be completed by the employee. There is a slightly different form for self-employment. In both cases the questions to be answered are as required and designed to obtain enough information about the proposed employment and the person concerned to enable a proper decision to be made. If any doubt remains, the Department is entitled to ask for further details in support of the application.

As it is an offence for a person who requires a permit to start work without one, the application for a permit should be made up to three weeks in advance of the proposed starting date, except in certain circumstances where there are extenuating circumstances that must be approved by the Employment Centre. The employer is expected to advertise the employment concerned so that native residents have the chance to apply.

The issuing officers take into account the extent to which advertising has been done, i.e. in the local press or in trade journals, radio, television or through the Job Centre or an employment agency. The response from local workers and the reason for their rejection is noted.

### **Advertising criteria**

Immigration and Employment Policy requires that qualified and interested native residents should be given the first opportunity to fill job vacancies. If there are no qualified and interested native residents, then the employer may apply for a permit to employ a non-native Jersey resident. The method of determining whether there are any Jersey native residents available is by advertising the vacancy at least three times in the Jersey Evening Post and by checking to see if there is anyone registered in that work category with the employment centre.

It is also desirable that the staff of the organisation involved should be informed of the vacancy, through notices on company bulletin boards, as an additional means of ensuring that qualified native residents are given an opportunity to apply. Employers are urged to follow this practice.

The advertisement must appear on three consecutive days in The Jersey Evening Post. These appearances must be as space ads in the "Situations Vacant" page. Each advertisement must include -

- the name of the company seeking the employee;
- the title of the job being filled.

The advertisement should be worded as to give a brief description of the job to be filled and should not be tailor-made to fit a particular individual. The conditions of the job must be in accord with what is considered normal practice in Jersey.

A grace period of at least five working days following the last advertisement must elapse before applying for a work permit, to allow sufficient time for a native resident to apply.

### Employer application for permits

On application for a work permit the employer must submit copy and dates of the advertisement.

A copy of any correspondence sent to a Jersey native resident who was not successful should accompany the application.

Applications for a work permit would not be considered if three months or more have elapsed since the position was advertised. However, once permission in principle to employ a non-native resident has been granted, then advertisements may be made up to six months after the advertisement has appeared.

### Three -year advertising

Unless there are special circumstances, the Employment Office will require that a job held by a non-Jersey resident be re-advertised after three years prior to the renewal of the work permit being considered. This is to ensure that any Jersey native resident who in the meantime has become qualified or is available to fill the post is given priority. If a Jersey resident is found, the work permit may not be renewed.

### **Permit application decisions**

The administration of the work permit system is dealt with by the Employment Centre. Each application must be decided on its merits.

Provided that the application form is properly completed it is usual for a decision to be made and the applicant notified within five working days.

### Matters taken into account



In deciding whether or not to grant a permit there are certain things which must be considered and others which may be considered.

The following four points must be taken into account -

*The likelihood of there being suitable native residents available for the employment concerned.*

It is sometimes difficult to judge who is “suitable”, but, in general terms, it is taken to be someone who is capable of doing the job to the required standard, not necessarily the best person for the job. A native resident does not have to be unemployed to be “available”. He may be someone who wishes to change employment, or he may be working for the employer and capable of being transferred or promoted. For self-employment the Employment Centre looks to see if there is a demand for the proposed service, and if so whether there are native residents or existing businesses capable of providing it.

*The likelihood of suitable native residents becoming available within 12 months, bearing in mind general employment prospects.*

This covers cases where it is thought, for example, that there may be a downturn in trade which will result in native residents being made redundant. In these circumstances a permit may be refused or its length restricted.

*The family circumstances of the person concerned, provided that he has been working in the Island on a permit for at least three years.*

A permit is less likely to be refused if the person concerned shows that he has some sort of commitment to the Island, i.e. he may have Jersey-born children, or other family in the Island. He may have been in steady employment and not been in trouble with the authorities.

*Any criminal convictions, on or off the Island, of the person concerned.*

The Rehabilitation of Offenders Act does not apply in the Island, and all criminal convictions must be stated in the application form. These are checked. The fact that someone has a criminal conviction does not necessarily mean that a permit will be refused; that depends on the nature of the offence and when it occurred.

There are a further six matters which should be taken into account.

*The percentage of native residents already working for the employer concerned.*

In broad terms, if an employer shows that most of his work-force is made up of native residents he has a better chance of being granted a permit.

*The wages and conditions on offer.*

A permit may well be refused if the wages and conditions are not up to the standard normally expected in the type of employment concerned.

*The character of the person concerned and of members of his family.*

The question of criminal convictions of the person concerned is one of the things that must be considered. The final decision may go on to include the criminal convictions of his family.

*Whether a refusal would be harsh and oppressive to the employee.*

*In addition, applications may be refused if an employer has failed to pay social security contributions. In practice, the application is sometimes deferred until the contributions are paid.*

*The availability of accommodation.*

In relation to other places in the United Kingdom, Jersey has extremely limited space, geographically speaking, some 45 square miles. With the interest of preserving the Island's natural beauty, construction of non-qualified housing is limited. Accommodation must be secured before a permit can be issued, and can be secured through accommodation agencies and real estate companies or through advertising. This can be made easier for all concerned if the employer and prospective employee meet in person prior to commencement of application for a permit to discuss the needs of the employee.

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Applications for a work permit and for renewal of a work permit are subject to a fee, currently £25.00 per application, which is non-refundable, in line with standard practice in most countries, to ensure a self-financing mechanism. During the transitional period a nominal fee of £5.00 will be charged and applicants will need to provide two passport-sized photographs.

Applications should be submitted at least seven days prior to the proposed date of commencement of the employment.

No employment is permitted until an application is approved and the permit has been issued.

## **The permit**

### How permits are made out

Permits can be issued in whatever form the Employment Centre sees fit and for whatever period. In practice, permits are given for specific jobs for a named employer or for self-employment of a particular nature. The length of time for which they are issued may be in the following categories -

1. Unrestricted

For people that have been in the Island for more than ten years.

2. Restricted

For people that have been in the Island for more than five years and less than ten years.

3. Temporary

For people that have been in the Island for more than two years and less than five years

4. Seasonal

For people who are entitled to work within a particular industry for nine months.

Where a permit is not granted the Employment Office is not obliged to give the reason.

In general the more senior the position the better chance there is of a permit being **“RESTRICTED”** as for those seeking long-term employment such as professional medical staff. For relatively low-paid jobs where there is a high labour turnover the permit is more likely to be **“TEMPORARY”**.

*When a person wishes to change jobs he must apply for a new permit which must be considered in the normal way.*

## **Revocations, appeals and offences**

### The revocation of permits

Permits can be revoked in categories 2-4 in the following circumstances -

- where the person on the permit commits an offence punishable by imprisonment or where the offence makes his employment in the Island undesirable;
- where it is discovered that a person has made a false statement in order to get his permit;
- where the permit holder fails to pay social security contributions and income tax.

### Offences

It is an offence, punishable by fine and/or imprisonment for anyone who requires a permit to work without one. It is also an offence to make a false statement in order to assist the applicant in attempting to secure a permit.

**Alleged offences are investigated by the States of Jersey Police.**

**8th June 1999.**

## **SAMPLE APPLICATION FORMS**





















