

STATES OF JERSEY



MIGRATION CONTROL POLICY (P.137/2020) :ADDENDUM

Presented to the States on 6th April 2021
by the Chief Minister

STATES GREFFE

ADDENDUM

P.137 Additional information

The Chief Minister accepts recommendations 1 and 2 of the “P.137/2020 Migration Control Policy (Phase 1) Report (S.R.6/2021) published by the Migration and Population Review Panel on 25 February 2021, to provide additional information on the relationship between the Immigration (Work Permit Jersey) Rules 1995 and the Control of Housing and Work (Jersey) Law 2012 (“CHW Law”). See appendix for the full text of the recommendations.

Introduction

The CHW Law and the immigration Rules provide different controls over people wishing to come to Jersey to work.

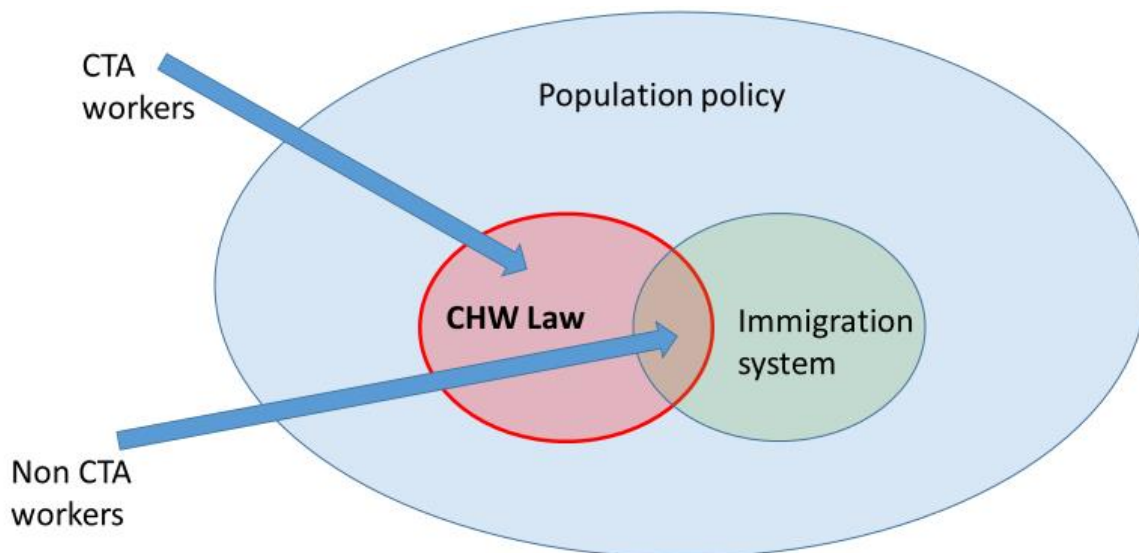
All adults living legally in Jersey, no matter where they are from, must hold a CHW permission¹ in order to take up employment, or rent or buy property.

Jersey’s membership of the CTA² means that the Island has decided to align its immigration controls to that of the UK, to maintain an equally robust immigration system, and to allow the free movement of all persons within the CTA regardless of nationality.

The need for Immigration permission depends on a person’s nationality. Since 01/01/21 anyone who is not British or Irish requires an immigration permission (visa) to visit, work, study or settle in Jersey, and an employer requires an Immigration work permit to employ them.

An Immigration permission to work will not be issued unless a business has already been issued with the required CHW permission to employ that individual.

This diagram shows the relationship between the CHW Law, the immigration system and the broader population policy.



¹ A child growing up in Jersey receives this permission automatically after a period of 10 years as an ordinary resident.

² The Common Travel Area (CTA) comprises the United Kingdom, Ireland and Crown dependencies.

Proposed changes to CHW law

The changes to the CHW law set out in P.137/2020 seek to give the government a set of controls on employment that will be more responsive than the current system. This will allow the government to proactively implement an agreed population policy and respond quickly to future external pressures.

The P.137/2020 proposals do not, in themselves, restrict or expand the number of jobs in the local economy. Nor do they set out in detail the rules that will be applied in the future to control these numbers.

Subject to approval of P.137/2020 the Chief Minister will return to the States Assembly in summer 2021 with the detailed law drafting that will clearly set out the process whereby CHW permissions are granted and transferred. The date on which these changes will be implemented will form part of the debate at that time.

Before the end of 2021, the Chief Minister will return to the States Assembly with the first common policy on population. This will set out a broad policy direction that balances the important tensions between community, environment and economy.

Subject to the outcome of these important debates during 2021, clear policy and operational guidelines will be drawn up and published in line with the decisions that have been made. These guidelines will ensure that businesses and workers have a full understanding of the controls and how they are being used.

A new IT system is being developed during 2021 to support these changes, provide for a streamlined application system and collect detailed data on all aspects of CHW permissions.

There will be a significant transitional period while existing and new CHW permissions run alongside each other.

Proposed CHW permissions and Immigration Rules – comparison

The tables below show the control steps that are proposed under the P.137 proposition and how they relate to the immigration controls that are currently in place. Current fee levels are also set out.

Note: 3-year immigration visas and work permits are able to be extended, providing certain criteria are met, including the holding of a CHW permission.

Immigration rules allow for a person who has been present in the UK or Crown Dependencies for a continuous period of 5 years to apply for Indefinite Leave to Remain (ILR), which is similar to settled status. Once a person has ILR they, and their employer, are no longer subject to any further immigration permissions or costs for immigration permissions.

Whilst immigration permissions allow for a person to enter the Island and take employment in a specific job, that person remains subject to the CHW permissions governing the category of work or housing they have access to.





Immigration fees³ have been in place for third country nationals for many years. EU citizens are now treated as third country nationals and therefore these fees also apply to them.

³ Fees for extensions to immigration permissions are paid to the jurisdiction in which the immigrant intends to live in. However, the first visa application fee is always paid to the UK.

Proposed 9-month CHW permission

This type of permission is best suited to jobs that have a short duration. This could be a technical specialist supporting a one-off project for a few months or a worker supporting a seasonal industry.

Control steps

CHW permission All migrants	Immigration work permit All non CTA migrants
9 month CHW permission	9 month work permit
	
9 month permission can be re-applied for after a 3 month break	
	
Does not lead to permanent residential status	Does not lead to settlement or Indefinite leave to remain

Fees




	Employer	Worker
CHW permission	£50 annual fee to maintain CHW permission for post	One off registration fee of £80
Immigration Visa		£244 paid to UK
Immigration Work permit	One off fee of £115	

Note: For non CTA applicants, the 9 month immigration visa and work permit fees are a one off as they are for one set time limited period of work, at the end of which the immigrant is required to leave Jersey and the CTA.

Proposed 4-year CHW permission

This type of permission is best suited to jobs that either have a limited duration or do not require very high-level prior skills. This could be skilled construction workers supporting a major one-off project for one or more years or a worker helping to address a labour shortage in an ongoing business.



The 4-year permission also provides a route to a 10-year permission. This transfer will be subject to detailed guidelines in line with the agreed population policy. For example, this route could be used to support specific business sectors or specific skills and /or to acknowledge the personal attributes and circumstances of the worker.

CHW permission	Immigration work permit
4 year CHW permission to live and work in Jersey.	3 year work permit with the opportunity to extend for one further year
	
Year 4: If skills, responsibility and salary develop, can apply to transfer to 10 year CHW permission	
	Year 5: Opportunity to apply for 'Indefinite leave to remain'
Year 10: Long term CHW permit leads to permanent residential status	

	Employer	Worker
CHW permission	£50 annual fee to maintain CHW permission for post	One off registration fee of £80
Immigration visa - First 3-year period		£610 paid to UK
Immigration – Further leave to remain (up to 3-year extension)		£704
Immigration – Indefinite leave to remain (5 years plus)		£2,389
Immigration work permit – First 3-year period	£115	
Immigration work permit – 3 year plus	£290	

Proposed 10-year permission

This type of permission is best suited to jobs that meet a specific skills gap that cannot be met from the island workforce. This is likely to cover posts that currently receive “licensed” status including health and education specialists as well as highly skilled private sector posts, across a range of professions.

CHW permission	Immigration work permit
10 year CHW permission to live and work in Jersey	3 year work permit with the opportunity to extend for 2 years
	
	Year 5: Opportunity to apply for ‘Indefinite leave to remain’
Year 10: Long term CHW permission leads to permanent residential status	

	Employer	Worker
CHW permission	£225 annual fee to maintain CHW permission for post	One off registration fee of £80
Immigration visa - First 3-year period		£610 paid to UK
Immigration – Further leave to remain (up to 3-year extension)		£704
Immigration – Indefinite leave to remain (5 years plus)		£2,389
Immigration work permit – First 3-year period	£115	
Immigration work permit – 3 year plus	£290	

APPENDIX

RECOMMENDATION 1

Prior to the proposition being agreed by the States Assembly the Chief Minister must provide clarification on the relationship between the Immigration (Work Permit) (Jersey) Rules 1995 and the Control of Housing and Work (Jersey) Law 2012 to ensure they are workable for all sectors of the economy.

RECOMMENDATION 2

Prior to the proposition being debated a report should be provided by the Chief Minister to the States Assembly which details the costs which businesses will incur for employing a migrant worker through the Immigration (Work Permit) (Jersey) Rules 1995 and the Control of Housing and Work (Jersey) Law 2012.