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# A POPULATION POLICY FOR JERSEY

REPORT OF A POLICY AND RESOURCES COMMITTEE WORKING PARTY

JUNE 1996

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## CHAPTER 1

### 1 INTRODUCTION

- 1.1 The Policy and Resources Committee, with the approval of the States of Jersey, established the working party on population policy in October 1995. The terms of reference of the working party were -

"To consider the case for and against -

- (a) the various options for further controlling the number of permanent residents in the Island, including the introduction of residence permits;
- (b) the introduction of identity cards, which are likely to be required if they are introduced in the United Kingdom."

- 1.2 The working party comprised -

Chairman	Mark Boléat
States Members	Senator Stuart Syvret Connetable Iris Le Feuvre Deputy Jerry Dorey
Non-States Members	Marie-Louise Backhurst Micki Lewin Richard Pirouet David Watkins.

- 1.3 The working party gratefully acknowledges the assistance of many people in providing ideas and information which have assisted them in preparing this report. For factual information and a preliminary discussion of some of the arguments, the working party has drawn heavily on the 1994 report on population and immigration policy by a working group of chief officers. The working party is grateful for the help which has been given by Colin Powell, Chief Adviser to the States, and John Christensen, Chris Pardoe and Victoria Walker from the Chief Adviser's Office; Eric Le Ruez, Chief Housing Officer, and Peter Connew, Housing Law and Loans Manager; Ann Esterson, Controller of Social Security; and Martin Furzer, Chief Immigration Officer. The working party appreciated the assistance of Brian Castle, Chief Executive Officer of the Housing Authority, and John Dickson, Head of Economic Section, from Guernsey, who attended a meeting to discuss policy instruments being used in that island, in particular its right to work law.
- 1.4 The working party published a consultation paper on 12 January 1996. This attracted 45 responses which the working party has carefully considered and drawn on in preparing this report. The working party is most grateful of all those who responded. They are listed in Appendix 1. It wishes to record specifically its appreciation of the work of the Jersey Rights Association which submitted by far the most comprehensive of the responses and which, at the request of the working party, provided further information on points raised in its original submission.

- 1.5 The working party's terms of reference are concerned with the level of population. Some of the responses were concerned primarily with other issues, such as keeping out 'undesirables', preventing crime and housing conditions. These are all important issues but are not matters for the working party. It has confined itself to dealing with factors which influence the size of the population, not its composition. However, it has considered policy issues, such as short-term contracts and the Housing Regulations, which have, or are perceived to have, an influence on the total size of the population.



## **CHAPTER 2**

### **2 THE POLICY OBJECTIVE**

- 2.1 The working party has taken as its starting point the decision of the States in September 1995 that the Island should have a permanent resident population the same or less than the current level.
- 2.2 This was the view that came from the consultation exercise carried out in 1995 on behalf of the Policy and Resources Committee. Nearly 60 meetings were held with individuals drawn from parishes, schools and youth organisations, churches, women's organisations, environmental groups, trade unions, businesses and other organisations. The views expressed on population were summarised as follows -
- (a) There was little support for setting a target figure for the Island's population although the majority view was that the population should be at the present or a lower level.
  - (b) There was concern at how the Island would manage in the future when it was expected that there would be a greater number of elderly persons and fewer of working age to support them.
  - (c) Several groups expressed the view that population control should not be exercised in a way that jeopardised the health of the economy on which the Island's social policies depended.
  - (d) There were differences of opinion on how the population could or should be controlled. Work permits figured prominently in the discussions but there was a recognition in most cases that work permits were not the answer when there were more jobs than local people to fill them. The Regulation of Undertakings and Development Law appeared to be viewed favourably and there was some pressure for residence permits. Allied to existing controls or the introduction of work or residence permits was support from some quarters for the introduction of frontier controls.
  - (e) There were mixed views on five year contracts. Some saw merit in protecting job opportunities for locals and were reluctant to see the policy changed. Others saw five year contracts as detrimental to the most effective securing of the Island's economic and social policy objectives because fixed term contracts were thought to lower the ability to attract the best possible people.
  - (f) There was a general view that there should be more training undertaken. Some also expressed the view that if too much protection was given to local residents in the labour market, this would discourage them from seeking to improve their skills through training.
  - (g) It was generally recognised that if the existing workforce could be used more effectively, there would be less need for immigrant labour.
- 2.3 An opinion survey conducted by MORI, as part of the consultation exercise, showed that when asked what the future population should be compared with the present level, 5% said it should increase a little, 30% stay the same, 41% decline

a little and 20% decline a good deal.

- 2.4 When asked what they disliked about Jersey, 52% said the amount of traffic (the second highest factor mentioned, the highest being the cost and quality of sea and air transport - 61%), 33% referred to over-crowded and 24% to over-developed. The general conclusion, therefore, is that people do not want the population to rise so as to protect the existing environment, with concern about traffic being foremost.
- 2.5 However, it is fair to say that similar results could probably be obtained by surveying any part of the United Kingdom, whether it be a large city like London or a small village in the Cotswolds. It is also significant that in the consultation exercise, several groups expressed the view that population control should not be exercised in a way that jeopardised the health of the economy on which the Island's social policies depended. While the MORI survey can be correctly interpreted as meaning that 91% of those who responded do not want the population to increase, it can equally be interpreted as saying that 79% are broadly content with the population at around its present level.
- 2.6 The working party considers that the views expressed in the consultation exercise fairly reflect opinion in the Island and are mirrored in the responses to its own consultation document. It is perhaps unfortunate that so much attention has been focused on the MORI poll as it is simply not possible to handle a difficult question such as population policy on the basis of one simple question. Also, the MORI poll was not based on a representative sample as is normal practice.
- 2.7 There is probably general agreement in the Island that, other things being equal, it would be better if the population was lower than is currently the case. But other things are not equal, and as the consultation exercise made clear, this policy objective has to be balanced against others, including maintaining the health of the economy, and not imposing onerous restrictions on individuals and organisations.



## CHAPTER 3

### **3      POPULATION TRENDS**

#### The Historical Position

- 3.1      The population of Jersey was about 57,000 in 1851. It declined modestly to 50,000 in 1921, staying at around that level until 1939. There then followed a steady increase until 1991. The growth of the population since 1931 is shown in the following table.

#### Population of Jersey 1931-1991

<u>Year</u>	<u>Population</u>
1931	50,462
1951	57,310
1961	59,489
1971	69,329
1981	76,050
1991	84,082

Note: The population figures from 1931 to 1971 include visitors; figures for 1981 onwards are for the resident population, that is excluding visitors but including those not present on Census night but normally resident.

- 3.2      Between 1981 and 1986, 98% of the population increase was caused by net immigration. Between 1986 and 1989 that proportion fell to 81% and from 1989 to 1991 it fell to 66%. No firm estimates are available of the population since 1991, but the best estimate is that there was a decline, probably of about 2,500, between 1991 and 1993. That decline would be explained wholly by net emigration. In turn, this is attributed to the effects of the recession. Subsequently, the population has probably increased, although not back to the 1991 level.
- 3.3      Changes in the population in the short-term can be estimated from an analysis of manpower returns which businesses are required to provide to the Finance and Economics Committee under the Regulation of Undertakings and Development Law. The following table shows the statistics from December 1990 to December 1995.

### Labour Force, 1990-95

End Year	Public Sector Full Time	Private Sector Full Time	Total Full Time	Private Sector Part Time
1990	5,800	33,401	39,201	6,929
1991	5,822	32,194	39,016	7,148
1992	5,840	30,582	36,422	6,859
1993	6,239	30,685	36,924	6,972
1994	6,167	31,048	37,215	7,222
1995	6,158	31,258	37,416	7,381

The table shows a peak figure for the number of full-time workers of 39,201 at the end of 1990. There was a sharp fall of over 2,500 in 1992 since when there has been a modest increase of about 1,000, leaving the working population about 1,500 below its peak level. It is reasonable to assume that these trends are reflected in the population figures, hence the conclusion in the previous paragraph.

- 3.4 It is helpful briefly to note the breakdown of the private sector labour force by industry, and how this has changed since 1990. The following table shows the position.

### Private Sector Full Time Labour Force 1990-95

	1990	1995	Percentage Change
Retail distribution	4,492	3,962	-11.8
Misc. services	2,272	2,277	0.2
Medical services	785	804	2.4
Educational establishments	232	245	5.6
Hotels, restaurants, pubs etc	4,526	4,009	-11.4
Garages	1,140	992	-13.0
Agriculture, horticulture and fishing	1,674	1,614	-3.6
Manufacturing	1,802	1,493	-17.1
Construction & allied trades	4,481	4,022	-10.2
Public utilities	664	617	-7.1
Transport & communications	1,340	1,088	-18.8
Wholesale & distribution trade	1,355	1,083	-20.1
Banking	3,908	4,013	2.7
Misc. finance & business	2,083	2,244	7.7
Misc. professional	2,647	2,795	5.6
<b>TOTAL</b>	<b>33,401</b>	<b>31,258</b>	<b>-6.4</b>

It will be seen that there has been a fairly sharp decline in the sectors concerned with tourism (hotels, restaurants and pubs, garages and transport and communications) and also in manufacturing. Banking and miscellaneous finance increased modestly in absolute terms and from 15.3% of the total full time labour force (including the public sector) in 1990 to 16.7% in 1995. However, this increase has been far exceeded by the increase in the finance sector's contribution to national income and wealth. Estimates from the Office of the Chief Adviser to the States show that financial services contributed 54% of gross domestic product in 1994, an increase from 45% in 1990. Generally, the switch of resources from labour intensive tourism to finance can only be beneficial to an Island which is rightly concerned about pressure on physical resources.

### Future Demographic Trends

- 3.5 Forecasting population growth can normally be done easily, and involves analysis of birth rates and death rates. In the case of Jersey, the analysis is more difficult because migratory factors are important variables and can change substantially from one year to another. In forecasting population movements in the future, the working party has drawn on the work done by the Chief Adviser's office in analysing the 1991 population census and subsequent information. Future



projections are based on the following assumptions -

- (a) Mortality rates in Jersey are broadly comparable to those in England and Wales. The crude death rate, that is deaths per thousand population, is gradually falling.
- (b) The total population fertility rate, that is the number of live infants born to women over the course of their fertility period, will rise gradually from 1.567 in 1991 to 1.747 in 2003. It should be noted that this is well below the rate required for the population to reproduce itself, which is 2.1.
- (c) For cyclical reasons, the crude birth rate, that is births per thousand population, will gradually fall between 1991 and 2005. The average rate from 1988 to 1992 was 13.1, while it is expected to be closer to 11.5 from 2000 to 2004. The falling birth rate is compatible with the rising fertility rate because there will be fewer women entering their fertility cycle.
- (d) About 10% of children whose births are registered in Jersey subsequently leave the Island before reaching the age of 4 - the actual proportion recorded in the 1970s and 1980s.

- 3.6 Despite the projected decline in the crude birth rate between 1991 and 2005, the number of recorded births will continue to exceed the number of deaths for which reason a gradual increase in the population for natural reasons is forecast over this period.

#### **The Problem of Inadequate Data**

- 3.7 The working party, like many working parties dealing with difficult subjects, has been handicapped by lack of relevant data. This, in turn, largely reflects the special nature of the Island's economy, within which there is a regular, substantial turnover of the population. The population as at March 1996 has to be estimated on the basis of the 1991 census and subsequent figures for births and deaths and employment. The figures cannot be expected to be precise. In the Jersey context, relevant statistics would also be the number of people not residentially qualified who are living in the Island, the number who are residentially qualified not living in the Island, and the number of people living in the Island by virtue of J category licences. None of this information is currently available, nor is it easy to see how it can be made available. Obviously, the 1996 census will give useful information, but the full results will not be available for some time. Having said this, uncertainty as to what the actual figure is for the resident population should not affect an analysis of possible measures to control the size of the population.
- 3.8 There is also an imperfect understanding of how the labour market in Jersey operates. This is of crucial significance for the population issue, bearing in mind that the population of Jersey has risen rapidly largely because job opportunities have increased. The seasonal nature of two of the Island's basic industries - agriculture and tourism - and the importance of the construction industry, complicate the market. A local hotelier or farmer may be indifferent as to whether he or she employs a local resident looking for seasonal work or immigrant labour, but the effects on the Island's population are very different. A better understanding of the operation of the Island's labour market could well facilitate the formulation of policy on population and perhaps other issues. It would also be helpful if the Chief Adviser's Office could, as far as possible, translate the labour force statistics,



which are available on a six monthly basis, into population trends.

### **Future Employment Trends and the Impact on Population**

- 3.9 The working party has considered likely employment trends in the Island and the impact that these will have on population, and has been helped in this respect by responses to the consultation document.
- 3.10 Generally, employers in the non-seasonal industries prefer to employ local people, not necessarily out of any wish to give preference to locals, but rather because local people are likely to be more committed and stable. Where satisfactory local people are not available an employer must choose between seeking to train a local person and bringing in someone from outside. The choice will depend on the particular circumstances.
- 3.11 Attitudes from the finance industry are particularly relevant in this respect as this is one sector which in the past has been thought to be responsible for bringing over to the Island staff from the UK. The big financial institutions would much prefer to employ local people. It is both expensive and divisive to bring people over from the UK where not only do they have to be paid a full salary but also the employer invariably has to pay a premium because of the adverse property market as well as meeting accommodation and moving costs. Financial institutions also face the problem of finding positions for staff who are required to return to the UK at the end of their licence period.
- 3.12 There is much attention on J category licences and it is helpful to put this into the population context. The number of J category licences granted has been relatively stable over the last few years, varying only between 181 (in 1991) and 241 (in 1995). These figures include replacement 'J's', for example replacement of teachers and nurses at the end of their five year contract period and also consents for a 'J' category person moving from one property to another. The number of 'first time' consents within these figures has varied between 55 in 1994 (this figure reflecting engineers etc brought in for the La Collette reclamation project) and 23 in 1995. It is not possible to say precisely how many properties are occupied by virtue of J category licences at any one time. A J licence holder may become qualified to occupy housing in a different way and some leave the Island without being replaced. However, given this 'wastage' and the fact that most licences are for periods of between three and five years, it is reasonable to conclude that at any one time under 1,000 properties are occupied under J category licences.
- 3.13 The number of 'J' category licences can vary significantly from year to year. A number of financial institutions have cut back on their number of "J" Categories but, where new developments are involved, other institutions have increased their number. There tends to be something of a cycle, as far as financial institutions are concerned. If new business developments are contemplated, it is often the case that these can only be facilitated by bringing new skills into the Island. This in turn has depended upon the granting of "J" Category housing consents. In due course these skills have been acquired by local residents and they have been able to fill a number of positions that previously were filled by "J" Category employees. Whether this leads to a reduction in the total number of "J"s depends on whether the pace at which local residents acquire skills is greater than the demand for those skills arising from growth in the financial business concerned. For example, there has been a considerable increase in the number of local residents acquiring accountancy qualifications but at the same time the demand for those with these



qualifications has continued to outstrip the capacity of the local resident work force.

- 3.14 The progress that has been made in developing training facilities in the Island has undoubtedly had a beneficial effect. Employers want to employ local labour but they also want high quality labour.
- 3.15 Financial institutions, in particular, have been cutting staff throughout the UK and in Jersey. Technology has enabled the same output to be achieved with fewer people, and some local financial institutions have had to make the same sort of painful cuts in staffing that have been common in Britain. Even rapidly growing companies anticipate only a very modest increase in staff.
- 3.16 It is necessary to recognise that the finance industry is made up of a number of different sectors, and there are significantly different employment trends in these sectors. The volume businesses such as retail banking and retail mutual funds have been able to grow significantly and use technology to manage that growth without taking on significant numbers of additional staff. Any institutions wishing to set up new business which will have large volumes and a requirement for a large workforce are unlikely to set up in Jersey. On the other hand, Jersey's niche in the offshore market is based around expertise. There is likely to be a continuing need to bring into the Island a small number of highly skilled individuals who will develop new products and services for an increasingly sophisticated market.
- 3.17 Responses to the consultation document from major employers point generally to no significant increase in the demand for labour. The Jersey branch of the Institute of Directors told the working party: "Information technology means that continued success and expansion of the present finance industry does not imply commensurate increase in the workforce, while future diversification of the economy is likely to be based upon (and to be politically directed towards) information technology and telecommunications - areas which require a small workforce of high skills. In short, we believe that natural trends within existing industries and likely diversification into new industries all imply a reduction in the Island's workforce and, consequently, its population." However, there will be some areas where there will be an increase in the demand for labour, eg caring services.
- 3.18 The working party received no indication from the hotel industry on likely trends in the tourist industry. However, it notes and concurs with the view expressed in the 1994 chief officers' report: "It is [also] open to doubt whether the second main industry, tourism will ever return to the level at which it previously operated." The huge increase in the financial sector's contribution to the economy, with only a small increase in the labour force, as noted in paragraph 3.4, usefully demonstrates this point. However, it should be noted that some existing firms in this area can support a sizeable workforce with a limited skills requirement.
- 3.19 This analysis gives comfort to the working party as it should do to the States and the people of Jersey. The basic message is that for the foreseeable future there can be a reasonable degree of confidence that the present population of the Island is sufficient to sustain a thriving economy and that accordingly there is no threat of the demand for labour rising such as to put pressure on the Island's resources and significantly increase the population. In the longer term to the extent that there might be a problem, this is likely to be caused by the ageing population; almost all developed countries will face this problem. However, it should be noted that in an evolving economy there will be different experiences between individual sectors of the Island's labour market.

3.20 This conclusion is very similar to that in the 1995 Strategic Policy Review -

"The Committee in proposing the objective of a permanent resident population the same or less than the current level does not believe that achieving this objective is assisted by, or calls for, a target population figure. The Committee is also of the opinion that the manpower resources required to meet the Island's future economic and social needs are capable of being provided without any increase in the population through the better use of the existing manpower resources -

- \* through investment technology;
- \* through generally developing the skill potential of the existing work force, through training and retraining;
- \* through an increase in the female participation rate through support for child care;
- \* through more flexible working arrangements.

Thereby the productivity of the resident work force could be enhanced. If this could be done a permanent resident population that is the same or less than the current level should be compatible with achieving the environmental, economic and social objectives set out in this report."



## **CHAPTER 4**

### **4 INFLUENCES ON THE ISLAND POPULATION**

#### **Why Jersey Is Attractive**

- 4.1 It is helpful to ask why Jersey's population tends to increase. The overriding reason is probably the level of economic activity from which employment opportunities flow. The depopulation of Islands such as Belle-Ile off the south coast of Brittany arises from their inability to support sufficient economic activity, and the immigration of people into Jersey has occurred when the Island has a successful economy. In simple terms, successful economies have an immigration problem and unsuccessful economies an emigration problem. On the assumption that people want to maintain the economic success story that Jersey has enjoyed for many years, controlling the Island's population must depend upon being able to find ways of maximising the Island's ability to create wealth from its existing resources.
- 4.2 As far as the non-active are concerned, Jersey's attractions depend largely upon it being a low cost area in terms of offering more favourable tax arrangements than elsewhere, to which can be added a favourable environment and the provision of a sufficient range of services to satisfy the needs of those concerned. Presumably Jersey would have become more like Worthing or Torquay in attracting those of retirement age, if housing restrictions had not been applied.

#### **Causes of Population Change**

- 4.3 Changes in the population cannot be viewed in simplistic terms, that is the natural increase (the excess of deaths over births) and 'immigration'. The figure for net immigration or emigration each year conceals gross figures that are very high - for example, a net immigration figure of 1,000 could reflect gross immigration of 7,000 and gross emigration of 6,000 (including seasonal workers). It needs only a small change in one of the gross figures for there to be a substantial change in the net figure. The following table shows the factors that contribute a change in the Island's resident population.

	Number of births
+	Immigration of residentially-qualified people
+	Immigration of non-residentially qualified people
-	Number of deaths
-	Emigration of residentially-qualified people
-	Emigration of non-residentially qualified people
=	Change in population

- 4.4 This table covers only the number of people in the Island, not the age structure. The population of Jersey is ageing, as it is elsewhere; this can be exacerbated if immigration is of older people while emigration is concentrated among the young.
- 4.5 The table also does not cover the changing balance of people living in Jersey (and outside) who are residentially qualified. In any one year, hundreds of people gain residential qualifications (by marriage or length of residence) and hundreds lose residential qualifications (by living outside the Island for a period of time or emigration). However, it is important to note that many more people gain residential qualifications by marriage than they do by length of residence. This



point appears to be insufficiently understood, and it would be helpful if there could be an analysis of the situation. It was significant that the Guernsey authorities were able to tell us that there are in Guernsey about 3,000 non residentially qualified people housed by virtue of associations they have formed. Also: "At the moment about 600 non RQs [residentially qualified people] are likely to become RQs each year, with at least half the RQs gaining RQs by virtue of their association with RQs. Entry into the Island on short-term licences or through the open market is as high as ever while the number of RQs with whom associations can be formed is also increasing. Associations will continue to be the main means of access to the local housing market." It would be helpful if similar information was available for Jersey although it needs to be recognised that this would be possible only if Jersey had a 'right to work law' similar to that of Guernsey.

- 4.6 It is helpful to analyse the various components of the immigration and emigration figures to explain the position more fully.
- 4.7 There is a substantial emigration from the Island of residentially qualified people, in particular, students. Some 48% of all school-leavers in Jersey go on to higher education in the United Kingdom. Other residentially-qualified people also leave the Island, perhaps for personal reasons, such as to be near their family, or for job reasons.<sup>1</sup> The number of residentially-qualified people living outside the Island naturally increases over time. It is significant that 33% by number and 15% by amount of all Jersey pensions are paid outside the Island, although the recipients include many people who are not residentially qualified.
- 4.8 There is also emigration of non-residentially qualified people, generally in response to labour market conditions but also in response to personal and other factors.
- 4.9 On the immigration side, those who have been residentially-qualified and have not lost that qualification can come back at any time. They will be influenced by labour market conditions principally in the UK and in Jersey. If they find difficulty, for example, in obtaining employment in Britain, they may be more inclined to return to the Island. Some will seek to come back to the Island because they like it or to be close to their family. It is important to note that young residentially qualified Jersey people living outside the Island are very likely to marry non-residentially qualified people, each one of whom automatically become entitled to live in Jersey with their spouse. After ten years ordinary residence in the Island with their spouse they gain residential qualifications in their own right.
- 4.10 Finally, there is immigration of non-residentially qualified people. The Island is heavily dependent on importing people in their 20s to work as teachers and nurses and in the tourism industry. While most such people are not residentially qualified, many become residentially qualified through marriage.

#### **The Implications for Population Policy**

- 4.11 With present policies, the Island authorities have little direct control over the major components of immigration and emigration. There is no policy instrument aimed specifically at encouraging people to leave the Island and no policy instrument aimed at deterring residentially-qualified people from returning. This lack of control over the key variables can be indicated by taking an extreme case, of two residentially-qualified families living in the Island, each with four children. At one extreme, all eight children could stay in the Island, marry non residentially-qualified people, thus increasing the number of households from two to ten, with the

potential for there being perhaps twenty children requiring education. At the other extreme, all eight children might leave the Island never to return with perhaps their parents following in due course to be near their children, thereby reducing the number of households by two.

- 4.12 This section has been necessary to illustrate how difficult it is to control the Island's population. Policy measures have largely been targeted at just one of the six factors indicated in the table in paragraph 4.3, that is the immigration of non residentially-qualified people, and then only indirectly through the Housing Regulations. Given the analysis in this section it is interesting to note that with the introduction of the 20 year rule in 2000, the President of the Housing Committee claimed that there would be an additional 20-30 families a year with residential qualifications; these figures are small in relation to the immigration or emigration of residentially qualified people or the effect of Jersey people marrying non-residentially qualified people.
- 4.13 The Regulation of Undertakings and Development Law is of more general application through influencing the rate of economic development and therefore the demand for labour, although as yet it has not been fully tested as a means of controlling the population level.



## **CHAPTER 5**

### **5 AN OVERVIEW OF POPULATION CONTROL INSTRUMENTS**

- 5.1 The various instruments which can be used to control the population are examined in detail subsequently. A brief overview of the types of instrument is helpful at this stage.

#### **Influencing the Birth Rate**

- 5.2 The first set of instruments acts on the birth rate. Countries seeking to increase or decrease their population have generally concentrated on incentives, through the tax and social security systems, to encourage or discourage the number of births. These instruments are most effective in poor countries where incentives are most likely to have an effect on behaviour and in countries where the population change is largely determined by natural growth rather than net immigration.

#### **Controls on Economic Activity**

- 5.3 The second set of instruments addresses a situation where net immigration is the cause of population change and seeks to act on the level of activity. Controls on new development through planning controls and controls on the establishment of new businesses and the development of existing ones work through job opportunities. If there are fewer opportunities then immigrant labour will be discouraged and some local residents will leave to seek work. This type of control involves arbitrary decisions about which activities should be allowed to increase. However, such controls do not require decisions to be taken about whether a particular person is allowed to live or to work in the state. A less arbitrary approach is to use fiscal and monetary policy to influence the level of economic activity and therefore the demand for labour.

#### **Direct Controls**

- 5.4 The third set of instruments directly addresses the population issue by physically preventing or deterring people from living or working in the state. This set of instruments includes measures which reduce demand, such as entry fees (eg a fee of £10,000 to acquire residence rights), and controls on entry, the right to work, and the right to acquire property. The mere existence of such controls will act as a deterrent to some. However, the actual application of the controls is inevitably arbitrary, will result in hard cases and has the potential to result in adverse criticism and retaliation. As a general rule, a state which imposes restrictions on the nationals of other countries from living and working there must expect similar restrictions to be imposed on its citizens.

## **CHAPTER 6**

### **6      THE CURRENT POPULATION POLICY**

- 6.1      The States have struggled with the concept of a population policy for many years. As long ago as 1968 a States working party was appointed "to report on all the implications of continuing and increasing immigration to the Island and the practicability of some form of control thereon". In 1973 an Immigration Committee concluded that the recent rate of immigration was excessive and should be checked. In 1979 a sub-committee of the Policy Advisory Committee was established to examine the possibility of introducing work or residence permits. In 1989 the States adopted a report and proposition of the Policy and Resources Committee on population growth. In 1994 a working party of the Chief Officers' policy group produced a report on population and immigration policy.

#### **The Implicit Policy**

- 6.2      Population on policy and immigration has evolved as a result of the reviews noted above and other measures.
- 6.3      Jersey currently has an implicit rather than an explicit population policy. That is, there are no measures which are designed specifically to control the size of the population of the Island. Rather, there are several policies which deliberately or accidentally impact on the population -
- (a)      The Housing Regulations act as a deterrent to people who might wish to retire to Jersey or simply to live in an island environment. Effectively they prevent immigration of people who have no connection with the Island except of the essentially employed, those considered to be of economic or social benefit, and those prepared to live in lodging houses (many of whom subsequently acquire residential qualifications by marriage and some in the future by length of residence). However, it is important to note that the primary purpose of the Housing Regulations is to limit the demand for and thereby constrain the prices of owner-occupied and rented property so as to benefit local residents rather than to control the population. There are several thousand permanent residents of Jersey without housing qualifications. They contribute to the pressure on resources in the Island, albeit to a lesser extent than 'local people'; they cannot buy or rent housing and they make proportionately less use of education and health facilities.
  - (b)      The absence of unemployment benefit encourages those unable to obtain employment, particularly if they have no ties in the Island, to leave the Island.
  - (c)      The Regulation of Undertakings and Development Law enables the States to exercise direct control over the level of economic activity and development, and also to encourage the employment of local as opposed to non-local labour. This law has not yet been put fully to the test. However, it probably acts as a deterrent, certainly to someone from the UK seeking to set up in the Island. The real test would be when a local businessman was told that he would not be able to employ more people or expand his business. Having to take such a decision would be invidious in many ways, and while it might serve the overall objective, would lead to



resentment from those people denied the opportunity to expand their business and also from those denied the opportunity to be employed.

- 6.4 It has already been noted that the population of Jersey is believed to have fallen between 1991 and 1993 because of the economic situation with potential immigrant labour being deterred and people from Jersey deciding to seek employment in the UK and probably in other countries as well. The policy objective has therefore been achieved because it has been in tune with the operation of the market. When market forces and policy objectives conflict, then the result is inevitably painful. Either the policy objective is not achieved or, alternatively, arbitrary and unpopular decisions are taken to ensure that the objective is achieved.

#### The Impact of Policy

- 6.5 It is difficult to evaluate the impact of the policy measures listed in paragraph 6.3. This is partly because the policy is implicit rather than explicit, partly because when policy measures are introduced, the impact on the population is not adequately taken into account and partly because of the implicit difficulties in analysing the impact of policy measures in a complex open economy. Too often, perhaps, the debate has been coloured by a rather simplistic notion that anything that stops an individual living in the Island or gaining residential qualifications will reduce the population. As the subsequent section will show, the impact of the Housing Regulations is complex and a particular regulation that might, at first sight, seem to exert downward pressure on the population, is capable of having precisely the opposite effect. There is also little evidence as to the impact of the Regulation of Undertakings and Development Law, partly because the law has not yet been fully tested.
- 6.6 Given the crucial importance of population policy to the Island's economy, it is important that in future the population implications of any significant policy measure should be taken into account before a final decision is reached.

#### The Impact of the Housing Regulations on the Population

- 6.7 Although the population has stabilised, it is generally accepted that the policy instruments described in this section, like all direct controls, inevitably have adverse side effects. The Housing Regulations require hard decisions to be taken about borderline cases. They also lead to some people, particularly families, living in unsatisfactory housing conditions and generally being unable to enjoy the same rights as other people living in the Island, even when they are making a significant contribution to the community through their employment, tax payments and in other ways. The States obviously have to balance the beneficial effects of controls on the population with the known adverse effects.
- 6.8 These issues are not predominantly for the working party to consider. However, it legitimately has an interest in ascertaining the impact of the Housing Regulations on the population issue. Normally, policy measures have to be justified on the basis of reasonably objective evidence where this is available. In the case of population control instruments, the onus of proof seems to be shifted to those who oppose controls. The view of the working party is that inadequate thought has been given to the impact of the Housing Regulations on the total resident population. Some aspects of the Regulations may have the opposite effect to that which might be expected.

- 6.9 The Housing Regulations do not prevent people living in the Island but rather they prevent them renting or buying property. It is accepted, of course, that they do deter some people from coming to the Island. However, the working party believes that the regulations as they currently apply discourage people from leaving the Island. The Housing Regulations include a number of provisions by which people lose residential qualifications if they leave the Island. Examples are -
- (a) People obtaining residential qualifications by marriage are qualified to rent or purchase in their own right after ten years ordinary residence in the Island. However, anyone qualifying under this regulation loses their residential status by emigrating, subject to the three year break rule.
  - (b) People who qualify to rent under regulation 1(A), that is those who have resided in the Island continuously since before 1 January 1980, lose their qualifications if emigrating from the Island subject to the three year rule.
  - (c) People who qualify under the hardship provision lose their qualification subject to the three year rule if they emigrate.
  - (d) A person who is not Jersey-born but who arrived in the Island before their 20th birthday, is the child of a residentially-qualified person and who has lived in the Island for an aggregate period of at least ten years, is residentially qualified but loses their residential qualification if they emigrate, subject to the three year rule, unless they are a child of residentially qualified parents who remain living in the Island.
- 6.10 Similarly, unqualified residents are trapped in the Island, because by leaving the Island they lose their 'investment' in obtaining housing qualifications.
- 6.11 The assumption is that these Regulations reduce the number of residentially-qualified people. However, the probability is that they increase the number of people living in the Island because those who might otherwise wish to leave, perhaps for a short period, or perhaps on the basis that they may never return, are deterred from doing so because they will lose or be prevented from obtaining residential qualifications.



## **CHAPTER 7**

### **7 WORK PERMITS**

#### **Introduction**

- 7.1 Work permits are used in a number of countries. The basic objective of a work permit system is not to control the size of the population but rather to give preference to local people over immigrant labour. A work permit system would operate through an employer demonstrating that he could not obtain someone locally for a particular job (generally it would have to be advertised locally for a certain period of time). A permit would then be given in respect of a particular job. Alternatively or additionally people who met defined qualifications could obtain a permit which would enable them to apply for any vacant position. The system can be used, for example, by a rich country to obtain skilled people, such as doctors, without the expense of training people.

#### **History**

- 7.2 The question of the introduction of work permits has been considered on a number of occasions over the past 25 years. In 1973, the Immigration Committee recommended that legislation should be enacted but held in reserve for establishing measures for the introduction of work permits for EEC nationals should circumstances render such a course necessary. Following a report of the Policy Advisory Committee, the States, in October 1979, agreed that enabling legislation be prepared providing for the implementation of regulations for a work permit procedure at a future date should the States decide that the introduction of such a procedure was justified.
- 7.3 In 1988, the Protection of Employment Opportunities (Jersey) law was enacted enabling the States, through subordinate legislation, to bring in work permits. In July 1992, the States adopted a proposition of the Policy and Resources Committee which charged the Defence Committee to prepare the necessary regulations to enable work permits to be introduced where necessary. A working group of the chief officers' policy group found that the 1988 law was seriously flawed in that, for example, it could not provide for exemption of seasonal workers or part-time workers and would also be very bureaucratic. The Defence Committee duly proposed that the law be revised to make it more practical. The proposition has never been debated by the States.

#### **Work Permits in the Jersey Context**

- 7.4 The case for operating work permits in Jersey can be considered both from the perspective of protecting local people and the potential impact on population policy. The working party is concerned with the second aspect but this cannot be considered in isolation from the first. By any standards, Jersey has a low level of unemployment. In itself, this makes the concept of work permits almost unworkable. If the intention is to deny work permits to people seeking to work in the Island, then local businesses will not have the labour they need. Tourism, agriculture and banking, and the economy of the Island in general, would be adversely affected, perhaps in a very serious way. If work permits are to be granted to employers who can demonstrate that local labour is not available, which in itself would not be difficult, then they would serve little useful purpose other than enabling the employment position to be better monitored. However, it is a



legitimate argument that Jersey does not use its labour force efficiently and that therefore there is some 'hidden unemployment'. The question is whether Jersey people are willing to do much of the work, particularly in agriculture and tourism, that is currently done by immigrant labour.

- 7.5 The working party has also noted a number of responses to its consultation document which, while recognising the need to give some protection to local labour, argued that it was important not to give too much protection. If Jersey school leavers know that regardless of their attitude, skills and competence they will get a well-paid job, then there will be far less incentive on them to train and to be productive members of the labour force. A little competition never hurt anyone and this applies to Jersey people as to anyone else in the world. It is also necessary to recognise that there are specialist positions which can be filled only from outside Jersey. Indeed, there are British companies that, from time to time, will conduct a worldwide search for the right person rather than relying on what is seen to be the relatively small British labour market. Jersey makes much of its living by being an international centre for finance, tourism and agriculture. An international centre cannot afford to take an insular approach to employment. Jersey institutions must employ top-quality staff if they are to continue to be successful. While the vast majority of those staff will come from within the Island, helped by the education and training systems in Jersey, a small proportion will always be needed from outside, and the Island must do nothing to dry up this source of supply.

- 7.6 This view echoes that in the 1995 Strategic Policy Review -

"Many of those consulted sought more protection for the position of native Jerseymen and women in the labour market. However, there was also an acceptance of the need to appreciate the value to the community of the many immigrants engaged both in providing essential services, and in the wealth creation from which all Island residents benefit. At a time of change, and with keen competition from other producers of the goods and services the Island must sell if it is to secure the desired continued economic well being of the resident population, it was also recognised that unduly restricting access to immigrant skills and experience through an over rigorous immigration control policy would be to the Island's long term disadvantage."

- 7.7 Even if Jersey did have a position of significant unemployment, such that work permits could give a measure of protection to local labour, the consequential effect on population would be muted. This is because, by definition, work permits control only people who wish to work in the Island. 43% of people living in the Island are not in the labour force. This group largely comprises married women, children and retired people. There is evidence from the Guernsey experience that the introduction of a 'right to work' document led to some people not eligible for such a document to withdraw from the labour market but to stay in the Island. To this extent, there was an upward pressure on population as new labour had to be attracted from outside the Island to replace people who had left the labour force.

- 7.8 It is also the case that a work permit system would inevitably be bureaucratic and would lead to anomalies and hard cases. If the intention would be to give work permits automatically to "local people" then it would be necessary to define local in the same way as has to be done for the Housing Regulations. However, there would be scope for more serious adverse consequences for population policy. If, for example, children of local residents who were university students but who did



not themselves have residential qualifications, were denied work permits on the grounds that they were not "local", the effect might be that they would continue to live in the Island when not studying, but not work, implying a need to import additional labour. In short, the effect of work permits can be to increase the resident population, by increasing the number of non-employed residents.

### Short-Term Contracts

- 7.9 It is appropriate in this chapter to consider, from the population point of view, the question of short-term contracts. It must be stressed that the population aspect is not the only or the most important justification for short-term contracts. They are used frequently in the United Kingdom, for example by local government. However, regardless of the purpose, the short-term contract system inevitably has an effect on the population. What this effect will be depends on a variety of circumstances. The working party is aware of no research on this matter.

- 7.10 On the one hand it may seem fair that if someone without residential qualifications is employed on a short-term contract, then, at the end of that contract, they will have to leave the Island and will not have been able to obtain residential qualifications. There are many cases where this has applied. On the other hand, one can envisage a whole series of circumstances where the effect is rather different. For example, a person may be employed in a States position on a five year contract without residential qualifications who then, by marriage, acquires those qualifications. At the end of the five year period he or she is forced to leave his job and another person is then employed from the UK on a five year contract. The person leaving the job may well remain in the Island, employed in another sector or not working. Taking another example, someone may be employed from the UK on a short-term contract with a partner also working in the Island as, say, a teacher. At the end of the five year period, they leave the Island and, as a result, two people with families may be employed from the UK to replace them. In these cases, the effect is to increase the population.

- 7.11 Although this does not properly come within the working party's terms of reference, it noted with interest the views that have been expressed that rigid application of the short-term contract system, particularly in the public sector, may not only have these effects, but can also adversely affect the quality of public services. The Parents' Association of Hautlieu School told the working party -

"Though we are fully aware of the strong population control arguments in favour of short-term contracts for lower grade teaching staff recruited from the UK, we have grave doubts as to whether such policy should be applied in areas such as teaching and nursing. In both these fields, continuity of teaching or care is vital for the effective delivery of the service."

"In any case, in our experience, a considerable number of teachers on short-term contracts seem to continue living and working in the Island (sometimes even within the education service) when their contracts are finished. If the original jobs are reallocated, then, are we not effectively replacing one new resident with two?"

- 7.12 Similarly, the Headmaster of Victoria College told us -

"I can tell from the number of boys who go to university from Victoria College with the intention of becoming teachers that the most popular



choices are for primary education and PE teaching. It is very rare that we have a boy going to university with the intention of becoming a teacher in one of the 24 A-level subjects we have to offer. Thus the notion of developing our own talent to fill secondary teaching posts in Jersey is a non-starter. Even those boys who aspire to teaching careers do not necessarily return to teach in Jersey, at least not in the first instance. Some of them will never return. As you can see, we could never meet the demand for secondary school subject specialists except by bringing in people from the UK. There have been candidates who have been put off applying by the five year contract. To make it worse, I have some outstanding teachers at present who are shortly to give up teaching at Victoria College because they are on five year contracts.

The application rate for teaching posts at the College is disappointingly small - eight applicants applied for our last Head of Department post. I cannot see how Jersey can provide the quality of service which we do need for the benefit of our own youngsters unless we can go realistically into the market place of teacher recruitment. The cost of housing is in itself a considerable disincentive to candidates without setting additional obstacles."

- 7.13 The Amés Group of Christians Together in Jersey told the working party -

"The [associated] five year contract system is in urgent need of review. It should surely have some option system built in so that good teachers and nurses could be offered a further contract rather than going to all the trouble of interviewing and inducting a new person every five years. The problem is particularly acute in nursing where, apparently, nurses are sent on a number of mainland courses, and then released just when they are fully qualified. The process is then repeated for the next five years."

- 7.14 The secretary of the Jersey branch of the Royal College of Nursing pointed out that the management of the hospital group always try to appoint local staff if they meet the required standard. However, the natural turnover within the nursing profession is such that it is often necessary to recruit from outside the Island. The college wished to see an end to the five year restriction, pointing out that it costs £4,000 to replace a nurse.

### Conclusion

- 7.15 The working party is certain that the introduction of work permits in Jersey would have undesirable side effects in terms of restrictions on businesses and individuals. Given very low unemployment, it is difficult to see what useful purpose work permits would serve. There would certainly be no reason to expect that on their own they would have any desirable effect in reducing population pressures, and, indeed, in some respects, would work in the opposite direction. A work permit system as a population control instrument is feasible only if combined with a residence policy as discussed in the following chapter.
- 7.16 The working party also considers it is necessary to review policy in respect of short-term contracts. There is a case for such fixed-term contracts, purely from the employment point of view. Five year fixed-term contracts are common in the UK for senior executive positions where it is felt that a five year term is sufficiently long. They are not generally used for more junior positions. If the rationale for short-term contracts is that they prevent people gaining residential qualifications, then this

proposition needs to be thoroughly tested. If this is one of the motives, then the short-term contract would really need to be accompanied by a requirement to leave the Island at the end of the short-term contract. Such a stipulation would probably be legally unworkable. The working party has no information on the number of people who, at the end of a short-term contract period, have remained in the Island, and is not able to come to a reasonable assessment as to the overall impact on the population. This is an issue which should be pursued in a review of the policy. The working party has noted the slight relaxation to the present rules, announced by the President of the Establishment Committee on 30 April; it welcomes this as a move in the right direction, although it is unclear at this stage what the practical implications will be.



## **CHAPTER 8**

### **8      RESIDENCE PERMITS**

- 8.1      Jersey wishes to limit the number of people living in the Island. At first sight a residence permit system is tailor-made for this purpose. Furthermore, residence permits might be seen as a simple extension of the Housing Regulations which can be regarded as a residence permit system in respect of a major part of the Island's housing stock.

#### **Types of Residence Permit System**

- 8.2      A comprehensive system of residence permits would require everyone occupying any type of housing to have permission to do so. There would have to be exemptions, for example, people under the age of 18 living with their parents, people living in hotels and perhaps people staying in private homes but not making any payment for housing services (designed to cover friends, relatives and so on).
- 8.3      A residence permit system can operate in a negative way, without actually having physical permits for many people. That is, it would be an offence to buy, rent or occupy any housing without a permit, or to sell or let any property to people without a permit or to employ people without a permit. People would therefore need to obtain a permit only when they were about to be involved in a housing transaction or if they were seeking employment. The system would operate rather like a passport. It is not necessary for people to have passports unless they wish to travel.
- 8.4      The alternative method of operating residence permits is to require, after a transitional period, every person living in the Island, other than those exempted, to have a permit. As for the previous option, controls could be exercised at the point of employment and when any housing transaction was taking place. However, unlike the previous option the "non-employed" and existing residents would be covered. Such a system would lend itself to more rigorous policing through immigration controls at the airport and harbours, that is everyone arriving in Jersey would either have to show a residence permit or would have to complete a landing card. Immigration officers would then interview people with landing cards to ascertain that they were in one of the exempt categories. The system would be similar to that operating in the USA which is familiar to many Jersey people who have travelled there on holiday or business.

#### **Housing and Right to Work Legislation in Guernsey**

- 8.5      The working party has considered in detail the operation of housing and right to work legislation in Guernsey. This is described in Appendix 2. A brief summary is helpful here. Housing laws in Guernsey control the occupation of a dwelling, not its ownership. Properties classified as local market dwellings can be occupied by qualified residents, licence holders and close families of each except the families of short-term licence holders. In addition, there are some 1,600 open market dwellings which can be occupied by anyone without the need for a housing licence provided these properties are not used for multiple occupation. There are over twenty ways in which a person can qualify as a local resident. They include ten years' residence in any twenty year period for those born in the Island or born to a parent who was born in the Island, 15 consecutive years under an essential housing licence, 15 years' residence in any 25 year period for the children of



essential licence holders who were brought to the Island as minors, and ten years as the spouse of a qualified resident. Licences can be employment-linked or general licences. Employment-linked licences can be either short-term for between nine months and three years or long-term, generally for three, five or 15 years. Under the 1994 housing control law, visitors who are in Guernsey for the purpose of employment can live in any hotel for ten days in a 30 day period without a licence. If their stay exceeds ten days or a total of 90 days in a 12 month period, then they will need a licence.

- 8.6 In 1990, the right to work law - technically the "The Right to Work (Limitation and Proof) (Guernsey) Law 1990" - was enacted. The purpose of this was to help enforce the housing control laws and to deal with what was seen as a problem of the turnover of seasonal and temporary workers through the issue of short-term employment-related licences with enforced breaks. The effect of the law is that anyone who has begun or changed jobs since 1 December 1989 requires a 'right to work' document. There are three main types of 'right to work' document -
- (a) A status declaration, confirming that the holder is a qualified resident.
  - (b) A housing licence which is time limited, tied to a specific address and may have conditions which limit its validity.
  - (c) A declaration of lawful residence which applies, for example, to a family member living in an open market dwelling. These are time limited but renewable, tied to a specific address and may have conditions attached.
- 8.7 Employers are required to maintain up-to-date records of all their employees, including their residential address and the type of 'right to work' document held.
- 8.8 The system seems to work reasonably well. The system was expensive to set up, costing approximately £250,000, and now requires twelve staff to police it rather than four to five previously required just to operate the housing laws. A great merit of the system is that it is self-policing. If someone does not have a 'right to work' document then they cannot obtain unemployment benefit or a job and may have difficulty renting accommodation, other than an open market property. Policing by the authorities is computerised, basically involving a check of housing and social security records, together with some physical inspection. The laws may be complicated but they now seem to be generally accepted having evolved over a period of time. People know, for example, that even if they wish to let a spare room, then they must ask the person concerned for his permit.
- 8.9 The Guernsey authorities believe that the legislation, together with planning and tax legislation, provide them with the means to influence the economy. They affect the distribution of labour and its price and therefore the range of economic activities performed in the Island.
- 8.10 The housing control laws and their administration affect the economy and in turn, population. The combination of the early 1990s recession and the slow decline of horticulture and tourism has meant that there has been no forceful challenge to the effect of the Right to Work Law on population.



### Application of a Residence Permit System in Jersey

- 8.11 The working party does not believe that any residence permit system which involved border controls would be appropriate for Jersey. It would be difficult to police, requiring a substantial increase in the number of immigration officers at the airport and the ports. It would be bureaucratic to operate, requiring every person in the Island and people entitled to live in the Island being given some form of permit. It would lead to substantial delays at the airport and the main harbour. The effects on tourism and business would be damaging. There would also be a quite unreasonable intrusion on personal freedom. What would be done, for example, in respect of a Jersey person studying in the UK, wishing to bring a girlfriend or boyfriend to the Island for a weekend? How would the system handle people inviting friends from the UK to stay with them? Imposing frontier controls between Jersey and the rest of the world would also look faintly absurd at a time when, within Europe, frontier controls are being abolished.
- 8.12 If Jersey wished to introduce a residence permit system, then the Guernsey model should be followed. There are no frontier controls and policing takes place through the housing and employment markets. That is, no one would be able to obtain a job or accommodation unless they could produce the necessary document. The setting up of such a system would be fairly expensive and there would be a significant ongoing cost. However, the Guernsey experience suggests that these costs could be kept within acceptable bounds and moreover that in practice the system would not cause too many problems.
- 8.13 However, the key point is not whether any such system can be put in place, but rather what effect it would have on the size of the population. Residence permits would have to be granted to those who were needed to work in the Island in the tourism, finance and agricultural industries. Seasonal workers, for example, would have to be covered. If the intention is to issue a residence permit to everyone who asks for one and can prove that they have an offer of a job, then there is no point in having the system in the first place as it would have no effect on the population and would merely be bureaucratic.
- 8.14 One effect of introducing a residence permit system would be to deter immigrant labour bringing their families with them, and this may well be regarded as desirable from a population point of view. At the same time it should be noted that a community which discourages families in this way is liable to suffer from increased social damage in the short term and considerable damage to its spirit in the long term.

### Extending the Housing Regulations to Lodging Houses

- 8.15 The effect of introducing a residence permit system would be similar in many respects to extending the Housing Regulations to covering lodging houses. This possibility has been considered in the past and is, perhaps, the ultimate extension of the Housing Regulations. This is a policy option that merits consideration. However, it faces many of the same disadvantages of introducing a residence permit system. Clearly, permits would have to be given to people needed, for example for seasonal labour. Given that much lodging house accommodation is relatively poor, and that Jersey has no unemployment benefit, the vast majority of people living in lodging houses are employed. The extension of the housing regulations in this way might have some effect at the top end of the lodging house market where perhaps people are living in the Island without residential



qualifications but not working.

- 8.16 Currently it seems that the downturn in tourism is leading to the conversion of guest houses to lodging houses. The number of registered lodging houses increased from 96 in 1990 to 148 in 1995, with the number of residents of the lodging houses increasing from 1,767 to 2,776 over the same period. (However, it should be noted that these figures do not include lodgers in smaller properties which do not need to be registered.) This is welcome if it increases the average quality of lodging house accommodation. However, the situation needs to be carefully monitored as part of the Island's population policy.

#### Responses to the Consultation Document

- 8.17 The working party, in its consultation paper, specifically asked for views on work and residence permits and would have welcomed fully thought-through ideas. It is of some regret, but perhaps no surprise, that only one response took up this challenge. There were certainly some views expressed that "more controls were needed", but few spelt out how such controls might work or what effect they have had on the population level. The balance of opinion was against any further controls. Among the views expressed were -
- (a) The Jersey Farmers Union said that "the subject of work permits or even residence permits deserves further study and then explanation. It has been suggested that both will generate further bureaucratic controls but if the Island is going to keep itself in order then it must accept a certain amount of discipline."
  - (b) Deputy Robin Rumboll did not support any further proposals for the introduction of work or residence permits as he believed "that these would be socially undesirable and divisive".
  - (c) The Jersey branch of the Institute of Directors saw "no need for additional instruments to control the Island's population". It said that work permits and residence permits "have no merit".
  - (d) The President of the Planning and Environment Committee said that options under discussion for controlling the population "including work permits and residence permits, would appear to be either unworkable, impractical, immoral or otherwise unacceptable for most of the reasons referred to in the consultation document".
  - (e) The Jersey Association of Plumbing and Heating Engineers said that further regulations in the form of work permits would be undesirable.
  - (f) The Jersey Electricity Company, which employs some 450 staff, said that the only effective way to control the itinerant population is through work or residence permits, but it was recognised that these would result in increased bureaucracy and frustration among employers.
  - (g) Arthur Andersen & Co said that the introduction of work permits would be detrimental to Jersey's finance industry and that residence permits would introduce too high a burden in administrative costs and would be unlikely to control the population effectively.



- (h) The Jersey Bankers Association said that it believes that policy over the years "whilst far from perfect, is difficult to improve to any marked degree."
- 8.18 The Jersey Rights Association was the one organisation to present a coherent thought-through series of proposals about work and residence permits, and the working party is most grateful to that organisation for its contribution. However, it seems to the working party that in the process of developing comprehensive proposals, the Jersey Rights Association has merely illustrated that either one produces regulations that are unacceptable in practice or, alternatively, a bureaucracy is established which ensures that people living and working in the Island have the appropriate documentation but with there being no overall effect on the level of population.
- 8.19 The JRA's proposals, which are described in more detail in Appendix 3, are based around a new type of social security card. These would be accompanied by a written explanation of the rights of the holder in relation to types of accommodation that may be occupied and duration and category of work which may be applied for. Social security cards equivalent to current J categories would be for a fixed term. Seasonal and unskilled work would attract a short-term social security card. The number of cards to be issued to immigrants would be at the discretion of the Social Security Department. Immigrants would be allowed to apply for a social security card only if they had an offer of work.
- 8.20 Policing of the system would largely be through employers. If an employer wished to employ anyone other than an existing social security card holder, the position would have to be notified to the job centre and existing holders of social security cards interviewed. A landlord would not be able to take in a lodger without obtaining social security card details from the applicant, and should notify the Housing Department of such within seven days. The JRA state that this system would control the number of non-residents allowed to contribute towards social security and thereby to take up employment and accommodation in Jersey.
- 8.21 These arrangements would be backed up by a residence permit system. The JRA also proposes a citizenship concept which would influence the number of fully-qualified Jersey residents while affording the holder the right to purchase and reside in any property. Citizenship would be available to those already entitled to purchase property within the current housing laws and to those able to prove an accumulated residence for a period of, say, 15 years in the first instance.
- 8.22 The working party has explored whether social security cards could be used in the way suggested by the JRA. It can do no better than quote from the 1995 Social Security consultation document 'Continuity and Change' -

"Considerable discussion has taken place about the registration cards used by the Employment and Social Security Department, and despite numerous explanations, there are still some misunderstandings. The red and blue registration cards are not a means of identification. They are simply a convenient means of conveying to an employer that a requisite amount of contribution is due to be paid by them, for an employee. In fact the liability for contributions to be paid to the Department rests with the employer, not the employee.

Photographs on the cards alone, would serve little purpose, without authentic identity checks. Registration cards are not held by the individual or by the



Department, they are held by the employer so would not be readily available for inspection. Furthermore, Social Security registration only takes place after a person has found employment. Part of the registration processes requires an employer to be identified. Cards cannot be used, therefore, as a means of labour control.

Like double taxation arrangements, Jersey has agreements with other countries relating to Social Security matters which limit the payment of contributions to one country. For example, some people working in Jersey in continuation of UK employment quite lawfully pay contributions to the UK, have no liability to pay Jersey contributions and are not registered with the Employment and Social Security Department. This may also occur when Jersey residents, who actually live in Jersey are employed by certain companies in the UK and work for periods of time abroad, or in transit. People paying contributions abroad would not normally register with the Department. Conversely, some workers abroad are permitted to pay contributions to Jersey to protect their future position, so are registered here but are not actually present. For this reason, contribution information only has limited uses. It is designed for Social Security purposes only and whilst it is a good indication of residence for example, it is not absolute proof.

Non-payment of Social Security contributions for a period does not mean that a person was absent from the Island, nor does the presence of a record mean that the person was necessarily here. The Social Security Registration Card has no value other than as a vehicle for information to be transferred to employers, and between employers when a person changes jobs. Current Social Security Laws and International Conventions limit the cards use for other purposes and so they cannot fulfil the role of an identity card for example."

- 8.23 Partly for the reasons set out in the Social Security paper, the working party does not believe that the JRA's proposals are practicable, nor would they have any effect on the population level. The point has already been made that a work permit system can achieve nothing as long as unemployment is at a very low level which is the case in Jersey. Even if it were practicable that the social security card system would do would be to make it more difficult and costly for employers to fill vacancies. This would impact particularly harshly on the agriculture, tourism and construction sectors where a rapid turnover of the labour force is inevitable.

#### Conclusion

- 8.24 The working party is not persuaded that the introduction of a residence permit system, which would need to work hand in hand with 'right to work' legislation, as in Guernsey, would have any beneficial effect on the size of the population, whereas it would certainly have adverse effects in terms of bureaucracy, cost and anomalies. The working party noted with interest that the elaborate control system in Guernsey could not be shown to have had any effect on the size of the population.



## **CHAPTER 9**

### **9 OTHER POLICY INSTRUMENTS**

- 9.1 The working party is charged with examining policy measures which would impact on population levels. It is therefore appropriate that the working party comprehensively reviews all possible policy instruments which could have an effect on the population. There are some who believe that major policy issues, such as population policy in Jersey, should not be approached with such an open mind. The population issue in Jersey is difficult. There is no single answer which has all advantages and no disadvantages. It is a question of balance. It would be quite easy to implement policies which would reduce the population. For example, doubling the rate of income tax to 40% and introducing VAT would most certainly reduce the population, perhaps drastically, but the price that would be paid would be too great. Conversely, total absence of controls of any sort would lead to a population explosion which would be quite unacceptable. It is only by considering all options that an informed debate is possible.

#### **Influencing the Birth Rate**

- 9.2 The policy instrument used in most countries that wish to keep down their populations is to seek to reduce the birth rate. This is usually done by fiscal incentives. In the Jersey context, for example, options would be to limit the payment of child benefit, to limit the tax allowance for children and possibly even to increase income tax for people with more than a certain number of children. The view of the working party is that even if such a policy was desirable, then, in an island like Jersey, it would not be effective. In a relatively affluent society, people's decisions (or lack of them) on whether to have children are uninfluenced by relatively modest incentives or penalties. The working party also notes that the birth rate in Jersey is currently below replacement level and considers that any measures to reduce population should not concentrate on this variable.

#### **Tax Policy**

- 9.3 A rapidly rising population in Jersey is a symptom of overheating of the Island's economy. In most industrialised economies, the appropriate policy remedy would be to restrict monetary growth combined with an appropriate fiscal policy. In Jersey, the monetary policy option is not available as the Island is in monetary union with the United Kingdom. The fiscal policy option is, however, available. Indeed, it would be remarkably effective as a policy instrument. Two of the Island's key industries - tourism and banking - depend, to some extent in the case of tourism, and to a large extent in the case of finance, on the Island's favourable tax position. If the position was made less favourable, for example by the imposition of value added tax or another type of sales tax or by taxes on the finance industry, then there is no doubt that the volume of business activity would decline, therefore reducing the demand for labour and population pressures. In most countries, such a tax decision would yield additional tax revenue and there would be no overall loss of income to the economy. In Jersey, however, that is not the position. An increase in the tax level would lead to such a contraction of business that, quite possibly, the overall tax yield would decline. There would be a sharp reduction in the demand for the Island's services and Jersey could then face the more typical problem facing small island economies, that is of depopulation rather than excess population growth. This policy instrument cannot be contemplated given the



structure of the Island's economy.

#### **Discouraging Immigration of Residentially Qualified People**

- 9.4 It would be possible to discourage immigration by those residentially-qualified people who currently have an absolute right to return to Jersey with their families (most of whom would have no previous connection with the Island) at any time and occupy housing in the A to H category. There is no firm estimate for the number of people who have a residential qualification living outside the Island. The number is almost certainly growing year by year given that over the years a higher proportion of Jersey school-leavers have moved to the UK, and also given the increasing mobility of the population generally. If a significant number of residentially-qualified people did return to the Island, then this would almost certainly have the effect of contributing to the ageing of the Jersey population and could add significantly to the pressure on the Island's resources.
- 9.5 If a decision was taken that with immediate effect residentially-qualified people could no longer return to the Island, then this might be successful in limiting the population growth. If, however, there was some discussion of this possibility or an announcement that it would come into effect at a certain date, then the effect would probably be counter-productive, that is of crystallising some people's decisions to return to the Island. Such a policy would also discourage residentially qualified people from leaving the Island. There is also the moral question of whether it is right to prevent people born in Jersey, with Jersey ties, from returning to the Island, perhaps to be close to other members of their family. As far as is known, no democratic country seeks to prevent its "nationals" from returning to their place of birth.
- 9.6 The Working Party believes that it is morally wrong and counterproductive to seek to discourage immigration of any residentially qualified people.

#### **Reducing the Rights of Spouses**

- 9.7 Marriage is probably the main cause of the increase in people with residential qualifications. Clearly the more that residentially qualified people marry people without qualifications, the greater the effect on the population. It would be possible to further limit the rights of spouses who otherwise would not have residential qualifications following the death of their partner or divorce. Again, there are moral issues involved here. The Working Party does not believe there is any scope to reduce the rights of spouses that would be defensible and at the same time would have a significant effect on the size of the population.

#### **Encouraging Local People to Remain in Jersey**

- 9.8 Part of the reason why Jersey has a "population problem" is that the economic and social structure is such as to encourage population growth through the formation of families comprising one Jersey person and one non-Jersey person. Nearly half of all school-leavers leave the Island to go to higher education in the United Kingdom. Many never return. Some return to set up a household with another local resident and some return with a partner who has had no previous connection with the Island. Conversely, the Island needs to employ young people from the mainland, particularly in the public health and teaching professions and in the tourist industry and, again, many of those marry local people, thereby acquiring residential rights. There is little doubt that if more Jersey school-leavers stayed in



the Island rather than moving to the UK for higher education, then one factor which tends to increase the population would be diminished. However, the working party does not believe that such policy would either be desirable or acceptable in the Island. There is a recognition that young Jersey people need to have some time outside the Island so as to broaden their education in the widest sense, and this was reflected in many of the submissions we received. Many return to the Island and are able to make a better contribution to the Island's economy as a result. It is inevitable that a significant proportion do not return to the Island although they may continue to regard Jersey as home for many years.

#### **Training and Other Measures to Increase Labour Force Participation**

- 9.9 Population pressures in the Island would be reduced if a higher proportion of the local population were in the labour force, thereby reducing the need for immigrant labour. To some extent, the Island is suffering from the problems of affluence. Perhaps 20 or 30 years ago, many married women in particular would work in the tourist industry "for the season". Similarly, students might also work during the summer holidays. Now, with higher standards of living, many take the view that the relatively low wages are inadequate compensation for the loss of their leisure time. This trend cannot be reversed. However, the more that can be done to encourage participation in the labour force, the better it will be for the Island. The provision of training facilities is important here. Local companies need good quality labour. The better the training facilities in the Island and the more people who use them, the more local people will be employed and the less the need to import immigrant labour. Increasing the participation in the labour force of mothers would also be advantageous. This points to the need for more creche and nursery facilities. Other helpful developments would include the expansion of job sharing and the encouragement of older people to remain actively employed. Such measures may have little more than a marginal effect on the demand for labour, at least in the short-term, but it is only at the margin that the population problem can be addressed, and even marginal differences can be quite large in absolute terms. Currently, about 57% of people living in Jersey work. If that figure was pushed up to 60%, the demand for immigrant labour would be reduced by over 2,000.

#### **Identity Cards**

- 9.10 The working party has specifically been asked to consider the case for and against the introduction of identity cards "which are likely to be required if they are introduced in the United Kingdom". The working party accepts that if the UK goes ahead with identity cards then Jersey will need to follow. However, the working party does not consider that this has anything to do with the question of population policy. The following chapter looks specifically at identity cards.

#### **The Concept of Jersey Citizenship**

- 9.11 One of the suggestions that has been made is that the concept of a Jersey "citizenship" should be introduced.
- 9.12 Simply, the proposal provides that "citizenship", involving the full range of rights of living and working in a community, would be allocated very much on the principle of "a Club". Criteria would exist to determine who could be permanent members of "the Club" (eg Jersey born, child or spouse of Jersey born, essential employee immigrant, etc). Anybody born in the Island would have automatic citizen status.



- 9.13 The proposal involves setting a maximum core population, and once this figure is reached, applicants to join "the Club", and who satisfy criteria for admission, would be placed on a waiting list or queue. Once a vacancy arises in the core population (e.g. through death), somebody from the queue would fill his/her place. Those leaving the Island would retain their citizenship. Once somebody had acquired citizenship, he or she would have the same rights as everybody else in the Island - eg to vote, work, buy and rent property, set up in private business, social benefits, etc.
- 9.14 At first sight such a proposal would be very complex; for example there would be no way of knowing when a Jersey "citizen" living abroad had died. Also, it is more concerned with rights of immigrants rather than controlling the size of the population. The working party does not feel that this concept is workable notwithstanding some theoretical attractions.

## **CHAPTER 10**

### **10 IDENTITY CARDS**

- 10.1 The working party has been asked to consider the case for and against "the introduction of identity cards, which are likely to be required if they are introduced in the United Kingdom". As the previous section makes clear, identity cards are not a population policy instrument, although they can be used as a means of enforcing a policy. The working party has to consider this issue as a totally separate issue. It has done so only briefly for the reason which is set out in its terms of reference, that is that Jersey must follow the UK on this matter.

#### **The UK Position**

- 10.2 The UK Government, in May 1994, published 'Identity Cards - A Consultation Document'. This set out five main options for identity cards -

- (a) No change to the status quo, relying on the development by many organisations of their own cards.
- (b) A mandatory identity/travel card.
- (c) Treating a photocard/driving licence as a de facto identity card.
- (d) A combined driving licence and identity card.
- (e) A compulsory identity card.

The consultation paper listed six benefits of an identity card -

- (a) Travel: An identity card could be used instead of a passport for travel by British citizens in Europe and possibly further afield.
- (b) Proof of age: An identity card could provide convenient proof of age both to young adults and to senior citizens.
- (c) Banking and commercial transactions: An identity card could be of value in confirming identity when opening bank accounts and in other banking and retail transactions.
- (d) Emergency medical information: Optional medical information might be included which could be of value in an emergency. This could include blood group, allergies or organ donor details.
- (e) Crime prevention: An identity card might help in preventing certain crimes involving fraud or misrepresentation of identity and also might help the police more generally in verifying the identity of witnesses or suspects and could assist in reducing the fear of crime.
- (f) Access to public services: An identity card might prove useful to individuals seeking access to public services and at the same time could be of help in reducing the opportunity for fraud through duplicate or bogus applications. Some types of identity card might also help in the detection of illegal immigrants not entitled to particular services.



10.3 The Home Office has summarised the results of the consultation exercise as follows -

The consultation exercise on identity cards proved a useful way of inviting views on the possible options for introducing an identity card with some two thirds of those expressing a view in favour of the introduction of some kind of identity card.

The comments received by the Data Protection Registrar indicate a level of concern about the implications for an identity card scheme in terms of privacy and data protection. Many of those opposed to an identity card stressed their concerns about the implications of a compulsory card although at the same time about half of those in favour of identity cards supported the introduction of a compulsory identity card.

The police service view was that a voluntary identity card would be of help to them in combatting crime. Also most professional and business organisations including the banking and travel trade were in favour of an identity card.

As the Green Paper makes clear two of the options (the multi-function Government card and a compulsory identity card) would require considerable planning to introduce and could have significant financial implications, but the use of the proposed photocard driving licence as a de facto identity card and the introduction of a separate voluntary identity card/travel card or a photocard serving as a combined driving licence and national identity card remain open for the Government to consider for introduction in the short to medium term.

The Position in Jersey

10.4 It is believed that the Home Office favours using the proposed photocard driving licence as a voluntary identity card; Jersey should be prepared to follow suit if such a decision is eventually taken.

## **CHAPTER 11**

### **11 CONCLUSIONS AND RECOMMENDATIONS**

#### **The Objectives of Population Policy**

- 11.1 There is a general wish in Jersey for the population to stabilise at around its present level. Jersey is a small island and the greater the resident population, the greater the congestion and the pressure on physical resources generally. However, no policy objective can be pursued in isolation. There is also a wish in the Island to maintain a thriving economy, to increase living standards generally and to treat people fairly. It is necessary to take these factors into account in considering measures to control the size of the population.

#### **Population Trends**

- 11.2 Jersey's population has grown rapidly in the post-war period, particularly in the 1960s and 1970s. The resident population increased from 59,489 in 1961 to 69,329 in 1971 and 84,042 in 1991. However, the available evidence suggests that subsequently the population has fallen, largely as a result of economic circumstances.
- 11.3 In the foreseeable future, there is likely to be only a modest increase in the Jersey population as a result of the excess of births over deaths. Population changes will therefore largely depend on immigration and, in turn, immigration largely depends on the demand for labour. The tourist industry is declining as a proportion of the total Jersey economy and there is no reason to expect a significant increase in the demand for labour from that quarter. Finance and construction are probably the most relevant sectors. The construction industry is influenced, to a large extent, by States contracts. The finance industry has changed significantly over the last few years, not just in Jersey, but in Britain as a whole, and probably worldwide. Greater use of technology has reduced labour requirements and most large financial institutions have been shedding staff, in some cases in substantial amounts. Some parts of the finance industry involve volume business, but any institutions seeking to expand such business would certainly not wish to locate in Jersey because of the high costs and existing legislation. The general view of employers is that the demand for labour is unlikely to rise significantly, even if business expands quite considerably.
- 11.4 Accordingly, there can be a reasonable degree of confidence that there are not the same underlying pressures on the Island's population as there were in the 1960s and 1970s. The existing implicit population policy, combined with the changing nature of employment, particularly in the finance industry, have substantially reduced the likelihood of a significant increase in population. Having said this, one can never be 100% confident that the pressures so evident in the 1960s and 1970s could not re-emerge, and, accordingly, it is necessary to consider how such pressures could be best be addressed.
- 11.5 The factors that influence Jersey's population are complex. It is not simply a question of births, deaths and "immigration". Rather, the net immigration figure reflects very much higher figures for immigration and emigration of both residentially-qualified and non-qualified people. There can be no control, in particular, over emigration and immigration of people who are residentially qualified



by birth which can have a very material effect on the total population.

### The Implicit Policy

- 11.6 Jersey has had an implicit rather than an explicit population policy with three key instruments -
- (a) The Housing Regulations have acted as a deterrent to people who might wish to retire to Jersey or simply to live in the Island environment and who have no previous connection with the Island. However, for the most part, the Housing Regulations limit how people can live in the Island rather than whether they can live in the Island.
  - (b) The absence of unemployment benefit encourages those unable to obtain employment to return to the UK.
  - (c) The Regulation of Undertakings and Development Law enables the States to exercise direct control over the level of economic activity and therefore the demand for labour.

### The Housing Regulations

- 11.7 The effect of the Housing Regulations is complex. They are successful in giving preference to "local" people and they are successful in deterring people who have no connection with the Island coming here to live. However, it is accepted that the Housing Regulations have undesirable effects. They are arbitrary and unfair in that many people who contribute fully to the Island are prevented from enjoying the same living conditions as others. There are good grounds for arguing that some of the regulations are actually counter-productive, and far from reducing population pressures may actually increase them.
- 11.8 At present, people living in the Island who do not have residential qualifications but who are in the process of building them up, are deterred from leaving because, should they wish to return from Jersey, they will have to begin building up residential qualifications from nothing. Similarly, people who have acquired residential qualifications may be deterred from leaving the Island for fear that they will not be able to come back should they wish to do so in the future. The recent introduction of the three year rule is helpful in this respect but is very arbitrary in its application and does not recognise that people cannot plan their lives with the sort of precision that the rule implies. **The working party recommends the abolition of all of the provisions in the Housing Regulations by which people lose residential qualifications or the building up of residential qualifications by leaving the Island.** It is aware of no evidence to suggest that this would actually increase the Island's population. This measure would give freedom to people to leave the Island if they wish to do so for business or personal reasons without jeopardising their residential status. It would simplify the Housing Regulations and reduce the anomalies and hard cases that inevitably result from the Island's present prescriptive rules.
- 11.9 The Housing Regulations, subject to the modifications proposed above, should form an important part of the Island's population policy, largely by preventing people with no previous connection with the Island moving to Jersey to retire.



### Controlling Labour Demand

- 11.10 **The Regulation of Undertakings and Development Law** should continue to be the principal policy instrument to control the level of economic activity. It complements the Housing Regulations by influencing the growth of jobs. It is unsatisfactory in many ways but it is difficult to see how it can be improved on. It has not yet been put to the test and it remains to be seen how it could cope with a significant upturn in the demand for labour.

### Work and Residence Permits

- 11.11 The working party has carefully considered the introduction of a work permit system. The expression "work permits" seems to be a slogan for some, as if their mere introduction would, in itself, have a downward effect on the population. It would do no such thing. The purpose of work permits is to protect the local labour force, not to reduce the number of jobs. In the case of Jersey, there is a very low level of unemployment and, accordingly, all that work permits would achieve would be to introduce a bureaucratic system by which everyone working in the Island would have a permit to do so. The system would be rather like dog licences, that is requiring dog owners to have a dog licence does not reduce the number of dogs but ensures that someone knows how many dogs there are. To be effective, a work permits system would have to operate in tandem with a residence permits system as it does in Guernsey.
- 11.12 **The working party recommends an urgent review of the short-term contract system.** There can be merit in five year contracts, particularly for senior positions, from a management point of view. The population impact of the system needs to be carefully examined. While, at first sight, it might seem that the system does prevent people gaining residential qualifications, this is too simplistic. It is well known that many people remain in the Island at the end of their short-term contracts. It seems pointless to dispense with a good employee at the end of a contract period when that person remains in the Island, working less productively in another sector, while a new person has to be recruited from the UK. The problem is seen to be particularly acute in the public sector where even those who have acquired residential qualifications are not able to continue working. The recently announced relaxation in the rules is a modest step in the right direction but does not go nearly far enough.
- 11.13 The concept of residence permits is, at first sight, superficially attractive. It would directly control the number of people entitled to live in the Island. A detailed examination of the concept throws up a number of problems. A residence permit system would actually limit the number of residentially-qualified people rather than the number of people living in the Island. There could, for example, be many thousands of people outside Jersey with residence permits. A residence permit system inevitably would be bureaucratic but this might be a price worth paying. The real question is the policy that would be adopted in deciding whether to grant a residence permit. If permits were granted to everybody who could demonstrate that they had a job then the system would achieve very little that is not achieved by the present control instruments. If permits were not granted to people who were needed to work in local businesses, then the Island's economy would be adversely affected. However, it is fair to say that one advantage of a residence permit is that immigration by dependants of people who were needed to work locally could be prevented, although this in itself might have undesirable social consequences.



- 11.14 The working party carefully examined the housing and labour legislation in Guernsey. These effectively combine a residence permit and work permit system. The Guernsey model shows how a residence and work permit system can operate without border controls. However, at the end of the day, we are aware of no evidence to suggest that the Guernsey system has actually affected the size of population. Also, the 'free market' sector gives considerable flexibility which would not be available in Jersey.
- 11.15 In its consultation document, the working party specifically sought views on how work permit and residence permit systems would operate. The working party received only one fully worked-through proposal. A majority of those who commented on these concepts were opposed to them for the reasons that have been examined in this report. Those who favoured controls, did so often from an understandable but emotive viewpoint, that is a frustration with the growth of population and a wish to do something.
- 11.16 The working party sees no merit in introducing either work permits or residence permits to deal with the Island's population problem. Either they would have no overall effect but would impose unnecessary bureaucracy, or if they did have an effect, would have quite unacceptable side-effects.

#### Increasing Labour Force Participation

- 11.17 Population pressures would be reduced if there was greater labour force participation by the local population. While it is understandable in an increasingly affluent society that people are no longer prepared to work for relatively low wages, the fact is that the less local people are willing to take on lower paid jobs, the more there is a need for immigrant labour if the Island's basic services, export industries and prosperity are to be maintained.
- 11.18 The expansion of training facilities in the Island in recent years has already served a useful purpose in reducing the demand for immigrant labour and discouraging immigration of younger people. There is further scope to develop this policy. Also, the provision of better nursery and creche facilities would facilitate participation in the labour force by those mothers who wished to do so.
- 11.19 The working party has considered whether it would be desirable to encourage school-leavers to stay in the Island for their university education. This is probably impractical, but, in any event, the working party believes it is inappropriate. An essential part of university education for people born and brought-up in the Island is that they should be exposed to a new and wider environment.

#### Other Measures

- 11.20 The working party has considered other possible measures which might have an impact on the population. It does not believe it would be either practical or appropriate to seek to influence the birthrate and it believes that nothing further should be done to discourage the immigration of residentially-qualified people or to reduce the rights which spouses currently have. The working party has briefly examined the issues of identity cards and the concept of a Jersey citizenship, but these have nothing to do with controlling the population. They are methods of policing a policy rather than being a policy in themselves.

### No Simple Answer

- 11.21 The simple fact is that there is no magic wand which can reduce the Island's population without having wholly undesirable side-effects. The existing implicit policy needs to be made more explicit with population implications of any major policy measure being fully thought through. Some of the hardship which derives from present policy could be reduced by the recommendations which the working party has made in respect of the housing regulations and five year contracts. The working party is reassured in its basic conclusion by the fact that no one has presented convincing evidence to it that radical policy options, such as work permits or residence permits, would be effective in controlling the level of the population.

### The Need for Better Information

- 11.22 Given the importance of the population issue, there is a lack of the necessary statistical information and analysis to inform policy making. **The working party recommends that the steps be taken to improve understanding of how the labour market operates, to better estimate population trends between censuses, and to analyse the factors influencing the growth and composition of the population.**
- 11.23 The Chief Adviser's office should be in a position to advise on the population impact of all major policy decisions.

### An Explicit Population Policy

- 11.24 The working party considers that the demographic and economic pressures leading to population increases have lessened such that the population is unlikely to increase significantly while the economy continues to prosper. However, it would be unwise to be complacent. The population trend is a major issue in the Island. Accordingly, there should be an explicit population policy as follows -
- (a) The policy objective should be to maintain the population of Jersey at around the level it was in the second half of 1995.
  - (b) The Housing Regulations should continue to be used to discourage immigration by people attracted by the lifestyle in Jersey but who have nothing to contribute economically to the Island and who have no ties to Jersey.
  - (c) Population pressures arise predominantly from labour pressures, and, accordingly, the size of the population can be controlled only if the growth of jobs is controlled. The Regulation of Undertakings and Development Law gives the necessary powers to the States, and these powers should be used if population pressures seem likely to develop.
  - (d) Every effort should be made to increase participation in the labour force by local people. This requires a further expansion of training facilities and improvements in creche and nursery facilities.
  - (e) All major States policy decisions should include an assessment by the Chief Adviser's Office of the population impact.

12 June 1996

[R040901\*DGMBJERSEY]



**RESPONSES TO THE CONSULTATION DOCUMENT**

The working party received responses to its consultation document from:

**States Members and Departments**

Deputy Roy Cabot  
 Senator Tony Chinn  
 Ann Esterson, Controller of Social Security  
 Constable Carl Hinault, President, States of Jersey Planning & Environment Committee  
 Peter Lambert, Chief Executive, States of Jersey Health & Social Services  
 Michael Lanyon, Director, Jersey Airport  
 Eric Le Ruez, Chief Executive Officer, States of Jersey Housing  
 Deputy Derek Maltwood  
 John Pinel, Chief Executive, Department of Postal Administration  
 Deputy Robin Rumboll

**Organisations**

Amos Group  
 Arthur Andersen  
 Baker Homyard  
 Concern  
 De La Salle College  
 Deloitte & Touche  
 Ernst & Young  
 Friends of the Earth Jersey  
 Hautlieu School  
 Institute of Personnel & Development  
 Institute of Directors  
 Jersey Farmers Union  
 Jersey Hotel & Guest House Association  
 Jersey Civil Service Association  
 Jersey Rights Association  
 Jersey Bankers Association  
 Jersey Association of Plumbers and Heating Engineers  
 Jersey Electricity Company Limited  
 Leslie Norman & Co  
 Modern Hotels  
 National Trust for Jersey  
 Parents' Action Group for Education  
 Parents' Association, Hautlieu School  
 Rawlinson & Hunter  
 Royal College of Nursing  
 Victoria College

**Individuals**

Hilary Backhouse  
 Robert Kisch  
 Bernie Manning  
 Marianne Pallot  
 Carlos Stein  
 Colette Stevens  
 Rozelle Sutherland  
 K F Tranter  
 Colin Woodward

## HOUSING CONTROL AND RIGHT TO WORK LAWS IN GUERNSEY

### 1 INTRODUCTION

- 1.1 Guernsey has a similar population problem to Jersey and for much the same reasons. The population of Guernsey in 1991 was 59,000, of whom 44,000 were estimated to be residentially qualified and 15,000 were estimated not to be. Guernsey is much more densely occupied than Jersey. (If Jersey was as densely populated as Guernsey, its population would be 108,000.)

### 2 THE HOUSING CONTROL LAWS

- 2.1 The housing control laws in Guernsey control the occupation of a dwelling rather than its ownership. The Guernsey housing market is basically divided into open market properties and local market properties. There are about 1,750 properties in the open market register, of which 1,600 are family houses. The register is now closed. Open market dwellings can be occupied by anyone without the need for a housing licence. However, if they become lodging houses they are then controlled.
- 2.2 The latest figures show that there were 17,000 local market properties. These can be occupied by qualified residents, licence holders and close families of each except the families of short-term licence holders.
- 2.3 There are over twenty ways a person can qualify as a local resident. The general categories are -
- (a) 10 years residence in any 20 year period for those born in the Island or born to a parent who was born in the Island.
  - (b) 15 consecutive years under an essential housing licence.
  - (c) 15 years residence in any 25 year period for the children of essential licence holders who were brought to the Island as minors.
  - (d) 20 years residence in any period of 30 years for the children of open market residents who were brought to the Island as minors.
  - (e) 20 years under a non-essential licence.
  - (f) 10 years as spouse of qualified resident.
- 2.4 There are two types of licence - the essential licence which is employment-related and the compassionate or general licence which is dependent on the applicant's connection with the Island. Most essential licences are short-term, that is for periods of between 9 months and 3 years. They are issued for restricted accommodation such as staff quarters and board and lodgings and do not cover dependants. Short-term licences are intended for single or unaccompanied persons only. Current policy is to grant such short-term licences for employment in horticulture and tourism and specialist or technical jobs normally linked to a



specific contract in other industries. The law states that short-term licence-holders must be absent from the Island for 3 months before a 9 month licence is granted, and 3 years before a 3 year licence is granted, thereby preventing licence-holders from building up significant consecutive periods of residence. Medium or long-term licences are for 3, 5 or 15 years, are for self-contained accommodation, cover dependents and are subject to a thorough test of essentiality.

### 3 THE RIGHT TO WORK LAW

- 3.1 'The Right to Work (Limitation and Proof)(Guernsey) Law 1990' (generally known as the right to work law) was introduced as an adjunct to housing control laws and stipulates that a person must be lawfully housed before being accepted for work by any employer. It was introduced as a means of enforcing housing control laws and to deal with the turnover of seasonal and temporary workers through the issue of short-term employment-related licences with enforced breaks.
- 3.2 The effect of the law is that anyone who begins work or changes job requires a 'right to work' document, indicating that the holder is legally housed in the Island. There are six types of document -
- (a) A status declaration, confirming that the holder is a qualified resident. This is a permanent declaration.
  - (b) A housing licence as described above which is time-limited, tied to a specific address and may have conditions which limit its validity (eg they may only be valid for a specified job).
  - (c) Declarations of lawful residence which are confirmation that the holder, whilst neither a qualified resident or licence holder is living legally, eg in an open market dwelling or as a family member of a qualified resident or licence holder. These are time-limited but renewable, tied to a specific address and may have conditions attached.
  - (d) Temporary exemption certificates, generally issued for periods up to 3 months to applicants who are likely to be able to obtain one of the documents mentioned above.
  - (e) Tent dwellers' declaration, only issued to specified industries and valid only between April and October.
  - (f) Boat crew declaration, for people living on and employed on a boat.
- 3.3 All employers are required to keep records of all employees. The record must list place of work, job title, name of employer, name of employee, employee's previous name, date of birth of employee, States insurance number of employee, date employment ceased, date employment started, residential address of employee, type of 'right to work' document held, reference number of 'right to work' document and expiry date of document.
- 3.4 Setting up the administration of the law cost in the region of £250,000. The staff of that section also grew from 4-5 to 12 who are all involved with the administration and enforcement of the law.

#### 4 THE IMPACT OF THE RIGHT TO WORK LAW

- 4.1 The 'right to work' law is reasonably self-enforcing although twelve staff are needed to operate it. It is self-policing because without a 'right to work' document, one cannot obtain unemployment benefit or a job and may have difficulty renting accommodation. The policing is largely through the computerised link between the housing and social security records, backed-up by inspection. The housing law has evolved over time. The right to work law is a recent one-off measure, which has a reasonable degree of acceptance because it is generally regarded as protecting the "local resident". People know, for example, that even if they let a spare room, they must see a permit.
- 4.2 One of the stated intentions of the law was to create turnover of seasonal and temporary workers so as to prevent the acquisition of residential qualifications. There has been a decline in the number of short-term entrants and re-entrants since the introduction of the law and a return to the level of the mid-1980s at a comparable stage of the economic cycle. However, about 600 non-residentially qualified people become residentially-qualified each year, half of whom gain their qualification as a result of an "association" with a residentially-qualified person. It is estimated that there are about 3,000 non-residentially qualified people who are housed by virtue of the associations they have formed and who can work in any sector of the economy.
- 4.3 The 'right to work' law covers only those who wish to be economically active. If people are in doubts as to their status, it is possible that they may prefer to remain economically inactive if they are in a position to do so. The ratio of economically inactive to the economically active may have increased as a consequence of the law. It is, of course, the case that the economically inactive are covered by housing control law, but they are less visible than those who are economically active.
- 4.4 An assessment by the Head of Economics and Statistics shows four different effects of the 'right to work' law in controlling the population -
- (a) Both short-term entrants and re-entrants have declined in number since the introduction of the right to work law in 1990. New entrants in 1994 are about the same as ten years ago while re-entrants are slightly higher.
  - (b) The provision of short-term workers to horticulture and tourism has also favoured those sectors, as opposed to other sectors of the economy, with lower paid workers. Since the sectors of horticulture and tourism are lower performing sectors, the effect has been to lower the average economic performance of the overall economy. Immigration is thought to increase with overall economic performance and to the extent that overall economic performance has been lower than it otherwise could have been expected, immigration has been reduced.
  - (c) The formation of associations between residentially-qualified and non-residentially qualified people has probably increased by the presence of more non-residentially qualified people, but decreased due to the lower periods of time the licensed workers spend in the Island. The effect of the law is probably to reduce the population.
  - (d) Some people may have been unwilling to bring their housing status to the



attention of the Housing Authority and have chosen to become economically inactive.

## 5 SUMMARY

- 5.1 The licensing policy carried out under the housing laws designate workers to specific employers and economic sectors. This provides the opportunity for the States to encourage some sectors, at the expense of others. Since 1990 most sectors including the finance and public sectors have received limited long or medium term licences while the horticulture and tourism sectors have been encouraged through the liberal issue of short term licences.
- 5.2 Since 1990 horticulture and tourism have experienced a slow decline and the number of short term licences issued has diminished. This has presumably freed up some accommodation in housing or meant that the occupancy of housing is below the capacity of 1990. If horticulture and tourism had grown since 1990, then either the number of short term licences would have been restricted somewhere around their 1990 capacity or the capacity would have been increased to house the bigger population of horticulture and tourism workers.
- 5.3 Although the short term licences are given to horticulture and tourism because of a lack of local labour, the main economic fact is that local people prefer higher wages to the lower wages paid in horticulture and tourism. Therefore only non locals who accept lower wages generally work in horticulture and tourism. This reduces costs to the employer and increases profitability.
- 5.4 Economic principles would indicate that there is further a knock-on effect into the remainder of the economy whereby -
  - (a) Wages are lower than they could otherwise be throughout the economy.
  - (b) Economic inactivity might increase among locals as they will not work for the offered wage even though it is acceptable to non locals.
  - (c) The economy may be seen as better balanced through the intervention of States policies but at the possible cost of lower economic growth.
- 5.5 It is seen that the net effect of the right to work laws is on the economy rather than population, and therefore the effectiveness of the right to work law in controlling population is difficult to demonstrate. The housing control laws continue to be effective in preventing a large influx of non-local labour.
- 5.6 It has to be remembered that the right to work law has no effect on its own, but is used in conjunction with the housing laws and States policies.

**THE PROPOSALS OF THE JERSEY RIGHTS ASSOCIATION**

The Jersey Rights Association's Housing and Immigration Sub-Committee was the only organisation to make a comprehensive submission on how a residence and work permit system could work. This Appendix summarises the JRA's proposals and the working group's views on them.

**The JRA's Proposals**

Social security cards should be used to control the number of non-residents allowed to work and thereby to live in the Island. New style cards should be freely available to those who already have a card. The card would be accompanied by a written explanation of rights of the holder in relation to types of accommodation that may be occupied and duration and category of work that may be applied for. Social security cards equivalent to current J categories could be for a fixed time period. People applying for social security cards may be granted a card for a fixed period which would be renewable depending on labour market conditions.

The number of cards issued to immigrants would be at the discretion of the Social Security Department, according to labour market conditions.

Immigrants would be able to apply for a social security card only if they had an offer of work. They could apply for an extension which would be at the discretion of the Social Security Department.

An employer with a vacancy could recruit someone with a social security card or the position would have to be registered with the Social Security Department or the Job Centre. The employer would have to interview two existing holders of social security cards (assuming suitable people are available) prior to offering the job to a non-card holding immigrant. Employers would have to register any new employees and terminations of employment with the Social Security Department and, perhaps, the Housing Department.

Those taking in lodgers should first obtain Social Security card details and would notify the Housing Department of these. On termination of lodgings the Housing Department should also be notified.

Alongside the use of social security cards would be a residence permit system, entitling people to occupy rental accommodation. Permits would be made available immediately for those able to prove accumulated residence of, say, 10 years out of 13. The essentially employed would secure a residence permit immediately.

Finally, a citizenship concept would be introduced; "citizens" would be entitled to purchase or reside in any property. Citizenship would be granted immediately to those already qualified to purchase property and to those able to prove, say, 15 years accumulated residence.

The JRA argue that their proposals should help to -

- (a) Address the lack of a work permit system that currently encourages immigration of non-Jersey labour and emigration of the local workforce who, having contributed to another economy are then free to return (perhaps with a family) and retire under non-contributory circumstances.



- (b) Address the lack of a residence permit system that currently discourages emigration of those not fully committed to the island, but who are currently in fear of "burning their bridges", should they wish to sample life elsewhere.
- (c) Encourage employers to train and employ residents, by way of subsidies or tax relief for when this occurs. It requires employers to consider residents and those with existing Social Security cards prior to employing off-island or newly arrived immigrants.
- (d) Provide clear terms to immigrants who become employees and prevent them from easily obtaining work, that could be done by existing members of the population, resulting also in an ability on the part of an immigrant to claim ignorance of the prevalent population control strategies.
- (e) Prevent immigrants from detracting from the housing stock unless they have employment and the required permit, ie their services are needed.
- (f) Encourage those immigrants who do obtain a Social Security card (at the lower end) to strive towards obtaining a higher grade or extended permit, whilst giving no firm guarantees that this will eventually lead to Residence as a matter of course (unlike the current housing laws).
- (g) Ensure that an unemployed immigrant, with no Social Security card, may neither work nor take up lodging accommodation, but must stay in either a hotel, guest house or with family/friends. This would help to dissuade those immigrants who do not intend to gain employment, but obtain monies from illegal means from staying as hotels and guest houses are generally more expensive and do not offer the same freedoms associated with other lodgings.
- (h) Simplify the collections of revenues due to Income Tax and Social Security.
- (i) Dissuade undesirable elements from applying for permits by demanding more detailed information at the point of application.
- (j) Simplify administration and search procedures when an application for a Resident's Permit or Citizenship is received.
- (k) Facilitate the return to work of those parents who wish to do so, but who are currently unable to, thereby retaining such positions of employment for existing residents.

The working party considers that the JRA has done a valuable service by presenting comprehensive proposals, but in so doing have confirmed their view that a system of work and residence permits would be very bureaucratic while not having a significant effect on the level of the population. The work permit system, based on social security cards, would have an effect by favouring local labour over immigrant labour. But there is no significant unemployment in the Island and accordingly the proposals address a problem which does not exist. The real problem is the growth of job opportunities, an issue which the control of Undertakings and Development Law seeks to address.