

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 28TH DAY OF JUNE, 2013

(Adjourned from 26th & 27th June, 2013)

**The States resolved as follows concerning Billet d'État No XI
dated 10th May 2013**

POLICY COUNCIL

MANAGING THE SIZE AND MAKE UP OF THE ISLAND'S POPULATION

I.- After consideration of the Report dated 29th April, 2013, of the Policy Council:-

Objectives of a New Regime

1. To agree that the new population management regime should aim to be:
 - (a) as effective as possible in enabling the States to manage the size and makeup of the island's population;
 - (b) legally robust and designed to meet the island's domestic and international obligations, taking into account that human rights considerations and the immigration regime are of particular significance in managing the size and makeup of the island's population;
 - (c) capable of fulfilling the strategic policies of the States, especially any strategic population policies of the States, including any which are in place at the time of the inception of the new regime, and sufficiently flexible to adapt to any changes to such policies;
 - (d) sufficiently flexible to allow the States to respond wisely, and where necessary quickly, to economic, social and environmental changes, including to demographic challenges, without the need for changes to primary legislation;
 - (e) supported by an efficient and flexible administrative process which contributes to making the island an attractive place to live, work and do business and which is not so complex and bureaucratic as to deter people from using that process;
 - (f) capable of providing regular statistics to allow the States to monitor, and understand how the regime is affecting, changes in the size and makeup of the population in order to ensure that the States is in receipt of as much information as possible when developing policies; and
 - (g) transparent in its policies, procedures and rules in order that the public understands how and why decisions are made.

Long Term Residency

2. To agree that:

- (a) individuals who have lived continuously and lawfully in Local Market property for 8 years will be issued with an Established Residence Permit, will acquire the right to continue living in the Island permanently if they so choose and will be defined as Established Residents.
- (b) individuals who have lived continuously and lawfully in Local Market property for 14 years will be issued with a Permanent Residence Permit, will acquire the right to continue living in the Island permanently if they so choose and will be defined as Permanent Residents.

Right to Return

- 3. To agree that once an individual becomes an Established Resident, if he or she then decides to move away from the Island, he or she will not have the automatic right to return to live in the Island at a later point.
- 4. To agree that once an individual becomes a Permanent Resident, if he or she then decides to move away from the Island, he or she will have the automatic right to return to live in the Island at a later point.
- 5. That where an individual has acquired the automatic right to return to live in the Island, this right will be retained regardless of the length of time that the individual is away from the Island.

Existing Qualified Residents

- 6. To agree the requirement that any existing Qualified Resident who:
 - (a) is not resident in the Island, but decides to return in the future, will be required to obtain a Permanent Residence Permit.
 - (b) is resident in the Island and is, or wishes to be, employed in the Island, will be required to obtain a Permanent Residence Permit.
 - (c) is resident in the Island and is not, and does not intend to be, in employment will not be required to obtain a Permanent Residence Permit.
- 7. To agree that in some specific circumstances, to be defined in policies agreed by the States, individuals may spend time off-Island, but still have their residence considered to be continuous residence in the Island.
- 7A. To agree that a local resident and his family being out of the Island with HM Forces would have this time considered as though it was spent in Guernsey.

Employment Permits

- 8. To agree that:
 - (a) Long Term Employment Permits will be issued for a period of 8 years to address persistent and enduring skills shortages where it is unlikely that those skills will be easily sourced, either in the Island or globally, in the foreseeable future or where continuity in the post in the longer term is in the Island's interest.

- (b) Medium Term Employment Permits will be issued for a period of up to 5 years in circumstances where:
- a post requires specific skills which are not available in the Island, but where that skills shortage is likely to be able to be met in the foreseeable future; or
 - the skills required are held by Qualified Residents and Residence Permit holders, but the number of people resident in the Island with those skills is insufficient to fill the total number of posts requiring a similar or identical skill set.
- (c) Short Term Employment Permits will be issued for a period of up to 1 year to fill posts where there is not a need for a high level of skill, but where there is a need for additional manpower over and above that which can be sourced from within the Island.
- (d) Short Term Employment Permits can be re-issued to the same individual, subject to a maximum aggregate period of 5 years residence.
9. To agree that, except in a case of successive Short Term Employment permits, an individual must take a *recognised break in residence* before that individual will be eligible to obtain an Employment Permit for a subsequent period of residence; that a *recognised break in residence* be defined as an absence from the Island for a period of time which is at least equal to the duration of an individual's last period of residence in the Island; and that in a case of successive Short Term Employment Permits an individual's absence from the island which does not constitute a *recognised break in residence* will be treated as part of that individual's aggregate residence for the purposes of Proposition 8(d).
10. To agree that an Employment Permit must be issued before an individual arrives on the Island to work, or before an individual who is already resident in the Island changes jobs.
11. To agree that the holder of an Employment Permit will be able to apply to change job at any time during the life of his or her Permit, as long as the new post is also identified as one which will attract an Employment Permit.
12. To agree that anyone who has been issued with an Employment Permit may hold more than one job.
13. To agree that there will be provision in the new Law to place a maximum age limit on applicants for Employment Permits, which could be activated by the States in the future if there is an identified and proven need to do so.

Residence Permits – Family Connections

14. To agree that immediate family members will be defined as an individual's:
- Spouse / Partner
 - Parents and Parents-in-law
 - Children
 - Grandchildren.

15. To agree that Qualified Residents, Permanent Residents and holders of Established Residence Permits will be able to accommodate immediate family members within their household.
16. To agree that holders of Long Term or Medium Term Employment Permits will be able to accommodate immediate family members within their household.
17. To agree that the holder of a Short Term Employment Permit will not be permitted to be accompanied by any family members.
18. To agree that family members will need to continue to live within the household of the individual with whom they have the close relationship during their period of residence under a Temporary Residence Permit and Established Residence Permit.
19. To agree that all adults and children in employment who are permitted to live in Local Market accommodation under the provisions for immediate family members will be required to obtain a Residence Permit.

The Open Market

20. To agree that an Open Market, largely in its current form, should be retained as part of the new population management regime to allow people to come to live in the Island who might not be Qualified or Permanent Residents, might not have strong family connections here and might not possess essential skills or fill manpower shortages.
21. To agree that the children of Open Market residents should become Permanent Residents after a period of continuous residence of 14 years. This will be the case as long as they were first resident in the Island before the age of 18 and as a member of the household of their Mother or Father.
22. To agree that the general policy should remain that, with the exception of those children mentioned in the previous recommendation, any Open Market resident without residential qualifications will not be permitted to live in Local Market property.
23. To agree that adult Open Market residents, and any of their children who are in employment, will be required to hold an Open Market Residence Permit.
24. To agree to redefine Part D of the Open Market Housing Register such that it will incorporate all lodging houses and all Part A properties in use for the multiple occupation of unrelated adults and that such properties will be defined as Houses in Multiple Occupation.
25. To agree:
 - (a) that the number of properties that can be inscribed in the Register in the newly-defined Part D of the Open Market will be capped and that the level of that cap should be decided by the States, having regard to the size and make-up of the Island's population at any given point in time.

- (b) that from the coming into force of the new regime, the cap will be set at the number of existing Part D Lodging Houses plus the number of Part A properties in established use for the multiple occupation of unrelated adults on the date of publication of this States Report.
 - (c) that, having regard to a particular property's established use, only those Part A properties that are in use for the multiple occupation of unrelated adults on the date of publication of this States Report will be given the option to transfer to the newly-defined Part D of the Open Market Housing Register, subject to meeting acceptable accommodation standards.
 - (d) To agree that any redefined Part D property may, at the owner's request, be returned to Part A for occupation as a family home.
- 26. To agree that tenants of a Part D House in Multiple Occupation will be able to benefit from the Open Market status of the property and will be free to live in the Island, and to work in any employment, for a maximum period of 5 years' continuous residence in the Island.
 - 27. To agree that an individual must have been away from the Island for a period of time which is at least equal to the duration of his or her last period of residence in the Island, before that individual will be eligible to obtain an Open Market Residence Permit permitting him or her to live in a redefined Part D property.
 - 28. To agree that employees living and working in Part B and Part C properties will be able to benefit from the Open Market status of the property and will be free to live and work in the property for a maximum period of 5 years " continuous residence in the Island.
 - 29. To agree that an individual must have been away from the Island for a period of time which is at least equal to the duration of his or her last period of residence in the Island, before that individual will be eligible to obtain an Open Market Residence Permit permitting him or her to live and work in a Part B or Part C property.
 - 30. To agree that genuine tourists and guests will not be required to obtain a Permit to stay in a Part B hotel or guesthouse, as long as their length of stay is for less than 90 days per year.
 - 31. To agree that an individual who wishes to live in a Part C nursing or residential home to benefit from the health and social care services offered will be required to obtain a Permit to do so, unless he or she is a Qualified or Permanent Resident, and such Permits will not be time-limited.

States Controlled Properties

- 32. To agree that any individual living in States controlled property should be subject to the same requirements as any other member of the community with regards to his or her requirement to obtain the relevant Permit.

Restricting Where an Individual Can Live

33. To agree that Short Term Employment Permit holders will not be permitted to be householders in their own right. This means that they will only be permitted to live in accommodation that is shared with others.
34. To agree that there will be provision in the new Law to place conditions on where the holders of Long Term and Medium Term Permits may live, which could be activated by the States in the future if there is an identified and proven need to do so.

Criminal Convictions

35. To agree that criminal conviction checks will form part of the application process for everyone moving to the Island who is required to obtain a Permit; and that consideration should be given to revoking an employment permit whose holder is convicted of a criminal offence of such a nature, or in such circumstances, that his continued residence in Guernsey is regarded as contrary to the public interest.

Governance Arrangements and Responsibilities

36. To agree that:
 - (a) the States of Deliberation will retain responsibility for setting the objectives of the population management regime and for determining all substantial policies relating thereto;
 - (b) it would be impractical and improper for every matter concerning the management of the new regime, including application for permits, to be put before the States of Deliberation;
 - (c) in order for the population management regime to function effectively, the States of Deliberation will need to delegate certain functions of the regime, including: the development of policies which are of a level of detail so as not to require the approval of the States of Deliberation; the political oversight of the day-to-day administration of the regime; and the monitoring and publication of information concerning the size and makeup of the population;
 - (d) such functions shall need to be delegated by legislation or States Resolution to an existing or new department, committee or other similar body of the States;
 - (e) any decision about the department, committee or other similar body of the States to which is would be most appropriate to delegate such functions should await, and be informed by, at least the first, and if possible the second, report which is to be laid before the States of Deliberation by the States Review Committee and which is to contain proposals for the future of the machinery of government.
37. To agree that under the political oversight of whichever department, committee or other similar body of the States to which the States of Deliberation resolve to

delegate population management functions, a Statutory Body will be responsible for making day-to-day administrative decisions in accordance with policy directions from the States, the details of how such arrangements will work to be brought to the States for approval ahead of the new population management regime coming into force.

38. To agree to the establishment of an Advisory Panel to provide independent advice in relation to population management policies to whichever department, committee or other similar body of the States to which the States of Deliberation resolve to delegate population management functions, and further to agree that the terms of reference and membership of the Advisory Panel shall be determined by the States of Deliberation only.

Legislative and Policy Framework

39. To agree that the new regime will be driven by policies set by the States and that, wherever possible, those policies will be determined by reference to the strategic objectives of the States.
40. To agree that population management policies should be made public to ensure that the system is transparent.
41. To agree that the legislation will provide for an applicant to exercise a formal right of appeal against any decision taken under the Law.
42. To agree that the legislation will provide for both civil and criminal sanctions for proven offences.

Extension of the Housing Control Law

43. To agree to the preparation of an Ordinance to enable the Housing (Control of Occupation) (Guernsey) Laws, 1994 to 2008, to remain in force until 31 December 2018 or until such time as a new population management regime and related legislation is in place, whichever is the sooner.

Further Development Work

44. To note the Policy Council's intention to return to the States with further detailed recommendations during the development of the new population management regime.

Preparation of legislation

45. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

D A KNIGHT
HER MAJESTY'S DEPUTY GREFFIER