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Migration Advisory Committee advice on transitional measures for A8 nationals

SUBMISSION BY THE ASSOCIATION OF LABOUR PROVIDERS

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Introduction

The Migration Advisory Committee (MAC) was asked by the Government on 23 February to “*consider what the likely impact on the labour market would be of relaxing transitional measures [in respect of nationals from the A8 countries], and whether it would be sensible to do so*”. The Government has requested that the Committee provide its advice by 16 March. In turn the MAC has asked a small number of stakeholders for their views by 5 March.

This paper sets out the views of the Association of Labour Providers (ALP). The Association was formed early in 2004 by 18 labour providers. It now has over 200 members and is recognised as the representative body for those labour providers that serve the agricultural and food industry. (Full information about the Association and its work is available on its website: www.labourproviders.org.uk). Labour providers source their labour almost entirely from the A8 countries. The Worker Registration Scheme is therefore of critical importance to them. The Association has sought to be closely involved with the WRS since its inception, simultaneously arguing for its abolition as well as seeking operational improvements to ease the burden on workers and employers while making the resultant statistics more useful to policymakers.

Executive summary

The Accession States Worker Registration Scheme (WRS) ends automatically on 30 April 2009. The government could extend the scheme only if it could persuade the European Commission that its removal would cause serious disturbance to the UK labour market. As the scheme has virtually no effect on the market, being purely a statistical and monitoring scheme, it would not be possible to argue this. The ALP and its members are working on this basis. The ALP has already advised its members that the scheme will end and has suggested how members can handle this so as to reduce the burden on low paid workers. The Association has also suggested to the government arrangements to ensure that the ending of the scheme minimises the burden on workers, employers and the UKBA.

The scheme is not about the right to work in the UK and therefore the scope of the MAC exercise is not about whether workers from the A8 countries should be allowed to work in the UK or about the terms on which they could work, but rather is about the consequences of removing a requirement on workers to complete a form and pay £90 to the government.

The ALP does not believe that the scheme has had any significant effect on the number of workers from A8 countries in the UK labour market; it follows that its withdrawal would have no effect. The ALP believes, but cannot prove, that the scheme may have encouraged some workers to operate in the informal economy. To the extent that this has happened the ending of the scheme may lead to a very modest increase in the regularisation of employment.

The WRS has not been an effective means of analysing the impact of A8 immigration to the UK as it measures only entry to the labour market not exits from it, excludes a significant number of people, and the high cost to workers of registering has encouraged many not to do so. There are alternative more effective means of measuring the number of A8 workers in the UK and their impact on the labour market, as has already been recognised by the MAC in its December 2008 report on arrangements for workers from Bulgaria and Romania (the A2 countries).

Structure of this evidence

The ALP welcomes this consultation, the first time there has been any consultation on the scheme. In the circumstances it would be churlish to complain about the eight day consultation period even though the date on which the scheme will end has been known for six years. Some consultation is better than none.

The Association has commented extensively on the scheme since it was introduced (with no consultation and no evidence) initially for two years and then extended (with no consultation and no evidence) for a further three years. This evidence draws heavily on previous ALP papers, in particular three papers which are appended to this paper and which are reproduced in full so that the MAC knows what was said at what time –

Appendix 1: The Workers Registration Scheme – the case for abolition, 25 May 2005.

Appendix 2: Monitoring the impact of the Accession States Worker Registration Scheme on the UK labour market (a joint paper by the ALP, the NFU and the TUC), 26 September 2006.

Appendix 3: Exit Strategy for the Worker Registration scheme, 9 June 2008.

In addition, the Association's guidance to members, dated 16 June 2006, is reproduced as Appendix 4.

The Worker Registration Scheme

Under the Accession Treaty for the A8 countries, nationals of these States have the same free movement rights as nationals of the existing Member States. The Accession Treaty provides, however, that existing Member States could, as a derogation from the usual position under European Community law, regulate access to their labour markets by nationals of the Accession States (other than nationals of the Republic of Cyprus and the Republic of Malta). This derogation could be applied for a transitional period of five years from accession (with provision for a further two years in the case of serious disturbances to the labour market).

The key points of the scheme are –

- It applies to eight of the ten Accession States; workers from Malta and Cyprus are exempted.

- Employees, but not the self-employed, are required to register within one month of beginning work in the UK. The obligation to register is with the worker but employers must show that they have done all they can to encourage workers to register.
- A fee has to be paid on first registration. Initially this was £50; it has subsequently been increased to £70 and then to £90, that is an 80% increase within three years.
- When a worker changes job he must re-register within a month but does not have to pay a fee.

The official purpose of the WRS is “to monitor the impact on our labour market of workers from the A8 countries”. The government has produced no more detailed explanation of the rationale for the scheme. At various times officials have also indicated that another purpose of the scheme is to regulate access to benefits. However, as this has never been officially articulated or explained it is difficult to analyse. The ALP’s understanding has always been that national insurance records should provide sufficient evidence of entitlement to benefits.

Interestingly in its own evidence to the MAC for its A2 report HM Government said: “In 2004 when 10 new countries joined the EU, we gave their people access to our labour market – but the Workers Registration Scheme ensured people came to work and not claim benefits”. The WRS is a monitoring scheme and it would be helpful if the government could explain how it helps to ensure that workers “came to work not to claim benefits”. [A Ministerial Working Group paper, provided under a Freedom of Information request on 27 February 2009, provides a very different slant on the scheme. This is covered subsequently in this paper.]

Impact of the scheme

To understand the impact of the ending of the scheme it is necessary to understand the impact of the scheme. The first point is that a significant proportion of workers who should have registered have not done so. The Association commented on this in its 2005 paper. It argued that many workers from the Accession States were not registering and cited anecdotal evidence –

- Workers who had clearly been in the UK for some time seeking work through members of the ALP frequently had not registered under the scheme previously.
- There had been few re-registrations, that is workers who having registered when they first came to the UK then changing job. Given the nature of the work done by many of the people from the Accession States, one would expect a relatively high turnover. Members of the ALP had knowledge of a substantial number of workers from the Accession States who had not registered.
- There was a great deal of illegal working generally. It is estimated that 40% of workers who registered in the first eight months of the scheme were previously working in the UK illegally, indicating just how easy it is to do so.

The papers cited some statistical evidence to support this. This has now been superseded by the MAC’s own analysis in its A2 report. This noted that “some immigrants may fail to register, for example, because they are unaware of the requirements to do so or do not wish to pay the fee (currently £90).” Para 5.11 of the report then noted: “WRS estimates exclude some categories of immigrants such as the self-employed and immigrants working for less than one month, as well as those that fail to register. From migrant surveys, Pollard et al. (2008) estimate that a third of

A8 immigrant workers in the UK are not registered on the WRS and are therefore not in compliance with regulations.”

The ALP has previously explained why workers who are required to register may not choose to do so –

- Paying a fee of two to three days after-tax pay is a significant deterrent to low-income people who have just arrived in a new country.
- Physically making a payment is difficult as workers cannot be expected to have a bank account when they are required to register. Many have been forced to use postal orders adding a further significant cost.
- The initial application form was difficult to understand even by an English speaking person and required those workers who had been working unlawfully in Britain prior to accession to incriminate themselves. (After representations from the ALP these issues were addressed.)
- People do not like sending their passports in the post, particularly given the reputation of the UK authorities for excessive delays in dealing with passports. For the Workers Registration Scheme these delays ran into months in the summer of 2004 before remedial action was taken. People recently arrived in the UK need their passports in order, among other things, to open a bank account, to obtain accommodation and to change job.
- Workers are naturally concerned about supplying a large amount of personal detail to the authorities and the use which may be made of this information. This may be an unjust fear but it does not stop it being a real one.
- There is no practical benefit to workers from registering and no penalty for not registering.

Home Office officials have privately expressed amazement that so many workers have chosen to register. Given these points, it is worth explaining why this has happened. ALP members supply workers to food packing and processing plants which in turn supply the major supermarkets. The plants themselves and the supermarkets all have audit processes, which concentrate on process rather than substantive issues (ie poor records are far worse than no records). The WRS is easy to monitor as employers are supposed to keep copies of workers' application forms and then of certificates. Accordingly, labour providers have had to ensure that their workers have registered so that auditors can tick boxes. The Association has advised members how to minimise the impact of the scheme on their workers, in particular by asking workers to complete the form, the employer retaining a photocopy and the workers then throwing away the form. However, labour providers have found that the zealous auditors have demanded to see the certificates. Failure to register has probably been far more prevalent where workers are working for businesses that are not liable to any auditing.

The Association is not aware of any evidence to suggest that the scheme has deterred workers from coming to the UK. The more interesting question is whether the scheme has encouraged workers to operate in the informal economy, which continues to thrive in the agriculture and food sectors as auditors and regulators largely concentrate of their efforts on those who are partially compliant with records to inspect rather than those who are totally non-compliant with no records to inspect. Some food moves effortlessly from producer to consumer, passing through several hands but without once bothering the taxman. Some workers who have not registered for the WRS have obtained NINOs and have worked entirely in the formal sector of the economy. Others may have considered that the fact that they have not registered under the WRS means that they are somehow “illegal”. They may misguidedly believe that the Home Office, the DWP and the HMRC are a seamless

operation sharing their information and intelligence and that if they pay tax without being registered under the WRS they could be in trouble. It would be implausible to believe that the WRS has not had a limited effect in encouraging informal working but the ALP is in no position to quantify or prove this.

The consequences of the ending of the WRS

Given the ALP's view that the scheme has had no effect on the number of workers from the A8 countries working in the UK it follows that the ending of the scheme will have no effect on this variable.

The ALP can see significant beneficial effects from the ending of the scheme. Low paid workers will not have to pay £90, fill in an official form, send their passport to the Home Office and keep registration certificates. By not having to part company with their passports workers will be able to apply more promptly for NINOs (joined-up government under which the Home Office could liaise with the DWP so only one had to see the passport was so far beyond the realm of the possible that it was not even attempted), open bank accounts, obtain accommodation and travel abroad. Employers will no longer have to spend time helping workers complete the form (an average of 45 minutes initially but now lower following improvements to the form), photocopy and keep forms and maintain records for auditors and inspectors to see.

In the labour market, to the extent that the WRS encouraged workers to operate in the informal economy this perverse effect will be removed and there may be a modest increase in tax revenues and national insurance contributions. Workers who move to the formal sector of the economy will benefit from the protection of labour and other legislation, including the right to use employment tribunals, something which currently is denied to workers solely because have not registered under the WRS.

Ability to monitor the labour market

As the purpose of the WRS was to monitor the impact of A8 immigration on the labour market the correct question for policymakers (although interestingly not the one that was put to the MAC) is whether the ending of the scheme will mean that policymakers will lose a valuable tool. The answer to this question is clearly no. The scheme has always been unsatisfactory as a monitoring scheme –

- It counts only people entering the labour market, not those leaving it.
- Many people do not have to register.
- Many people who are supposed to register have not registered.
- The definition used in the scheme of sectors of the economy was illogical and unrelated to the official definition of sectors, hence a large number of workers being employed in the non-existent “administration, business and management sector”.

At the invitation of the Home Office, the ALP, the NFU and the TUC analysed these issues and proposed alternative means of monitoring the impact of A8 workers. The paper, submitted to the Home Office in September 2006, is reproduced as Appendix 2 and covers in detail the deficiencies of the scheme as a monitoring tool. Other than a one line acknowledgement for a paper which it had requested the Home Office appears to have ignored this paper and has failed to respond to requests for meetings to discuss it or even to provide a reaction. However, the ALP, and no doubt the NFU and the TUC, are pleased to note that the analysis in this paper is very similar to that in the MAC report on the A2 countries. It is ironic that even a

committee established by the Home Office to analyse the effects of migration on the labour market, could find little use for an expensive scheme that the Home Office has insisted was essential for monitoring purposes.

Thus paragraph 5.7 of the MAC report said: “In the second quarter of 2008, the Labour Force Survey (LFS) recorded 704,000 A8-born immigrants in the UK. As noted in Chapter 4, the LFS is liable to underestimate stocks of immigrants, but it is the most reliable and timely data source available.”

And paras 5.10 and 5.11 point to the deficiencies of the WRS data and the availability of NINO data –

“5.11. The cumulative total of applicants under the WRS was 888,000 between 1 May 2004 and 30 June 2008 (UK Border Agency, 2008a). WRS estimates exclude some categories of immigrants such as the self-employed and immigrants working for less than one month, as well as those that fail to register. From migrant surveys, Pollard *et al.* (2008) estimate that a third of A8 immigrant workers in the UK are not registered on the WRS and are therefore not in compliance with regulations.

5.12. Cumulative issues of National Insurance numbers are likely to record a greater proportion of gross inflows than the WRS, because all workers require a National Insurance number and no fee applies. These show a cumulative total of 980,000 allocations between 1 April 2004 and 30 March 2008 (DWP, 2008).”

In analysing stocks and flows of A8 workers the MAC report uses cumulative NINO data not WRS data.

In the section of the report on the characteristics of A8 immigrants para 5.15 again chooses not to use WRS data but rather concentrates on LFS data: “The WRS provides data on characteristics of gross inflows, whilst the LFS provides information about the stock of A8 immigrants remaining in the UK. Much of the discussion in this section refers to an analysis of LFS data.”

The Government’s rationale for the scheme

The ALP has continually protested to the Government not only about the substance of the WRS but also about its refusal to consult or explain. The then Home Office Minister responded on one occasion by saying that the Cabinet Committee which decided to extend the scheme from 2006 had had a detailed analysis and he could see no reason why the ALP could not have a copy. The paper was duly requested and the request turned down. The ALP appealed to the Information Commissioner which found in its favour. The Cabinet Office then appealed to the Information Tribunal, which rejected the appeal and instructed that the paper be provided not later than 27 February 2009. The paper was duly provided at the last possible moment.

The paper set out six reasons for retaining the WRS –

- Closing the WRS would create a “pull factor” attracting more migrants some of whom might arrive without a job or with limited resources. It quoted a DWP estimate that “current arrangements may have saved around £5 million a year in payment of income-related benefits”.
- Closing the WRS “would almost certainly mean more people from the new Member States would be eligible to claim income-related benefits, child benefit and child tax credit”.

- Closing the WRS could mean an increase in the number of people eligible for local authority housing.
- “The change in policy is likely to be perceived domestically as a loosening of the Government’s grip on migration and benefit shopping”.
- There is no evidence that other Member States intend to change their policy.
- There is an argument for fairness and consistency – those that have registered would be in no better position than those that have not.

Without challenging the logic of these points it is significant that the impact on the labour market is scarcely mentioned; rather the concern was about access to benefits and media perception. There was also the implicit assumption that the scheme has acted as a deterrent to workers coming to the UK.

The paper did consider the burden on workers and employers but only to say that “the registration fee is also a significant sum for individuals to pay” and that “only around 7% of UK employers employ workers from the new Member States, so the regulatory savings [from ending the scheme] are unlikely to be significant”.

Impact of A8 migration

The actual impact of A8 migration is outside the scope of this MAC study. However, it is inevitable that some will see the ending of the WRS as having something to do with migration. There have been a number of studies of the impact of A8 migration. These are usefully summarised in the MAC report on the A2 countries and the MAC has added its own analysis. The ALP concurs with the consensus that the effects of A8 migration have been beneficial to the UK labour market and that there is no evidence of significant adverse effects. The ALP would go further and argue that it is the availability of A8 labour that has kept some business in Britain that might otherwise have gone abroad.

Conclusion

When the WRS reaches the end of its permitted life on 30 April 2008 the impact on the labour market will be zero. There will be a modest beneficial impact on businesses that employ A8 workers in that one piece of unnecessary bureaucracy will be removed. There will be far a greater beneficial effect on low paid workers who for far too long have been paying the price for a badly designed scheme introduced and maintained with no analysis or consultation.

Appendix 1

25 May 2005

The Workers Registration Scheme – the case for abolition

Submission by the Association of Labour Providers

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Introduction

Under the Accession States Workers Registration Scheme (WRS), nationals from eight of the Accession States which joined the European Union in May 2004 must register with the Home Office when beginning work in the United Kingdom. This paper argues that the scheme has achieved any purpose it may have had and that the costs of it now substantially outweigh the benefits. Accordingly, the scheme should be abolished.

The ALP represents labour providers to the agriculture and fresh produce trade. It has over 100 members. Most of the labour providers employ workers from the Accession States and therefore have a particular interest in the subject.

Executive summary

Under the WRS, workers from eight of the Accession States must register within one month of starting work, paying a £50 fee for so doing. Registration must be repeated for subsequent job changes although the fee is payable only once.

The purpose of the scheme is to monitor the impact on the labour market of workers arriving in Britain from the Accession States.

The registration process is complex, particularly for workers whose native language is not English and who are recently arrived in the country.

In the first eight months of the scheme, 123,000 people registered. The ALP believes this is well below the number of workers from the Accession States working in the UK, and that generally the statistics are implausible.

Workers do not register because of the £50 payment, the nature of the registration process and concern about the implications of providing detailed information to the authorities.

The scheme has been successful in showing that workers from the Accession States are not claiming benefits and it has contributed to a more informed debate on the importance of migrant labour.

The scheme is costly to workers, requiring them to pay the equivalent of two days after-tax pay. It also discourages the mobility of workers.

The scheme is costly to employers, requiring an estimated 30-45 minutes to help each worker register.

The scheme is costly to the State by encouraging workers to remain illegally employed and therefore outside the tax and national insurance system.

Statistics from the scheme are of little use for policy purposes as they are implausible, take no account of those who leave the country after registering and exclude the self-employed and those working for an employer for less than a month.

The only policy purpose of the scheme is to gather information that would justify the imposition of controls; but on the contrary the government sees the Accession States as the source of cheap labour for the foreseeable future.

The scheme was introduced with no notice or consultation and managing it has proved difficult.

The scheme

The key points of the scheme are –

- It applies to eight of the ten Accession States; workers from Malta and Cyprus are exempted.
- Workers are required to register within one month of beginning work in the UK. The obligation to register is with the worker but employers must show that they have done all they can to encourage workers to register.
- A £50 fee has to be paid on first registration.
- When a worker changes job he must re-register within a month but does not have to pay a fee.
- The scheme is administered by Work Permits UK.

Purpose of the scheme

The official purpose of the scheme is “to monitor the impact on our labour market of workers from the A8 countries”. There is no more detailed explanation of the rationale for the scheme.

It should be noted that the purpose is simply to monitor. There is no restriction on the right of A8 nationals to work and settle in the United Kingdom. The registration scheme is merely designed to monitor how many workers are in the UK, where they are physically and the industries in which they are employed.

Registration under the scheme

The scheme was introduced with no consultation and virtually no notice at the end of April 2004. The Regulations were laid before Parliament only on 25 March 2004 and the forms and guidance material were not available until a few days before the scheme came into operation.

The initial application form was complex and difficult to complete, particularly for workers whose first language was not English. The application form is available only in English. Among other things, the scheme requires those workers who had been working illegally in the UK to indicate this on the form thereby effectively incriminating themselves. Labour providers reported that they were having to spend on average 30 - 45 minutes helping workers complete each application. The form has since been redesigned but still requires the same information. It should be noted that much of the information required on the form is of the “nice to have” category and is being sought even though there is no legal requirement to provide it.

The application has to be accompanied by payment of £50. For a worker on minimum wage this represents two days after-tax pay. Particularly soon after they have arrived in the UK many workers will not have bank accounts and therefore physically providing the £50 has proved to be a problem. In many cases postal orders have been used therefore increasing the cost to £55.

The application form has to be sent off together with the passport or identity card of the worker. This means that the worker loses a vital document when he most needs it soon after arriving in the UK. Passports or identity documents are needed to open bank accounts and also often to obtain accommodation and indeed to obtain a new job.

Are workers registering?

The official statistics show that between May and December 2004 123,000 workers were registered. The number peaked in June 2004 at 20,405, and with the exception of December then settled down at between 13,000 and 16,000 a month.

The view of the ALP is that many workers from the Accession States are not registering. For the most part this evidence is anecdotal and includes –

- Workers who have clearly been in the UK for some time seeking work through members of the ALP frequently have not registered under the scheme previously.
- There have been few re-registrations, that is workers who having registered when they first came to the UK then changing job. Given the nature of the work done by many of the people from the Accession States, one would expect a relatively high turnover. Labour provider employ over 60,000 workers from the Accessions States and report that the average length of stay is only one month. The highest figure for re-registrations was 2,355 in November 2004 representing fewer than 3% of the workers who had been registered by that time.
- Members of the ALP have knowledge of a substantial number of workers from the Accession States who have not registered.
- There is a great deal of illegal working generally. It is estimated that 40% of workers who registered in the first eight months of the scheme were previously working in the UK illegally, indicating just how easy it is to do so.

There is now some statistical evidence to back up the Association's anecdotal evidence. This is set out in more detail in Appendix 1. Figures from the ONS International Passenger Survey show that in the final eight months of 2004 1,054,000 people from the Accession States visited Britain compared with just 505,000 in the same period of the previous year. This increase of 549,000 does not seem compatible with 123,000 worker registrations.

It is also worth noting that the *Sunday Times* on 17 April 2005 reported that Home Office officials had calculated that there are about 500,000 illegal immigrants in Britain. This figure is supported by Professor John Salt, Director of the Migration Research Unit at University College London.

If workers are not registering, the question must be asked as to why. The obvious example is that two days after-tax pay is a significant deterrent to low-income people. Secondly, people do not like sending their passports in the post, particularly given the reputation of the UK authorities for excessive delays in dealing with passports. For the Workers Registration Scheme these delays ran into months in the summer of 2004 before remedial action was taken. People recently arrived in the UK need their passports in order, among other things, to open a bank account, to obtain accommodation and to change job. Thirdly, workers are naturally concerned about supplying a large amount of personal detail to the authorities and the use which may be made of this information. This may be an unjust fear but it does not stop it being a real one.

If workers do not register then either they have to keep changing job at least once a month, which certainly in the agriculture and fresh produce trade is easy to do, or they have to continue working outside the formal economy with a consequent loss of tax revenue to the government.

Benefits of the scheme

The scheme has had some benefits and in this context it is helpful to understand why it was introduced. Given the last minute nature of the scheme, it is reasonable to conclude that it was a short term political expedient in response to “Daily Mailitis”, that is the reaction of politicians to be seen to be doing something when the press squeal about a middle class issue. At the time the government anticipated that between 5,000 and 13,000 workers would register each year.

A year later, 123,000 workers have registered, but far from there being widespread allegations that the country is being overrun by such people the quality of the debate has if anything improved, with there being particularly favourable reports about the quality of workers from the Accession States. To the extent that there is public criticism, it is either of asylum seekers or of non-white migrants who are more visible.

The scheme has also demonstrated that workers from the Accession States contribute to the economy rather than take from it. The most recent monitoring report shows that between May and December 2004 workers from the Accession States made 215 applications for income support, 559 applications for income based job seekers allowance and four applications for state pension credit. 97% of these applications were disallowed. Just four workers have obtained income support, 17 income-based job seekers’ allowance and none a state pension credit.

Costs of the scheme to workers

The costs of the scheme to workers are –

- A £50 fee which can easily rise to £55 if postal orders have to be used, equivalent roughly to two days after-tax pay. The 123,000 workers who successfully registered up to December 2004 therefore paid over £6 million to the government.
- Completing the form is likely to take 45 minutes to which must be added any time taken to obtain a method of payment.
- Workers lose their passports for perhaps ten days at a time when they can least afford to do so.
- Notwithstanding the fact that subsequent registrations are free, workers who have registered perhaps feel constrained from moving when they might otherwise do so, and equally those who have not registered may need to remain in the informal economy or keep changing job even when they would ideally prefer to be registered. This scheme therefore discourages labour mobility.

Costs to employers

Labour providers estimate that it takes between 30 and 45 minutes to help each worker complete the application form. Taking the lower figure of 30 minutes, this represents 60,000 hours at, say, £30 an hour, and therefore a total cost up to the end of 2004 of £1.8 million.

Employers also have to maintain records, generally including copies of the WRS applications. Until the form was revised in the summer of 2004 employers were

advised to copy all 12 pages of the form including the eight pages that constituted guidance. Now the form is a more manageable, but still excessive, four pages.

Costs to the State

The State has to administer the scheme and therefore resources being used for this purpose cannot be used for other purposes. Clearly the scheme was under-resourced in the early stages, leading to substantial delays. Additional resources were moved to the scheme, presumably from other parts of the Home Office, suggesting that performance in those other areas may have suffered as a result.

To the extent that workers do not register then they are likely not to be employed within the formal economy and therefore they pay no tax or national insurance. Similarly, the employer does not pay national insurance contributions. There is not an automatic connection between not registering and working outside the tax system. There are many workers legally entitled to be in the UK, including a number who have registered under the WRS, who are in the informal economy. Equally, there are some workers who have not registered under the scheme who are working legally in the sense that they are paying tax and national insurance. They may legitimately not have registered because they keep moving job every four weeks or they are categorised as being self-employed in which case they do not have to register. The point is that not registering means that workers are less likely to be in the formal economy and therefore, to the extent that they are not part of the formal economy purely to avoid registering, the scheme actually encourages tax evasion. The tax loss is huge. In round terms a worker working for a full year may avoid tax of £2,000. If there are 100,000 workers in this position the tax loss is £200 million with perhaps a similar amount being lost through tax evasion by the employer.

The scheme also encourages illegality. There are employers who operate wholly outside the law and do not want workers who have registered, at least with them. Workers from the Accession States have excellent contact networks. The word quickly gets round that workers can save themselves tax and national insurance by working with a different employer who will pay them cash and will not require them to register under the scheme. The workers such employers take on may be registered with a different employer or may not be registered at all.

Misleading data

The scheme is purely a monitoring scheme and therefore is only of use if the data are reliable. The published data are manifestly flawed.

There is an immediate problem with the data in that they record only the registrations, that is workers who enter the UK labour force or transfer from illegal working to legal working. The statistics do not and cannot record workers who leave the UK labour force either because they leave the country or because they stop working, or workers who transfer to the informal economy. There is significant anecdotal evidence that some workers from the Accession States work in the UK for a relatively short period of time then return home to their families. This may be on a regular basis, the period of work in the UK being used to fund a business or living costs in the country of origin. There is also evidence that some workers have not found the sort of employment they want in the UK and have returned to their country of origin. There is no way at all of knowing how many of the 123,000 workers who registered in the first eight months of the scheme are in the UK or, if they are in the UK, are working. It is therefore difficult to see how the scheme can be used for its intended effect of monitoring the impact on the labour market of workers from the Accession States.

The statistics are also misleading in that they do not cover workers who do not have a permanent job for four weeks. Some workers might wish to come to the UK for say three months to earn much more than they could earn at home then returning to their families. There may also be students who wish to come to the UK for the summer months to earn what they can and improve their English. Where someone intends to be in the UK for only three months then the £50 registration fee becomes a much high proportion of earnings and they may be tempted to work for two or three employers (moving between them to avoid working for any one for four weeks) simply to avoid registering. Labour providers report that the average length of stay of their workers is only one month.

The statistics do not cover workers who are self employed as apparently European law means that they cannot be required to be registered. At first sight this may seem a minor matter, as one would not expect immigrant workers to be self-employed. However, some will choose to count themselves as such if this is a means of avoiding a £50 fee and completing forms giving large amounts of personal information. Also, many of the workers from the Accession States register with labour providers who provide contract labour. For their own reasons many labour providers taken on workers under contracts for services rather than contracts of employment which means that they do not have to register.

Even ignoring these points, while the statistics at first sight seem neat and comprehensive they are also implausible in respect of both total number and breakdown.

The Association has already made the point that the overall figures do not seem compatible with the figures from the ONS International Passenger Survey. The figures show just 6,285 workers in food/fish/meat processing and 5,210 are described as packers with a further 1,535 being food-processing operatives (fruit/veg). The regional breakdown purports to show that in Anglia there were just 790 workers in food/fish/meat processing. This figure is completely implausible and it is probably possible to count the number of such workers just by visiting a couple of packhouses.

One problem is the over-elaborate application form which requires workers to state the sector in which they are working when they may well not know where they will be working.

Process and administration

If the scheme had been carefully thought out, subject to full consultation including a Regulatory Impact Assessment and was running smoothly then there would be less cause to be concerned about it. As it is none of these points apply.

There was no consultation on the introduction of the scheme other than some ad hoc last minute consultation with one or two interested parties (the ALP was one such party). No Regulatory Impact Assessment was made. Details of the scheme were made available only a few days before it formally came into operation.

The initial application form showed every sign of having been designed at short notice. It was badly designed and laid out and difficult even for English speaking people to complete. The form required people who had been working in the UK illegally to incriminate themselves. Even if they had no fear of prosecution, many naturally chose not to do so either by filling in false information or not registering at all.

The scheme requires workers to send off their passport at a time when they can least afford to be without one. This would be satisfactory if applications are processed quickly. It was the intention for 80% of applications to be processed within 24 hours of being received. However, by the summer of 2004, delays of up to twelve weeks were occurring in the processing of applications. This caused huge problems for workers. When the Home Office discovered the problem they took action to deal with it and new arrangements have now been introduced to enable passports to be returned more speedily.

The scheme has also been unnecessarily bureaucratic requiring, for example, each individual application to be accompanied by an individual cheque and with very rigid rules about how cheques were to be completed with dire consequences if this was not done. Only recently has a facility been introduced for bulk payments.

The use of the statistics

Gathering of statistics can be justified only if it serves a policy purpose, that is if something can be changed as a result of the statistics. At first sight, it is difficult to see what can happen as a result of the comprehensive statistics, misleading as though they may be, that are now available. The logical purpose of the scheme would be to provide data which would justify imposing controls. However, far from thinking about this the government has made it clear that workers from the Accession States are welcome and indeed it is the intention that the Accession States are the source of cheap imported labour for the foreseeable future. "Controlling our borders: making migration work for Britain", the five year strategy for asylum and immigration, published in February 2005, specifically states that "We will admit European Union (EU) and other European Economic Area (EEA) nationals" and that "labour from the new member states will over time enable us to phase out our current low skill migration schemes for people from other parts of the world".

Even worse, there is little evidence that one or two issues that have arisen from the statistics have been addressed. The most obvious is what seems to be almost a scandal in respect of national insurance numbers. It is generally accepted that permanent national insurance numbers are important in their own right as a protection against fraud. The Grabiner Report emphasised the importance of managing national insurance numbers effectively.

What the statistics show is that although 123,000 workers registered only 63,000 national insurance numbers were allocated. Labour providers report delays of many months in some parts of the country in obtaining national insurance numbers. For what they are worth the figures show that in the North East 5,880 workers registered but only 569 received national insurance numbers. The position also seemed bad in the Midlands and Scotland and almost implausibly good in Wales where 1,650 workers registered and 1,605 numbers were issued. Unfortunately, a proper analysis of the data is difficult as in a single document the Home Office uses different regions for worker registrations and issuance of national insurance numbers.

These figures should have set alarm bells ringing with remedial action being taken to speed up the issuing of national insurance numbers. However, there is no evidence that this is the case.

The Hampton Report

The issue needs to be seen in the context of the Hampton Report (“Reducing Administrative Burdens: effective inspection and enforcement”, March 2005), the conclusions of which have been accepted in total by the government. Section 3 of the report includes a section on “simpler forms”. This requires that regulators should “design forms with simple standardised designs, that are easy to use; use plain language; only collect data they need; and understand how the form will affect businesses.” A good case can be made for saying that the WRS form fails on all counts.

Paragraph 3.13 of the report states that “if necessary, forms should be available in languages other than English”. It would seem obvious that a form aimed solely at nationals of eight states where English is not the language meets the “if necessary” test. However, the Home Office has failed to provide the form in languages other than English.

Paragraph 3.14 of the report requires that “forms should be designed to collect the data that regulators need” and that “the data is necessary on the basis of a cost-benefit assessment”. There has been no cost-benefit assessment and the form includes lots of questions that have no policy purpose but simply have been added because someone thought it would be nice to know for example what workers are being paid and how many hours they work. Significantly the information which the Regulations require could be provided on one side of paper while the form actually is four times as long, an extreme example of regulatory creep.

Conclusion

The only firm conclusion that the exercise leads to is that 123,000 workers from the Accession States completed a form in the final eight months of 2004 and that few of these claimed any benefits. We do not know how many workers from the Accession States were working in the UK at the end of December because –

- Some of those 123,000 will have worked for a time in the UK and then returned home.
- Some workers will not have registered legitimately because they have not worked for an employer for a continuous period of one month or they are classed as self-employed.
- Some workers will have preferred to remain in the informal economy (50,000 of the 123,000 were working illegally in the UK before 1 May) either to avoid tax or to avoid the £50 fee and any fears resulting from “registering with the authorities”.

At one extreme the number could be as low as 50,000; a more plausible figure is 350,000.

The exercise has no purpose unless the government intends to introduce restrictions, which would be contrary to its stated intentions.

The exercise has substantial costs - £6 million paid by low paid workers – equivalent to two days after tax pay for most; nearly £2 million cost to employers of helping workers complete forms; and a substantial time cost to the workers.

Most importantly there are reasonable grounds for believing that the scheme encourages workers to remain in the informal economy with a resulting tax loss.

On any reasonable analysis the costs greatly outweigh the benefits. The scheme should be abolished, meeting the government’s stated intention to reduce the

regulatory burden and abolishing unnecessary form filling as well as lifting a substantial burden from low paid workers.

Appendix

Accession States Workers Registration Scheme – plausibility of the statistics

1. The ALP has always queried the reliability of the statistics on the Accession States Workers Registration Scheme, arguing that there is a great deal of illegal working by nationals of the A8 states. The ALP has had little concrete evidence to offer other than the observation of a total of just 1,535 of the registered workers employed in packing and processing fruit and vegetables is clearly well below the correct figure. Further evidence has now become available from the ONS International Passenger Survey (IPS), published on 8 April 2005.

The data

2. The following table shows monthly statistics from the IPS and the WRS for the Accession States

Accession states, Visits and WRS registrations, 2002 – 04 (000s)

Month	Visits			WRS registrations
	2002	2003	2004	2004
Jan	39	28	64	
Feb	20	40	60	
Mar	51	64	66	
Apr	48	39	75	
May	51	79	102	18
June	40	56	74	20
July	79	61	197	20
Aug	80	86	135	13
Sep	47	66	170	13
Oct	33	57	139	16
Nov	40	66	136	14
Dec	22	34	101	8
Total (May – Dec)	391	505	1,054	123

Analysis of the data

3. At first sight the figures seem incompatible. Between 2003 and 2004 the number of visits in the final eight months of the year increased by 549,000 but there were only 123,000 WRS registrations. It is difficult to see that tourist trips or student or business visits can explain most of the increase. Interestingly, there was no increase in visits from Malta and Cyprus. The IPS figures also show that 12% of visits in the most recent quarter (to February 2005) from A8 countries were for longer than 3 months compared with just 1% of visits from the EU15 countries. Most visits for longer than 3 months can be assumed to be for work purposes as can many visits which were reported as being for less than three months. In the same three month

period 55% of visits from A8 nationals were for other than leisure purposes compared with 38% for EU15 countries.

4. It is helpful to trace the timing of the increase in visits from A8 nationals. The increase seems to date from about September 2003 and accelerated in the first and second quarters of 2004. This would be consistent with data from the WRS which shows that up to 40% of those registered were in the UK prior to May 2004. It can safely be assumed that the vast majority were working illegally.

5. It is suggested that it is relatively easy to purchase genuine (that is not forged) Latvian and Lithuanian passports, and that nationals of the Ukraine, Belorussia and Russia do so in order to be able to enter and work in the UK. At first sight the figures from both the WRS and the IPS support this. Latvia accounts for 3% of the A8 population but 9% of visits and 7% of WRS registrations. Lithuania accounts for 5% of the A8 population but 20% of visits and 15% of WRS registrations.

The Association of Labour Providers is the trade association for labour providers that supply the agriculture and fresh produce trade. It was founded in January 2004 by 18 labour providers. It now has over 100 members many of which also supply other sectors of the economy.

Full details about the Association and all of its policy papers are available on its website www.labourproviders.org.uk.

Appendix 2

26 September 2006

Monitoring the impact of the Accession States Worker Registration Scheme on the UK labour market

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Introduction

The Accession States Worker Registration Scheme (WRS) was established in 2004 in order to measure the impact of migration from the Accession States on the UK labour market. The scheme has well-known deficiencies in this respect and also imposes substantial costs on migrant workers and their employers.

The Home Office has indicated that it is prepared to look at other means of analysing the impact of the Accession States on the labour market. In practice, any other means must be based around National Insurance numbers (Ninos).

This paper takes up this challenge. It has been prepared by two major sectoral trade associations (the Association of Labour Providers and the Cleaning and Support Services Association) the National Farmers Union and the Trades Union Congress. A number of other associations, companies and groups concerned with the welfare of immigrant workers have been involved in the preparation of the paper, and their views have been incorporated.

Executive summary

Nino data is more reliable than WRS data in respect of aggregate figures, in particular because it includes the self-employed. There are signs that increasingly workers are deciding not to register, which will make the figures even less useful.

Having inflow data only is unsatisfactory and can fuel scare stories. Stock data is essential. Nino data can be used to provide stock information. The government should extract the figures and publish them on a quarterly basis.

WRS data alone can provide sectoral information. However, the data is manifestly faulty and not fit for purpose.

The WRS data has been useful to policymakers in demonstrating the type of people coming in (basically young people without dependants who do not claim benefits) and giving some information about them and the work that they are doing. However, no further useful information can be derived from the breakdowns given their stability over time and questions over the quality of the sectoral data in particular.

The WRS is used a filter for certain benefits. However, Nino records give a much better filter. In any event the Nino data has to be used alongside WRS data.

Going forward the Nino data will give a better indication of new entrants into the labour market and can also give the much needed stock figures.

The Nino data could be supplemented by a range of information from other sources. If necessary, specific industry studies should be commissioned.

Worker Registration Scheme data

Under the WRS workers other than the self-employed are supposed to register with the Home Office within one month of beginning employment in the UK. The application form catches a range of data including the sector in which they are working, the region where they are living, their job title, their nationality and also information about dependants. The data is published and analysed on a quarterly basis in a joint report by the Home Office, DWP, HMRC and DCLG.

At first sight, the analysis gives an excellent picture of the impact of Accession State workers, detailing precisely how many are working from which countries in which sectors and in which areas. However, the reality is rather different. The quality of the data is generally agreed to be highly questionable. Three problems are built into the system that cannot be overcome –

- It is not possible under European law to require self-employed people to register and therefore a large number of workers are excluded from the data. The definition of self-employed has tended to stretch over the years and probably includes many people working in the informal economy and perhaps also some of those who properly should be regarded as employed.
- Workers do not need to register until they worked for a month with an employer. Casual workers, in particular those working in a holiday period, may never work for a month with a single employer.
- The data records only people coming into the country. There is no mechanism for recording people who leave, and accordingly the figures do not give a stock position. Other survey evidence suggests that many workers work in Britain for a comparatively short period before going home, and some simply come to Britain on an occasional basis to earn some more money.

These problems are compounded by two others. The first is that many workers choose not to register. There are good reasons for this. The cost of registration is £70, equivalent to about three days after tax pay for somebody on the minimum wage, and a worker is required to complete a detailed application form and send it off with his passport and a cheque. Workers recently arrived in the country are naturally reluctant to part with their passports, and they are unable to write cheques as they will not be able to open a bank account. Secondly, there is no advantage to workers from registering. Officially, if workers have registered then after a year they are entitled to certain means tested benefits. Only a tiny fraction of workers are interested in means tested benefits, and there is also some question as to whether this could be upheld in practice, as a better test is whether workers have paid National Insurance contributions for a specified time. (In practice the main benefit of registering is that workers obtain a copy of a useful TUC guide to their employment rights. However, this is an expensive way to deliver this leaflet; there are more effective ways in which this could be done, for example at interviews for NINOs.) Also, there is no penalty for failing to register. Workers do not commit an offence if they fail to register and there has been no enforcement action against either workers or businesses for failing to comply with the scheme.

The actual data is highly questionable as a result of these factors. There is a general view, which cannot be proved, that the number of workers from the Accession States who have come to Britain to work is very much higher than the number of registrations. This was admitted by Ministers were the most recent monitoring report

was published in August. There is more specific information which casts doubt on the validity of the figures –

- There are significant discrepancies between the Nino data and the WRS data, as illustrated subsequently.
- The sectoral information is flawed for reasons explained subsequently.
- The data is recorded soon after entry, and can therefore be misleading. Many workers change jobs and location soon after arriving in the UK. While there is a requirement to re-register many workers do not do so, and most of the data that is captured is at the initial registration stage. A specific question on the number of dependants is particularly misleading as a migrant worker is unlikely to bring his dependants with him immediately.

Ninos

All workers, including self-employed workers, are required to obtain a Nino, and the normal practice is for one to be obtained as soon as possible after entering the labour force. Workers have a number of incentives to obtain a Nino. Often, having a Nino is required in order to obtain or to keep the job. Having a clear record of national insurance contributions also demonstrate an entitlement to benefits in later years. Finally, there is no cost incurred in obtaining a Nino in monetary terms, although the procedure is somewhat daunting and may well deter some people from applying.

It is worth noting that is a classic example of unjoined-up government workers are required to send their passports to the Home Office to register for the WRS and then have to take their passports to the DWP and prove their identity again in order to obtain a Nino.

Unlike the WRS, very little information is recorded in the Nino process. The only relevant data in respect of this paper is nationality and area. There is no record of the job undertaken or the sector.

Generally, Nino data is published annually, substantially in arrears. The data for 2004/05 was published on 21 July 2006. However, some data for workers from the Accession States has been made available more frequently, to be used in the quarterly analysis of the WRS figures.

Although DWP is responsible for the Nino system, data is handed over to HMRC whose cooperation is needed to produce any analysis.

Comparability of data

The following table compares the aggregate WRS and Nino numbers for Accession States workers.

<i>Quarter</i>	<i>WRS Registrations</i>	<i>Ninos Issued</i>	<i>Ninos/ Registrations %</i>
2004 Q2	38,830	7,906	20
2004 Q3	46,440	22,532	49
2004 Q4	40,605	32,201	79
2005 Q1	41,495	45,833	110
2005 Q2	55,100	54,812	99
2005 Q£	58,860	59,743	102
2005 Q4	49,450	58,133	118
2006 Q1	46,445	60,830	131
2006 Q2	49,850	55,855	112
Total	427,095	397,745	93

Note: The WRS figure for 2004 Q2 was for two months only.

One would expect the NINO figures to be higher than the WRS figures for two reasons –

- Self-employed workers do not need to register for the WRS but do need NINOs.
- Workers do not need to register for the WRS until they have been employed for a month; many workers, particularly those working in the summer holidays, do not work for a month with any employer or if they work a bit longer may choose not to register.

The pattern in 2004 looks inexplicable but can probably be explained by a combination of two factors –

- Many of those registering for the WRS initially had previously been working in Britain unlawfully. The Home Office estimates that one third of those registering for the WRS in the first year (about 40,000 people) were previously in the UK. Many of those would have had Ninos.
- A passport has to be produced for both WRS and Ninos. Most workers do the WRS first then the Nino. In 2004 there were huge delays in processing WRS registrations - up to 12 weeks. Workers therefore did not have their passports and could not obtain a Nino.

The pattern in the final three quarters is probably best explained by two related factors –

- The cost of WRS registration went up 40% to £70 from 1 October. This seems to have tilted the balance against registering for some workers.
- Employers and workers have increasingly realised that the scheme is in effect voluntary. The price increase caused employers in particular to weigh the pros and cons of requiring their workers to register. More recently, the ALP has advised its members how they can lawfully avoid the effects of the scheme (basically ask the worker to complete the registration form, photocopy it and suggest to the worker that there is no benefit in submitting it). This is likely to lead to a further reduction in registrations, particular where workers are employed for a short period – say the summer holidays.

It may be argued that the table above does not support the contention that many workers avoid registering for the WRS, given that self-employed workers do not need to register. However, there is probably a significant group of workers who do not have Ninos and have not registered for the WRS.

It is worth noting here the substantial discrepancies in the regional data. Unfortunately the WRS regions and Nino regions are not the same. The following table shows the data where the regions are the same (although they may not be exactly the same).

<i>Region</i>	<i>WRS Registrations Q2 2004 Q2 2006</i>	<i>NINOs issued Q2 2004 – Q2 2006</i>	<i>NINOS/ WRS Registrations %</i>
London	58,580	107,792	184
North East	40,765	5,744	14
South West	37,220	27,253	73
North West	36,555	34,773	95
South East	30,680	54,198	176
Scotland	32,135	34,931	109
Wales	10,770	11,574	107
Rest of GB	180,390	133,586	74

It is difficult to explain the discrepancy between London and the South East on the one hand and the North East on the other. However, at the least the discrepancy calls into question the validity of one or both sets of data.

The general conclusion seems to be that the Nino data is the more accurate measure of the number of new Accession State workers entering the labour market.

Stock data

The WRS does not give any stock information. There are two possible sources of stock data. The first is the number of “live” Ninos, ie those for which contributions are being paid. This data can be extracted from the Nino database managed by HMRC but at present no attempt is made to do so. This seems a fundamental weakness given the interest in the impact of Accession State workers.

The second source is the Labour Force Survey. The data here is subject to substantial qualification. The data is based on a sample, there is a long time lag as the data is calculated on a rolling basis, workers employed for less than six months are excluded and workers living in communal housing are excluded. The data can therefore really only be used to support Nino data, at least in the short term. Data is not published as a matter of course (again puzzling given the government’s interest in the impact of Accession State workers). The available data are set out below.

<i>Period</i>	<i>Accession Workers</i>	<i>State</i>	<i>Quarterly increase</i>
Summer 2003	110,000		
End 2003	145,000		17,500
Summer 2004	165,000		10,000
End 2004	205,000		20,000
Summer 2005	245,000		20,000
End 2005			

[ONS has been asked to provide to provide a run of figures]

Clearly WRS data is useless for measuring the stock; the Nino data can do so but is not used, and can be supported by LFS data.

Sectoral data

Nino data provides no sectoral information; the WRS purports to give comprehensive information; indeed this is probably the last remaining defence for the WRS. The following table gives the WRS sectoral data in total, and for selected quarters.

Sector	Q2 2004	%	Q1 2005	%	Q2 2006	%	Q2 2004 -Q2006	%
Administration, business & management	6,590	17	14,160	34	19,295	39	143,805	34
Hospitality & Catering	12,000	31	8,085	19	8,890	18	89,790	21
Agriculture	8,240	21	4,000	10	6,885	14	50,235	12
Manufacturing	2,360	6	3,550	9	3,075	6	31,645	7
Food processing	1,590	4	2,215	5	2,090	4	21,400	5
Health & medical	1,170	3	2,305	6	2,115	4	21,385	5
Retail	1,545	4	1,815	4	2,000	4	18,075	4
Construction	1,710	4	1,610	4	2,090	4	16,670	4
Transport	600	2	1,505	4	1,305	3	12,135	3
Total	38,825	100	41,490	100	49,850	100	427,095	100

There are two observations that can be made about the data –

- The sector described as “administration, business and management” does not exist and is meaningless. Either workers have simply described their sector as “business” or those analysing the statistics have used faulty coding. The proportion in this non-existent sector has risen from 17% to 39%. The latest press release recognises this and redefines the heading as “occupation groups”; however, this is equally meaningless.
- The percentages have very relatively stable over the last year.

However, all this assumes that the data is accurate. Information is available from some other sectors showing that the data is not accurate.

As part of the work to implement the Gangmasters (Licensing) Act, the Department for Environment, Food and Rural Affairs (Defra), in conjunction with Work Permits UK commissioned three research reports. The fieldwork was done in late 2004 and early 2005.

The first report is “A study of employment practices in the agriculture and horticulture industry and co-located packhouse and primary food processing sectors”. The text is available at - <http://www.defra.gov.uk/farm/gangmasters/pdf/research-study1.pdf>.

The key numbers and conclusions in the study are –

- “The estimated total range of temporary workers in the sector is between 420,000 and 611,000. The estimated range for directly recruited temporary workers onto farm enterprises is 120,000 to 160,000, and for temporary

workers supplied by labour providers the estimated range is 300,000 to 450,000.”

- 29% of workers provided by labour providers and 9% of directly recruited workers are EU (non-UK) nationals (23.5% of temporary workers in total).
- “There has been an increase across the board in the use of foreign nationals, often employed legally through the SAWS scheme, or since 1 May 2004 as EU citizens with the right to work.....The EU citizens were mainly accession country nationalsmost of these workers had Polish or Lithuanian nationality.”
- “Any labour user who hired accession nationals outside the SAWS scheme had strong criticisms for the new registration system. This was said to cause inconvenience to the workers through passport retention by the Home Office, or the difficulties of raising the £50, or opening a bank account in order to send a cheque.”

In respect of the statistics, the bottom line was that say 20% (the figure of 23.5% less a generous allowance for EU nationals other than from the accession States) of temporary workers in the sector were A8 nationals, that is between 84,000 and 122,000. This compares with the WRS figures (at the end of 2004) of 30,000 workers in agriculture and 11,385 in food processing. Most of the workers in food processing would not have been in the sector covered by the study. The research therefore implies that the WRS was catching a relatively small fraction of workers.

Studies of other sectors may well show similar results. The transport company FirstGroup has reported that it employs nearly 1,000 polish drivers. The WRS figures record just 2,900 registrations from bus drivers and PSV drivers. It is implausible that a single company has a stock of Polish drivers equal to one third of all Accession State national who have registered.

There is an inherent problem in trying to collect sectoral data using the WRS. Many migrant workers find it easiest to obtain work initially by registering with one or more employment businesses. They are employed by the employment business not by the business in which they physically work. This factor may well be the main explanation for the discrepancies noted above, and it also applies in other sectors. Even if all workers registered and completed the form accurately the results would still be misleading.

Other data

The WRS gives a wide range of demographic data. However, some of this data is also available from the Nino statistics; it is just not extracted. The point has already been made that there are significant discrepancies between the Nino and WRS regional data.

In respect of other data the Q1 WRS monitoring report makes the point that the breakdown has been stable over time –

- On nationality “these proportions have remained roughly constant throughout the period”.
- On age “this percentage (82% of workers were between 18 and 34) has been fairly consistent across the period”.
- On dependants “the number of dependants as a proportion of the number of registered workers has remained roughly consistent throughout the period”.
- On occupations “the top 20 occupations have remained largely consistent over the period”.

The general conclusion here is that given the stability in the percentages little value is obtained by continuing to seek the information.

It is worth noting here another deficiency of the data. The government has pointed to the WRS statistics as indicating that few workers are bringing their families with them. Workers are unlikely to bring dependants with them when they arrive; any dependants are likely to arrive when the workers have settled. This means that asking for details of dependants on the WRS is pointless. This is actually proved within the quarterly monitoring report. The WRS figures show that registered workers had 19,270 dependants. However, the monitoring report shows that 44,955 applications for child benefit had been received of which 27,280 have been approved.

The WRS as a benefit filter

A second official purpose of the WRS is to act as a benefit filter, that is to prevent people coming from the Accession States simply to claim benefits. In practice the benefit filter may have been put in to give the WRS some legitimacy and to provide an encouragement to register. The government's leaflet on the WRS states that "once you have been legally working for more than 12 months without a break then you have full rights of free movement. You can then get an EEA residence permit confirming your status." However, this is meaningless. The workers have the right of free movement anyway and it is not a requirement to have a residence permit. The WRS cannot be used to indicate continuous employment; it is only evidence of registration at a point of time. To prove twelve months continuous working requires other evidence, of which national insurance contributions is the most obvious.

There is also a question about the legality of using WRS as a filter. It is understood that this is being tested in the courts.

Between them the WRS regulations and the Social Security (Habitual Residence) Amendment Regulations 2004 exclude A8 nationals from income related benefits during the 12 months period unless they were working in registered employment or self employment. The government's Social Security Advisory Committee concluded that "the adoption of such far reaching changes at very short notice was inappropriate without evidence that the benefits system was either under substantial threat of exploitation by A8 nationals or the habitual residence test was ineffective". The government went ahead anyway.

A number of relevant organisations have been consulted about how in practice the WRS is used as a benefit filter. There is considerable uncertainty about this, itself a source of concern. The Joint Council for the Welfare of Immigrants shares the concern about the motivations and operation of the WRS and believes that the continuation of the scheme should be urgently reviewed with a view to it being dismantled. The main concern of the Council is that the scheme acts as an impediment to non-exempt EU nationals enjoying the same rights to social protection as other EU nationals.

The way forward

The analysis so far leads to the following conclusions –

- Nino data is more reliable than the WRS in respect of aggregate figures.
- Nino data can be used to provide stock information; WRS data cannot.
- WRS data alone can provide sectoral information. However, the data is manifestly faulty and not fit for purpose.

- The various breakdowns of WRS data have been consistent over time, suggesting little value in continuing to request the information.

There is a more general conclusion. The WRS data has been useful to policymakers in demonstrating the type of people coming in (basically young people with few dependants who do not claim benefits) and giving some information about them and the work that they are doing. However, no further useful information can be derived from the breakdowns given their stability over time and questions over the quality of the sectoral data in particular. Going forward, the Nino data will give a better indication of new entrants into the labour market as the WRS increasingly is ignored by workers and employers.

However, it is useful to have stock figures. These can be derived from the Nino data and should be.

The Nino data could be supplemented by a range of information from other sources. There has already been one specific industry study in respect of food packing and processing that has been referred to in this paper. Similar studies could be commissioned where it was felt important to understand the impact of the Accession States on the labour market.

Some local authorities may also have analysed the impact of accession state workers on their own communities in particular housing and against such studies should be drawn on.

A side issue – registration or monitoring

The WRS is designed as a registration scheme but is actually a monitoring scheme. This confusion has been the cause of much of the problem with the scheme. If it was just the data that was required then the requirement to send a passport is unnecessary. Currently workers have to send their passport to the Home Office to register. They then have to take their passport to DWP to get a Nino, an appalling example of lack of joined-up government. The recent changes to DWP practices in respect of verifying identity before issuing Ninors removes any remaining need for submission of passports to be part of the WRS.

The policy context

Gathering of statistics can be justified only if it serves a policy purpose, that is if something can be changed as a result of the statistics. At first sight, it is difficult to see what can happen as a result of the comprehensive statistics, misleading as though they may be, that are now available. The logical purpose of the scheme would be to provide data which would justify imposing controls. However, far from thinking about this the government has made it clear that workers from the Accession States are welcome and indeed it is the intention that the Accession States are the source of cheap imported labour for the foreseeable future. "Controlling our borders: making migration work for Britain", the five year strategy for asylum and immigration, published in February 2005, specifically states that "We will admit European Union (EU) and other European Economic Area (EEA) nationals" and that "labour from the new member states will over time enable us to phase out our current low skill migration schemes for people from other parts of the world".

The publication of the Q2 figures at the end of August led to substantial media comment – largely because there was no other news. The main source of public concern now seems to be in relation to local government issues, such as housing, education and health services. The WRS gives no data on these. There is also the issue of the decision that has to be taken on Bulgaria and Romania. While it is

understand that reliable aggregate figures for the number of Accession State workers is relevant to this decision it is difficult to see that having anything more than quarterly Nino data and preferably stock Nino data will help inform the policy decision.

Home Office priorities

The Immigration and Nationality Division of the Home Office faces a huge task. It should properly be concentrating on dealing with the more important issue of ensuring that only those entitled to live and work in Britain are doing so. Workers from the Accession States are entitled to live and work in Britain, they have to prove their identity in order to obtain employment and they are required to have NINOs. Scarce resources should not be devoted to a complex, costly and ineffective monitoring scheme of this group of people when there are much more important issues to deal with.

Appendix 3

EXIT STRATEGY FOR THE WORKER REGISTRATION SCHEME

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Introduction

The Accession States Worker Registration Scheme (WRS) ends automatically on 30 April 2009. The government could extend the scheme only if it could persuade the European Commission that its removal would disrupt the UK labour market. As the scheme has virtually no effect on the market, being purely a statistical scheme, it would not be possible to argue this.

Given that the scheme has always been controversial, particularly by imposing a high cost on low paid migrant workers for no benefit, its withdrawal needs careful managing if it is not to lead to significant adverse publicity.

This paper proposes an early withdrawal of the scheme in a managed way which would minimise the risk of adverse publicity. If the scheme is continued until the end of April 2009, it will be subject to increasing attack and the ending of the scheme is likely to be ragged if not chaotic. A managed withdrawal of the scheme could also attract the support rather than criticism of relevant stakeholders.

The Last Minute Option

The WRS has been characterised by everything being done at the last minute beginning with the introduction of the scheme itself. The working assumption has been that no decision will be taken on withdrawal until the very last minute. This may have the benefit of the government being able to say that the scheme has, as was always intended, run its natural course of five years.

However, there are several downsides from this approach. Critics could argue that the scheme is being ended only because this has been forced by the European Union and that Britain is losing a valuable weapon in dealing with migration. It would be difficult for the government to argue that withdrawal of the scheme at the end of its natural life could be wholly justified on domestic grounds having argued that just one month earlier the scheme was essential.

More seriously, running the scheme to the bitter end would lay it open to continued attacks from the many critics of the scheme including the Association of Labour Providers, the Trades Union Congress, the National Farmers Union and a number of MPs. The scheme has been attacked on its merits, that is that it imposes a high cost on low paid workers for no apparent benefit and that it is bureaucratic for both employers and workers. From 1 May 2008 the government faces a rather more serious charge. The UKBA website states "Once you have been working in the United Kingdom legally for 12 months without a break in employment, you will no longer have to register on the Worker Registration Scheme." Workers will no longer have to register anyway as the scheme will no longer exist in 12 months time. The government is laying itself open to a serious charge that it is misleading workers into paying £90 for something that they will get for nothing.

The regular publication of statistics from the scheme gives equally regular opportunities for the critics of it to have a go at the government and they may well find other opportunities to do so. In the short term this will be linked with the non-dom issue. Under the government's present plans, short term migrant workers face losing their UK personal tax allowance or being liable to UK income tax not only on their income in the UK but on their income in the home country as well. In practice, this would be unworkable but it will generate significant adverse publicity for the government which can be easily be linked with the WRS.

The Managed Withdrawal Option

The preferred option is for the government to announce at a time seen to be of its own choosing that the scheme is being withdrawn with immediate effect on the grounds that it has served its purpose and that the government has now put in place alternative and more effective arrangements for measuring the impact on the UK labour market, including using National Insurance figures. The forthcoming analysis to be published by DWP will be helpful in this respect. A managed withdrawal in this way would probably attract the support of the various stakeholders including the ALP and the TUC, provided they were consulted on the wording and detail of the announcement. Potential Opposition attacks on the ending of the scheme could be neutralized because it has previously called for its abolition. Abolition would free up valuable resources which the UKBA needs for other purposes. Most importantly for the government it could control precisely the withdrawal of the scheme and the timing of the announcement.

The sort of wording that could be used in an announcement is set out below:-

“The Accession States Worker Registration Scheme, under which workers from the eight European Union States which joined the Community in 2004 have to register with the Home Office, is being withdrawn with immediate effect. The scheme was due to end in April 2009. However, the government is now satisfied that it has put in place alternative arrangements to measure the impact of migration from the Accession States on the UK labour market. Refinements to the collection and analysis of National Insurance statistics and data from the Labour Force Survey will give a more accurate indication of the number of workers from the Accession States in the UK at any one time and the sectors in which they are working. The WRS statistics have been useful at showing the gross numbers of workers entering the UK labour market, but because exits from the market are not recorded, over time their overall value as an indicator of labour market activity has diminished.

A number of studies over the last few years, which have relied heavily on the use of the WRS data, have indicated that overall the impact of migration from the eight countries has been beneficial, with few observed harmful effects.

The WRS has now fulfilled the purpose for which it was intended and it can usefully be ended well in advance of the planned end date of April 2009. This will benefit workers from the Accession States who will no longer have to register and pay the registration fee and will also benefit employers who have had to spent time assisting workers to apply. The abolition of the scheme does not in any way increase any rights of workers to enter the UK nor does it have any implication for the government's other policies in respect of migration.”

The Mechanics of Withdrawal

It is important that the withdrawal of the scheme is managed in an effective and planned way such that there is no scope for workers to argue that they suffered by filling in a form the second before the scheme was abolished. This is not difficult. The government should fix the suitable date for an announcement, say 7 July 2008. However all applications received from say 23 June 2008 should be sat on. The passports should be verified and returned to applicants in the normal way but cheques and the application forms simply retained. As soon as the announcement is made that the scheme is being withdrawn then all of the cheques and application forms should be returned to the workers or the application forms can be destroyed. The intention should be that no forms would be being processed when the withdrawal was announced. All applicants would either have received their WRS certificate some time previously, preferably at least a week or so, or would have their payment refunded. There would be no scrambling to seek to cancel cheques or credit card payments. The exact time interval between the last day on which cheques would be cashed and applications processed and the withdrawal of the scheme is a tactical matter depending on the flow of applications.

Summary

The Worker Registration Scheme has not been one of the finest moments in the history of either policy making or immigration control. If it is maintained to the bitter end then the government will lay itself open to continual attacks which so far it has been able to fend off but this may not always be possible. The government should not want to be seen to be forced into withdrawing the scheme by a European Union rule. By announcing an early withdrawal in the manner described in this paper, the government would have control of the ending of the scheme and it would have the support of stakeholders who otherwise will maintain their strong and vocal opposition to the scheme.

Appendix 4

ALP Member Brief No 38 Accession States Worker Registration Scheme

16 June 2006

Introduction

This brief consolidates previous ALP briefs on the Worker Registration Scheme (WRS), and gives details of some new administrative arrangements. Briefs no 29, issued on 20 September 2005, and no 35, issued on 19 May 2006, are cancelled.

The scheme

On 1 May 2004, 10 new countries joined the European Union. Their nationals have the right to live and work in the UK. The government, at short notice, introduced arrangements providing for nationals from eight of the states (the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Poland, Slovakia and Slovenia) to register with the Home Office if they are working in the UK.

With a few exceptions, nationals from the eight countries starting a new job are expected to complete, within a month of beginning work, a registration form, which includes information on their employer. This must be sent, together with a copy of their employment contract or a letter from an employer, two photographs, a passport or ID card and £70 to the Home Office. The Home Office will, if the application is valid, send the worker a registration card and a registration certificate specific to the employer. A copy of this certificate will also be sent to the employer. If a worker changes jobs the same form will have to be completed and a new certificate will be issued. No charge will be made in these circumstances.

The new form and address to which it should be sent

The application form has been slightly modified, in particular by changing the order of questions 22 and 23. More detailed information is requested where payment is by debit and credit card and forms should now be posted to a new address. The new forms are available at the following website

http://workingintheuk.gov.uk/working_in_the_uk/en/documents/all_forms.html.

The revised application forms are also available by post by telephoning 08705 210224.

The new forms should be used from 19 June. However, the previous forms will be accepted and forms sent to the old address will also be dealt with.

Compliance with the scheme

The scheme serves no practical purpose and the Home Office has refused to follow standard procedures in respect of consultation. The scheme exists for political purposes and employers and workers are entitled to do anything they can within the law to minimize its impact.

There is no benefit to the vast majority of workers by registering under the WRS, and workers commit no offence if they do not register. Employers run little risk if their workers do not register; however, some labour users require evidence that workers have registered. An employer can protect himself by having photocopies of completed application forms.

A labour provider that wishes to ensure that it fully complies with the letter and the spirit of the legislation can modestly reduce the burden on its workers and itself by taking the following steps –

- Advise workers that they need not answer a number of questions on the application form as there is no authority for these questions to be asked. The questions in the new form are: Nos 15, 16, 23, 24, 25, 26 and 27. The Home Office has confirmed that a form without these questions being answered will be accepted.
- Advise workers that they should not post their form until the last possible moment, that is one month after they have begun working. If a worker leaves within a month he does not need to register.

A labour provider can choose to go further and do no more than comply with the letter of the law to the minimum extent possible. A considerable number of workers and employers have made no attempt to comply with the requirements of the WRS, either in ignorance or because they can see no benefit in so doing. There has been no enforcement activity against such individuals or businesses. Not one business has been prosecuted for failing to comply with the Regulations, and workers who do not seek registration are not committing an offence. This is one of a number of areas where those businesses that seek to comply are put at a competitive disadvantage against those that do not.

Labour providers are entitled to consider doing no more than complying with the letter of the law, in respect of some or all of their workers. The scheme is particularly onerous for workers who may stay with an employer for only a few months. This category of worker can safely avoid registering with no significant adverse consequences. By not registering the worker is not committing any offence. There is no prospect of any enforcement action being taken against the worker. The only downside is that after a period of one year being registered a worker then becomes entitled to certain means tested benefits. Only a tiny fraction of migrant workers have any need for, or expectation of obtaining, such benefits, but this is a point that should be borne in mind by workers.

Employers commit an offence if they act contrary to the Regulations. In fact the Regulations are impossible to comply with. Technically, an employer commits an offence if he employs an Accession State worker who does not register within a month. The employer has a defence if “there was produced to the employer during the one month period beginning on the date on which the worker began working for the employer a document that appeared to him to establish that the worker had applied for a registration certificate”. There can be no such document. It is accepted that a photocopy of the application form satisfies the test, but clearly if the worker produces the form to be photocopied then he cannot have “applied for a registration certificate”.

In practice employers can comply with what is understood to be the letter of the law by having a photocopy of the application form. If the worker does not subsequently post the form neither he nor the labour provider is committing an offence. The labour provider should also give the worker a letter confirming his start date of employment and keep this on file. A copy of the worker’s contract serves this purpose.

It should be noted that the licence conditions of the Gangmasters Licensing Authority make no reference to the Worker Registration Scheme and therefore the GLA will not be monitoring the extent to which labour providers maintain records.

Some labour users may seek evidence that labour providers are fully complying with the scheme, having copies of certificates as well as the forms. The Association is asking the supermarkets not to require their suppliers to monitor compliance with the WRS. However, for the time being at least, labour providers must satisfy themselves

that any change in their practice is acceptable to their customers. Labour providers should feel free to pass on a copy of this brief to any of their customers who do monitor compliance with the WRS and can advise their customers to phone the ALP to discuss the matter.

Further information

Members are reminded that the “Section 8” requirements must be fully complied with in respect of all workers. Member Brief No 17 covers the requirements.

Further information

More detailed information about the Worker Registration Scheme can be found at the following address -

http://www.workingintheuk.gov.uk/working_in_the_uk/en/homepage/your_status/european_citizens.html