

The Workers Registration Scheme - time for abolition

Proposal by the Association of Labour Providers

17 November 2005

Introduction

Under the Accession States Worker 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 substantially outweigh the benefits. Accordingly, the scheme should be abolished.

The ALP represents labour providers to the agriculture and fresh produce trade. It has 132 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 £70 fee for so doing.

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 14 months of the scheme, 220,000 people registered. The ALP believes this is well below the number of workers from the Accession States who have come to Britain, and that generally the statistics are implausible.

Workers do not register because of the £70 payment, the nature of the registration process, concern about the implications of providing detailed information to the authorities and the absence of any enforcement action.

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 to three 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 in the informal economy 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 £70 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.

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 form required 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 and some of the questions have been removed. However, some of the information required on the form is still 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 £70. For a worker on minimum wage this represents two – three 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 £70 has proved to be a problem. In many cases postal orders have to be used therefore increasing the cost to £75.

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 2004 and June 2005 220,000 workers were registered. The numbers have fluctuated with no apparent trend, although the most recent quarter for which figures are available (Q2 2005) had the highest figure.

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 100,000 workers from the Accessions States and report that the average length of stay is only one month. However, re-registrations each month have been running at just under 3% of the number registered at the beginning of the month.
- 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. The Home Office has estimated that up to 30% of workers who registered in the first 14 months of the scheme were previously working in the UK illegally.

There is now some statistical evidence to back up the Association's anecdotal evidence. This is set out in more detail in Appendix 1. In summary –

- 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 in the same period.
- Research conducted for Defra and the Home Office in 2004 showed that labour providers are supplying over 100,000 Accession State workers a year to agriculture and food processing. The WRS figures show total registrations up to June 2005 of 29,970 in agriculture and 11,385 in food processing.

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 they doing one of the following –

- They keep changing job at least once a month, which certainly in the agriculture and fresh produce trade is easy to do.

- They continue working outside the formal economy with a consequent loss of tax revenue to the government.
- They work in the formal economy without registering, which requires the connivance of an employer (not difficult: the worker completes the form, the employer copies it and the worker then bins it).

Another factor is that enforcement action by the immigration service seems minimal; its resources properly are concentrated on illegal working not form filling by those working legally.

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. At the time the government anticipated that between 5,000 and 13,000 workers would register each year.

18 months later 220,000 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 2004 and June 2005 workers from the Accession States made 416 applications for income support, 1,163 applications for income based job seekers allowance and 16 applications for state pension credit. 97% of these applications were disallowed. Just four workers have obtained income support, 35 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 £70 fee which can easily rise to £75 if postal orders have to be used, equivalent roughly to two days after-tax pay. The 220,000 workers who successfully registered up to June 2005 paid over £11 million to the government (the fee was £50 in this period).
- Completing the form is likely to take 30 - 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 110,000 hours at, say, £20 an hour, and therefore a total cost up to the end of June 2005 of £2.2 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 or they may simply not have bothered 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 of knowing how many of the 220,000 workers who registered in the first 14 months of the scheme are in the UK or, if they are in the UK, are working. The Defra sponsored research (described in the Appendix) suggested that 36% of those working in food processing intended to remain in the country for less than a year, confirming that there is significant turnover. 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 £70 registration fee becomes a much higher 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 £70 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 take 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 published monitoring statistics show just 11,385 workers in food/fish/meat processing and 30,000 in agriculture. 11,650 are described as packers with a further 3,246 being food-processing operatives (fruit/veg). The regional breakdown purports to show that in Anglia there were just 1,230 workers in food/fish/meat processing. Defra sponsored research in 2004 and 2005 concluded that there were between 84,000 and 122,000 temporary workers from the Accession States employed in agriculture and food processing

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 passports 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 fee for the scheme was increased by 40% from £50 to £70. This has been justified on the grounds of higher costs resulting from more applications than expected, whereas one would result economies of scale to reduce the unit costs. There was no consultation on the increase and no publicity. The statutory instrument effecting the increase was dated 24 August 2005 but it was three weeks later before the details were promulgated on the Home Office website, the only means by which the increase has been publicised.

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 220,000 workers have registered only 163,000 national insurance numbers have been 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 12,450 workers registered but only 1,657 received national insurance numbers. In London, the south east and Wales more national insurance numbers were issued than workers registered. 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 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. 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 220,000 workers from the Accession States completed a form in the 14 months from May 2004 and that very 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 June 2005 because –

- Some of those 220,000 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 in the formal economy will not have registered.
- Some workers will have preferred to remain in the informal economy either to avoid tax or to avoid the fee and any fears resulting from “registering with the authorities”.

At one extreme the number could be as low as 100,000; 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 - £11 million paid by low paid workers – equivalent to two days after tax pay for most; over £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 that the statistics were implausible. Evidence to support the Association’s view is now available from two sources.

The ONS data

2. The following table shows monthly statistics from the ONS International Passenger Survey (IPS) and the WRS for the Accession States

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

Month	Visits 2002	2003	2004	WRS registrations 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

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 Precision Prospecting Research

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 number of temporary workers on farm enterprises in an average month (including SAWS students) is 225,000.” 56% of these (125,000) are provided by labour providers.
- Directly employed temporary labour turns over 1.61 times a year and labour provider labour 4.5 times.
- “An estimated 50% of temporary workers remain with a labour provider for less than one month.”
- “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 is 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 of 30,000 workers in agriculture and 11,385 in food processing. Most of the workers in food processing will not be in the sector covered by the study, so a round figure of 15,000 seems reasonable. Even allowing for some double counting in the survey estimates it seems clear that the WRS is not catching many A8 nationals.

The second report “Secondary processing in food manufacture and use of gang labour” - <http://www.defra.gov.uk/farm/gangmasters/pdf/research-study3.pdf> - report includes the results of a survey of 970 workers.

The report concluded that there are 150,000 people engaged in temporary work in second stage processing and manufacturing of food, of whom 25,000 are directly recruited by labour user businesses and 125,000 are supplied by labour providers. These 125,000 are also part of the 450,000-600,000 temporary workers involved in primary food processing. 90% of agency workers employed in second stage processing are migrant workers; 64% (80,000) are from the Accession States. 62% had been in the UK for less than a year. 44% of the workers surveyed said they intended to stay in the UK for two or more years longer and 36% intended to stay for less than a year.

These figures suggest that the number of A8 nationals working in agriculture and related industries is about four times the figures suggested by WRS registrations.