

Request by the Association of Labour Providers to the Statistics Commission to investigate the Accession States Workers Registration Scheme

15 September 2005

Introduction

The Association of Labour Providers (ALP) represents 129 labour providers, most of which recruit workers from the Accession States in Eastern and Central Europe, bringing them to the UK generally to do low-paid work.

The Accession States Worker Registration Scheme (WRS) is a statistical scheme which aims to record the number of workers from the EU Accession States in Britain. It imposes a heavy cost on the workers recruited by labour providers and also on labour providers themselves. The Association is asking the Commission to analyse the scheme on the grounds that the resultant statistics are implausible and significantly at variance with other statistics, are of very little value even if plausible, and that there has been no cost benefit analysis of the scheme.

The Worker Registration 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 (to be increased to £70 from 1 October 2005).
- 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.

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.

Are the statistics accurate?

The official statistics show that between May and December 2004 123,000 workers were registered. The number registering peaked in June 2004 at 20,405, and other than December then settled down at between 13,000 and 16,000 a month. The 123,000 figure will be taken as the key figure in this submission as other statistics relate to 2004. Subsequent statistical reports show

that the number of workers registered reached 232,000 by June 2005. The number registering has increased month by month in 2005 reaching nearly 20,000 in June.

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 providers employ over 80,000 workers from the Accession States and report that the average length of stay is only one month. Re-registrations have been running at about 4,000 a month representing fewer than 2% of the workers who had been registered. (Labour providers report that workers who are re-registering are generally provided with a new WRS number, suggesting that they may be counted as a new registrant. This would explain the low number of re-registrations but would also mean that the total number of workers registering is inflated.)
- 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 by the Home Office that 40% of workers who registered in the first eight months of the scheme were previously working in the UK illegally, indicating how easy it is to do so.

There is now statistical evidence to back up the Association's anecdotal evidence. The following table compares data from the International Passenger Survey with the WRS figures.

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 |

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|-------------------|-----|-----|-------|-----|
| 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 |

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.

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.

In August 2005 Defra published on its website the results of some research which cast further doubt on the validity of the WRS figures. The report “A study of employment practices in the agriculture and horticulture industry and co-located packhouse and primary food processing sectors”, was commissioned by Defra, AWB and Work Permits UK. The Home Office was therefore a party to the study and officials will have had the opportunity to comment on drafts and draw attention to discrepancies with other statistics.

The research was conducted between May and December 2004. The key results relevant to the WRS are -

- The total number of temporary workers on farm enterprises in an average month (including SAWS students) is 225,000.
- 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 survey data showed that 20% of workers (provided by labour providers) stay less than one month and there is interview evidence that some are choosing to do this to avoid signing up to the Worker Registration Scheme and thereby paying the £50 fee”.
- “All the labour providers we spoke with were scathing of the Worker Registration Scheme, which charged foreign nationals £50 when they registered to work and required that their passports be sent in the post with the registration forms.”

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 – the report noted that there was little evidence of workers from EU non 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 up to the end of 2004 of 16,650 workers in agriculture and 6,285 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 20,000 seems reasonable. Thus at first sight the actual number of workers was between four and six times the number of registrations. There may well be a rational explanation for part of the difference but the Home Office has declined to give any explanation.

Precision Prospecting conducted a subsequent report for Defra “Secondary processing in food manufacture and use of gang labour”, also published on the Defra website in August 2005. This concluded that the pool of temporary workers engaged in secondary processing in food was the same as the pool of workers engaged in agriculture and primary processing. However, the size of the secondary processing sector is smaller with 150,000 engaged out of a total of between 450,000 and 600,000. The survey estimated that 64%, that is 96,000, of those in secondary processing were from the EU Accession States. This compares with the WRS figure of just 6,285. At first sight the reports suggest that most of the Accession State workers work outside rather than on farms although it seems difficult to reconcile the 64% percentage for secondary processing with the 23% percentage for agriculture and primary processing bearing in mind it is the same pool of workers. This is an issue the report should have explained.

A survey of workers carried out as part of the research asked the question of whether workers had registered. Of those eligible 79% said that they had and 15% that they had not. If such a high proportion has registered it is difficult to see why the WRS statistics show much lower figures.

Why workers are not registering

If workers are not registering, it is useful to know why. There are several reasons –

- There is no benefit to the worker. (The Home Office argues that “Registration provides evidence of a person’s entitlement to certain in-work benefits and after 12 months evidence of entitlement to other state support”. However, in practice few workers could claim these benefits and the workers come here to work not claim benefits.)
- Two days after-tax pay is a significant deterrent to low-income people.

- 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.
- The chance of being prosecuted for not registering is zero.

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, or they continue working in the formal economy without registering – which may well need the connivance of an employer.

Even if the exercise captured all the workers who are supposed to register the statistics would still be of little use for policy purposes as they include workers who are not in Britain and exclude some of those who are.

The data records 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. 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 longer the scheme runs the less reliable the figures will be in this respect. The number leaving the UK can be expected to rise month by month as the stock increases so the net figure will increasingly diverge from the gross figure for registrations.

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 Precision Prospect report actually suggests that some workers work jobs simply to avoid registering – an excellent example of the validity of Goodhart's Law.

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 chose to count themselves as such if this is a means of avoiding a £50 fee and completing forms giving large amounts of personal information.

Benefits of the scheme

The number of workers registering is over 10 times the initial Home Office estimates. However, no policy measures have been taken as a result. Indeed, in its overall managed migration policy, the government sees the Accession States as the source of cheap labour.

The statistics have demonstrated that Accession State workers make little call on public funds. The public reaction to the influx of workers from the accession states has been generally favourable.

The statistics may have contributed to these benefits. However, it is difficult to see what further value will accrue from continuing the scheme.

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. The 232,000 who registered by June 2006 have paid over £11 million to the government. It is intended to increase the fee by 40% to £70 from 1 October 2005. This represents nearly three days after tax pay. There has been no explanation of why a 40% increase in the fee is needed, particularly as the higher number of applicants than expected should have led to economies of scale.
- 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, £20 an hour, and therefore a total cost up to the end of 2004 of £1.2 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. 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.

Compatibility with the Hampton Report

The government has accepted all of the conclusions of the report “Reducing administrative burdens; effective inspection and enforcement”, produced by Philip Hampton and published in March 2005. The report includes a chapter “Fewer, Better Forms”. Paragraph 3.11 states that all forms should be as short and simple as possible and that regulators should only collect the data they need. However, the WRS form asks for a great deal of information that is not authorised by the Regulations governing the Scheme. This includes, in particular, information on job position, location of employment, rate of pay and hours worked. In addition, the form asks for identical information in respect of the individual for whom an application is being made twice, once of the payment sheet and once in the main part of the application form.

Paragraph 3.13 of the report states that forms should be written in plain language with guidance and “if necessary, forms should be available in languages other than English”. It would seem self evident that forms aimed at workers from the Accession States whose native language is, by definition, not English should be in languages other than English. They are not.

Paragraph 3.14 of the report states that data should be collected only if it is necessary “on the basis of the cost benefit assessment”. There has at no time been any cost benefit assessment for the Scheme.

Management of the scheme

The scheme has been badly managed since its inception. It was introduced in April 2005 with no consultation or no regulatory impact assessment. 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.

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.

On 31 August 2005 the Home Office wrote to a few trade associations saying that the fee would be increased to £70 from 1 October and that this would be announced the following day. There was no announcement until 13 September and this simply took the form of a notice on the Home Office website. There is, two weeks before the increase, no indication of how workers and employers are to be notified of the change, if indeed they are to be.