

# *The Workers Registration Scheme - the case for abolition, 25 May 2005*

## **Submission by the Association of Labour Providers**

### **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 20 05 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 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. 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 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

### **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.

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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.