

## **REPORT**

For the period 1 July 2012 to 31 May 2017 made by the Government of the Island of Guernsey, in accordance with article 22 of the Constitution of the International Labour Organisation on the measures taken to give effect to the provisions of the

### **MINIMUM AGE (INDUSTRY) CONVENTION, 1919 (No.5)**

#### **PART I**

The legislation which applies the provisions of the Convention is as follows:

Loi ayant Rapport a la Protection des Enfants et des Jeunes Personnes, 1917

Loi ayant Rapport a l'Emploi de Femmes, de Jeunes Personnes et d'Enfants, 1926

The Education (Guernsey) Law, 1970 (section 47).

The Education (Compulsory School Age) (Guernsey)(No. 2) Ordinance, 2008

#### **PART II**

No changes.

#### **PART III**

Legislation on the employment of children is now the responsibility of the States of Guernsey's Committee for Education, Sport & Culture, which oversees the operational functions in relation to this Convention that were performed by the States of Guernsey's Education Department prior to 1st May 2016. Legislation relating to employment relations is the responsibility of the States of Guernsey's Committee for Employment & Social Security; prior to 1<sup>st</sup> May 2016, the States of Guernsey's Commerce and Employment Department undertook these responsibilities.

#### **PART IV**

No relevant decisions.

#### **PART V**

No changes.

The 1926 Law prohibits the employment of children (under the age of 14) in any industrial undertaking (as defined by the Convention) and health and safety legislation also specifies that children under the age of sixteen cannot operate heavy equipment of work with hazardous substances.

If the Committee for Education, Sport & Culture believes that a pupil is being employed in a manner as to be prejudicial to his health or otherwise to render him unfit to obtain the full benefit of his education, it can issue a notice on the employer, prohibiting that person from employing the child or imposing conditions on that employment.

No practical difficulties have raised regarding the application of the Convention.

## **PART VI**

Copies of this report have been made available on the States of Guernsey's website (<https://www.gov.gg/conventions>) for local employer and worker organisations. No observations have been received in relation to the current or previous report.

States of Guernsey  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey  
GY1 1FH

24 August 2017

# **INTERNATIONAL LABOUR ORGANISATION**

## **REPORT**

For the period 1 July 2012 to 31 May 2017, made by the States of Guernsey in accordance with Article 22 of the Constitution of the International Labour Organisation on the measures taken to give effect to the provisions of the:

### **MINIMUM AGE (AGRICULTURE) CONVENTION, 1921 (NO. 10)**

#### **PART I**

The following are relevant:

Loi ayant Rapport a la Protection des Enfants et des Jeunes Personnes, 1917  
Loi ayant Rapport a l'Emploi de Femmes, de Jeunes Personnes et d'Enfants, 1926  
The Education (Guernsey) Law, 1970 (section 47).

Copies have been provided previously.

#### **PART II**

No changes.

#### **PART III**

Legislation on the employment of children is now the responsibility of the States of Guernsey's Committee for Education, Sport & Culture, which oversees the operational functions in relation to this Convention that were performed by the States of Guernsey's Education Department prior to 1st May 2016.

Legislation relating to employment relations is the responsibility of the States of Guernsey's Committee for Employment & Social Security; prior to 1<sup>st</sup> May 2016, the States of Guernsey's Commerce and Employment Department undertook these responsibilities.

#### **PART IV**

No relevant decisions.

#### **PART V**

Health and safety legislation specifies that children under the age of sixteen cannot operate heavy equipment of work with hazardous substances.

If the Committee for Education, Sport & Culture believes that a pupil is being employed in a manner as to be prejudicial to his health or otherwise to render him unfit to obtain the full benefit of his education, it can issue a notice on the employer,

prohibiting that person from employing the child or imposing conditions on that employment.

## **PART VI**

Copies of this report have been made available on the States of Guernsey's website (<https://www.gov.gg/conventions>) for local employer and worker organisations. No observations have been received in relation to the current or previous report.

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Sir Charles Frossard House  
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GY1 1FH

25 August 2017

# **INTERNATIONAL LABOUR ORGANISATION**

## **REPORT**

For the period 1<sup>st</sup> July 2012 to 31 May 2017, made by the States of Guernsey in accordance with Article 22 of the Constitution of the International Labour Organisation on the measures taken to give effect to the provisions of the:

### **PROTECTION AGAINST ACCIDENTS (DOCKERS) CONVENTION, 1932 (NO. 32)**

#### **PART I**

The following are relevant:

The Harbours Ordinance, 1988.

The Health and Safety at Work (General) (Guernsey) Ordinance 1987.

The Merchant Shipping (Bailiwick of Guernsey) Law, 2002.

The Health and Safety at Work (Freight Containers Safety Convention) Ordinance, 1992.

#### **PART II**

No changes.

#### **PART III**

No relevant decisions.

#### **PART IV**

No relevant decisions.

#### **PART V**

No changes.

#### **PART VI**

Copies of this report have been made available on the States of Guernsey's website (<https://www.gov.gg/conventions>) for local employer and worker organisations. No observations have been received in relation to the current or previous report.

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24 August 2017

## **REPORT**

For the period 1 August 2012 to 31 May 2017, made by the States of Guernsey in accordance with Article 22 of the Constitution of the International Labour Organisation on the measures taken to give effect to the provisions of the:

### **MIGRATION FOR EMPLOYMENT CONVENTION (REVISED), 1949 (NO.97)**

#### **PART I**

Applicable laws during the reporting period:

The UK Immigration Acts as extended to the Bailiwick with appropriate adaptations and modifications.

The Minimum Wage (Guernsey) Law, 2009

Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations 2012, as amended by the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations 2016

Housing Control Laws\*

Right to Work (Limitation and Proof) (Guernsey) Law, 1990\*

The Population Management (Guernsey) Law, 2016\*

\*see Part II Article 1

#### **PART II**

##### **Article 1**

Because of the Island's small size, there are some rules regarding who can come to live and work in Guernsey. These controls are in addition to the immigration controls of the Guernsey Border Agency.

Since our last report, the Guernsey Border Agency updated its Work Permit Policy (copy attached).

The Island's Housing Control Law (the Housing (Control of Occupation) (Guernsey) Law, 1994) and the Right to Work (Limitation and Proof) (Guernsey) Law, 1990 have been repealed and replaced by the Population Management (Guernsey) Law, 2016 and related subordinate legislation. This legislation introduced a new population management system, which came into force on 3<sup>rd</sup> April 2017, which manages who can live and work in Guernsey, while the immigration regime controls the right to enter and stay in Guernsey of those persons who are not British citizens. The Population Management (Guernsey) Law, 2016 does not discriminate on the grounds of nationality, race, religion and gender.

The Population Management (Guernsey) Law, 2016 works using a system of Permits and Certificates. Following the Law's coming into force on 3<sup>rd</sup> April 2017, as a general principle everyone living in Guernsey aged 16 or over needs to hold a Certificate or Permit (previously referred to as a "right to work" document) to show that they have permission to live and work in Guernsey. The Law creates the Office of Administrator of Population Management, provides that the Administrator must act compatibly with rights under the European

Convention of Human Rights, and with fairness and impartiality (section 1(5)). More information is available at: [www.gov.gg/populationmanagement](http://www.gov.gg/populationmanagement).

Relevant links are:

<https://gov.gg/pmemployment>

<http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=106845&p=0>

## **Article 2**

Information for immigrants is freely available on the States of Guernsey website and it can be also obtained by contacting the Guernsey Border Agency or the Population Management Office.

The Committee for Employment & Social Security (previously the Social Security Department until 30<sup>th</sup> April 2016) operates a Job Centre which provides a free service to assist employers to advertise for staff and to assist with the placement of all residents seeking work.

## **Article 3**

No changes.

## **Article 4**

No changes.

## **Article 5**

From 1<sup>st</sup> May 2016, the Committee for Health & Social Care now fulfils the functions previously performed by the Health and Social Services Department; other than that, there have been no changes.

## **Article 6**

- a)(i) The Minimum Wage (Guernsey) Law, 2009 has been in forces since 1<sup>st</sup> October 2010. It applies to all workers, including immigrants. The minimum wage rates have changed since the last ILO report was submitted. The most recent change was made by a Statutory Instrument entitled Minimum Wage (Prescribed Rates and Qualification) (Guernsey) (Amendment) Regulations 2016.

Relevant links are:

<http://www.guernseylegalresources.gg/article/95824/Minimum-Wage-Guernsey-Law-2009-Consolidated-text>

<http://www.guernseylegalresources.gg/article/155942/No-42---The-Minimum-Wage-Prescribed-Rates-and-Qualifications-Guernsey-Amendment-Regulations-2016>

- a)(ii) No changes.

- a)(iii) No changes.
- b) No changes.
- c) No changes.
- d) No changes.

#### **Article 7**

As of 1<sup>st</sup> May 2016, employment services are provided by the Committee for Employment & Social Security, having been transferred from former Commerce and Employment Department. These services are provided free of charge to both indigenous and migrant labour.

#### **Article 8**

No changes.

#### **Article 9**

No changes.

#### **Article 10**

No changes.

#### **Article 11**

No changes.

Copies of this report have been made available on the States of Guernsey's website (<https://www.gov.gg/conventions>) for local employer and worker organisations.

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24 August 2017



**Direct Request (CEACR) - adopted 2012, published 102nd ILC session (2013)**  
***Migration for Employment Convention (Revised), 1949 (No. 97) - Guernsey***

**Article 3 of the Convention. Misleading propaganda.** The Committee previously noted that a migrant worker who felt that he or she had been misled by information that caused him or her to seek employment in Guernsey, could seek redress pursuant to the employment legislation or through the civil courts. While noting the Government's statement that no complaints have been received, the Committee recalls that *Article 3* of the Convention requires the Government to take active measures to protect migrant workers against the use and dissemination of false information concerning the migration process. ***The Committee therefore requests the Government to take specific measures to prevent and address the use and dissemination of misleading propaganda and protect migrant workers against such propaganda. Please continue to provide information on any complaints received by judicial or administrative bodies from migrant workers who have been the victim of misleading propaganda, as well as on any remedies provided and sanctions imposed.***

Whilst there is no legislation directly on this point, the States of Guernsey takes active measures to help ensure that migrant workers are protected from misleading propaganda.

The States of Guernsey's website ([www.gov.gg](http://www.gov.gg)) provides migrant workers with relevant information. This is another tool against misleading propaganda being put into the public domain. This website enables users to translate text into multiple languages, which helps users access relevant information and can help to counteract misleading propaganda that has been obtained from non-governmental sources.

Migrant workers arriving at one of the Bailiwick's designated ports have the opportunity to contact government officials working in those ports. This early contact with government officials helps to ensure that correct information can be provided to migrant workers and they can be referred to relevant support services and other government Committees, if required. This early contact also provides migrants with an opportunity to raise concerns with government officials if they believe that they have received misleading propaganda.

Migrant workers are required to register with the Population Management Office within three days of commencing work. This early contact with government officials helps to ensure that correct information can be provided to migrant workers and they can be referred to relevant support services and other government Committees, if required. This early contact also provides migrants with an opportunity to raise concerns with government officials if they believe that they have received misleading propaganda.

Although there is a wider governmental move towards publishing information and forms online, rather than using physical forms, the Population Management Office has posters in its reception area. The posters help to highlight to local residents and migrants that there have been changes to the law. The posters focus on short term employment permits and short term housing licenses, which are main types of permits or licences that temporary migrant workers need to obtain to work in Guernsey. These posters are in the English, Portuguese and Latvian languages, which are the main languages spoken by migrants who arrive in Guernsey. This helps ensure that migrant workers who speak those languages can be directed to correct information on the government's website and it can also help to

prompt migrant workers to ask government officials for information on all matters relating to these permits and licences, including misleading propaganda.

Additionally, the States of Guernsey's Communications Team provides an additional point of contact for all local information queries, including queries relating to migrants, population and work. It can also receive any complaints relating to misleading propaganda which may arise. This Team actively responds to queries from the media, residents, companies and non-residents. It helps to ensure that accurate messages are portrayed in the media and on the government's website, which can include correcting any known instances where misleading propaganda may have been disseminated.

It is now a Guernsey Border Agency requirement for most non-EEA nationals who are not from a majority English speaking country to demonstrate their English language skills to level B1 of the Common European Framework of Reference for Languages (CEFR). For workers, this came into effect on 1<sup>st</sup> January 2013. This brings Guernsey into line with the UK. The aim of this is to help ensure that migrants are better equipped when moving here, for example to have the confidence to ask for assistance if needed and to help integrate into the community. The language requirements could assist migrant workers who are moving, or who have moved, to Guernsey to better communicate with government officials or other entities, which may help to dispel and then correct any reports of misleading propaganda. Further information can be found in paragraph 8 on page 3 of the Work Permit Policy (attached).

**Article 4. Assistance and services upon arrival.** The Committee notes the information provided by the Government regarding the provision of work permits and visa requirements for those outside the European Economic Area (EEA). It also notes that information for immigrants is freely available on the State of Guernsey's website and can also be obtained from the Guernsey Border Agency or the Housing Department. ***Recalling that measures, as appropriate, are to be taken under Article 4 of the Convention, to facilitate the smooth transition of the migrant worker in the host country, the Committee requests the Government to indicate whether any consideration is being given to adopting specific measures of assistance for or providing services to migrant workers facing particular problems during the reception process or arriving to undertake jobs which are particularly hazardous or in which they may be at risk of violations of rights.***

The States of Guernsey is keen to ensure that there are measures of assistance available to migrant workers facing particular problems during the reception process, or arriving to undertake jobs which are particularly hazardous or in which they may be at risk of violations of rights.

Regarding the reception process, migrant workers arriving at one of the Bailiwick's designated ports have the opportunity to contact government officials working in those ports. This early contact with government officials helps to ensure that correct information can be provided to migrant workers and they can be referred to relevant support services, the government website and other government Committees, if required. This early contact provides migrants with an opportunity to find out about where and how they can access further information about all types of employment, including employment that may be deemed to be particularly hazardous or in which they may be at risk of violations of their rights.

As migrant workers are required to register with the Population Management Office within three days of commencing work, they are provided with yet another opportunity to discuss with government officials any concerns that they may have about their migration, employment in potentially hazardous jobs and the potential for any violations of their rights. These government officials can refer the migrants to relevant support services, the government website and other government Committees, if required.

It is now a Guernsey Border Agency requirement for most non-EEA nationals who are not from a majority English speaking country to demonstrate their English language skills to level B1 of the Common European Framework of Reference for Languages (CEFR). For workers, this came into effect on 1<sup>st</sup> January 2013. This brings Guernsey into line with the UK. If migrants are facing particular problems during the reception process, this language requirement will help ensure that migrants have the basic to intermediate language skills to enable them to communicate their problems to relevant officials and seek advice. For those migrants who are, or will be, engaged in potentially hazardous jobs, or jobs where they could face violations of their rights, the CEFR language requirements help ensure that migrants are able to seek, obtain and understand at least a basic amount of information, advice or support. Further information can be found in paragraph 8 on page 3 of the Work Permit Policy (attached).

**Article 6. Equality of treatment.** The Committee notes the approval of the Minimum Wage (Guernsey) Law, 2009, which applies to all workers, including immigrants, and the information provided by the Government regarding the application of *Article 6(1)* of the Convention. The Committee notes the Government's indications that four complaints have been submitted by migrant workers during the reporting period, which were resolved before reaching the Employment and Discrimination Tribunal. ***The Committee asks the Government to continue to provide information on any complaints concerning sex discrimination against migrant workers dealt with by the Employment and Discrimination Tribunal, as well as complaints dealt with by the courts pursuant to the Racial Hatred (Bailiwick of Guernsey) Law 2005 concerning racial discrimination of migrant workers with respect to the matters covered in Article 6 of the Convention. Please also provide information on any complaints made by migrant workers regarding non-application of the Minimum Wage (Guernsey) Law, 2009.***

There have been no complaints of sex discrimination by migrant workers that have been dealt with by the employment and discrimination tribunal.

There have been no complaints dealt with by the courts under the Racial Hatred (Bailiwick of Guernsey) Law 2005.

Four complaints regarding minimum wage (all upheld) have been received.

**Article 8. Maintenance of residence in case of incapacity for work.** The Committee notes the Government's statement that anyone who has acquired the status of qualified resident as set out in section 10 of the Housing (Control of Occupation) Law, 1994, would not have to leave Guernsey if he or she was unable to follow his or her occupation and claimed public benefits. ***The Committee requests the Government to indicate the relevant legal provisions guaranteeing the right of qualified residents to remain in the country in the event of incapacity for work even if they claim public funds.***

Sections 3 and 6 of The Population Management (Guernsey) Law, 2016 (“the Law”) sets out the circumstances in which a person can become a Permanent Resident (which is equivalent to a Qualified resident under the Housing (Control of Occupation) Law, 1994). Anybody who acquired this status would not have to leave the Island if that person was unable to follow his or her occupation and claimed public benefits. An extract of sections 3 and 6 of the Law is attached.

Further information on employment permits, and the published policies of the Population Management Office in relation to employment permits, can be found at <https://gov.gg/pmemployment>.