

**REPLY BY THE MINISTER OF
THE HOME DEPARTMENT
TO A QUESTION ASKED PURSUANT TO RULE 6 OF THE
RULES OF PROCEDURE BY DEPUTY LESTER C. QUERPEL**

Question 1

Because we are within the Common Travel Area, we are obliged to comply with the law that instructs us to allow convicted paedophiles, and criminals, to enter the Island: can we not amend that law, in an attempt to protect our children and fellow islanders?

Answer

As the Bailiwick is an integral part of the Common Travel Area (CTA) we cannot unilaterally make any amendment which restricts the free movement of any person.

To make an attempt to introduce such measures would have serious implications and potentially result in Bailiwick residents being required to routinely pass through passport border controls to enter the United Kingdom, the republic of Ireland, the Isle of Man and Jersey. The CTA has always been based on the principles that, subject to certain exceptions (such as those who may be unlawfully in one part of the CTA), travel between the UK and the Crown Dependencies (and between the Crown Dependencies themselves) does not require travellers to pass through a physical immigration control point. All the Crown Dependencies are strongly of the view that movement without immigration controls for all nationals of the CTA is an important component of the special relationship which exists between the people of the Islands of the CTA and provides long –established political, economic and social benefits.

Question 2

Are the Home Department able to furnish me with a list of jurisdictions within the Common Travel Area?

Answer

The United Kingdom, the Republic of Ireland, the Isle of Man and the Channel Islands form the Common Travel Area.

Question 3

Why are we in the Common Travel Area?

Answer

As far as the Crown Dependencies are concerned, the CTA continues to provide an important ongoing link with the UK, which preserves our special constitutional position, but at the same time operates on the basis of very close harmony between the Immigration laws of the UK and Islands. The Bailiwick's membership of the CTA enables free travel between the United Kingdom, the Republic of Ireland, the Isle of Man and the Channel Islands without having to pass through any physical immigration control point.

There is provision within the Immigration Act 1971 for any of the Islands to be excluded from the CTA. If this were to happen then there would be a significant impact on residents of

the Bailiwick in terms of their ability to travel freely between the Bailiwick, the United Kingdom and the other constituent parts of the CTA.

Question 4

Who actually devised the Common Travel Area and the laws it currently implements?

Answer

The Common Travel Area emerged during the 1920s, when special legislative provisions for the Islands and the Republic of Ireland were made in the UK Aliens Orders of 1919, 1920 and 1923. These Aliens Orders provided firstly, that the Isle of Man and subsequently the Channel Islands should not be deemed to be outside of the United Kingdom.

In 1923 the Irish Free State was established with no immigration controls for passengers travelling between it and the United Kingdom; and the Irish Free States was thus put on the same basis as the Islands in this respect.

The Immigration Act 1971, which is extended to the Bailiwicks by Order in Council, put the Common Travel Area on a full statutory basis. Until the Immigration Act 1971, the CTA was a purely administrative arrangement allowing free travel between Northern Ireland and the Republic of Ireland, between Britain and Ireland, and between these places and the Isle of Man and the Channel Islands.

Question 5

Could we consider amending the current law to afford our Police force more authority to conduct effective, and efficient, monitoring of 'overseas criminals' whilst they are here in the Island?

Answer

Where an individual is subject to notification requirements in another jurisdiction, the local authorities are reliant on those jurisdictions, and the legislation that guides them, to inform those locally of travel plans that impact on the Bailiwick so they may take appropriate action. By way of example, the Sex Offenders Act 2001 (Ireland) state that an individual subject to notification on the Sex Offender's Register in Ireland, should not leave the jurisdiction for longer than 7 days without informing the Gardai of travel plans. Locally we are unable to amend the legislation of other jurisdictions.

It is important to consider that most people are law abiding and very few people offend against children and "stranger" attacks (attacks on children by people they do not know) are extremely rare. There are many controls already in place. As a result this person was picked up very quickly, which shows that our systems do work. It is one view that individuals subject to the notification requirements of a Sex Offenders Register should not be permitted to leave a jurisdiction where those requirements apply, that said, despite the most strict laws, if a person disregards them and lies they may just slip through the net.

The Island will always be reliant upon the notification of such offenders by other jurisdictions; this is the only practical means by which we will know they are here.

Question 6 a

Is there currently an International Register of Convicted Criminals?

Answer

There is not an International Register of convicted criminals, however, work is currently being undertaken to improve inter border cooperation within the European Union. Locally, where the authorities are aware that an offender, who may pose a risk of harm to others, intends to leave the Island, they will inform the receiving jurisdictions. If another jurisdiction is aware that a similar offender is travelling to Guernsey, then the relevant local authorities are usually informed.

Question 6 b

If there isn't, could we not suggest that such a register is compiled?

Answer

The compilation of such a register would not be practicable and extremely unlikely to be considered by other jurisdictions, the majority of which operate under differing domestic legislation. We must be aware of the requirements in place in other jurisdictions and continue to work closely with other authorities to ensure that the activities of individuals of concern can be appropriately monitored.

Question 7

Are we obliged to comply with a current law, that instructs us to intern perpetrators of crime, who commit crime here on the Island, in our prison, rather than send them back to their country of origin?

Answer

Persons who are sentenced for crimes committed in the Bailiwick are imprisoned in Guernsey Prison. In certain circumstances, prisoners can be transferred to prisons in the United Kingdom. Currently, it is not possible to transfer prisoners convicted here to countries other than the United Kingdom as this requires specific legislation and bi-lateral agreements to be put in place. This matter is currently being considered, but is a complex matter.

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