

STATES OF JERSEY



MIGRATION POLICY: POLITICAL RESPONSIBILITY (P.168/2005) – AMENDMENT

**Lodged au Greffe on 13th September 2005
by the Deputy of St. Ouen**

STATES GREFFE

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For the words “Policy and Resources” where they appear for the second time substitute the word “Housing” and for the word “Chief” substitute the word “Housing”.

DEPUTY OF ST. OUEN

REPORT

The migration policy has been designed as a mechanism to balance economic growth with the demands of the Island's infrastructure especially housing. This is to be achieved by monitoring and regulating the factors that govern immigration within the context of the overall population.

It is recognised that population growth does place increased demands on the infrastructure, especially accommodation. It is therefore imperative that due importance is placed on housing and the overall requirements of the residential population as well as that of business. This has up to now been the remit of the Housing Committee working closely with a number of other departments. It is worth noting that the initial phase of the development of the Migration policy will be operated within the current laws. There is also an opportunity to address a range of inequities which exist due to the lack of synergy between the current Regulation of Undertakings Law and Housing controls. It is proposed to integrate housing consent and the administration of the Regulation of Undertakings and Development Law. In practice this will mean both departments operating from a single office, known as the Population office. This should not only improve efficiency but also reduce bureaucracy creating a one-stop shop. The physical creation of the integrated office is, as Policy and Resources quite rightly point out in their report, a managerial task; however it is also far more than that. The Population office will become the one corporate point of contact for all of the Island's residential population. Furthermore it will be responsible for implementing migration and population policies approved by the States. The aim is to enable employment and accommodation management systems to be brought together. To achieve this there would continue to be a close collaboration between officers of both the Housing and Economic Development Departments. Work is already being carried out to locate officers responsible for the Regulation of Undertakings Law in the Housing Department's building to improve information flow and general administration efficiency. Furthermore it will allow both departments to deliver the new migration mechanisms. However there is also a further objective, that of promoting greater social inclusion in our society. Concerns were raised that migration proposals were focused on economic issues rather than social policy objectives including social housing needs. To allay these concerns we must ensure the relevant checks and balances are put in place.

The States recognised this concern when it adopted the amendment of Deputy Geoff Southern which proposed that political responsibility for the population office should not lie with the Economic Development Committee or the future Minister of Economic Development.

It was recognised that some form of security needed to be provided to ensure a balance between economic growth and the needs of our residential population. Underlying the main objectives of the Migration Policy is the need to create greater equity and social inclusion within our society for all residents.

This is supported by the States Strategic plan which includes the aim to enable a good standard of secure and affordable accommodation for all.

This security is for the most part provided by the Housing committee supported by the 1949 Housing Law and later with the 1970 Housing Regulations. These laws were specifically brought in to strengthen the law following an influx of people in the late sixties.

It therefore follows that with the opportunities presented by the new Migration policy to address many of the inequities that currently exist that Housing retains overall political responsibility in this area. Furthermore with the opportunity to combine the existing RUDL and Housing control in one office it will allow the Housing Committee/Minister to be more effective in delivering other objectives such as balancing the demand for and supply of accommodation. I acknowledge that the Migration Policy encompasses far more than just housing issues. Existing departmental links with the Housing Committee will need to be maintained and strengthened. These include Employment and Social Security, Environment, Health and Social Services Departments as well as Policy and Resources and Education, Sport and Culture.

It is true that the States charged Policy and Resources in consultation with other Committees to bring forward detailed proposals on a migration policy and supporting regulatory systems; however I believe it was never intended that they should become involved in the day-to-day management of the Population Office. Furthermore, the initial work involves the harmonisation of the criteria for employment with that of accommodation. This will

ultimately lead to accommodation being linked to access to employment. To achieve this, Housing control must become an accommodation monitoring and regulating system linked to employment status.

The Policy and Resources Committee remit is to be responsible for establishing and coordinating strategic policies and objectives. This is an overseeing role of all policies rather than day-to-day responsibility. This role will be soon be fulfilled by the Chief Minister and the Council of Ministers, of which the Housing Minister will be a part, with scrutiny also playing a part in this process. It is this forum that will ultimately develop the corporate responsibility for the overall policy.

Day-to-day responsibility as now however must rest with the 2 Committees involved, i.e. Housing and Economic Development. It therefore follows that, as the States having determined that political responsibility should not lie with Economic Development for the Population Office, the logical conclusion is that Housing should accept the political responsibility.

Finally it should be noted that as with all policy proposals further detailed operational arrangements will need to be determined including the decision processes by which the policy will be implemented. Political responsibility for the population office is only one of many decisions. A step-by-step approach will ensure all arrangements are introduced in a transparent manner. The process will include consultation at all stages allowing the States to consider each policy proposal on an individual basis. This will ensure that all parties are included in the development of the Migration policy.

There are no additional financial and manpower implications arising from this proposition.

**EXTRACT FROM P.25/2005
(MIGRATION: MONITORING AND REGULATION: SECTION 5)**

5. Migration proposals

Summary

The key proposals are to –

1. integrate the policy for housing consent, monitoring employment and regulation of undertakings and development to simplify and streamline the processes involved;
2. have only three categories of registration –
 - those who are **entitled**, comprising persons who qualify as local (a-h) under the Housing (General Provisions) (Jersey) Regulations 1970, as amended;
 - those who become **licensed**, either through gaining a licensed job, including persons who are currently described as (j) category, or (k) category under the 1970 Regulations; and
 - those who are **registered-only**, equivalent to persons who currently do not qualify under the 1970 Regulations;

with aligned criteria for access to both employment and accommodation;
3. link access to accommodation to employment for those who are described as licensed and registered-only in (2) above;
4. create a register of the Island population in the three categories: entitled, licensed or registered-only;
5. monitor migration and regulate the factors that govern migration through a system of job licensing for employers and overall control of employment;
6. designate a single office by July 2005, working with the Housing, Economic Development, Employment and Social Security and Environment and Public Services Committees, to amalgamate the functions of housing consent, Regulation of Undertakings and Development and Social Security registration;
7. to charge the Policy and Resources Committee, in consultation with the Economic Development, Housing, Home Affairs and Employment and Social Security Committees, to bring forward the necessary legal and other measures to give effect to the above for consideration by the States.

In outline, the mechanisms will be as follows –

- All residents (but not tourists) must be registered in order to gain access to employment,

accommodation and some public sector services.

- All accommodation will remain classified as controlled, i.e. restricted for purchase or lease by eligible persons, or uncontrolled, i.e. lodgings and staff accommodation, and certain ‘loophole’ properties – e.g. inherited property.
- All employers will be allocated (as part of a regular business planning process) a total manpower quota – consisting of a maximum number of registered-only (equivalent to non-residentially qualified) and licensed (equivalent to (j) category) posts^{§11}, and the total balance made up of entitled employees.
- All new residents, after becoming registered, will be able to take up a limited range of employment and can access uncontrolled accommodation – either lodgings or staff accommodation.
- Any person will be eligible to apply for a job that has been allocated a licence and, on gaining such a job, will be registered as ‘licensed’ and shall be able to rent accommodation in the controlled sector.
- All people who would currently be classified as local (a)-(h) under the Housing Regulations, will be registered as ‘entitled’ – and eligible to be appointed to any job and to rent or purchase any property in Jersey.
- It is intended that, as economic circumstances and the availability of housing permit, more licences would be allocated to enable more existing residents to have better access to a range of accommodation.
- It is intended, over a number of years, to reduce the period for residential qualification from 15 years towards a policy that all residents will become entitled after 10 years residence.
- The States will manage inward migration through regulating overall employment.
- A single office will amalgamate some of the Housing, Regulation of Undertakings (RUDL) and Social Security registration functions.
- The single office, together with the Housing, Economic Development and Environment and Public Services Committees, will seek to balance housing demand and the supply of accommodation.

These proposals are generally similar to those put forward in the consultation paper, although some details have been revised as necessary in the light of the consultation feedback.

5.1 Integrate the systems for housing consent, monitoring employment and regulation of undertakings and development to simplify and streamline the processes involved

It is proposed that, in principle, that there should be greater consistency and alignment between the current Housing legislation and Regulation of Undertakings and Development Law (RUDL). This would enable increased clarity for the public, and less bureaucracy (for example, standardizing the existing definitions of ‘locally qualified’, i.e. currently 5 years residence for employment/15 years for housing). There is logic in suggesting that an entitlement to employment should go hand-in-hand with access to controlled accommodation.

It is proposed that both the Housing consent functions and RUDL will be harmonized and integrated into a simplified single process, based on a common set of criteria, administered by one office.

Consideration has been given to whether the existing controls could be dismantled entirely and replaced

with another system. It is concluded that in the short term the development of migration monitoring and regulation systems should be carried out within the existing legal framework. However, in the longer term, it would be better to incorporate the present effective housing and employment controls within a new single system.

The need to retain some security for the resident population against an open and free market outweighs the perceived advantages of doing away with controls at this time. However, the housing controls should move towards becoming an *accommodation monitoring and regulating system* focused on the overall numbers and categories of accommodation, rather than directly regulating individual property transactions. In this way it is intended to remove much of the on-going regulation that currently applies, especially to those who are ‘entitled’ residents.

Flexibility over a period of time could enable the criteria for persons to become ‘entitled’ and ‘licensed’ to be modified as the States may decide. This maintains the opportunity for the States to address some of the inequities of the existing systems and to effectively manage migration in future, depending on the changing social and economic pressures and demands on the Island’s resources.

Steps will also be taken to reduce the administrative burden on businesses by amalgamating into a single process the periodic reporting required on employment, i.e. the RUDL manpower returns and Social Security employer’s returns.

5.2 Have only three categories of registration –

- **those who are entitled, comprising persons who qualify as local (a)-(h) under the Housing (General Provisions) (Jersey) Regulations 1970, as amended;**
- **those who become licensed, either through gaining a licensed job, including persons who are currently described as (j) category, or (k) category under the 1970 Regulations; and**
- **those who are registered-only, equivalent to those who currently do not qualify under the 1970 Regulations;**

with aligned criteria for access to both employment and accommodation.

Instead of the existing 14 Housing categories, it is proposed that a person would be registered within one of only 3 categories: ‘entitled’, ‘licensed’ or ‘registered-only’.

The category will be determined by a person’s birth in Jersey or close family connection with the Island, and period of residence, employment status or other criteria (as explained below), which will then enable them to access certain accommodation and public sector services.

Those who are born in Jersey or have a close family connection with the Island, i.e. generally parents or children, would become entitled after 10 years’ residence (which need not be continuous). An entitled person would be eligible to take up any employment within the Island and would have access to all accommodation.

The most significant change considered, apart from the categories themselves, is the possibility of a person who is initially ‘registered-only’ to gain employment in the ‘licensed’ category on the basis of appropriate qualifications or experience. This would not depend on the person’s period of residence in Jersey (i.e. not as the current ‘5-year rule’ applies under RUDL).

The number of individuals who would immediately fall into each category can be estimated from the 2001 census data (see Appendix 4). However, the aim is that over a period of time, as circumstances permit, a number of people would in future move from the ‘registered-only’ category into the ‘licensed’ group.

The question of (k) category housing licences is the subject of a separate review. However, it is intended that these proposals for ‘licensed’ registration should include appropriate arrangements for wealthy immigrants in accordance with the existing States policy and economic objectives.

At present, a person may gain ‘residential qualification’ after 15 years’ continuous residence in the Island. It is hoped in future to gradually reduce this, over a period of years and subject to housing constraints, towards a policy that after 10 years’ continuous residence, whether as ‘registered-only’ or ‘licensed’, a person would be able to re-register as ‘entitled’ and may occupy, purchase or lease any accommodation and gain any employment. However, to maintain a balance between the demand for and supply of accommodation, it is clear that it will not be possible to achieve this change immediately.

In summary, the 3 categories could in future be defined as follows –

Registration category	Access to employment	Access to accommodation
Entitled	<p>Full access to any employment – posts allocated for ‘entitled’, ‘licensed’ or ‘registered’ persons. Entitled to establish an undertaking –</p> <ul style="list-style-type: none"> • <i>After 10 years’ residence</i> • <i>Spouse or partner living with an entitled person – entitled for employment purposes</i> • <i>Child of an entitled person – treated as entitled for employment purposes.</i> 	<p>Permitted to purchase or lease any property (except first-time buyer property restricted to eligible buyers)</p> <ul style="list-style-type: none"> • <i>After 10 years’ residence for all individuals</i> • <i>Spouse or partner of an entitled person – individually entitled for housing purposes after 10 years’ residence</i> • <i>Child of an entitled person – individually entitled for housing purposes after 10 years.</i>
Licensed	<p>Employment only in any licensed job (<i>although able to seek registered employment</i>)</p> <ul style="list-style-type: none"> • <i>No residence period requirement</i> • <i>Spouse or partner^[2] or child of a licensed person – treated as entitled for the purpose of employment only, during the period of licensed employment.</i> <p><i>Gradual reduction in residence requirement to become entitled from 15 years to 10 years*. Currently those continuously resident for the previous 5 years are able to establish an undertaking. This will be reviewed.</i></p>	<p>Eligible to lease any property for duration of employment only</p> <ul style="list-style-type: none"> • <i>No residence period requirement</i> • <i>Spouse or partner or child of a licensed person – treated as licensed for accommodation purposes whilst resident with the licensed person.</i> <p><i>Gradual reduction in residence requirement to become entitled from 15 years to 10 years*.</i></p> <p><i>Discretionary ‘hardship’ concession for loss of licensed employment – to allow time to seek a new licensed job or find alternative registered accommodation.</i></p>
Registered-only	<p>Employed in jobs allocated for ‘registered-only’ persons (<i>although able to apply for licensed jobs</i>)</p> <ul style="list-style-type: none"> • <i>Requirement to provide evidence of registration</i> • <i>No residence period</i> 	<p>Permitted access non-controlled accommodation only (lodging or staff accommodation)</p> <ul style="list-style-type: none"> • <i>Individuals with no local connection and not appointed to a ‘licensed’ post</i> • <i>Gradual reduction in</i>

	<i>requirement. Gradual reduction in residence requirement to become entitled from 15 years to 10 years*.</i>	<i>residence requirement to become entitled from 15 years to 10 years*.</i> <ul style="list-style-type: none"> • <i>Child of a registered-only person – becomes entitled for housing purposes after 10 years.</i>
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** It is emphasized that the proposal to move towards a 10-years' continuous residence requirement to become entitled, for all licensed and registered-only people, cannot be achieved immediately and, as circumstances permit, would need to be introduced gradually over a number of years. An indication of the numbers involved is provided in [Appendix 6](#).*

The above classification would help in moving towards a fairer and more effective system for monitoring and control of migration.

Children

It is considered equitable that a child, who is not Jersey-born, of a registered-only person should be treated (in the same way as a Jersey-born child) as registered-only for accommodation purposes, until they have completed a total of 10 years' continuous residence and then may become individually entitled.

Children of a licensed person would, while they remained living with their parent who is in licensed employment, be treated as licensed for accommodation purposes until they could become licensed through their own employment, or entitled in their own right after 10 years' continuous residence.

For employment purposes, providing they become resident before the age of 21 years, a child of any resident would be entitled to access any job (as soon as they are old enough to go into employment). This would avoid the situation, for example, where a child who comes to Jersey as a teenager with his/her parent(s) would be unable to take up all types or employment, unlike his/her peers.

Spouses and partners

A spouse or partner of an entitled or licensed person would be classified as entitled for employment purposes, for the duration of the marriage or relationship. However, the Committee would have discretion to consider granting continuation of that classification in cases of hardship arising, for example, through marriage breakdown.

It should be noted that, for the purpose of the migration policy, it is proposed that any established partner relationship would be treated as if it were a marriage relationship.

Loss of entitlement gained through residence period

At present, the housing qualifications of Jersey-born persons with 10 years' residence are retained for life; whilst housing qualifications gained by residence alone or through marriage may be lost after a period of absence of 5 years. If current policy continued, entitlement gained through a period of continuous residence (to be reduced from 15 years to 10 years over a period of time) would similarly be lost after a 5 year absence.

It is proposed that in future, residence entitlement gained by continuous residence might be lost after an absence equal to the total period of residence – i.e. a minimum absence of 10 years would be permitted but those who can demonstrate a longer period of residence, in total, would be permitted the longer period of absence before losing their residence entitlement.

5.3 Link access to accommodation to employment for those who are described as licensed and

registered-only

All residential properties listed on the existing Island-wide land and property index would be classified as one of only 2 main groups, either:

- ‘uncontrolled’ accommodation, i.e. accommodation that all residents may occupy (typically, lodging houses and staff accommodation);
- ‘controlled’ accommodation, i.e. all other accommodation, that only an entitled person may purchase in their own name; or a licensed person may lease or may occupy through company ownership.

There would be no distinction in future, for example, between (a)-(h) or (a)-(j) housing. However, a sub-category of controlled accommodation would remain applicable to first-time buyer properties.

Access to residential accommodation, and some public sector services, will be linked to an individual’s employment category. For example, a licensed person’s lease on a controlled property should ordinarily only be for the duration of the employment contract.

It would be an offence for a person to occupy controlled accommodation to which they were not eligible. However, as at present, discretion would exist in exceptional circumstances or hardship to grant an extension or period of grace to occupy such accommodation.

Entitled

The entitled category will encompass a wide range of persons currently given housing consent under the existing Housing Law and Regulations, i.e. (a)-(h) categories. Entitled persons will be able to purchase a property in their own name.

Licensed

The rights of licensed individuals to occupy controlled accommodation would depend on employment in a ‘licensed’ post.

A person will, only for the duration of their employment contract in a ‘licensed’ post, be able to rent accommodation that is not available to a registered-only person. Consideration will be given to the appropriate level of employment protection for ‘licensed’ employees, and the obligations of the employer regarding the employee’s accommodation if a contract was terminated prematurely.

Those who are licensed will be able to progress to purchase property in their own name after 10 years’ residence.

A licensed person should also be allowed to occupy and have a financial interest in a property owned by a company, either through their employer or direct beneficial ownership^[3], although their occupation should be restricted to the period of their employment and they would have no right to own the property directly until they are entitled, after 10 years. Direct beneficial ownership has previously been available for senior appointments within the public sector, and it is now proposed that, subject to further legal opinion, it would be equitable for this to be extended to the private sector.

Registered-only

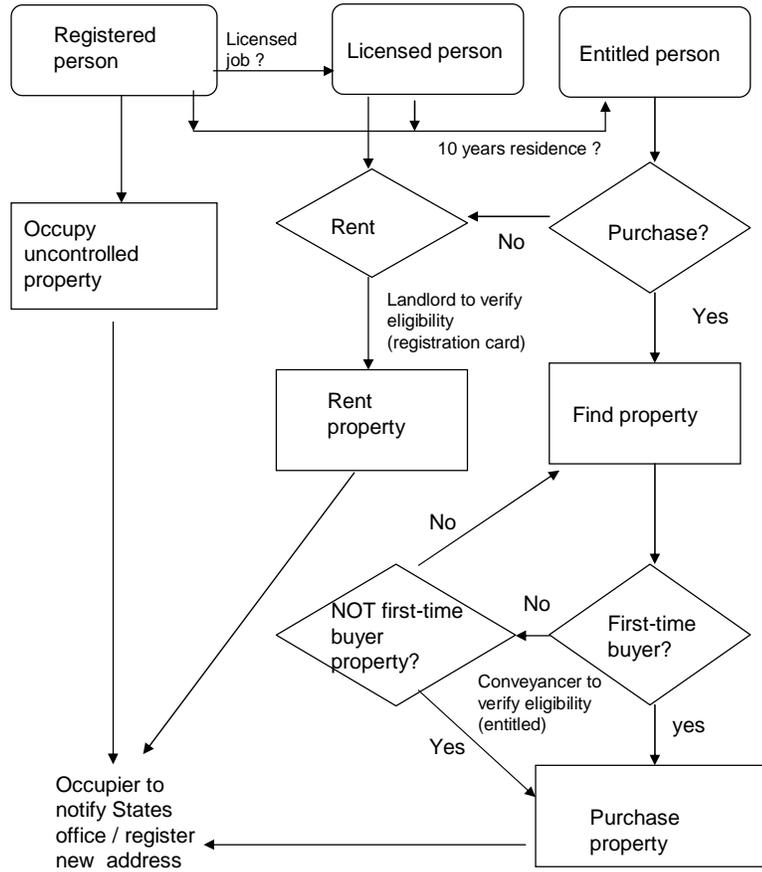
Those who have been registered for less than 10 years, and therefore not entitled, and those who are not employed in a ‘licensed’ post, could occupy uncontrolled accommodation, for example lodging houses.

After 10 years, a registered person will be able to progress to entitled status. This would make significant progress in increasing equity and alleviating social hardship for those who are seeking to become

established in Jersey. However, the changes would need to be phased in over a period of years to take into account the cost implications (for example, if some of the additional numbers who gained entitled status after 10 years would be eligible for rent subsidy).

The above criteria for access to accommodation linked to employment are illustrated on the next page.

Access to accommodation



Transitional arrangements

During the transitional period, people currently in the Housing Regulations (a)-(h) category would be registered as entitled, and existing Housing (j) category persons would be treated as licensed for the duration of their (j) category employment. However, it is envisaged that, as soon as possible, the Housing categories would be simplified to the new registration categories.

At present the ordinary residence requirement for housing ‘qualification’ is 15 years; it is suggested that *over a number of years* this could be gradually reduced to the same 10-year residence requirement for all. The effect of a reduction in the housing residence requirement on the potential demand for housing is illustrated in Appendix 6. However, not all those who would become eligible to purchase would do so, for personal financial reasons. Whilst this reduction could only be achieved over a time period, in the longer term it would ensure consistency with, for example, a current (j) category employee.

5.4 Create a register of the Island population in the 3 categories– entitled, licensed or registered-only

- Everybody (including dependants) who wishes to live or work in Jersey will become registered with the States.
- Registration will be much more than a mechanism to count the population – it will be the gateway into the labour market and the accommodation market in Jersey, giving the individual rights and access to certain public sector services in return for the responsibility of providing accurate information.
- Registration will be worthwhile and valuable to the individual and therefore proof of identity would be a necessary part of the registration process.
- The States will provide each individual with unique evidence of registration which will have to be presented when accessing public services, employment opportunities and accommodation.

Development of a register

Legislation would be necessary to define the circumstances and categories in which people should register, to set out evidence for registration and the information that might be contained on a register. The basic concept would be for a once-only registration process with individual information being amended as necessary (e.g. marriage, address change etc). The link between the individual, the information and any evidence of registration would be a unique number.

Using the unique number also allows for monitoring to take place through social security contribution returns, which have the only link between individuals and their employers through this unique number. There is no other system that links employers to employees, and vice versa.

The unique registration number would also provide a link between the population register and other, confidential, departmental databases to enable more streamlined and effective administration of information throughout the public sector whilst protecting the privacy of individuals.

To maintain an accurate register, it would be necessary to provide a facility to individuals, except those who are classified as entitled, to notify the States whenever they changed jobs or residential accommodation, incorporate information derived from births, marriage and deaths registration and to update the register periodically by removing non-active records, i.e. those who had left the Island.

It is likely that registration could provide wider benefits for residents, beyond the original purpose of monitoring migration, including providing evidence of identity and streamlining the process for members of the public giving basic name and address information. For those who wish to, this could be helpful in interaction with States departments – for example, receiving health care, education or social security benefits, voting or paying income tax.

However, it will be necessary to remove an individual's registration when there is good reason to believe they are no longer resident in Jersey. Experience elsewhere indicates that systems are able to ensure the register could be maintained with a reasonably high level of accuracy.

Monitoring employment

In simple terms, the registration system is reliant on employers being authorised through the Regulation of Undertakings legislation and their manpower quota being defined both totally and into different employee/resident categories. Self-employed people would be similarly authorised.

Individuals, both employed and non-employed, would need to register when they arrived in Jersey in order to get a job or accommodation, but their employee categorisation would be determined by their employer, who would be required to inform the States. For example:

- an individual would first register before finding a job and have a unique number allocated prior to taking up employment. They could then remain registered-only or, if they were successful in gaining a licensed position, might become licensed through their employment and the employer would notify the States to amend their registration categorisation accordingly;
- or the employee categorisation would be determined by the employer before the individual comes to Jersey, prior to the start of any contract of employment. The employer would then need to notify the States to have the employee registered in the appropriate category.

Obviously, those people who are Jersey-born, have a close family connection or can demonstrate 10 years' continuous residence would be categorised as entitled.

Monitoring accommodation

The registration system would also use a classification of addresses to monitor occupation of property, for example based on the existing Island-wide land and property database.

A complete list of all addresses in Jersey is already available. Every address would need to be classified (e.g. controlled, first-time buyer) and so allow registration information about categories of employee/resident and accommodation to be collated against declared addresses.

All changes of accommodation would be notified to the States, and the property classification would then be checked against registered status – i.e. registered-only, licensed or entitled – to verify eligibility to occupy the property. A lodger in a private home, however, would be eligible to stay at the property by evidence of an entitled or licensed person also in occupation at the same address.

Setting up the register

Recognising the importance of the interaction between employer, employee and the States which is uniquely captured in the Social Security contribution system, there is a potential to use existing systems in accordance with strict data protection requirements, suitably amended to monitor the labour market and therefore, in some part, population. A new social security system will be implemented in January 2005 which builds on the existing databases that hold employer and individual information separately but linked through a unique number.

Preliminary investigations have shown that the requirements of the Regulation of Undertakings and Developments Law are almost completely met by the information on Social Security employers. A few additional pieces of information added to the employer record and the individual record would allow employee categorisation to be monitored through contribution returns. A review of the process of registration for both employers and individuals would be a worthwhile exercise to see if an existing system can be adapted to fit to the satisfaction of all parties, including Data Protection. A schematic of a potential registration and monitoring system is contained in [Appendix 1](#).

More efficient government

It is also envisaged that the register should be the single population index, with a facility for each individual to notify the States when the details change – for example, so that relevant States departments will be aware when a person changes address. Address details would also link with the existing database of property (i.e. classified as 'controlled' property, or 'uncontrolled' registered lodging houses and staff accommodation) to ensure that a person is occupying accommodation that they are permitted to.

It is evident that there are significant data protection issues arising. The kind of contact information to be held would be: name, address, date and place of birth, gender, residence status and a unique reference number. Importantly, the register would only provide a core set of information, and it would not be possible for one States department to access the records held by another department unless this was

specifically authorised, or otherwise in accordance with Data Protection legislation.

It is considered, however, that this proposal will have enormous potential as a basis for sharing basic, non-sensitive information, streamlining the administration of public services in Jersey and generating significant benefits and convenience for all the residents of the Island.

The Data Protection implications of these proposals require further detailed consideration, involving the advice of the Jersey Data Protection Registrar. However, it has been agreed that the arrangements will be reviewed in collaboration with the Registrar to ensure they are fully compliant with the existing Data Protection principles and legislation, including relevant safeguards to prevent the misuse of information.

These population registration arrangements are similar to those being proposed in a number of other jurisdictions, for example –

- the United Kingdom as part of the Citizen Information Project^[4] led by the Office for National Statistics;
- the Government of Ireland in the ‘Reach’ project^[5] to develop a strategy for the integration of public services and e-government;
- Guernsey, who have a working group looking at the possibility of a Central Citizen Database (CCDOG).

All these projects are dealing with similar issues relating to data protection and citizens’ rights, whilst promoting improved information about the overall population and better access to public services.

5.5 Monitor migration and regulate the factors that govern migration through a system of job licensing for employers and overall control of employment

The proposed system of job licensing is derived from the existing RUDL and Housing Law, but these disconnected arrangements will be superseded by a more integrated approach, using the same criteria for both housing and employment purposes and administered by a single office.

A policy should be agreed on the allocation of licences that is consistent with the States strategic plan, the economic growth strategy and the available residential accommodation. It is proposed that licences should normally only be allocated to employers who make a significant contribution to the Island, either socially or economically, and when there are insufficient entitled residents who are suitably qualified, experienced or skilled to fill the posts.

Under the existing RUDL^[6], overall employment within the Island will be controlled and, in agreement with individual employers through 3-year business plans, an approved number of licences, registered-only and entitled employees will be allocated to each business. This involves considering individual undertakings’ business objectives and reaching agreement on staffing establishments for a future period (generally 3 years) in accordance with States objectives.

The licence allocations and number of non-licensed employees would be adjusted by negotiation depending on, for example, business development opportunities, the economy or housing supply.

An agreed number of licences would be allocated to specific businesses (not individuals or specific jobs), and must only be used by that business; they cannot be retained by an individual when that person leaves the job, and they cannot be traded between businesses. Any unused licences could be re-deployed by the business to another employee, or would be withdrawn and may be re-allocated to another business.

Businesses would have the freedom to make appropriate employment decisions about individuals within States policy and subject to appropriate employment protection for existing employees. It will be important that new employment protection legislation is in force, for example to ensure that employment

of an existing 'licensed' person could not be terminated unfairly prior to completion of the employment contract ^[7]. An employee who has been employed in a job that has been allocated a licence would have a right to remain registered as 'licensed' for the duration of the contract.

It is believed these proposals will provide additional flexibility to operate without excessive government interference, in an environment that is more attractive to businesses and fairer to employees, yet within strictly managed overall States manpower controls and population policies.

Statistics gathered on the employment market will also assist by providing information on how many posts are vacant, any particular skills needed in the short to medium term, and by using such information to shape future local training programmes and migration policy.

It is recognised that it is the employment market which has the greatest direct effect on inward (and outward) migration and must remain at the forefront of the Island's attempts to monitor and, as necessary control, population.

The mechanisms for the Regulation of Undertakings and Development (Jersey) Law should cover all businesses within the Island. Self-employed individuals would, as at present, seek consent to establish a new undertaking, and all new businesses will need to apply for a permit to commence trading.

It is proposed, in effect, to harmonise the Housing Regulations and the RUDL '5-year rule' which currently allows all those who have been resident for over 5 years to take up any employment. In future only those who are entitled, after 10 years' residence, will be allowed to take up all types of employment. Those who had been resident for less than 10 years will be permitted to take up a job available to those who are registered-only or seek a job that has been allocated a licence.

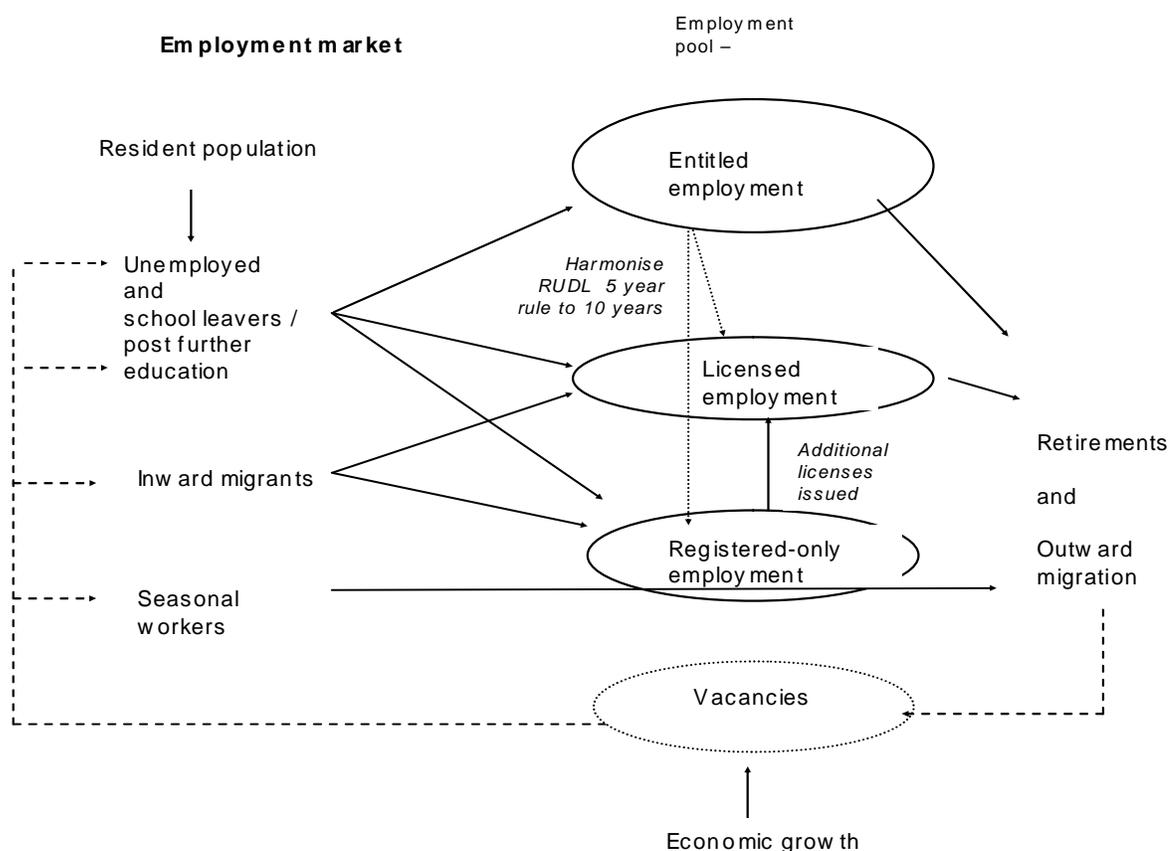
The transitional arrangements described below ensure that nobody who is currently employed would be disadvantaged by this change.

Monitoring

Monitoring compliance will be achieved by quarterly employers' returns to the States, comprising an amalgamation of the existing Social Security and RUDL returns. The regulatory impact of the reporting requirements is likely to be less than the existing returns, and by amalgamating the reporting and enabling electronic submissions, it is proposed to reduce the burden on businesses.

Impact on employment

The overall effects of the proposals on the employment market are illustrated below.



The diagram represents the dynamic effects of the migration proposals on overall employment within Jersey. Recruitment of school leavers inputs into any of the 3 categories of employees within the employment pools – entitled employees, licensed employment and registered-only employment; inward migrants input into licensed employment or registered-only employment; whilst seasonal workers pass through the registered-only pool.

Workers leave all 3 employment pools by retirement or outward migration which, together with economic growth, will create vacancies to provide employment opportunities for existing residents. Where permitted under the business planning process, additional registered-only and licensed employment may be allocated where there is no existing local recruitment opportunity.

The proposal to reduce the residence requirement to become entitled, from 15 years to 10 years, will not increase the number of people eligible to take up any employment as these people could already be engaged under the current RUDL ‘5-year rule’.

The allocation of additional licenses to businesses, in line with the Island’s economic needs, will move a number of individuals from registered-only employment into licensed employment, and so increase the number of employees in the licensed pool.

However the effect of progressively harmonising the RUDL ‘5-year rule’ with the 10-year entitlement requirement (as discussed below) has an opposite effect. Over a period of years, the residence requirement for entitled employment would increase from 5 years to 10 years, which will reduce the number of employees eligible to take up any job.

This reduction in the entitled employment pool will not affect eligibility for entitled accommodation

which will become harmonised at 10 years.

Transitional arrangements

Harmonising the criteria for employment with those for accommodation, a person who is currently permitted under the RUDL '5-year rule' to take up any employment after 5 years' residence, would in future be restricted to licensed or registered-only employment until they become entitled after 10 years.

However, this change would be balanced by the greater flexibility available for any person, regardless of their period of residence, to apply for a job that has been allocated a license.

In order to ensure nobody would be disadvantaged by this change, it would be necessary to freeze the '5-year rule' so that a set date (5 years previous) would determine those who were entitled to access any employment. Thus, the residence period to access any employment would be increased over a period of 5 years, until this reached 10 years (the same as the entitled housing criterion). Thereafter, access to an employment would remain harmonised with the entitled housing category.

So, for example, an existing resident person who has already been in Jersey for 5 years and has employment in accordance with the RUDL '5-year rule' could remain eligible for any such employment, and could then become fully entitled after 10 years' residence. However, from a certain date, a person who had not been resident for 5 years would remain eligible only to seek licensed or registered-only employment, even when they subsequently gain 5-9 years' residence, until they become entitled after 10 years' residence.

5.6 Designate a single office by July 2005, working with the Housing, Economic Development, Employment and Social Security and Environment and Public Services Committees, to amalgamate the functions of housing consent, Regulation of Undertakings and Development and Social Security registration

A single office would be set up, by July 2005, amalgamating the relevant functions of Housing, Regulation of Undertakings and Development and Social Security registration. The office should then become the one corporate point of contact for all population registration information.

The office would have lead responsibility for monitoring migration through the population register, and for implementing migration and population policies approved by the States. The intention is to achieve far greater policy co-ordination and more efficient implementation than is presently possible with the involvement of separate Departments.

The single office would enable the employment and accommodation management systems to be brought together and to design the integrated resident registration system. In addition, it would be necessary to maintain existing statistical information gathered, for example, for the Statistics Unit for the purpose of manpower reporting and monitoring the economy. In doing this, full regard will have to be given to data protection rules, in consultation with the Data Protection Registrar, to ensure that all of the systems can share information sufficiently to meet the needs of the States whilst appropriately protecting individual privacy.

Transitional arrangements

A relatively simple way forward would be to physically locate the existing staff in one office. The arrangement would lead to greater administrative efficiency, improved information flow and, from the public's perspective, simplify the existing complex arrangements.

There would be close working between officers of the Housing Department and Economic Development department to deliver the new migration mechanisms. This will enable existing policies for the granting of housing consent to be closely aligned with the new licence arrangements.

The functions of the Economic Development Committee under the RUDL, and the housing consent functions of the Housing Committee under existing Housing Law, would initially provide the legal framework, administered through a single office, to implement the proposals to regulate employment and allow access to controlled accommodation for those in licensed employment.

During this transitional period, existing policies of the Housing and Economic Development Committees will be reviewed and procedures and legislation amended to achieve the new objectives as soon as possible, through close collaboration between the relevant departments.

Meeting social policy objectives

There was a view that the proposals were focused on economic issues, rather than social policy objectives, and that there was insufficient attention to social housing needs.

However, the migration proposals, together with the economic strategy, will address the social policy issues regarding migration in relation to economic development, employment and training opportunities, and the availability of accommodation for the existing residents and migrant population.

The single office would retain close partnerships with other departments, for example the Employment and Social Security Department, in relation to ensuring maximum employment opportunities for the existing resident population and promoting training by employers for local school-leavers; with the Housing Department regarding provision of category (a) housing or firsttime-buyer homes; and with the Planning Department regarding residential development within the Island.

The aim of the Departments, working together, will be to ensure that these social policy objectives are effectively balanced against the goals of economic growth, environmental sustainability and population size.

In summary, the roles of the single office would be as follows –

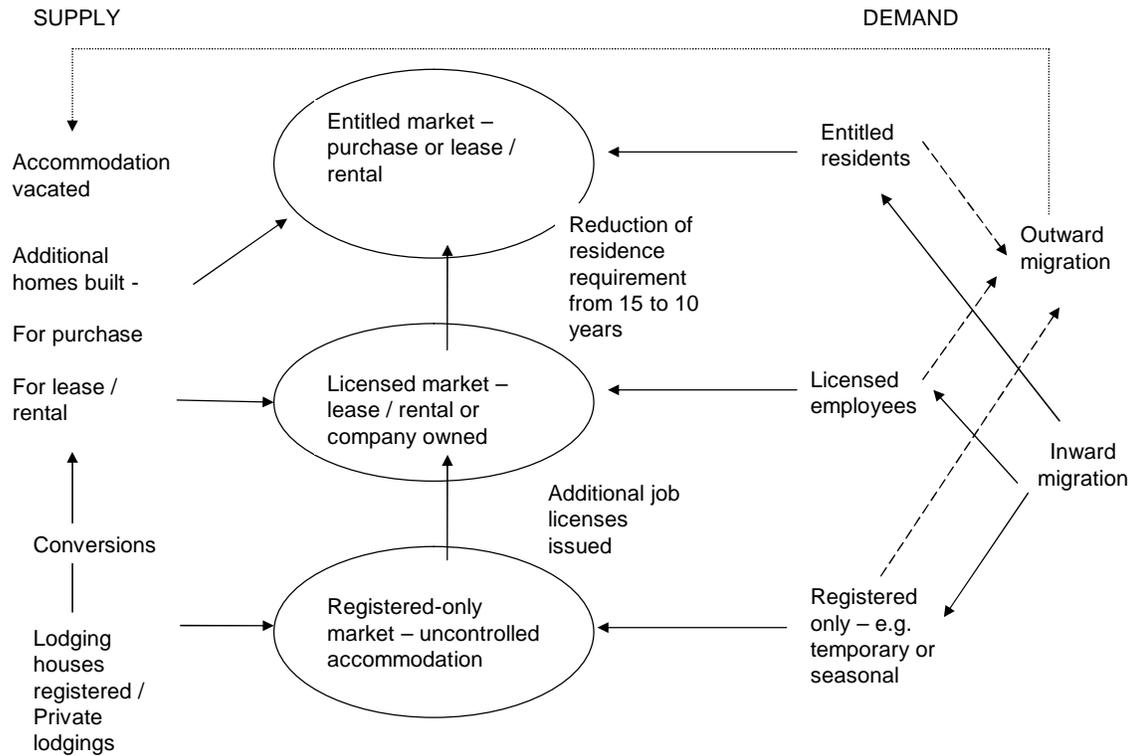
- implementing and monitoring population registration;
- monitoring migration and population trends;
- monitoring the current availability and future supply of residential accommodation;
- allocation of licences to employers, whilst endeavouring to ensure the consequent requirement for accommodation does not exceed the overall availability;
- authorising the establishment of new businesses, where appropriate;
- working with other departments to balance economic and social policy objectives including employment opportunities, training, and access to accommodation for existing residents.

Balancing the demand for and supply of accommodation

It is proposed that by control of employment licences and reduction of the residence requirement for entitlement, over time, from 15 years to 10 years, a greater proportion of residents will in due course be able to gain licensed and entitled status. Whilst some people will continue to occupy uncontrolled accommodation, more will gain access to controlled rental accommodation.

This will require carefully planned development and management of accommodation supply, taking into account the Island's social and economic needs, migration trends and the effects on the accommodation market.

The effects of the proposals on the overall housing supply and demand are illustrated below.



The above diagram illustrates the dynamic effects of the migration proposals on the supply of and demand for residential accommodation in Jersey.

The supply of additional controlled residential accommodation becoming available can be managed through the planning process, within the strategic policies of the States^[8]. The construction of new homes will increase the supply, either for purchase by those in the entitled category or for lease by entitled residents and licensed employees. Some property will be restricted to entitled first-time buyers.

In addition, new lodging houses and lodgers in private homes (up to 5 per unit at present) add to the uncontrolled accommodation market, mostly for registered-only residents (although licensed and entitled residents will be eligible to occupy this accommodation too).

The demand for purchase and lease of accommodation will be increased, over a period of time, by reduction in the residence requirement to 10 years. The demand for leased accommodation may be managed through controlling the allocation of additional licences to businesses, in proportion with the accommodation supply and in conjunction with the States strategy for economic growth. Licence allocations, together with the natural increase in the indigenous population, will also influence the net inward or outward migration.

Effects of migration on the demand for accommodation

It is estimated^[9] that 77% of the adult population (some 55,000 individuals, or about 31,000 households ^[10]) are presently 'residentially qualified' under the existing Regulations (a)-(h). Approximately

800 households are (j) category qualified, and approximately 140 (k) category consents have been granted together making up about 2% of all households. Of the (a)-(k) population, approximately 1,700 individuals (living in around 1,000 households) arrived in the Island within the previous 5 years.

The remaining 21% of the adult population, or about 15,000 individuals, are presently 'non-qualified'. Whilst nearly 4,000 of these may occupy accommodation as the partner of a qualified person, the remaining 11,000 generally live in around 4,500 households – as lodgers in registered lodging houses or private dwellings, staff accommodation, etc. Of the latter, approximately 5,000 individuals (some 2,000 households) arrived in the previous 5 years.

The effects of the proposals on the housing market therefore need to be carefully monitored and managed in the context of the overall projected availability of housing over the next few years^[11] (see [Appendix 5](#)). A further housing needs survey will be carried out at the end of 2004. However, in the present environment it is considered that any changes would be manageable and could be effectively controlled through the mechanisms proposed.

Effect of entitled status

The existing 31,000 households that have 'residentially qualified' heads would be classified as entitled. It is anticipated that a reduction in the period required to achieve entitled status from 15 to 10 years could over a period of several years, result in a further 1,800 householders^[12] (See [Appendix 6](#)) becoming entitled to purchase property if they wished to do so. However, there is evidence from previous reductions in the period for 'housing qualifications' from 20 years to 15 years that the demand for property would be considerably less than this, as many might continue living in uncontrolled or staff accommodation for economic reasons.

Effect of licence allocations

Initially, it is envisaged that employers with the existing (j) category consents would be allocated licences for those employees. However, it is likely that over a period of several years a further number of licences will be issued to businesses, according to their business needs and the States economic objectives.

It should be noted that these additional licences would be allocated to businesses only in accordance with the States strategic plan, and ordinarily only if there was evidence of a particular skills requirement and that there was no opportunity to fill a vacancy from within the entitled employment market.

The potential of the proposals to increase the number of people in rental accommodation and the costs of rent rebate subsidy has also been considered by the Housing Committee. It is suggested that, in conjunction with the introduction of the new income support system proposed by the Employment and Social Security Committee, there will be *no eligibility for rent subsidy for licensed people*. There are strong arguments that such a subsidy is not an efficient means of managing the cost of rental accommodation and leads to increased costs, and should be replaced by alternative benefits targeted to those in need.

5.7 Charge the Policy and Resources Committee, in consultation with the Economic Development, Housing, Home Affairs and Employment and Social Security Committees, to bring forward the necessary legal and other measures to give effect to the above for consideration by the States

As indicated previously, the introduction of a new and comprehensive migration policy involves 3 parts –

- (i) approval of an overall population policy, as proposed in the Policy and Resources Committee's strategic plan for 2005 to 2010, and adopted by the States on 29th June 2004;
- (ii) proposals for a mechanism to monitor and regulate inward migration, as described in this report; and

- (iii) a further framework to determine the policy criteria for regulating migration which will be brought forward once the economic development policy has been agreed.

Some of the requirements to introduce the current proposals will include the development of new procedures, based on business process re-engineering of the systems presently operating separately in the Housing, RUDL and Employment and Social Security Departments. Many of these would be uncontentious and administrative in nature; however any significant policy issues or matters with resource implications would need to be referred to the States.

Legislative measures will also be needed, including:

- a registration law to introduce a register of the whole population. This will be an extensive piece of legislation, which would probably not be completed before the end of 2005;
- legal provisions to ensure population registration is fully compliant with data protection legislation, to enable more effective use to be made of identifying information across all States Departments, without compromising the privacy of sensitive or personal information that is held within any particular Department. Further discussion is required on the data protection principles involved and the legal requirements;
- amendments to the existing Housing Regulations and RUDL, in due course, to streamline and simplify the existing arrangements.

An outline implementation plan, with an indication of timescales and resources, is included in section 7 below.

[1] *It is emphasized that wherever a reference is made to a 'licensed post' this simply means one of a fixed quota of jobs allocated to an employer, which is open to any applicant. It does not relate to any particular position, as this will be decided by the employer – normally for a specialised or skilled role. However, once an appointment has been made, that employee will be designated only for the duration of the appointment as 'licensed' for the purpose of manpower monitoring reports and for accommodation purposes.*

[2] *It is proposed that, for the purposes of the migration policy, any established partner relationship other than a spouse should be treated as if they were a spouse. This represents a change in the existing policy for RUDL purposes.*

[3] *The concept of company-owned property has been accepted as a mechanism whereby a person may acquire security of tenure and a financial interest in the investment value of a property, as a beneficial owner of the company, but without outright property ownership which might impart a legal right of occupancy irrespective of residence/employment status.*

[4] See www.statistics.gov.uk/cip/default.asp

[5] See <http://www.reach.ie/>

[6] *The Regulation of Undertakings and Development (Jersey) Law 1973, as amended, will continue to operate in the short term as the principal legal framework for implementing the policy, although it is envisaged the Law may be replaced later if experience of the new arrangements indicates this is necessary.*

[7] *A new Employment (Jersey) Law 2003 was approved by the States in July 2003, and is yet to be brought into force.*

[8] *For example, 'Planning for Homes 2004' R.C.36/2004.*

[9] *2001 census data – Statistics Unit (see Appendix 4).*

[10] *Excludes those living in communal establishments.*

[11] *Planning for Homes 2004, R.C.36/2004.*

[12] *This figure is estimated from 2001 census data.*