

# STATES OF JERSEY



## DRAFT CONTROL OF HOUSING AND WORK (JERSEY) LAW 201-

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Lodged au Greffe on 15th March 2011  
by the Chief Minister

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STATES GREFFE





Jersey

## **DRAFT CONTROL OF HOUSING AND WORK (JERSEY) LAW 201-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Chief Minister has made the following statement –

In the view of the Chief Minister the provisions of the Draft Control of Housing and Work (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Senator T.A. Le Sueur**

## REPORT

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## A. Background

The Island has long recognised the need to manage immigration and protect local resources, first through the Housing (Jersey) Law 1949 (“the Housing Law”), and then through the Regulation of Undertakings and Development (Jersey) Law 1973 (“the RUD Law”). These old Laws need to be updated and made more effective.

In 2005, P.25/2005: Migration: Monitoring and Regulation, which put forward a number of proposals with a view to revising the current controls, was adopted by the States. Following extensive consultation, this Control of Housing and Work (Jersey) Law 201- (“the Law”) is proposed.

The Law will replace the current Housing Law, the RUD Law, and also the Hawkers and Non-Resident Traders (Jersey) Law 1965. The Chief Minister (“the Minister”) will be responsible for the Law, with the support of an Advisory Group of relevant Ministers. The Law will be administered by the Population Office in close partnership with the Social Security Department.

The primary aims of the Law are to preserve and maximise the benefits of Jersey's resources, to manage population density and to control work and housing, for the benefit of those with strong connections with Jersey, and generally, in the best interests of the community. It follows that the ability of a migrant to work and obtain housing is managed by this Law.

Prior to drafting the Law, a two-phase consultation process took place. The first Consultation Paper put forward proposals to establish a Names and Address Register of all Jersey residents and to introduce a Registration Card (“the Part One paper”: R.110/2007). The second Consultation Paper set out proposals to replace the existing Housing and RUD Laws (“the Part Two paper”: R.66/2009). Detailed Findings Reports were issued, which demonstrated overall support for the proposals. (Appendix 1 highlights changes arising since the consultation, including those incorporated as a result of respondents’ views.)

However, contradictory objectives remain between the need to manage immigration more firmly, the protection of local housing and jobs, support for employers, and better housing rights for migrants. The challenge is to balance these objectives, and this Law gives the States and their appointed Minister the controls to do this.

Should this Law be approved by the States, it is intended that the Law will be implemented one year later, following development of the supporting systems.

In addition, the Draft Register of Names and Addresses (Jersey) Law 201- (“the Names and Addresses Law”) has been lodged [P.38/2011]. The Names and Addresses Law requires the Minister to establish a Names and Address Register. It is due to be debated by the States following the debate on the Draft Control of Housing and Work Law. The Names and Addresses Law will enable the basic name and address information collected under the Control of Housing and Work Law to be shared in controlled circumstances between public authorities for statutory purposes.

## B. Context

Jersey, as all Islands and all countries, must balance the benefits of immigration with the burden it places on local resources. **It must do this fairly, robustly** and in a manner which is **cost-effective for all**, to achieve population and related objectives set by the States.

By way of comparison, Jersey, Guernsey and the Isle of Man have experienced similar levels of population growth in recent times (17% – 22% over the last 30 years; and 4% – 6% over the last 10 years) despite having very different rules around access to work and housing.

- These new controls do not require the issue of individual work permits to each migrant for each job. This would be more costly and bureaucratic, and make very little difference to immigration, as illustrated above. Instead, this Law will improve the policing of the quotas that are granted to employers to employ migrant workers, whilst also enabling individual licences to be issued and conditions applied if needed. The new controls will also be more efficient.
- These new controls continue to restrict a migrant's ability to occupy and own housing, as it is believed that people with local connections should have preference when it comes to housing. The Law will, however, make the existing rules fairer, for example, by giving security of tenure to all tenants. Moreover, this is a framework able to extend housing rights, for example, the qualification period could be reduced further by the States.
- These new controls introduce a Population Register and Registration card – to improve services, statistics, and compliance. In particular, it is felt important that each individual prove their residential status, using a simple Registration Card, when accessing work or purchasing and leasing housing, so that their entitlement is clear without additional checks having to be made. It is also important to maintain information about the size and composition of the population, including the migrant population, to support easier service provision and policy formulation.

As to the legal context, British and European Union nationals have the right of abode in Jersey, and therefore, Jersey cannot apply border controls over such nationals. Instead, controls over access to housing and work can be proportionately used.

### **C. Financial and manpower implications**

This Law simplifies the controls applied by the Housing and RUD Laws and thereby reduces the administrative costs of managing access to work and housing, although some additional costs will arise from maintaining a Population Register. The overall net effect of this is a projected saving of £33,000, which will mean that the projected gross annual cost of administering these controls is £781,000.

This projected cost compares well with Guernsey (£832,000, 2009) and the Isle of Man (£292,000, 2008, but without any controls over housing<sup>1</sup>) when these jurisdictions have workforces that are 20% – 40% smaller than Jersey's, and when they do not operate a Population Register as Jersey will.

A capital investment of £565,000<sup>2</sup> is also required, mainly for the new systems, which could have an expected life of 8 – 10 years. (The existing systems of the Population Office are already over 12 years old, and in need of replacement, irrespective of

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<sup>1</sup> The administration of the RUD Law presently costs £337,000 (2011, budget) (with the remaining £440,000 of Population Office costs relating to the administration of the Housing Law).

<sup>2</sup> The proposed system costs are presently under review, with an expectation that costs can be reduced, but at time of lodging, the £565,000 quoted above, which is based on a detailed business case, is the most appropriate budget allocation.

whether this Law is approved). These capital costs are already provided for in the Information Services budget.

A process of public engagement will also take place on fees, including outline proposals to achieve full cost recovery for the administration of the Law. In doing this, the aim will be to introduce fees which are modest and fair, and which do not harm entrepreneurial activity or economic diversity.

### **European Convention on Human Rights**

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 14th March 2011 the Chief Minister made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Chief Minister the provisions of the Draft Control of Housing and Work (Jersey) Law 201- are compatible with the Convention Rights.

### **D. Executive Summary**

#### **Parts 2 and 3: Residential and Employment Status and Registration for Newcomers (Articles 2 – 8)**

- Four categories of residential status will be created: Entitled; Licensed; Entitled for Work and Registered. These categories are similar to those which exist now, but with better rights around obtaining and retaining residential status for those who are not Jersey-born. In addition, the Minister must present guidance on how temporary absence is dealt with, for example, secondments, periods in the forces.
- Persons purchasing or leasing residential property, or starting work, and newcomers who have been resident for more than 3 months, will need an appropriate and valid registration card.
- Registration cards will record the holder's name and social security number, issue date, if needed an expiry date, and residential status. It is intended that these cards be combined with the existing Social Security card.

#### **Main Benefits:**

- Residential Status clearly dealt with under a single Law, with a requirement to produce guidance on temporary absence.
- 15 categories of housing qualification will be replaced by 6 new categories of being Entitled.
- Registration cards will enhance compliance, in particular when accessing work, and will mean that employers do not have the burden of confirming their new employees' residential status.
- Greatly improved statistical information on the demographics of the Island's population.
- Reliance on the card will mean that landlords and purchasers of property do not need to seek consent before a transaction.

**Part 4: Information to the Minister** (Articles 9 – 10)

- Individuals who reside at an address for 3 months or more will be required to inform the Minister of that address, and those in control of the property (e.g. an owner; a managing agent) will be jointly responsible.
- Anyone leaving the Island must also make notification, and policies and procedures will be introduced to support compliance.
- Power to obtain name and address information from other Departments.

**Main Benefits:**

- A Population Register will enhance the ability to enforce housing conditions and support statistics.

**Part 5: Housing Categories and Occupation of Housing** (Article 11 – 17)

- All new residential units and all existing units currently controlled by the Housing Law will become Qualified, available to be leased or owned, and occupied, by any Entitled or Licensed person.
- All existing unqualified units, such as lodging houses, will be classified as “Registered.”

**Main Benefits:**

- The current a-h, a-j and Regulation 1 housing categories will be replaced with a single, simpler Qualified category. All other property will be Registered.
- The new public register will increase transparency and certainty over property categorizations and conditions.

**Part 6: Land Transactions** (Articles 18 – 21)

- Any person wishing to enter into a purchase, transfer or lease of land will need an appropriate and valid registration card.
- Only those individuals with Entitled or Licensed status will be able to purchase property, but Licensed persons must vacate and sell their property if no longer employed in a Licensed role.
- All companies will need consent to purchase land.

**Main Benefits:**

- Registered persons will be able to lease Registered property and enjoy tenancy rights over their homes as Entitled persons.
- Commercial leases will be exempt reducing bureaucracy.
- Licensed employees will be able to buy a property in their own name, rather than having to purchase through their own company, without any lessening of the controls.
- Clearer objectives around when company ownership will be allowed, for example, to promote local ownership and the supply of property.

**Part 7: Controls on Working** (Articles 22 – 39)

- An “undertaking” is defined as any trade, business or work done for members of the public, subject to specified exceptions, and includes hawkers and non-resident traders.
- Every undertaking must have an appropriate licence and every person who wishes to start new work will need to have a registration card accurately recording their residential and employment status.
- When granting a licence the Minister will consider various criteria in the interests of Jersey.
- Conditions will be imposed specifying the maximum number (which may be nil) of Licensed and Registered persons who can work for an undertaking.
- If Licensed employees are permitted to work for an undertaking, a description of work that can be done by such persons must be specified.
- Updated powers to vary or revoke a business licence, or to cease activity, and new enforcement powers, are introduced.
- A public register of all licensed undertakings will be maintained.

**Main Benefits:**

- No application will be needed to engage Entitled people.
- Exemptions from the licensing requirements (through Orders) will enable bureaucracy to be reduced and will provide clarity.
- More streamlined rules around changes in beneficial ownership permissions.
- Business will incur less administration when recruiting Licensed employees.
- A register of undertakings will be open to public inspection, enhancing transparency and compliance.
- When deciding to grant a licence, wider criteria can be considered, including the environment, the economy, the public interest, and the policies of the States.
- Significant improvements in the ability to identify and address non-compliance are introduced.
- Fees may be levied, for example, on non resident contractors, various types of non resident traders, and for Licensed employees.
- The Law dealing with Hawkers and Non-Resident Traders can be repealed.

## **E. Detailed analysis**

The Explanatory Note to the Law explains the effect of the Articles. This section seeks to explain the policy rationales behind the Law.

### **Short title:**

This Law has in the past been referred to as the Migration Law. This has been changed to the “Control of Housing and Work (Jersey) Law 201-” to better reflect its aims and provisions.

### **Purpose Clause:**

This clause provides a means of making clear the rationale behind the Law and shows that the legislature has seen fit to endorse the Law’s provisions as proportionate in achieving their purpose. This is particularly important where a Law is forceful in its provisions, for example, this Law restricts where people can work and live.

The stated purpose is that “Jersey wishes to preserve and maximise the benefits of its resources”. In other words, recognition is given to the need to manage the Island’s natural and human resources to the best ends of Islanders, whether this be economic growth, the preservation of the environment, or most likely, a combination of both. In doing this, the purpose clause recognises the need to control the overall population of Jersey and the availability of work and housing for those with strong connections with Jersey, and to act in the best interests of the community.

When applying the Law, the Minister will look to achieve the relevant approved objectives of the States Assembly, in particular, the Strategic Plan, and any individual policies around population, the environment, the economy, and housing.

## **Part 2: Residential and Employment Status**

### **Article 2 – Residential and Employment Status**

The Law introduces 4 categories of residential status that can be awarded to individuals. In 2005, the original proposals had been to set a 10 year qualifying period for entitlement for both work and housing. In the Part Two paper<sup>3</sup>, the Migration Advisory Group explained that a number of difficulties would arise if this approach were adopted, around loss of rights for existing residents and complexity, and they proposed to retain the 5 year qualification period for being Entitled for Work. This proposal was strongly supported in consultation and necessitated the creation of a fourth category “Entitled for Work,” which will be a continuation of the current “5 year rule” under the RUD Law.

As now, a person will become “Entitled for Work” after 5 years’ continuous ordinary residence in Jersey; and “Entitled” after 10 years’ continuous ordinary residence.

This will mean that such an individual can take up any employment or start their own business without restriction after 5 years, and then later purchase or lease and occupy any property after 10 years. Until such time, residents will remain limited in terms of the work and housing they can access.

Other means of acquiring Entitled status and so gaining immediate access to qualified housing will continue in a similar way as now, for example, due to hardship, essential “Licensed” employment, or by paying an agreed minimum amount of tax. These

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<sup>3</sup> p.12, Part Two paper

provisions exist because in some cases the compelling benefit to the community may lie in permitting immediate access to housing, for example, to attract nurses and teachers, or high net worth individuals paying large sums of tax, or new entrepreneurs who diversify the economy and increase local employment, or indeed, appreciating some particular hardship that a person has encountered. These are difficult matters to decide upon and the Minister must be fair to other migrants waiting for housing rights and those already with housing rights, and make decisions with the utmost reasonableness and care.

In addition, non-Jersey born persons will have some enhanced abilities to retain their Entitlement under the Regulation:

- Those who complete a long period of continuous residence, proposed to be 20 years, will be granted permanent Entitled status.
- An Entitled person may be out of the Island for 5 aggregated years (as compared to one *single* period out of the Island of *no more than* 5 years under the Housing Law).

These periods have changed from the 25 years and 10 years respectively proposed in the Part Two paper<sup>4</sup>, because they are felt to provide a better balance between rewarding long-term residence, while not giving too great an ability for persons with shorter residence to return after long periods out of the Island.

- It follows that any person who is capable of losing their residential status may need their residential status updated before they purchase or lease property or start new work.
- Conversely, anyone who is not changing job or transacting in property will not need to do anything under the Law.

The way this system will be managed is that the duration of a person's registration card will reflect the permanence of their residential status. When purchasing or leasing property, or starting new work, an individual must be in possession of a valid and appropriate registration card showing that they have the required residential status. For example:

- A Jersey-born Entitled person will have a permanent registration card which they must present when accessing work and housing;
- A newly Entitled non-Jersey born person will have a 5 year valid card, as they cannot lose their status within 5 years; and
- A Licensed employee will have a card with no expiry date because their card will always need to be verified when purchasing or leasing property or starting new work, as they may have lost their employment.
- As a Registered person has no preferential housing or work rights, their cards will be permanent.

In this way, by aligning the break rules and the duration of the cards, a person's residential status is always properly reflected on their card when accessing work or housing. Therefore, employers will always know the status of their new recruits without having to perform checks of their own, and housing consent does not need to

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<sup>4</sup> p.11, Part Two paper

be issued each time, for example, when a permanently Entitled person buys or leases property. This will therefore be a stricter system, with less administration.

The Draft Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201- are attached at Appendix F2(a) for information outlining these provisions.

Temporary absence from the Island can cause an individual who is either earning time towards gaining full residential status or who has Entitlement, to lose either the time collected or their Entitled status. Currently, only limited guidance is provided as to what constitutes temporary absences. As an improvement, the Law will require the publication of guidelines which will clarify when a temporary absence is likely to have an effect on the individual's position. An Order must be made stating when the guidance will come into effect.

Under the current Housing Law, absence for holidays, ill-health, education, secondments, and persons away serving in the forces and their children, are all examples of cases which are generally considered favourably, whether by virtue of precedent or stated policy, and will be included in the future guidance.

### **Article 3 – Application for a registration card**

In the Part One paper<sup>5</sup> it was suggested that a passport would be the most commonly accepted form of identification when applying for a registration card. The wording of this Article allows the Minister to specify acceptable forms of identification, which might include a passport, or any other identification he or she deems fit.

The Part One paper had referred to the possibility of the contact centre at Cyril Le Marquand House being used for the issue of cards. It is most likely that cards will now be issued at Social Security, and in complex cases relating to residential status, at the Population Office. Administratively, it is intended that the registration card be combined with existing Social Security card.

### **Article 4 – Registration card**

It has been decided to include the date of issue on registration cards as this will assist an employer or employee in understanding when they may be eligible for a new residential status (for example, a person who had remained in Jersey since initial registration would graduate to “Entitled for Work” 5 years after issue). An issue date will also enable employers to be aware as to how current the card is, and in particular, some cards will need to be verified before use and the issue date will provide an indication of recent verification.

A Regulation-making power permits the States to include the holder's photograph on the card. During consultation, support was divided between those who favoured the placing of a photograph on the card, mainly for ease and administrative reasons, and those who did not, mainly because of privacy reasons and concerns about identity theft. For the purposes of the Law, it remains the case that a photograph is not necessary as other forms of authoritative proof of identity can be relied upon, namely passports. However, the power exists should the States, following debate, deem it appropriate, for example, as a means of improving effectiveness, or simply because it is felt that this would be helpful to individuals.

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<sup>5</sup> p10, Part 1, Consultation Paper

In developing the Law, some reflection did take place as to whether an “online” or “virtual” card should be introduced. However, it was felt that issues of privacy and technology made this problematic at this time, and that a card is a ready and easy means of proving residential status, and for example, already exists in the form of the Social Security card.

#### **Article 5 – Duration of a registration card**

This Article is framed to align the break rules around loss of residential status with how the card is used to access work and housing. The chart within the Explanatory Note explains how the rules work for each category of residential status.

### **Part 3: Registration of newcomers to Jersey**

#### **Article 7 – Requirement for a Registration card**

The purpose of requiring registration is to establish data about those individuals who are resident in the Island and so placing demand on the Island’s resources, and to manage what they can do in relation to work and housing.

There is no desire to spend administrative resources individually registering people who come to the Island for a short period of time, for example, on holiday.

The general policy intention is to issue registration cards to:

- all those who come to Jersey with the intention of living and working in the Island and being a part of the community.
- established residents at the time the Law comes into force if and when they start new work or transact in property.

Therefore, a 3 month period of continuous ordinary residence, or the taking-up of employment, or the purchasing or leasing property are the 3 trigger points upon which Islanders will be required to register.

The original intention in the Part One paper had been to register *all* residents within a fixed period after the Law came into force. However, the revised proposals will save the bureaucracy of issuing cards to established residents and who have no need for a card, e.g. a pensioner continuing to live in their home.

The Minister can also make exemptions by Order to exempt certain persons from the need to register. The Draft Control of Housing and Work (Registration Exemptions – Individuals) (Jersey) Order 201- has been prepared with some exemptions and is attached at Appendix F2(d). For example, it is proposed in the Order to exempt individuals who work for a non-resident undertaking<sup>6</sup> from the need to apply for a registration card for work purposes as they are likely to stay in the Island for only a short time, and those persons working in the Island for less than 10 days in any 12 month period. However, under the residence provisions, such individuals will need to apply for a card if they live for a continuous period of more than 3 months in the Island<sup>7</sup>. These exemptions also do not exempt the undertaking for whom these individuals are working from needing a licence, they only exempt each individual short-term worker from needing to obtain their own registration card.

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<sup>6</sup> Article 2(d)

<sup>7</sup> See Article 7

## **Article 8 – Registration requirements for children not born in Jersey**

The details of a child born in Jersey are recorded under the Marriage and Civil Status (Jersey) Law 2001 and will be accessible by the Minister under his powers in Article 10. However, a child born outside of Jersey will not be so recorded. This Article therefore places a duty on the person responsible for the child to notify the Minister of the child's details and means that the Minister will be notified of the birth of a child of a Jersey resident family or individual who is born off-Island, for example in a UK hospital, or of those non-Jersey born children who arrive in the Island as newcomers.

To save administration, an adult need not register a child under this provision if the child has already been registered by virtue of the change of address notification requirements in Article 9 below.

### **Part 4: Information to the Minister**

## **Article 9 – Requirement to give information to the Minister upon change of address**

The purpose of this Article is to ensure that accurate and updated information is recorded with regard to individuals who move to Jersey or who change their address once here.

The cut-off period of 3 months before a notification need be made is chosen in recognition of the fact that people often live somewhere for just a short-term period and notification is required of reasonably permanent addresses only.

The term "person in control of a unit" has been used because such a person may fill one of several roles, e.g. a landlord and a tenant; a householder and a lodger; lodging-house proprietor and lodger; hotelier and long-stay resident. A dual notification obligation has been placed on persons in control of property and on the person to whom accommodation is provided. This is done in order to ensure compliance with the Law, and to collect better data on where people live, in particular on those in the Registered sector who lodge and for whom data is incomplete and more difficult to obtain.

The additional requirement to make notifications of an individual's departure will assist with maintaining the accuracy of residency records and will be supported by a raft of measures, including publicity at departure points; landlords and employers making notifications and returns; exception reports for persons not working or in receipt of benefits and building upon existing procedures at Social Security designed to assess whether payment of contributions should continue. Finally, links with other departments will exist to identify persons in receipt of no service. This approach builds upon existing procedures and data, rather than seeking to create a whole new set of rules.

In order to save unnecessary inconvenience, the Minister is able to bring an Order to exempt individuals from making notifications under Article 9 if the information has already been provided under another enactment, e.g. the Minister may make an Order exempting anyone who notifies a change of address under the Social Security Law from needing to notify it again under this Law. This supports the streamlining of change-of-address procedures and will enable bureaucracy to be reduced.

This Article allows the Minister by Order to modify the notification requirements with regard to who needs to make a notification of change of address and also who is to be

regarded as being in control of a unit of dwelling accommodation. For example, it may be that certain individuals for whom confidentiality is paramount, such as those residing in the Women's Refuge, may be exempt from the requirements to notify. Managing agents could be authorised to make notifications on behalf of property-owners or those responsible for staff accommodation, or lodging houses might be authorised to make quarterly returns, as was suggested by respondents to the Part Two paper.

#### **Article 10 – Power to obtain information from other departments**

A power to obtain information in relation to name, date of birth, and address, from other States Departments has been inserted.

The purpose of the Draft Names and Addresses Law is to create a database of name and address information of all Island residents for use by public authorities for statutory purposes. The Names and Addresses Law is to be debated by the States after this Law. The intention is that the data on the Names and Address Register will be the dataset that those administering this Law will also use. However, if the Names and Addresses Law is not adopted by the States, the insertion of this provision means that this Law can stand alone and adequate records of all residents can be established both for the purposes of compliance with this Law and the provision of complete information for statistical and policy-making purposes.

### **Part 5: Housing categories and Occupation of Housing**

#### **Article 13 – Categorisation of housing created before the date the Law comes into force**

During the Part Two consultation, concerns were raised as to the future status of conditions and concessions currently applicable to property under the Housing Law and Regulations.

This Article ensures that the status quo will remain with regard to such conditions and concessions when the new Law comes into force, insofar as any units not controlled by the Housing Law will be Registered, and all the various categories of controlled housing will become a single "Qualified" category.

In addition, various concessions, for example, that a flat added to a property may be for the occupation of a close unqualified relative, will also carry over, as will concessions around staff accommodation.

The Minister will, however, be able to place conditions on the housing category of a property in the future, should he/she consider this justified, or indeed, a person may apply for a change in the categorisation of their property, or a variation in a condition. (See Article 15 below.)

The Part Two paper<sup>8</sup> referred to the original proposal that: "In future, the classification of property as Qualified or Registered will be made by the Planning and Environment Department and not the Population Office". On further consideration, this approach has been revised, because the Chief Minister will have the ultimate responsibility for deciding the residential status of Island residents under the Law. It therefore seems that the related issue of what property they may occupy more properly falls within the remit of this Law and is not a planning issue. This results in the Chief Minister

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<sup>8</sup> Managing Migration: New Mechanisms – Part 2 – Managing Access to Employment and Housing – p.23

retaining the power to categorize property and place conditions on such categorisations (Article 15) and also place conditions on occupation of property (Article 17).

However, the Law also makes clear that the powers of the Minister with regard to the placing of conditions on a housing categorisation do not interfere with any conditions attaching to a grant of planning permission. Such permissions remain the responsibility of the Minister for Planning and Environment (e.g. the Minister for Planning and Environment is responsible for adding planning conditions such as “first-time buyer” or “over 55s”).

#### **Article 15 – Conditions and changes to housing categories**

This Article requires the Minister to have regard to any relevant factors relating to the supply and demand of housing when making a determination about categorisation or conditions using his powers under Article 15. This includes a new requirement to ensure that the interests of locally entitled people are given priority when making a determination. The Minister must also consider any other factors he/she considers relevant. For example, preference is likely to be given to applications to build units of Qualified accommodation rather than Registered, but if the economic and housing positions are such that Registered accommodation is in short supply, the Minister could be justified if he/she were to change the categorisation of an otherwise Qualified property to Registered.

#### **Article 16 – Register of Housing**

The availability of a public register which records all units of residential accommodation will be of benefit to those who are involved in property transactions. Of particular use will be the ability to note whether a property has a condition or concession attached to it. The actual details of any condition or concession will not be made publicly available if it confers private information.

#### **Article 17 – Occupation of Qualified Housing**

Entitled and Licensed people will be able to live in any property, whether it is Qualified or Registered. Registered people will only be able to live in Registered property or share living accommodation in Qualified property with the consent of an Entitled or Licensed person who occupies the whole or a substantial portion of the property as their principal residence, i.e. on a genuine lodging basis. Exceptions where Registered persons can live in property they have inherited, or by ministerial dispensation, will continue.

In cases where an individual has lived in illegal occupation of a property, this Article grants the Minister a new power to apply to the Court to seek a Court declaration that the period of time spent in illegal occupation will not count towards the necessary continuous residence period required to gain Entitled status. This will be a useful power which will add clarity in cases of doubt.

### **Part 6: Land Transactions**

#### **Article 18 – Specified Transactions**

It is intended that parties to a purchase or lease will rely on a registration card when transacting, and that this will reduce bureaucracy, for it will no longer be necessary for such individuals to apply for consent before transacting and for this consent to then be

prepared. All parties transacting will be responsible for ensuring the existence of a valid appropriate registration card.

#### **Article 19 – Prohibition on specified transactions without an appropriate valid registration card**

The current requirement that a Licensed person buy property through a company was reviewed and considered administratively onerous on both Licensed persons, government and businesses. It also made the Human Rights position potentially complex. As a result, it has been removed but, all other restrictions will continue to apply, i.e. Licensed persons:

- (i) can only purchase a property if it is to be their principal place of residence;
- (ii) must vacate and sell that property on ceasing to be employed as a Licensed person.

However, the ability to condition a licence issued to a business so that a Licensed person can only lease a property has been included. This provision will cater for examples where a Licensed post is awarded for a short-term project, and so the grant of full housing rights would not meet the criteria of being in the best interests of the community.

#### **Article 20 – Specified transactions concerning companies, etc.**

This deals with land transactions entered into by a “legal person” i.e. anyone other than a person, such as: a company, the States, the Crown, a charity, a church, etc.

This Article introduces new criteria which require the Minister to consider the supply and demand of property and the need to promote ownership of residential property by persons with Entitled status, when considering an application for company ownership of land. This has been specifically included in recognition of the need to make adequate provision of residential property for Entitled persons, while also noting that supply and demand issues are important. Under the Housing Law, there is a general presumption against freestanding property being held by companies, but an acceptance that this can happen with flats, i.e. share transfer properties, as this supports incentives to develop (although in practise, it is estimated that as much as 70% of share transfer properties are owned by qualified persons, and a further 12% owned by Islanders who are waiting for qualifications). This approach supports the supply of flats as a higher density development, but preserves freestanding property almost exclusively for local ownership.

Some bureaucracy will also be removed by not requiring consent when a “public utility undertaking” buys land to erect equipment, such as a pumping station or a telegraph pole.

#### **Article 21 – Offences concerning specified transactions**

As a result of the Part Two consultation, the provision in the Housing Law allowing for illegal transactions to be voided, and which is not used, has not been included in this Law, so as not to penalise innocent parties to a transaction. Instead, clear and strong penalties are provided for and anyone in contravention of the provisions of this Part of the Law will commit an offence and be liable to an unlimited fine.

## **Part 7: Controls on Working**

One of the criticisms of the RUD Law is that often it is not clear when an undertaking exists, and how it should be treated. This creates work and uncertainty on all sides. A further criticism is that the RUD Law captures very small activities or those without any real impact on immigration, for example, locally qualified persons working one evening a week or funds wholly administered by licensed entities. Such regulation is impractical and unnecessary. Another big issue with the RUD Law is that it is difficult to enforce. This Law seeks to remedy these issues.

### **Article 22 – Interpretations**

In order to improve clarity, a number of terms used in this Part are explained, including:

- Business premises are defined to include a person’s place of residence if they use their home in connection with their business activity, thus reflecting current RUD policy into the new Law.
- The opportunity has been taken to update the current legislation affecting hawkers and non-resident traders. The particular difference is that offering to buy goods and offering to sell services in public places are also brought into the Law. So, for example, smoking cessation clinics and commercial offers to buy gold will need a licence and fees can be levied. This will result in a modest income, and offers some relative benefit to local traders and customers.
- “Payment” refers to any type of remuneration including any commission or benefits in kind offered and any rents and receipts for the provision of accommodation. Therefore, anyone employing somebody but paying them by providing board and lodging will still need to have a business licence.
- “Person” includes a body of persons whether incorporated or unincorporated. This means that a group of people working together, such as doctors in a doctors’ practice, will need a business licence for the practice, and not individually.

### **Article 23 – Meaning of Undertaking**

In the Part 2 consultation, respondents asked that a clear definition of the word undertaking be provided in the new Law. The definition now makes clear that as well as a trade or business, any activity involving work or services performed for, or offered to, members of the public, requires a licence. It is irrelevant whether the undertaking makes or intends to make any profit, but if no individual working for the undertaking is paid, a licence is not required, i.e. voluntary organisations are excluded.

For example, a charity will not need a licence if it has no paid workers. However, if the charity has, for example, a shop in town and 3 of the staff are volunteers, but the manageress is a full-time paid employee, the charity will need a licence.

The definition of undertaking will be further defined by clearly exempting some economic activity by Order, for example, Entitled persons working for less than 8 hours a week, managed entities without staff, activity that lasts for less than 10 days in a 12 month period. (See Draft Control of Housing and Work (Licence Exemptions) (Jersey) Order 201- at Appendix F2(b)).

This approach has been taken on the basis that economic considerations in many ways motivate migration, and any activity that involves pay is an opportunity that should first be considered for an Entitled person.

This Article also makes it clear that the existence of an undertaking may be indicated by a physical presence that does not relate to staff, or premises, but rather, “any item”. In this way, on-line retailers, for example, without staff but with goods flowing through the Island, will be captured as “undertakings” and will need a licence, thus enabling the Island to protect itself, should it deem these activities to bring the Island into disrepute. This Article is not designed to capture PO Boxes, or “brass plates”, but to give a basis for concluding that undertakings without staff or premises may nonetheless be undertakings.

The States will be subject to the Law. This is new. Each parish, trading operation of the States and some States-funded bodies will each be treated as separate undertakings. This will introduce a level playing field between the public and private sector.

#### **Article 24 – Requirement to have a registration card for work**

The basic requirement is that anyone starting “new work” will need an appropriate registration card. This Article therefore defines new work, and in doing so, deals with such matters as contracts of employment, breaks in employment, working for related group entities, and where a person performs work by way of a provider of services as opposed to an employee. The intention is for it to be clear as to whom a person works for, so that it is clear who must have a licence, who must make the return, and who needs to show a card and when, confirming that a person has the appropriate residential status.

In addition, the Article gives the ability to treat agency workers differently, for example, some may work on successive short-term assignments of varying length for different undertakings, whereas some might work on semi-permanent long-term assignments, while still being legally employed by the Agency. Whether any Order is brought under this provision will be a matter for discussion with industry, with an aim that the licensing regime was not significantly undermined by recourse to agency staff should an undertaking be refused staff in its own right.

There is no obligation on an individual to acquire a registration card unless he/she needs one for new work as so defined by the Article. However, an employer may wish to confirm the residential and employment status of an employee, e.g. a Registered employee may have become Entitled for Work after completing the necessary continuous residence period.

#### **Article 25 – Requirements for undertakings to have a licence**

Since around 2000, new licences have had “beneficial ownership clauses” attached as a condition on their licence. Such a clause requires the owner/s to seek permission every time the business or part of the business is sold.

New provisions are included which require permission to be sought upon a “significant change of ownership.” As these clauses could apply to many businesses, it is important that they are not onerous.

In respect of companies:

- A. Where ownership changes between Entitled, Entitled for Work or Licensed persons only (“local ownership”) this does not need any permission.
- B. Any change of company ownership that results in the local ownership of the business falling below 60% does require permission, but no further permission is needed thereafter for subsequent changes in ownership.
- C. Listed companies need no permission.

These controls over ownership are not so onerous as the conditions presently applied to RUD licences whereby *any* change in ownership needs permission, however small, and even if simply one local person was buying from another. Rather, these new controls are targeted to give the Minister the ability to prevent “local” companies falling into “non-local” hands should he/she so wish, and with the objectives of the Law in mind, in particular, around preserving and maximising the benefits of the Island’s resources for those with strong Island connections or in the best interests of the Community. In this way, the Island can consider, for example, the sale of a strategic asset, or an acquisition that has the potential to damage the Island’s international standing or competitive position.

In addition, controls over the financial and commercial integrity of businesses already exist through application of the Control of Borrowing (Jersey) Order 1958, as administered by the Jersey Financial Services Commission, and owners’ controls will also continue to exist under the Competition (Jersey) Law 2005.

#### **Article 26 – Grant and duration of a licence**

These provisions are included to make clear the Minister’s powers when dealing with an application for a licence, including requiring the Minister to impose a condition on the licence specifying the nature of the undertaking. Thereafter he/she can place additional conditions or he/she may refuse the grant of a permission sought by an applicant. In all cases reasons must be given.

The authority to condition licences is important, for it is through use of this power that immigration can be controlled, in particular, by restricting the ability to take on new migrants. The criteria that the Minister must consider when deciding a licence application have been updated and are now included in the Law as opposed to being addressed in policy statements, as is currently the case. The criteria include the current ones under the RUD law, but they have been expanded to include “relevant policies of the States” (e.g. the policy aims contained in the States Strategic Plan) and whether the grant would be “in the public interest”. In addition, a clear economic test is included. The Minister will be required to decide an application on balance with reference to these factors.

#### **Article 27 – Specific provisions relating to a business licence**

One of the aims of P.25/2005 was to give employers increased ability to manage their staff numbers and so reduce bureaucracy and increase efficiency. The provisions of this Article are key in this respect.

In future, the Minister must state as a condition of the licence the maximum number of Licensed or Registered people that may be employed. This may be nil. No permission is required for Entitled or Entitled to Work individuals. This will be an administrative saving for both employers and government, and a major improvement.

The Minister must also specify the nature of the work that any Licensed personnel can do. For example, the Minister might specify that a firm can have 5 licensed posts to employ 5 accountants. If one of the Licensed personnel leaves, the employer can recruit another to fill the post, so long as the nature of the work fits the licence. This is a new provision which will allow employers greater flexibility when recruiting and replacing Licensed personnel, and will drastically cut applications by as much as 80%, because employers will no longer have to apply, in particular, for replacement posts.

The Law also sets out examples of the sorts of conditions that can be attached to a business licence, such as specified accommodation to be occupied by Licensed persons or only allowing Licensed persons to lease, and specifying named individuals who may work for an undertaking. These conditions are similar to those which the Minister can apply currently to licences issued under the RUD Law, where it is common to name employees on the face of the licence. For example, a licence may be granted with a named employee where a permission relates to a short-term contract tied to the individual or where there is no desire to give a permanent permission.

This Article confirms that when accounting for the maximum number of personnel that an employer can have of Licensed or Registered status, the employer need not include anyone who works for the undertaking but who is not paid, or anyone who is exempt because of an exemption made by the Minister. The Draft Migration (Business Licences – Maximum Numbers) (Jersey) Order 201- exempts certain persons from an employer's headcount, for example, in relation to sickness cover, or someone working for less than 10 days in any year. (See Appendix F2(c).)

#### **Articles 29 and 30 – Variation and Revocation of licences**

These Articles provide powers to review or vary licences and to revoke licences. These are important new provisions which will assist with the effective management of the new business licensing system and with compliance. A variation of a licence cannot result in a post-holder in post losing their employment. Licence holders themselves can apply for variation or revocation of their licences, or the Minister can revoke a licence where, for example, the licence is of significant detriment to the interests of Jersey, thus providing some reserve power. Rights of appeal exist and notice is required.

#### **Article 32 – Undertakings with business licences to provide statements**

This provision effectively carries forward into the Law the current obligation placed on businesses to submit Manpower Returns. In future it is intended that licence holders will be required to submit a new-style Combined Return which will satisfy reporting requirements under the Income Tax ITIS rules, the Social Security Law and also the manpower return rules under this Law. This system will be less bureaucratic and more efficient.

Most importantly of all, however, this system will deliver a full listing of employees for each undertaking, meaning that compliance with licence conditions can be easily checked and enforced (no such information is available under the RUD Law). This goes to the heart of having a more effective system.

### **Articles 33 – 35 – Appointment of authorised persons; Powers to obtain Information and Power to enter business premises and examine business documents**

The Minister may appoint someone who is either in the administration of the States for which he/she is responsible, or another administration of the States or an officer of any body performing functions on behalf of the States, to carry out the enforcement functions in Articles 34 – 37.

For example, the Minister may appoint officers from the Population Office, or from the Social Security Department, or from Customs and Immigration, as Compliance Officers in general, or to assist on a specific occasion or task, e.g. to perform checks at the Harbour. This will assist in the effective and efficient administration of compliance.

The power to obtain information has been clarified and extended in the new Law to provide a specific power to obtain information from persons generally. Under the RUD Law, the power to obtain information focussed on obtaining information after entering premises.

### **Article 37 – Notices requiring cessation of unauthorised activity**

The ability to serve a notice or apply for an injunction to require the cessation of an unauthorised activity is also a new power introduced under this Law. The lack of such a provision in the current RUD Law has limited the Minister's ability to control those businesses that operate either without a licence or beyond the authority of their licence. For example, when an unlicensed activity is identified under RUD Law, the unlicensed undertaking may well have left the Island by the time prosecution eventually takes place. In contrast, the new Law will enable the activity to be ceased immediately.

These new notice provisions will provide an important means of enforcing compliance with the Law, as often the principal or anyone with control of the undertaking may not be in the Island and there may be no business address in the Island. This is an improvement on the current RUD policy, where every non-resident undertaking must provide separate confirmation of a specific Manager or Director who will accept service of a summons should there be a breach of a business licence.

The new provision in this Law is drafted to allow service of a cessation notice, not only on the person carrying on the undertaking but also, if there is no such person in Jersey, on any individual present in Jersey who appears to be responsible for carrying on the activity in Jersey.

### **Article 38 – Register**

This Article requires the Minister to keep a public register of each undertaking granted a licence under this Part of the Law. Currently, no such Register exists. It is intended that the information on register will be limited to information required to identify that undertaking, in particular, its name and activity, and thus to confirm to any interested, and in particular contracting, party that a licence has been issued.

### **Article 39 – Application of this Part to certain offices**

The reference in this Article means that States members, including the Bailiff, Attorney General and Solicitor General, will not be included in the States of Jersey's administrative headcount, or need to apply for a licence. The intention is to avoid the

Law interfering with democratic processes, and related legal and executive appointments.

### **Part 8: General Provisions**

This part of the Law deals with administrative issues.

#### **Article 42 – Statistical information**

Any information acquired by virtue of this Law may be used to provide anonymous statistical information to assist with policy development and public awareness-raising.

#### **Article 43 – Persons authorised to act for other persons**

The Minister's Order-making power would enable him/her, for example, to authorise the Matron of a nursing home to send in a change of address notification on behalf of a new resident.

#### **Article 48 – Housing and Work Advisory Group**

It is felt important that there be an advisory body to support the Chief Minister in exercising his powers under the Law. This Group will effectively replace the Migration Advisory Group, which has been in existence since 2005 and has had responsibility for developing the policy behind this Law and has acted as an advisory forum to the Economic Development and Housing Ministers when making ministerial decisions under the RUD and Housing Laws respectively.

It is envisaged that the political membership of the new Housing and Work Advisory Group will be the same as the current Migration Advisory Group, namely an Assistant Minister of the Chief Minister acting as Chairman, and the Ministers for Economic Development and Housing, with attendance as appropriate by other Members as invited.

### **Part 9: Transitional and saving provisions, repeals and consequential amendments**

As an individual or undertaking interacts with the Law once it is in force, they will be brought within the administrative provisions of the Law. However, on the immediate introduction of the Law, permissions issued under the Housing and RUD Law will remain valid.

For example, an existing resident of Jersey need not register or make any notification until they lease or purchase property or move house, and an undertaking need not make any application until it requires a revision to its licence, or its licence is ready for renewal in the normal course. In this way, existing rights are not diminished and unnecessary administration is avoided.

**APPENDIX 1**

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Jersey

**CONTROL OF HOUSING AND WORK  
(RESIDENTIAL AND EMPLOYMENT STATUS)  
(JERSEY) REGULATIONS 201-**

**REPORT**

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**Explanatory Note**

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These Regulations set out the conditions for residential and employment status under the Control of Housing and Work (Jersey) Law 201- (“Control of Housing and Work Law”). Under Article 2 of that Law, the 4 categories of status are Entitled, Licensed, Entitled for Work Only and Registered.

*Regulation 1* is an interpretation provision.

*Regulation 2* sets out the conditions for Entitled status and loss of that status. There are 6 ways of gaining Entitled status broadly these are –

- (a) Jersey-born and ordinarily resident in Jersey for a period or periods of at least 10 years;
- (b) non Jersey-born and ordinarily resident in Jersey for a continuous period of at least 10 years;
- (c) being the non-Jersey born child of a Jersey-born parent, such parent having been resident in Jersey for at least 10 years, provided the child arrived in Jersey before the age of 20 and has been ordinarily resident in Jersey for a period or periods of at least 10 years;
- (d) non-Jersey born, ordinarily resident in Jersey for a continuous period of at least 10 years and started residing in Jersey before attaining the age of 16;
- (e) having been granted such status by the Minister on the basis that it is in the best interests of the community and on social or economic grounds;

(f) having been granted such status by the Minister on the basis of hardship.

Grounds under (e) and (f) may be subject to such conditions as the Minister thinks fit.

A person who has been continuously resident in Jersey for at least 20 years or who is entitled under (a), (c) or (d) has permanent Entitled status.

A person, other than a person with permanent Entitled status, loses Entitled status if he or she has not been ordinarily resident in Jersey for 5 years or more or breaches a condition subject to which the Minister granted Entitled status under (e) or (f).

*Regulation 3* sets out the conditions for Licensed status and loss of that status. A person has Licensed status if he or she does work of a description that the Minister has specified may be done by a Licensed person under Article 27(1)(b) of the Control of Housing and Work Law; satisfies any condition applicable to that person as a Licensed person and does not have Entitled status. A person loses his or her Licensed status if the person no longer does work of that description; breaches any such condition or acquires Entitled status, whichever happens first.

*Regulation 4* sets out the conditions for Entitled for Work Only status and loss of such status. A person has Entitled for Work Only status if –

- the person has been ordinarily resident in Jersey for a continuous period of at least 5 years;
- is the spouse of a person with Entitled, Licensed or Entitled for Work Only status;
- not more than 5 years have elapsed since the person's divorce from a person with Entitled, Licensed or Entitled for Work Only status; or
- the person worked in or for an undertaking immediately before attaining the age of 16 and continues to work for that undertaking after attaining that age.

Such status will be lost if the person no longer satisfies any of these conditions or acquires Entitled or Licensed status.

*Regulation 5* sets out the conditions for Registered status. A person has Registered status if the person has been ordinarily resident in Jersey for a continuous period of 3 months or more and does not have Entitled status; Licensed status or Entitled for Work Only status.

*Regulation 6* states the title of these Regulations and provides that they will come into force 7 days after they are made.



Jersey

**CONTROL OF HOUSING AND WORK  
(RESIDENTIAL AND EMPLOYMENT STATUS)  
(JERSEY) REGULATIONS 201-**

**Arrangement**

**Regulation**

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**CONTROL OF HOUSING AND WORK  
(RESIDENTIAL AND EMPLOYMENT STATUS)  
(JERSEY) REGULATIONS 201-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Articles 2 and 44 of the Control of Housing and Work (Jersey) Law 201-, have made the following Regulations –

**1 Interpretation**

- (1) In these Regulations “Law” means the Control of Housing and Work (Jersey) Law 201-.
- (2) A person shall be regarded as born in Jersey despite being born in a country or territory outside Jersey if –
  - (a) at the time of the birth a parent of the child is regarded for the purposes of the Law as being ordinarily and continuously resident in Jersey (whether or not the parent is in Jersey at the time of birth); and
  - (b) the child and parent described in sub-paragraph (a) are both ordinarily and continuously resident in Jersey immediately following a period of care related to the birth.
- (3) A reference to a child of a person in these Regulations is not confined to a person below school leaving age.

**2 Conditions for Entitled status and loss of status**

- (1) A person who satisfies any of the conditions set out in sub-paragraphs (a) to (f) of this Regulation shall have Entitled status –
  - (a) the person was born in Jersey and has been ordinarily resident in Jersey for a period, or aggregate periods, of at least 10 years;
  - (b) the person was not born in Jersey and has been ordinarily resident in Jersey for a continuous period of at least 10 years immediately before the person is, at any time, required to have a registration

- card under the Law or could make an application for such a card under that Law;
- (c) the person –
    - (i) was not born in Jersey,
    - (ii) is the child of a parent born in Jersey, such parent being Entitled under sub-paragraph (a),
    - (iii) arrived in Jersey before attaining the age of 20, and
    - (iv) has been ordinarily resident in Jersey for a period, or aggregate periods, of at least 10 years;
  - (d) the person –
    - (i) was not born in Jersey,
    - (ii) started a period of ordinary residence in Jersey before attaining the age of 16, and
    - (iii) has been ordinarily resident in Jersey for a continuous period of at least 10 years immediately before the person is, at any time, required to have a registration card under the Law or could make an application for such a card under that Law;
  - (e) the person has been granted Entitled status by the Minister on the ground that the Minister is satisfied that such grant is justified –
    - (i) on social or economic grounds or both, and
    - (ii) as being in the best interests of the community,and the person does not meet any other condition in this Regulation;
  - (f) the person has been granted Entitled status by the Minister on the ground that the Minister is satisfied that the hardship (other than solely financial hardship) which would be caused to the person or to any other person ordinarily resident in Jersey if the person were not granted Entitled status outweighs the fact that the person does not meet any other condition in this Regulation.
- (2) The Minister may grant Entitled status for the purpose of paragraph (1)(e) or (1)(f) subject to such conditions as he or she thinks fit, including, without prejudice to the generality of the foregoing, any conditions limiting the period for which consent is granted or specifying the unit of dwelling occupation occupied or to be occupied.
- (3) Any conditions subject to which a person is granted Entitled status under paragraph (2) may be varied by the Minister with the agreement of the person.
- (4) In this Regulation “child” includes a child adopted in pursuance of an adoption order made by a court of competent jurisdiction in the British Islands or elsewhere.
- (5) A person has permanent Entitled status if –
- (a) the person has had a continuous period of ordinary residence in Jersey of at least 20 years; or
  - (b) has Entitled status by virtue of paragraph (1)(a), (c) or (d).

- (6) Except in relation to a person described in paragraph (5), a person loses Entitled status if either of the following situations applies to that person –
- (a) the person, since gaining Entitled status, has been absent from Jersey for a period or aggregate periods exceeding 5 years and was not ordinarily resident in Jersey during those periods of absence; or
  - (b) the person has Entitled status under paragraph (1)(e) or (f) and breaches any condition subject to which that status was granted.

**3 Conditions for Licensed status and loss of status**

- (1) A person has Licensed status if –
- (a) the person works or is appointed to do work in or for an undertaking, such work being the same or substantially the same as work falling within a description of work under Article 27(1)(b) of the Law in respect of that undertaking;
  - (b) the person satisfies any condition –
    - (i) imposed by the Minister under Article 2(2)(b) of the Law on the person as a condition of that person having Licensed status, and
    - (ii) imposed by the Minister under Article 26(5) or 27(2) of the Law as a condition of a business licence, such condition being applicable to the person; and
  - (c) the person does not have Entitled status.
- (2) A person loses Licensed status if –
- (a) paragraph (1)(a) no longer applies to that person;
  - (b) the person breaches any condition described in paragraph (1)(b); or
  - (c) the person has Entitled status,
- whichever happens first.

**4 Conditions for Entitled for Work Only status and loss of status**

- (1) A person has Entitled for Work Only status if the person –
- (a) satisfies any of the conditions in paragraph (2);
  - (b) does not have Entitled status or Licensed status; and
  - (c) has not lost Entitled for Work Only status under paragraph (3).
- (2) Those conditions are that –
- (a) the person has had a continuous period of ordinary residence in Jersey for 5 years or more immediately before that person is, at any time, required to have a registration card under the Law or could make an application for such a card under that Law;
  - (b) the person is a spouse of a person with Entitled status, Licensed status or Entitled for Work Only status;
  - (c) not more than 5 years have elapsed following the person's divorce from a person with Entitled status, Licensed status or Entitled for

Work Only status and the first mentioned person has remained continuously and ordinarily resident in Jersey since the divorce; or

- (d) the person immediately before attaining the age of 16 years worked in or for an undertaking and continues to work in or for such an undertaking immediately after attaining that age.
- (3) A person who has Entitled for Work Only status under paragraph (2)(d) loses that status on the date that is immediately before the date that the person starts new work within the meaning of Article 24 of the Law.

#### **5 Conditions for Registered status**

- (1) A person has Registered status if the person has been ordinarily resident in Jersey for a continuous period of 3 months or more immediately before the application for a registration card or expects to be so resident at the time of such application and does not have any of the following –
  - (a) Entitled status;
  - (b) Licensed status; or
  - (c) Entitled for Work Only status.
- (2) Temporary absences from Jersey shall be disregarded in determining whether a person has been continuously resident for 3 months for the purposes of this Regulation provided the majority of that time is spent in Jersey.

#### **6 Citation and commencement**

These Regulations may be cited as the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201- and shall come into force 7 days after they are made.



Jersey

## CONTROL OF HOUSING AND WORK (LICENCE EXEMPTIONS) (JERSEY) ORDER 201-

### Explanatory Note

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This Order exempts certain undertakings from the requirement to have a business licence under Article 25 of the Control of Housing and Work (Jersey) Law 201-

*Article 1* is an interpretation provision.

*Article 2* exempts the following undertakings –

- (a) an undertaking carrying out financial activities regulated under Jersey legislation where none of the staff involved in such activities is in Jersey;
- (b) an undertaking carrying on an activity involving staff none of whom is in Jersey, such activity being administered or managed by a person or body of persons carrying out financial activities regulated under Jersey legislation;
- (c) an undertaking in Jersey for an aggregate period of 10 days or less in any period of 12 months;
- (d) an undertaking consisting of a single individual with Entitled or Entitled for Work only status working for less than 8 hours a week;
- (e) an undertaking that was carried on immediately before the date the Control of Housing and Work (Jersey) Law 201- came into force and which was (i) exempted from the need to have a licence under the Regulation of Undertakings and Development (Jersey) Regulations 1978; and (ii) carried on by a person from his or her principal place of residence without any employees;
- (f) an undertaking involving the sale of goods from domestic premises where such sale is incidental to the use of those premises for domestic purposes;
- (g) an undertaking involving the provision of domestic services to not more than 2 households, such services being defined to mean gardening, cleaning, cooking, ironing, nursing or other personal care services and services involving looking after children if provided by a nanny or an au-pair;
- (h) an undertaking providing accommodation for not more than 5 individuals in a single unit of dwelling accommodation or the provision of not more than 5 units of dwelling accommodation.

*Article 3* sets out the title of the Order and provides that it will come into force 7 days after it is made.



Jersey

## CONTROL OF HOUSING AND WORK (LICENCE EXEMPTIONS) (JERSEY) ORDER 201-

### Arrangement

#### Regulation

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Jersey

## CONTROL OF HOUSING AND WORK (LICENCE EXEMPTIONS) (JERSEY) ORDER 201-

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE CHIEF MINISTER** in pursuance of Articles 25(9) and 44 of the Control of Housing and Work (Jersey) Law 201-, orders as follows –

### 1 Interpretation

In this Order –

“Law” means the Control of Housing and Work (Jersey) Law 201-;

“domestic premises” means a building other than –

- (a) a dwelling house; or
- (b) other building used principally as a dwelling,  
including adjoining land;

“domestic purposes” means any purpose which is for or in connection with the carrying on of any undertaking or the activity of being a hawker or non-resident trader;

“domestic services” means any of the following services –

- (a) gardening;
- (b) cleaning (whether indoors or outdoors);
- (c) cooking;
- (d) ironing;
- (e) nursing or other personal care services;
- (f) services involving looking after children;

“employee” means a person who is or is deemed to be working in or for an undertaking under Article 24 of the Law or any Order under that Article;

“regulated activity” means an activity in respect of which a person –

- (a) is registered under the Banking Business (Jersey) Law 1991;

- (b) holds a permit or is a certificate holder under the Collective Investment Funds (Jersey) Law 1988;
- (c) is registered under the Financial Services (Jersey) Law 1998; or
- (d) is authorized by a permit under the Insurance Business (Jersey) Law 1996.

## 2 Undertakings exempted from requirement to have a business licence

A business licence under Article 25 of the Law shall not be required for the operation of an undertaking –

- (a) in respect of any activity –
  - (i) involving staff none of whom is present in Jersey, and
  - (ii) which is a regulated activity;
- (b) in respect of any activity involving staff none of whom is present in Jersey where the activity is administered or managed by a person or body of persons carrying out regulated activities;
- (c) if the undertaking operates in Jersey for an aggregate period of 10 days or less in any period of 12 months;
- (d) if the undertaking is a sole trader who has Entitled or Entitled for Work only status or a company with one member, such member having Entitled or Entitled for Work only status and the sole trader or member, as the case may be, works in or for the undertaking for less than 8 hours a week;
- (e) if the undertaking was carried on by a person immediately before [the date the Control of Housing and Work (Jersey) Law 201- comes into force] and at that time the person was exempt from the need to have a licence under Regulation 1(2) of the Regulation of Undertakings and Development (Jersey) Regulations 1978 and the person continues to carry on the undertaking –
  - (i) from the person's principal place of residence,
  - (ii) on the person's own account, and
  - (iii) without any employees;
- (f) if the activity of the undertaking is the sale of goods from domestic premises provided the following conditions are satisfied –
  - (i) the goods are situated on or in the vicinity of the domestic premises at the time of the sale, and
  - (ii) the sale is incidental to the use of those premises for domestic purposes;
- (g) if the activity of the undertaking is the provision of domestic services to not more than 2 households;
- (h) if the undertaking involves any of the following –
  - (i) the provision of accommodation for not more than 5 individuals in a single unit of dwelling accommodation, or
  - (ii) the provision of not more than 5 separate units of dwelling accommodation, and

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the undertaking is not registered under the Tourism (Jersey) Law 1948, the Nursing and Residential Homes (Jersey) Law 1994 or the Lodging Houses (Registration) (Jersey) Law 1962.

**3 Citation and commencement**

This Order may be cited as the Control of Housing and Work (Licence Exemptions) (Jersey) Order 201- and shall come into force 7 days after it is made.



Jersey

**CONTROL OF HOUSING AND WORK (BUSINESS  
LICENCES – MAXIMUM NUMBERS) (JERSEY)  
ORDER 201-**

**Explanatory Note**

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This Order sets out descriptions of individual who may be disregarded for the purposes of a condition of a business licence under Article 27(1)(a) of the Control of Housing and Work (Jersey) Law 201-, such condition specifying the maximum number of persons with Licensed and Registered status who are permitted to work in or for the licensed undertaking.

*Article 1* provides that the following persons may be disregarded –

- (a) a person working as a replacement for another person provided that the 2 persons do not work simultaneously for more than 30 days;
- (b) a person providing cover for another person whilst on leave, such period not exceeding 6 months in the case of maternity leave or sick leave or 3 months in all other cases;
- (c) a person working for an undertaking for an aggregate period of 10 days or less in any period of 12 months.

*Article 2* sets out the title of the Order and provides that it will come into force 7 days after it is made.

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**CONTROL OF HOUSING AND WORK (BUSINESS LICENCES – MAXIMUM NUMBERS) (JERSEY) ORDER 201-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE CHIEF MINISTER**, in pursuance of Articles 27(3)(b) and 44 of the Control of Housing and Work (Jersey) Law 201-, orders as follows –

**1 Description of individuals to be disregarded**

For the purposes of complying with a condition under Article 27(1)(a) of the Control of Housing and Work (Jersey) Law 201- there shall be disregarded any person –

- (a) working in or for an undertaking as a replacement, or to be a replacement, for another person continuing to work in or for the undertaking provided that the 2 persons do not work simultaneously for the undertaking for a period of more than 30 days;
- (b) providing cover for a person working in or for the undertaking who is on leave (including secondment or leave for training purposes), such period not exceeding –
  - (i) 6 months, in the case of maternity leave or sick leave, or
  - (ii) 3 months in all other cases of leave; and
- (c) working for the undertaking for an aggregate period of 10 days or less in any period of 12 months.

**2 Citation and commencement**

This Order may be cited as the Control of Housing and Work (Business Licences – Maximum Numbers) (Jersey) Order 201- and shall come into force 7 days after it is made.



**CONTROL OF HOUSING AND WORK  
(REGISTRATION EXEMPTIONS – INDIVIDUALS)  
(JERSEY) ORDER 201-**

**Explanatory Note**

This Order exempts certain individuals from the need to have a registration card for the purpose of starting new work under the Control of Housing and Work (Jersey) Law 201-

*Article 1* is an interpretation provision.

*Article 2* exempts the following persons from the need to have a registration card –

- (a) a person in Jersey for an aggregate period of 30 days or less in any period of 12 months for the purposes of that person's work as a company director, partner, member of the council of a foundation or the equivalent;
- (b) a person who is a hawker or a non-resident trader;
- (c) a person who works in or for an undertaking involving a single individual who has Entitled or Entitled for Work only status and works less than 8 hours a week;
- (d) a person who works for a non-resident undertaking (that is where the majority of staff working in Jersey are not ordinarily resident in Jersey and the undertaking has a business licence with an expiry date); and
- (e) a person who works for one or more undertakings in Jersey, the period of work for each undertaking being an aggregate period of 10 days or less in any period of 12 months.

*Article 3* sets out the title of the Order and provides that it will come into force 7 days after it is made.

*(Page 2 is a blank page and is therefore not included here.)*



**CONTROL OF HOUSING AND WORK  
(REGISTRATION EXEMPTIONS – INDIVIDUALS)  
(JERSEY) ORDER 201-**

**Arrangement**

**Article**

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**CONTROL OF HOUSING AND WORK  
(REGISTRATION EXEMPTIONS – INDIVIDUALS)  
(JERSEY) ORDER 201-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE CHIEF MINISTER**, in pursuance of Articles 3(7) and 44 of the Control of Housing and Work (Jersey) Law 201-, orders as follows –

**1 Interpretation**

In this Order –

“Law” means the Control of Housing and Work (Jersey) Law 201-;

“non-resident undertaking” means an undertaking –

- (a) in or for which the majority of people working in Jersey are not ordinarily resident in Jersey; and
- (b) which has a business licence granted under Article 26(4) of the Law, such licence having been granted subject to an expiry date that has not yet expired.

**2 Persons exempt from requirement to have registration card for work**

A person who falls within any of the following descriptions shall be exempt from the requirement to have an appropriate valid registration card for the purposes of Article 24 of the Law –

- (a) a person who is in Jersey for an aggregate period of 30 days or less in any period of 12 months for the purposes of that person’s work as a director of a company, partner in a partnership, member of the council of a foundation, or the equivalent of any of the foregoing;
- (b) a person who is a hawker or non-resident trader for the purpose of the activities of hawking or being a non-resident trader;
- (c) a person who works in or for an undertaking the operation of which does not require a business licence under Article 25 of the Law or by virtue of

Article 3

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Article 2(d) of the Control of Housing and Work (Licence Exemptions) (Jersey) Order 201-;

- (d) a person who works in or for a non-resident undertaking;
- (e) a person who works in or for one or more undertakings in Jersey, the period of work for each undertaking being an aggregate period of 10 days or less in any period of 12 months.

**3 Citation and commencement**

This Order may be cited as the Control of Housing and Work (Registration Exemptions – Individuals) (Jersey) Order 201- and shall come into force 7 days after it is made.

## Explanatory Note

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This draft Law would repeal and replace the Housing (Jersey) Law 1949, the Regulation of Undertakings and Development (Jersey) Law 1973 and the Hawkers and Non-Resident Traders (Jersey) Law 1965. The draft Law sets out the purpose of the Law as being to control the overall population density of Jersey and to control the availability of work and housing in Jersey for people with strong connections or associations with Jersey and, more generally, in such a way that is in the best interests of the community in Jersey.

*Article 1* is an interpretation provision. Except as otherwise stated, “Minister” refers to the Chief Minister.

**Part 2** sets out provisions relating to residential and employment status.

*Article 2* sets out the 4 categories of residential and employment status: Entitled; Licensed; Entitled for Work Only and Registered. The residential and employment status of a person determines the category of housing a person may own and occupy. Housing categories are dealt with in Part 5 of the Law. Residential and employment status is also relevant for work purposes: this is dealt with in Part 7 of the Law. The States are given power to make Regulations specifying the conditions for each category of residential and employment status, including, in any individual case, making provision for a status to be subject to conditions determined by the Minister. The Article also requires the Minister to issue guidance as to the effect of temporary absence from Jersey on a person’s residential and employment status. Such guidance cannot take effect until a date specified by the Minister by Order. The Minister may, at any time, require a person to provide information for the purpose of determining or verifying that person’s status. A person who fails to comply with such a requirement is guilty of an offence and liable to a maximum fine of level 4 on the standard scale, that is, £5,000.

*Article 3* sets out the process for applying for a registration card or to vary a registration card. A registration card is required under the Law for any person who is resident in Jersey for three months or more (regardless of the type of accommodation) and who arrives in Jersey (a) less than 3 months before the date the Law comes into force or (b) any time after the date the Law comes into force. A registration card is also required for any person starting new work or buying or leasing dwelling accommodation. Any person who is not required to have a registration card under these provisions may, nevertheless, apply for a registration card at any time or to vary a card.

*Article 4* sets out the information to be recorded on a registration card. Such information includes the name, social security number, residential and employment status of the card-holder, date of issue of the card and information relating to the expiry of the card, including whether it is permanent. The Minister may include other information on the card concerning any conditions of the residential and employment status of the card-holder. The States may also specify by Regulation other information to be included on the card concerning the card-holder, including making provision for a registration card to include a photograph of the card-holder.

*Article 5* sets out provisions relating to the expiry of a registration card. In the case of an Entitled person, such provisions relate to whether a person is capable of losing a

particular residential and employment status under conditions specified by the States in Regulations under Article 2. The provisions work as follows –

Status	Capability of losing status	Expiry date
Entitled	not capable	permanent
Entitled	not capable in 5 year period following issue of card	5 years after issue
Entitled	capable in 5 year period following issue of card	date immediately before starting new job or home purchase/lease if status lost or, if later, 5 years after issue
Entitled for Work Only	not applicable for this purpose	date immediately before starting new job or home purchase/lease if status lost or, if later, date of expiry of status
Licensed	not applicable for this purpose	date immediately before starting new job or home purchase/lease if status lost or, if later, date of expiry of status
Registered	not applicable for this purpose	permanent

(In the above table, “lease” includes a lease if permitted under Article 19.)

*Article 5* makes it clear that whether a person has a particular status or not depends on whether that person satisfies conditions for that status under Regulations made under Article 2, not on whether a card has expired. In other words, expiry of card does not necessarily determine whether a person has or has not lost a particular residential and employment status.

*Article 6* creates various offences in relation to a registration card. These include selling, defacing, destroying or forging a registration card or making a false statement in connection with obtaining a registration card. Maximum penalties are a level 3 on the standard scale fine (that is £2,000) for offences relating to selling, defacing or destroying a registration card or making a false statement and a maximum 2 years imprisonment and/or an unlimited fine for forgery.

**Part 3** of the Law sets out the registration requirements for newcomers to Jersey.

Under *Article 7* any person who arrives in Jersey after the age of 16 who starts a period of ordinary residence of 3 months or more in Jersey (a) on or after the date *Article 7* comes into force or (b) in the 3 month period immediately before *Article 7* comes into force, must apply for a registration card in the 3 month period immediately after *Article 7* comes into force. The requirement under this Article does not apply if the person has an appropriate valid registration card within that period for the purpose

of starting a new job. Failure to apply for a card as required by this Article is an offence punishable with a maximum fine of level 3 on the standard scale (that is £2,000).

*Article 8* requires the name, gender, address and date of birth of any child born outside Jersey after the date that this Article comes into force and who then commences residence in Jersey to be notified to the Minister by the child's parent (or person with parental responsibility) either at the time the adult applies for a registration card (if applicable) or no later than 3 months after the child starts his or her first period of 3 months ordinary residency in Jersey. Failure to make such a notification is an offence punishable with a maximum fine of level 2 on the standard scale, that is, £500.

**Part 4** of the Law makes further provision for information being provided to the Minister.

*Article 9* requires any person moving to an address in Jersey (whether or not from another address within Jersey) who is, or expects to be, ordinarily resident at that address for 3 months or more to notify the Minister of the person's name, date of birth, date of the move and the new address. The person must also notify the Minister of the name and date of birth of any other individual who moved to that address with that person. If the person intends to leave that address because he or she intends no longer to be ordinarily resident in Jersey or knows the date that another individual notified by the person intends to leave that address for the same reason, the person must notify the Minister of the intended date of departure.

Similar obligations also apply to a person in control of a unit of dwelling accommodation in respect of any individual occupying that unit for a period of 3 months or more. The person in control of a unit is the person responsible for allowing the individual to occupy that unit. The person in control is not required to give information about the date of birth of such other individual and must specify the capacity in which the person making the notification has control of the unit, for example, as owner or lessor.

Contravention of Article 9 is a criminal offence punishable with a maximum fine of level 2 on the standard scale, that is, £500.

*Article 10* allows the Minister to obtain information from any department or administration of the States relating to an individual's name, date of birth and current address for the purpose of facilitating compliance with this Law, notwithstanding any enactment to the contrary.

**Part 5** makes provision for housing categories and controlling who may occupy specified categories of housing.

*Article 11* provides that each unit of dwelling accommodation shall be categorised as either Qualified or Registered according to the provisions in Part 5. The category into which a unit of dwelling accommodation falls determines who may occupy and own it (ownership is dealt with in Part 6 of the Law).

*Article 12* provides that units of dwelling accommodation created on or after the date that Article 13 comes into force and which are not subject to conditions or consents under current Housing legislation shall be Qualified subject to any conditions the Minister may specify under Article 15.

*Article 13* makes provision for the categorization of units of dwelling accommodation created before the date this Article comes into force or, if created after such date, the

sale, transfer or lease of which is subject to a consent granted under the Housing (General Provisions) (Jersey) Regulations 1970 or subject to a condition specified by the Minister for Housing relating to the occupation, use or disposal of the unit. Broadly a unit becomes Qualified if it is subject to conditions or consents under the Housing (Jersey) Law 1949 (including Regulations made under that Law); acquired from a parish or from the States; acquired by inheritance or as a result of *dégrévement* or by subrogation from a tenant *après dégrévement*; or if it was built at such a time that it falls outside current housing controls under the Housing (Jersey) Law 1949 and has not been sold, leased or transferred since. Any other unit is Registered. Any condition or concession, other than conditions granted under Planning legislation, relating to the occupancy, use or disposal of that unit, shall be deemed to be a condition to which the housing categorization of that unit is subject under Article 15.

*Article 14* makes provision for registered tourist accommodation, nursing homes and lodging houses. Regardless of the categorization of such accommodation under this Law whilst registered, any unit comprised in such accommodation is categorized Qualified if that registration is cancelled. Provision is made for the Minister to determine the categorization of any such unit following re-registration.

*Article 15* sets out the procedure by which the Minister can make a determination specifying initial conditions attached to the housing category of a unit of dwelling accommodation; change a housing category in respect of a unit of dwelling accommodation or change conditions to which a housing categorization is subject. The procedure can be initiated by way of an application by the owner of a unit of dwelling accommodation or by the Minister of his own volition. However the Minister cannot make a determination which would have the effect of rendering unlawful the occupation by any person of a unit of dwelling accommodation. Before the Minister makes a determination under this Article, all those who might be affected by the determination must be notified and given an adequate opportunity to make representations. If a determination is made following an application, the Minister must notify the applicant of the determination not later than 6 weeks after the date of the application. This Article does not apply to any condition granted under Planning legislation or affect the operation of any such condition. This Article also makes it an offence to breach any condition to which the housing category of a unit of dwelling accommodation is subject, punishable with an unlimited fine.

*Article 16* requires the Minister to keep a public register showing the housing category of each unit of dwelling accommodation and whether there are any conditions or concessions to which the categorization is subject.

*Article 17* prohibits any person from occupying a unit of dwelling accommodation that is Qualified as his or her residence unless that person (a) is Entitled or Licensed; (b) occupies with the consent of such a person (provided that other person is the main occupier of the unit of dwelling accommodation); (c) is an Entitled for Work Only person who, being the spouse of an Entitled person or Licensed person, purchased the property with his or her spouse; (d) acquires the property by inheritance or (e) occupies it with the Minister's consent. Under this Article the Minister may allow any person who has occupied a unit of dwelling accommodation under (a), (b) or (c) to occupy any Qualified unit for such period as the Minister may specify. Contravention of this Article is an offence punishable with an unlimited fine. The Article also provides that the Royal Court may, on the Minister's application, make a declaration that a person is deemed not to have been ordinarily resident in Jersey for any period

during which the person has been in unlawful occupation in contravention of this Article.

**Part 6** of the draft Law makes provision for land transactions.

*Article 18* defines the transactions (“specified transactions”) which are subject to restrictions. Specified transactions are registered contracts for the sale or transfer of land and leases. Contracts of partition of inherited or devised immovable property are not subject to the restrictions, nor are commercial leases (i.e. leases other than for units of dwelling accommodation).

*Article 19* prohibits any person from being a contracting party to a specified transaction unless the person acquiring land that is the subject of the transaction has an appropriate valid registration card on the date of that transaction and is not prohibited under this Article from being a party to such a transaction. An appropriate valid registration card is a registration card that accurately records the person’s residential and employment status on the date of the transaction. The restrictions are as follows –

<b>Status</b>	<b>Purchase (Article 18(1)(a) transaction)</b>	<b>Lease (Article 18(1)(b) transaction)</b>
Registered or Entitled for Work Only	Prohibited (but, in relation to Entitled for Work Only person see next row)	Cannot be party to a registered contract of lease.  Otherwise, lease for Registered property only on condition occupied as sole or principal place of residence in Jersey.
Entitled for Work Only as spouse of Entitled person or Licensed person	Permitted with spouse (in the case of spouse of a Licensed person, spouses must be joint purchasers; in case of spouse of an Entitled person one spouse may be vendor and the other purchaser)	Cannot be party to a registered contract of lease.  Otherwise, lease for Registered property only on condition occupied as sole or principal place of residence in Jersey.
Licensed	Permitted subject to conditions relating to occupation of the unit as the Licensed person’s sole or principal place of residence in Jersey and a requirement to sell if the person is no longer entitled to occupy under Article 17	Permitted

*Article 20* prohibits a legal person such as a company from acquiring land (whether through purchase or a lease) other than with the Minister's consent. Such consent may be with or without conditions. In deciding whether to grant consent, the Minister must have particular regard to the supply and demand of property and, where relevant, promoting ownership of residential property by persons with Entitled status. The Minister's powers under this Article do not apply to any conditions granted under Planning legislation. Nor does the Article apply to leases where the lessee is a public utility undertaking and the lease is necessary for the purpose of accommodating apparatus for the supply of gas, electricity, water or telecommunications.

*Article 21* makes it an offence for any person to be a party to a specified transaction in contravention of Part 6. The Article also makes it an offence for any person to contravene any condition to which a specified transaction is subject. The penalty for each type of offence is an unlimited fine.

**Part 7** of the draft Law makes provision for licensing firms and placing controls on the work available to non-local persons. It brings together into one section of the Law provisions relating to businesses, hawkers and non-resident traders, all of whom are referred to in the draft Law as "undertakings".

*Article 22* is an interpretation provision for Part 7. In particular, it defines "hawker" and "non-resident trader". A hawker is defined as any person who goes from door to door of residential premises, other than pursuant to an express prior arrangement, selling or buying goods or selling services or offering to sell or buy such things. A non-resident trader means any person, other than a hawker, who is not ordinarily resident in Jersey or who does not have any permanent business address in Jersey, who uses any place in Jersey for selling or buying goods or selling services or offering to sell or buy such things.

*Article 23* sets out the meaning of an "undertaking". Any trade, business or work done for members of the public counts as an "undertaking", subject to specified exceptions. In particular the definition excludes any enterprise staffed entirely by volunteers. States funded bodies are included in the definition as a single undertaking, although each parish, trading operation and prescribed States funded body is treated as a separate undertaking. It is irrelevant whether an undertaking has an address in Jersey or operates from a business address or from a dwelling house provided it has a physical presence in Jersey. It is also irrelevant whether the activity being carried on by an undertaking in Jersey is ancillary to any trade or business being carried on by the undertaking outside Jersey.

*Article 24* requires every adult to have a registration card accurately recording that person's residential and employment status before starting new work. "New work" is defined to mean starting work for an employer for whom the person has not previously worked or for whom the person has previously worked and the continuity of employment has been broken. Provisions are made to deal with agency situations where the Minister can specify by Order the circumstances in which a person will be deemed to be working for an agency or for the undertaking to which the person is supplied. This Article also makes provision concerning a person working for a body corporate which is part of a group. Such a person is deemed to be starting new work for an undertaking within the group if the person works for that undertaking whether or not the person also works for another body corporate within the group. In addition, the Article prohibits any person from appointing an adult to work who does not have a registration card accurately recording that adult's residential and employment status. Breach of this Article is an offence punishable with an unlimited fine.

*Article 25* requires every undertaking to have an appropriate licence (which may be more than one). An appropriate licence is a business licence (for activities other than hawking) or a non-resident trading licence. An individual who carries on the activity of hawking must have a hawker's licence. If that individual works for an undertaking carrying on activities other than hawking, that undertaking must A new licence will be required for a change in the ownership of a company such that the amount of share capital owned by persons with Entitled status, Licensed status or Entitled for Work Only status is reduced from 60% or more to less than 60%. A significant change in the ownership of other types of body corporate will also require a new licence. The Minister is required to issue guidance on how a significant change of ownership will be interpreted in respect of an undertaking that is not a company with a share capital. Failure to carry on an undertaking without an appropriate licence is an offence punishable with a maximum term of 2 years imprisonment and/or an unlimited fine.

*Article 26* sets out the process for grant and duration of a licence. Subject to specific provisions in the draft Law, the Minister may grant a licence with or without conditions and with or without an expiry date. Contravention of a condition of a licence is an offence punishable with a maximum term of 2 years imprisonment and/or an unlimited fine. The Article sets out the criteria that the Minister must take into account when deciding whether to grant a licence, these criteria relate to various matters promoting the interests of Jersey. In the case of a hawker's licence, the Minister must also take into account whether the person concerned is a fit and proper person having regard to any previous convictions of the person.

*Article 27* sets out specific provisions concerning a business licence. In particular, the Minister must specify the maximum number (which may be nil) of Licensed and Registered persons who can work for the undertaking concerned. If Licensed persons are permitted to work for the undertaking, the Minister must also specify the description of work that can be done by such persons. For example, the Minister might specify that a firm can employ 5 accountants. Article 27(2) also sets out examples of the sorts of conditions that can be attached to a business licence such as specifying accommodation to be occupied by Licensed persons; prohibiting Licensed persons from purchasing property (so they would be required to take out a lease instead), and specifying particular individuals who may work for an undertaking. The conditions described in Article 27(2) replicate current practice with respect to conditions attached to licences granted under the Regulation of Undertakings and Development (Jersey) Law 1973.

*Article 28* sets out specific provisions concerning a hawker's licence. In particular, the Minister must specify the length of time, not exceeding 12 months, for which the licence will remain in force. A hawker's licence must not be granted for the sale of intoxicating liquor or other prescribed goods. A hawker must produce his or her licence if required to do so by any police officer or person approaching the hawker in the course of the hawker's business. A non-resident trading licence must either be displayed in a prominent position where trading takes place, or, if that is not possible, the person concerned must produce the licence for inspection if required to do so by a police officer or another person approaching the non-resident trader in the course of his or her business. Breach of the requirements in respect of production of a hawker's or non-resident trading licence is an offence punishable with an unlimited fine.

*Article 29* sets out the procedure for varying licence conditions. A licence condition may be varied by the Minister either following an application by the licence holder or of the Minister's own volition. The Minister cannot vary a licence condition so that the maximum number of persons of a particular residential and employment status is

less than the actual number of people of that status working for the undertaking, or who have been appointed to work for that undertaking, at the time such variation would take effect. The Minister must give the licence holder reasons if the Minister refuses to vary the licence or varies it of his own volition or in a way that was not requested in an application.

*Article 30* sets out the procedure for revoking a licence. Grounds for revocation include giving false or misleading information in connection with an application; failure to comply with a licence condition; and, in the case of a business licence only, that the undertaking appears to have ceased to exist. Except where a licence holder has requested or agreed to a revocation, the Minister must give notice to the licence holder of the proposed revocation and the revocation must not take effect for one month or until any appeal is determined unless the licence holder agrees otherwise. If a licence holder has requested or agreed to a revocation, the revocation will take effect on such date as is agreed.

*Article 31* makes provision for annual charges to be paid in respect of each Licensed person working for an undertaking with a business licence. Failure to pay such an annual charge can result in a penalty payment of £250 as well as liability for an offence punishable with a maximum fine of level 3 on the standard scale, that is £2,000.

*Article 32* requires statements relating to the current residential and employment status of staff to be provided in respect of undertakings with a business licence. The Minister must give notice to the undertaking concerned of the particulars required which may vary from one undertaking to another. Failure to provide the Minister with information as required under this Article may result in a penalty payment to the Minister of £250 and liability for a criminal offence punishable with a maximum term of 6 months imprisonment and/or a maximum fine of level 4 on the standard scale, that is, £5,000.

*Article 33* makes provision for the appointment of authorized persons to carry out the enforcement provisions described in Articles 34 to 37.

*Article 34* enables a person authorized by the Minister to require information and documents from any person for the purpose of enabling the Minister to exercise his or her functions under this Part. Failure to comply with this requirement is an offence punishable with a maximum term of 6 months imprisonment and/or an unlimited fine. Suppression, alteration, or the destruction of any document required is an offence punishable with a maximum term of 2 years imprisonment and/or an unlimited fine.

*Article 35* allows an authorized person to enter business premises to examine and take copies of any business documents located on such premises. Such a power may be exercised without a warrant if the occupier consents to such entry or otherwise with a warrant issued by the Bailiff. An authorized person may also require any person to produce a specified document. "Business premises", as defined in Article 22, include any premises used in connection with carrying on of an undertaking and may include domestic premises used for that purpose.

*Article 36* makes it an offence to obstruct an authorized person in exercise of his or her powers under Article 35. Such an offence is punishable with a maximum term of imprisonment of 6 months and/or a fine. It is also an offence to alter, suppress or destroy any business document that the authorized person has required under such powers. Such an offence is punishable with maximum term of 2 years imprisonment and/or an unlimited fine.

*Article 37* gives the Minister power to require the cessation of any activity which the Minister reasonably believes is not authorized by a licence under this Part by the service of a notice or an injunction. The notice must be served on the person carrying on the undertaking or, if there is no such person in Jersey, on any individual present in Jersey who appears to be responsible for carrying on the activity in Jersey. An authorized person may enter business premises for the purposes of serving such a notice at any reasonable hour. Unreasonable obstruction of an authorized person's powers to enter business premises is an offence punishable with a maximum term of imprisonment of 6 months and/or an unlimited fine. A person who is served with a notice is required to ensure its compliance and failure to do so is an offence punishable with a maximum term of imprisonment of 6 months and or a fine of level 4 on the standard scale (that is, £5.000).

*Article 38* requires the Minister to keep a public register of each undertaking granted a licence under this Part.

*Article 39* provides that this Part of the Law does not apply to any member of the States, judge, jurat or Commissioner (such Commissioner being appointed under the Royal Court (Jersey) Law 1948), acting in his or her official capacity. "Member of the States" has the same meaning as in the State of Jersey Law 2005 and includes the Bailiff, the Lieutenant-Governor, Dean, Attorney-General and Solicitor General.

**Part 8** of the Law sets out general provisions relating to the Law.

*Article 40* sets out the different ways in which a notice under the Law may be served on a person.

*Article 41* sets out the procedure for bringing an appeal against various determinations and decisions that may be made by the Minister under the preceding provisions of this Law.

*Article 42* provides that information given to the Minister under this Law may be used to provide statistical information to any other Minister.

*Article 43* makes provision for when someone may apply for a registration card on behalf of another person or give information that the other person is required to give to the Minister under Article 9. The Minister may authorize another person to act for another, either individually or by such description as may be prescribed by Order.

*Article 44* is a general provision allowing the Minister to prescribe matters by Order and for Regulations and Orders to contain transitional, consequential, incidental or supplementary provisions.

*Article 45* makes it an offence for any person to give false or misleading information under the Law punishable with a maximum term of 2 years imprisonment and/or an unlimited fine.

*Articles 46* provides that partners of limited liability partnerships or directors, managers, secretaries or any similar officer of a body corporate may, if culpable, be guilty of offences under the Law in the same way as the partnership or body corporate.

*Article 47* provides that the States, Ministers, or officers shall not be liable in damages for anything done under the Law except when acting (or omitting to act) in bad faith or where liability arises under the Human Rights (Jersey) Law 2000.

*Article 48* provides for the constitution of the Housing and Work Advisory Group. The Group shall include the Chief Minister's Assistant Minister as chair and the Ministers

for Housing and Economic Development as well as such other elected members of the States or any other person as the Minister may determine. The Group is to advise the Minister on the discharge of his or her functions under the Law and report to the Minister on any proposed changes to legislation. Any Proposition presented by the Minister to the States covering the subject matter of any such report must be accompanied by the report.

**Part 9** of the draft Law contains transitional and saving provisions, repeals and consequential amendments.

*Article 50* ensures that rights of occupation in existence immediately before the date the Law comes into force continue after that date.

*Article 51* provides that licences granted under the Regulation of Undertakings and Development (Jersey) Law 1973 and the Hawkers and Non-Resident Traders (Jersey) Law 1965 immediately before the date that the draft Law comes into force shall be deemed to be granted under the draft Law and shall include conditions attached to such licences immediately before that date unless there is a conflict with a provision in the draft Law or the condition falls within a description specified by the Minister by Order.

*Article 52* repeals specified legislation relating to housing, regulation of undertakings, hawkers and non-resident traders.

*Article 53* gives the States power to amend any enactment or make such consequential, transitional or saving provision as it considers necessary or expedient, including amendment of this Law.

*Article 54* sets out the title of the draft Law and provides that it shall come into force on such day or days as the States may by Act appoint.

### **Criminal Justice (Standard Scale of Fine) (Jersey) Law 1993**

<b>Level on the scale</b>	<b>Amount of fine</b>
1	£50
2	£500
3	£2,000
4	£5,000





Jersey

## DRAFT CONTROL OF HOUSING AND WORK (JERSEY) LAW 201-

### Arrangement

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Jersey

## DRAFT CONTROL OF HOUSING AND WORK (JERSEY) LAW 201-

**A LAW** to establish a registration process for residents of Jersey and to make provision for the control of work and housing and for related purposes.

*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

**WHEREAS** Jersey wishes to preserve and maximize the benefits of its resources;

**AND WHEREAS** it is recognized that, in furtherance of these aims, provision is needed for controlling –

- (a) the overall population density of Jersey; and
- (b) the availability of work and housing in Jersey for people with strong connections or associations with Jersey and, more generally, in such a way that is in the best interests of the community in Jersey –

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

### PART 1

#### INTERPRETATION

##### 1 Interpretation

- (1) In this Law, unless the context otherwise requires –  
“adult” means any person who is not a child;

- “child” means any person below school leaving age;
- “Court” means the Royal Court;
- “Hawkers Law 1965” means the Hawkets and Non-Resident Traders (Jersey) Law 1965<sup>1</sup>;
- “housing category” means a housing category specified in Article 11(1);
- “Housing Law” means the Housing (Jersey) Law 1949<sup>2</sup>;
- “Housing Regulations” means the Housing (General Provisions) (Jersey) Regulations 1970<sup>3</sup>;
- “individual” except in Part 7, includes a child;
- “land” means any corporeal hereditament, including a building, and land covered with water;
- “lease” means a lease, underlease or other tenancy, assignment operating as a lease or underlease, or an agreement for such a lease, underlease, tenancy or assignment and the expressions “lessor” and “lessee” shall be construed accordingly;
- “Minister” except where specified otherwise, means the Chief Minister;
- “person” –
- (a) in Parts 2 to 6 means an adult;
  - (b) in the remainder of this Law means, as the case requires an adult or a body of persons, whether incorporated or unincorporated;
- “prescribe” means prescribe by Order;
- “registration card” means a card issued under Article 4;
- “registered contract” means a contract passed before the Court and registered in the Public Registry of Contracts;
- “residential and employment status” means a residential and employment status specified in Article 2(1);
- “RUD Law 1973” means the Regulation of Undertakings and Development (Jersey) Law 1973<sup>4</sup>;
- “school leaving age” means the upper limit of compulsory school age by virtue of Article 2 of the Education (Jersey) Law 1999<sup>5</sup>;
- “specified transaction” shall be construed in accordance with Article 18;
- “States funded body” has the same meaning as in the Public Finances (Jersey) Law 2005<sup>6</sup>;
- “valid registration card” means a registration card which, under Article 5, is permanent or which has not expired;
- “vary” includes amend, replace, add to and revoke;
- “work” means any of the following –
- (a) work governed by a contract of employment;
  - (b) engagement in any trade, business, profession or vocation;
  - (c) the holding of an office;

- (d) engagement by a person in any other activity described in Article 23(1)(c);
- “working day” excludes Christmas Day, Good Friday, Saturday, Sunday and a public holiday under the Public Holidays and Bank Holidays (Jersey) Act 2010<sup>7</sup>.
- (2) In this Law references to premises, housing or a unit of dwelling accommodation include any such premises, housing or unit of dwelling accommodation registered under the Tourism (Jersey) Law 1948<sup>8</sup>, the Nursing and Residential Homes (Jersey) Law 1994<sup>9</sup> or the Lodging Houses (Registration) (Jersey) Law 1962<sup>10</sup>.

## PART 2

### RESIDENTIAL AND EMPLOYMENT STATUS

#### 2 Residential and employment status

- (1) A person’s residential and employment status shall be any of the following –
- (a) Entitled;
  - (b) Licensed;
  - (c) Entitled for Work Only; or
  - (d) Registered,
- if the person satisfies the conditions for that status specified by the States in Regulations.
- (2) In making Regulations under paragraph (1), the States may –
- (a) specify circumstances in which a person will lose a particular residential and employment status; and
  - (b) make provision for the residential and employment status of any particular person to be subject to such conditions as may be determined by the Minister, including, without prejudice to the generality of the foregoing, conditions relating to the occupancy of a specific dwelling unit.
- (3) The Minister shall –
- (a) issue guidance concerning the effect on a person’s residential and employment status of any temporary absence from Jersey;
  - (b) lay a copy of such guidance before the States; and
  - (c) arrange for the guidance to be published.
- (4) Such guidance may make provision concerning the circumstances in which a period of temporary absence –
- (a) does not count towards determining a period of residence required by Regulations as a condition for a particular residential and employment status;

- (b) does not break any period of continuous residence for the purposes of any such condition.
- (5) The Minister shall, by Order, specify the date that guidance issued under paragraph (3) is to take effect.
- (6) The Minister may, at any time, require a person to provide the Minister with such documents and information as the Minister may require, within such reasonable time as the Minister may specify, for the purpose of determining or verifying the person's residential and employment status.
- (7) A requirement under paragraph (6) shall be in writing.
- (8) A person who does not, without reasonable excuse, comply with a requirement of the Minister under paragraph (6) shall be guilty of an offence and liable to a fine of level 4 on the standard scale.
- (9) Any reference in this Law to a person who is Entitled, Licensed, Entitled for Work Only or Registered, as the case may be, or who has any such status, is a reference to a person who meets the conditions for that status in Regulations under paragraph (1).

### **3 Application for a registration card**

- (1) A person shall, if required to do so under Article 7, 19 or 24, apply to the Minister for a registration card.
- (2) A person who satisfies the conditions for a residential and employment status specified in Regulations under Article 2 may apply at any time for a registration card or for the variation of a valid registration card.
- (3) An application under paragraph (1) or (2) shall be in such form as may be determined by the Minister and accompanied by such information and documents as the Minister may determine and such fee as the Minister may prescribe.
- (4) Before determining an application under paragraph (1) or (2), the Minister may require the person who has made the application to provide the Minister with such other documents or information as the Minister may require for the purposes of verifying any of the following –
  - (a) the identity of the person;
  - (b) the person's residential and employment status; and
  - (c) any other information to be recorded on the card.
- (5) Following an application for a registration card under paragraph (1) or (2) or for the variation of a person's residential and employment status recorded on an existing card, the Minister shall decide whether a person meets the conditions for a residential and employment status specified in Regulations under Article 2(1) and, if so, determine that the person has that status.
- (6) The Minister may require a person to attend such place as he or she may specify for the purpose of applying for a registration card.
- (7) The Minister may by Order provide that any person or person of a prescribed description is exempt from the duty under this Law to apply for a registration card.

**4 Registration card**

- (1) Following a determination of a person's residential and employment status under Article 3(5), the Minister shall, as appropriate, issue that person with a registration card or vary a registration card.
- (2) The registration card shall record the following information in respect of the person whose identity is recorded on the card –
  - (a) name;
  - (b) social security number;
  - (c) residential and employment status;
  - (d) date of the issue of the card;
  - (e) whichever of the following information is applicable in accordance with Article 5 –
    - (i) the date of the expiry of the card,
    - (ii) whether the residential and employment status recorded on the card is subject to verification by the Minister under paragraph (4)(a) or (5)(a) of that Article,
    - (iii) whether the card is permanent.
- (3) The registration card may record such other information as the Minister may determine concerning any conditions to which the employment and residential status of the person whose identity is recorded on the card is subject.
- (4) A registration card shall –
  - (a) be in such form as the Minister may from time to time determine; and
  - (b) remain the property of the Minister.
- (5) The States may by Regulations specify other information to be recorded on a registration card concerning the person whose identity is recorded on the card.
- (6) For the purposes of paragraph (5), “information” means information in any form, whether or not in writing, including a photograph of the person whose identity is recorded on the card.

**5 Duration of a registration card**

- (1) The registration card of an Entitled person who has permanent Entitled status in accordance with Regulations under Article 2 shall be permanent.
- (2) The registration card of an Entitled person who, in accordance with Regulations under Article 2 –
  - (a) does not have permanent Entitled status; and
  - (b) is not capable of losing Entitled status in the 5 year period following the date that the card is issued,shall expire 5 years after the date that the card is issued.

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- (3) The registration card of an Entitled person who does not have permanent Entitled status in accordance with Regulations under Article 2 but is capable of losing Entitled status in the 5 year period following the date that the card is issued shall expire in accordance with paragraph (4).
  - (4) Such card shall expire on whichever of the following dates occurs first –
    - (a) the date immediately prior to the date that the person is required to have an appropriate valid registration card under Article 19(1) or 24(1), as the case may be, unless the Minister verifies that the person continues to meet, or is expected to continue to meet on the latter date, the conditions for Entitled status for the purpose of the relevant Article; or
    - (b) 5 years after the date the card is issued.
  - (5) The registration card of an Entitled for Work Only person or a Licensed person shall expire on whichever of the following dates occurs first –
    - (a) the date immediately prior to the date that the person is required to have an appropriate valid registration card under Article 19(1) or 24(1), as the case may be, unless the Minister verifies that the person continues to meet, or is expected to continue to meet on the latter date, the conditions for Entitled for Work Only status or Licensed status, as the case may be, for the purposes of the relevant Article; or
    - (b) the date the person loses his or her Entitled for Work Only status or Licensed status, as the case may be.
  - (6) The registration card of a Registered person shall be permanent (whether or not the person is issued with another registration card recording a different residential and employment status).
  - (7) Expiry of a registration card in accordance with this Article shall not, by itself, have any effect on a person's residential and employment status, such status being determined in accordance with Regulations made under Article 2.
  - (8) For the purposes of paragraph (4)(a) and (5)(a), the Minister shall determine the means by which, and to whom, there shall be communicated the verification described in those sub-paragraphs.

## **6 Offences concerning registration cards**

- (1) A person who purports to sell, transfer or assign a valid registration card or agrees to assign, sell or transfer such a card is guilty of an offence and liable to a fine of level 3 on the standard scale.
- (2) A sale, transfer or assignment of a valid registration card is of no effect.
- (3) A person who wilfully defaces or destroys a valid registration card is guilty of an offence and liable to a fine of level 3 on the standard scale.
- (4) A person who, with intent to deceive –
  - (a) forges, alters or uses or lends to or allows to be used by any other person, any registration card; or

- (b) makes or has in the person's possession any document so closely resembling a registration card as to be calculated to deceive, is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (5) A person who knowingly makes any false statement or withholds any material information for the purpose of –
  - (a) obtaining a registration card for himself, herself or any other person;
  - (b) obtaining the variation of any registration card;
  - (c) preventing the issue or variation of any registration card; or
  - (d) procuring the imposition of any condition in relation to a registration card,is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

### PART 3

#### REGISTRATION FOR NEWCOMERS TO JERSEY

##### 7 Requirement for registration card

- (1) A person who meets the conditions described in paragraph (4) must have an appropriate valid registration card for which an application has been made within the time limit specified in paragraph (5).
- (2) Paragraph (1) does not apply to a person who, within the time limit specified in paragraph (5), has an appropriate valid registration card for the purposes of Article 24.
- (3) For the purposes of this Article, an appropriate valid registration card is a registration card which correctly records the person's employment and residential status at the time of the person's application for the card.
- (4) For the purposes of paragraph (1), the conditions are that the person –
  - (a) is, or expects to be, ordinarily resident in Jersey for a continuous period of 3 months or more on or after the date that this Article comes into force (regardless of the nature of the premises occupied by the person during that time); and
  - (b) has not been ordinarily resident in Jersey for a continuous period of 3 months or more immediately before –
    - (i) the date that this Article comes into force, or
    - (ii) the date the person attains the age of 16.
- (5) Subject to paragraph (6), the application for a registration card must be made no later than the expiry of the first period of 3 months during which the person is ordinarily and continuously resident in Jersey.
- (6) If the date from which a person has been ordinarily resident for a continuous period of at least 3 months occurs before the date that this

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Article comes into force, the application for a registration card must be made no later than the expiry of the 3 month period starting on the date that this Article comes into force.

- (7) Temporary absences from Jersey shall be disregarded in determining whether a person is continuously resident in Jersey for the first period of 3 months during which a person is ordinarily resident in Jersey provided that the majority of that time is spent in Jersey.
- (8) A person who contravenes paragraph (1) shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

## **8 Registration requirements for children not born in Jersey**

- (1) This Article applies to an adult who shares a household with a child born after the date that this Article comes into force, such child not being born in Jersey, if the adult is –
  - (a) the parent of the child; or
  - (b) another person with parental responsibility for the child.
- (2) An adult to whom this Article applies is required to notify the Minister of the child's name, gender, address and date of birth, such notification taking place –
  - (a) at the time the adult applies for a registration card under Article 3; or
  - (b) no later than 3 months after the date the child starts a period of 3 months continuous ordinary residence in Jersey.
- (3) A notification under paragraph (2) shall be in such form as the Minister may determine.
- (4) If there is more than one adult to whom this Article applies, compliance by one adult with the duty under paragraph (2) discharges all other persons to whom this Article applies of that duty.
- (5) A person who contravenes paragraph (2) is guilty of an offence and liable to a fine of level 2 on the standard scale.
- (6) An adult to whom this Article applies is not required to make a notification under this Article in respect of any child who is the subject of a notification by that adult under Article 9(2)(b) or (5)(a).

## **PART 4**

### **INFORMATION TO THE MINISTER**

## **9 Requirement to give information to the Minister upon change of address**

- (1) A person who –
  - (a) moves to an address in Jersey on or after the date that this Article comes into force; and
  - (b) is, or expects to be, ordinarily resident at that address for a continuous period of 3 months or more,

must notify the Minister of the information specified in paragraph (2) within the time limit specified in paragraph (6).

- (2) The information required for the purposes of paragraph (1) is –
- (a) the person's full name (including title), date of birth, the address to which the person has moved and the date the person started the continuous period of 3 months ordinary residence at that address;
  - (b) the full name (including title) and date of birth of any other individual who moved to that address with the person; and
  - (c) if applicable, the date the person, or, if known to the person, any individual referred to in sub-paragraph (b), intends to leave that address, or has left that address, because he or she intends to cease, or has ceased, being ordinarily resident in Jersey.
- (3) A person who –
- (a) has control of a unit of dwelling accommodation in respect of which another person must make a notification under paragraph (1); and
  - (b) is not a person referred to in paragraph (2)(b) in respect of whom that other person must make a notification,

must notify the Minister of the information specified in paragraph (5) within the time limit specified in paragraph (6).

- (4) For the purposes of paragraph (3) a person has control of a unit of dwelling accommodation if the person is responsible for allowing the other person referred to in paragraph (3)(a) to occupy that unit as his or her ordinary residence.
- (5) The information required for the purposes of paragraph (3) is –
- (a) the full name (including title) of every individual referred to in sub-paragraphs (a) and (b) of paragraph (2);
  - (b) the address of that unit of dwelling accommodation and the capacity in which the person making the notification has control of that unit, for example, as owner or lessor; and
  - (c) if known to the person making the notification, the date that any individual referred to in sub-paragraph (a) or (b) of paragraph (2) intends to leave that unit of dwelling accommodation, or has left that unit of dwelling accommodation, because the individual intends to cease, or has ceased, being ordinarily resident in Jersey.
- (6) A notification under paragraph (1) or (3) –
- (a) in respect of the information described in sub-paragraphs (a) and (b) of paragraph (2) or sub-paragraphs (a) and (b) of paragraph (5), as the case may be, shall be made no later than the expiry of the first period of 3 months of continuous residency at that address by any individual who is the subject of the notification;
  - (b) in respect of the information described in paragraph (2)(c) or (5)(c), shall be made as soon as practicable after the person making the notification becomes aware of the information.

- (7) If there is more than one person subject to the duty under paragraph (1) compliance with the duty by one person shall discharge all other persons who are subject to that duty.
- (8) If there is more than one person who is subject to the duty under paragraph (3), compliance with the duty by one person shall discharge all other persons who are subject to that duty.
- (9) A notification under paragraph (1) or (3) shall be in such form as the Minister may determine and accompanied by such documents or other information that the Minister may require to verify the identify of any individual who is the subject of the notification.
- (10) Temporary absences from an address shall be disregarded in determining whether a person is continuously resident at that address for the first period of 3 months at that address provided that the majority of that time is spent residing there.
- (11) The requirements under paragraphs (1) and (3) do not apply to a person in respect of information that has been notified to the Minister under another prescribed provision in any prescribed enactment.
- (12) A person who fails to comply with paragraph (1) or (3) shall be guilty of an offence and liable to a fine of level 2 on the standard scale.
- (13) The Minister may by Order –
  - (a) modify the requirements of this Article in respect of such individual or description of individual as may be specified in the Order; and
  - (b) make provision for treating any person as being in control of a unit of dwelling accommodation for the purposes of this Article or for the purposes of any modification under sub-paragraph (a).

## **10 Power to obtain information from other departments**

The Minister may, for the purposes of facilitating compliance with this Law, obtain, in relation to any individual, any of the following information that is held by any department or administration for which a Minister is assigned responsibility notwithstanding anything in any enactment to the contrary –

- (a) full name (including title);
- (b) date of birth;
- (c) current address.

## **PART 5**

### **HOUSING CATEGORIES AND OCCUPATION OF HOUSING**

## **11 Housing categories**

- (1) A unit of dwelling accommodation shall be in one of the following categories –
  - (a) Qualified; or

- (b) Registered.
- (2) The category of a unit of dwelling accommodation shall be as specified in Article 12, 13 or 14 (as the case requires) or as otherwise determined by the Minister under Article 15.
- (3) For the purposes of Articles 12 and 13, a unit of dwelling accommodation the construction of which is completed on or after the date that this Article comes into force (whether or not construction is begun before the date that this Article comes into force) shall be deemed to be created on the date of completion.

## **12 Housing created after the date this Law comes into force**

Any unit of dwelling accommodation to which Article 13 does not apply shall be Qualified subject to such conditions (if any) as the Minister may specify under Article 15.

## **13 Categorization of housing created before the date this Law comes into force**

- (1) This Article applies to a unit of dwelling accommodation –
  - (a) created before the date that this Article comes into force; or
  - (b) created on or after the date this Article comes into force if –
    - (i) its sale, transfer or lease was subject to a consent granted by the Minister for Housing under the Housing Regulations, or
    - (ii) it was otherwise subject to a condition specified by the Minister for Housing prior to the date this Article comes into force relating to the occupation, use or disposal of such a unit (whether or not under those Regulations).
- (2) A unit of dwelling accommodation to which this Article applies shall be Qualified if, immediately before the date that this Article comes into force, such unit was –
  - (a) subject to a condition or restriction (howsoever arising) that it is occupied by a person who would be permitted to purchase, take on a transfer of, or a lease of, the unit by virtue of one or more provisions in Regulation 1 of the Housing Regulations (whether or not such occupation took place);
  - (b) occupied by a person who purchased, took on a transfer of, or a lease of, the unit by virtue of a consent granted under any provision of the Housing Law or Regulations made under that Law (whether or not the unit was subject to a condition or restriction requiring such consent);
  - (c) subject to the condition referred to in Article 7A of the Housing Law; or
  - (d) occupied by a person who purchased, took on a transfer of, or leased the unit from a parish or a States funded body or any person or body acting on behalf of the public of Jersey.
- (3) For the purposes of paragraph (2) there shall be disregarded any concession relating to occupancy of a unit of dwelling accommodation by

a person who does not satisfy a condition or restriction to which that unit is subject.

- (4) A unit of dwelling accommodation to which this Article applies –
- (a) that was acquired before –
    - (i) 4th April 1949, or
    - (ii) 10th June 1993 by any of the means described in Article 5(a), (b) and (c) of the Housing Law; or
  - (b) falls within a description in Article 7(2) of the Housing Law, and was not subsequently the subject of any specified transaction within the meaning of Article 18(1)(a) of this Law prior to the date that this Article comes into force shall be Qualified on the date of the first such specified transaction concerning that unit.
- (5) A unit of dwelling accommodation to which this Article applies that is acquired after the date that this Article comes into force –
- (a) as a result of *dégrèvement*;
  - (b) by subrogation from a *tenant après dégrèvement*; or
  - (c) by inheritance,
- shall be Qualified.
- (6) A unit of dwelling accommodation to which this Article applies shall be Registered if it is not Qualified under paragraph (2), (4) or (5).
- (7) Subject to paragraph (8), if immediately before the date that this Law comes into force, any unit of dwelling accommodation to which this Article applies is subject to any lawful condition, including any concession to such a condition, relating to the occupancy, use or disposal of that unit, (whether or not that condition or concession arises in or under any enactment) that condition, including any such concession, shall be deemed to be a condition specified by the Minister under Article 15 to which the housing categorization of that unit is subject.
- (8) Paragraph (7) shall not apply to –
- (a) any condition (including any variation of a condition) attached to a grant of planning permission (including permission given by a Development Order) under the Planning and Building (Jersey) Law 2002<sup>11</sup>; or
  - (b) any condition attached to a planning permission granted under an enactment repealed by that Law,
- and nothing in this Article shall affect the operation of any such condition.

#### **14 Specific provisions in respect of premises registered under other enactments**

- (1) If, after the date this Article comes into force, registration of any premises is cancelled under the Tourism (Jersey) Law 1948, the Nursing and Residential Homes (Jersey) Law 1994 or the Lodging Houses (Registration) (Jersey) Law 1962, any unit of dwelling accommodation

comprised in such premises shall be Qualified (whether or not such unit was previously categorized as Qualified under this Law).

- (2) If, following cancellation as described in paragraph (1), any such premises are re-registered under any of the enactments described in paragraph (1), the Minister shall determine the categorization of any unit of dwelling accommodation comprised in such premises as if such determination were a change of categorization under Article 15.

## **15 Conditions and changes to housing categories**

- (1) An owner of a unit of dwelling accommodation may apply to the Minister to change the housing category of the unit of dwelling accommodation or to specify or vary the conditions relating to the housing category of the unit of dwelling accommodation.
- (2) Such application shall be in such form and accompanied by such fee as the Minister may prescribe.
- (3) The Minister may, of his or her own motion, or following an application under paragraph (1), make a determination relating to any of the following –
  - (a) a change in the categorization of a unit of dwelling accommodation;
  - (b) specification or a variation of the conditions relating to the housing category of a unit of dwelling accommodation.
- (4) The Minister shall not make a determination under paragraph (3) if the effect of any such determination would render unlawful the occupation of such a unit by any person who lawfully occupies the unit at the time of the determination.
- (5) The Minister shall not make a determination under paragraph (3) unless each person who may be affected by the determination –
  - (a) has been notified of the proposed change and of his or her right of appeal against the determination under Article 41; and
  - (b) been given an adequate opportunity to make representations to the Minister.
- (6) For the purposes of paragraph (5), a person who may be affected by the determination means each person (if any) who occupies the unit of dwelling accommodation as his or her ordinary residence and each person (including a legal person) who is an owner of that unit of dwelling accommodation, including any person who is an immediate landlord of the occupier of that unit.
- (7) In making a determination under paragraph (3), the Minister shall have regard to any relevant factors relating to the supply and demand of housing, particularly in relation to the interests of persons with Entitled status and may have regard to any other factors he or she considers relevant.

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- (8) If the Minister makes a determination following an application under paragraph (1), the Minister shall notify the applicant of his or her determination not later than 6 weeks after the date of the application.
- (9) For the purposes of paragraph (1) “owner” –
- (a) excludes the lessee of a unit of dwelling accommodation unless the lessee has the written permission of the owner to make such an application;
  - (b) in the case of a unit of dwelling accommodation to which the Loi (1991) sur la copropriété des immeubles bâtis<sup>12</sup> applies, means the owner of a *lot*;
  - (c) in the case of share transfer property, means the company owning the unit of dwelling accommodation.
- (10) For the purposes of paragraph (9)(c), “share transfer property” means any unit of dwelling accommodation where a person’s entitlement to use and occupy the unit of dwelling accommodation arises by virtue of the ownership by that person of shares in a company that owns the unit.
- (11) A person who contravenes a condition which is the subject of a determination under this Article shall be guilty of an offence and liable to a fine.
- (12) The Minister’s powers under this Article shall not apply to –
- (a) any condition (including any variation of a condition) attached to a grant of planning permission (including permission given by a Development Order) under the Planning and Building (Jersey) Law 2002; or
  - (b) any condition attached to a planning permission granted under an enactment repealed by that Law,
- and nothing in this Article shall affect the operation of any such condition.

## 16 Register of housing

- (1) The Minister shall keep a register of all units of dwelling accommodation showing –
- (a) the housing category of each unit; and
  - (b) whether there are any conditions or concessions to which that categorization is subject.
- (2) Any person may inspect the register during normal business hours free of charge or take a copy of any part of the register subject to payment of any prescribed fee.

## 17 Occupation of Qualified housing

- (1) A person shall not occupy a unit of dwelling accommodation that is Qualified as his or her ordinary residence unless –
- (a) the person is Entitled or Licensed;

- 
- (b) the person occupies the unit with the consent of another person who is Entitled or Licensed provided that the other person occupies the whole or a substantial part of that unit as his or her sole or principal place of residence in Jersey;
  - (c) the person is Entitled for Work Only and has purchased the unit of dwelling accommodation as a party to a specified transaction described in Article 18(1)(a) to which his or her spouse, being an Entitled person or a Licensed person, was also a party in the same capacity;
  - (d) the person has acquired the property by inheritance; or
  - (e) the person occupies the unit with the consent of the Minister under paragraph (2).
- (2) The Minister may grant consent to any person who has previously occupied a unit of dwelling accommodation by virtue of any of subparagraphs (a) to (c) of paragraph (1) to live in any unit of dwelling accommodation that is Qualified as his or her ordinary residence for such period as may be specified by the Minister (which may be determined by the happening of an event).
  - (3) If a person occupies a unit of dwelling accommodation under paragraph (1)(b) the person may at any time request the Minister to verify the residential and employment status of the person giving consent to the occupation and the Minister shall comply with such a request.
  - (4) Where it appears to the Minister that a person is occupying a unit of dwelling accommodation in contravention of paragraph (1), the Minister may make an application to the Court for a declaration that, for the purposes of this Law and any Regulations made under this Law, a person shall be deemed not to be, or not to have been, ordinarily resident in Jersey in respect of any period during which the person has occupied, or is in occupation of, a unit of dwelling accommodation in contravention of this Article.
  - (5) In making a declaration under paragraph (4), the Court may make such incidental provision as it thinks fit.
  - (6) An application in respect of a person under paragraph (4) must be made within 6 months of the date the Minister becomes aware of occupation by that person of a unit of dwelling accommodation in contravention of this Article.
  - (7) Any person who occupies a unit of dwelling accommodation as his or her ordinary residence in contravention of this Article is guilty of an offence and liable to a fine.

## PART 6

### LAND TRANSACTIONS

#### 18 Specified transactions

- (1) For the purposes of this Part a specified transaction is –

- 
- (a) a registered contract for the sale or transfer of any land in perpetuity, or for a term expiring on the happening of a specified event, or for the unexpired portion of any such term as aforesaid; or
  - (b) a lease of any land, whether oral or in writing, including a registered contract of lease.
- (2) A specified transaction shall not include –
- (a) any contract of partition of inherited or devised immovable property; or
  - (b) any lease where the land demised by the lease does not comprise a unit of dwelling accommodation.
- (3) The States may by Regulations amend paragraph (2).

**19 Prohibition on specified transactions without an appropriate valid registration card**

- (1) No person shall be a party to a specified transaction unless the person acquiring land that is the subject of that transaction –
- (a) has an appropriate valid registration card; and
  - (b) is not prohibited from being such a party under this Article.
- (2) For the purposes of this Article –
- (a) an appropriate valid registration card of a person is a registration card recording the person's residential and employment status, the conditions for such status being satisfied by that person on the date of the specified transaction; and
  - (b) references to the acquisition of land mean acquiring land as a purchaser, lessee or transferee.
- (3) Subject to paragraph (6), a person who is Registered or Entitled for Work Only shall not acquire land as a party to any transaction described in Article 18(1)(a).
- (4) A person who is Registered or Entitled for Work Only shall not acquire land as a party to any transaction described in Article 18(1)(b) that is a registered contract of lease.
- (5) Subject to paragraph (4), a person who is Registered or Entitled for Work Only shall not acquire land as a party to any transaction described in Article 18(1)(b) except a transaction in relation to a unit of dwelling accommodation that is Registered, such transaction being subject to the condition that the unit of dwelling accommodation will be occupied by the person as his or her sole or principal place of residence in Jersey.
- (6) Paragraph (3) does not apply where a person who is Entitled for Work Only is a party to a specified transaction described in Article 18(1)(a) to which his or her spouse –
- (a) being an Entitled person, is also a party (whether or not each spouse is a party to the specified transaction in the same capacity); or

- (b) being a Licensed person, is also a party, (each spouse being a party to the specified transaction as joint purchaser or transferee).
- (7) A person who is Licensed shall not acquire land as a party to any transaction described in Article 18(1)(a) unless –
- (a) the transaction involves a unit of dwelling accommodation which will be occupied by the person as his or her sole or principal place of residence in Jersey; and
  - (b) the transaction is subject to a condition that the Licensed person and, if applicable, any spouse who jointly owns the unit of dwelling accommodation, will cause the unit of dwelling accommodation to be sold to a person who can lawfully occupy the unit under this Law in the event that the Licensed person is no longer permitted to occupy the unit of dwelling accommodation under Article 17(1)(a) or (e).

## **20 Specified transactions concerning companies etc**

- (1) In this Article “legal person” includes –
- (a) any body of persons, corporate or unincorporated;
  - (b) the Crown; and
  - (c) a corporation sole,
- but excludes Her Majesty in her private capacity and any other individual.
- (2) A legal person shall not acquire land as a party to a specified transaction except with the prior consent in writing of the Minister.
- (3) A legal person may make an application to the Minister for consent under paragraph (2) in such form and accompanied by such documents as the Minister may determine and accompanied by such fee as the Minister may prescribe.
- (4) In deciding whether to grant consent under paragraph (2), the Minister shall take into account whether consent, can, in the best interests of the community, be justified, with particular regard to the supply and demand of property and, where relevant, to promoting ownership of residential property by persons with Entitled status.
- (5) Subject to paragraph (7), the Minister may grant consent under paragraph (2) subject to such conditions as he or she thinks fit.
- (6) If the Minister refuses to grant consent under paragraph (2), or grants consent subject to conditions, he or she shall notify the applicant in writing with reasons and, at the same time, inform the applicant of his or her right of appeal under Article 41.
- (7) The Minister’s powers under paragraph (5) shall not apply to –
- (a) any condition (including any variation of a condition) attached to a grant of planning permission (including permission given by a Development Order) under the Planning and Building (Jersey) Law 2002; or

- (b) any condition attached to a planning permission granted under an enactment repealed by that Law,  
and nothing in this Article shall affect the operation of any such condition.
- (8) Paragraph (2) shall not apply to any specified transaction described in Article 18(1)(b), where the party acquiring land is a public utility undertaking and the land is for the purposes of accommodating any apparatus necessary for the supply or control of gas, electricity, water, or telecommunications.
- (9) In paragraph (8), “public utility undertaking” means any legal person authorized by or under any enactment to carry on a gas, electricity, water or telecommunications undertaking.

## 21 Offences concerning specified transactions

- (1) A person who is a party to a specified transaction (in any capacity) in contravention of any provision in this Part shall be guilty of an offence and liable to a fine.
- (2) A person who breaches any condition described in this Part to which a specified transaction is subject shall be guilty of an offence and liable to a fine.

## PART 7

### CONTROLS ON WORKING

## 22 Interpretation

- (1) In this Part –
- “agency” means a person (the “agent”) who supplies an individual (“the agency worker”) to work for another (the “principal”) under a contract or other arrangements between the agent and the principal, such agency worker not working under a contract of service with the agent or the principal;
- “authorized person” means the Minister or any individual authorized by the Minister under Article 33 to perform functions under this Part;
- “business document” means any document that –
- (a) relates to the carrying on of an undertaking;
- (b) relates to the activity of being a hawker or non-resident trader; or
- (c) forms part of any record under any enactment;
- “business licence” means a licence granted in respect of any undertaking involving work or services other than either or both of the following –
- (a) hawking;
- (b) any work or services performed or offered in Jersey by non-resident traders;

“business premises” means premises used in connection with the carrying on of an undertaking or the activity of being a hawker or non-resident trader whether or not such premises are in a person’s place of residence or are the sole premises used for any such purpose;

“group”, in relation to a body corporate, means that body corporate, any other body corporate which is its holding body corporate or subsidiary and other body corporate which is a subsidiary of that holding body corporate;

“hawker” means an individual who goes from door to door of residential premises, other than pursuant to an express prior arrangement with the owner or occupier of those premises, for the purpose of any of the following –

- (a) selling goods;
- (b) offering or exposing goods for sale;
- (c) buying or offering to buy goods;
- (d) providing or offering to provide, any services,

other than for the sole purpose of delivering printed matter advertising any such activities;

“hawker’s licence” means a licence granted to a hawker;

“holding body corporate” has the same meaning as a holding body in Article 2 of the Companies (Jersey) Law 1991<sup>13</sup>;

“intoxicating liquor” has the same meaning as in the Licensing (Jersey) Law 1974<sup>14</sup>;

“licence” means any of the following licences granted under Article 26, as the case requires –

- (a) a business licence;
- (b) a non-resident trading licence;
- (c) a hawker’s licence;

“licence holder” means –

- (a) a person carrying on an undertaking in respect of which a licence has been granted under Article 26;
- (b) a person (whether or not carrying on an undertaking) who holds a hawker’s licence;

“non-resident trader” means any person (other than a hawker) who –

- (a) is not ordinarily resident in Jersey; or
- (b) who does not have any permanent business premises in Jersey,

and who, being physically present, uses any place in Jersey, or moves from place to place in Jersey, for the purpose of selling or offering or exposing for sale goods or services to the public (whether such goods or services are supplied in Jersey or in a country or territory outside Jersey) or for the purpose of buying, or offering to buy, goods from the public;

“non-resident trading licence” means a licence granted in respect of an undertaking involving any work or services performed or offered in Jersey by non-resident traders;

“payment” refers to any form of remuneration, including –

- (a) commissions and benefits in kind;
- (b) rents and receipts for the provision of accommodation,

and “paid” shall be construed accordingly;

“subsidiary” has the meaning given in Article 2 of the Companies (Jersey) Law 1991;

“recognized stock exchange” means –

- (a) the Channel Islands Stock Exchange;
- (b) any market for the buying and selling of securities which is situated in, and recognized as, a stock exchange within the meaning of the law relating to stock exchanges of any of the following –
  - (i) any member State of the European Union,
  - (ii) Australia, Canada, Hong Kong, Japan, Norway, Singapore, South Africa, Switzerland or the United States of America;or
- (c) any other exchange approved in writing by the Minister;

“trading operation” means a trading operation designated by Regulations under Article 25 of the Public Finances (Jersey) Law 2005 or taken to be designated by such Regulations under another enactment.

### **23 Meaning of “undertaking”**

- (1) Subject to this Article, “undertaking” means any –
  - (a) trade;
  - (b) business; or
  - (c) activity involving work or services performed for, or offered to members of the public, including a section of the public,carried on in Jersey by any person whether or not carried on for profit.
- (2) For the purposes of paragraph (1) a trade, business or activity is not an undertaking if no individual working for the undertaking is paid for such work.
- (3) For the purposes of this Law the following persons shall be treated as carrying on an undertaking –
  - (a) where an undertaking is carried on by a legal person, the legal person; or
  - (b) where an undertaking is not carried on by a legal person, the individual or individuals having responsibility for the management, direction and control of the undertaking.
- (4) In determining whether an undertaking is being carried on in Jersey –
  - (a) it is irrelevant whether it has an address in Jersey or whether any address from which the undertaking is carried on is fixed or is a

business address or is a dwelling house or some other premises provided that the undertaking has a physical presence in Jersey; and

- (b) it is irrelevant whether activities being carried on in Jersey comprised in the undertaking are ancillary to any trade or business carried on by the undertaking outside Jersey.
- (5) For the purposes of paragraph (4)(a), ‘physical presence’ may refer to the physical presence in Jersey of –
- (a) any person working in or for the undertaking; or
  - (b) any item in the custody or ownership of the undertaking,
- however for the avoidance of doubt, the presence in Jersey of a person working in or for an undertaking carrying on activities outside Jersey only for the purpose of meeting staff of another undertaking does not of itself constitute physical presence of the former undertaking in Jersey.
- (6) Subject to paragraph (7), States funded bodies shall together be deemed to be a single undertaking for the purposes of this Part.
- (7) Each parish, trading operation and any prescribed States funded body shall each be a separate undertaking.

#### **24 Requirement to have a registration card for work**

- (1) A person, being an individual, shall not start new work in Jersey unless that person has an appropriate valid registration card.
- (2) A person shall not appoint another person to work in or for an undertaking unless the latter has an appropriate valid registration card.
- (3) For the purposes of this Article, an appropriate valid registration card is a registration card recording the person’s residential and employment status, the conditions for such status being satisfied by the person on the date the person starts new work.
- (4) A person starts new work for the purposes of this Article –
  - (a) if the person works under a contract of employment for a person for whom the person has not previously worked;
  - (b) if the person works under a contract of employment for a person for whom the person has previously worked and the continuity of the period of the person’s employment has been broken within the meaning of the Employment (Jersey) Law 2003<sup>15</sup>; or
  - (c) if there is no contract of employment, the person works in or for an undertaking –
    - (i) in or for which the person has not previously worked, or
    - (ii) in or for which the person has previously worked but the length of time which has elapsed since ending that work is such that the person would ordinarily be regarded as starting new work.
- (5) For the purposes of paragraph (4), subject to paragraph (6), a person works for another person under a contract of employment if –

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- (a) the first person works for the second person under a contract of service or apprenticeship with the second person; or
  - (b) the first person enters into any other contract with the second person under which the first person undertakes to do, or to perform personally, work or services for the second person.
- (6) Subject to any Order under paragraph (7), any individual working in or for an undertaking (first undertaking) shall not be deemed to be working for a second undertaking where the second undertaking is a client or customer of the first undertaking.
- (7) The Minister may, by Order, specify circumstances in which persons supplied by an agency to work for another undertaking shall be regarded for the purposes of this Article as working for the agency or the other undertaking or both.
- (8) An individual who works under a contract of service or apprenticeship for a body corporate within a group and who works for an undertaking being carried on in Jersey consisting of or including any body corporate within the group (whether or not under that contract or some other arrangement), shall be deemed to be working for the undertaking being carried on in Jersey.
- (9) It is immaterial whether a contract to which this Article refers is express (whether oral or in writing) or implied.
- (10) A person carrying on an undertaking in respect of which a licence has been granted may, at any time, make a written request to the Minister to verify the employment and residential status of any person working in or for the undertaking and the Minister shall comply with such a request.
- (11) A person who contravenes paragraph (1) or (2) shall be guilty of an offence and liable to a fine.

## **25 Requirement for undertakings to have a licence**

- (1) A person shall not carry on an undertaking in Jersey unless there is in force such licence or licences as are appropriate for the operation of that undertaking.
- (2) For the purpose of paragraph (1) an appropriate licence is any of the following, as the case requires –
- (a) a business licence;
  - (b) a hawker's licence;
  - (c) a non-resident trading licence.
- (3) Subject to paragraphs (4) to (7), an undertaking does not have an appropriate licence if –
- (a) there is any significant change in the ownership of an undertaking after the date that this Article comes into force; and
  - (b) more than 60 days have elapsed since that change.
- (4) For the purposes of paragraph (3), where the undertaking is a company with a share capital –

- (a) a person shall be deemed to own shares if the person has any interest in them (whether equitable, legal or contractual) other than an interest as a bare nominee or bare trustee; and
  - (b) “significant” means the acquisition of share capital (whether or not by means of one or more acquisitions) such that the share capital in the company owned by any of the following persons (whether or not acting collectively) is, when aggregated, less than 60% –
    - (i) Entitled,
    - (ii) Licensed,
    - (iii) Entitled for Work Only.
- (5) For the purpose of paragraph (3) there shall be disregarded an undertaking which is listed on a recognized stock exchange.
  - (6) For the purposes of paragraph (3) there shall be disregarded a company with a share capital in respect of which –
    - (a) there has been one significant change in the ownership of that undertaking after the date that this Article comes into force; and
    - (b) since that change, the amount of share capital owned by any of the persons described in paragraph (4)(b) (whether or not acting collectively) has not increased to 60% or more.
  - (7) The Minister shall issue guidance concerning the application of paragraph (3) in respect of an undertaking that is not a company with a share capital, and shall, by Order, specify the date such guidance shall come into effect.
  - (8) A person who contravenes paragraph (1) shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
  - (9) The Minister may by Order provide that any undertaking or undertaking of a prescribed description is exempt from the duty to have a licence under this Article.
  - (10) The States may, by Regulations –
    - (a) amend the meaning of “significant” in paragraph (4)(b); or
    - (b) repeal paragraphs (3) to (7) and this paragraph.

## **26 Grant and duration of a licence**

- (1) A person may make an application in respect of the operation of an undertaking for a business licence, a non-resident trading licence or a hawker’s licence as the case requires.
- (2) References in this Article to a “licence” are to the type of licence in respect of which an application is made.
- (3) An application under paragraph (1) shall be in such form as the Minister determines and accompanied by such documents as the Minister may require and be accompanied by such fee as may be prescribed.
- (4) Upon receipt of an application under paragraph (1) and such further information or documents as the Minister may require for the purpose of determining the application, the Minister may –

- 
- (a) grant a licence with or without an expiry date (subject to Article 28(1)) in the case of a hawker's or non-resident trading licence); or
    - (b) refuse to grant a licence.
  - (5) If the Minister grants a licence he or she shall specify, as a condition of the licence, the nature of the undertaking authorized by the licence and may do either or both of the following –
    - (a) impose, with reasons, such other conditions as he or she thinks fit, subject to Article 27(1);
    - (b) refuse to impose, with reasons, any condition requested by the applicant.
  - (6) Activities which are incidental or ancillary to, or a necessary part of, the nature of the undertaking specified under paragraph (5) are deemed to be authorized by the licence.
  - (7) If a person making an application does not, without reasonable excuse, provide such further information or documents under paragraph (4) within one month of the Minister giving notice of requiring such information or documents, or such longer period as the Minister may allow, the Minister may treat the application as having been withdrawn.
  - (8) Where the Minister –
    - (a) refuses to grant a licence; or
    - (b) grants a licence but refuses to grant it subject to any condition requested by the applicant,he or she shall give the applicant a statement in writing of reasons for that decision and, at the same time, notify the applicant of the applicant's right of appeal under Article 41.
  - (9) In determining whether to grant a licence, the Minister shall have particular regard to –
    - (a) preserving and maximising the benefits of Jersey's resources;
    - (b) promoting a balanced and prosperous economy;
    - (c) protecting the integrity and reputation of Jersey in commercial and financial matters;
    - (d) any relevant policies of the States of Jersey;
    - (e) whether such a grant would be in the public interest; and
    - (f) in the case of a hawker's licence, whether the applicant is a fit and proper person.
  - (10) In determining whether the applicant is a fit and proper person for the purposes of paragraph (9)(f), the Minister may take into account any previous convictions of the applicant that are not spent under the Rehabilitation of Offenders (Jersey) Law 2001<sup>16</sup> and for that purpose, the Chief Officer of the States of Jersey Police Force shall provide the Minister with such information concerning any such previous convictions as the Minister may request.

- (11) In prescribing a fee for the purposes of paragraph (3) the Minister may make provision for a refund of a fee in the event that an application is withdrawn or the Minister refuses the grant of a licence.
- (12) A licence shall be in such form as may be determined by the Minister save that a hawker's licence shall include a photograph of the licence holder.
- (13) A person who, without lawful excuse, contravenes, or procures the contravention of, any condition of a licence is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

## **27 Specific provisions relating to a business licence**

- (1) If the Minister decides to grant a business licence under Article 26(4), the Minister shall specify as a condition of the business licence –
  - (a) the maximum number (which may be nil) of individuals with Licensed and Registered status respectively who are permitted to work in or for the undertaking; and
  - (b) if any individuals with Licensed status are so permitted, each description of work which may be done by an individual with that status.
- (2) Without prejudice to the Minister's general power to attach conditions under Article 26(5), the Minister may attach conditions relating to any of the following matters in respect of a business licence –
  - (a) specified accommodation to be occupied by persons working for the undertaking with Licensed or Registered status (such accommodation being specified individually or with reference to a general description which may include factors relating to price);
  - (b) the number of persons with Licensed status working in or for the undertaking who shall be prohibited from being a party to any transaction described in Article 18(1)(a);
  - (c) limits on the period of time for which a person with Licensed or Registered status may work in or for the undertaking;
  - (d) named persons with Licensed or Registered status who may work in or for the undertaking;
  - (e) periodic reviews for the purpose of determining whether a variation of the licence is appropriate.
- (3) For the purposes of complying with a condition under paragraph (1) there shall be disregarded –
  - (a) any individual working in or for an undertaking who is not paid for such work; and
  - (b) any individual, or individual falling within such description, as may be prescribed by Order.
- (4) The Minister may, by Order prescribe fees for any periodic review that is the subject of a condition of a licence.

**28 Specific provisions relating to a hawker's licence and a non-resident trading licence**

- (1) If the Minister decides to grant a hawker's licence or a non-resident trading licence under Article 26(4), the Minister shall specify on the licence the period for which the licence shall remain in force, such period not exceeding 12 months.
- (2) No hawker's licence may be granted allowing any of the following goods to be sold or offered or exposed for sale –
  - (a) tobacco;
  - (b) intoxicating liquor;
  - (c) any other prescribed goods.
- (3) The holder of a hawker's licence shall produce his or her licence for inspection forthwith on being required to do so –
  - (a) by any police officer; or
  - (b) by any person approaching the holder of the hawker's licence in the course of, and for the purposes of, his or her business as a hawker.
- (4) A person carrying on an undertaking in respect of which a non-resident trading licence has been granted shall –
  - (a) ensure that the licence is displayed in a prominent position at the place used for the purposes of the undertaking when trade is being carried on at that place; or
  - (b) if the nature of the trading is such that compliance with subparagraph (a) is not possible, produce the licence for inspection forthwith on being required to do so by any person described in paragraph (3) (as if that paragraph referred to a non-resident trading licence).
- (5) A person who contravenes paragraph (3) or (4) shall be guilty of an offence and liable to a fine.

**29 Variation of licences**

- (1) A licence holder may, at any time, apply to the Minister to vary any condition of a licence or the Minister may, of his or her own volition, give notice to a licence holder that he or she intends to vary any condition of a licence.
- (2) An application under paragraph (1) shall be in such form and accompanied by such documents as the Minister may require and be accompanied by such fee as may be prescribed.
- (3) A notice under paragraph (1) shall give the licence holder adequate opportunity to make representations with respect to the proposed variation.
- (4) Subject to paragraph (6), the Minister may –
  - (a) vary any condition as he or she thinks fit by notice to the licence holder following receipt of an application under paragraph (1) or

following consideration of any representations under paragraph (3); or

- (b) refuse to vary a condition following receipt of an application under paragraph (1).
- (5) In exercising his or her powers under paragraph (4), the Minister shall have regard to the factors specified in Article 26(9).
- (6) The Minister shall not vary any condition of a business licence so as to decrease the maximum number of individuals of a specified residential and employment status permitted to work in or for an undertaking below the number of individuals of that status working in or for the undertaking, or who have been appointed to work in or for that undertaking, at the time such a variation would take effect.
- (7) If the Minister –
  - (a) refuses to vary a condition of a licence following an application under this Article;
  - (b) varies a condition of a licence of his or her own volition;
  - (c) varies a condition of a licence following an application, such variation not being requested by the applicant,he or she shall give the licence holder a written statement of reasons for the decision and, at the same time, notify the licence holder of his or her right of appeal under Article 41.
- (8) A notice of a variation of a licence shall not take effect before –
  - (a) the expiration of one month from the date on which notice in writing was given to the licence holder under paragraph (7); or
  - (b) the date any appeal under Article 41 is determined by the Court or withdrawn,

whichever is the later, unless the licence holder agrees that it should take effect at an earlier date.

### **30 Revocation of a licence**

- (1) A licence granted under Article 26 (whether or not varied under Article 29) may be revoked by the Minister by giving notice in writing to the licence holder –
  - (a) if the Minister is satisfied that –
    - (i) any information provided in connection with the application for the licence, or an application to vary the licence, was false or misleading in a material particular,
    - (ii) there has been failure to comply with any condition of the licence,
    - (iii) in the case of a business licence only, the undertaking has ceased to exist or appears to have ceased to exist (whether or not the licence holder or the undertaking has been wound up or dissolved),

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- (iv) the licence is significantly detrimental to the interests of Jersey having regard to the factors specified in Article 26(9), or
    - (v) the undertaking has failed to pay an annual charge under Article 31 or has failed to submit statements as required under Article 32; or
  - (b) if the licence holder requests or agrees to the revocation of the licence.
  - (2) The Minister shall not revoke a licence under paragraph (1)(a) unless he or she has given to the licence holder not less than one month's notice in writing together with a statement of the Minister's reasons and a notification of the licence holder's right of appeal under Article 41.
  - (3) A revocation under paragraph (1)(a) shall not take effect before the expiration of –
    - (a) a period of one month from the date on which notice in writing was given to the licence holder; or
    - (b) the date on which any appeal under Article 41 against the revocation is determined by the Court or withdrawn,whichever is later, unless the licence holder request that it should take effect at an earlier date.
  - (4) A revocation under paragraph (1)(b) shall take effect on such date as the licence holder requests or agrees with the Minister.

### **31 Annual charges in respect of business licences**

- (1) If a business licence permits any Licensed person to work in or for an undertaking, the licence holder shall pay such annual charge as may be prescribed in respect of each person so permitted (regardless of the number of such persons working in or for the undertaking at any time).
- (2) The Minister may, by Order, prescribe the date by which any annual charge is payable.
- (3) If a person who is required to pay a charge under paragraph (1) does not do so on or before the prescribed date he or she shall pay a penalty to the Minister of £250.
- (4) An amount due from a person under paragraph (3) shall be recoverable as a debt due to the States.
- (5) A person who fails without reasonable excuse to comply with paragraph (1) shall be guilty of an offence and liable to a fine of level 3 on the standard scale.
- (6) The States may, by Regulations, amend this Article to make provision for the payment of an annual charge in respect of any Registered person who is permitted by a business licence to work in or for an undertaking.
- (7) The States may, by Regulations, amend the amount of penalty in paragraph (3).

**32 Undertakings with business licences to provide statements**

- (1) A person carrying on an undertaking in respect of which a business licence has been granted shall provide to the Minister, when required to do so by a notice served on him or her by the Minister, a statement of the name and current residential and employment status of such persons working in or for the undertaking during such period as the Minister may specify in the notice and such other particulars relating to such persons as the Minister may determine.
- (2) A statement made under paragraph (1) shall be in such form as the Minister may determine.
- (3) When a person required to deliver a statement under paragraph (1) does not do so on or before the last day of the month immediately following the period in respect of which the statement is required, he or she shall pay a penalty to the Minister of £250.
- (4) An amount due from a person under paragraph (3) shall be recoverable as a debt due to the States.
- (5) A person may, within 20 days of the service of a notice under paragraph (1), apply to the Minister in writing for a waiver under paragraph (6).
- (6) The Minister may waive a person's liability under paragraph (1) if satisfied that exceptional circumstances prevented, or would prevent, the person from delivering the statement to the Minister by the time limit specified in paragraph (3).
- (7) A person who fails without reasonable excuse to comply with paragraph (1) shall be guilty of an offence and liable to imprisonment for a term of 6 months and to a fine of level 4 on the standard scale.
- (8) The States may, by Regulations, amend the amount of penalty in paragraph (3).

**33 Appointment of authorized persons**

- (1) The Minister –
  - (a) may, in writing, appoint any person who is a States' employee within the meaning of Article 2 of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>17</sup> to perform the functions of an authorized person under Articles 34 to 37; and
  - (b) may, instead of or in addition to appointing any person under subparagraph (a), arrange with any other Minister or with any body performing functions on behalf of the States, that any officer in an administration of the States for which that Minister is assigned responsibility, or any officer of that body, shall act for those purposes.
- (2) Such authorization may be either general or for a specific purpose.

**34 Powers to obtain information**

- (1) An authorized person may by notice in writing served on a licence holder require the licence holder to provide the authorized person at such time or times or at such intervals in respect of such period or periods as may be specified in the notice, with such information or documents as the Minister may reasonably require for the performance of his or her functions under this Part.
- (2) Where, under paragraph (1), an authorized person has power to require the production of any documents from a licence holder, the authorized person shall have the like power to require the production of those documents from any person who appears to be in possession of them.
- (3) Where any person from whom provision is required under paragraph (2) claims a lien on documents produced by that person, the provision shall be without prejudice to the lien.
- (4) The power under this Article to require a licence holder or other person to produce any documents includes power –
  - (a) to take copies of documents that are produced;
  - (b) to require an explanation of any documents that are produced; and
  - (c) if the documents are not produced, to require the person who was required to produce them to state, to the best of his or her knowledge or belief, where they are.
- (5) Any person who, without reasonable excuse, fails to comply with a requirement imposed on the person under this Article shall be guilty of an offence and liable to imprisonment for a term of 6 months and to a fine of level 4 on the standard scale.
- (6) Nothing in this Article shall require the disclosure or production by a person to an authorized person of information or documents which he or she would, in an action in the Court, be entitled to refuse to disclose on grounds of legal professional privilege.
- (7) A person who intentionally alters, suppresses or destroys any document that has been specified in a notice under paragraph (1) shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

**35 Power to enter business premises and examine business documents**

- (1) An authorized person may examine and seize any business document, including a copy of any such document, that is located on business premises and may, for the purpose, enter business premises either –
  - (a) without a warrant if the occupier consents to such entry; or
  - (b) with a warrant issued under paragraph (4).
- (2) The power under paragraph (1) may be exercised only for the purpose of facilitating the exercise of the Minister's functions under this Law.
- (3) An authorized person may by notice require any person to produce any specified business document at the business premises where the business document is located for the purpose of enabling the authorized person to exercise the power under paragraph (1) in relation to that document.

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- (4) On an application by the Minister or the Attorney General, supported by information given on oath, the Bailiff may issue a warrant authorizing any authorized person to enter any premises specified in the warrant for the purpose of exercising the power under paragraph (1) if the Bailiff is satisfied of any of the following –
    - (a) that –
      - (i) access was demanded by the authorized person at a reasonable hour and was unreasonably refused or, although entry to the premises was granted, the occupier of the premises unreasonably refused to allow the authorized person to exercise any of the powers under paragraph (1), and
      - (ii) the occupier of the premises has, after the refusal, been notified by the authorized person of the application for the warrant and has had an opportunity of being heard by the Bailiff on the question whether or not it should be issued;
    - (b) that the case is one of urgency and that compliance with sub-paragraph (a) would defeat the object of entry; or
    - (c) that the premises are unoccupied, or unlawfully occupied, and compliance with sub-paragraph (a) is not reasonably practicable.
  - (5) An authorized person executing a warrant may use such reasonable force as may be necessary.
  - (6) A warrant shall be executed at a reasonable hour unless it appears to the authorized person executing it that there are grounds for suspecting that the evidence in question would not be found if it were so executed.
  - (7) If the premises in respect of which a warrant is issued are occupied and the occupier or any person acting on the occupier's behalf is present when the warrant is executed, the authorized person executing it shall show the warrant to that person and supply him or her with a copy of it or, if no such person is present, the authorized person executing the warrant shall leave a copy of it in a prominent place.
  - (8) An authorized person seizing any document, whether or not in pursuant of a warrant, shall give a receipt for it if asked to do so.
  - (9) Any document seized under paragraph (8) may be retained for so long as is necessary in all the circumstances but the person in occupation of the premises in question shall be given a copy of anything that is seized if the person so requests and the authorized person executing the warrant considers that it can be done without undue delay.
  - (10) An authorized person shall not exercise the powers under this Article in respect of any document which a person would, in an action in Court, be entitled to refuse to disclose or produce on the grounds of legal professional privilege.

### **36 Obstructing an authorized person**

- (1) A person shall be guilty of an offence if, without reasonable excuse, the person –

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- (a) obstructs an authorized person in the exercise of the authorized person's powers under Article 35; or
  - (b) fails to provide such reasonable assistance as an authorized person may require when the authorized person is exercising his or her powers under Article 35.
- (2) A person who intentionally alters, suppresses or destroys any business document that has been specified in a notice under Article 35(3) shall be guilty of an offence.
  - (3) A person who is guilty of an offence under paragraph (1) shall be liable to imprisonment for a term of 6 months and to a fine of level 4 on the standard scale.
  - (4) A person who is guilty of an offence under paragraph (2) shall be liable to imprisonment for a term of 2 years and to a fine.

### **37 Notices requiring cessation of unauthorized activity**

- (1) If the Minister reasonably believes that a person is carrying on an undertaking in respect of which there is no appropriate licence as required under Article 25, the Minister may serve a notice requiring the cessation of any activity comprised in the operation of the undertaking.
- (2) If the Minister reasonably believes that the operation of an undertaking in respect of which a licence has been granted under Article 26 involves an activity not permitted by such a licence, the Minister may serve a notice requiring the cessation of such activity.
- (3) A notice under paragraph (1) or (2) shall –
  - (a) specify the nature of the activity that must cease; and
  - (b) give reasons for the notice.
- (4) A notice under paragraph (1) or (2) may be served on behalf of the Minister by an authorized person and must be served on the person carrying on the undertaking or, if there is no person in Jersey on whom notice can be served in accordance with Article 40, any individual present in Jersey who appears to be responsible for carrying on the activity the cessation of which is required by the notice.
- (5) An authorized person may, at any reasonable hour, enter business premises for the purpose of serving a notice under paragraph (1) or (2).
- (6) Any person on whom a notice is served under this Article shall be responsible for ensuring compliance with the notice.
- (7) The Minister may, at any time, cancel a notice served under paragraph (1) or (2) and shall notify the recipient of the notice accordingly.
- (8) A person who, without reasonable excuse, obstructs an authorized person in the exercise of the authorized person's powers under paragraph (5) shall be guilty of an offence and liable to imprisonment for a term of 6 months and to a fine of level 4 on the standard scale.
- (9) If a person on whom a notice under paragraph (1) or (2) has been served does not ensure compliance with the notice as required by paragraph (6),

the Minister may apply to the Court for an order requiring the person to do so.

- (10) On an application under paragraph (9) the Court may make an order –
- (a) confirming or varying the terms of the notice and requiring the person to ensure compliance with the notice within such period as the Court shall specify; or
  - (b) dismissing the application,
- and may make such other consequential orders, including as to costs, as it thinks fit.
- (11) Before a notice is served under paragraph (1), the Minister may apply *ex parte* to the Court for an order that the notice take effect as an interim injunction.
- (12) On an application under paragraph (11) the Court may grant an interim injunction on such terms as it thinks fit.
- (13) Where an interim injunction is granted, the Court shall order that the notice under paragraph (1) be served together with the interim injunction by the Viscount, and the order shall specify the date on which the proceedings are returnable in the Court.
- (14) On the hearing of the application to confirm the interim injunction, the Court may –
- (a) confirm or lift the interim injunction on such terms as the Court thinks fit;
  - (b) make such order relating to the notice as it is empowered to make under paragraph (10);
  - (c) dismiss the application,
- and may make such other consequential orders, including as to costs, as it thinks fit.

### **38 Register**

The Minister shall keep a register of undertakings in respect of which any licence under this Part has been granted and any person may inspect the register during normal business hours free of charge or take a copy of any part of the register subject to payment of any prescribed fee.

### **39 Application of this Part to certain offices**

- (1) This Part shall not apply to any person who is –
- (a) a member of the States;
  - (b) an ordinary judge appointed under the Court of Appeal (Jersey) Law 1961<sup>18</sup>;
  - (c) a jurat or a Commissioner appointed under the Royal Court (Jersey) Law 1948<sup>19</sup>;
  - (d) the Viscount; or
  - (e) the Judicial Greffier,

acting in his or her capacity as such.

- (2) In this Article “member of the States” shall have the same meaning as in the States of Jersey Law 2005<sup>20</sup>.

## PART 8

### GENERAL PROVISIONS

#### 40 Service of notices

- (1) Any notice required by this Law to be given to any person may be given to or served on the person in question –
- (a) by delivering it to the person;
  - (b) by leaving it at the person’s proper address;
  - (c) by sending it by post to the person at that address; or
  - (d) by sending it to the person at that address by facsimile, electronic transmission or other similar means that produces a document containing the text of the communication in legible form or is capable of doing so.
- (2) Any such notice may –
- (a) in the case of a company incorporated in Jersey, be served by being delivered to its registered office;
  - (b) in the case of a partnership, company incorporated outside Jersey or unincorporated association, be given to or served on the secretary or other similar officer of the partnership, company or association or any person who purports to act in any such capacity, by whatever name called, or on the person having the control or management of the business, as the case may be.
- (3) For the purposes of this Article and of Article 7 of the Interpretation (Jersey) Law 1954<sup>21</sup> in its application to this Article, the proper address of any person to or on whom a notice is to be given or served by post shall be the person’s last known address or, where a notice is served as described in paragraph (2), the last known address of the registered office (if there is one) or main business address of the company, partnership, or unincorporated association.
- (4) If the person to or on whom any notice is to be given or served has notified the Minister of an address within Jersey, other than the person’s proper address within the meaning of paragraph (3), as the one at which the person or someone on the person’s behalf will accept documents, that address shall also be treated for the purposes of this Article and Article 7 of the Interpretation (Jersey) Law 1954 as the person’s proper address.

#### 41 Appeals

- (1) In this Article, “decision” means a condition, determination, refusal, revocation, variation or notice described in paragraph (2), as the case requires.

- (2) A person aggrieved by a –
- (a) condition relating to a person’s residential and employment status determined by the Minister under Regulations made under Article 2(2)(b);
  - (b) a determination of a persons’ residential and employment status under Article 3(5);
  - (c) determination under Article 15(3) in respect of the categorization of a unit of dwelling accommodation or the conditions relating to such categorization;
  - (d) refusal to grant consent for occupation of a unit of dwelling accommodation under Article 17(2);
  - (e) refusal to grant consent to a purchase by a legal person under Article 20(2) or the imposition of a condition under Article 20(5);
  - (f) refusal of the grant of a licence under Article 26(4);
  - (g) the imposition of a licence condition under Article 26(5) or Article 27(2) or the refusal to impose a requested licence condition under Article 26(5);
  - (h) variation or refusal to vary a condition of a licence under Article 29(4);
  - (i) revocation of a licence under Article 30;
  - (j) a notice requiring cessation of activity under Article 37(1) or (2),
- may, within 2 months of the date of the decision, or within such longer period as the Court may allow, appeal to the Court on the ground that the decision is unreasonable having regard to all the circumstances of the case.
- (3) On hearing the appeal, the Court may –
- (a) confirm, reverse or vary the decision against which the appeal is brought;
  - (b) make such interim Order as it thinks fit; and
  - (c) make such order as to the costs of the appeal that it thinks fit, including any order with respect to the payment of costs or the payment of any compensation by the Minister resulting from any expected diminution in the value of land following a successful appeal under paragraph (2)(c).

## 42 Statistical information

- (1) The Minister may use any information obtained for the purposes of this Law for providing statistical information to any Minister for the purpose of –
  - (a) assisting in the development and evaluation of public policy; and
  - (b) informing the public about social and economic matters.
- (2) For the purposes of paragraph (1), “statistical information” does not include personal information that is, information that relates to and

identifies a particular person, whether the identity is specified in the information or can be deduced from the information.

#### **43 Persons authorized to act for other persons**

- (1) In this Article, acting for another person means applying for a registration card under Article 3 for that other person or notifying the Minister of the information which that other person is required to notify under Article 9.
- (2) The Minister may –
  - (a) authorize a person to act for another person;
  - (b) by Order authorize a person of any description to act for another person of any description.
- (3) An authorization of any person may be revoked at any time by the Minister in his or her absolute discretion.
- (4) A person authorized under paragraph (2)(a) may resign after giving one month's notice in writing to the Minister.
- (5) The duty of a person under Article 3(1) or 9(1) is discharged if a person who is authorized to act for that person under this Article complies with that duty.

#### **44 Regulations and Orders: general provisions**

- (1) The Minister may by Order prescribe any matter that shall or may be prescribed under this Law.
- (2) Any Regulations or Order under this Law may contain such transitional, consequential, incidental or supplementary provisions as appear to the States or the Minister, as the case requires, to be necessary or expedient for the purposes of the Regulations or Order.

#### **45 Providing false or misleading information**

A person who knowingly or recklessly provides information under any Article of this Law, such information being false or misleading in a material particular shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

#### **46 Offences by bodies corporate, etc.**

- (1) If an offence under this Law committed by a limited liability partnership or a body corporate is proved to have been committed with the consent or connivance of –
  - (a) a person who is partner of the partnership, or a director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

- (2) If an offence under this Law which may be committed negligently is proved to be attributable to the neglect of –
  - (a) a person who is partner of the partnership, or a director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) If the affairs of a body corporate are managed by its members, paragraphs (1) and (2) shall apply in relation to acts and defaults of a member in connection with his or her functions of management as if the member were a director of the body corporate.

#### **47 Liability**

Neither the States, nor a Minister, nor a person who is acting as an officer, servant or agent, in an administration of the States for which a Minister has responsibility, or performing any duty or exercising any power on behalf of a Minister, shall be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any functions under this Law or any enactment made or purportedly made under this Law unless –

- (a) it is shown that the act or omission was in bad faith; or
- (b) liability arises in respect of an act or omission that is unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000<sup>22</sup>.

#### **48 Housing and Work Advisory Group**

- (1) There shall be constituted a group to be known as the Housing and Work Advisory Group (referred to in this Article as “Group”).
- (2) An Assistant Minister of the Minister shall chair the Group.
- (3) The Group shall include the Minister for Housing and the Minister for Economic Development.
- (4) The Minister may appoint to the Group such other persons, including any elected member of the States, as the Minister may determine, such other persons being appointed for the general purposes described in paragraph (5) or for a specific purpose only.
- (5) The Minister may refer to the Group for consideration and advice –
  - (a) any matters in connection with the discharge of the Minister’s functions under this Law; and
  - (b) proposals for any changes in enactments related to matters under this Law.
- (6) The Group shall consider any proposals referred to them under paragraph (5)(b) and draft a report to the Minister containing such recommendations with regard to the subject matter of the proposals as they think appropriate.

- (7) If the Minister presents any Proposition to the States which comprises the whole or any part of the subject matter of any proposals which are the subject matter of a report under paragraph (6), the Minister shall present to the States a copy of the Group's report with the Proposition.
- (8) Except to the extent that the Minister directs otherwise, the Group may determine its own procedures.

## **PART 9**

### **TRANSITIONAL AND SAVING PROVISIONS, REPEALS AND CONSEQUENTIAL AMENDMENTS**

#### **49 Occupation of housing under the Housing Regulations**

- (1) Notwithstanding anything in this Law any person who, immediately before the date this Law comes into force, is in lawful occupation of a unit of dwelling accommodation, may continue to occupy that unit notwithstanding the commencement of any provision in this Law until the date that person no longer occupies that unit as his or her ordinary residence provided that the person continues to comply with any condition to which that occupation is subject.
- (2) Any person who would have been entitled to occupy land under Regulation 5A(b) of the Housing Regulations immediately before the date that any provision in this Law comes into force may occupy that land under a licence granted on and after the date any provision in this Law comes into force by a person who inherited such land before the date that Regulation came into force, subject to any condition to which such occupation is subject.

#### **50 Licences granted under the RUD Law 1973 and the Hawkers Law 1965**

- (1) Any licence granted under the RUD Law 1973 for the purpose of any activity for which a licence was required under the Part "Regulation of Undertakings", such licence being in force immediately before the date that Article 26 comes into force, shall be deemed to be a business licence granted under Article 26(4) of this Law and any conditions subject to which that licence was granted under the RUD Law 1973 shall be deemed to be conditions subject to which the licence was granted under Article 26.
- (2) Any hawker's or non-resident licence granted under Article 2 of the Hawkers Law 1965 immediately before the date that Article 26 comes into force shall, as the case may be, be deemed to be a hawker's licence or a non-resident trading licence granted under Article 26(4) of this Law in relation to the goods specified in the licence and any conditions subject to which that licence was granted shall be deemed to be conditions subject to which such licence was granted under Article 26.
- (3) Articles 6(1) and (2) and 7(1) of the Hawkers Law 1965 shall apply to a hawker's licence deemed to be granted under paragraph (2) as if those

provisions were conditions subject to which the licence was granted under Article 26(5) of this Law.

- (4) Notwithstanding paragraphs (1), (2) and (3), in the event of any conflict between any provision of this Law and a condition to which a licence is deemed to be subject under this Article, the former shall prevail.
- (5) A condition shall not be deemed under paragraph (1), (2) or (3) to be a condition subject to which a licence is granted under Article 26 if it is a condition falling within a description specified in an Order made by the Minister.

## **51 Repeal of enactments**

The following enactments shall be repealed –

- (a) Housing (Jersey) Law 1949<sup>23</sup>;
- (b) Regulation of Undertakings and Development (Jersey) Law 1973<sup>24</sup>;
- (c) Hawkers and Non-Resident Traders (Jersey) Law 1965<sup>25</sup>.

## **52 Consequential amendments, savings and transitional provisions**

The States may, by Regulations –

- (a) amend any enactment in consequence of any provision of this Law;
- (b) make such transitional provisions and savings as it considers necessary or expedient, including amendment of this Law, in respect of any provision of this Law.

# **PART 10**

## **CLOSING**

## **53 Citation and commencement**

- (1) This Law may be cited as the Control of Housing and Work (Jersey) Law 201-.
- (2) This Law shall come into force on such day or days as the States may by Act appoint.

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- 1 *chapter 05.275*
  - 2 *chapter 18.315*
  - 3 *chapter 18.315.50*
  - 4 *chapter 05.750*
  - 5 *chapter 10.800*
  - 6 *chapter 24.900*
  - 7 *R&O.96/2010*
  - 8 *chapter 05.850*
  - 9 *chapter 20.725*
  - 10 *chapter 05.450*
  - 11 *chapter 22.550*
  - 12 *chapter 18.180*
  - 13 *chapter 13.125*
  - 14 *chapter 11.450*
  - 15 *chapter 05.255*
  - 16 *chapter 08.840*
  - 17 *chapter 16.325*
  - 18 *chapter 07.245*
  - 19 *chapter 07.770*
  - 20 *chapter 16.800*
  - 21 *chapter 15.360*
  - 22 *chapter 15.350*
  - 23 *L.2/1949 (chapter 18.315)*
  - 24 *L.20/1973 (chapter 05.750)*
  - 25 *L.9/1965 (chapter 05.275)*