

STATES OF JERSEY



DRAFT CONTROL OF HOUSING AND WORK (AMENDMENT OF LAW – ANNUAL CHARGES) (JERSEY) REGULATIONS 201-

Lodged au Greffe on 6th June 2017
by the Chief Minister

STATES GREFFE



Jersey

DRAFT CONTROL OF HOUSING AND WORK (AMENDMENT OF LAW – ANNUAL CHARGES) (JERSEY) REGULATIONS 201-

REPORT

Introduction

These draft Regulations enable fees to be prescribed under the Control of Housing and Work (Jersey) Law 2012, to enable increased investment in migration controls and skills development to support businesses.

The draft Regulations

Any business that wishes to employ a “Registered” person, generally someone with less than 5 years’ continuous residence in the Island, needs permission from the Population Office under the Control of Housing and Work (Jersey) Law 2012. These draft Regulations, should they be approved, would enable annual fees to be prescribed by Order for these registered permissions. The draft Order to deliver these changes, should the Regulations be approved, is appended for information, and includes fees at the following levels –

- £50 per year for each permission held by a business to employ a registered member of staff – raising income of £300,000
- £500 per year for each permission held by an employment agency to place a registered member of staff in another businesses – raising income of £100,000.

These fees would be payable in respect of permissions held on 1st November each year, commencing in 2017, thereby avoiding peak seasons and reducing the impact on the hospitality and agriculture industry. The fees would also not be payable by charities, or by the public sector to avoid the public sector having to pay itself.

The table below shows private sector employment by sector at the end of December 2016:

Sector	Registered	Licensed	Entitled/ Entitled to Work
Agriculture and Fishing	420	–	990
Manufacturing	40	10	1,060
Construction and Quarrying	400	40	5,140

Sector	Registered	Licensed	Entitled/ Entitled to Work
Electricity, Gas and Water	20	10	460
Wholesale and retail trades	540	60	7,190
Hotels, Restaurants and Bars	1,810	20	3,450
Transport, storage and communications	130	70	2,520
Computer and related activities	50	40	670
Financial and Legal	610	810	11,640
Miscellaneous businesses	510	110	4,210
Education, Health and other services	460	170	7,090
Total	4,990	1,320	44,430

The largest impact of these changes would be on 2 sectors – hotels, restaurants and bars; and financial services – who between them employ just over half of all migrant workers in the Island. At the same time, these charges are relatively limited at £50 per person per year. This compares with the other crown dependencies, where a fee is payable, and indeed, it seems out of place that these permissions are currently “free” – meaning that there is no cost to applying or holding these permissions. With the introduction of a charge, it is hoped that some of the permissions may be voluntarily relinquished; and for those that continue to be held, the costs will be limited, proportionate and comparable. Indeed, it is interesting that comparable businesses in the same sector often employ very different numbers of registered staff – some businesses employ very few, and others substantial numbers – so the fees for businesses who are more successful in employing ‘Entitled’ or ‘Entitled to Work’ members of staff will be low, and often nil.

As to the proposed fee on employment agencies, it is intended to be substantially higher and is currently proposed to be £500 per year. These agencies have traditionally been able to place registered staff to meet the immediate needs of their clients. This is a legitimate and important function, supporting business continuity for unexpected or peak staffing needs. However, these permissions are also valuable, and there is some concern that these permissions could be used to place registered staff in businesses who have been refused a registered permission in their own right. This fee therefore places a premium on using an employment agency to employ a registered person. On the other hand, if an employment agency wishes to place an ‘Entitled’/ ‘Entitled to Work’ person, there would be no fee whatsoever.

Other fee increases

In addition, the Law already allows other fees to be raised by Order, and a range of fees already exists under the Law. For completeness, in addition to introducing annual charges for registered permissions by these Regulations, other fee increases are also being prescribed by Order as follows –

- increasing the maximum amount payable by visiting businesses in any one year from £1,500 to £3,500

- uprating the cost of a registration card for registered and licensed people from £75 to £80 (cards for ‘Entitled’ and ‘Entitled to Work’ people remain free)
- increasing the amounts paid by new High Value Residents for registration cards when they arrive, from £5,000 to £7,500
- increasing the cost of employing a licensed employee from £175 to £225 per year
- a new charge of £500 for companies (not individuals) seeking permission to purchase land or property.

These fees will raise £200,000 per year, and will also support local employment and the use of local contractors.

What the money will be used for

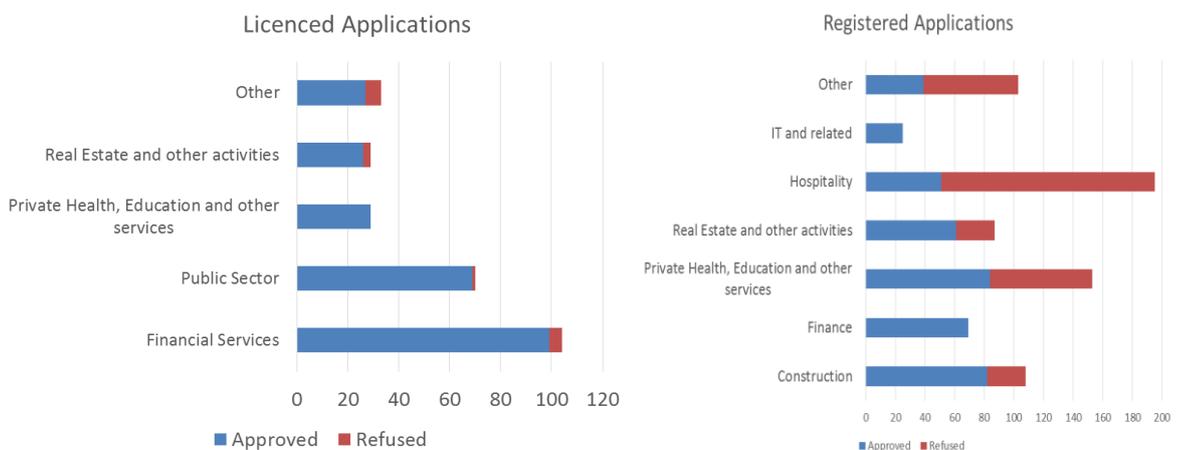
These measures all together will raise £600,000 per year in total. This will be used as follows –

- £300,000 to support additional investment in skills and training, in particular, to directly target investment on new initiatives to help people in work or in education to improve their skills. This money will support the conclusions of the new skills strategy, doing this working with employers.
- £300,000 to fund migration controls, including initiatives to remove permissions from businesses who employ more migrant workers than their competitors, and to support compliance and enforcement activities.

Wider context of migration control

These fee changes will help support local employment, and form part of a range of measures to limit migration. There are a number of building blocks to this work.

In 2016, 56% of all applications for permanent registered staff were approved, and 44% refused; and 94% of applications for licensed staff were approved. In 2017, the number of refusals is increasing. This is being done in the context of the statutory responsibilities outlined the Law, supported by published policy guidance, and the strategic plan commitment to get the most value from our existing workforce and the most value from every migrant worker – by targeting migration that delivers the greatest economic and social value. A breakdown of approvals and refusals by sector in support of this approach is outlined below –



- In January 2017, a new initiative was launched to remove registered permissions from larger businesses that hold more registered permissions than their competitors. This initiative is focusing on 100 businesses, and involves meetings and detailed discussions to assess their requirements and to place new conditions on these businesses to reduce registered permissions. This is done with care, and to date, over 30 businesses have been engaged with as part of this initiative, removing nearly 200 permissions.
- In June 2017, the final consultation phase on the long-term vision will commence, setting out statistical measures explaining how Jersey is performing, and proposing long-term ambitions for where Jersey should be heading – taking into account the results of the “MyJersey” consultation survey. Population policy is much more than a number and the controls we use – it is the sum of all the individual strategies that support improvements in the quality of life so that we need to bring less people to the Island, and can accommodate those people with the skills we do need. This is a tremendously important balance in the context of an ageing society and rising health care costs, and the long-term vision will help us with this.
- Finally, a population policy is nearing completion to place a limit on net migration, appreciating that it has been too high; and to enhance our migration controls, including seeking support to develop criminal record checks and to introduce photographs on registration cards. This needs to be done in the context of Brexit, and supporting the aspirations of the Island as Protocol 3 falls away. This work is expected to be lodged before the summer recess.

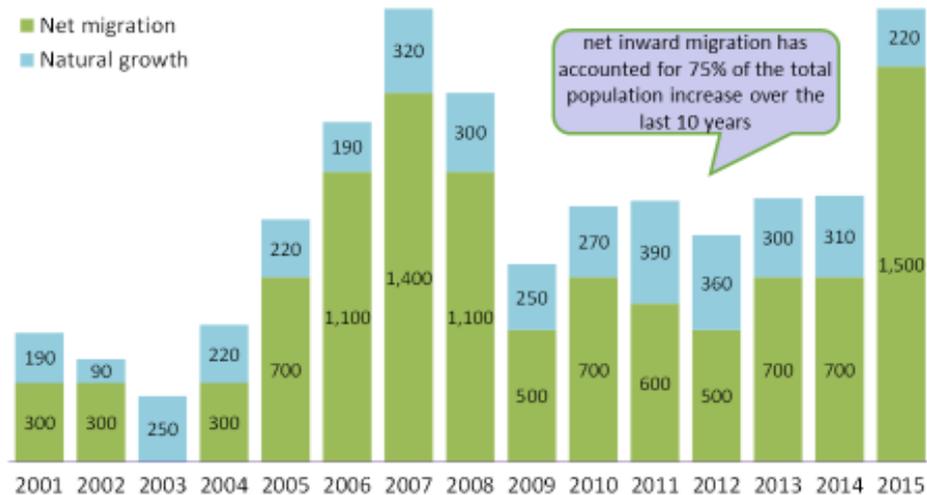
These fee proposals are part of this programme of work, supporting the strategic objectives of targeting migration that delivers the greatest economic and social value.

This work is being done in a challenging context: record net migration caused by economic growth which is double that forecast, and consequent record employment growth with unemployment at a 6-year low. At the same time, an extremely high proportion of Islanders are in work compared to elsewhere. At the same time as experiencing high migration, therefore, businesses are finding recruitment a challenge.

Total Employment



Change in resident population 2001 - 2015



Conclusion

Despite more people coming to Jersey, it is increasingly hard for businesses to find the skills they need, with strong concerns being raised by the business community that they need new and more permissions to support their growth, which is the foundation of our prosperity.

This is a difficult balance for government, but within this, it is considered right and reasonable that migration should be limited, while also seeking to support businesses where possible and in other ways.

It is also considered reasonable that the cost of migration control should not be met by the general taxpayer, but by businesses who employ migrant workers, and that more investment in skills and enforcement is needed, and that these charges in the round are relatively modest in the context of our competitive tax structures.

Collective responsibility under Standing Order 21(3A)

The Council of Ministers has a single policy position on this proposition, and as such, all Ministers, and the Assistant Ministers to the Chief Minister, are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers ([R.11/2015](#) refers).

Financial and manpower implications

The approval of the draft Regulations has no immediate financial or manpower implications, but should the Assembly approve the Regulations, the intention is to prescribe fees that will raise £400,000 of income for investment in migration controls and skills development to support businesses.



**CONTROL OF HOUSING AND WORK (FEES)
(AMENDMENT No. 2) (JERSEY) ORDER 201-**

Explanatory Note

Article 1 further amends the Control of Housing and Work (Fees) (Jersey) Order 2013, to add a provision prescribing the amount of annual charges payable in respect of Registered persons permitted by business licences to work in or for undertakings in Jersey. The charges are set at £500 per permission payable by an employment agency in respect of each Registered person permitted to work for the agency (which includes in particular Registered persons whose labour is supplied by the agency to other undertakings), and £50 per permission payable by all other undertakings.

Article 2 gives the title by which this Order may be cited and provides for it to come into force the day after it is made.

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**CONTROL OF HOUSING AND WORK (FEES)
(AMENDMENT No. 2) (JERSEY) ORDER 201-**

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

THE CHIEF MINISTER, in pursuance of Articles 31 and 44 of the Control of Housing and Work (Jersey) Law 2012, orders as follows –

1 Control of Housing and Work (Fees) (Jersey) Order 2013 amended

After Article 5 of the Control of Housing and Work (Fees) (Jersey) Order 2013 there shall be inserted the following Article –

“5A Annual charge in respect of Registered persons

- (1) The annual charge for a Registered person who is permitted to work for an undertaking which is an employment agency by the business licence of that undertaking (including, for the avoidance of doubt, any such person whose labour is supplied by an employment agency to any other undertaking) is £500 in respect of each Registered person.
- (2) The annual charge for a Registered person who is permitted, by the undertaking's business licence, to work in or for an undertaking of any kind other than an employment agency as mentioned in paragraph (1) is £50 in respect of each Registered person.
- (3) An annual charge payable under this Article –
 - (a) is payable in respect of each Registered person permitted by an undertaking's business licence to work in or for the undertaking on 1st November in any year, regardless of the number of such persons working for the undertaking on that day; and
 - (b) must be paid by 31st December in that same year.
- (4) In this Article, ‘employment agency’ has the meaning given by Article 1 of the Employment Agencies (Registration) (Jersey) Law 1969.”.

2 Citation and commencement

This Order may be cited as the Control of Housing and Work (Fees) (Amendment No. 2) (Jersey) Order 201- and shall come into force on the day after the day on which it is made.

DRAFT

Explanatory Note

Regulation 1 of these draft Regulations would amend Article 31 of the Control of Housing and Work (Jersey) Law 2012 to require the payment of an annual charge by holders of business licences which permit Registered persons to work in or for an undertaking, including in particular where the licence holder supplies the labour of Registered persons to other undertakings. The annual charge is to be prescribed by Order. Article 31 is further amended so that failure to pay such a charge by the due date incurs a penalty, and failure to comply, without reasonable excuse, with the requirement to pay is an offence punishable by a fine of level 3 on the standard scale, in line with the existing provisions of Article 31 relating to annual charges in respect of Licensed persons permitted to work in or for undertakings. (Under the standard scale in the Schedule to the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993, the maximum level 3 fine is £10,000.)

Regulation 2 would give the title by which these Regulations are to be cited, and provide for their commencement 7 days after being made.



Jersey

DRAFT CONTROL OF HOUSING AND WORK (AMENDMENT OF LAW – ANNUAL CHARGES) (JERSEY) REGULATIONS 201-

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

THE STATES, in pursuance of Articles 31(6) and 44 of the Control of Housing and Work (Jersey) Law 2012¹, have made the following Regulations –

1 Article 31 of the Control of Housing and Work (Jersey) Law 2012 amended

In Article 31 of the Control of Housing and Work (Jersey) Law 2012² –

(a) after paragraph (1) there shall be inserted the following paragraphs –

“(1A) If a business licence permits any Registered person to work in or for an undertaking, the licence holder shall pay such annual charge as may be prescribed, whether in respect of each Registered person or by reference to a number or numbers of such persons (regardless of the number of such persons working in or for the undertaking at any time).

(1B) For the purposes of paragraph (1A), a Registered person whose labour is supplied by the licence holder to any other undertaking shall be taken to be a person who works in or for the licence holder.”;

(b) in paragraphs (3) and (5) after the words “paragraph (1)” in each place there shall be inserted the words “or (1A)”.

2 Citation and commencement

These Regulations may be cited as the Control of Housing and Work (Amendment of Law – Annual Charges) (Jersey) Regulations 201- and shall come into force 7 days after the day on which they are made.

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- ¹ *chapter 18.150*
² *chapter 18.150*