

# STATES OF JERSEY



Jersey

## **DRAFT CONTROL OF HOUSING AND WORK (RESIDENTIAL AND EMPLOYMENT STATUS) (AMENDMENT No. 2) (JERSEY) REGULATIONS 202-**

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**Lodged au Greffe on 11th April 2023  
by the Chief Minister  
Earliest date for debate: 23rd May 2023**

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**STATES GREFFE**

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## REPORT

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### Executive summary

The [Control of Housing and Work \(Jersey\) Law 2012](#) (CHWL) provide controls on who can live and work in Jersey. These controls work alongside immigration controls which protect the external border of the Common Travel Area. Since Brexit, immigration controls have taken on a greater significance in controlling the flow of workers into Jersey and staff shortages have been experienced in many sectors.

This proposed change to the Regulations under the CHWL will give unmarried partners the same employment rights as partners who are married or in a civil partnership. They will have access to the full local labour market, rather than being restricted to jobs that hold a CHW “Registered” permission.

This change is well aligned to Immigration Rules which already allow for unmarried partners to accompany a migrant worker in certain situations. Its aim is to make the best possible use of the resident population and remove an unnecessary restriction on unmarried partners.

### Introduction

The [Control of Housing and Work \(Residential and Employment Status\) \(Jersey\) Regulations 2013](#) (‘the Regulations’) set out the conditions for residential and employment status under the Control of Housing and Work (Jersey) Law 2012 (CHWL).

Regulation 4 sets out the conditions for Entitled for Work Only (EFW) status and loss of such status.

Spouses and civil partners of those with Entitled status, Licensed status or Entitled for Work Only CHWL status already receive EFW under the Regulations.

EFW status provides open access to the local labour market. An individual with EFW status can take up any local job and does not require permission to do so.

Unmarried partners currently do not acquire any CHW status from their partner, this means that these individuals are restricted to Registered jobs on arrival in Jersey and for the first five years of their residence.

The proportion of adults who are married has declined over the last several decades.

There is potential for a more effective use of the skills and experience of unmarried partners who move to the Island with a partner with Entitled status, Licensed status or Entitled for Work Only CHWL status. This change will give them greater access to vacant roles. An improved use of those persons already on Island, as partners of current workers, will assist the supply of workers in all areas of the economy and help to reduce labour shortages.

### Proposal

#### Eligible Partners in enduring relationships

These draft amendments intend to allow ‘eligible partners’ in ‘enduring relationships’ to be able to benefit from EFW status in the same way that married partners and civil partners currently do within the Regulations.

An ‘enduring relationship’ means a relationship which is similar to a marriage or civil partnership and has existed, without breaking down, for a period of at least two years.

An ‘eligible partner’ means a person who lives as a partner in an enduring relationship with a person with Entitled status, Licensed status or Entitled for Work Only status.

These amendments include provision that eligible partners in enduring relationships be treated in the same way as married and civil partners in the event of the death of their partner or the breakdown of an enduring relationship.

The minimum duration of two years to demonstrate an ‘enduring relationship’ is in line with the same time limits for Immigration Rules in determining a durable relationship.

#### Existing arrangements

These amendments also remove the existing provision for a small group of unmarried partners within the [Control of Housing and Work \(Exemptions\) \(Jersey\) Order 2013](#). This provision provided a CHW employment exemption to unmarried partners of individuals working in the Island in one of the following healthcare professions: Midwife, Nurse, Registered nurse: first / second level; Social worker, Specialist community public health nurse. The numbers of individuals utilising this exemption are low – less than 20 such statuses have been issued since January 2018. An exemption to the adult child of a healthcare worker (as specified above) is also removed.

The Regulations do not act retrospectively and any person currently utilising the ‘cohabiting partner’ exemption, or an adult child exemption, will continue to enjoy that exemption<sup>1</sup>.

#### Evidence to demonstrate an ‘enduring relationship’.

Public guidelines will be issued to explain the types of evidence required to demonstrate an ‘enduring relationship’. The burden of proof will be on the applicant to show they meet the relationship requirements.

#### **Financial and manpower implications**

There are no financial or manpower implications for the States arising from these draft amendments.

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<sup>1</sup> This is done via Article 5 of the [Legislation \(Jersey\) Law 2021](#).

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## EXPLANATORY NOTE

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These draft Regulations would make a further amendment to the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013, which determine a person's status for the purposes of the Control of Housing and Work (Jersey) Law 2012 ("the 2012 Law"). *Regulation 2* would amend the current provisions, in Regulation 4 of those Regulations, conferring Entitled to Work Only status on a spouse or civil partner, to expand them with provisions also conferring such status on an "eligible partner": that is, a partner in an enduring relationship, similar to marriage or civil partnership and lasting 2 years or more, with another person with existing Entitled, Licensed or Entitled for Work Only status. The concept of eligible partners aligns with similar provisions already introduced into other Jersey legislation, notably the Adoption (Jersey) Law 1961 and secondary legislation relating to long-term care.

A related amendment made by *Regulation 3* would remove references to "cohabiting partner", and associated interpretation provisions, from Article 4 of the Control of Housing and Work (Exemptions) (Jersey) Order 2013. The provisions to be deleted create an exemption from control for employment purposes under the 2012 Law, in respect of cohabiting partners of persons employed in Jersey in certain healthcare roles. An exemption in respect of the child of such a cohabiting partner is also deleted. (The Legislation (Jersey) Law 2021 would operate to preserve the position of employers who might wish to continue to rely on the exemption as unamended, in respect of persons fulfilling those criteria prior to the amendment.)

*Regulation 1* is the interpretation provision and *Regulation 4* gives the title by which these Regulations may be cited and provides for them to come into force 7 days after making.



Jersey

## **DRAFT CONTROL OF HOUSING AND WORK (RESIDENTIAL AND EMPLOYMENT STATUS) (AMENDMENT No. 2) (JERSEY) REGULATIONS 202-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES** make these Regulations under Articles 2 and 44 of the [Control of Housing and Work \(Jersey\) Law 2012](#) –

### **1 Interpretation**

In these Regulations –

“Order” means the [Control of Housing and Work \(Exemptions\) \(Jersey\) Order 2013](#);  
and

“Regulations” means the [Control of Housing and Work \(Residential and Employment Status\) \(Jersey\) Regulations 2013](#).

### **2 Regulations amended**

In Regulation 4 (conditions for Entitled to Work Only status and loss of status) of the Regulations –

- (a) in paragraph (2)(b), for “spouse or civil partner” there is substituted “spouse, civil partner or eligible partner”;
- (b) for paragraph (2)(c) there is substituted –
  - “(c) the person has had a continuous period of ordinary residence in Jersey for no more than 5 years following –
    - (i) the person’s divorce from a person with Entitled status, Licensed status or Entitled for Work Only status, or
    - (ii) the dissolution of a civil partnership, or breakdown of an enduring relationship, between the person and a person with Entitled status, Licensed status or Entitled for Work Only status;”;
- (c) for paragraph (2)(d) there is substituted –
  - “(d) the person has had a continuous period of ordinary residence in Jersey for no more than 5 years following the death of the person’s spouse, civil partner or eligible partner, such spouse or partner having been a

person with Entitled status, Licensed status or Entitled for Work Only status;”;

(d) after paragraph (3) there is inserted –

“(4) In this Regulation –

“eligible partner” means a person, other than a spouse or civil partner, who –

(a) lives; or

(b) in a case where either paragraph (2)(c) or (2)(d) applies, has lived, as a partner in an enduring relationship; and

“enduring relationship” means a relationship which –

(a) is similar to a marriage or civil partnership; and

(b) has existed, without breaking down, for a continuous period of at least 2 years.”.

### 3 Order amended

In Article 4 (description of individuals to be disregarded, etc.) of the Order, paragraph (1)(fa)(iv)(C) and (h) and paragraphs (4) to (6) are deleted.

### 4 Citation and commencement

These Regulations may be cited as the Control of Housing and Work (Residential and Employment Status) (Amendment No. 2) (Jersey) Regulations 202- and come into force 7 days after the day on which they are made.