

STATES OF JERSEY



DRAFT CONTROL OF HOUSING AND WORK (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) (JERSEY) REGULATIONS 201-

Lodged au Greffe on 11th January 2013
by the Chief Minister

STATES GREFFE



Jersey

DRAFT CONTROL OF HOUSING AND WORK (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) (JERSEY) REGULATIONS 201-

REPORT

Regulation 1

The purpose of Regulation 1 is to give effect to transitional provisions in Schedule 1 to ensure (i) that persons who have acquired a residential status under the Housing (Jersey) Law 1949 enabling them to purchase or lease property retain that ability; (ii) that businesses who have acquired licences under the Regulation of Undertakings and Development (Jersey) Law 1973 retain those permissions under the new Law; and (iii) that any conditions over either property or businesses are carried over into the new Law, insofar as they are matters regulated by the new Law.

Of particular note from a policy perspective are the following:

Schedule 1(2), (3) and (4)

These provisions deal with access to property.

Schedule 1(2) outlines that persons previously granted 1(1)(k) and 1(1)(g) housing consents under the Housing (Jersey) Law 1949 are now deemed to have Entitled Status by virtue of the Control of Housing and Work (Residential and Employment Status (Jersey) Regulations 201- (*see* P.2/2013) under Regulation 2(1)(e) and (f) respectively.

Schedule 1(3) outlines that a condition of a housing consent granted under the Housing (Jersey) Law 1949 shall be deemed a condition of the property classification. In this way, for example, a consent that was issued to permit staff to live in a property, will become a condition of that property and continue to achieve the same objective, in this example, to limit occupation of a property to staff of a specific enterprise. A different approach is taken with conditions that attach to persons previously granted 1(1)(k), 1(1)(g), and 1(1)(j) housing consents, in that those conditions attach to their personal residential status under the new Law.

As to conditions attached to housing consents which are either contrary to the objectives or powers of the new Law, or are attached to the residential status of the occupier rather than the property classification, or are enshrined with the Law itself, these are disapplied by Schedule 1(3)(9) and Part 2 of Schedule 1, with particular note to the following –

- Under the current Housing (Jersey) Law 1949, consents are conditioned as a matter of practice such that ‘no diminution in the housing stock’ should occur, meaning both that (i) a residential unit cannot be converted into a commercial unit, including tourism accommodation, and (ii) that residential units cannot be merged to reduce the numbers of residential units, for example, merging 2 flats into one, or merging a house and an adjoining flat.

The effect of these conditions under the Housing (Jersey) Law 1949 was to require individuals to apply for a variation of their consent in the event that they sought a diminution in the housing stock. At the same time as applying for this to the Population Office, they also had to apply for a similar permission from the Minister for Planning and Environment. The new Law does not incorporate considerations around diminution in the housing stock, as these are matters to be regulated by the Minister for Planning and Environment, with the objective of the new Law, in the simplest terms, and in relation to housing, being to ensure that residential units as they exist should be reserved for the primary occupation of Entitled and Licensed people, unless decisions are made to the contrary. Accordingly, all housing consent conditions relating to diminution of the housing stock are not carried over by these Regulations and are consequently removed, with such matters henceforth being governed by the Minister for Planning and Environment alone.

- In addition, consent conditions are also removed that required specific residential properties to be occupied by persons named on the consent as their principal place of residence, being discretionary permissions focused on consents granted on grounds of hardship, wealth, or essential employment. These conditions are not needed to be carried over as a condition of the property classification, as instead they are carried over and applied against the residential status of the individual occupier where they are Entitled by virtue of Regulation 2(1)(e) or (f) of the Control of Housing and Work (Residential and Employment Status (Jersey) Regulations 201- (*see* P.2/2013), or Licensed under those Regulations.
- Finally, consent conditions that require occupation by persons qualified under the Housing (General Provisions) (Jersey) Regulations 1970 are also disappplied, as the main Law deals with the occupation of qualified property, and restricts occupation primarily to persons who are Entitled or Licensed, unless the Minister gives permission otherwise.

Schedule 1(4)

Under the current Housing (Jersey) Law 1949, persons deemed essential employees are able to purchase property, and this is achieved by forming a company wholly owned by the essential employee (and their spouse if requested) to which housing consent is issued. This requirement to purchase through a company does not exist under the new Law, as it is not needed to enforce conditions around sale and vacation of a property when an employee loses their essential employee status. As such, the requirement creates administrative burdens that are unnecessary.

Therefore, those essential employees who purchased by way of a housing consent granted to a company wholly owned by them are permitted to transfer that property into their own name should they so choose, and are required to transfer that property into their own name on becoming Entitled in any event (as is the case on becoming qualified under the current Law by virtue of housing consent conditions applied). Notwithstanding this, they remain subject to conditions under the main Law that

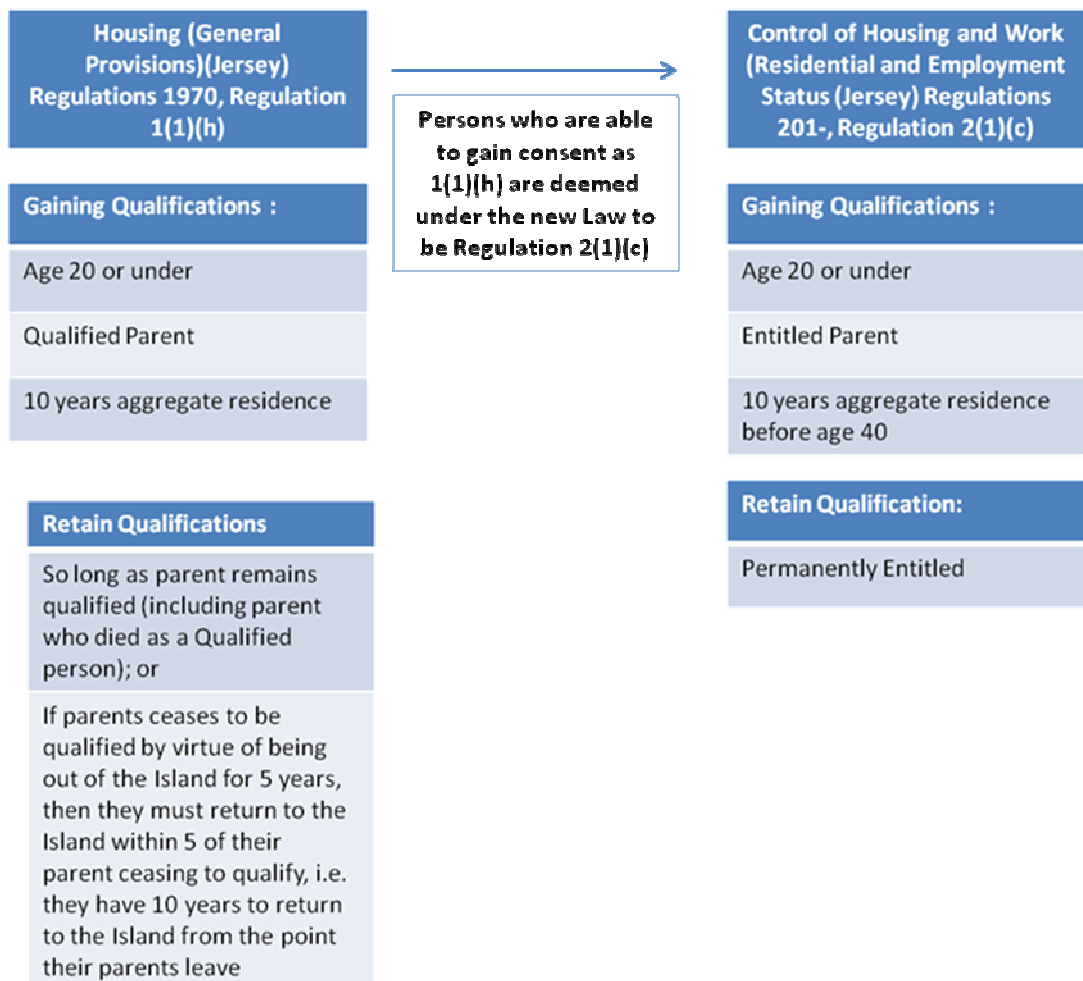
require them to vacate (and sell) their property in the event of ceasing to be Licensed if that occurs before becoming Entitled.

Schedule 1(5)

Under the current Housing (Jersey) Law 1949, persons qualify under paragraph 1(1)(h) for a consent to purchase or lease a property should a parent be qualified for consent, should they have arrived in the Island before the age of 20, and should they have completed 10 years’ aggregate residence.

Such persons then retain the ability to receive consent insofar as a parent remains qualified for consent (including if a parent passed away as a person who qualified for consent) or if this does not apply, notably if their parents are not Jersey-born and capable of losing their qualification by leaving the Island for 5 years, then the person who qualified under Regulation 1(1)(h) has a further 5 years to return to Jersey, i.e. they must return within 10 years of their qualified parent leaving the Island to maintain their 1(1)(h) status.

The diagram below outlines how such persons qualified and retained that qualification under the old Law, and how they will gain and retain residential status under the new Law.



As people who qualified for consent under paragraph 1(1)(h) are often not in the Island, holding that status by virtue of their parents remaining qualified, including having passed away as qualified persons, or being permanently qualified, it seems unreasonable to deem Regulation 1(1)(h) individuals as subject to a 5 year break rule, given that they understood they would otherwise retain their qualifications. As such, Schedule 1(5) deems individuals who would have qualified as 1(1)(h)s under the old Law to be Entitled under Regulation 2(1)(c) of the new Regulations, giving them permanent Entitlement.

Schedule 1(6)

This outlines that businesses with permissions for non-locally qualified staff under the Regulation of Undertakings and Development (Jersey) Law 1973 will have the same number of permissions in respect of Registered staff under the new Law, and that the number of Regulation 1(1)(j) employees permitted to work for the business under the Housing (Jersey) Law 1949 are the same as the number of Licensed permissions to be granted to the business on the introduction of the new Law.

In essence then, these provisions ensure that existing Regulation of Undertakings and Regulation 1(1)(j) permissions carry over into the new Law.

However, the Minister may under the new Law then vary any permission under the powers in the new Law (Article 29) in seeking to secure employment for Entitled and Entitled for Work residents.

Regulation 2

The purpose of Regulation 2 is to give effect to consequential provisions in Schedule 2 to ensure that legislation which refers to the Housing (Jersey) Law 1949, the Regulation of Undertakings and Development (Jersey) Law 1973, and the Hawkers and Non-Resident Traders (Jersey) Law 1965 (and Regulations made under those Laws) is replaced, on repeal of those Laws, by reference to equivalent provisions in the Control of Housing and Work (Jersey) Law 2012 and Regulations made under that Law.

This Schedule does not achieve any new policy objectives and simply seeks to ensure that the current position with reference to other Laws and the Laws to be repealed are replaced with references to the new Control of Housing and Work (Jersey) Law 2012.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of these draft Regulations.

Explanatory Note

These Regulations make transitional provisions and provisions consequential on the coming into force of the Control of Housing and Work (Jersey) Law 2012 (“CHW Law”). An Appointed Day Act will bring the CHW Law into force.

Regulation 1 gives effect to the transitional and saving provisions in *Schedule 1* to these Regulations.

Regulation 2 gives effect to *Schedule 2*. *Schedule 2* sets out amendments to enactments consequential on the commencement of the CHW Law. The main effect of the amendments is to ensure that references in existing legislation to the legislation repealed by the CHW Law, that is the Housing (Jersey) Law 1949, the Regulation of Undertakings and Development (Jersey) Law 1973 and the Hawkers and Non-Resident Traders (Jersey) Law 1965 and to Regulations made under those Laws are replaced by references to equivalent provisions in the CHW Law and Regulations made under the CHW Law.

Regulation 3 sets out the title of these Regulations and provides that they will come into force on the same day as the CHW Law comes into force.

The provisions of the transitional and savings provisions in *Schedule 1* are as follows.

Paragraph 1 of *Schedule 1* is an interpretation provision. In particular it defines the “former Housing Regulations” as the Housing (General Provisions) (Jersey) Regulations 1970 and the “former RUD Regulations” as the Regulation of Undertakings and Development (Jersey) Regulations 1978. It also defines a “Regulation 1(1)(j) person”. A Regulation 1(1)(j) person is a person who, immediately before the date that these Regulations come into force, is working in a post in respect of which the Minister has previously given a notification to the effect that the post holder will qualify for housing consent under Regulation 1(1)(j) of the former Housing Regulations. A person working in such a post who, immediately before the date that these Regulations come into force, would qualify for consent under another provision of the former Housing Regulations is not a Regulation 1(1)(j) person.

Paragraph 2 deems a person who has Regulation 1(1)(k) or 1(1)(g) consent under the former Housing Regulations (relating, respectively, to economic or social grounds and to hardship) to be deemed to have the equivalent status in accordance with the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201- (“CHW Residential and Employment Status Regulations”).

Paragraph 3 makes provision for conditions attached to consents under the former Housing Regulations. Generally, such conditions are deemed to be conditions that are specified under the CHW Law and attach to the housing categorizations of property under the CHW Law. However conditions attached to consents under Regulation 1(1)(g), (j) or (k) that refer to an individual occupier by name are deemed instead to attach to the residential and employment status of the individual granted consent. The significance of this distinction is that, under the CHW Law, breach of a condition attached to a housing categorization is a criminal offence (Article 15(11)). Breach of a condition attached to a residential and employment status is not itself a criminal offence but leads to loss of that status under the CHW Residential and Employment Status Regulations. A person who occupies property that the person is

not qualified to occupy because the person does not have the appropriate residential and employment status under the CHW Law may be guilty of an offence under that Law (Article 17(7)).

Paragraph 3 also makes provision so that terminology in existing conditions attached to housing consents is deemed to refer to the equivalent terminology under the CHW Law.

Paragraph 4 makes provision to the effect that a person who owns property through a company pursuant to a Regulation 1(1)(j) consent is able to transfer the property into his or her own name notwithstanding that the person is subject to a condition to the contrary attached to the consent under Regulation 1(1)(j). Paragraph 4 also requires such a person to transfer such property into his or her own name as soon as reasonably practicable after acquiring Entitled status in accordance with the CHW Residential and Employment Status Regulations.

Paragraph 5 makes provision so that a person who, immediately before the date that these Regulations come into force, qualifies for consent under Regulation 1(1)(h) of the former Housing Regulations shall be deemed to have Entitled status under the equivalent provision in the CHW Residential and Employment Status Regulations. Regulation 1(1)(h) entitles a person to be granted consent to a housing transaction where the person has been ordinarily resident in Jersey for a total period of at least 10 years commencing prior to the person's 20th birthday and is the child of a person who qualifies for consent under the former Housing Regulations. Under the equivalent provision of the CHW Residential and Employment Status Regulations, that is, Regulation 2(1)(c), a person must have completed a total period of 10 years before attaining the age of 35 years to have Entitled status. Paragraph 5 deems a person who qualifies for consent under Regulation 1(1)(h) of the former Housing Regulations to be deemed to have Entitled status under Regulation 2(1)(c) regardless of whether or not all the conditions set out in Regulation 2(1)(c) are satisfied.

Paragraph 6 makes provision for deeming appropriate conditions under Article 27 of the CHW Law to be attached to business licences for existing businesses with licences under the Regulation of Undertakings and Development (Jersey) Law 1973 on the date that these Regulations come into force. Such conditions relate to the maximum number of Regulation 1(1)(j) persons who may work for the undertaking; the type of work that may be done by such persons; and the maximum number of non-locally qualified staff who may work for the undertaking. Paragraph 6 also makes provision for the expiry date of such licences and for terminology in existing business licences to be deemed to refer to the equivalent terminology under the CHW Law. In addition, work of a general description comprised in a post to which a Regulation 1(1)(j) person has been appointed is deemed to be work of a description that can be done by Licensed persons.

Finally paragraph 6 makes provision so that where an existing undertaking has a licence that is deemed to continue under the CHW Law, the nature of the undertaking is deemed to be a condition of the licence as if specified by the Minister under Article 26(5) of that Law. Breach of such a condition would be a criminal offence under Article 26(13) of the CHW Law.

Paragraph 7 makes a further provision in respect of Regulation 1(1)(j) persons as defined in paragraph 1. It is a "catch-all" provision to cover conditions which are not otherwise covered in this Schedule. Any such other condition which has been notified to a Regulation 1(1)(j) person by the Minister as being a condition of being granted

consent under Regulation 1(1)(j) of the former Housing Regulations is deemed to be a condition subject to which the person has Licensed status under the CHW Residential and Employment Status Regulations. Regulation 3(2) of those Regulations allows the Minister to specify conditions to which the Licensed status of a particular person is subject. As mentioned above, a Regulation 1(1)(j) person will have Licensed status in accordance with the CHW Residential and Employment Status Regulations by virtue of doing the same work in respect of which the Minister has notified the person carrying on the undertaking that the person occupying the post will qualify for consent under Regulation 1(1)(j) of the former Housing Regulations. A Regulation 1(1)(j) person may have been notified of a condition that must be met in order to be granted consent under Regulation 1(1)(j) of the former Housing Regulations that relates to the personal circumstances of the individual and is not one of the standard conditions attached to such a consent. Paragraph 7 ensures that any additional conditions, not otherwise covered by this Schedule, which must be met by that person in order to be granted Regulation 1(1)(j) consent become attached to that person's Licensed status.

Paragraph 8 makes provision for when the CHW Law will be disapplied in certain circumstances. A person who enters into a housing transaction without a registration card, as required by Article 19(1)(a) of the CHW Law, commits no offence under the Law provided that he or she has applied for housing consent under the former Housing Regulations and the Minister has given consent to the housing transaction under those Regulations. Paragraph 8 allows the Minister to give consent under the former Housing Regulations, notwithstanding the repeal of the Housing (Jersey) Law 1949 by the CHW Law provided an application is made before the date of that repeal. Paragraph 8 also provides that a person who starts new work without a registration card as required by Article 24(1) of the CHW Law is not guilty of an offence provided that he or she applies for a card within 21 days of the commencement of that Article.

Finally, paragraph 8 makes provision so that if no licence is required to be held by under undertaking under the CHW Law (for example, by virtue of any exemptions made by Order under Article 25(9) of the CHW Law), any licence which is held under the Regulation of Undertakings and Development (Jersey) Law 1973 or the Hawkers and Non-Resident Traders (Jersey) Law 1965 is not subject to Article 50 of the CHW Law deeming a licence to be held under the CHW Law.

Paragraph 9 in Part 2 of Schedule 1 revokes conditions attached to current housing consents that are no longer considered necessary under the CHW Law.



Jersey

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Jersey

DRAFT CONTROL OF HOUSING AND WORK (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) (JERSEY) REGULATIONS 201-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 44 and 52 of the Control of Housing and Work (Jersey) Law 2012,¹ have made the following Regulations –

1 Transitional and saving provisions

Schedule 1 shall have effect.

2 Enactments amended

Schedule 2, setting out amendments consequential on the Control of Housing and Work (Jersey) Law 2012², shall have effect.

3 Citation and commencement

These Regulations may be cited as the Control of Housing and Work (Transitional and Consequential Provisions) (Jersey) Regulations 201- and shall come into force on the same day as the Control of Housing and Work (Jersey) Law 2012³ comes into force.

SCHEDULE 1

(Regulation 1)

TRANSITIONAL AND SAVINGS PROVISIONS**PART 1: APPLICATION OF LEGISLATION****1 Interpretation**

- (1) In this Schedule, unless the context otherwise requires –
- “CHW Law” means the Control of Housing and Work (Jersey) Law 2012⁴;
- “CHW Regulations” means the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201-⁵;
- “former Housing Regulations” means the Housing (General Provisions) (Jersey) Regulations 1970⁶;
- “former RUD Regulations” means the Regulation of Undertakings and Development (Jersey) Regulations 1978⁷;
- “Hawkers Law” means the Hawkets and Non-Resident Traders (Jersey) Law 1965⁸;
- “Housing Law” means the Housing (Jersey) Law 1949⁹;
- “RUD Law” means the Regulation of Undertakings and Development (Jersey) Law 1973¹⁰.
- (2) For the purposes of this Schedule, a person is a Regulation 1(1)(j) person if, immediately before the date that these Regulations come into force –
- (a) the person is working in a post (or has been appointed to work in a post) in respect of which the Minister for Housing has notified the person carrying on the undertaking concerned that the person occupying the post satisfies the requirements for consent under Regulation 1(1)(j) of the former Housing Regulations; and
- (b) the person does not satisfy the requirements for consent granted by the Minister for Housing under any of sub-paragraphs (a) to (h) or (k) to (n) of Regulation 1(1) of the former Housing Regulations.
- (3) References to “property” in this Schedule include, where relevant, units of dwelling accommodation.

2 Residential and employment status – Regulation 1(1) (g) and (k) of the former Housing Regulations

- (1) A person who, immediately before the date that these Regulations come into force, was subject to a condition attached to a consent under Regulation 1(1)(k) of the former Housing Regulations shall be deemed to

have been granted Entitled status under Regulation 2(1)(e) of the CHW Regulations on the date that these Regulations come into force.

- (2) A person who, immediately before the date that these Regulations come into force, was subject to a condition attached to a consent under Regulation 1(1)(g) of the former Housing Regulations shall be deemed to have been granted Entitled status under Regulation 2(1)(f) of the CHW Regulations on the date that these Regulations come into force.

3 Conditions attached to a housing consent granted under the former housing Regulations

- (1) This paragraph applies to a condition attached to a consent to the sale or transfer of land or a registered contract of lease granted by the Minister under Regulation 1 of the former Housing Regulations.
- (2) Subject to sub-paragraphs (3) and (9), a condition described in sub-paragraph (1) shall be deemed to be a condition that falls within Article 13(7) of the CHW Law.
- (3) Sub-paragraph (2) does not apply to –
- (a) a condition attached to a consent granted under Regulation 1(1)(g), (j) or (k) of the former Housing Regulations that refers by name to an individual occupier of property; or
 - (b) a condition attached to a consent granted under Regulation 1(1) of the former Housing Regulations that gives effect to a condition of a licence granted under the RUD Law requiring staff of an undertaking to occupy specified property.
- (4) A condition attached to a consent granted under Regulation 1(1) (g) or (k) of the former Housing Regulations that refers by name to an individual occupier of property shall be deemed to be a condition under Regulation 2(2) of the CHW Regulations subject to which the person has deemed Entitled status by virtue of Regulation 2 of these Regulations.
- (5) A condition attached to consent granted under Regulation 1(1) (j) of the former Housing Regulations that refers to an individual occupier of the property by name shall be deemed to be a condition to which the Licensed status of that individual is subject under Regulation 3(2) of the CHW Regulations.
- (6) A condition that refers to a person (whether or not expressly) –
- (a) as being essentially employed, or
 - (b) of a category specified in Regulation 1(1)(j) of the former Housing Regulations,
- shall be deemed to refer to a person with Licensed status.
- (7) A condition that refers to a person other than a person described in sub-paragraph (6), shall be deemed to refer to a person with Entitled status.
- (8) A condition that refers to a Particulars of Exempted Transaction form shall be deemed to exclude a reference to that form.

**4 Particular provisions relating to conditions attached to consents under
Regulation 1(1)(j) of the former Housing Regulations**

- (1) Notwithstanding anything to the contrary in any condition attached to a consent granted under Regulation 1(1)(j) of the former Housing Regulations, conditions attached to such a consent shall be deemed –
 - (a) to allow a person who has Licensed status to transfer property in respect of which such consent was granted into his or her own name and, if applicable, the name of the person's spouse or civil partner, at any time on or after the date that Article 19 of the CHW Law comes into force; and
 - (b) to require the person to transfer the property into his or her own name, and if applicable, the name of the person's spouse or civil partner, as soon as reasonably practicable after the person acquires Entitled status in accordance with the CHW Regulations.
- (2) For the avoidance of doubt, any transfer of property that is made by virtue of paragraph (1)(a) and is a transaction described in Article 18(1)(a) of the CHW Law is subject to Article 19(7) of that Law.

5 Residential and employment status – former category 1(1)(h)s

A person who, immediately before the date that these Regulations come into force, satisfied the requirements for consent granted by the Minister to a sale, transfer of land or registered contract of lease under Regulation 1(1)(h) of the former Housing Regulations (regardless of whether or not the individual at that time was intending to enter into a sale, transfer of land or a registered contract of lease) shall be deemed to have Entitled status under Regulation 2(1)(c) of the CHW Regulations regardless of whether or not the person satisfies all the conditions set out in Regulation 2(1)(c).

6 Deemed licence conditions

- (1) A licence deemed under Article 50 of the CHW Law to be a business licence shall be deemed to include the following conditions on the date that these Regulations come into force as if they were specified by the Minister under Article 27(1) of that Law –
 - (a) the maximum number of individuals with Licensed status who are permitted to work in or for the undertaking shall be the same number of individuals permitted to work in or for the undertaking who are Regulation 1(1)(j) persons;
 - (b) the maximum number of individuals with Registered status who are permitted to work in or for the undertaking shall be the same number of individuals permitted to work in or for the undertaking immediately before the date that these Regulations come into force who were not locally qualified for a position in an undertaking within the meaning of Regulation 2(2) of the former RUD Regulations;
 - (c) any work of a general description comprised in a post to which a Regulation 1(1)(j) person has been appointed by an undertaking

shall be work of a description that may be done by Licensed persons in or for that undertaking.

- (2) Without prejudice to any other provision in a licence or CHW Law that may cause the expiry of the licence on an earlier date, a licence shall expire on the date that any application following a significant change of ownership, as referred to in Article 25(3) of the CHW Law, is determined by the Minister.
- (3) Any condition deemed under Article 50(1) of the CHW Law to be a condition subject to which a licence is granted under Article 26 of that Law referring to –
 - (a) a person who is locally qualified for a position in an undertaking within the meaning of Regulation 2(2) of the former RUD Regulations, other than by virtue of Regulation 1(1)(j) of the former Housing Regulations, shall be deemed to refer to both an Entitled person and an Entitled for Work Only person;
 - (b) a person who is essentially employed, or a person to whom Regulation 1(1) (j) of the former Housing Regulations applies (or similar expressions), shall be deemed to refer to a Licensed person;
 - (c) a person who is not locally qualified within the meaning of Regulation 2(2) of the former RUD Regulations shall be deemed to refer to a Registered person.
- (4) Where an undertaking is deemed under Article 50 of the CHW Law to have a licence granted under that Law, the nature of the undertaking authorized by the licence shall be deemed to be a condition of the licence as if specified by the Minister under Article 26(5) of that Law.

7 Further provision relating to Regulation 1(1)(j) persons

A condition which has been notified to a Regulation 1(1)(j) person by the Minister as being a condition of that person being granted consent under Regulation 1(1)(j) of the former Housing Regulations shall, if no provision is made elsewhere in this Schedule concerning that condition, be deemed to be a condition to which the Licensed status of that person is subject under Regulation 3(2) of the CHW Regulations.

8 Disapplication of CHW Law

- (1) Notwithstanding Article 21(1) of the CHW Law, a person who is a party to a specified transaction that takes place on or after the date that Article 51 of that Law comes into force shall not be guilty of an offence for contravention of Article 19(1)(a) of that Law provided that –
 - (a) an application to the Minister for consent to that transaction under Regulation 1(1) of the former Housing Regulations was made before that date; and
 - (b) the Minister has given consent to the specified transaction under the former Housing Regulations.
- (2) Where an application is made to the Minister for consent as referred to in sub-paragraph (1)(a), the Minister may give consent for the purposes of

sub-paragraph (1)(b) on or after the date that Article 51 of the CHW Law comes into force, notwithstanding that Article's repeal of the Housing Law.

- (3) The provisions of this Schedule shall apply to any consent granted under sub-paragraph (2) as if the consent had been granted immediately before the date that these Regulations come into force.
- (4) Notwithstanding Article 24(11) of the CHW Law, a person who starts new work without a registration card shall not be guilty of an offence in contravention of Article 24(1) of that Law provided that the person applies for a registration card no later than 21 days after the commencement of that Article.
- (5) Notwithstanding Article 50 of the CHW Law, if –
 - (a) immediately before the date that Article 50 comes into force, an undertaking held a licence granted under Part 2 of the RUD Law or Article 2 of the Hawkers Law; and
 - (b) on the date that Article 25 of the CHW Law comes into force no licence is required to be held by the undertaking under that Law,a licence shall not be deemed to have been granted under Article 50 of the CHW Law in respect of the undertaking.

PART 2: HOUSING CONSENT CONDITIONS REVOKED

9 Housing consent conditions revoked

There is revoked any condition attached to a consent under the former Housing Regulations, such condition being the same or substantially similar to a condition set out in any of sub-paragraphs (a) to (n) –

- (a) That the dwelling accommodation on the land shall be used exclusively or mainly for residential purposes, and there shall be no diminution of such existing area of private dwelling accommodation.
- (b) That the dwelling accommodation on the land shall be used exclusively or mainly for residential purposes, and there shall be no diminution of the existing area or number of units of such existing private dwelling accommodation.
- (c) That the dwelling accommodation on the land, comprising [*name or description*] shall be used exclusively or mainly for residential purposes, and there shall be no diminution of such existing area of private dwelling accommodation.
- (d) That the property shall be occupied by the purchaser/s as his/their/her sole or principal place of residence, or by persons specifically approved by the Minister as being persons qualifying under Paragraph 1 of Regulation 1 of the Housing (General Provisions) (Jersey) Regulations 1970¹¹, as amended, or by persons who have submitted a Particulars of Exempted Transaction form in accordance with

Regulation 7(1) of the above Regulations, and who will occupy the accommodation as their sole or principal place of residence.

- (e) That the property shall be occupied by the purchaser/s as his/their/her sole or principal place of residence, or shall be let unfurnished to, or be otherwise occupied by, persons approved by the Minister as being persons of a category specified in Regulation 1(1)(a), (b), (c), (d), (e), (f), (g) or (h) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, or by persons who have submitted a Particulars of Exempted Transaction form in accordance with Regulation 7(1) of the above Regulations, and who will occupy the accommodation as their sole or principal place of residence.
- (f) That the property shall be occupied by the purchaser/s as his/their/her sole or principal place of residence or shall be let unfurnished to, or be otherwise occupied by, persons approved by the Minister as being persons of a category specified in Regulation 1(1)(a), (b), (c), (d), (e), (f), (g), (h) or (j) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, or by persons who have submitted a Particulars of Exempted Transaction form in accordance with Regulation 7(1) of the above Regulations, and who will occupy the accommodation as their sole or principal place of residence.
- (g) That the lessee/s shall occupy the property/accommodation as his/their/her sole or principal place of residence, or such accommodation shall not, without the consent of the Minister, be let unfurnished to, or be occupied by any persons other than those approved by the Minister as being persons of a category specified in Regulation 1(1)(a), (b), (c), (d), (e), (f), (g) or (h) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, or by persons who have submitted a Particulars of Exempted Transaction form in accordance with Regulation 7(1) of the above Regulations, and who will occupy the accommodation as their sole or principal place of residence.
- (h) That the lessee/s shall occupy the property/accommodation as his/their/her sole or principal place of residence, or such accommodation shall not, without the consent of the Minister, be let unfurnished to, or be occupied by any persons other than those approved by the Minister as being persons of a category specified in Regulation 1(1)(a), (b), (c), (d), (e), (f), (g), (h) or (j) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, or by persons who have submitted a Particulars of Exempted Transaction form in accordance with Regulation 7(1) of the above Regulations, and who will occupy the accommodation as their sole or principal place of residence.
- (i) That the dwelling accommodation at the property shall be occupied by [name] as his/their/her sole or principal place of residence, or, shall not, without the consent of the Minister, be let unfurnished to, or be occupied by any persons, other than those approved by the Minister as being persons of a category specified in Regulation 1(1)(a), (b), (c), (d), (e), (f), (g) or (h) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, or by persons who have submitted a Particulars of Exempted Transaction form in accordance with Regulation 7(1) of the above

Regulations, and who will occupy the accommodation as their sole or principal place of residence.

- (j) That the property shall be occupied by [*name*], as his/their/her sole or principal place of residence, or, shall not, without the consent of the Minister, be let unfurnished to or be occupied by any persons, other than those approved by the Minister as being persons of a category specified in Regulation 1(1)(a), (b), (c), (d), (e), (f), (g) or (h) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, or by persons who have submitted a Particulars of Exempted Transaction form in accordance with Regulation 7(1) of the above Regulations, and who will occupy the accommodation as their sole or principal place of residence.
- (k) That the existing units of dwelling accommodation upon the land, and any further units of dwelling accommodation that may be created upon the land, shall be let unfurnished to, or be otherwise occupied by, persons approved by the Minister as being persons of a category specified in Regulation 1(1)(a), (b), (c), (d), (e), (f), (g) or (h) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, or by persons who have submitted a Particulars of Exempted Transaction form in accordance with Regulation 7(1) of the above Regulations, and who will occupy the accommodation as their sole or principal place of residence.
- (l) That the existing units of dwelling accommodation at the property shall not, without the consent of the Minister, be let unfurnished to, or be occupied by any persons other than those approved by the Minister as being persons of a category specified in Regulation 1(1)(a), (b), (c), (d), (e), (f), (g), (h) or (j) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, or by persons who have submitted a Particulars of Exempted Transaction form in accordance with Regulation 7(1) of the above Regulations, and who will occupy the accommodation as their sole or principal place of residence.
- (m) That the dwelling/s proposed to be constructed upon the land in question shall not, without the consent of the Minister, be occupied other than by persons approved by the Minister as being persons of a category specified in Regulation 1(1)(a), (b), (c), (d), (e), (f), (g) or (h) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, or by persons who have submitted a Particulars of Exempted Transaction form in accordance with Regulation 7(1) of the above Regulations, and who will occupy the accommodation as their sole or principal place of residence.
- (n) That the existing unit/s of dwelling accommodation comprising the [*name or description*] at the property shall not, without the consent of the Minister, be let unfurnished to, or be occupied by any persons other than those approved by the Minister as being persons of a category specified in Regulation 1(1)(a), (b), (c), (d), (e), (f), (g) or (h) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, or by persons who have submitted a Particulars of Exempted Transaction form in accordance with Regulation 7(1) of the above Regulations, and who will occupy the accommodation as their sole or principal place of residence.

SCHEDULE 2

(Regulation 2)

CONSEQUENTIAL AMENDMENTS OF ENACTMENTS

1 Income Tax (Jersey) Law 1961

For Part 21A of the Income Tax (Jersey) Law 1961¹² there shall be substituted the following Part –

“PART 21A

**SPECIAL PROVISION FOR PERSON GRANTED 1(1)(K) HOUSING
CONSENT OR ENTITLED STATUS UNDER REGULATION 2(1)(E)**

**135A Persons granted 1(1)(k) housing consent or Entitled status under
Regulation 2(1)(e)**

- (1) This Article applies to any person who, pursuant to a 1(1)(k) housing consent granted on or after 1st January 2005, or, being granted Regulation 2(1)(e) status, acquires land or property conferring a right to occupy land (whether or not that person has previously been granted such a consent or has previously been granted such status).
- (2) This Article shall cease to apply to the person upon –
 - (a) the revocation of the 1(1)(k) housing consent or, as the case may be, the loss of Regulation 2(1)(e) status;
 - (b) the person ceasing to own the land or property, unless within the period of 6 months following such cessation, the person acquires other land or property conferring a right to occupy land pursuant to a further 1(1)(k) consent or following the grant or verification of Regulation 2(1)(e) status.
- (3) Subject to paragraph (4), notwithstanding the rate of tax required by Article 1 to be charged for a year of assessment, where, for that year of assessment, so much of the person’s total income as is not Jersey income exceeds the prescribed limit, the amount of the excess shall be chargeable to tax at the prescribed rate.
- (4) Paragraphs (5) and (6) apply in a person’s case instead of paragraph (3) if –
 - (a) the person acquires land or property conferring a right to occupy land pursuant to a 1(1)(k) housing consent granted pursuant to an application made on or after 22nd July 2011 or is granted Regulation 2(1)(e) status; and
 - (b) the person has not previously been granted a 1(1)(k) housing consent.

- (5) Notwithstanding the rate of tax required by Article 1 to be charged for a year of assessment, where, for a year of assessment, so much of the income of a person to whom this paragraph applies by virtue of paragraph (4) as is chargeable to tax under Schedule D exceeds the limit prescribed for the purposes of this paragraph for that year, the amount of the excess of that income chargeable to tax under Schedule D shall be charged to tax at the rate prescribed for the purposes of this paragraph.
- (6) In calculating, for the purposes of paragraph (5), the amount of a person's income chargeable to tax under Schedule D there shall be disregarded any dividend declared out of profits or gains charged to tax at the standard rate on any body of persons.
- (7) The States may by Regulations, for the purposes of each of paragraphs (3) and (5), specify a prescribed limit and either a single prescribed rate or different prescribed rates to apply to different portions of so much of a person's income as is chargeable to tax in accordance with the paragraph.

- (8) In this Article –

‘application’ means an application for 1(1)(k) housing consent made under Article 13 of the Housing (Jersey) Law 1949¹³;

‘dividend’ includes a distribution made by a company;

‘1(1)(k) housing consent’ means consent under the Housing (Jersey) Law 1949 for the sale, transfer or lease of any land in the case described in Regulation 1(1)(k) of the Housing (General Provisions) (Jersey) Regulations 1970¹⁴;

‘Jersey income’ means –

- (a) all annual profits or gains arising or accruing from –
- (i) any rents or receipts described in Article 51,
 - (ii) any kind of property whatever, situated in Jersey,
 - (iii) any trade exercised in Jersey, whether or not through a fixed place of business in Jersey,
 - (iv) any profession, employment, vocation or office exercised within Jersey, or
 - (v) any pension arising in Jersey;
- (b) all interest of money and annuities arising in Jersey; and
- (c) all sums paid to an individual or an individual's personal representative pursuant to Article 131D or 131E,

and includes any payment to be charged to tax by virtue of Article 86(2)(e);

‘Regulation 2(1)(e) status’ means the grant of Entitled status under Regulation 2(1)(e) of the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201-¹⁵ or the verification of that status as referred to in Article 5(4)(a) of the Control of Housing and Work (Jersey) Law 2012¹⁶.

135B Exchange of information for the purposes of Article 135A

- (1) Notwithstanding anything in this Law or any other enactment –
 - (a) the Comptroller may disclose information to –
 - (i) the Minister for Housing or to the Chief Minister, including an officer in an administration of the States for which either Minister is responsible, for any purpose connected with the grant and revocation of 1(1)(k) housing consents, or
 - (ii) the Chief Minister, including an officer in an administration of the States for which the Minister is responsible, for any purpose connected with the grant and loss of Regulation 2(1)(e) status;
 - (b) an officer in an administration of the States for which the Minister of Housing or the Chief Minister, as the case may be, is assigned responsibility may disclose information to the Comptroller for the purposes of the administration of this Article.
- (2) A person to whom information is disclosed pursuant to paragraph (1) shall use it only for the purposes for which it is disclosed.
- (3) In this Article –

‘1(1)(k) housing consent’ has the same meaning as in Article 135A;

‘officer’ has the same meaning as in Article 25 of the States of Jersey Law 2005¹⁷;

‘Regulation 2(1)(e) status’ has the same meaning as in Article 135A.”.

2 Building Loans (Miscellaneous Provisions) (Jersey) Regulations 1961

For paragraph (a) of Regulation 1 of the Building Loans (Miscellaneous Provisions) (Jersey) Regulations 1961¹⁸ there shall be substituted the following paragraph –

- “(a) in the case of a loan granted for a purpose specified in Article 3 of the Building Loans (Jersey) Law 1950¹⁹ (referred to in these Regulations as the “Law”), he or she has –
 - (i) Entitled Status, or
 - (ii) Entitled for Work Only status by virtue of being the spouse of a person with Entitled status,in accordance with the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201-²⁰.”.

3 Police Force (Prescribed Offences) (Jersey) Order 1974

For item 23 in Part 2 of the Schedule to the Police Force (Prescribed Offences) (Jersey) Order 1974²¹ there shall be substituted the following item –

“23. Control of Housing and Work (Jersey) Law 2012²², Part 7, to the extent that it applies to non-resident traders.”

4 Protection of Employment Opportunities (Jersey) Law 1988

For Article 3 of the Protection of Employment Opportunities (Jersey) Law 1988²³ there shall be substituted the following Article –

“3 Power to prohibit the taking of prescribed employment without consent

- (1) The States may, by Regulations, provide that no person shall take employment of any category prescribed in the Regulations without the consent of the Minister.
- (2) However Regulations under paragraph (1) shall not apply to any of the following –
 - (a) a member of the States;
 - (b) an ordinary judge appointed under the Court of Appeal (Jersey) Law 1961²⁴;
 - (c) a jurat or a Commissioner appointed under the Royal Court (Jersey) Law 1948²⁵;
 - (d) the Viscount;
 - (e) the Judicial Greffier;
 - (f) a person who has Entitled or Entitled for Work Only status in accordance with Regulations made under Article 2 of the Control of Housing and Work (Jersey) Law 2012²⁶.
- (3) In paragraph (2)(a), ‘member of the States’ has the same meaning as in the States of Jersey Law 2005²⁷.”

5 Stamp Duties and Fees (Jersey) Law 1998

In Part 1 of the Schedule to the Stamp Duties and Fees (Jersey) Law 1998²⁸ –

- (a) for item 1(ba)(E) there shall be substituted the following clause –
 - “(E) the borrower to whom clause (D)(a) applies or the occupier to whom clause D(b) applies is a person who –
 - (i) has Entitled status in accordance with the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201-²⁹, other than by virtue of Regulation 2(1)(e) of those Regulations,
 - (ii) has Licensed status in accordance with those Regulations, or

(iii) is the spouse or civil partner of a person described in clause (i) or (ii) and is a joint borrower or occupier with that person; and”;

(b) for item 13(m)(B) there shall be substituted the following clause –

“(B) the lessee or transferee is a person who has Entitled status in accordance with the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201-³⁰, other than by virtue of Regulation 2(1)(e) of those Regulations or is the spouse or a civil partner of such a person and is joint lessee or transferee with that person.”.

6 Children (Jersey) Law 2002

In Article 48(6) of the Children (Jersey) Law 2002³¹, for the words “includes employment as a hawker within the meaning of the Hawkers and Non-Resident Traders (Jersey) Law 1965” there shall be substituted the words “includes any work within the meaning of the Control of Housing and Work (Jersey) Law 2012³²”.

7 Police Procedures and Criminal Evidence (Jersey) Law 2003

In Schedule 3 to the Police Procedures and Criminal Evidence (Jersey) Law 2003³³ for the entry relating to “Housing (Jersey) Law 1949” there shall be substituted the following entry –

“Control of Housing and Work (Jersey) Law 2012³⁴ Article 35(4)”.

8 Money Laundering (Jersey) Order 2008

In Article 18(8A) of the Money Laundering (Jersey) Order 2008³⁵ for the words “Housing (Jersey) Law 1949” there shall be substituted the words “Control of Housing and Work (Jersey) Law 2012³⁶”.

9 Taxation (Land Transactions) (Jersey) Law 2009

In the Taxation (Land Transactions) (Jersey) Law 2009³⁷ –

(a) in Article 3(2) for the words “of the Housing (Jersey) Law 1949” there shall be substituted the words “under Part 5 of the Control of Housing and Work (Jersey) Law 2012³⁸”;

(b) for Article 12(1) there shall be substituted the following paragraph –

“(1) An officer in an administration of the States for which the Chief Minister is responsible may disclose to the Comptroller information given to the Chief Minister under the Control of Housing and Work (Jersey) Law 2012³⁹.”;

(c) for paragraph 3A(2)(d)(ii) of the Schedule there shall be substituted the following sub-clause –

-
- “(ii) a person who is –
- (A) an Entitled person in accordance with the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201-⁴⁰, other than by virtue of Regulation 2(1)(e) of those Regulations,
 - (B) a Licensed person under those Regulations, or
 - (C) the spouse or a civil partner of a person described in (A) or (B);”;
- (d) for paragraph (4)(1)(b) of the Schedule there shall be substituted the following clause –
- “(b) the occupier is –
- (i) an Entitled person in accordance with the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201-⁴¹, other than by virtue of Regulation 2(1)(e) of those Regulations, or
 - (ii) the spouse or a civil partner of a person described in sub-clause (i);”.

1	<i>L.31/2012</i>
2	<i>L.31/2012</i>
3	<i>L.31/2012</i>
4	<i>L.31/2012</i>
5	<i>P.2/2013</i>
6	<i>chapter 18.315.50</i>
7	<i>chapter 05.750.30</i>
8	<i>chapter 05.275</i>
9	<i>chapter 18.315</i>
10	<i>chapter 05.750</i>
11	<i>chapter 18.315.50</i>
12	<i>chapter 24.750</i>
13	<i>chapter 18.315</i>
14	<i>chapter 18.315.50</i>
15	<i>P.2/2013</i>
16	<i>L.31/2012</i>
17	<i>chapter 16.800</i>
18	<i>chapter 24.090.30</i>
19	<i>chapter 24.090</i>
20	<i>P.2/2013</i>
21	<i>chapter 23.375.75</i>
22	<i>L.31/2012</i>
23	<i>chapter 05.625</i>
24	<i>chapter 07.245</i>
25	<i>chapter 07.770</i>
26	<i>L.31/2012</i>
27	<i>chapter 16.800</i>
28	<i>chapter 24.960</i>
29	<i>P.2/2013</i>
30	<i>P.2/2013</i>
31	<i>chapter 12.200</i>
32	<i>L.31/2012</i>
33	<i>chapter 23.750</i>
34	<i>L.31/2012</i>
35	<i>chapter 08.780.30</i>
36	<i>L.31/2012</i>
37	<i>chapter 24.980</i>
38	<i>L.31/2012</i>
39	<i>L.31/2012</i>
40	<i>P.2/2013</i>
41	<i>P.2/2013</i>