
STATES OF JERSEY



CONTROL OF HOUSING AND WORK (JERSEY) LAW 2012: GUIDANCE – CONTROL PROVISIONS

Presented to the States on 26th June 2013
by the Chief Minister

STATES GREFFE



Population Office

Control of Housing and Work (Jersey) Law 2012

Guidance

Control provisions related to the change in the ultimate beneficial ownership of an undertaking that is not a company with a share capital

This guidance is issued under Article 25(7) of the Control of Housing and Work (Jersey) Law 2012 (“Law”) with regards to non-companies licensed under that Law and in relation to licences issued under the previous Regulation of Undertakings and Development (Jersey) Law 1973.

Appropriate Licence

The provisions of the Law require an undertaking to have an **appropriate licence**. If an undertaking operates without an appropriate licence this is an offence under the Law. The Law provides that an undertaking does not have an appropriate licence if there is a significant change in the ownership of the undertaking. Where there is a significant change in the ownership of an undertaking, an application must be made for a new licence within 60 days of that change taking place. It is advised, however, that prospective sellers and purchasers seek confirmation that a new licence will be issued in advance of the change of ownership.

The Law states that the Minister will issue guidance about how the Law applies in the case of an undertaking **not being a company with a share capital**.

The guidance below details the circumstances when application to the Minister is required in relation to a “**significant**” change in the ownership of an existing undertaking **not being a company with a share capital** to ensure that the undertaking has an appropriate licence.

The provisions of the Law and this guidance override any existing beneficial ownership condition.

Significant change in ultimate beneficial ownership

The Control of Housing and Work (Jersey) Law 2012, has primacy and applies with regard to whether or not there is a ‘significant’ change in ownership in any particular case.

Application for a licence is required to the Minister when individual(s) having the status of Registered as stipulated in the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013, or being non-resident of Jersey, are seeking to acquire an undertaking partly or wholly such that the ultimate beneficial ownership of the undertaking’s total membership/partnership, as determined by headcount, falls below 60% Entitled, Entitled to Work or Licensed and no more than 60 days have elapsed since that change.

However, any such change in ownership is not deemed to be significant, i.e. the above provision does *not* apply, in relation to any entity –

- incorporated under the Loi (1862) sur les teneures en fidéicomis et l’incorporation d’associations ; or
- registered with an address in Jersey under the Industrial and Provident Societies (Channel Islands) Order 1965.

Explanatory table of application requirements that apply whether or not the existing undertaking has a beneficial ownership condition

Current residential status of undertaking’s principal(s) (beneficial owners)	Residential status of proposed new principal(s) (beneficial owners) of the undertaking	Is application to the Minister is required for an appropriate licence?
Entitled, Entitled to Work or Licensed persons	Entitled, Entitled to Work or Licensed	No
Registered or non-resident of Jersey persons	Entitled, Entitled to Work or Licensed	No
Entitled, Entitled to Work or Licensed persons	Registered or non-resident of Jersey	Yes, where non-qualified* ultimate beneficial ownership of an undertaking exceeds 60% threshold exceeded
A mix of Entitled, Entitled to Work or Licensed and Registered or non-resident of Jersey persons	Entitled, Entitled to Work or Licensed	No

A mix of Entitled, Entitled to Work or Licensed and Registered or non-resident of Jersey persons	A mix of Entitled, Entitled to Work or Licensed and Registered or non-resident of Jersey	Yes, where non-qualified* ultimate beneficial ownership of an undertaking exceeds 60% threshold exceeded
A mix of Entitled, Entitled to Work or Licensed and Registered or non-resident of Jersey persons	Registered or non-resident of Jersey	Yes, where non-qualified* ultimate beneficial ownership of an undertaking exceeds 60% threshold exceeded

*** “non-qualified” is used to mean persons who do not have Entitled, Licensed or Entitled for Work status**

NB: This guidance applies only to significant changes in beneficial ownership that take place *after* 1st July 2013. Should an existing undertaking’s ultimate beneficial ownership be such that it already exceed the above thresholds immediately on the 1st July 2013, no application is required for an appropriate licence.