

New Housing and Work Law Legislation

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The Control of Housing and Work (Jersey) Law 2012 is expected to be brought into force on 29 April this year. Essentially, the Law is to provide a single statute, replacing the Housing (Jersey) Law 1949 and the Regulation of Undertakings and Development (Jersey) Law 1973, to regulate two fundamental issues, namely who can work here and who can live here.

Categories of Jersey Residents

All Jersey residents will be categorised as one of the following:

- **Entitled.** Entitled status will apply to:
 - (i) Jersey-born persons who have completed 10 years' aggregate ordinary residence in the Island;
 - (ii) persons who have completed 10 years' continuous ordinary residence in the Island commencing before their 16th birthday;
 - (iii) persons who arrived in Jersey before their 20th birthday, have completed 10 years' aggregate ordinary residence in the Island before their 40th birthday and have a parent who is Entitled at the time of completing the 10 years' aggregate

ordinary residence;

(iv) persons who were not born in the Island and have completed 10 years' continuous ordinary residence;

(v) persons granted Entitled status on social and/or economic grounds (i.e. the equivalent of 1(1)(k) status);

(vi) persons granted Entitled status on the basis of hardship.

Entitled status obtained under (i), (ii) or (iii) above is permanent once obtained. For those with Entitled status on the basis of one of the other grounds listed above, Entitled status will be lost on leaving the Island; however, absences for *aggregate* periods not exceeding five years will not result in the loss of Entitled status. Furthermore, 30 years' continuous ordinary residence will confer permanent Entitled status which cannot be lost however long one's absences from the Island thereafter.

- **Licensed.** This equates to the '(j) category' (essentially employed) qualification under the Housing Regulations.

- **Entitled for Work.** This status will be acquired after 5 years' continuous residence, reflecting current policy in regard to 'locally qualified' persons under the Regulation of Undertakings legislation.
- **Registered.** This will cover all Jersey residents who do not qualify under any of the other categories set out above.

Registration

A person's categorisation will be recorded on a registration card issued to him or her. A Jersey resident will be required to register as soon as any of the following triggers first applies to him or her:

- Completion of three months' continuous ordinary residence in the Island;
- Entering into a property transaction;
- Starting new work.

Categories of Properties

All units of residential accommodation will be recorded on a publicly accessible register under one of the following categorisations:

- **Qualified.** Essentially, this will cover all units which are currently subject to occupation control under the Housing legislation as well as units created after the Law comes into force.
- **Registered.** This will cover all other units.

The Law makes provision for the maintenance of particular conditions and concessions which attach to a unit before the Law comes into force.

Control of Occupation and Property Transactions

Subject to limited exceptions, Qualified residential units will only be able to be occupied by Entitled or Licensed persons.

Acquiring property by way of freehold or on any kind of lease will require the production by the acquirer to the

other party or parties to the transaction of his or her registration card and it will need to be shown that any conditions to the status set out on the card are fulfilled at that time.

There will be no equivalent of housing consents for individuals (as opposed to companies and other 'legal persons') acquiring property.

Unlike the current position in regard to (j) category persons, Licensed persons will be able to purchase and lease properties in their own names.

Entitled for Work Only and Registered persons will be able to take 'paper' leases (i.e. leases for terms not exceeding 9 years) of Registered properties.

Commercial Property Transactions

No form of consent will be required for leases of purely commercial property. However, a company or other 'legal person' taking a lease of residential property, or acquiring the freehold of commercial or residential property, will require the consent of the Minister.

Business Licensing

Like the Regulation of Undertakings Law, the new Law prohibits the carrying on of an "undertaking" without a business licence, with greater clarity as to exactly when a business licence is required. All existing undertakings with a 'Reg of Uns' licence (even just a staffing licence) will be deemed to have a business licence under the new Law.

Every business licence will need to specify the maximum number (which may be nil) of Licensed and Registered persons who may be employed. In a major change to the current position, businesses will not have to apply for specific permission in respect of each essentially employed member of staff. All that will be required will be for an employee to be engaged to work in a post which accords with a permitted description of work in the Licensed posts condition on the employer's

business licence. The transitional Regulations recently passed by the States deal with the way in which existing (j) category permissions will be converted into Licensed posts.

Significantly, will be no controls on the employment of Entitled and Entitled for Work Only persons.

The rules relating to change of ownership are also changing. Under the new Law, all businesses, including existing businesses, will be on a level playing field and will require a new licence to be applied for if there is a "significant change of ownership". This essentially means that there has been one or more transactions resulting the aggregate 'local' ownership (i.e. Entitled, Entitled for Work only and Licensed persons) falling below 60%.

As with any regulatory overhaul, there will undoubtedly be a period of acclimatisation on the part of local residents, businesses and the authorities. The Population Office will undoubtedly do all they can to assist in the transition and of course professional advice should be taken where required.

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