

Control of Housing and Work (Jersey) Law 2012 (the "CHW Law")

Background and categories of housing status

Introduction

The CHW Law came into effect on 1st July 2013. It was the end product of years of consultation following the Migration Policy being approved by the States in 2005 and consolidated and replaced the Housing (Jersey) Law, 1949 and its associated regulations (the "Housing Law"), the Regulation of Undertakings and Development (Jersey) Law, 1973 (the "RUD Law") along with the Hawkers and Non-Resident Traders (Jersey) Law, 1965.

The changes introduced by the CHW Law were more of form than substance. There were, however, some significant changes to the principles of controlling the ownership and occupation of property in Jersey, and controlling the establishment of new businesses and regulating the number of employees engaged in all businesses in the Island, and these are discussed below

The Chief Minister (the "Minister") has overall responsibility under the CHW Law and is assisted by an advisory group which includes the Ministers of Economic Development and Housing.

Registration Cards

Individuals need a registration card:

- prior to taking up new employment;
- prior to renting or buying property
- if they are 16 or older and have just moved to the Island and have been resident in the Island for 3 months.

These cards are issued by the Population Office and the Social Security Department and will state:

- the holder's name;
- their social security number;
- their employment and residential status;
- any conditions that are imposed by the Minister in respect of employment or residence;
- the date of issue; and
- if appropriate, an expiry date.

An individual needs to show a valid registration card to their lawyer or to the landlord before buying or leasing property. As there is no photograph on the registration card the identity of the holder will have to be verified by their passport or driving licence.

Any person moving address (whether from another address in Jersey or from outside of Jersey) must notify the Minister within three months of taking up such alternative accommodation. There is also an obligation on any person "in control" of that accommodation to notify the Minister of the name of the individual, the address of the unit and, if known, the date that the individual will leave that unit of accommodation.

It will be an offence to sell, deface, destroy or forge a registration card or to make a false statement to obtain a card.

Consent for property transactions

The consent of the Minister will not be required for a property transaction save for:

- acquisitions by a company of property (unless a public utility company is acquiring the land to accommodate apparatus for its undertaking)
- persons who are seeking Entitled status (see below) under either social or economic grounds or on the grounds of hardship
- persons with Licensed status (see below) acquiring or renting property

Categories for individuals and properties

The CHW Law provides for categories of people's residential and work status namely:

- Entitled
- Licensed
- Entitled for Work Only

- Registered.

There are two categories of residential property:

- Qualified
- Registered.

Only persons with Entitled or Licensed status can occupy Qualified property. Registered accommodation can be occupied by people of any status

Dealing with each of the categories of personal status in turn:

Entitled status

A person with Entitled status can buy or rent any property (i.e. either Qualified or Registered) and can work in any employment.

Under the Residential and Employment Status regulations a person will have Entitled status if he or she is:

- (a) Jersey-born and has been ordinarily resident in Jersey for an aggregate period of at least 10 years (which period does not have to be continuous).
- (b) not Jersey-born and has been ordinarily resident in Jersey for a continuous period of at least 10 years;
- (c) not Jersey born and has been ordinarily resident in Jersey for an aggregate period of at least 10 years (which period does not have to be continuous) which period commenced before the age of 20 and completed before the age of 40 provided that the person has a parent who has Entitled status on the date that the person completed the period of 10 years residence;
- (d) not Jersey-born and has been ordinarily resident in Jersey for a continuous period of at least 10 years, provided that the ordinary residence commenced before the age of 16;
- (e) granted Entitled status by the Minister on hardship grounds (the equivalent of a person who was given housing qualifications under Regulation 1(1)(g) of the Housing Regulations); or
- (f) granted Entitled status by the Minister on social or economic grounds as being in the best interests of the community (the equivalent of a person who was given housing qualifications under Regulation 1(1)(k) of the Housing Regulations).

Entitled status can be lost where a person:

- has been absent from Jersey for a period or aggregate periods exceeding 5 years and was not ordinarily resident in Jersey during those periods; or
- was granted Entitled status by the Minister under either of paragraphs (e) or (f) above and breached any condition of the grant.

It is possible for Entitled status to become Permanent Entitled status whereby the Entitled status cannot be lost no matter how long a person may be absent from the Island. A person acquires "Permanent Entitled" status if he or she;

- qualifies as Entitled under any of paragraphs (a), (c) or (d) above; or
- has been ordinarily resident in Jersey for a continuous period of at least 30 years.

Until Permanent Entitled Status is achieved a registration card is "valid" for a period of 5 years and must be renewed as and when required.

Licensed status

This is the equivalent of what was previously known as Regulation 1(1)(j) category status under the Housing Law and is addressed in detail in our specific brief on this category.

Entitled for Work Only status

A person with Entitled for Work Only status is entitled to obtain any type of employment and to rent or buy Registered accommodation. They cannot rent or buy Qualified accommodation unless they are the spouse or civil partner of an Entitled or Licensed person and join in the transaction with such spouse or civil partner.

This category applies to an individual who does not have Entitled or Licensed status but who:

- (a) has resided in Jersey for a continuous period of 5 years immediately before being required to make an application for a registration card or immediately before any time when that person could make such an application; or
- (b) is the spouse or civil partner of a person with Entitled, Licensed or Entitled for Work Only status; or
- (c) is divorced from a person with Entitled, Licensed or Entitled for Work Only status less than 5 years prior to applying for a card and has resided in the Island since the divorce; or
- (d) started work for an undertaking before attaining the age of 16 years and has worked for that undertaking since attaining that age.

A person loses Entitled for Work Only status if they no longer satisfy any of the above conditions or if they acquire Entitled or Licensed status.

A person with Entitled for Work Only status can be a party in any capacity to the same contract of sale or purchase of Qualified property as their Entitled spouse/civil partner (i.e. an Entitled spouse/civil partner could be a vendor and the Entitled for Work Only spouse/civil partner could be a purchaser).

Where the spouse or civil partner of a person with Licensed status only possesses Entitled for Work Only status they can only join that spouse or civil partner with Licensed status in an acquisition or lease of Qualified property in the same capacity as the spouse with Licensed status.

Registered status

A person has Registered status if he or she:

- has been ordinarily resident in Jersey for a continuous period of 3 months or more immediately before they apply for registration card or could make such an application, or expects to be so resident at the time of the application; and
- does not have Entitled, Licensed Or Entitled for Work Only status.

A Registered person can only occupy Registered accommodation or can occupy Qualified accommodation as a lodger of a person with Entitled or Licensed status who must also occupy the accommodation.

An improvement introduced by the CHW Law is that a person with Registered status can lease Registered accommodation rather than licence it and thus will have greater security of tenure.

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