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# **STATES OF JERSEY**



## **CONTROL OF HOUSING AND WORK: DRAFT EXEMPTIONS ORDER**

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**Presented to the States on 23rd April 2013  
by the Chief Minister**

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**STATES GREFFE**

## REPORT

### 1. Introduction

The draft Control of Housing and Work (Exemptions) (Jersey) Order 201- provides limited exemptions from the requirements of the Control of Housing and Work (Jersey) Law 2012, as follows –

- (i) from the requirement to obtain a registration card before starting new work (*these exemptions do not exempt a person from needing a registration card if they are resident in Jersey for 3 months or more*);
- (ii) from the requirement of an undertaking to have a business licence (*with reference to small scale or time limited activities*);
- (iii) from the requirement of an undertaking to remain within conditions restricting the maximum number of Registered and Licensed staff who are permitted to work for that undertaking (*for limited periods*).

Furthermore, the Order disregards beneficial ownership conditions applied under the Regulation of Undertakings and Development Law, because the new Law places uniform beneficial ownership conditions upon *all* undertakings (which require permission to be sought in specified circumstances, mainly where an undertaking is to be sold to either a Registered or non-resident person).

This Order will be formally made effective alongside the main Law on 1st July 2013. In the meantime, it is published as an **Appendix** to this Report for information.

### 2. Revisions to the Order since published in April 2011

This Order was published in an earlier draft in April 2011 alongside the lodging of the main Law. Since that time, a number of changes have been made following engagement and consideration.

In particular, the general objective of the Order is to –

- (i) limit exemptions in areas where immigration and local employment are a concern; for example, visiting construction contractors, while also
- (ii) limiting red tape and burdens on businesses and Islanders; for example, by exempting very short-term or small-scale activities, with particular reference to the residential status of a person.

A number of changes have been made in line with these objectives, most notably –

Areas of Change	Relevant Regulations
Exemptions for staff of “international financial services groups”	Regulations 2(b) and 4(1)(e)
Exemptions for financial vehicles, e.g. investment trusts, unit trusts, etc.	Regulation 3(1)(a) – (d)
Exemptions from the need to obtain a business licence with reference to a person’s residential status and the types of activity being undertaken	Regulation 3(1)(e), (f), (l), (m) and (n)
Provision to enable employment agencies to be treated in the same way as any other undertaking	Regulation 4(2)
Clarity over the treatment of zero-hours contract staff so that they do not count towards an undertakings maximum numbers permitted if contracted but not actually working	Regulation 4(3)

### 3. Detailed explanation of Regulations

#### Regulation 2: Exemptions from the requirement of individuals to Register

- Regulation 2(a):** A range of custodial positions can be undertaken for 60 days or less in any 12 month period without triggering the requirement to obtain a registration card, most notably, in relation to being a Director, a Partner, or someone in an equivalent position of responsibility; for example, various safeguarding functions, for example, in relation to the public finances or the protection of vulnerable adults and children.
- Regulation 2(b):** Persons who work for an International Financial Services Group which also have an office in Jersey do not have to obtain a registration card if working for the Jersey entity for 60 days or less in any 12 month period. This is provided to facilitate the type of secondment and the movement of staff that takes place in these businesses, which is essential for their operation.
- Regulation 2(c):** A hawker or non-resident trader is required to have a business licence – which controls their ability to work in Jersey, including for how long and for what purpose – so obtaining a registration card adds no extra controls around their ability to work in the Island.
- Regulation 2(d):** A person working for a resident undertaking that does not need a licence under the Law, for example, the sale of produce from a domestic premise, or being a small landlord, does not need to obtain a registration card by virtue of working for that exempt undertaking.
- Regulation 2(e):** A non-resident undertaking is required to have a business licence – which controls their ability to operate in Jersey, including for how

long, for what purpose, and how many workers they may have – so obtaining a registration card for each one of those workers adds no extra controls around the ability of a person to work in Jersey.

- **Regulation 2(f):** A person who works in Jersey for 10 days or less in any 12 month period does not need to obtain a registration card. This is a simple rule to avoid the bureaucracy of someone working for only a handful of days being required to obtain a registration card. (*It does exempt a business from obtaining a licence*).

### **Regulation 3: Exemptions from the requirement to have a business licence**

**Regulation 3(1)(a)–(d):** The objective of these Regulations are simple – to avoid financial vehicles such as investment funds, unit trusts, etc., from requiring a licence where they do not involve persons working for those undertakings who are resident, or where they are resident, that they hold specified positions for limited periods, e.g. Directors. As such, the following activities are exempt –

- Regulated activities undertaken by non resident undertakings, or non resident undertakings administered by regulated undertakings, and
- Regulated activities undertaken by resident undertakings, or resident undertakings administered by regulated undertakings, where persons working in the undertaking do so for less than 60 days per year, and are one of a specified range of positions, including Directors, Company Secretaries, and equivalent positions.

It is important to note that where an administering entity provides its own staff to support the administration or direction of an entity they administer, they are providing those staff as a service to the administered entity by way of a client/customer relationship, and thus those staff remain the staff of the administering entity, and do not cause the administered entity to fall outside the exemption.

- **Regulation 3(1)(e):** A non-resident undertaking providing building or construction services is required to have a licence if it operates in the Island for more than 5 days in any 12 month period. This exemption will, as such, require so called “white van man” visiting Jersey to obtain a licence after 5 days, and if they do not, compliance powers to require the immediate cessation of activities will be applied.
- **Regulation 3(1)(f):** Activities that have medical purposes are exempt from the requirement to obtain a licence for 60 days in any 12 month period. This exemption is directed toward bodies which are operating on behalf or, or pursuant to arrangements with public bodies, bodies which receive funding from the public, or registered care providers, in recognition of the essential nature of such activities. The exemption has been kept narrow such that it does not apply to more discretionary private medical treatments, such as medical undertakings visiting Jersey to provide cosmetic procedures.
- **Regulation 3(1)(g):** Various landlord activities are also exempt, with the objective of not requiring a business licence where a landlord is either small scale (5 or less units or premises); a person who is Entitled, Licensed, or

Entitled for Work; or where the landlord is non resident and thus not adding to the resident population. This exemption does not apply to the provision of residential or nursing accommodation or lodgings houses, or to property development. (It should also be noted that the main Law continues to apply provisions which limit the ability to own and occupy property, and as such, this exemption removes a level of duplication in the controls applied over property.)

- **Regulation 3(1)(h):** The sale of goods from domestic premises is exempt in so far as that sale is incidental to the use of those premises and the sale takes place from the premises. This exemption is included to exempt, for example, the sale of home produce from the requirement to obtain a business licence.
- **Regulation 3(1)(i):** The provision of domestic services to not more than 2 households is exempt from requiring a business licence. Domestic services are defined to include gardening, cleaning, cooking, ironing, nursing or personal care, or services looking after children. This is consistent with an exemption under policies of the Regulation of Undertakings and Development Law.
- **Regulation 3(1)(j):** Home working under the Regulation of Undertakings and Development Law did not need a licence until the late 1990s, and persons who worked from home prior to this policy change continued to be exempt from the requirement to have a licence. This will remain the case.
- **Regulation 3(1)(k) and (l):** Entitled and Entitled for Work persons are exempt from requiring a business licence as a sole trader in so far as their activities are undertaken for less than 8 hours per week, and this exemption is extended to also include sole traders with Licensed status, where those sole trading activities are undertaken for less than 60 days in any 12 months.
- **Regulation 3(1)(m):** Where none of the other exemptions apply, and the activity is a resident one (being where the majority of the workers are resident) then registered persons can undertake activities without requiring a business licence for 10 days in any 12 month period.
- **Regulation 3(1)(n):** Where none of the other exemptions apply, and the activity is a *non*-resident one (being where the majority of the workers are not resident) a business licence is not required if the undertaking operates for 30 days or less in any 12 month period (this exemption does not apply to hawkers and non-resident traders).

#### **Regulation 4: Individuals disregarded for the purposes of maximum numbers condition**

- **Regulation 4(1)(a):** A person working as a replacement for another member of staff who is leaving can be disregarded from counting toward the limit placed on an undertakings as to how many Registered and Licensed staff it can employ. This exemption lasts for 30 days and assists, for example, with the training of a successor. This seems a sensible measure to assist business continuity. *(Alongside this, the Minister nevertheless retains powers under the main Law such that conditions can be applied such that a Registered or*

*Licensed person who is leaving must be replaced by an Entitled or Entitled for Work person.)*

- **Regulation 4(1)(b):** A person working as cover for another person who is on leave can be disregarded from counting toward a undertakings limit on how many Registered and Licensed staff it can employ for 9 months in relation to maternity and sickness, or 3 months in all other cases of leave. This is proposed because a person on leave would remain under contract and therefore count toward an undertakings maximum permitted number, when in fact they are unable to actually work.
- **Regulation 4(1)(c):** Any person working for an undertaking for less than 10 days in any 12 month period is exempt from counting toward that undertakings maximum numbers. This simply gives businesses some flexibility when it comes to engaging temporary staff for very short periods of time.
- **Regulation 4(1)(d):** Directors of a Company, or Partners in a Partnership, or Member of a Council of a Foundation, or equivalent persons, who are in the Island for 60 days or less in any 12 month period, do not count toward the maximum numbers permitted to work for an undertaking. This is consistent with Regulation 2(1)(a).
- **Regulation 4(1)(e):** Persons who work for an International Financial Services Group having an office in Jersey do not do not count toward the maximum numbers permitted to work for the Jersey undertaking if working for 60 days or less in any 12 month period. The objective of this exemption is to permit their staff to work in the Island for limited periods. This is consistent with Regulation 2(1)(b).
- **Regulation 4(2):** An employment agency can place a person in an undertaking utilising exemptions 4(1)(a), (b) and (c) above.
- **Regulation 4(3):** Zero-hours contract staff do not contribute to an undertakings maximum numbers if they do not do any work for the undertaking. However, where a zero-hours contract person actually works for an undertaking, they *do* count toward the maximum numbers permitted to be employed by an undertaking, i.e. a business must cover such workers within their licence.

### **Regulation 5: Beneficial ownership conditions**

This provision disregards beneficial ownership clauses applied under the Regulation of Undertakings and Development Law, which were applied since the late 1990s, and therefore do not apply to undertakings commencing prior to that date, and ensures that beneficial ownership conditions apply on all undertakings in the same way *as specified in the main Law* (which ensures that permission from the Population Office is required should a transaction result in an undertaking ceasing to be more than 60% owned by Entitled or Entitled for Work persons).



## CONTROL OF HOUSING AND WORK (EXEMPTIONS) (JERSEY) ORDER 201-

### Explanatory Note

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This Order sets out various exemptions from requirements and other provisions under the Control of Housing and Work (Jersey) Law 2012 (“the Law”).

*Article 1* is an interpretation provision. In particular, “resident undertaking” is defined to mean an undertaking which has one or more persons working for it in Jersey and, where one person only works for the undertaking, the person is ordinarily resident in Jersey or, where more than one person works for the undertaking, at least a majority of the workers are ordinarily resident in Jersey. A “non-resident undertaking” is an undertaking which is not a resident undertaking.

*Article 2* exempts the following persons from the need to have a registration card for the purpose of starting new work under the Law –

- (a) a person in Jersey for an aggregate period of 60 days or less in any period of 12 months for the purposes of that person’s work as a company director, partner, member of the council of a foundation, trustee of an express trust, or the equivalent;
- (b) a person in Jersey for an aggregate period of 60 days or less in any period of 12 months for the purposes of that person’s work for one or more financial services companies, where the person works mainly outside Jersey and each such company is part of an international group, that is, where at least one company in the group is incorporated outside Jersey;
- (c) a person who is a hawker or a non-resident trader;
- (d) a person who works in or for a resident undertaking to the extent that the undertaking does not require a business licence under Article 3;
- (e) a person who works in or for a non-resident undertaking; and
- (f) a person who works in Jersey for an aggregate period of 10 days or less in any period of 12 months for one or more undertakings.

*Article 3* exempts certain undertakings from the requirement to have a business licence under Article 25 of the Law –

- (a) a non-resident undertaking to the extent that it carries on financial activities regulated under Jersey legislation;



- (b) a resident undertaking to the extent that it carries on financial activities regulated under Jersey legislation where each person working for the undertaking does so for an aggregate period of 60 days or less in any 12 month period and each person working for the undertaking is a company director, partner, member of the council of a foundation, trustee of an express trust, or the equivalent;
- (c) a non-resident undertaking to the extent that it is administered or managed by a body that carries on financial activities regulated under Jersey legislation;
- (d) a resident undertaking to the extent that it carries on activities administered or managed by a body that carries on financial activities regulated under Jersey legislation and each person working for the undertaking does so in the same circumstances described in (b) above;
- (e) a non-resident undertaking to the extent that it is in the building or construction industry and operates in Jersey for an aggregate period of 5 days or less in any period of 12 months;
- (f) a non-resident undertaking to the extent that it carries on activities in Jersey for medical purposes (as defined in Article 1) for an aggregate period of 60 days or less in any 12 month period and such work is being carried on pursuant to arrangements with a publicly funded body or a body registered under the Nursing and Residential Homes (Jersey) Law 1994 or the Nursing Agencies (Jersey) Law 1978;
- (g) an undertaking to the extent that it provides accommodation or premises in Jersey (other than a property development body or one which is registered under Jersey legislation relating to tourism, nursing and residential homes or lodging houses) where the undertaking is a non-resident undertaking, or provides less than 5 units of accommodation or is run by a person acting alone with Entitled, Licensed or Entitled for Work Only status;
- (h) a resident undertaking to the extent that it involves the incidental sale of goods from domestic premises;
- (i) a resident undertaking to the extent that it involves the provision of domestic services to not more than 2 households;
- (j) an undertaking carried on immediately before the date the Law came into force that was exempt from the need to have a licence and was carried on from a person's place of residence without any employees;
- (k) an undertaking which has a person acting alone working for it who has Entitled or Entitled for Work Only status and who works for the undertaking for less than 8 hours a week;
- (l) a resident undertaking operating in Jersey for an aggregate period of 60 days or less in any period of 12 months where each person working for the undertaking has Entitled, Licensed or Entitled for Work Only status;
- (m) a resident undertaking operating in Jersey for an aggregate period of 10 days or less in any period of 12 months where at least one person working for the undertaking has Registered status;



- (n) a non-resident undertaking which operates in Jersey for an aggregate period of 30 days or less in any period of 12 months.

*Article 4* sets out the descriptions of individual who may be disregarded for the purposes of a condition of a business licence under Article 27(1)(a) of the Law. Such a condition specifies the maximum number of persons with Licensed and Registered status who are permitted to work in or for a licensed undertaking. The persons who may be disregarded are as follows –

- (a) a person working as a replacement for another person provided that the 2 persons do not work simultaneously for more than 30 days;
- (b) a person providing cover for another person whilst on leave, such period not exceeding 9 months in the case of maternity leave or sick leave or 3 months in all other cases;
- (c) a person working in or for an undertaking for an aggregate period of 10 days or less in any period of 12 months;
- (d) a person working in Jersey for an aggregate period of 60 days or less in any period of 12 months –
- (i) as a director of a company, partner in a partnership, member of the council of a foundation, trustee of an express trust, or equivalent, or
- (ii) as an employee of a financial services company which is a member of an international group, where the person works mainly outside Jersey.

*Article 4* makes two other provisions for when a person may be disregarded for the purposes of a condition concerning maximum numbers.

The first is where a person is supplied by an agency to work for another undertaking in the circumstances set out in paragraph (a), (b) or (c) above. That person is disregarded for the purposes of a condition of the agency's licence relating to maximum numbers.

The second is where a person works under a zero hours contract, as defined in Article 1, that is where a person works for an undertaking from time to time and there is no minimum requirement for any period of work. The person may be disregarded for any period where the person is not actually working, provided such period coincides with the period for which the Minister requires a manpower return under Article 32 of the Law.

*Article 5* provides that conditions in existing licences under the Regulation of Undertakings and Development (Jersey) Law 1973 ("RUD Law 1973") that require any change of ownership of the business to be notified to the Minister for Economic Development shall not continue as conditions of those licences under the deeming provisions in Article 50 of the Law. Article 50 deems licences granted under the RUD Law 1973 for the regulation of undertakings that were in force immediately before the relevant provisions of the Law came into force to be deemed to be licences granted under the Law. This deeming provision includes conditions of licences granted under the RUD Law 1973, except those of a description specified by Order by the Chief Minister. Article 25 of the Law contains specific provisions concerning when changes of ownership must be notified. This means that the more general conditions in existing licences under the RUD Law are no longer needed.

*Article 6* sets out the title of the Order and provides that it will come into force on the same date that the Control of Housing and Work (Jersey) Law 2012 comes into force.



## CONTROL OF HOUSING AND WORK (EXEMPTIONS) (JERSEY) ORDER 201-

### Arrangement

#### Article

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Jersey

## CONTROL OF HOUSING AND WORK (EXEMPTIONS) (JERSEY) ORDER 201-

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

THE CHIEF MINISTER, in pursuance of Articles 3(7), 25(9), 27(3), 44 and 50(5) of the Control of Housing and Work (Jersey) Law 2012, orders as follows –

### 1 Interpretation

In this Order –

“company” means any body corporate incorporated in any part of the world with or without limited liability;

“council of a foundation” has the same meaning as in the Foundations (Jersey) Law 2009;

“day” includes any part of a day;

“Law” means the Control of Housing and Work (Jersey) Law 2012;

“domestic premises” means –

- (a) a dwelling house; or
- (b) other building used principally as one or more dwellings, including adjoining land;

“domestic purposes” means any purpose which is not for or in connection with the carrying on of any undertaking;

“domestic services” means any of the following services –

- (a) gardening;
- (b) cleaning (whether indoors or outdoors);
- (c) cooking;
- (d) ironing;
- (e) nursing or other personal care services;
- (f) services involving looking after children;



“financial services company” means a company providing financial services business referred to in –

- (a) Part A; or
- (b) paragraphs 1 and 2 of Part B,

of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999, whether or not, in the case of Part A, such business falls within an exception or exclusion referred to in that Part;

“international group” means a group consisting of at least one company incorporated outside Jersey;

“group” in relation to a company, means that company, any other company which is its holding company or subsidiary and any other company which is a subsidiary of that holding company;

“holding company” has the same meaning as in Article 2 of the Companies (Jersey) Law 1991 (as if references to a “body corporate” were to a “company” as defined in this Order);

“medical purposes” means any of the following –

- (a) preventative medicine;
- (b) medical diagnosis;
- (c) medical research;
- (d) the provision of care and treatment;
- (e) the management of healthcare services;

“non-resident undertaking” means an undertaking which is not a resident undertaking;

“regulated activity” means an activity in respect of which a person –

- (a) is registered under the Banking Business (Jersey) Law 1991;
- (b) holds a permit or is a certificate holder under the Collective Investment Funds (Jersey) Law 1988;
- (c) is registered under the Financial Services (Jersey) Law 1998; or
- (d) is authorized by a permit under the Insurance Business (Jersey) Law 1996;

“resident undertaking” means an undertaking which has one or more persons working in or for it in Jersey where –

- (a) if one person only works for the undertaking, that person is ordinarily resident in Jersey; or
- (b) if more than one person works for the undertaking, all or the majority of the persons working in or for the undertaking are ordinarily resident in Jersey;

“subsidiary” has the same meaning as in Article 2 of the Companies (Jersey) Law 1991 (as if references to a “body corporate” were to a “company” as defined in this Order);

“zero hours contract” means a contract or other arrangement between an individual and an undertaking such that the individual may work for the

undertaking from time to time but there is no minimum requirement for the individual to do any work for the undertaking.

## **2 Persons exempt from duty to have registration card for work**

A person who falls within any of the following descriptions shall, for the purposes of Article 3(7), be exempt from the duty to have an appropriate valid registration card in accordance with Article 24 of the Law –

- (a) a person who is in Jersey for an aggregate period of 60 days or less in any period of 12 months for the purposes of that person's work as one or more of the following –
  - (i) a director or secretary of a company,
  - (ii) a partner in a partnership,
  - (iii) a member of the council of a foundation;
  - (iv) a trustee of an express trust, or
  - (v) a person with equivalent responsibility to any of the foregoing;
- (b) a person who is in Jersey for an aggregate period of 60 days or less in any period of 12 months for the purposes of that person's work for one or more financial services companies, each such company being a member of an international group and for which the person works mainly outside Jersey;
- (c) a person who is a hawkker or a non-resident trader for the purpose of the activities of hawking or being a non-resident trader;
- (d) a person working in or for a resident undertaking –
  - (i) where the person carries on activities in respect of which no business licence is required for the operation of the undertaking by virtue of any sub-paragraph (b), (d), (g), (h) and (i) of Article 3(1); or
  - (ii) for the operation of which no business licences is required by virtue of any sub-paragraph (j) to (m) (inclusive) of Article 3(1);
- (e) a person who works in or for a non-resident undertaking;
- (f) a person who works in Jersey for an aggregate period of 10 days or less in any period of 12 months for one or more undertakings.

## **3 Undertakings exempt from duty to have a business licence**

- (1) For the purposes of Article 25(9) of the Law, an undertaking is exempt from the duty to have a business licence –
  - (a) in respect of any regulated activity by a non-resident undertaking;
  - (b) in respect of any regulated activity by a resident undertaking where each person working in or for the undertaking works for that undertaking for an aggregate period of 60 days or less in any

period of 12 months and each person is any of the following in respect of the undertaking –

- (i) in the case of a company, a director or secretary,
  - (ii) in the case of a partnership, a partner,
  - (iii) in the case of a foundation, a member of the council,
  - (iv) in the case of an express trust, a trustee,
  - (v) a person with equivalent responsibility to any of the foregoing;
- (c) in respect of any activity by a non-resident undertaking where the activity is administered or managed by a person or body of persons carrying out regulated activities;
- (d) in respect of any activity by a resident undertaking where –
- (i) the activity is administered or managed by a person or body of persons carrying out regulated activities,
  - (ii) each person working in or for the undertaking works for that undertaking for an aggregate period of 60 days or less in any period of 12 months, and
  - (iii) each person working in or for the undertaking is any of the following in respect of the undertaking –
    - (A) in the case of a company, a director or secretary,
    - (B) in the case of a partnership, a partner,
    - (C) in the case of a foundation, a member of the council,
    - (D) in the case of an express trust, a trustee,
    - (E) a person with equivalent responsibility to any of the foregoing;
- (e) in respect of any activity of the undertaking in the building or construction industry where –
- (i) the undertaking is a non-resident undertaking, and
  - (ii) the undertaking operates in Jersey for an aggregate period of 5 days or less in any period of 12 months;
- (f) in respect of any activity in Jersey for medical purposes where –
- (i) the undertaking is a non-resident undertaking,
  - (ii) the undertaking operates in Jersey for an aggregate period of 60 days or less in any period of 12 months, and
  - (iii) the undertaking's activities in Jersey are carried out on behalf of, or pursuant to arrangements with, any of the following –
    - (A) a States funded body,
    - (B) an undertaking that receives funding from the States of Jersey;
    - (C) an undertaking registered under the Nursing and Residential Homes (Jersey) Law 1994 or the Nursing Agencies (Jersey) Law 1978;



- (g) in respect of any activity involving the provision of accommodation or premises in Jersey for any purpose where –
- (i) the undertaking does not carry on property development in Jersey,
  - (ii) the undertaking is not registered under the Tourism (Jersey) Law 1948, the Nursing and Residential Homes (Jersey) Law 1994 or the Lodging Houses (Registration) (Jersey) Law 1962, and
  - (iii) any of the following applies –
    - (A) the undertaking is a non-resident undertaking,
    - (B) the aggregate number of separate units of accommodation or separate premises provided by the undertaking in Jersey does not exceed 5, or
    - (C) the undertaking is a sole trader who has Entitled, Licensed or Entitled for Work Only status or a company with one member, such member having Entitled, Licensed or Entitled for Work Only status;
- (h) in respect of any activity of a resident undertaking involving the sale of goods from domestic premises where –
- (i) the goods are situated on or in the vicinity of the domestic premises at the time of the sale, and
  - (ii) the sale is incidental to the use of those premises for domestic purposes;
- (i) in respect of any activity of a resident undertaking involving the provision of domestic services to not more than 2 households;
- (j) where the undertaking was carried on by a person immediately before the date that the Law came into force and, at that time, the person was exempt from the need to have a licence under Regulation 1(2) of the Regulation of Undertakings and Development (Jersey) Regulations 1978 and the person continues to carry on the undertaking –
- (i) from the person's principal place of residence,
  - (ii) on the person's own account, and
  - (iii) without any other persons working in or for the undertaking;
- (k) where the undertaking is –
- (i) a sole trader who has Entitled or Entitled for Work Only status, or
  - (ii) a company with one member who has Entitled or Entitled for Work Only status, and
- the sole trader or member, as the case may be, works in or for the undertaking for less than 8 hours in any week;
- (l) where none of the other sub-paragraphs apply and –
- (i) the undertaking is a resident undertaking that operates in Jersey for an aggregate period of 60 days or less in any period of 12 months, and

- (ii) each person who works for the undertaking has a status that is any of the following –
  - (A) Entitled,
  - (B) Licensed, or
  - (C) Entitled for Work Only;
- (m) where –
  - (i) none of the other sub-paragraphs apply,
  - (ii) the undertaking is a resident undertaking,
  - (iii) the undertaking operates in Jersey for an aggregate period of 10 days or less in any period of 12 months, and
  - (iv) one or more persons working for the undertaking at any time during that period has Registered status;
- (n) where the undertaking is a non-resident undertaking and –
  - (i) none of the other sub-paragraphs apply, and
  - (ii) the undertaking operates in Jersey for an aggregate period of 30 days or less in any period of 12 months.
- (2) For the purposes of paragraph 1)((g)(iii)(B), a unit of accommodation or premises (collectively referred to as “property”) is separate from other property in the same building if the former property is not ordinarily accessible by the occupiers of the other property.
- (3) In this Article, a reference to any activity by description includes any activity that is reasonably incidental to that activity.

**4 Description of individuals to be disregarded for maximum numbers condition in business licences:**

- (1) For the purposes of complying with a condition under Article 27(1)(a) of the Law concerning the maximum number of individuals with Licensed or Registered status who are permitted to work in or for the undertaking there shall be disregarded any person –
  - (a) working in or for the undertaking as a replacement for another person continuing to work in or for the undertaking provided that the 2 persons do not work simultaneously for the undertaking for a period of more than 30 days;
  - (b) providing cover for a person working in or for the undertaking who is on leave (including secondment or leave for training purposes), such period not exceeding –
    - (i) 9 months, in the case of maternity leave or sick leave, or
    - (ii) 3 months in all other cases of leave;
  - (c) working in or for the undertaking for an aggregate period of 10 days or less in any period of 12 months;
  - (d) working in Jersey for an aggregate period of 60 days or less in any period of 12 months for the purposes of that person’s work as any of the following –
    - (i) in the case of a company, a director or secretary,



- (ii) in the case of a partnership, a partner,
  - (iii) in the case of a foundation, a member of the council,
  - (iv) in the case of an express trust, a trustee,
  - (v) a person with equivalent responsibility to any of the foregoing;
- (e) working in Jersey for an aggregate period of 60 days or less in any period of 12 months for the purposes of that person's work for a financial services company which is a member of an international group, such person being employed to work mainly outside Jersey.
- (2) Where a person works for an agency and is supplied by that agency to work for another undertaking ("second undertaking") in circumstances where, under Article 24(6) of the Law, the person is not deemed to work for the second undertaking, the agency shall, for the purposes of compliance with a condition of its licence under Article 27(1)(a) of the Law, disregard any person working for the second undertaking in the circumstances described in sub-paragraph (a), (b) or (c) of paragraph (1) as if "the undertaking" in those sub-paragraphs referred to the second undertaking.
- (3) An undertaking may, for the purposes of complying with a condition of its licence under Article 27(1)(a) of the Law, disregard any person who has a zero hours contract with the undertaking who would otherwise cause the condition to be breached provided that –
- (a) the person is disregarded only for such length of time as the person is not working for the undertaking; and
  - (b) such length of time is disregarded only to the extent that the person is not working for a continuous period starting and ending on the same date as a period or periods specified by the Minister under Article 32(1) of the Law for the purposes of providing a statement to the Minister (regardless of whether or not the length of time of the person not working extends before or after such period or periods).

#### **5 Conditions of existing licences to be disregarded**

A condition of a licence granted under the Regulation of Undertakings and Development (Jersey) Law 1973 for the purpose of any activity for which a licence was required under the Part entitled "Regulation of Undertakings", such condition being to require, or the effect of which was to require, any change in the ownership of a person carrying on an undertaking to have the prior consent of the Minister for Economic Development, shall not be deemed under Article 50(1) of the Law to be a condition subject to which the licence is deemed to be granted under Article 26 of that Law.

#### **6 Citation and commencement**

This Order may be cited as the Control of Housing and Work (Exemptions) (Jersey) Order 201- and shall come into force on the same date that the Control of Housing and Work (Jersey) Law 2012 comes into force.