

STATES OF JERSEY



DRAFT CONTROL OF HOUSING AND WORK (JERSEY) LAW 201- (P.37/2011): SECOND AMENDMENT

**Lodged au Greffe on 21st June 2011
by the Chief Minister**

STATES GREFFE

PAGE 80, ARTICLE 25 –

- (a) for paragraph (3) substitute the following paragraph –
- “(3) Subject to paragraphs (4) to (7), an undertaking which does not have a non-resident trading licence does not have an appropriate licence if –
- (a) there is any significant change in the ownership of the undertaking after the date that this Article comes into force;
 - (b) more than 60 days have elapsed since that change took place; and
 - (c) the person carrying on the undertaking did not make an application, by the date of the expiry of that 60 day period, for the grant of a licence, or, if such an application was made, it was withdrawn or, under Article 26(7), treated as having been withdrawn.”
- (b) for paragraph (10) substitute the following paragraphs –
- “(10) The Minister may, by Order –
- (a) amend any expression of time referred to in sub-paragraphs (b) and (c) of paragraph (3);
 - (b) amend paragraphs (4) to (7) in respect of the circumstances in which there is deemed to be a significant change in the ownership of an undertaking for the purposes of paragraph (3).
- (11) The States may, by Regulations, repeal paragraphs (3) to (7), (10) and this paragraph.”.

CHIEF MINISTER

REPORT

The Draft Law, as lodged on 15th March 2011, contained provisions to the effect that where a significant change of ownership of an undertaking had taken place, as so defined in Article 25, paragraphs (4) – (7), the licence held by that undertaking ceases to be valid 60 days after the change has taken place. Therefore, application for a new licence will need to be made within the 60 days, or more commonly, undertakings will seek in-principle approval that a new licence will be issued before any significant change in ownership takes place. The first element of this amendment ensures that if an application for a new licence is made, for example, on the 59th day following change of ownership, the undertaking can continue to operate while that application is being considered, and does not have to cease its operations on day 60.

The second element of this amendment enables the Minister to amend or repeal the ownership provisions by Order and Regulations, with the key difference from the provisions as previously lodged being that the Minister will now, in particular, be able to amend the provisions so as to exempt various types of ownership that may be outside the objectives of the Law, for example, a change of trustee in a trust which owns an undertaking.

On a final note, it is worth reminding Members that the current beneficial ownership provisions applied under the Regulation of Undertakings and Development (Jersey) Law 1973 are applied to all new licences as a matter of policy, without the legislation providing any framework, other than in enabling the Minister to impose any conditions with regard to his responsibilities under the Law. These conditions also apply to even to smallest change of ownership, for example, 1%, and are in need of streamlining and greater legislative clarity. That is what the amended ownership provisions are designed to achieve.

Financial and manpower implications

There are no financial or manpower implications for the States arising from this amendment.