

STATES OF JERSEY



DRAFT CONTROL OF HOUSING AND WORK (RESIDENTIAL AND EMPLOYMENT STATUS) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 11th January 2013
by the Chief Minister**

STATES GREFFE



Jersey

DRAFT CONTROL OF HOUSING AND WORK (RESIDENTIAL AND EMPLOYMENT STATUS) (JERSEY) REGULATIONS 201-

REPORT

The Control of Housing and Work (Jersey) Law 2012 was adopted by the States on 6th July 2011, received Privy Council Assent on 17th October 2012, and was registered in the Royal Court on 26th October 2012. The Law seeks to control housing and work, recognising the need to protect housing for long-established residents, and that the significant majority of new migrants – in excess of 90% for many migrant communities – work, and would not come to or remain in Jersey if they could not support themselves.

The controls apply to housing and work recognising that British and European nationals have the right of abode in Jersey. This approach of restricting housing and work is similar to that adopted in Guernsey and the Isle of Man, and although each jurisdiction has evolved its own package of controls, the challenges are similar in that a clear population policy is needed against which effective controls must be consistently applied and enforced.

As such, the key task with the new Law has been to radically improve on the effectiveness and efficiency of our controls, recognising that the Housing (Jersey) Law 1949 and the Regulation of Undertakings and Development (Jersey) Law 1973 have serious deficiencies around their ability to detect and enforce compliance. In addition, both Laws impose significant burdens on Islanders and businesses, which are not needed. The following is a list of just some of the benefits of the new Law:

Compliance and enforcement

- New powers to vary business licences with reference to the objectives of the Law.
- New powers to revoke business licences where conditions have been breached or the business is significantly detrimental to Jersey.
- New powers to issue orders that activities must immediately cease if no business licence has been issued, or a licence has been revoked.
- Clear powers to condition a licence including, as appropriate, who specifically can work for a business, where that individual must live, how long they can work for the business, etc.

- Clear powers around entering business premises and obtaining information.
- The ability to obtain name and address information from any Department to enable records to be maintained in an accurate and complete form.
- Detailed returns of employees from employers (which will be combined with Income Tax and Social Security) and can be referenced against the name and address register to confirm that a business is operating within the terms of its licence.
- And generally, a modern Law that has clear provisions against which prosecutions can be brought.

Reduced burden

- Registration Cards must be obtained before starting new work or entering into a lease or purchase transaction meaning, for example, that employers do not have to confirm a new employee's residential status and can rely on the production of the registration card alongside proof of identify. This will enhance compliance and reduce the burden on employers.
- Entitled people will no longer need to apply or pay for consent to transact property.
- Businesses will no longer have to apply to employ Entitled or Entitled for Work persons.
- Housing qualification criteria will be streamlined from 15 qualification types to 6; and property classifications will be simplified from 3 types of qualified property classification to a single qualified property classification under the new Law.
- A clear definition of when a business licence is required is introduced: for example, it is presently not clear if charitable and religious activities need a licence (wholly voluntary activities will be excluded from the Law in future), and clear exemptions for when a business licence is not needed will be introduced by Order.
- Statutory guidance on residence and absence to be issued by Ministerial Order will enhance understanding of the rules.
- Business will incur less administration when engaging essential employees, as they will not need to apply for each individual essential employee, although they will be subject to conditions around the use of those licensed posts. In addition, licensed employees will be able to purchase property in their own name rather than through a company, and lease in their own name rather than the employer taking out the lease.

Other benefits

- Registered Tenants will gain the same security of tenure and tenancy rights as any other tenant – for example, they will have tenancy agreements, and can enter into fixed-term tenancies (they can only do this over Registered accommodation in which they live).
- Ministers have a wider set of objectives when making business licensing decisions, including adhering to “States Policies” and the “Public Interest”;

and a statutory Advisory Group of Ministers is created to secure decisions which balance economic benefits with the demand placed on our resources from immigration.

- The ability to levy fees is introduced, which will enable the costs of administering immigration controls to be recovered from users.
- Visiting Traders selling services and purchasing goods will now need a licence (currently only those selling goods require a licence).

Indeed, the Law brings a whole range of benefits as part of a modern single Law replacing, in total, 3 old Laws (including the Hawkers and Non-Resident Traders (Jersey) Law 1965). The Population Office is advanced in its preparation for these new Laws.

Having outlined the benefits, following the introduction of the new Law, a post-implementation review will take place in order to assess the effectiveness of the new controls, including the appropriateness of the 5 year rule in relation to becoming Entitled to Work. If necessary and appropriate to secure an effective immigration regime, further changes will be made as a result of this review. Alongside this, other controls over immigration are being considered: most notably, how migrants access public services, and whether it is possible and practical to undertake criminal record checks over new migrants.

This will ensure that the Island has the most comprehensive and appropriate controls to support whatever population policies the States Assembly approve, recognising the need to maintain a healthy economy, to fund our essential services, to protect our environment, to protect local job opportunities, and to address the strong public concern in relation to population, immigration, housing and unemployment.

Draft Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201-

The Law introduces 4 categories of residential status that can be awarded to an individual. These residential statuses will determine the ability to obtain housing and work, with restrictions in particular over persons who are Registered or Licensed.

The purpose of the main Law is to provide for “the availability of work and housing in Jersey for people with strong connections and associations with Jersey, and more generally, in such a way that is in the best interests of the community”. The definitions of residential status seek to further this objective.

The broad similarity of the current qualifying criteria for housing and work under the new and old Laws assists in ensuring a smooth transition from the old Law to the new Law, in that most people who achieved a residential status under the old Law achieve a residential status under the new Law; which reduces the need for complex transitional arrangements, and ensures certainty and continuity for people who have achieved a qualification and for whom a radical re-design of the provisions for gaining housing and work could have a material and destabilising effect.

Having said this, the Regulations by nature are flexible, in that they can be changed over time as the circumstances of the Island change. Indeed, this is what has occurred with the current Housing (General Provisions) (Jersey) Regulations 1970, which have been amended on numerous occasions as the Housing qualification period has been raised or reduced over the years.

The following table gives a high level view of how people gain residential status and what that enables them to do with reference to housing and work:

Residential Status	Definition	Housing	Work
Entitled	Someone who has lived in Jersey for 10 years, or who is granted this status on hardship or on social or economic grounds.	Someone who can purchase or lease any property and occupy that property or otherwise let it out or leave it vacant, subject to any conditions.	Someone who can work anywhere, or start their own business.
Licensed	Someone who is an “Essential Employee” engaged by a specific business with permission to engage such a person.	Someone who can purchase or lease any property so long as they occupy that property and maintain their Licensed status.	If an Employer has a business licence on which a condition has been attached to enable them to employ a Licensed person, they may appoint any person in so far as they are undertaking a role of a description for which the Licence has been granted.
Entitled to Work Only	Someone who has lived in Jersey continuously for 5 years, or is the spouse of someone who is Entitled, Licensed, or Entitled to Work.	Someone who can lease Registered Property for their own occupation <i>or</i> Someone who can buy Qualified Property jointly with their Entitled spouse <i>or</i> Someone who can occupy property with an Entitled person in so far as the Entitled person occupies the substantial portion of the property.	Someone who can work anywhere, or start their own business.
Registered	Someone who does not qualify under the other categories, and has been living in Jersey for 3 months, or starts work or enters into a lease if sooner.	Someone who can lease Registered Property for their own occupation <i>or</i> Someone who can occupy property with an Entitled person in so far as the Entitled person occupies the substantial portion of the property.	Someone for whom an employer needs a licence.

In the generality, a person will become “Entitled for Work” after 5 years’ continuous ordinary residence in Jersey (or by marrying an Entitled, Entitled for Work, or Licensed person); and “Entitled” after 10 years’ ordinary residence.

The principal Law, under Articles 2 and 44, gives the States the power to make Regulations such that a person who satisfies conditions should have a residential status of any one of the following –

- (a) Entitled
- (b) Licensed
- (c) Entitled for Work, or
- (d) Registered.

Regulation 2 outlines conditions for gaining Entitled Status

Summary Table:

Types of Entitlement	Gaining Residential Status	Losing Residential Status
Regulation 2(1)(a) (Jersey-born persons)	10 years’ aggregated residence	Entitlement is permanent once gained.
Regulation 2(1)(b) (Non-Jersey-born persons)	10 years’ continuous residence	Continued Entitlement is subject to remaining resident in Jersey, other than in so far as total breaks in residence of up to 5 years is permitted, and once 30 years’ continuous residence has been completed, a person’s Entitlement becomes permanent.
Regulation 2(1)(c) (Non-Jersey-born persons who have an Entitled parent, and arrived in the Island before age 20)	10 years’ aggregated residence by age 40	Entitlement is permanent once gained.
Regulation 2(1)(d) (Non-Jersey-born persons who arrived in the Island before age 16)	10 years’ continuous residence	Entitlement is permanent once gained.
Regulation 2(1)(e) (“Social or Economic grounds” and “best interests of the community”)	Subject to Minister being satisfied that social or economic benefits exist in the best interests of the community	Continued Entitlement is subject to remaining resident in Jersey and continuing to satisfy any other conditions applied.
Regulation 2(1)(f) (Hardship (other than financial hardship))	Subject to Minister being satisfied that hardship (other than financial hardship) exists	Continued Entitlement is subject to remaining resident in Jersey and continuing to satisfy any other conditions applied.

Detailed Description of each type of Entitlement:

The paragraphs below, on each type of Entitlement under Regulation 2(1), should be read in conjunction with the descriptions below in the paragraphs relating to Regulation 2(4), which outline how Entitlement, once gained, is maintained.

Regulation 2(1)(a) outlines that a person who has completed 10 years' aggregated residence who was born in Jersey is Entitled.

People qualify under the Housing (General Provisions) (Jersey) Regulations 1970 in the same way now under Regulation 1(1)(a).

While the mere fact of being Jersey-born does not necessarily mean a person has strong connections and associations with the Island, it is generally felt that persons who are born in the Island should have the more preferential treatment when it comes to gaining and retaining Entitlement; hence residence can be aggregated in achieving 10 years, i.e. it does not have to be achieved in one continuous residence. A similar preferential treatment is available to children of Entitled people under Regulation 2(1)(c).

Regulation 2(1)(b) outlines that a person who has completed 10 years' continuous residence who was not born in Jersey is Entitled.

People qualify under the Housing (General Provisions) (Jersey) Regulations 1970 in the same way now under Regulation 1(1)(f).

People who come to Jersey as adults make a choice to do so, and in order to gain Entitlement, it has generally been seen as reasonable that they should complete a continuous period of residence by way of establishing strong connections or associations with the Island before achieving Entitled Status.

Regulation 2(1)(c) outlines that a person who has completed 10 years' aggregated residence before the age of 40, who was not born in Jersey, but who first came to the Island before the age of 20, and who has a parent who is Entitled, is Entitled him/herself.

People qualify under the Housing (General Provisions) (Jersey) Regulations 1970 in the same way now under Regulation 1(1)(h) *other than* in so far as a limitation on gaining Entitled status by the age of 40 has been introduced in these new Regulations.

Regulation 1(1)(h) of the Housing (General Provisions) (Jersey) Regulations 1970 existed in recognition that residentially qualified people leave the Island, perhaps to go to University or for work, and having established a family elsewhere, may wish to return to the Island. While their children still had to complete 10 years' residence, if they arrived in the Island before 20, it has been generally seen as fair, and has raised few objections or issues, that they should have a better ability to obtain their housing qualifications (by way of aggregated residence) than other people who are not born in Jersey.

Therefore, Regulation 1(1)(h) of the Housing (General Provisions) (Jersey) Regulations 1970 has been replicated in the new Regulations, other than in so far as the 40 year-old age limited has been inserted.

The age limit has been inserted to guard against circumstances where a person who first arrived before 20 is able to leave the Island until an older age, and then return as an Entitled person and thereby place burdens on services, perhaps having ceased to be of working age, while having limited connections or associations with the Island in

terms of not having lived in the Island for a substantial period of time. Instead, it ensures that returners seeking to qualify in this way do so while they remain of working age with a substantial period of their work life remaining. (This does not preclude the Minister from considering applications in particular circumstances and granting Entitled status to people who do complete their full 10 years' aggregate residence when they are older than 40 by way of discretionary provisions under Regulation 2(1)(f) as outlined below.)

Regulation 2(1)(d) outlines that a person who has completed 10 years' continuous residence who was not born in Jersey but arrived in the Island before the age of 16 is Entitled.

No similar provision exists under the current Housing (General Provisions) (Jersey) Regulations 1970.

This provision has been inserted recognising that people who come to Jersey as minors, through no choice of their own, and who then undertake a continuous period of 10 years' residence during their formative years, have developed strong connections and associations with the Island.

Regulation 2(1)(e) outlines that Entitled status may be granted having been satisfied in relation to economic or social grounds, or both, *and* where the best interests of the community are served.

People may qualify under the Housing (General Provisions) (Jersey) Regulations 1970 in the same way now under Regulation 1(1)(k).

This provision is maintained as it seems eminently sensible to have a discretionary provision that grants Entitled status where it is deemed that social or economic value exists, and where the best interests of the community are served, recognising that how this is defined will change over the time as the Island adopts different policies and circumstances change.

Regulation 2(1)(f) outlines that Entitled status may be granted having been satisfied in relation to any hardship that exists, other than financial hardship.

People may qualify under the Housing (General Provisions) (Jersey) Regulations 1970 in the same way now under Regulation 1(1)(g).

This provision is maintained as it seems eminently sensible and proportionate in meeting our Human Rights obligations and general aims around a fair society, to have a provision that grants Entitled status where it is deemed that hardship exists.

The hardship provision does not extend to financial hardship, although that may be a factor, with the objective of this provision being not to ameliorate financial difficulties, but rather more deep-seated difficulties in relation to personal circumstances; in particular in relation to family breakdown, children, and serious health issues, or indeed, a combination of these factors.

Table showing how old housing qualifications and new Entitlement status align:

Comparing old and new Regulations		Provisions that applied in the Housing (General Provisions) (Jersey) Regulations 1970 that no longer apply:
Housing (General Provisions) (Jersey) Regulations 1970	Control of Housing and Work (Residential and Employment Status (Jersey) Regulations 201-	
Regulation 1(1)(a)	Regulation 2(1)(a)	Regulation 1(1)(b)*
Regulation 1(1)(f)	Regulation 2(1)(b)	Regulation 1(1)(c)*
Regulation 1(1)(h)	Regulation 2(1)(c)	Regulation 1(1)(d)*
Does not exist	Regulation 2(1)(d)	Regulation 1(1)(e)*
Regulation 1(1)(k)	Regulation 2(1)(e)	Regulation 1(1)(j)**
Regulation 2(1)(g)	Regulation 2(1)(f)	Regulation 1(1)(l)**
		Regulation 1(1)(m)**
		Regulation 1(1)(n)**
		In removing these provisions, no persons are disadvantaged as either –
		* they fall into one of the new Entitled provisions, for example, persons who qualified under the old Regulation 1(1)(b) have lived in the same property continuously since 1949, so will be Entitled by either Regulation 2(1)(a) or (b);
		or
		** by virtue of the drafting of the main Law; for example, a person covered by Regulation 1(1)(n) of the old Regulations was the spouse of a person who was residentially qualified and who could join in a joint purchase. Under the new Law, such persons have a statutory ability to do this, i.e. no separate qualifying provision is needed in Regulations. Similarly, trusts and religious bodies make applications to transact in property under Article 20 of the main Law, so similarly, no separate qualifying provision is needed in Regulations.

Other provisions in relation to being Entitled:

Regulation 2(2) and (3) outlines that conditions may be applied when granting Entitled status in relation to Regulation 2(1)(e) and Regulation 2(1)(f), including in relation to the period for which consent is granted and the unit of accommodation in relation to which it is granted. This enables, for example, policies to be applied as to which properties persons granted Entitled status under Regulation 2(1)(e) may occupy.

Regulation 2(4) outlines who has permanent Entitled status (such that Entitled people can leave Jersey and return whenever they wish with Entitled status).

Persons who are Entitled by virtue of Regulation 2(1)(a), Regulation 2(1)(c), and Regulation 2(1)(d) are permanently Entitled. This seeks to reflect the level of connection and association a person has with Jersey.

In addition, Regulation 2(4) outlines that persons who have completed 30 years' continuous residence are permanently Entitled, as a means of reflecting the level of connection and association having been gained by living in the Island for so substantial a period. This provision does not currently exist in the Housing (General Provisions) (Jersey) Regulations 1970, other than in so far as persons who have completed 30 years' continuous residence are generally given housing qualifications on their return under discretionary provisions. This element of the Regulation therefore moves policy from a discretionary approach to a statutory right.

Regulation 2(6) outlines that a person, other than a person who has permanent Entitled status, may lose that status by way of having a break in their residence of more than 5 years, whether that break is a single break of more than 5 years, or an aggregated break of more than 5 years.

This is different from the current Housing (General Provisions) (Jersey) Regulations 1970 in so far as that under the current Regulations a person who is not permanently qualified is permitted a single break in residence of no more than 5 years before they lose their qualified status. This means that, for example, a person who is away for 4½ years can return to Jersey with their housing qualifications, whereas a person who is away from the Island for 2 periods of 6 months, i.e. one year in total, loses their housing qualifications. This is not considered an equitable outcome, hence the adoption of a straight 5 year absence test.

This Regulation also outlines that a person granted Entitled status under Regulation 2(1)(e) and Regulation 2(1)(f) ceases to have that status if they breach a condition of that status.

Regulation 3 outlines conditions for gaining Licensed Status:

Regulation 3(1) and (3) outlines that a person has Licensed status if they are performing work that is the same or substantially the same as work falling within the description on the licence granted to the business permitting them to employ Licensed persons. It also outlines that conditions on that business licence need to be satisfied, and that the Minister may make the Licensed status of a particular person subject to such conditions as they see fit.

Regulation 3(2) outlines how Licensed status is lost, which is generally with reference to no longer being employed as a Licensed employee, or if a condition is breached, or if they become Entitled.

Regulation 4 outlines conditions for gaining Entitled for Work Status:

Regulation 4(1) and (2) outlines that a person is Entitled for Work if –

- they have completed 5 years' continuous residence immediately before making application for a Registration Card; *or*
- they are the spouse or civil partner of an Entitled, Licensed, or Entitled for Work person; *or*

- not more than 5 years have elapsed since their divorce from an Entitled, Licensed, or Entitled for Work person, or since the death of a spouse or civil partner who was Entitled, Licensed, or Entitled for Work, and they have remained resident in Jersey (in which case they would become Entitled for Work in their own right after the 5 years); *or*
- they attained work before the age of 16 and continued in the same work.

The provisions around divorce or death are designed to ensure that these events do not result in a person losing their Entitled for Work status, otherwise, people legitimately employed by virtue of holding a status acquired by way of marriage or civil partnership could be required to be dismissed, which seems both unfair on the individual and the business, and is difficult to monitor and enforce.

As for persons who attained work before age 16 (when they do not need permission to work) they can continue in that job rather than having to be dismissed on reaching age 16 if they otherwise would be deemed Registered and the business had no licence to continue to employ them as a Registered person. Again, this would seem unfair on the individual coming of age and the business that employed them, hence them being deemed Entitled for Work so long as their specific work continues.

Regulation 5 outlines conditions for gaining Registered Status:

Regulation 5 outlines that a person who is not Entitled, Licensed, or Entitled for Work, is Registered, if they are required to have a Registration Card.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of these draft Regulations.

Explanatory Note

These Regulations set out the conditions for residential and employment status under the Control of Housing and Work (Jersey) Law 2012 (“Control of Housing and Work Law”). Under Article 2 of that Law, the 4 categories of status are Entitled, Licensed, Entitled for Work Only and Registered.

Regulation 1 is an interpretation provision.

Regulation 2 sets out the conditions for Entitled status and loss of that status. There are 6 ways of gaining Entitled status. Broadly these are –

- (a) Jersey-born and ordinarily resident in Jersey for a period or periods of at least 10 years;
- (b) non Jersey-born and ordinarily resident in Jersey for a continuous period of at least 10 years;
- (c) non Jersey-born having arrived in Jersey before the age of 20 and having been ordinarily resident in Jersey for a period or periods of at least 10 years before attaining the age of 40 provided the person has a parent who was Entitled on the date that the person completed the period of 10 years residence;
- (d) non Jersey-born and ordinarily resident in Jersey for a continuous period of at least 10 years, having started residing in Jersey before attaining the age of 16;
- (e) being granted such status by the Minister on the basis that it is in the best interests of the community and on social or economic grounds;
- (f) being granted such status by the Minister on the basis of hardship.

Grounds under (e) and (f) may be subject to such conditions as the Minister thinks fit.

A person who has been continuously resident in Jersey for at least 30 years or who is entitled under (a), (c) or (d) has permanent Entitled status.

A person, other than a person with permanent Entitled status, loses Entitled status if he or she has not been ordinarily resident in Jersey for an aggregate period exceeding 5 years or, in the case of a person with Entitled status under (e) or (f), breaches a condition subject to which the Minister granted such status.

Regulation 3 sets out the conditions for Licensed status and loss of that status. A person has Licensed status if he or she does work of a description that the Minister has specified may be done by a Licensed person under Article 27(1)(b) of the Control of Housing and Work Law; is subject to a condition imposed by the undertaking in or for whom the person works that he or she has Licensed status; satisfies any condition imposed by the Minister applicable to that person as a Licensed person and does not have Entitled status. A person loses his or her Licensed status if the person no longer does work of that description, or the undertaking no longer requires the person to have Licensed status, or breaches any such condition, or acquires Entitled status, whichever happens first.

Regulation 4 sets out the conditions for Entitled for Work Only status and loss of such status. A person has Entitled for Work Only status if –

- the person has been ordinarily resident in Jersey for a continuous period of at least 5 years immediately before being required to make an application for a registration card under the Control of Housing and Work Law or immediately before any time when the person could make such an application;
- is the spouse or civil partner of a person with Entitled, Licensed or Entitled for Work Only status;
- not more than 5 years have elapsed since the person’s divorce or dissolution of civil partnership from a person with Entitled, Licensed or Entitled for Work Only status and the person has remained continuously and ordinarily resident in Jersey since the divorce or dissolution;
- not more than 5 years have elapsed since the death of a person’s spouse or civil partner and that spouse or civil partner was a person with Entitled, Licensed or Entitled for Work Only status and the person has remained continuously and ordinarily resident in Jersey since the death;
- the person worked in or for an undertaking immediately before attaining the age of 16 and continues to work for that undertaking after attaining that age.

Such status will be lost if the person no longer satisfies any of these conditions or acquires Entitled or Licensed status.

Regulation 5 sets out the conditions for Registered status. A person has Registered status if (a) the person has been ordinarily resident in Jersey for a continuous period of 3 months or more immediately before the person applies for a registration card or could make such an application or expects to be so resident at the time of the application; and (b) does not have Entitled status; Licensed status or Entitled for Work Only status.

Regulation 6 sets out the title of these Regulations and provides that they will come into force on the same date as the Control of Housing and Work Law comes into force.



Jersey

**DRAFT CONTROL OF HOUSING AND WORK
(RESIDENTIAL AND EMPLOYMENT STATUS)
(JERSEY) REGULATIONS 201-**

Arrangement

Regulation

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Jersey

DRAFT CONTROL OF HOUSING AND WORK (RESIDENTIAL AND EMPLOYMENT STATUS) (JERSEY) REGULATIONS 201-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 2 and 44 of the Control of Housing and Work (Jersey) Law 2012¹, have made the following Regulations –

1 Interpretation

- (1) In these Regulations “Law” means the Control of Housing and Work (Jersey) Law 2012².
- (2) A person shall be regarded as born in Jersey despite being born in a country or territory outside Jersey if –
 - (a) at the time of the birth a parent of the child is regarded for the purposes of the Law as being ordinarily and continuously resident in Jersey (whether or not the parent is in Jersey at the time of the birth); and
 - (b) the child and parent described in sub-paragraph (a) are both ordinarily and continuously resident in Jersey immediately following a period of care related to the birth.
- (3) A reference to a child of a person in these Regulations is not confined to a person below school leaving age.

2 Conditions for Entitled status and loss of status

- (1) A person who satisfies any of the conditions set out in sub-paragraphs (a) to (f) of this paragraph shall have Entitled status –
 - (a) the person was born in Jersey and has been ordinarily resident in Jersey for a period, or aggregate periods, of at least 10 years;
 - (b) the person was not born in Jersey and has been ordinarily resident in Jersey for a continuous period of at least 10 years;
 - (c) the person –

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- (i) was not born in Jersey,
 - (ii) arrived in Jersey before attaining the age of 20,
 - (iii) has been ordinarily resident in Jersey for a period, or aggregate periods, of at least 10 years on or before attaining the age of 40, and
 - (iv) is the child of a parent who was Entitled on the date at which the person completed the period or aggregate periods of 10 years ordinary residence referred to in clause (iii);
- (d) the person –
- (i) was not born in Jersey, and
 - (ii) has been ordinarily resident in Jersey for a continuous period of at least 10 years commencing before the person attained the age of 16;
- (e) the person –
- (i) has been granted Entitled status by the Minister on the ground that the Minister is satisfied that such grant is justified –
 - (A) on social or economic grounds or both, and
 - (B) as being in the best interests of the community, and
 - (ii) the person satisfies any condition to which the grant of such status is subject under paragraph (2);
- (f) the person –
- (i) has been granted Entitled status by the Minister on the ground that the Minister is satisfied that the hardship (other than solely financial hardship) which would be caused to the person or to any individual ordinarily resident in Jersey if the person were not granted Entitled status outweighs the fact that the person does not meet any other condition in this paragraph, and
 - (ii) the person satisfies any condition to which the grant of such status is subject under paragraph (2).
- (2) The Minister may grant Entitled status for the purpose of paragraph (1)(e) or (1)(f) subject to such conditions as he or she thinks fit, including, without prejudice to the generality of the foregoing, any conditions limiting the period for which consent is granted or specifying the unit of dwelling accommodation occupied or to be occupied.
- (3) Any conditions subject to which a person is granted Entitled status under paragraph (2) may be amended by the Minister with the agreement of the person.
- (4) A person has permanent Entitled status if –
- (a) the person has had a continuous period of ordinary residence in Jersey of at least 30 years; or
 - (b) the person has Entitled status by virtue of paragraph (1)(a), (c) or (d).

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- (5) Where a person who has Entitled status by virtue of paragraph (1)(e) also qualifies for Entitled status by virtue of any other sub-paragraph of paragraph (1) –
 - (a) that person may, on giving notice in writing to the Minister, elect to have Entitled status by virtue of such other paragraph; and
 - (b) upon giving such notice the person's Entitled status by virtue of paragraph (1)(e) shall cease.
 - (6) Except in relation to a person who has Permanent Entitled status under paragraph (4), a person loses Entitled status if either of the following applies to that person –
 - (a) the person, since gaining Entitled status, has been absent from Jersey for a period or aggregate periods exceeding 5 years and was not ordinarily resident in Jersey during those periods of absence; or
 - (b) the person has Entitled status under paragraph (1)(e) or (f) and has breached any condition subject to which that status was granted.
 - (7) In this Regulation “child” includes a child adopted in pursuance of an adoption order made by a court of competent jurisdiction in the British Islands or elsewhere.

3 Conditions for Licensed status and loss of status

- (1) A person has Licensed status if –
 - (a) the person works or is appointed to do work in or for an undertaking, such work being the same or substantially the same as work falling within a description of work specified by the Minister for the purposes of Article 27(1)(b) of the Law in respect of that undertaking (including work that is deemed to be work of a description that may be done by Licensed persons under Regulations made under Article 52 of the Law);
 - (b) the person is subject to a condition imposed by the undertaking in or for whom the person works that he or she has Licensed status whilst doing work described in sub-paragraph (a);
 - (c) the person satisfies –
 - (i) any condition to which the person's Licensed status is subject under paragraph (2), and
 - (ii) any condition imposed by the Minister under Article 26(5) or 27(2) of the Law as a condition of a business licence, such condition being applicable to the person; and
 - (d) the person does not have Entitled status.
- (2) The Minister may, for the purposes of paragraph (1)(c), make the Licensed status of a particular person subject to such conditions as the Minister thinks fit.
- (3) A person loses Licensed status if –
 - (a) paragraph (1)(a) or (1)(b) no longer apply to that person;
 - (b) the person breaches any condition described in paragraph (1)(c); or

- (c) the person has Entitled status,
whichever happens first.

4 Conditions for Entitled for Work Only status and loss of status

- (1) A person has Entitled for Work Only status if the person –
- (a) satisfies any of the conditions in paragraph (2);
 - (b) does not have Entitled status or Licensed status; and
 - (c) has not lost Entitled for Work Only status under paragraph (3).
- (2) Those conditions are that –
- (a) the person has had a continuous period of ordinary residence in Jersey for 5 years or more immediately before that person is, at any time, required to have a registration card under the Law or could make an application for such a card under that Law;
 - (b) the person is a spouse or civil partner of a person with Entitled status, Licensed status or Entitled for Work Only status;
 - (c) not more than 5 years have elapsed following the person's divorce from, or dissolution of a civil partnership with, a person with Entitled status, Licensed status or Entitled for Work Only status and the first mentioned person has remained continuously and ordinarily resident in Jersey since the divorce or dissolution;
 - (d) not more than 5 years have elapsed following the death of a person's spouse or civil partner, such spouse or civil partner having been a person with Entitled status, Licensed status or Entitled for Work Only status and the first mentioned person has remained continuously and ordinarily resident in Jersey since the death; or
 - (e) the person immediately before attaining the age of 16 years worked in or for an undertaking and continues to work in or for such an undertaking immediately after attaining that age.
- (3) A person who has Entitled for Work Only status under paragraph (2)(e) loses that status on the date that is immediately before the date that the person starts new work within the meaning of Article 24 of the Law.

5 Conditions for Registered status

- (1) A person has Registered status if the person has been ordinarily resident in Jersey for a continuous period of 3 months or more immediately before the person applies for a registration card or could make such an application under the Law or expects to be so resident at the time of such an application and does not have any of the following –
- (a) Entitled status;
 - (b) Licensed status; or
 - (c) Entitled for Work Only status.
- (2) Temporary absences from Jersey shall be disregarded in determining whether a person has been continuously resident for 3 months for the

purposes of this Regulation provided the majority of that time is spent in Jersey.

6 Citation and commencement

These Regulations may be cited as the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201- and shall come into force on the same date as the Control of Housing and Work (Jersey) Law 2012³ comes into force.

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- ¹ *L.31/2012*
² *L.31/2012*
³ *L.31/2012*