
STATES OF JERSEY



TOURISM (JERSEY) LAW 1948 – PROPOSALS FOR REFORM

Presented to the States on 27th January 2017
by the Minister for Economic Development, Tourism, Sport and Culture

STATES GREFFE

Tourism (Jersey) Law 1948 – Proposals for Reform

This consultation paper proposes reform of the Island's tourism legislation. It suggests that the existing [Tourism \(Jersey\) Law 1948](#) and the subordinate [Tourism \(General Provisions\) \(Jersey\) Order 1990](#) should be replaced by a new, streamlined law based on the following six key principles –

- Improve conditions for industry growth
- Benefit both the consumer and business
- Secure sufficient data for marketing and policy purposes
- Provide for limited casual home rental
- Maintain public safety
- Lower the cost of regulation without compromising the other objectives

Tourist accommodation providers, consumers, other tourism industry stakeholders and members of the public are all invited to comment on these proposals. Every response will be considered carefully and may be used to revise or refine the final proposal for a new Law, with a view to achieving change in 2018.

Date published:
27th January 2017

Closing date:
31st March 2017

The key questions asked in this consultation paper are –

- i. Will the six principles outlined in this consultation paper provide a sound basis for a new Tourism Law?
- ii. If you feel that the six principles are not ideal, how would you change them?
- iii. What is your view on the proposal to regulate short-term casual domestic rental activity (e.g. Airbnb)?

Readers are nevertheless welcome to comment on any aspect of this consultation paper as they see fit.

Consultation

Economic Development, Tourism, Sport and Culture



Copies of the existing Tourism (Jersey) Law 1948 and the Tourism (General Provisions) (Jersey) Order 1990 are available either at www.jerseylaw.je or via the States Assembly Information Centre, Morier House, St. Helier JE1 1DD.

How we will use your information

The information you provide will be processed and used by the Economic Development, Tourism, Sport and Culture (EDTSC) Department of the States of Jersey in compliance with the Data Protection (Jersey) Law 2005 and the Freedom of Information (Jersey) Law 2011 and for the purpose of consultation. Please note that we may quote or publish responses to this consultation and we may be obliged to forward consultation responses to the Economic Affairs Scrutiny Panel. We will not, however, publish the names and addresses of individuals.

If you do not want any of your response to be published or otherwise forwarded, you should clearly mark it as confidential. Confidential responses will still be included in any summary of statistical information received and views expressed.

Ways to respond

Telephone: +44 (0) 1534 448133

Email: tourismlaw@gov.je

Write to: Tourism Law Consultation
Economic Development, Tourism, Sport and Culture Department
Cyril Le Marquand House
St. Helier
JE4 8UL

This consultation paper has been presented to the States Assembly and has been added to the public consultation register at www.gov.je.

Feedback on this consultation

We value your feedback on how well we consult or seek evidence. If you have any comments on the process of this consultation please contact Communications.Unit@gov.je

What is the Tourism Law for?

1. The Tourism (Jersey) Law 1948 was designed in the political climate of the post-World War II era, when the population was more inclined to look directly to government to lead the pursuit of economic growth. It was designed to achieve two objectives –
 - To encourage and develop the tourism industry in Jersey
 - To establish effective control of the accommodation and attractions available for tourists.
2. To fulfil those two objectives, the 1948 Law established a new Tourism Committee and gave that committee a series of powers to exercise and duties to fulfil. In due course the Tourism Committee was succeeded by the Economic Development Committee. Today, those powers and obligations fall within the remit of the Minister for Economic Development, Tourism, Sport and Culture ('the Minister').
3. Although there have been some changes to the 1948 Law since it originally came into force, the core duties in the Law that the Minister must fulfil are largely as they were over 60 years ago.
4. The first duty is to keep individual registers covering the following categories of tourist accommodation –
 - hotels
 - guesthouses
 - self-catering accommodation
 - youth hostels
 - holiday camps
 - camp sites.
5. These registers are kept because they provide valuable data about the supply of tourist accommodation that is used for both marketing and policy purposes. They also serve as a legal method of separating out accommodation that would otherwise fall within the scope of housing legislation.
6. The second duty is to uphold minimum acceptable standards of tourist accommodation, so as to protect consumers and to uphold the reputation of the Island's tourist industry. Only premises that meet the minimum standards set out in the Law or in the Tourism (General Provisions) (Jersey) Order 1990 – which supplements the 1948 Law – are entitled to be listed on one of the registers kept by the Minister. Most premises (other than a limited number of self-catering units) have to be listed on one of the Minister's registers in order to trade lawfully.
7. It is also true to say that the Minister's general powers under the 1948 Law are largely the same as those granted to the very first Tourism Committee. The Minister remains able -

- to establish or assist with establishing tourism information and marketing services and to employ his own tourism officers
- to provide or assist financially or otherwise in providing sports, amusements or other facilities to improve the tourism offer
- to provide, improve or maintain amenities and conditions that affect tourism
- to assess the quality of tourist accommodation and publish the results by way of a grading scheme.

Summary

The purpose of the Tourism (Jersey) Law 1948 was to encourage and develop the tourism industry in Jersey and to establish effective control of tourist accommodation and tourist attractions.

What are the problems with the 1948 Law?

8. Three problems with the 1948 Law have been identified.
9. The first problem is that both the general tone and approach of the Law is not well aligned with government's approach and its strategic priorities.
10. It was acknowledged earlier in this paper that the 1948 Law was drafted on the basis that government might grow the tourist economy through its own actions and interventions. Evidence of this approach can be found in the preamble to the Law, which refers to government controlling both tourist accommodation and the attractions that tourists might visit. Today, the industry view is more likely to be that government should concentrate on maintaining an environment in which business can both take risks and have greater freedom to succeed by responding quickly to the changing demands of the modern market. Government is now perhaps less inclined to control or otherwise operate its own tourist attractions. It is more inclined to concentrate on setting reasonable planning, safety and other rules within which businesses can work successfully. To the extent that regulation is needed, the objective is to make that regulation effective without being expensive, for both the taxpayer and the industry being regulated.
11. The second – and rather more specific – problem is the absence of sustained growth in the tourism industry since the early 1990's.¹ In essence, this means that the 1948 Law has not been, and is perhaps no longer capable of, meeting one of its primary objectives.
12. Analysis of the factors behind the absence of material industry growth reveals that some of those factors have not been within the Island's control (e.g. the comparative decrease in cost and increased availability of air travel to competing destinations). Others, however, have been within the Island's control and one of these is seen as the

¹ e.g. See [Preliminary Report of the Shadow Tourism Board](#), dated 21st March 2014

third problem with the 1948 Law. This third problem is the balance of the controls imposed on tourist accommodation, which act as a strong enough brake on new investment and innovation as to cause more harm than good.

13. In recent years several businesses have submitted plans to build new or invest in existing tourist accommodation. Several of them were being blocked by restrictive criteria in the existing legislation.
14. One case affected by the restrictive criteria involved a planned new hotel in St. Helier. Dining capacity at the hotel was to be smaller than the existing legislation allowed. A second case involved changes to the internal layout of a guest house. Twelve guest bedrooms were to be made into a smaller number of higher quality guest suites, partially by dispensing with an existing bar, lounge/dining rooms and kitchen. In both cases the businesses argued that the requirement for internal dining facilities were unnecessary given that guests would find plenty of food and refreshment facilities close by. The Minister was persuaded to amend the legislation in both cases, having recognised that the business need was genuine, that the industry would benefit and that customers and other stakeholders would not be harmed. These reactive amendments nevertheless took time and government resource to implement.
15. These and other recent private sector investments in both accommodation and attractions are signs that the industry is turning the corner. The successful creation of Visit Jersey has added positive momentum. In turn, this means that now is very much the right time to tackle the problems with the 1948 Law.

Summary

The general tone and approach of the 1948 Law is poorly aligned with government's approach and its strategic priorities. It has been unsuccessful in delivering industry growth in recent years. Evidence suggests that this lack of growth is in part because the controls imposed on tourist accommodation have been unnecessarily tight, to the extent that they have been blocking innovation and investment.

Would repealing the 1948 Law solve these problems?

16. Repealing the 1948 Law in full would be one way to alleviate several of the problems listed above. The difficulty is that repealing the Law would probably cause more problems than it would solve.
17. A full repeal of the Law would mean that businesses would no longer need to register tourist accommodation. While this would mean less bureaucracy for business, it would also mean that Visit Jersey would lose its main source of data concerning the different types and capacities of available tourist accommodation. Without that high quality data, Visit Jersey would find it increasingly difficult to establish Jersey's competitiveness. It might also be reasonable to expect Visit Jersey's operating costs to rise if it had to deploy new methods to get supply-side data by other means, as the equivalent bodies

in some larger jurisdictions do. That loss of accommodation supply data would also reduce the evidence base for policy development within government.

18. Removing the requirement to register accommodation would leave government without a legal mechanism for separating tourist and domestic residential units of accommodation, which might in turn have consequences for other laws, such as the Control of Housing and Work (Jersey) Law 2012 and the Planning and Building (Jersey) Law 2002. New standards and restrictions could then apply to tourism premises by default.
19. Removing the registration requirement would also weaken government's ability to prevent rogue accommodation providers from operating. At the present time, accommodation providers that fail to comply with the requirements of the 1948 Law and the supplementary Tourism (General Provisions) (Jersey) Order 1990 can be deregistered. In effect, their licence to accommodate tourists is taken away. If that power is lost, the risk is that a business with questionable operating practices might generate significant negative publicity on an international scale. Market forces may not act quickly enough to bring about the closure of that business before it could hurt the good reputation and damage the trading conditions of other operators.
20. It is also worth noting that the 1948 Law gives the Minister a number of general powers to support the industry that remain relevant today. Maintaining the Minister's scope in law to contemplate providing forms of financial or other assistance to keep strategically important air or sea routes operating, or perhaps to fund, co-fund or otherwise support the operation of facilities that are important to the tourism offer, may have real strategic value over the longer term. While the Minister is clear that he is not minded to consider subsidising sea routes for the foreseeable future, repealing the Law would restrict his ability to even contemplate such a policy.

Summary

Repealing the 1948 Law without putting a new tourism law in its place would not be the best way forward. Both Visit Jersey and government would lose important data regarding the supply of tourist accommodation in the Island. There might be implications for other legislation. The Minister for Economic Development, Tourism, Sport and Culture might also lose useful reserve powers to support the industry in difficult times.

Why not simply refine the existing Law?

21. Various sections of the 1948 Law are simply outdated and there are numerous other technical issues that need to be dealt with.
22. In theory, it would be possible to keep the framework of the existing Law by working through and updating all the minimum standards in the Law and its supplementary Order. The problem, however, is that this approach leaves scope for significant further work in future years. Updating the existing minimum standards may not stop them being overtaken again by the ever-evolving demands of the market. If Visit Jersey maintains its early success and the industry sees more new accommodation providers

entering the market, the administrative and compliance work to maintain the terms of the existing Law across an increasing number of premises could become quite costly.

23. One of the concepts on which the 1948 Law was based was the presumption that government was well placed to establish, staff and operate its own tourism information and marketing department. Today, Visit Jersey performs that function successfully as an independent body, funded through a conditional grant from government. While the 1948 Law did not put a stop to the creation of Visit Jersey,² there is scope to make it clearer in law that future Ministers have the option of maintaining a grant-funded arrangement.
24. Another arguably obsolete power in the 1948 Law is the Minister's power to run an accommodation grading scheme. The internet has changed the basis on which consumers select accommodation at their preferred destination. This information, which is increasingly available in real time, is benefiting consumers. The States discontinued their bespoke 'Sun' grading scheme a decade ago, having recognised that the scheme had run its course. While a significant number of premises in Jersey continue to benefit from industry-backed Quality in Tourism or AA gradings, those businesses have nevertheless secured their respective gradings independently and voluntarily.
25. Various other rules and restrictions within the 1948 Law and its supporting legislation remain. The Tourism (General Provisions) (Jersey) Order 1990 still contains long lists of minimum standards for each of six defined accommodation categories to meet. Many have been overtaken by evolving consumer expectations and better consumer information.
26. Taking the hotel accommodation category as an example, hotels are required in law to provide not less than 16 serviced bedrooms. This seems somewhat arbitrary given the rise in popularity of boutique hotels. Unnecessary minimum external dimensions for baths in hotels are hard-coded into the legislation. Double hotel rooms require only one standard plug socket for general use. Consumers may regard this latter standard as odd given modern day reliance on smartphones and other electronics with limited battery life.
27. The 1948 Law requires accommodation businesses to supply the Minister with advance copies of fee scales to be charged for accommodation over the coming year. Government has for some years acknowledged the irrelevance of this requirement by not enforcing it.
28. The Minister is currently required in law to maintain and publish a holiday camp register. This register has been empty for well over a decade and the expectation is that any new market entrants are more likely to apply to be registered under a different accommodation category.

² Ministerial Decision [MD-E-2015-0004](#)

29. While the existing legislation provides for six separate categories of tourist accommodation, it does not recognise short-term casual domestic rentals (e.g. Airbnb rentals). This type of accommodation is increasing in popularity worldwide but the local supply of casual domestic rentals is missing from the data given to Visit Jersey. The Island's legislation needs to take account of it.
30. Airbnb and other sharing economy platforms have experienced significant growth in recent years, with positive and negative impacts. A positive impact in Jersey is that casual rentals are increasing the overall number of available bed-nights at busier periods. Homeowners and (where leases permit) some tenants are also able to earn additional income. Less positive impacts include the risk that the supply of affordable domestic rental properties reduces because landlords determine that they can earn more from tourists than from Island residents. Neighbour disturbance and a loss of community are other issues being reported in other jurisdictions where sharing economy platforms such as Airbnb are operating. It should also be recognised that conventional accommodation businesses operating in good faith within fire safety, planning and other public interest-based legal restrictions are being disrupted – arguably on unfair terms. Hotels have fire safety obligations that simply do not apply to most homeowners.
31. There are other oddities in the 1948 Law. For example, the existing criteria for registration of a camp-site stops short of confirming whether smaller camper vans and larger motor homes could occupy their pitches.
32. There is scope to make it much easier for those running tourist accommodation to engage with government. Registration adds to the cumulative red tape burden facing many businesses in the tourism industry. The existing process could be made faster, easier and potentially cheaper for government and business by putting as much of it as possible online.
33. Finally, moving processes online may in turn create scope to review the compliance requirements in the Law and lower the burden on business. For example, if government stops issuing hard copy certificates and requiring businesses to display them, there is no need for an offence of not displaying that certificate and no need for officers to spend time checking whether businesses are committing that offence.

Summary

The problems with the 1948 Law are numerous and, in some cases, fundamental. Some of the concepts on which the Law is based are simply out of date. Starting with a clean sheet would therefore be the better way forward.

How might a new Tourism Law make a positive difference?

34. The proposal is to replace the 1948 Law with a new law designed to achieve six objectives.

Objective 1 – Improve conditions for industry growth

35. Streamlining the criteria businesses need to meet in order to access the market lawfully should help drive industry growth. To that end, the six existing accommodation categories defined in the current legislation would be merged into three simplified accommodation categories –

- a) serviced accommodation (e.g. hotels, guesthouses and youth hostels)
- b) unserviced accommodation (e.g. self-catering units)
- c) camping accommodation.

36. One new category would be added to address the rise of temporary Airbnb-style letting of domestic accommodation.

37. The Minister would retain the powers that the 1948 Law grants him for the purposes of supporting the tourism industry. This means that he would, for example, remain able to allocate resources to help stabilise the industry in more difficult periods by assisting with air or sea route viability or supporting tourism facilities. These powers would continue to be exercised only when government policy justifies such intervention and when public funds are made available to support that intervention.

Objective 2 – Benefit both the consumer and business

38. Businesses would continue to require permission from the Minister to access the tourism accommodation market lawfully. Applicants should nevertheless find that they need to comply with significantly fewer criteria in order to secure or retain permission to market their accommodation. The criteria to be retained will focus on delivering safe, clean, serviceable and accurately marketed accommodation, so as to benefit consumers. Thereafter, businesses will have greater freedom to tailor their product to target customers as they see fit.

39. The new law may abandon references to tourism registration and instead refer to a requirement for a tourism accommodation licence. This change would simply be to standardise language.

40. It is also anticipated that the new law will require a new definition of tourist, so as to align the law with other legislation such as the Control of Housing and Work (Jersey) Law.

41. The United Nations and World Tourism Organisation defines a tourist as *‘any person who travels to a country other than that in which s/he has his/her usual residence but outside his/her usual environment for a period not exceeding 12 months and whose main purpose of visit is other than the exercise of an activity remunerated from within the country visited, and who stay at least one night in a collective or private accommodation in the country visited.’* Although the majority of this definition is

suitable for use in Jersey, the requirements of the Control of Housing and Work Law are such that the 12 month timeframe would need to be replaced with ‘... a period not exceeding 90 days.’

Potential Criteria for Securing a new Tourist Accommodation Licence

Criteria	STANDARD LICENCE			TEMPORARY LICENCE
	Serviced Accommodation	Self-Catering	Camp-Site	Any
1. Premises in good repair, having been constructed in accordance with Building Bye Laws in force at the relevant time.	Yes	Yes	Yes	Yes
2a. Relevant rooms at the premises are suitably constructed or adapted for the lodging of persons in secure serviced private accommodation.	Yes	No	No	No
2b. Relevant units at premises are suitably constructed or adapted for the lodging of persons in secure self-contained accommodation.	No	Yes	No	No
2c. Relevant areas at premises are suitably constructed or adapted for the purpose of a recreational camp site, with provision of sanitary facilities for ablutions, sewage disposal, laundering and washing of cooking and eating utensils.	No	No	Yes	No
3. Satisfactorily furnished, equipped, appointed and maintained.	Yes	Yes	Yes	Yes
4. Premises conform to a satisfactory standard of cleanliness and safety, with satisfactory arrangements for water supply and sewage disposal.	Yes	Yes	Yes	Yes
5a. For premises within the scope of fire precautions legislation, a valid fire certificate has been issued. For other premises, adequate precautions are taken against fire and for the safety of persons in the case of fire, including notices posted in every guest room or apartment, as to the means of escape.	Yes	Yes	Yes	No
5b. Applicant has self-certified that precautions are taken against fire and for the safety of persons in the case of fire in accordance with guidance for temporary accommodation to be published by the Fire and Rescue Service.	No	No	No	Yes
6. Advertising published by or with the consent of the proprietor offers a full and accurate description of the accommodation and services provided.	Yes	Yes	Yes	Yes
7. Adequate first aid provision is available at the premises.	Yes	Yes	Yes	Yes
8. Premises shall not be occupied by a greater number of guests than that which the premises are permitted to accommodate.	Yes	Yes	Yes	Yes
9a. Premises shall not accommodate for longer than 90 days any person not registered under the Control of Housing and Work (Jersey) Law 2012.	Yes	Yes	Yes	No

9b. Premises shall not accommodate one or more persons not registered under the Control of Housing and Work (Jersey) Law 2012 for longer than a combined period of 90 days in any period of 12 months.	No	No	No	Yes
10. The business is under the management of a fit and proper person.	Yes	Yes	Yes	No
11a. A responsible person is contactable at all times and details of how the person may be contacted are readily available at the premises.	Yes	Yes	Yes	No
11b. A responsible person is contactable within 24 hours and details of how the person may be contacted are readily available at the premises.	No	No	No	Yes
12. Persons under 18 staying at premises must be accompanied by / in the care of a responsible adult.	Yes	Yes	Yes	Yes
13. The Minister may waive one or more criteria for premises operating on or before the in-force date and with reference to the overarching Ministerial duties specified in the Law.	Yes	Yes	Yes	Yes

Objective 3 – Secure sufficient data for marketing and policy purposes

42. Businesses would be required to disclose the quantity of serviced, unserviced and / or camping accommodation they offer at their respective premises on an annual basis or when that accommodation is reconfigured. Annual renewals would involve businesses being asked to review and confirm the quantities of accommodation on record for the premises, self-certification by the proprietors in respect of the criteria applicable to those premises and payment of a proportionate renewal fee.
43. In a change to the current position and to ensure the high quality of supply-side data available to Visit Jersey, all self-catering premises that are available to tourists for more than three months in every year would require a standard tourist accommodation licence. Under the 1948 Law, self-catering premises accommodating fewer than six persons do not need to be registered. This situation is a problem because the self-catering market is experiencing significant growth locally (and internationally), which is in turn causing Visit Jersey to require increasingly accurate data regarding the supply of self-catering accommodation.

Objective 4 – Provide for limited casual home rental

44. A number of properties in Jersey are already listed on Airbnb and other sharing economy sites. There is a need to clarify the legal status of casual domestic rentals marketed in this way so that Islanders wishing to participate in the sharing economy are clear as to their rights and responsibilities. There is also a need to strike a reasonable balance between securing economic benefit from casual domestic rentals and alleviating the potential for harm.
45. A new temporary tourism accommodation licence would be available to enable owners or tenants (where their lease permits) to rent out all or a part of their primary place of residence to tourists, whether via Airbnb or by other means, such as by way of a student hosting agreement with a language school.

46. Standard duration of occupancy limitations would apply in respect of tourists (i.e. persons not registered with the Population Office). For temporary tourism accommodation licence holders, one or more tourists could be accommodated for a combined maximum period of 90 days in any 12 month period.
47. The 90 day period is considered long enough, on the one hand, to have a material impact on availability of additional beds during the Island's peak tourist season and also to give Islanders scope to earn a reasonable sum from the activity. On the other hand, a 90 day period is considered to be a sensible limitation to guard against the risk of negative social impact of the kind already experienced in higher profile destinations, such as New York, Berlin and London. Some jurisdictions have pursued bans on whole apartment rentals in a deliberate attempt to mitigate social impacts such as reduced housing availability and localised noise disturbance. The 90 day limit also stops materially short of constituting a material change of use under the Planning and Building (Jersey) Law 2002.
48. It is worth noting that government currently offers tax concessions to Island residents who receive income from letting out a room in their place of residence. Hosts that enter the gross income earned on their personal tax return are given a flat rate deduction as follows –
- sleeping only – 25%
 - meals supplied (eg foreign language students) – 50%
49. Further information regarding the tax position is available at www.gov.je.³

Objective 5 – Maintain public safety

50. In the event that a business is found not to be complying with the criteria that apply to their accommodation type, the Minister would retain the power to withdraw the relevant tourist accommodation licence. Any business that continued to trade without a licence would risk prosecution.
51. In the case of temporary accommodation, the intention is to ensure the public safety criteria for temporary accommodation do not become disproportionately onerous.
52. To strike a reasonable balance, applicants for a temporary tourism accommodation licence will be required to self-certify that they comply with any best practice guidance that might be issued by the Fire and Rescue Service. In the event that an applicant is granted a licence and information is subsequently received indicating that the relevant premises may not comply with the best practice guidance, the applicant may be required to undergo an inspection and, if the Fire and Rescue Service deems it necessary, may see their licence withdrawn.
53. Details of all premises covered by either a permanent or temporary tourist accommodation licence would be made publicly available via www.gov.je, although the names of persons residing at residential addresses would not be published. Prospective guests, neighbouring residents and, if necessary, law enforcement

³ See <http://www.gov.je/taxesmoney/incometax/individuals/typetaxableincome/pages/propertyincome.aspx> or search for 'Property income and tax'

authorities would have instant access to records of premises able to take paying guests.

Objective 6 – Lower the cost of regulation without compromising the other objectives

54. The intention is for online application, renewal and payment processes to replace the existing paper application forms, payments by cheque and reliance on the postal system. Licence fees charged under the new Law would be set at a revenue neutral level.
55. The existing requirement for accommodation providers to submit to the Minister a scale of maximum accommodation fees to be charged in a forthcoming year would be formally repealed.
56. Successful applicants would receive a single licence capable of covering multiple types of tourist accommodation offered at one specific address. Hard copy certificates would not be supplied. Instead, electronic copies would be made available via www.gov.je in a similar manner to that which is envisaged for premises to be licensed under the forthcoming draft Liquor Licensing (Jersey) Law 201-. In turn, the legal requirement to display hard copy registration certificates in a prominent place within tourist premises will fall away. The Minister would assume responsibility for making that licence publicly available. This internet-based facility would supersede the Minister's current obligation to publish lists of registered tourist premises.
57. Standard duration of occupancy limitations would apply to standard tourism accommodation licences. For standard licence holders, there might be a ban on accommodating any individual for more than 90 days unless that individual is registered with the Population Office in accordance with the Control of Housing and Work (Jersey) Law 2012.
58. A business that wishes to cease trading in the tourist accommodation market mid-season would no longer need to seek a formal ministerial decision to have their premises deregistered. This process would become a simple notification process.
59. Any new law would maintain a right of appeal against a decision not to grant a licence, against restrictions imposed on the licence or a decision to withdraw a licence.
60. The Minister's existing powers to establish a tourist accommodation grading scheme and to require businesses to display any external signage approved by the Minister (such as a plaque confirming that the premises were licensed) would be repealed.
61. Suitable officers within the States of Jersey would be designated to perform the necessary compliance and enforcement duties. These may not necessarily be officers employed within the Economic Development, Tourism, Sport and Culture Department. It is, however, the case that the Department has officers employed within its Trading Standards function who are well qualified to undertake this work and who, in practice, are often the first port of call for tourists and other stakeholders with issues relevant to the terms of the existing law. Whichever officers are appointed, their rights of access to premises would apply only when an application for a new standard accommodation licence is submitted or when a designated officer holds a reasonable belief that the law is being breached.

62. The Minister may also consider proposing the inclusion of a duty on the Minister and the competition regulator to protect and further the interests of current and future users of tourist accommodation by promoting competition.

Summary

A new law is proposed that will continue to target growth in the tourism industry but with a different approach to that of the 1948 Law. It will –

- streamline the criteria that tourism accommodation businesses need to meet in order to access the market lawfully
- retain the core data needed for industry marketing and policy development
- maintain a sensible degree of consumer protection
- allow a reasonable degree of Airbnb-style domestic letting
- reduce the red tape burden on business without compromising public safety

WHAT DOES THIS MEAN FOR BUSINESSES?

63. New tourist accommodation businesses will be able to apply and pay for their tourist accommodation licence online. Applicants will need to comply with a much simplified list of criteria to obtain and retain a licence. Although the term 'licence' will be used in place of 'registration' in the new legislation, the new licence will perform the same core function as the existing registration certificate.
64. Existing tourist accommodation businesses will be able to renew their existing registration online. Expired registrations will be replaced by a tourism accommodation licence. Those existing businesses will have less red tape to navigate when considering how to amend their offer in response to changing market demands.
65. Reducing the scope of the Law and digitising administrative processes should allow for the majority of tourist accommodation businesses to be charged a lower fee than those charged under the 1948 Law. Individual self-catering units housing fewer than six persons may, however, need to be licensed (and pay a proportionate licence fee) under the new Law.

WHAT DOES THIS MEAN FOR CONSUMERS?

66. Consumers will continue to benefit from Jersey's consumer protection legislation. In due course, the scope of this legislation may be extended by the introduction of legislation to address unfair trading practices.
67. Accommodation providers may lose their licence to trade if they are found to be advertising their premises to consumers in a misleading way or if they fail to take adequate fire precautions or other appropriate steps to ensure the safety of their paying guests.

WHAT ABOUT THOSE WHO WANT TO ADVERTISE ON AIRBNB AND OTHER SITES?

68. Those who wish to rent out all or part of their own home for a limited period each year will be able to do so if they apply for a temporary tourist accommodation licence and pay a small fee. Anyone who wishes to rent out a separate residential or self-catering unit to tourists for a total of more than 90 days in a year will, however, need to apply for a standard tourist accommodation licence.
69. Hosts wishing to advertise all or part of their home in this way will be required to self-certify that their accommodation meets basic safety standards. There are no proposals to change the existing tax rules on income earned from this activity.

COMMENTS

70. Although comments are invited on any aspect of the outline proposals set out in this consultation paper, responses to the three questions set out below would be particularly helpful -
- i. Will the six principles outlined in this consultation paper provide a sound basis for a new Tourism Law?
 - ii. If you feel that the six principles are not ideal, how would you change them?
 - iii. What is your view on the proposal to regulate short-term casual domestic rental activity (e.g. Airbnb)?
71. It would be preferable if any comments could be submitted in writing via the email or postal address shown at the beginning of this paper.