
STATES OF JERSEY



MANAGING MIGRATION: NEW MECHANISMS – PART 2 – MANAGING ACCESS TO EMPLOYMENT AND HOUSING – SUMMARY OF RESPONSES

Presented to the States on 19th January 2010
by the Chief Minister

STATES GREFFE

Chief Minister's Department
Population Office

Summary of Responses

White Paper on Migration Policy

States 
of Jersey

14th January 2010

MANAGING MIGRATION: NEW MECHANISMS – PART 2 – MANAGING ACCESS TO EMPLOYMENT AND HOUSING – SUMMARY OF RESPONSES

The Chief Minister issued a White Paper on behalf of the Migration Advisory Group (“MAG”) entitled *Managing Migration: New Mechanisms – Part 2 – Managing Access to Employment and Housing* as a consultation paper on 17th June 2009 (“the Part 2 paper”). Consultation closed on 14th September 2009.

The overall purpose of the Migration Policy is to manage immigration by controlling access to work and housing. The proposed new legislation will replace the current controls provided for in the Housing (Jersey) Law 1949 (“the Housing Law”) and the Regulation of Undertakings and Development (Jersey) Law 1973 (“the RUD Law”). Although the Migration Policy was consulted upon prior to being approved by the States in 2005, more detailed development was required in order to draft the legislation and implement the policy. As such, additional consultation was planned in 2 parts.

The first consultation paper put forward proposals to establish a Names and Address Register of all Jersey residents (or “Population Register”) and to introduce a Registration Card for all Island residents for use when accessing housing or employment, including procedures relating to the registration. A Summary of Responses was published on 3rd June 2008 and draft legislation on these issues was included in an Appendix to the Part 2 Consultation Paper for consideration.

The Part 2 paper itself set out in detail proposals to replace the existing Housing Law and RUD Law. General comment was sought, but 5 specific questions were asked, 3 relating to proposals affecting future housing entitlement rules and 2 relating to the proposal to introduce a Registration Card for all residents. Although the issue had been addressed during the Part 1 consultation, response had been limited and so a further opportunity to comment was provided.

This Report is divided into sections for easy reference. An Executive Summary highlights the key findings and includes a response by the Chairman of MAG on the feedback received. The consultation process that was followed is then outlined, and examples of the comments received during consultation together with some comments in response from MAG are provided.

The next stage towards implementation of the Migration policy is for the remaining sections of the Migration (Jersey) Law 200- (the “Migration Law”) to be drafted, which will incorporate the Part 2 proposals. Both the Names and Address Register (Jersey) Law 200- (“the Register Law”) and the complete Migration Law will then be published early in 2010 with the intention that the States debate them both in mid-2010.

If you wish to receive an electronic copy of this Report, please contact the Project Officer, or a hard copy can be purchased from the States Greffe bookshop in Morier House, or a copy can be downloaded it from the States website –

www.gov.je/ChiefMinister/PublicConsultations

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This Report is issued by the Chief Minister on behalf of the Migration Advisory Group (“MAG”) whose members are:

Senator P.F. Routier	Assistant Minister to the Chief Minister – Chairman
Connétable L. Norman	Assistant Minister for Economic Development
Senator T.J. Le Main	Minister for Housing

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(A) EXECUTIVE SUMMARY

It is encouraging to note that the general sentiment of the responses is one of support for the Migration policy initiative and the administrative changes that are proposed. Respondents were representative of a broad cross-section of the Island's community and as a result they have raised a wide variety of issues. Evidently, depending on the sector or particular circumstance, some hold differing views on certain of the proposals but there was a general recognition of the need to manage immigration and that in doing this, controlling access to housing and employment was important. This Report has included a cross-section of the responses received to reflect both the supportive and the opposing views and also the suggestions that were put forward.

Issues that merit particular mention were the clear support shown for those aspects of the policy that aim to recognise the contribution made to the Island by those who come to live and work here over an extended period of time; and the need to improve accommodation rights and standards for all migrants.

The extension of opportunities to obtain and retain full residential status to non-Jersey-born individuals was particularly supported, including the proposal that the current "5 year break rule" be extended to allow 2 breaks of up to 10 years in duration before entitlement to housing can be lost.

Respondents also looked forward to the simplification of processes and administration that should result for both businesses and individuals as a result of the use of the Registration Card to access employment and housing.

The business community was supportive of the proposal for a Combined Manpower, Social Security and ITIS return, and of the proposals that will allow business greater flexibility to manage their licensed staff positions.

However, comments were raised with regard to the need for the new controls to be used flexibly and pragmatically, as well as fairly, across different business sectors in the current climate of economic uncertainty. Furthermore, some in the business community did express a view that no such controls should exist.

Concern was also raised that the presentation of a Registration Card supported by photographic evidence from a passport was insufficient proof of entitlement to rely upon when representing clients in property transactions. The proposal to charge business fees for their licensed personnel also met with some opposition, and there was strong concern that this may eventually apply to Registered persons as well.

There was also some concern raised as to whether it was wise to transfer the responsibility for classifying property in future to the Planning and Environment Department; for it was felt that this was a complex issue in which the Population Office had a wealth of experience.

MAG is grateful to all those who responded to the Part 2 consultation.

Revisions have been made to the proposals as a result of the Comments:

1.	<p>Current Policy: N/A</p> <p>Original Consultation Proposals: A non-Jersey-born person may lose their Entitled status by virtue of having 2 breaks outside the Island within 10 years and still hold a Registration Card denoting they are Entitled.</p>	<p>Revised Proposals Registration Cards for non-Jersey-born persons who have obtained Entitlement will be issued for 5 years, and during this time will be valid whatever pattern of residence that person adopts. An assessment of their Entitlement dependent on the number of breaks taken will then be made when they next need a new card to access housing or work whenever that may be. <i>See pages 20–26.</i></p>
2.	<p>Current Policy: All staff need to be covered by a staffing licence, including both long-standing residents and new migrants. This means applications do arise to engage locally qualified residents which are normally approved. This creates administration for both business and the States, and is overly interventionist.</p> <p>Original Consultation Proposals: No change to Current Policy</p>	<p>Revised Proposals: Undertakings will not have to apply for Entitled Staff; and will be exempt from the need to complete 3 year staffing licence reviews if only Entitled staff are employed. Permission will only therefore be needed for Registered or Licensed staff. <i>See page 29.</i></p>
3.	<p>Current Policy: Some limited exemptions are granted to undertakings to engage non-locally qualified staff without having to obtain permission, in particular, for 15 days in order to train new staff in the event of staff turnover, and to engage specialist workers within an established undertaking for 10 days in any 12 month period.</p> <p>Original Consultation Proposals: The above periods to be extended to 20 days for staff turnover for any purpose, and 20 days for visiting Directors and Consultants working in established undertakings.</p>	<p>Revised Proposals: Some widening of exemptions will take place, specifically. <i>See page 34.</i></p> <ul style="list-style-type: none"> • In the event of staff turnover, a non-local person may be hired without permission for general absence cover for a period of 30 days. • Visiting Directors and specialist consultants can work in an established undertaking without permission for 30 days.
4.	<p>Current Policy: No fees are charged in relation to 1(1)(j) applications.</p> <p>Original Consultation Proposals: Fees should be charged up to £150 per Licensed employee per annum, with exemptions for small businesses.</p>	<p>Revised Proposals: Exemptions from annual charges for Licensed employees will apply to social and low value enterprises (noting that many of the small businesses that employ 1(1)(j) employees are high value). <i>See page 38.</i></p>

5.	<p>Current Policy: N/A</p> <p>Original Consultation Proposals: Change of address notification to be made every time an individual moves into a new property.</p>	<p>Revised Proposals: Quarterly “notification of change of address” returns for lodging houses/staff accommodation will be possible for ease of administration on the basis that turnover of occupants can be high, especially in larger units.</p> <p><i>See page 47.</i></p>
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Further assurance and additional clarifications:

1.	<p>Current Policy: N/A</p> <p>Original Consultation Proposals: These policies will not reduce the number of “j”/Licensed employees or non-local/Registered employees currently granted to a business, nor prevent a business from requesting more such staff. Rather, these policies will be used to achieve whatsoever population targets the States agree, and will not in themselves increase or decrease migration.</p>	<p>Proposals: MAG wish to repeat their assurance that these policies will be used to achieve States agreed objectives, and in themselves will not reduce or increase permissions. <i>See page 11.</i></p>
2.	<p>Current Policy: The current “secondment policy” permits a person who is not yet residentially qualified to leave the Island for 2 years and to bank their period of residence toward becoming qualified. To do this, a compelling business case must be made around new skills being obtained being for the benefit of the Island, and permission is subject to advance application and to the individual returning to their current employer.</p> <p>Original Consultation Proposals: The Consultation did not refer to this policy.</p>	<p>Proposals: This policy will be retained and has now been published. <i>See page 17.</i></p>
3.	<p>Current Policy: 1(1)(j) employees should be full-time in all circumstances.</p> <p>Original Consultation Proposals: The Consultation was silent on this matter.</p>	<p>Proposals: The Group resolved to maintain current policy on the understanding that limited exceptions could be permitted, subject to an underlying presumption that Licensed employees should be full time as a norm. <i>See page 33.</i></p>
4.	<p>Current Policy: Private sector businesses must lease property for their 1(1)(j) employees, and those employees cannot lease in their own name. Public sector 1(1)(j) employers are able to lease in their own name.</p> <p>Original Consultation Proposals: The Consultation was silent on this matter.</p>	<p>Proposals: All Licensed employees will be able to lease property in their own name. <i>See page 34.</i></p>

5.	<p>Current Policy: Established co-habiting partners of qualified and 1(1)(j) employees are treated sympathetically when a business seeks to employ them or when seeking to start their own business, subject to 3 years' co-habitation being demonstrated.</p> <p>Original Consultation Proposals: The Consultation was silent on this matter.</p>	<p>Proposals: Some formalisation of the current rules that enable 3 year established co-habiting partners of Entitled and Licensed persons to work will occur. This will result in a generally favourable decision when these persons seek to work or start their own business. <i>See page 35.</i></p>
6.	<p>Current Policy: N/A</p> <p>Original Consultation Proposals: The Consultation was silent as to whether employers would be able to report employees as having left the Island.</p>	<p>Proposals: Employers will be able to advise of staff/Island leavers as part of the Combined Return, as they can now on the Social Security Return. <i>See page 37.</i></p>
7.	<p>Current Policy: N/A</p> <p>Original Consultation Proposals: Charges for Entitled and Registered employees are not envisaged or planned.</p>	<p>Proposals: MAG wish to repeat their assurance that charges for Entitled and Registered employees are not envisaged or planned. <i>See page 38.</i></p>
8.	<p>Current Policy: N/A</p> <p>Original Consultation Proposals: The Consultation was silent as to what property classification would be given to "if let" property, i.e. permissions that have been granted to adjoining units to enable them to be let to unqualified persons for no reward, e.g. a granny flat.</p>	<p>Proposals: The "if let" property condition will be carried over into the new rules. <i>See page 44.</i></p>
9.	<p>Current Policy: N/A</p> <p>Original Consultation Proposals: Classification of property would become a matter for the Minister for Planning and Environment.</p>	<p>Proposals: The timing, manner and extent of any transfer of responsibilities for property classification to the Planning and Environment Department remains under consideration in response to comments received. <i>See page 45.</i></p>

“What’s new?” about the new policies:

1.	<p>Current Position: It is the responsibility of employers to confirm the residential status of all their employees, and the returns they make to this effect do not include name and social security details, i.e. the system relies largely on businesses being good citizens. Those business must also apply for each and every 1(1)(j) employee, including like-for-like replacements, and apply when they want a licence for both local and non-locally qualified employees. In addition, property classifications are complex and confusing.</p>	<p>Consultation Proposals: The Population Register, new Registration Card, and Combined Manpower/Social Security /ITIS Return together will provide additional information that will make the new system much tighter and less open to abuse. They will also reduce the burdens on business. Simpler business licences and property classifications will also exist.</p>
2.	<p>Current Position: Unqualified persons cannot lease properties and have no security of tenure, and until recently had to complete 20 years’ residency before becoming qualified in their own right. Thereon, if their residency in Jersey was broken more than once or the break lasted more than 5 years they lost their qualifications.</p>	<p>Consultation Proposals: Registered persons will have more rights and opportunities, including security of tenure, and will have to complete 10 years’ residence before becoming Entitled (reduced already to 11 years). In addition, they will be able to be away from the Island for 10 years with 2 breaks and still retain their Entitlement, and will have this status permanently after 25 years’ continuous residence. The ability to retain Entitlement for life is also extended to persons first arriving before they are 16.</p>
3.	<p>Current Position: Population statistics are produced every 6 months, via a Manpower Return process, but detailed and complete population statistics, including addresses, are only available at the time of the Census. There is also very limited ability for departments to share name and address information for the purposes of service and efficiency.</p>	<p>Consultation Proposals: Improved population statistics will result from the data recorded on the Names and Address Register and using the quarterly combined Manpower/Social Security /ITIS Return. This will be of great benefit to the States when developing future strategic policy in all areas, and can be used to support other States services and for compliance.</p>
4.	<p>Current Position: 3 pieces of legislation¹ dating from the period 1949 – 1973 are administered, which lack clarity and certainty in many respects, have provisions which are moribund, and are complex.</p>	<p>Consultation Proposals: A single modern Law will regulate access to housing and employment. The new legal framework will provide much needed clarity and certainty and be more up to date as to legal practice.</p>

¹ Housing (Jersey) Law 1949 and Regulations; Regulation of Undertakings and Development (Jersey) Law 1973 and Regulations; Hawkers and Non-Resident Traders (Jersey) Law 1965. Consultation on the repeal of the Hawkers Law has not taken place as the provisions are simply to be modernised and incorporated into the new Migration Law.

5.	<p>Previous Position: The Housing Law was administered by the Housing Department and the Regulation of Undertakings Law by the Economic Development Department, with limited day-to-day co-ordination between administration and development of these Laws in seeking to manage migration. Similarly, policy was managed by separate Committees.</p>	<p>Consultation Proposals: The Population Office administers both Laws in an aligned manner, and is guided in the joined-up development and application of policy by a Migration Advisory Group of representative Ministers, including the Assistant to the Chief Minister, Assistant Minister for Economic Development, Minister for Housing and Assistant Minister for Housing. Clearly, a level of co-operation existed previously, but pooling authority has enhanced responsiveness, co-ordination and service.</p>
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(B) CONSULTATION PROCESS

The Migration Advisory Group promoted a number of initiatives aimed at reaching as many sectors of the Island's population as possible to seek their views on the Part 2 paper and the accompanying draft legislation relating to the Part 1 consultation. They included –

- publication of the full consultation paper (on the States' website and with copies placed in the States Greffe Bookshop; Public Library; Citizen's Advice Bureau and Parish Halls;
- circulation of the paper to all on the States consultation list;
- concerted media exposure via JEP articles and radio and TV coverage;
- publication of a questionnaire in the JEP;
- a link on the www.gov.je homepage to information and a questionnaire;
- the publication and distribution of leaflets in English, Polish and Portuguese;
- two lunch-time drop-in sessions for members of the public at Communicare at St. Brelade and the Town Hall;
- several discussion forums with business and community organisations;
- a States' members' briefing;
- meeting with the Comité des Connétables.

In total, 56 responses were received from organisations and members of the public, including from stakeholder briefings and public meetings. The standard of the responses received was very high with respondents making relevant and constructive comments on a wide range of issues. Many individuals asked questions as to the effect of the proposals on their own personal situations; whilst 10 organisations, from a variety of sectors, sent in detailed responses which raised a wide range of legal and administrative queries and comments from both social and business perspectives.

All the points have been considered. In some cases decisions have been taken and in others the issues are under further consideration. The Report summarises the issues and provides responses from MAG. It is lengthy but MAG hopes both respondents and the general public will find the style of presentation helpful. The Report aims to summarise the nature of the responses that were received and to provide, through MAG's responses, greater explanation of how some current policies work and how they will be carried forward into the new system as well as to advise on how the new proposals will work.

Once the draft Laws are complete, they will be published as a Report to the States early in 2010 to elicit any final responses, in particular on the details of the legal provisions, and for the purposes of Scrutiny. They will then be lodged for a June debate.

(C) RESPONDENTS' COMMENTS AND MAG RESPONSES**(i) General responses to proposals**

As stated above, the majority of Respondents accepted that there is a need to manage migration and that this is best done by controlling access to housing and employment. The comments below reflect this view, but also advise of the need for the new controls to be used flexibly and pragmatically, as well as fairly, across different business sectors in the current climate of economic uncertainty. Some in the business community did express a view that no such controls should exist, or called for a temporary suspension. There were also some concerns that there would be additional costs to business when the new rules are implemented.

(i) *“Although all new undertakings should be licensed, government should not retain control over business by dictating how many employees a business has. Immigration should be managed through housing not limitations on business”.*

Chamber of Commerce

(ii) *“Past ‘policy’ has effectively been to allow the population to grow ad hoc to meet economic demand, and playing catch up with social housing and service provision later. We see little in the proposals which varies from this past pattern”.*

Concern

(iii) *“... we believe that a pragmatic approach is required, in consultation with the relevant industry representatives, to ensure that the level and breadth of skills available to the Island’s employers is increased.”*

Jersey Finance

(iv) *“...one general observation on the strategy...bearing in mind it was formulated before the credit crunch. It makes assumptions regarding ever upward growth, a burgeoning finance sector and perpetually increasing spending and tax take which are not now such accurate assumptions...The concern is about tying policy to an incomer cap during a period of change...some businesses will wind down ...other businesses may wind up... So how does the policy cater for adjusting skill bases and sector changes which do not conveniently fit into one year or another? ... if the economy is to prosper again the need for more creativity and diversity seems essential but rigid legislation like this does not really provide the economic flexibility which is required”.*

Chamber of Commerce

(v) *“As a general point we welcome the proposals set out in the Consultation Paper and the intention to simplify and combine both the Housing and Regulation of Undertakings and Development laws. We think that many of the proposed mechanisms will achieve that”.*

Law Society Working Party²

² This group was set up to consider the Part 2 paper from a legal and practical perspective. The views expressed were those of its members, Advocates Lambert, Hart and Renouf, rather than all the members of the Law Society as a body.

(vi) *“The IoD welcomes the proposed new Migration policy. At first glance it appears to simplify what is currently a complex and bureaucratic process”.*

The Institute of Directors (“IoD”)

(vii) *“The implementation of this legislation will undoubtedly lead to increased bureaucracy and administration.”*

Seymour Hotel Group

(viii) *“... businesses will require further information as to how it is proposed these processes will work in practise....facilitating a smooth introduction of these policies, as business has expressed concerns of the administrative burden with which they will be faced on the introduction of these new policies.”*

Jersey Finance

MAG responses to the issues raised:

(i) to (iv)

Governments are usually best placed to co-ordinate overall strategy and control the ability of new migrants to access employment and housing, and this is especially important in a small jurisdiction.

The unique aspect of business licensing in Jersey is that it does not necessarily seek to control which individuals can work in Jersey, but the overall number of roles that are available to them. This means the States seeks to avoid second-guessing employers as far as they are able.

Overall, it is considered that immigration has strong economic causes, and therefore the control of working opportunities is a key factor in the effective management of immigration. This is borne out by past experience, which has shown that Housing Law controls alone do not *control* migration, but rather have a *deterrent effect* and manage demand on local housing. For example, in the 1980s the States agreed that it should not be possible for non-residents ever to acquire their local housing qualifications. Despite this barrier people still came to the Island to work.

The purpose of the Migration policy is to manage migration using a combination of controls which restrict access to employment and housing for migrants to the Island with shorter periods of residence. In this way, the controls can also promote local employment opportunities and manage demand on housing.

The Migration policy does not set a population cap and nor does it generally seek to exercise quality control over businesses. The latter is not a government function, other than in relation to activities that may damage the reputation of the Island, and the States have separately set as part of the Strategic Plan a Population Policy for Jersey.

The targets and objectives agreed by the States include an average increase in the population of 150 heads of households/325 persons per year over the 3 years 2009–2012, and a commitment that the population will not exceed 100,000. **These policies are capable of being changed by the States Assembly, and indeed, will be reviewed in 2012.** As such, these migration controls will seek to achieve whatsoever population targets the States agree, both now and in the future. These controls are therefore not designed in themselves to reduce migration or the number of new migrants currently in Jersey, rather they are the **tools** to achieve whatsoever population targets the States agree, and this will generally be done not within the constraint of an annualised cap or limit on immigration, but rather to manage migration within limits *over time*.

As to the ongoing application of the new controls, this will be done in continued dialogue with the public and organisations, in particular with businesses, to ensure that the needs of all industries in the Island are appreciated. Consultation is already facilitated through a number of forums, e.g. Chamber of Commerce, Jersey Finance, and the Small Business Forum, and good relationships with organisations such as the Jersey Hospitality Association. Indeed, the Population Office already works with a range of States Departments, including Social Security, Economic Development, Planning and Environment on a weekly basis and will continue to do so when making recommendations. The decision-making forum provided by MAG enables Ministers to be cognisant of all these influences and current trends in the housing and employment fields when making decisions, and grants businesses the right to appear and make their case before Ministers.

The provision of additional statistics on the Island's population and its make-up from the Names and Address Register will provide government and the Migration Advisory Group with improved, more up-to-date information upon which to develop future policies.

(v) to (viii)

The main principles of the current Housing and RUD Laws are retained, namely a business licensing regime and a requirement to complete a period of residence before having open access to housing and work.

The administrative responsibility on businesses in particular should lessen due to the introduction of the Combined Return and the ability of businesses to manage their licensed staff themselves once granted a licence. The compliance burden on business should also significantly ease as they will be able to rely on the Registration Card to confirm an individual's residential status rather than having to prove residence themselves. In addition, there are also more exemptions proposed for short-term working and clearer guidance will be available for financial vehicles. Throughout implementation, clear guidance and advice will be provided.

Finally, business will not now need a staffing licence to employ Entitled staff, which places government where it should be – managing the number of migrants able to come and work in Jersey, but leaving businesses to get on with employing more established residents wholly as they see fit.

The Combined Returns will be based on the existing ITIS processes, which it is understood were cost- and time-effective when introduced. Many businesses may require either new software or an upgrade to the existing ITIS software to make the required returns electronically, and this will be supported through the provision of upgrades and software, and through working with providers of employers' payroll systems. Having said this, exemptions to the need to complete returns electronically will be available on application should this be overly burdensome, for example, for very small businesses or where a business needs more time. Guidance on this will be available in due course and will be developed in consultation with industry.

(ii) Entitlement [Part 2 paper, pp. 11–14]

This section of the Part 2 paper explained how, in the future, Island residents will be granted residential status. The category of status that an individual is awarded will dictate the type of accommodation and housing that individual can access.

Years' Residence³	Regulation of Undertakings (RUD) and Housing Law	Residential Status for Individuals under new Law
Less than 5 years	Non-Locally Qualified Persons (RUD)	“Registered”
More than 5 years	Locally qualified (RUD)	“Entitled for Work”
More than 10 years under new proposals; presently 11 years	Locally Qualified Persons (Housing Law)	“Entitled for Work and Housing”
0–10 years' residence and “essential” employees	“(j)” employees (Housing Law)	“Licensed for Work and Housing”

The categories themselves are not dissimilar to those that currently exist but they are re-named to be more appropriate, for example, to reflect the fact that a period of residence will ‘entitle’ a person to open access to work and housing, and also because some of the old names, for example, a “1(1)(j)” will simply no longer exist under the new Law.

This new terminology raised only 2 comments. One respondent felt they were too discriminatory and the Chamber of Commerce expressed concern that the terminology needed to be correctly used to avoid confusion, for example, someone that is “Entitled for Work” purposes may not be “Entitled for Housing” purposes. While it may be desirable to improve upon these titles, in particular the terms “Licensed” and “Registered” (only for the reason that these words are used elsewhere in the policy, i.e. “to register”, “to be issued a *business* licence”) nonetheless, it is felt that these terms will become commonly understood in time, akin to the use of the term “(j)” employee, and no better terms have presented themselves. Clearly, some strong promotion will take place around the new policies to make sure they are understood.

The Part 2 paper described the manner in which entitlement to housing would be acquired under the Migration Law. Four new proposals,⁴ referred to below, were put forward for consideration which would result in non-Jersey-born individuals having a greater opportunity to achieve their local qualifications:

³ Managing Migration: New Mechanisms – Part 2: Managing Access to Employment and Housing, p.16.

⁴ *Ibid* p.11.

Proposal A: *Completing a continuous 10 year period of residence (i.e. a further reduction of one year from the current 11 year qualifying period)*

Proposal B: *Non-Jersey-born persons who gain “Entitled” status will be able to be away from the Island for a total period of up to 10 years in no more than 2 separate periods of absence before they lose their “Entitled” status. This is new and will replace the current single “five year break” rule.*

Proposal C: *Non-Jersey-born persons who have achieved their “Entitled” status, and thereon live in the Island for a further continuous 15 years, i.e. 25 years of continuous and unbroken residence in total, will keep their residential status permanently. This guarantee of a permanent “Entitled for Housing” status is new and recognition of having become established and contributed to the Island.*

Proposal D: *Non-Jersey-born children who arrive in the Island before they reach 16, must complete 10 years’ continuous residence, and will thereafter retain “Entitled for Housing” Status permanently. This is new.*

Proposal A, to reduce the qualifying period for housing to 10 years’ continuous residence for non-locally born individuals, did not raise many comments and is deemed to be generally accepted, perhaps in large part as the reduction in the housing qualification period has been substantially achieved already and well trialled. Three respondents, however, did feel strongly that this qualifying period should not be dropped further whilst local house prices remain high and prohibitive to young locals wishing to purchase. Conversely, 3 respondents, including the Community Relations Trust, would reduce it still further, two with a view to there ultimately being equal access to housing for all with no qualifying period, and instead that employment controls should manage migration alone. The Community Relations Trust in particular called for greater research as to the impact of housing qualifications and the ability to reduce them.

Specific questions on proposals B and C above were posed in the JEP questionnaire that was published on Tuesday 18th August 2009 and also on the Population Office website. There was almost unanimous support for both proposals from those respondents who referred to them, with 5 of the organisations who responded also explicitly supporting both proposals. In addition, of the 12 JEP respondents, 11 agreed with proposal B and all 12 with proposal C. Several respondents gave their support on the basis that the proposals were fairer to those individuals who have lived and worked in the Island for a considerable time and contribute by paying rent and social security contributions.

However, 2 respondents felt that the requirement to complete a continuous period of 25 years’ residence should be changed to an aggregate period, whilst 2 others felt that the period should be set lower, perhaps at 15 years’ continuous residence. Indeed, there was a general sense that respondents felt that non-Jersey-born people should be given better rights. However, a view was also expressed that giving more people their qualifications would increase the number of people with housing rights, and clearly, some respondents were concerned in a general sense about house prices and immigration.

The Part 2 paper also referred to the decision to retain the requirement for an individual to be able to demonstrate 5 years’ continuous residence in the Island before

being granted “Entitled to Work” status. There had been a proposal to make this requirement 10 years to be the same as that proposed for housing qualifications, but this proposal was not progressed by MAG. Although comment was not sought on this specific point, 5 business organisations did give their strong support for the retention of the 5 year rule, commenting that it was essential that the period should not be raised to 10 years. One individual questioned whether even the 5 year period was right.

A number of respondents also raised the rights to work and jointly purchase property of partners of Licensed and Entitled persons, with the Community Relations Trust proposing automatic entitlement to work for established co-habiting partners and the Law Society suggested various scenarios where a favourable treatment may be given, including home working and those working less than 8 hours per week. Indeed, this focus on unmarried partners was a consistent theme from “Human Resources” focused responses, both on the grounds of equity, but also in terms of attracting highly skilled employees to Jersey, including partners of Entitled persons returning to Jersey.

Reference was also made to the fact that work secondments and time spent off-Island for medical reasons should not interrupt residence periods. Three respondents suggested that aggregate periods of residence should be allowed for when accounting for a non-Jersey-born person’s period of residence to qualify.

Finally, a question was asked as to when the new Law would come into effect and how it would affect the position of those who were either not on the Island at the time or who had lost their qualifications under the current Housing Law.

Examples of comments received and MAG’s responses are given below:

(i) – (v) Reduction to 10 years’ continuous residence for non-Jersey-born persons to become ‘Entitled for Housing’

(i) *“The reduction of the size of sector without full civil rights is a step in the right direction but the long term objective must be to control immigration to an extent that only those who we can afford to offer fair treatment to from day one are allowed to settle.”*

Concern

(ii) *Always unfair that if an individual had to pay non-qualifications rents for a long period in order to qualify they could lose their qualification after an absence of just five years. Reducing qualification period to 10 years and extending the absence period to 10 years evens things out although still unfair.*

Individual

(iii) *Retention of qualifications will increase number of those with housing rights.*

Individual

(iv) *“If a requirement for continuous service is maintained it is essential that adequate provision is put in place to protect women who leave the Island due to pregnancy or maternity. As an absolute minimum an absence of up to 9 months should not be treated as a break in continuity although it would be preferable if the time off Island counts towards the period of residence. This point applies wherever there is a requirement for continuous residence.”*

Community Relations Trust

(v) *“The right to jointly purchase the matrimonial home should extend to co-habiting couples based on a minimum of 3 years co-habitation. This would protect co-habitants who do not have qualifications but who are contributing to the purchase price of a property”.*

Community Relations Trust

(vi) – (vii) Up to 10 years away in no more than 2 breaks away

(vi) *“Such a proposal will provide greater flexibility to the proposed “Entitled” category of worker, giving them the opportunity to develop and broaden their skills in other jurisdictions but with the ability to return to the Island to a similar standard of housing, whilst the introduction of these new skills can only serve to strengthen and improve the local finance industry thereby helping it to remain competitive in the global marketplace”.*

Jersey Finance

(vii) The Trust welcomed the increase to 2 breaks of up to a total of 10 years but stated: *“ In addition, there should be no restriction on the number of breaks that can be taken as long as the total absence does not exceed 10 years”.*

Community Relations Trust

(viii) – (x) Permanent entitlement after 25 years’ continuous residence

(vii) *“In addition, 25 years’ continuous residence entitling such persons to retain housing rights for life seems unduly lengthy. 15 years would seem more equitable in that regard.”*

Law Society Working Party

(ix) *“Non-Jersey-born people should become permanently entitled if they have an aggregate of 25 years’ residence rather than a continuous period”.*

Community Relations Trust

(x) *“ I think the proposal to give non-Jersey residents permanent status after 25 years is excellent and well earned but I feel it should be a total of 25 years not a continuous residence”.*

Individual

(xi) – (xiv) 5 years’ residence before gaining Entitled to Work status

(xi) *“I have serious reservations about the 5 years’ continuous residence before a person can access any job or start their own business.in the interest of these employees achieving their full potential, including access to training opportunities, I believe the ethics of this provision need to be examined.”*

Individual

(xii) *“... JHA is supportive of a five year qualifying period for “entitlement to work” being maintained it should be noted that the recruitment of experienced five year people has been a difficult process for businesses in the hospitality sector. This process becomes more difficult when a business is allocated disproportionate rations of local and non local as part of their license agreement with RUDL. The operation of those businesses is thus hampered and restricted the allocation of better balanced ratios between local and non-local would assist businesses by enabling the employment of a greater pool of non-local employees”.*

Jersey Hospitality Association

(xiii) *“The co-habiting partner of a person Entitled for work or housing should be automatically Entitled for work, subject to a minimum period of co-habitation that should be no longer than 3 years”.*

Community Relations Trust

(xiv) *40% of local business are now co-located in both Jersey and Guernsey...consideration to a special category to facilitate ease of transfer of labour between the Islands.”*

Institute of Directors

MAG responses to the issues raised:

(i) – (v) Reduction to 10 years’ continuous residence for non-Jersey-born persons to become ‘Entitled for Housing’

The concerns over the Entitlement period remaining lengthy are understood. However, it is considered that potential demand for housing in Jersey exceeds supply – notwithstanding affordability issues – and therefore that the ability to purchase or lease must continue to be strictly managed. The Island’s economy requires workers, some 8,500 in total, who do not presently have housing qualifications, and to grant these persons immediate access to the local housing market is not considered appropriate in light of the affordability and demand issues which surround housing.

The 10 years’ continuous residence period is a reflection of a fair reward for the contribution most individuals make over that period, and is considered more appropriate than the 20 years’ qualification period in place until recently.

However, to allow everybody who came to the Island full residential rights from the day of arrival would place too much pressure on the housing market and resources of the Island, at least at the present time. The new proposals however, will give Registered persons greater opportunity to rent, including security of tenure, and a lower period during which to wait for Entitlement. These are considered important advances.

Current policy results in a sympathetic view being shown towards individuals who need to leave the Island for medical or personal reasons, and this includes women who need to leave the Island for medical care during pregnancy or at the time of a child’s birth. This policy will continue. If a child of Entitled residents is born off-Island for medical or other relevant reasons, the child will be granted full Jersey-born status. Similarly, there is provision under the current Housing Law to grant qualified housing status to individuals on the grounds of hardship in situations where attainment of qualified status has been nearly reached, but where for reasons of marriage and relationship breakdown the spouse or partner must leave the family home, or in some cases involving non-financial hardship, usually some compelling medical circumstance. This discretionary “hardship” policy will carry forward into the new Migration Law and remain under review.

In addition, some discretion also exists to enable secondments out of the Island to take place without those secondees having to start accruing residence again when they return to the Island. In particular, upon application to the Minister for Housing, consideration is given to secondees being able to “bank” their previous residence for a secondment of up to 2 years, so long as application is submitted and agreed before

departure and the individual returns to the same employer. In this way, years of residence already completed are not lost, and the Island is able to receive the benefits of skills gained elsewhere. **It is intended to carry this secondment policy forward.**

A fundamental issue is the ownership of property. At present a non-qualified spouse can jointly purchase property with a qualified partner and this will continue to be the case. It is not considered appropriate however, that the right to ownership of freehold property be granted to persons not Entitled either in their own right, or through marriage. The ownership of property in Jersey under the Migration Law is a matter of *individual* entitlement or licence, or some other clear legal arrangement, i.e. marriage, or civil partnership once legally established in Jersey. The consequence of adopting an alternative approach based on an assessment of long-standing relationships is too subjective, and bears too great a risk in terms of being open to abuse.

(vi) – (vii) Up to 10 years away in no more than 2 breaks away

Increasing the ability to be away from the Island in 2 breaks of up to 10 years before losing residential qualifications that have been gained is deemed fairer, and it is not considered that more people will necessarily return to the Island as a result of this proposal. It is also true that if an individual is able to retain his or her Entitlement for longer, they may well leave the Island for longer, and be more inclined not return.

This extended period of absence proposal already offers a considerable benefit to those seeking to gain and retain their qualifications, and it is necessary to view the proposal in the context of the other concessions being proposed. Ultimately, there would be a practical difficulty in administering multiple breaks during the 10 year period, and the ability to leave the Island is designed to offer protection and opportunity to more or less settled Jersey residents, it is not designed to facilitate the frequent movement of individuals between the Island and other homes.

The Law will be drafted in such a way that in future years these proposals could be amended, so allowing multiple breaks as suggested, if felt appropriate. Notwithstanding this, the Minister will retain discretion under the new Law to consider individual cases on their own merit and respond to circumstances.

(viii) – (x) Permanent entitlement after 25 years' continuous residence

It is recommended that the current differentiations between aggregate and continuous residence periods be maintained. The purpose of the Migration policy is to manage immigration whilst trying to be as fair as possible to residents already living and contributing to Island life. The proposal to grant permanent residential status to anyone who has been continuously resident in the Island for 25 years is considered to offer due recognition to many members of the community. However, it is felt that to make the period aggregate would potentially grant residency rights to a substantially larger number of people, and as importantly, increase the level of uncertainty as to how many people are able to claim Entitled status. Equally, it is understood that 25 years is a long time to wait to gain permanent Entitlement, but again, it seems prudent to be adopt a high bar, 25 years, which is capable of being reduced. In addition, the new benefits need to be considered as a whole, recognising that the new proposals also reduce the entitlement period to 10 years, and immediately thereafter increase the ability to retain entitlement through being able to be away for 10 years.

Finally, the Minister will retain discretion to consider each case on its merits, including examples of hardship.

Ultimately, it is deemed important for a Jersey-born person, who will usually have local connections through parentage and as a result of growing up in the Island, to have extra protections to enable them to retain their Entitled status. Equally, non-Jersey-born persons of Entitled parents can return to Jersey before 20 and still get the full rights of being Jersey-born, and non-Jersey-born persons who arrived before the age of 16 will get additional protections as well. (See Appendix B – Entitlement chart from Consultation Paper, Part 2.)

(xi) – (xiv) 5 years’ residence before gaining Entitled to Work status

As stated above, so long as immigration control is required, the most effective means is considered to be the management of access to work. In consultation, there was general acceptance of the 5 year period for qualifying for local employment. At the same time, many in the business community, especially small businesses, would prefer to have no restrictions at all.

Recruitment difficulties faced by the Hospitality sector in recruiting 5 year experienced people is noted; indeed, many other sectors have similar difficulties. However, these issues are taken into account when awarding licences for staff. The statistics show that 51% of hospitality sector staff have less than 5 years’ residence, recognising the sector’s need to import staff. A similar high proportion of staff with less than 5 years’ residence is evident in agriculture (45%) and wholesale and retail (13%). This recognition will continue under the new controls.

Overall, in the view of the Migration Advisory Group, the key to successful controls is to make them fair, consistent and not overly onerous, with applications being dealt with efficiently and speedily. The Group considers the present controls substantially achieve these goals and that the new controls will improve the current position further.

The IoD suggested that a new category of “Channel Island resident” might be established to facilitate movement of staff for companies with bases in Jersey and Guernsey. MAG suggests that the proposal to create a status of “Channel Island resident” be considered as part of ongoing inter-Island discussions with Guernsey. The Migration Law will be drafted in such a way that it will be possible to introduce new classes of residential status at any time.

The **Migration Law will not be retrospective**. Its provisions will apply to anyone resident in the Island and also those out of the Island who have not lost their qualifications under the present Housing Law at the time the new Law comes into effect.

For example, a non-Jersey-born individual who, having gained their residency qualifications under the current Law, who has been away for more than 5 years at the time the new Law is implemented, will not be able to use the new provisions in the Migration Law to qualify. Notwithstanding this, the hardship appeal provisions will continue to exist.

(iii) Registration Cards [*Managing Migration: New Mechanisms – Part 1*]⁵

As stated above, this issue was addressed during the Part 1 Consultation, but an opportunity for further comment was provided during this period of consultation. A total of 24 respondents, including the JEP respondents referred to below, made reference to the Registration Card; and there was general support for its introduction as a proof of residency which would confirm registration for Social Security purposes and also facilitate access to housing and employment. Several respondents stated their belief that its use would cut down on bureaucracy and administration for both individuals and businesses.

Only one specific objection to its introduction was received.

Two specific questions were posed in the JEP questionnaire and also on the Population Office website:

- (i) *What do people feel about the proposals to issue a registration card that will have dual function of a social security card and a card to access employment and housing?*
- (ii) *What do people think of the proposal that in future you need only show your card along with photographic ID to access/purchase housing and work?*

All 12 of the JEP respondents favoured the use of a dual-purpose card and 10 agreed with the proposal that the card should be used in conjunction with photographic ID to access housing or employment. One did not answer the second question, but the other felt that accessing work and property were important issues for which the use of the card with separate photographic ID did not provide sufficient security. Another felt strongly that the card should carry a photograph.

A number of specific queries were raised by other respondents about administrative issues relating to the card, for example –

- Who should retain it, the individual or the employer, and how would the transition period be managed by employers?
- Who would pay for the cards?
- Would retired individuals need a card?
- Could those with a criminal record be refused registration?
- Would work permit dates be included on the card?

Particular concern was raised by one individual respondent, and also by the Law Society Working Group and the Chamber of Commerce as to whether the Registration Card would be adequate to prove an individual's status for the purposes of leasing or purchasing property.

⁵ Consultation on the Names and Address Register and the issue of registration cards took place in December – February 2007–8.

Examples of comments received and MAG's responses are given below:

Dual function of the card and its use to access employment and housing with photographic ID

(i) *“Whilst not advocating the concept of ID/registration cards, there is appreciation for the advantages of such a system in a small jurisdiction such as Jersey with a high level of inward migration. ... In general we welcome such proposals which will seek to create a more easily understandable and simplified system from both the perspective of the individual and businesses alike”.*

Jersey Finance

(ii) *“This makes complete sense and seems a natural progression to ease administration / paperwork for all parties”*

Individual

(iii) *“This is a practical and economical proposal – excellent.”*

Individual

(iv) *“Not having to go through the rigmarole of having to prove how long you have been here to get housing consent can only be a bonus”.*

Individual

(v) *“If photographic ID is also going to be required to access anything it should be included on the card”*

Individual

(vi) *“The proposal that Registration Cards should be held by the individual and not the employer...is welcomed as this will help to reduce the administrative burden placed on the employer”.*

Jersey Finance

Administrative Queries

(vii) *“We have concerns that seasonal staff may be required to return their cards when they leave the Island even if they are only going to be absent for about three months and are intending to return the following season. The re-registration process will be cumbersome, both for government and the individuals concerned”.*

Seymour Hotel Group

(viii) *“The Consultation paper does not appear to specifically state whether the individuals should retain the Registration cards on their person at all times ...what policies and procedures will be implemented to deal with circumstances whereby individuals have lost or mislaid their registration cards?”*

Jersey Finance

(ix) *“Who will cover the cost of the cards?”*

Jersey Finance

(x) *“Reference is made here to a tenant being required to produce his card to his landlord when a lease is entered into. When it comes to drafting the law, we assume that this will be wider to cover other forms of occupation e.g. licences”*

Law Society Working Party

(xi) *“We also wonder if the requirement for all new employees to register at the Social Security Department will present an opportunity to be selective about the type of immigrant ... i.e. a licence would not be issued to a new arrival that has a criminal record.”*

Concern

(xii) *“Will retired individuals who do not seek work or housing need to register for a card?”*

Individual

(xiii) *“We would suggest that whether or not a work permit exists in respect of a particular individual should be included on the registration card. The expiry date of the work permit would also be needed on the card.”*

Law Society Working Party

Purchasing property

(xiv) *“We are concerned by ... these proposals and, in particular the additional legal obligation placed on legal advisers acting for buyers and sellers of property, to prove residential status. What happens if the individual lies about their qualification status to the lawyer?”*

Law Society Working Party

(xv) *“There cannot be a situation where title can be challenged if an applicant provided false information to obtain their qualifications and the Population Office should be the public authority which checks the status and provides a consent that lawyers can rely upon and gives the transaction certainty if it is issued. The penalty for invalidity of the registration card must be a substantial fine imposed on the purchaser.”*

Law Society Working Party

(xvi) *“Should purchases be identified which have taken place contrary to the Law a prosecution may then take place. But what happens with regard to the transaction? Is the purchase declared null and void or overturned?”*

Chamber of Commerce

(xvii) *“What obligations are placed on the lawyer in such cases where there is no card to produce?” (e.g. company purchasing property)*

Chamber of Commerce

(xviii) *“What’s to stop a Registered person from buying and therefore owning a share transfer flat but not being able to occupy it?”*

Chamber of Commerce

MAG responses to the issues raised

Dual-function and use of card

(i) to (vi)

The general support for the introduction of a Registration card is noted.

Support to include a photograph in the Part 1 and 2 consultations and in the JASS Survey shows that many people would find a photograph acceptable, indeed 86% of JASS respondents were in favour. However, there remains some strong opposition from a number of residents who do not wish to see the cards used as identity cards.

MAG would point out that adding a photograph to a card adds some very real value to it, especially if it then gets used by default or design for accessing a range of other services. In effect at this stage, the card becomes an identity card which causes concern because:

1. The mandate of the approved migration policy was clear – “to manage migration”, specifically the ability to access to housing and work. The Migration Policy is not a policy to introduce an identity card, and should it be so, the public consultation would be significantly different and the legal framework would need further consideration.
2. As soon as the card has value there is a much greater fraud risk. However, under the current proposals these fraud risks are greatly reduced by the requirement to use the card in conjunction with a Passport.

Ultimately, it is adequate for the purposes of implementing the Migration policy and to manage access to housing and work to use a passport alongside the card, with 90% of people having a passport (and likely a higher proportion for those who are economically active). Options are also being developed for those who do not have a valid passport and some special procedures will be adopted.

Given these circumstances, it is questionable whether introducing a new fraud risk by adding a photograph to the cards is appropriate or reasonable given the policy is designed to manage migration, not introduce an identity card and an existing authoritative proof of identification already exists in the form of a passport.

Notwithstanding this, there will be provision in the Migration Law for the States to agree at a later date to introduce photographs on the cards, and as part of this process the public and the States would be informed of the advantages and disadvantages of having a photograph on the card.

Finally, MAG themselves see merit in having a photograph on the card, not least so a person does not have to use their passport, but are also mindful of all the above issues. As a result, MAG do not view a photograph on the card as necessary for the Migration Policy to operate effectively, while remaining keen to engage on the issues.

Administrative Queries

(vii) An option is being considered to allow seasonal workers to hand their cards to their employers, who would simply notify the Population Office that the worker had left; and again when the worker came back without the need for the card to be handed in. This proposal would help track leavers and reduce the need to re-issue cards.

(viii) The obligation to register will depend on the length of time an individual has resided in the Island, not the nature of the accommodation. A person will need to register within 2 days of starting work or 3 months of arriving on the Island, irrespective of where they are living.

(ix) – (x) Cards need only be used by an individual when needed for accessing housing or employment. It will be up to the individual whether they wish to keep their card on their person all of the time, or at their home or elsewhere. It is, however, suggested that individuals keep their cards secure. The legal provisions to deal with lost or stolen cards and re-issue have already been drafted, including fees and proof of identity. Procedures will also be drafted to avoid the issue of duplicate cards. At the same time, a card without the support of a passport should have little, if any, value.

It is intended that Government will cover the cost of the issue of registration cards. Indications are that production costs will be minimal, as the cards are basic plastic with limited security features needed. However there is a provision in the Law for the Minister to levy a charge for the issue of replacement cards.

The Law will require cards to be shown to access all types of accommodation offered for reward with the exception of tourism registered properties.

(xi) It is not constitutionally possible to bar entry into the Island and right of abode to those individuals who are travelling within the Common Travel area, established as part of the European Union, the rules of which apply to Jersey. Not least, it is not possible to stop British Nationals entering and living in a part of the British Isles, which Jersey is.

(xii) The draft Migration Law does make provision for the Minister to require all residents to have acquired a card by a certain date. However, initially the intention is that only new migrants or those changing job or moving to new accommodation will be required to register for a card, as they will need one to do either. Others residents will have their names recorded on the Register as a result of their being on the Social Security and other systems, e.g. pensioners, employees, or those in receipt of benefit. However, there is little need for such persons to attend and be issued with a card which they will not need.

(xiii) Including work permit expiry dates on registration cards is a matter that is being considered. There are very good reasons why this proposal may well be accepted.

Purchasing property

(xiv) – (xviii) The burden will be on the Population Office to issue the Registration Card, having carried out diligent checks. Instead of relying on a consent issued by the Population Office, lawyers will be expected to place reliance on the card. Lawyers and mortgage lenders are already familiar with the need to do strict ‘Know Your Client’ procedures, and so the proposed new processes are not considered overly burdensome. Having evidenced the card, and performed ‘Know Your Client’ procedures, which will normally include the need to see a passport, lawyers will have satisfied the requirements of the Law.

In order for this system to work, a lawyer, or landlord, or employer, must be able to place reliance on the fact that the residential status *denoted on a card* reflects a person’s *actual* residential status.

This is an issue because while Jersey-born persons retain their status for life, persons who are not Jersey-born will still be able to lose their Entitlement through being outside the Island for longer than 10 years, or by having more than 2 breaks in their residence. While it is uncommon for a person to complete 10 years’ continuous residence, and then have more than 2 breaks in residence within the next 10 years, it does occur, and therefore conceivably a person may have lost their Entitled status, yet still hold and seek to use, in error, an Entitled Card.

To solve this, the MAG are proposing that **cards for non-Jersey-born persons who are Entitled will be issued for 5 years**, during which time the holder of the card is Entitled to obtain new work or housing whatsoever their pattern of residence during that 5 year period.

When that person seeks a new card – which will be because their previous card has expired *and* because they need a valid card to obtain a new job or housing⁶ – their period of residence would be updated. A new card then may or may not be issued depending on their pattern of residence during the 5 years, i.e. in a minority of cases a person may have had more than 2 breaks in residence or been away more than 10 years and will not be entitled to a new Entitled card.

This is a similar system to that presently operated under the Housing Law, whereby a non-Jersey-born person’s residence is “updated” when they apply for consent to purchase or lease property if they have not had their qualified status updated in the last 3 years. The increase in the period from 3 to 5 years will aid administration, but is also reflective of the more generous break provisions under the new Law (under the Housing Law, qualifications were lost by having a break of more than 5 years, or more than one break).

The alternative to this solution is to introduce checks as to a person’s residential status each and every time they seek new work or housing, or to be more generous with the break rules, e.g. to remove the 2 break limit. Respectively for the sake of cost and of prudence, neither of these solutions appeared desirable. In addition, and over-ridingly, MAG wished to maintain the authority and integrity of the Registration Card by insisting that the denoted residential status must reflect a person’s actual status.

⁶ For example, a person will not need to get a new card every 5 years, only when they need one to get a new job or house.

As to the ability for the Court to void property transactions, this currently exists under the Housing Law if a purchase is fraudulently entered into. The use of forged documents by an individual is a matter that would be taken up with the person who presented those documents, and that legal process could include voiding the purchase transaction should the Court decide to exercise its power. However, further consideration will be given to this issue with the Law Society, the Law Draftsman and the Court, and the implications of voiding a transaction are well understood.

(xvii) It is recognised that the rules governing purchase of property by individuals and companies will need to be different, as companies will not possess cards. This is a matter being addressed by the Law Draftsman, but it is expected that companies will continue to need to make specific advance application to purchase property, and permission will be granted if satisfied that the application is in the best interests of the community. This is very similar to the current process where there is a presumption against company ownership of residential property, in particular free-standing property, in order to minimise the risk of shares in companies owning residential property being bought by non-residents.

(xviii) The situation regarding occupation of share transfer properties will be dealt as it is now, i.e. consent to purchase shares is not required, but permission to occupy is required. However, systems will be improved in future by using the new Names and Address Register. This will enable more automatic compliance checking to take place. For example, it will be possible to review listings of apparent vacant properties and this may highlight premises which in reality are being illegally occupied.

(iv) Business Licensing: Licences [Part 2 paper, pp. 15–19]

The Small Business Forum, members of the Small Business Group of the Chamber of Commerce, and the Chamber of Commerce itself all raised general concerns about the impact of the RUD controls on small business. All recognise the need to manage population numbers but would wish to see employers with more freedom to employ who they want. They feel that employers do their best to abide by the RUD rules but that they are disadvantaged by so doing.

A number of queries were raised about the way in which business licences would be awarded in future. There was a perception that small businesses are treated unfairly by the current licensing system. Clarification was sought as to the future status of those individuals who have not been resident for 5 years and who do not hold “(j)” category status. A number of suggestions were made that published guidance regarding the application of the new Law should be provided by the Population Office, particularly with reference to the specific criteria for acceptance or rejection of an application. Finally, a number of queries were raised with regards the business review process.

Examples of comments received and MAG’s responses are given below:**(i) – (iv) General Comments:**

(i) *“Workloads for a number of businesses are not constant, particularly in the tourism/hospitality and construction sectors. Businesses tender and market their goods and services all the time and when contracts are won or there is an upsurge in customer numbers it would be good to have an area of flexibility. Consider introducing a period of grace where a business could exceed its licence agreement to enable them to complete a contract, or overcome a peak period.”*

Small Business Forum

(ii) *“Will a business that does not employ staff need a licence? If the purpose of business licences is solely to manage new migration then presumably it is only businesses which employ staff which need a licence. This of course is different to the current law which requires undertakings to hold a licence even if no staff are employed.”*

Law Society Working Group

(iii) *“... businesses should not have to apply for additional staff. It is essential that businesses should be able to employ the right person for the job regardless of their “qualified” status. In future all persons Entitled for work or **willing to work** i.e. Registered persons (i.e. a person registered under the Migration policy) will be on the List of Names maintained by the States. ... Chamber suggests that a business should be allowed to advertise for a new or replacement member of staff without restriction. If after interviews, the successful candidate is Entitled for Work then nothing further would need to be done. If the appropriate candidate is registered then the onus should be on that person to get a “permit or green card” to enable him or her to take up the post”.*

Chamber of Commerce

(iv) *“Employing people because they have been here for 5 years+ as opposed to their productivity is bad for competitiveness.”*

Small Business Forum

(v) – (viii) Licensing issues:

(v) *“We support the proposals as a whole ... but we do have a reservation as to the overall effect of these proposals in trades and semi-skilled industries. Could they result in a lack of workers available in skilled / semi-skilled sections of industry?”*

Law Society Working Group

(vi) *“Different sectors have different rules. This may seem fair when one looks at the socio-economic contributions made by these businesses however it seems grossly unfair when applications are rejected from other sectors.”*

Small Business Forum

(vii) *“Every business should have confidence that the Population Office can respond to their specific needs, be treated equally and with the same speed in turning around applications, queries etc.”*

Jersey Hospitality Association

(viii) *“New Mechanism to apply equally to the States of Jersey to manage their staff within their licence conditions – good.”*

Individual

(ix) – (xii) Business Licensing Criteria

(ix) *“Good that employment and training opportunities offered to those in the Entitled category and also a business’ tax liability and that of its employees will be taken into account when assessing business licence applications”.*

Jersey Finance

(x) *“Proposals mean that under 0/10 taxation, non Jersey Resident shareholders of Jersey businesses will not be taxed, therefore do we presume that licences will be harder to gain if the Company Shareholders don’t pay tax in Jersey?”*

Individual

(xi) *It should “be harder for businesses not paying tax in Jersey to get a licence”.*

Chamber of Commerce

(xii) *“A business’ financial status is not relevant in determining its ability to trade within the law. These are matters of commercial confidentiality that should not be exposed to general review and it is onerous and unnecessary to have to prepare a business plan. Many small businesses operate on limited, but adequate, financial information that is prepared to their own management needs. To require small companies to prepare financial statements adds no benefit ... And for many businesses ... It would represent a significant expense ... A “method statement should suffice”.*

Jersey Hospitality Association

(xiii) – (xiv) Business Licensing reviews

(xiii) “...whether changes to the current agreement which enables the issuing of a three year Licence with yearly reviews to a business (could be changed) to something for a longer period and more acceptable to business”.

Jersey Hospitality Association

(xiv) Will numbers on staff licences carry over when law is introduced?

Individual

MAG responses to the issues raised(i) – (iv) General Comments

A general policy document is available which explains the application of the current RUD legislation. This information will be updated when the new Migration Law comes into effect and will outline the types of factors the Minister takes into account when making a decision. However, each case is considered on its own merits. This will approach will continue as it enables the system to be flexible and to respond to a variety of circumstances.

There is already flexibility within staffing licences that allow staff numbers to drop and then increase back up again – so long as they remain within the overall agreed quota on the staffing licence – without further reference back to the Population Office. Should more staff be needed above the licensed position, application can be made. It is possible to ask for extensions to a licence, for example, for seasonal or temporary staff allocations, or specific contract licences for specific purposes. This approach will continue.

The Migration Law will continue to require anyone commencing a business, trade or profession, to obtain a licence. Conditions are placed upon licences to protect the integrity and reputation of the Island, and activities which may not need any direct staff may nevertheless need a licence, for example, a UK company seeking to use Jersey as a base for the dispatch and return of its products, or simply using a Jersey PO Box for ‘medicinal’ products.

Provisions around integrity and reputation in the existing Law are used sparingly, as generally it is not the role of the licensing system to be an arbiter of taste, but rather to protect the Island in clear cases of potential harm.

The nature of business has changed considerably since the RUD Law was introduced in 1973. It has long been recognised that greater clarity needs to be given in law as to what comprises an “undertaking” for the purposes of business licensing controls. The definition of an undertaking to be provided in the Migration Law is intended to be both wide *and* clear and will capture all business and trades, unless they fall under explicit exemptions, e.g. certain financial vehicles including investment vehicles and their functionaries under the purview of the Jersey Financial Services Commission rather than the Migration Law. **In this way, in the vast majority of cases the existence of staff will be the main indicator of the fact that a licence is needed**, but the Law will nonetheless seek to capture other activities undertaken in Jersey. This

will mean that quality control around integrity and reputation can be applied not just to undertakings with staff but other activities that have the potential to damage the Island. This clarification in definitions and exemptions will also aid efficiency by reducing uncertainty for government and businesses.

It is suggested that the “green card” proposal submitted by the Chamber of Commerce would result in a significant administrative burden for the Population Office in confirming the suitability of individuals for roles, and that it would not be effective from a business perspective if, once interviewed and appointed, an individual was then refused permission from the Population Office. Alternatively, if the Population Office do not effectively veto some applications, then the process is merely a rubber stamp of a business’ decision, i.e. access to employment would be wholly open.

However, in response to points (ii) and (iii) above, **MAG is proposing a “half-way house” solution whereby businesses will not be required to apply to the Population Office for a licence to employ Entitled staff.** This should reduce the administrative burden on both business and the Population Office. As applications for locally qualified persons to be employed are now, and have long been, approved as a fair and proportionate approach by government, no longer requiring application is not expected to have any material impact, but is helpful administratively, and in focusing the controls on immigration.

When issuing business licences, there is a need to balance business needs against the political remit to control population. If there was no control on the numbers of migrants allowed, local jobs would suffer and more immigration would occur. However, there are 8,500 people with less than 5 years working in Jersey, 17% of the workforce, so clearly a readiness exists to grant permissions where a business case is made. Certainly, in the long run, it is believed that competition is good for the Island and that businesses must be competitive locally and internationally.

(v) – (viii) Licensing issues

There is no reason why there should be an impact on trades and semi-skilled industries as a result of the Migration policy being introduced. The Population Office grants licences for non-locals to be engaged in roles where firms demonstrate that they have made efforts to seek suitable locally qualified individuals, but have been unsuccessful in so doing. It is appreciated that shortages of skills exist in specific areas, and this tends to be recognised by the granting of a permission. This is expected to continue, but will remain a matter for Ministers and States policy.

It is recognised that tourism and agriculture in particular have greater difficulty in recruiting locally qualified staff, and this is reflected in the licences for these businesses where the average non-locally qualified staffing is respectively 51% and 45%. Within these sectors however, businesses are treated on a level playing field with reference to these industry averages, while also appreciating that specific circumstances can apply. It is also recognised that continued and increased emphasis needs to be placed on supporting smaller enterprises and entrepreneurial activity.

Finally, and importantly, it is recognised that licensing decisions must be quick and fully explained if the Law is to command respect and not be more of a barrier to enterprise than it need be. The target processing time for a RUD and “(j)” application

is currently 15 working days – and quicker if required – and performance tends to be better than this. These targets will be maintained, and improved if possible.

(ix) – (xii) Business Licensing Criteria

The current published RUD business licensing criteria already notes tax liability as a factor that will be taken into consideration when awarding a business licence, and clearly, the larger the tax liability, the stronger the business case in terms of benefit to Jersey. This may well mean that the contribution of local business is relevant. At the same time, it is not the function of this new Law to compensate for a 0/10 regime.

The current Law requires information on the benefits of the business to the Island to be produced when an application is made. This usually involves some financial projections being produced and this need will continue. However, small businesses are treated more sympathetically and a full business plan is often not needed, rather, more basic financial details are often sufficient, depending on the case.

(xiii) – (xiv) Business Licence reviews

Staff numbers shown on a staffing licence will carry over to the new style Business Licences, but the numbers will be subject to review when the licence is next subject to its 3 year review.

MAG deem it important to continue with 3 yearly reviews for those businesses who employ Registered or Licensed personnel, as it is only by reviewing the licences that a full appreciation of the businesses' requirements can be undertaken and staff numbers monitored in accordance with the remit of the Migration policy to manage immigration. However, as a result of this comment, it is proposed that the requirement for 3 year reviews of staffing licences will not apply where businesses employ only Entitled staff.

(v) Business Licensing: Licensed Personnel [Part 2 paper, pp. 17–19]**(i) General observations**

Respondents showed support for the new proposals relating to Licensed personnel, especially the greater flexibility that the new system should allow to employers when managing their Licensed personnel quota. However, clarification was sought as to what constituted a “(j)” category under the new proposals, and a number of queries were raised as to the status of such employees when the new system is introduced, especially with regard to their property status. Concern was also expressed that in the current economic climate some additional flexibility on the number of Licensed personnel should be allowed. It was also suggested that Licensed status should be afforded to part-time workers.

Examples of comments received and MAG’s responses are given below:

General comments:

(i) *“The JHA supports: The improved flexibility in how a business receives and uses Licensed posts i.e. to use the licence for any similar or comparable position, which will enable the employer to grant an employee immediate access to housing without having to make new application.”*

Jersey Hospitality Association

(ii) *“A welcome proposal (greater flexibility for employers to allocate Licensed posts). However, it is still contended that the issue of Licensed posts is biased towards large businesses, in particular the finance industry. More flexibility needs to be afforded in granting Licensed posts to small businesses.”*

Chamber of Commerce

(iii) *“It is considered that the number of licences granted on renewal of the Business Licence should be based on an analysis of the long term needs of the business... The number of “j” licences can vary during the year and most firms will be operating with less than usual given the current market conditions”.*

Jersey Finance

(iv) *“...greater clarification [requested] in respect of the licensing criteria when seeking to have a licence granted for a Licensed employer.”*

Jersey Finance

Clarification sought on status

(v) *“Clarification sought as to the future status of those who currently hold jobs due to essential worker dispensations but who are not 5 year resident and are not “j” category. Do proposals extend number of “j” licences” or do they prevent those currently deemed essential workers but without “j” status from working in Jersey?”*

Individual

(vi) *A query was raised as to whether a current permission on a business licence for a non-qualified post would be classified as a Licensed post in future?*

Individual

(vii) *If a “j” has his licence used elsewhere in the organisation by his employer once the new law is implemented what will be his/her position?*

Individual

(viii) *“We assume that we will be able to continue to employ the same number of “Licensed” workers who will occupy the staff accommodation that they are occupying now. We would like reassurance that this is the case.”*

Jersey Farmers’ Union

(ix) *“The old requirement that a holder of a “j” category must work full-time should not be transferred to the new system as it discriminates against women. Employers should be free to employ as they see fit subject to the requirements of the draft Discrimination Law when it is brought into force.”*

Community Relations Trust

Property queries

(x) *“Will all Licensed employees be able to buy or lease property or will restrictions be placed upon some, for example, lease only? Also, what will happen to the lease/buy status of those currently on restricted “j” licences?”*

Jersey Finance

(xi) *“... what will happen with existing “j” category essential employees and their housing rights at the point of the new law coming into force? For example, if a business has 10 “j” category essential employees, 5 of which are time limited, what will the business have/be granted when the new law comes into force?”*

Law Society Working Party

(xii) *“What happens if the (Licensed) person breaches the undertaking?” (i.e. is no longer entitled to live in Qualified property.)*

Chamber of Commerce

(xiii) *“We would like clarification as to what is proposed to equalise the position between essential employees in the public and private sector as regards to the leasing of property.”*

Law Society Working Group

MAG responses to the issues raised

(i) – (iv) General Comments

(i) MAG notes the general support shown for the new proposals. Those representing small business do have some 1(1)(j) (or Licensed) employees, albeit mostly in smaller newer entrepreneurial or very specialist businesses. It is however recognised that the larger companies are more likely to recruit and import highly paid, highly skilled employees.

(ii) When the new Law is implemented, the intention is that a business will have the same number of Licensed and Registered posts as it presently has 1(1)(j) employees and non-locally qualified permissions. However, whether on renewal or subsequently, negotiations can be entered into with the Population Office as to a

business' current and projected needs, and in the normal way these changes will be considered by the Population Office and Migration Advisory Group.

(iii) Criteria guidelines are already published and they will be updated when the Migration Law comes in. These criteria are those which the Minister will have reference to when making a decision, and include things like the demand on resources, importance of the economy, the need to support local employment, etc.

(v) – (ix) Clarification sought on status

(v) Anyone living and working in the Island who is not either Entitled or Licensed will be classified as Registered, and will be eligible to continue working in Registered posts. Businesses will continue to have quotas for registered posts, some of which will be awarded on the basis that specific skills are needed, albeit they do not warrant being classified as Licensed posts. Numbers of Licensed “(j)” posts will not increase because of the Migration policy because housing remains in short supply in Jersey.

(vi) The term “Licensed” used in connection with a specialist post should not be confused with the Business licence. Current permissions for non-locally qualified posts (in future “Registered”) on business licences are not the same as “(j)” category permissions (in future “Licensed”) on a business licence. The distinction will remain in future.

(vii) The termination of a Licensed individual's contract by an employer or the removal of their Licensed status will be a matter to which the provisions of the Employment Law will apply, not the Migration Law.

(viii) The introduction of the Migration Law itself will not affect the numbers of staff granted on licences, which will remain the same. So far as the Migration policy is concerned such staff, if in staff accommodation or otherwise, will be able to stay there, i.e. the new policy will not effect or revoke any permissions already granted. However, when the business licence is next reviewed, the staff numbers may be subject to change.

(ix) It has been felt that to grant a “(j)” category housing privilege to someone who is only a part-time worker is as a rule overly-generous and not in keeping with the resource criteria referred to and the need to manage migration. Such individuals are able to purchase a property, thereby removing a piece of housing stock that would have been available for purchase by a qualified individual. Therefore, **while a business will be free to allocate its Licensed posts as it sees fit, including to persons working less than full-time, if they do so, any applications for more Licensed staff will be reviewed closely and with some circumspection, and with close attention to any use of Licensed capacity for persons working less than full-time, including critically assessing the business reasons.**

(x) – (xiii) Property queries

(x) – (xi) It is not intended that the status of Licensed personnel will alter under the new system. When the Migration Law is implemented, staffing licences will “roll-over” and both time limited and unlimited permissions, and lease-only permissions will continue as before on the new licence with the status of “(j)” category individuals remaining unchanged.

These time-limited or lease-only permissions are granted in situations where, for example, the business is a new start-up venture and where it is uncertain whether the business will succeed; where the appointment is for a specific short-term contract; where a local candidate is being trained up for the post; or for more junior posts or marginal cases. These circumstances will continue to justify lease-only and/or time-limited permissions, which will be reflected on the business licence by way of a separate quota.

At the same time, the majority of “(j)” permissions are neither time-limited or restricted to the ability to lease (in 2009, some 22% of “(j)” permissions have been lease-only; and some 46% have been time-limited).

“(j)” applications 2005 – 2008	<i>2009 (end Sep.)</i>	<i>2008</i>	<i>2007</i>	<i>2006</i>	<i>2005</i>
Approvals with time limit	125	192	198	288	316
Approvals without time limit	142	331	300	197	20
Total Approvals	267	523	498	485	336
Lease Only Approvals	60	46	0	0	0

Indeed, less time-limited permissions may be expected on the new licences, as, for example, work permit employees are often engaged in the large worldwide finance business effectively on a rolling basis. In this scenario, it is likely that some time-limited consents will be rolled over onto the new licence on a permanent basis reflecting the fact that the need for these employees is ongoing.

If a “(j)” category (or Licensed) individual loses their job, the position will remain as it is now inasmuch as the individual will lose their right to qualified housing and employment, and will need to sell their property and find Registered (Non-local) accommodation and employment. However, MAG is very aware of the importance of being proportionate, and maintaining Jersey’s reputation as a fair jurisdiction. When considering such cases therefore, they are usually open to considering extensions, on an individual basis, and in terms of evolving policy, to the requirement to vacate and sell a property, especially where children are involved and the loss of status is due to redundancy, i.e. not intentional on the part of the employee.

(xii) Any breach of the undertaking entered into by a “(j)” category individual when leasing or buying property will be an infraction of the Migration Law in the same way as it is an infraction of the Housing Law now, and there will be provision for enforcement action to be taken which would result in the revocation of the lease or purchase contract.

(xiii) **It is proposed to allow private sector licensed employees to lease in their own name once the Migration Law comes in.** This will mean public sector and private sector employees will be able to lease on the same basis, and some burden on employers will be removed.

(vi) Business Licensing: Exemptions [Part 2 paper, pp. 19–20]

It is proposed that the current exemptions applicable under the RUD legislation will be carried forward into the new Migration Law. These exemptions were referred to on pp.19–20 of the Part 2 paper. No adverse comments were received, but both the Law Society Working Group and the Chamber of Commerce suggested some further extensions, the Law Society with regard to spouses or partners working for Entitled persons, and the Chamber of Commerce with regard to the employment of temporary staff. The Law Society also suggested some further clarifications of legal definitions referred to in the exemption clauses, in particular in relation to financial vehicles.

As explained below, all the comments have been considered, and instructions with regard to the definition issues have been forwarded to the Law Draftsman. Also, MAG is proposing to **extend the exemption limit before a business need apply for a licence to employ a temporary member of staff in cases of staff turnover from 20 days to 30 days** as a result of the Chamber of Commerce’s comments. **This increased exemption to 30 days will also apply to visiting Directors and Consultants working in established undertakings.**

Examples of comments received and MAG’s responses are given below:

(i) *“A period of 20 days is too short, e.g. consider the scenario of advertising a post, short listing, interviewing, the incoming person’s notice period from previous employment, usually at least one month in office environments. This period should be extended”.*

Chamber of Commerce

(ii) No time limit is imposed when employers take on temporary staff to cover maternity, sickness, annual leave, etc. *“This is inconsistent with the previous exemption and a time limit should be specified”.*

Chamber of Commerce

(iii) *“It is hoped that an exemption could be considered for spouses or partners working for an Entitled person for less than 8 hours in any week, as well as an exemption for the Entitled person themselves”.*

Law Society Working Group

(iv) *“Thought should also be given to whether individuals working at home in Jersey for UK business should be caught or not by the proposed laws. We would hope consideration would be given to a carefully worded exemption if an individual comes to Jersey with their spouse or partner and is unable to work for a Jersey business until they have been resident for 5 years, they may need to supplement their income by continuing to work for the UK business (perhaps one that employed them before they moved to Jersey).*

Law Society Working Group

(v) *“If an individual lives in the UK and works in Jersey and vice versa, what is the position?”*

Individual

(vi) *“Investment vehicle proposed exemption”. Care will be needed in drafting this. Certain SPV partners and SPV trustees would not themselves be “investment vehicles”. Care would be needed to ensure that “administered” will include registered-only services. We would suggest that instead of using the terminology “investment vehicle” the term “body corporate” would be preferable.” This should ensure that financial vehicles which do not have any trading in Jersey will not be caught by the law ... which would be, we hope, the desired intention.”*

Law Society Working Group

MAG responses to the issues raised

(i) – (ii) Exemptions

Temporary worker in staff recruitment situations: MAG propose that the exemption period be extended to 30 days. In normal circumstances, an employer has some notice of a vacancy arising, and therefore this limited exemption is considered sufficient. A business is always free to request more time if needed, this is merely the automatic position.

Temporary staff cover for maternity, sickness, etc.: Following receipt of this proposal, consideration was given to introducing a time limit. However, it is not suggested, as periods of sickness can last days or several months (cancer treatment, heart treatment, etc.) and the current system is flexible and linked firmly to the specific illness or injury.

(iii) Spouses of Entitled persons will, in any event, be classified as Entitled to Work by virtue of their marital status, and therefore will also be exempt from the need to have a licence so long as they work less than 8 hours in a week. It is not proposed to introduce any further change to the policy applying to partners of Entitled persons working at the moment, as this system would be more readily open to abuse.

At the same time, it is appreciated that this is an issue of concern, not least because, for very understandable reasons, Entitled persons and Licensed employees looking to relocate to Jersey will want to have some confidence that their established partner can find work. Currently, where it can be demonstrated that a co-habiting relationship has existed for more than 3 years, a more sympathetic treatment is given to any application to employ the Registered partner or for the Registered Partner to start their own business. Further consideration of the issue is needed, but it is likely that this guidance will be formalised. This would not make such individuals exempt from needing a licence, or make them Entitled for Work in their own right, but it would **give a good degree of confidence that any application by the established partner of an Entitled or Licensed person would be considered favourably.**

It is intended that Civil Partnerships will be treated on the same basis as marriage when the Civil Partnerships Law is finalised, and in the meantime, the Civil Partners of Entitled and Licensed persons will be treated on a similar basis to established co-habiting partners, i.e. they can have give a degree of confidence that any application for the Registered Partner would be considered favourably in light of the Civil Partnership.

(iv) Home working for a UK company is a very viable way of making a living, with perhaps limited benefits to the local economy, and therefore it is proposed that home working be treated as no different from any other undertaking, which means the spouse of an Entitled person would need a licence to work more than 8 hours per week, and the partner would need a licence to work, with some expectation that the application would be considered favourably based on the length of co-habitation.

(v) There are current provisions in the RUD legislation that require all individuals engaged in the Island to obtain a licence before conducting any work in Jersey, unless a specific exemption applies, for example, in the case of very short-term incidental and specialist work for an existing local undertaking. This approach will remain, i.e. all activity will require a licence unless specific and limited exemptions apply. Anyone not working in Jersey does not need a licence, even if they live in Jersey.

(vi) The exemption suggestions and the definition proposals will be considered during the law drafting process, and further consultation, with finance representatives in particular around the treatment of financial vehicles, will take place.

(vii) Combined Manpower, Social Security and ITIS Returns
[Part 2 paper, p.20]

Full support was given by the Chamber of Commerce, Institute of Directors, Jersey Hospitality Association and Jersey Farmers' Union for the proposal that the current Manpower Return be combined with the existing Social Security and Income Tax Instalment System return for those businesses that submit their returns electronically. This new Combined Return will provide a full listing of employees, enabling compliance with licence conditions, in particular compliance with limits on Registered and Licensed Employees.

Respondents felt that the Combined Return would be simpler and easier and would be a positive step in reducing the administrative burden placed on businesses. It was also felt that the paperwork for both business and the States would be reduced. However, respondents did feel that exemptions should be permissible for those businesses for whom an electronic return would be impractical. In addition, it was hoped that assistance would be provided through the transition process. Jersey Finance also advised that consideration will need to be given to circumstances where parent companies are involved in the payroll process as they will need lead-in time to make any necessary amendments to payroll systems to facilitate the production of data required for the new combined returns.

MAG responses to the issues raised

It is intended that the Combined Returns will be submitted electronically. However, exemptions are being considered for those businesses for whom the making of electronic returns would be onerous. The Population Office will be working closely with businesses during the technological development phase of the Migration policy implementation, scheduled for mid-2010 – mid-2011, to ensure that transitional issues, including those relating to payroll systems, are addressed.

The Combined Return will also enable an employer to flag an employee as having left the Island, in the same way as the present Social Security Return, thus helping in maintaining an up-to-date Register of Names and Addresses.

(viii) Charges for Licensed personnel [Part 2 paper, p.21]

This issue raised considerable comment from business respondents. There was a view that such charges might be acceptable so long as they were not imposed on small businesses or those in the Agricultural and Hospitality sectors in which a large proportion of Registered employees are employed. There was also opposition on the basis that historically there has been a charge on individuals buying or leasing property in the form of the housing consent. It was felt that such charges were more appropriately levied on the individual as a one-off lease/purchase charge rather than an annual charge levied on businesses for their Licensed employees.

Examples of comments received and MAG responses are given below:

(i) *“Charges: Initially fair enough as charges won’t apply to Registered or Entitled Employees. However, future extension to charging for entitled employees would be harmful to “trading” companies (rather than finance companies) whose profit per employee is already low. Good to see no charges on small business, is there a formal recognised definition of “small”?”*

Individual

(ii) *“There is no link between the purchase of properties and the employment of people so it is hard to understand why the source of income from house purchasers which is accepted as a necessary fee, should be removed with a resulting additional burden being placed on business.”*

Chamber of Commerce

(+ similar comment from the Law Society Working Group)

(iii) *“... this will directly discriminate against employers, particularly those in the Agriculture and Hospitality industries, which rely on Registered workers, and could not function without them. These are the same employers that often avoid their staff placing additional burdens on society by providing them with accommodation. (Concern that this could be a Payroll tax, by the back door, on employers least able to afford it.)”*

Seymour Hotel Group

(+ similar comment from Jersey Farmers’ Union, Jersey Hospitality Association.)

(iv) *“Consideration should also be given to introducing a “cap” on the charges that can be imposed on any single employer as the proposed charges could represent a significant expense to those employers who rely on a large number of “j” category/ Licensed employees”.*

Jersey Finance

MAG responses to the issues raised

It is recommended that the proposed charge on Licensed personnel be maintained. Historically there has never been a charge levied for the issue of a business and staffing licence to businesses, or for “(j)” permissions, and it is important to note that the current system will continue, whereby no registration fee will be charged to a business which seeks a Business Licence and employs Entitled or Registered persons. However, it seems appropriate now that the Population Office should make some

charge for the business licensing service provided under the Law. The immediate proposal is to charge an annual fee to businesses for each Licensed member of staff that is employed. The charge is likely to be £150 per year per employee.

Given the numbers involved, the idea of setting a cap on the charges that can be levied on any single employer is not considered necessary, or indeed, desirable. To place the charging proposal in context, there are 328 private sector employers employing 1,100 Licensed staff. This would result in an average annual charge to these employers of £500, and even for the largest employers with 50 or so “(j)” personnel, the charge would be £6,250 per year, which is not considered excessive. In addition, the administrative burden and associated cost of employing such employees will be reduced by the new licensing arrangements – whereby application is not required upon the departure of each post-holder.

In the consultation paper it was also proposed that small businesses would be exempt from fees for Licensed employees. However, most of the small businesses that employ Licensed employees are high value businesses, whether that be in the medical, scientific, financial or high technology sectors, or head-offices for large worldwide enterprises. Therefore it may be more appropriate that any **exemptions be for social enterprises, such as sports clubs, educational establishments, charities, and lower value small businesses** (with consideration being given to the ratio of staff numbers to turnover in the latter cases).

It is intended to draft provisions in the Migration Law that would require a Regulation to be brought to the States for debate if ever an extension allowing a charge for staff to be extended to the Registered and Entitled categories were to be contemplated. **Any decision would then be a matter for States debate. It should be clear, however, that no such charges are envisaged or planned.**

Notwithstanding this, the Law may contain fee-making powers other than in relation to the employment of staff, e.g. in relation to licences for non-resident trader and itinerant traders, for the re-issue of registration cards, or for the revision of a property classification from “Qualified” to “Registered”.

There has been a charge levied for the issue of housing consents for many years for the service provided by the Population Office (and formerly the Housing Department) to enable individuals to lease or purchase. In future, such consents will not be required. It is accepted that the loss of this income is no justification for introducing charges on business, other than in so far as it is considered that the costs of processing applications from business, in particular, for highly skilled migrant workers, should not be born by the general taxpayer if possible (as indeed they are now). It should be re-iterated that these fees are small and limited in extent, and not designed as a means of raising revenue but rather covering administrative costs.

(ix) Property [Part 2 paper, pp. 22–30]

The Property section of the Part 2 paper addressed a number of issues including the re-classification of property into Qualified and Registered categories; Registered property; Recording Change of Address; and Controlling Property Ownership. The comments sent in by respondents have raised a number of pertinent issues which are addressed in the sections below.

(a) Qualified and Registered property

The Part 2 paper described how: *“The new controls will introduce two types of property, with most properties being “Qualified” and the rest “Registered”. This will replace the current classifications of (a)–(h), (a)–(j), etc., which are complex having been developed by successive Housing Committees since 1970..... All these properties (a)–(h), (a)–(j), Regulation 1 properties will be able to be purchased or leased by any Entitled or Licensed Person. This new single controlled market will reduce the complexities of the current system without affecting the overall level of prices”*⁷.

The Part 2 paper also made reference to a number of proposals that will result in better planning mechanisms; improved standards of accommodation and greater security of tenure for those living in Registered accommodation.

Four general comments were made with regard to the proposed simplification of the property market into the 2 categories of Qualified and Registered Property. One respondent commented that the proposals appeared “to simplify the rules” whilst 3 others felt that ultimately there should be no barriers and that everyone should have access to property. There was, however, a lot of support for the proposals to provide both better accommodation and tenancy rights for those in the Registered sector. Organisations representing the Tourism and Hospitality sectors also sought clarification concerning issues relating to staff accommodation and winter let facilities.

A number of queries were also received about what impact the Migration Law would have on properties currently classified under the special circumstance rules of the Housing Law which deal with properties that have been the subject of a dégrèvement; inherited properties and properties that have been in the same company ownership since before 1949.

Examples of comments received and MAG responses are given below:**(i) – (ii) General:**

(i) *“The Trust believes that further research should be undertaken into alternative ways of protecting the local housing market that would give all workers equal access to accommodation while they remain in employment”*.

Community Relations Trust

⁷ Managing Migration: New Mechanisms – Part 2: Managing Access to Employment and Housing, p.22.

(ii) *“I firmly believe that every effort must be made to give all residents of Jersey housing rights. The scrapping of a division of “Qualified” and “Registered” properties may need a lead-in period but I believe this should be the Island’s aim and a central plank of the Migration policy.”*

Individual

(iii) – (viii) Registered property

(iii) *“Registered property. Good to see people’s rights as needing improvement. Also need for minimum standards of facilities within properties.”*

Individual

(iv) *“It is also intended that there should be an improvement in the minimum standards applicable to lodging houses and agricultural accommodation. The Trust feels that this is extremely important and should be researched and implemented as soon as possible”.*

Community Relations Trust

(v) *“Why not serve notices on those (lodging house) which are not up to scratch giving a time limit within which remedial work should be carried out and if it is not completed satisfactorily then its registered status should be withdrawn?”*

Chamber of Commerce

(vi) *“... a review of the current Lodging House legislation and rules regarding the position of lodgers in private homes” is “a step in the right direction”. “I also support the introduction of a Residential Tenancy Law”. Attention was also drawn to the link documented by the Medical Officer of Health “between good and poor standards of accommodation and good and poor health outcomes respectively”.*

Individual

(vii) *“There is no published research on the disparity in cost between qualified and unqualified accommodation....information collected in the 2001 census suggests that overcrowding and lack of shared amenities e.g. shared cooking, toilet or bathroom facilities is a disproportionate problem for unqualified households.”*

Community Relations Trust

(viii) *“We look forward to receiving details for consultation regarding the new Health and Safety Dwellings (Jersey) Law 200-. .The underlying objective is to raise living standards”.*

Jersey Hospitality Association

(ix) – (xii) Staff accommodation and winter-let facilities

(ix) *“What impact will the Residential Tenancy Law have on the letting arrangements permitted by Jersey Tourism for self-catering properties, whereby lets of 3 months or more are allowed between October and May?”*

Seymour Hotel Group

(x) *“Premises offer accommodation to lodgers during the off-season whilst registered under the Tourism law and this practice is absolutely vital to sustain these businesses.”*

Jersey Hospitality Association

(xi) *“We understand that staff accommodation will need to be “Registered” under the new law. Clarification is required regarding the impact of the proposed tenancy legislation and the Health and Safety (Dwellings) legislation on staff accommodation or will there be exemptions in such cases?”*

Seymour Hotel Group

(xii) *“Will temporary and agricultural accommodation now come under housing regulation?”*

Individual

(xiii) Special Circumstance properties

(xiii) *“It is not clear to us how it is intended to deal with current conditions attached to housing consents...e.g. a Housing consent may have a condition which restricts the occupation of a flat at a property only if it is let out (an “if-let” condition)”.*

Law Society Working Group

MAG responses to the issues raised

(i) – (ii) General

It is generally considered that the potential demand for housing in Jersey exceeds supply, and therefore that the ability to purchase or lease must be strictly managed. It is also generally believed that the housing stock in Jersey should be prioritised for long-standing residents of the Island, as prices and affordability are already a very real challenge for established residents.

Not least, the average price of a three-bedroom house is equivalent to 16.5 times the average salary for a full-time worker; while the average price of a one-bedroom flat is 7.2 times the average salary. In particular, the ability to own a property is severely limited for lower earners, younger households and single persons.

However, all that can be done for newer migrants within these constraints will be done, including the proposals in the Migration policy for a reduction of the qualification period to a more reasonable period, i.e. the 10 years, planning for better registered accommodation, security of tenure for Registered tenants, etc.

Furthermore, the 10 year period is capable of being changed in the future as circumstances permit, or equally more licensed posts could be granted giving immediate access to housing. In short, these tools will be designed to be sufficiently flexible to achieve whatsoever housing and migration objectives future Ministers and the States see fit.

Research into the possibility of opening up the housing market still further could be considered once the improved statistical information arising from the introduction of the Names and Address Register is available, but the issue of demand over supply will remain.

Overall, MAG are also pleased to note that the simplification of the controlled classes of property under the Housing Law was either supported or received no comment. This is likely because the majority of properties in Jersey are now able to be classed as “(a) – (j)” or Regulation 1 (available for ownership and occupation of any qualified individual) as a result of policies applied over recent years, and therefore these changes have little impact beyond simplifying a complex system.

Accordingly, and given that the principle of a single Qualified housing market was approved by the States in the debate on the Migration Policy proposition, P.25/2005, the Minister for Housing has amended Policy with immediate effect so that *all* properties controlled under the Housing Law will henceforth⁸ be available for the ownership and occupation of any class of person qualified under the Housing Law with the exception of:

- 1(1)(k)s, where specific application will continue to be required; and
- Social housing and other affordable housing schemes, including First-Time Buyer properties, will continue to be available only for the occupation of individuals qualified under Regulations 1(1)(a) – 1(1)(h) of the Housing Law.

As for existing Regulation 1 properties available to 1(1)(k)s, they will retain this status for the time being, but it may be administratively desirable for the new Law to restrict this classification such that only *on application* will a wealthy migrant be able to own and occupy a specific property. Having said this, the present practise will likely be carried over, namely that the property the wealthy migrant is seeking to own and occupy be:

- High Value, normally in excess of £1 million; and
- Of a size, location, or nature outside the market that would normally be affordable to the majority of Jersey residents, this normally being demonstrated by a local of demand from persons qualifying under other provisions of the Housing Regulations, or by comparison with other properties for which consent was granted for the ownership and occupation of 1(1)(k).

(iii) – (viii) Registered property#

MAG is pleased to note the strong support given to the proposals to improve accommodation standards in registered accommodation and also the tenure rights of registered individuals.

Standards of accommodation will be a matter for consideration under the future Health and Safety (Dwellings) Law which is to be consulted upon by the Health Protection Service in due course. It should be noted though that raising standards without effecting rents/affordability/availability is a genuine issue. Ultimately, there is a very limited stock of accommodation, and the most effective way of raising standards without raising rents is to create more units.

With regard to Lodging Houses, the service of notice on unsuitable accommodation effectively happens already, as Lodging Houses have to re-register each year and are not registered if they are sub-standard. An inspection regime is in place to cover this,

⁸ Application will be needed, whereon revised consent will be issued.

which is focused on the lower standard units. Furthermore, at any point in the year a Lodging House can be de-registered if it does not meet standards, although the more normal route is to notify the keeper of changes that need to be made, and to follow this up with a visit to confirm that the improvements have been made. This approach tends to result in fairly speedy improvements.

Evidence on the difference in price between unqualified and qualified accommodation is not easy to collate, but work is being done with a view to a Report being presented in the New Year.

(ix) – (xii) Staff accommodation and winter-let facilities

The Residential Tenancy Law will not impact on winter-let arrangements as they will fall outside of the Law (see Article 2(3)(a) and (b)). Similarly the Migration policy will not impact on winter-let units either, as such premises are registered under the Tourism Law and will be classified as Tourism properties on the JLPI. As such, they will be outside the occupancy restrictions of the Migration Law so long as they retain their Tourism status. In addition, it is intended that the current winter-let policy will continue once the Migration Law is implemented.

If staff accommodation is registered under the Tourism Law it is not, and will not, be classified as Qualified property under the Migration Law. It too will be recorded as Tourism property on the JLPI. Staff accommodation will also fall outside the provisions of the Residential Tenancy Law, except for situations where staff employed by the organisation live in staff units on the premises that satisfy the criteria of the Law (see Article 2(3)(a)). However, anyone occupying Tourism property for longer than 3 months will be required to register on the Names and Address Register.

The impact of the Health and Safety (Dwellings) legislation is not yet known, as the draft Law has yet to be consulted on. It is the responsibility of the Public Health Protection Service, but once enacted it will provide important support to the Migration policy, one goal of which is to provide better standards of Registered accommodation.

Temporary and agricultural housing do not fall to be registered under the Housing Law, nor are they matters for the Lodging House (Registration) Law. However, in future such accommodation will be registered as a unit of accommodation on the JLPI, and accommodation standards will be required to be dealt with under the proposed Health and Safety (Dwellings) (Jersey) Law 200-.

(xiii) Special Circumstance properties

(xiii) Provisions regarding the status of property currently falling under exemptions or special provisions of the Housing Law will be included and carried over into the Migration Law. It is intended that there will be no change to current status as a result of the introduction of the Migration law.

(x) Property Classification [*Part 2 paper, p.23*]

The Part 2 paper referred to the proposal that “In future, the classification of property as Qualified or Registered will be made by the Planning and Environment Department and not the Population Office.”⁹ This proposal was of particular concern to the Law Society Working Group and the Chamber of Commerce, who raised several comments and queries as to the viability of transferring the classification responsibility in this way. Some estate agents also expressed the same sentiments.

The main concern was whether the Planning and Environment Department would be resourced to carry out the task, for it was felt that the Population Office has acquired considerable experience and knowledge in classifying property which has been built up over many years. Another concern raised was where the Planning and Environment Department would get its information from to carry out the task. Finally, some concerns exist as to whether this was the proper political authority. These concerns are understood.

Examples of comments received and MAG responses are given below:Comments:

(i) *“Where will Planning get its information from with regard to the need for the various categories of housing and how often will the information be sought?”*

Chamber of Commerce

(ii) *“Classification of property will be an enormous & complex task, are Planning resourced to do this?”*

Individual

(iii) *“how, in practice, is it intended to allocate a qualification status to each property and how easy will it be to ascertain that status when the property comes to be bought and sold once the new law is brought in?”*

Law Society Working Group

(iv) *“Given the vast amount of information held by the Population Office dealing with all the exceptions (under the Housing law) it would seem far more logical if the Population Office retained this role. If Planning are to deal with new- builds going forward they could easily notify the Population Office as to the allocated status of a new development”.*

Law Society Working Group

MAG responses to the issues raised

Property classification will be much simpler in future, as separate classes of controlled property, i.e. “(a) – (h)”, “(a) – (j)”, “Regulation 1”, will not exist. All properties will be either Qualified or Registered, although Social Housing, including various schemes to support affordability, will be ring-fenced for qualifying Entitled people, and wealthy migrants will need specific approval to own and occupy a property.

⁹ *Ibid* p.22.

Property listed on the records held by the Population Office is already classified, and a transfer of data relating to the status of property (i.e. Qualified or Registered) will take place between the Population Office system and the Jersey Land and Property Index, with all properties currently controlled by the Housing Law being marked up on the Index as “Qualified” under the Migration Law. In addition:

- **Designations such as “if let” will also be recorded on the Jersey Land and Property Index** (“if lets” being properties adjoining Qualified properties that if let for reward must be occupied by Entitled persons but otherwise may be occupied by the Registered for Housing family or friends of the owners of the Qualified property).
- Other properties outside the Housing Law, including any property acquired before 1949 and not having transacted under the Housing Law since, although recorded as units on the Jersey Land and Property Index, will not be recorded with their specific status on the Index as part of the transfer of data from the Population Office systems. This is because details attaching to these properties are not recorded on the Population Office systems as these properties are outside the Housing Law. However, over time, as either queries arise or change of address notifications are received, these properties will be marked up with their correct status.¹⁰
- Staff accommodation will be marked separately on the Jersey Land and Property Index.

Lawyers will also need access to the Jersey Land and Property Index, and this is how they will confirm the classification of the property when processing a property sale.

This transfer of data will take place as part of the systems development work that will be carried out prior to the implementation of the Migration policy, and the expertise of the Population Office staff will be utilised during the transfer.

Once the Migration policy is implemented, the original intention was that classification of new builds or conversions would be carried out by the Planning and Environment Department. However, some clear concerns have now been raised that are worthy of in-depth thought, in terms of resourcing and expertise in particular. In addition, and alongside Law Drafting and organisational design, matters of legal

¹⁰ As to the ability to own and occupy these properties, the new Law will adopt a similar approach to the current Housing Law, and will *not* impose conditions where previously none have applied, until a change in the individual ownership in the freehold property takes place. Specifically:

- (i) Controls will not be placed over properties that were acquired prior to the Housing Law being introduced, or over properties which have since been acquired by obtaining shares in a company which acquired property pre-1949 or by dégrèvement or inheritance;
- (ii) Qualified conditions will continue to be imposed on acquisitions by dégrèvement or inheritance that have taken place since the 1993 and 2006 amendments to the Housing Law. This will mean that inheritors will continue to be permitted to inherit and occupy property, but that otherwise new occupiers will be limited to Entitled or Licensed persons.

Accordingly, properties such as Park Heights, etc., will continue to be outside the new Law, as it is considered neither fair nor proportionate to impose conditions on property legitimately acquired, in particular, in the context of these properties being a very small minority of the overall housing market.

structure and political accountability also need ongoing thought, including the need to efficiently join up planning policy with population policy, and ongoing immigration and economic trends and housing requirements. Having said this, the reason for the transfer of responsibilities remains valid, being that the Planning and Environment Department plans for homes, on an Island-wide basis, and in terms of individual permissions, and therefore it has some desirability to designate to the Minister for Planning and Environment decisions which at present are reserved for the Minister for Housing, e.g. whether to accept a diminution of the housing stock as part of an application, say for the conversion of flats back into a single town house. **An analysis of any transfer of political responsibilities for property classification will be reported on in due course.**

(xi) Recording change of address [Part 2 paper, pp. 26–27]

The Part 2 paper referred to the obligation to be placed on all residents to notify the States of any change of address. This notification obligation will rest with both the occupier of a property and the owner, and also with proprietors of lodging houses and staff accommodation.

There were no objections received to the proposal for an address notification process, although a number of queries were raised as to how the process would work, especially in situations where accommodation turnover was high.

As a result of some of the comments put forward, MAG have included some revisions to the original proposals which are outlined below.

Examples of comments received and MAG responses are given below:**(i) – (v) General:**

(i) *e.g. Consider making it an electronic process; proposal will ease bureaucracy; you have to notify change of address for so many things when you move one more can't make a difference.*

Individuals

(ii) *“... the mechanism for ensuring a change of address is notified appears robust. In particular, we are pleased that both the occupier of a property and owners will be obliged to inform the States of a change of address. In addition, we are also pleased that a mechanism for notification of a change of address is proposed for those renting/lodging.”*

Health and Social Services Department

(iii) *If someone arrives and stays with family/friend/in a lodging house without working for 3 months who has the duty to register them? This is not a change of address as such.*

Individual

(iv) *Will there be an exemption from requirement to notify e.g. if someone at the Women's Refuge.*

Women's Refuge

(v) *Multiple addresses – how will they be addressed e.g. children living in two homes*

Community Relations Trust

(vi) – (viii) High turnover/staff accommodation

(vi) *The law allows for an individual householder to provide accommodation for up to 5 individuals. Will the landlord need to notify every time someone leaves? Turnover can be high.*

Individual

(vii) *“We accommodate large numbers of staff and throughout the season there can be quite a lot of movement with staff moving in and out will there be exemptions for employers who accommodate their own staff? If not the notification process will be very cumbersome and will be an additional cost to the business, at a time we can least sustain it”.*

Seymour Hotel Group

(viii) *“It must be permissible for landlords to make a sole notification, even if they are unaware of the forwarding address of the tenant.”*

Law Society Working Group

MAG responses to the issues raised

(i) – (v) General

It is intended that the change of address notification process will be as easy as possible, whilst ensuring that notification cannot be made mischievously or fraudulently. It is the need to provide these types of changes that means online address changes are problematic, but this will remain under review.

An individual will have a duty to register under the Migration Law if they have lived in the Island for longer than 3 months. There will also be a duty on both the head of the household or establishment where the individual is staying to make notification of the individual’s address after 3 months, for effectively, in this scenario, the head of household or establishment has taken the role of provider of accommodation. This will apply to owners of private households taking in lodgers, owners of staff accommodation, lodging houses, and tourism accommodation, in a similar way to a landlord leasing out property.

Further consideration is being given to cases where confidentiality is of a particularly sensitive nature. In particular, due to the confidential and general short-term nature of stays, it is likely that the Women’s Refuge will be exempt from the provisions of the Law. Other similar types of accommodation, the Shelter for example, may be afforded the same exemption.

In general it will be desirable to record a child’s main place of residence, but in the circumstances where custody is more equal, it is likely that both addresses will be recorded with a note recording the position against the child’s name.

(vi) – (viii) High turnover/staff accommodation

Notification will be necessary every time a new tenant or lodger moves in. Offering accommodation for reward is a commercial transaction that will require a notification form to be submitted. This will in fact be simpler than the current housing consent application when a lease is entered into, which requires submission of a form and then the need for the consent to be issued by the Population Office. At the same time, private lodgings presently do not have to make any notifications, but as noted, taking in up to 5 lodgers is a commercial enterprise and the change of address notification will be straightforward.

However, MAG has considered the possibility of an exemption in cases where accommodation is potentially subject to high turnover in staff accommodation or lodging house situations. A revision to the change of address proposals is to be put forward which will allow **businesses offering staff accommodation and lodging houses to file quarterly accommodation returns** with the Population Office. Some electronic means of performing this would ideally be available.

Notification of change of address will only be obligatory on a new tenant or lodger coming in to the property, and it is not expected that a notification will need to be made when a tenant or lodger leaves.

APPENDIX A

SUMMARY OF JEP SURVEY RESPONSES

No.	Question	Agree	Disagree
1	What do people think of the proposal that those non-Jersey-born who complete 25 years' continuous residence should get permanent residential status?	12	0
2	What do people think of the extension of the 5 year break rule to 2 breaks of not more than 10 years?	11	1
3	What do people feel about the proposals to issue a registration card that will have dual function of a social security card and a card to access employment and housing?	12	0
4	What do people think of the proposal that in future you need only show your card along with photographic ID to access/purchase housing and work? (One respondent did not answer this question.)	10	1
5	What do people think of the proposal that consent to buy/lease property is no longer needed but that a change of address notification will be required from all property owners?	11	1

APPENDIX B

ENTITLEMENT CHART

Managing Migration: New Mechanisms – Part 2 – Managing Access to Employment and Housing (p.14)

Table 2 illustrating ability to gain Entitled for Housing Status:

	Ability to gain qualifications/ “Entitled for Housing” status		Ability to retain qualifications/ “Entitled for Housing” status	
	Current Housing Law	New Mechanisms	Current Housing Law	New Mechanisms
Jersey-born	10 years’ aggregate	10 years’ aggregate	Retain for life	Retain for life
Non-Jersey- born	11 years’ continuous	10 years’ continuous	Lose after 5 years’ absence	Lose after having left the Island for longer than 10 years (in one or 2 periods of non-residence) BUT After 25 years’ continuous residence retain for life
Non-Jersey- born child <i>arrived before age 16</i>	11 years’ continuous	10 years’ continuous	Lose after 5 years’ absence	Retain for life
Child of locally qualified parent, arrived before age 20	10 years’ aggregate	10 years’ aggregate	Retain for life	Retain for life