

**DRAFT REGULATION OF UNDERTAKINGS AND
DEVELOPMENT (AMENDMENT No. 10) (JERSEY)
REGULATIONS 199**

**Lodged au Greffe on 25th May 1999
by the Finance and Economics Committee**



STATES OF JERSEY

STATES GREFFE

REPORT

Background

The last amendment, the Regulation of Undertakings and Development (Amendment No. 9) (Jersey) Regulations 1998, was approved by the States on 19th May 1998 (P.22/98), and came into force on 1st June 1998. This amendment was brought forward as a consequence of the Finance and Economics Committee being requested to take the necessary steps to tighten up the application of the Regulation of Undertakings and Development Law, including the reintroduction of the requirement that all increases in staff numbers should be subject to licence.

The Finance and Economics Committee has reviewed the operational effectiveness of the Regulation of Undertakings and Development Law over the last year in the light of problems and difficulties encountered and also its discussions with individual firms, representative organisations, etc. The Committee now considers it appropriate to re-define some situations and to exempt certain categories of local residents, as outlined below.

Definition of “child”

The Committee has experienced some difficulty where older people, for example in their middle age, have expressed the wish to come to work in the Island (despite never having actually lived here before) on the grounds that one of their parents is, or had been, residentially qualified. As a way of rectifying this situation, the Committee has decided to define a “child” in this context as being below the age of 18 years - or in the case of a student in full time education, below the age of 25 years.

Spouses and children of those who have been continuously resident for five years

The Committee’s policy is to treat the spouses and children of “persons who have been resident in the Island during the period of five years immediately preceding their engagement” as they would the spouse or child of a residentially qualified person. The Committee has agreed that the Regulations should allow for this, just as they do at the moment in respect of the spouses and children of residentially qualified people.

Special needs

In considering applications for additional staff or for the filling of vacancies, the Committee's policy has been to give every possible encouragement to employers to employ those with learning difficulties/disabilities.

However, following requests from a number of representative organisations and consultation with the Employment and Social Security Department, the Finance and Economics Committee is now proposing to exempt all those with recognised learning difficulties/physical disabilities by exempting all people registered or recommended by the Workwise - Supported Employment Service - a new service created as a result of the amalgamation of the Headway and Special Employment Needs employment schemes.

School students and those over normal retirement age

The Committee also proposes to exempt from the present provisions -

- (a) locally qualified school pupils and locally qualified further education/university students working in Saturday or holiday jobs and in work experience/work placement situations;
- (b) those over normal retirement age who wish to return to, or to stay on at work.

Explanatory Note

These Regulations amend the Regulation of Undertakings and Development (Jersey) Regulations 1978 in so far as they relate to exemptions from the provisions of Part II of the Regulation of Undertakings and Development (Jersey) Law 1973 (Regulation of Undertakings).

In particular the Regulations replace the exemption relating to increases in the number of persons engaged in an undertaking to provide for the employment of additional categories of locally qualified people.

The Regulations also omit a redundant provision of the 1978 Regulations.

Regulation of Undertakings and Development (Jersey) Law 1973

REGULATION OF UNDERTAKINGS AND DEVELOPMENT
(AMENDMENT No. 10) (JERSEY) REGULATIONS 199

(Promulgated on the day of 199)

STATES OF JERSEY

The day of 199

THE STATES, in pursuance of Articles 2 and 3 of the Regulation of Undertakings and Development (Jersey) Law 1973,¹ as amended,² have made the following Regulations -

1. For Regulations 1A and 1AA of the Regulation of Undertakings and Development (Jersey) Regulations 1978,³ as amended⁴ (hereinafter referred to as “the principal Regulations”) there shall be substituted the following Regulation -

“1A.-(1) The engagement of a locally qualified person in a position in an undertaking shall be exempt from the provisions of sub-paragraph (b) of paragraph (1) of Article 2 of the principal Law -

(a) if at any time during the six months prior to the engagement of the person in the position a person had been engaged in that position; or

(b) if the person -

¹ Recueil des Lois, Volume 1973-1974, pages 112 and 113.

² Volume 1975-1978, page 2, Volume 1992-1993, pages 89 and 90, and No. 7588.

³ No. 6566.

⁴ Nos. 7060, 7882, 8383, 9067 and 9235.

- (i) is registered with or recommended by the Workwise - Supported Employment Service operated by the Employment and Social Security Committee;
- (ii) is a student; or
- (iii) has attained the age of 65 years.

(2) For the purpose of paragraph (1) of this Regulation a person is locally qualified for engagement in a position in an undertaking -

- (a) if, at all times during the term of that engagement, consent to a transaction to which Part III of the Housing (Jersey) Law 1949 applies would be granted by the Housing Committee by virtue of a sub-paragraph of paragraph (1) (other than sub-paragraph (l) or (m)) of Regulation 1 of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, were the person to be an intending purchaser, transferee or lessee; or
- (b) if during the whole of the period of five years immediately preceding the start of the engagement the person was ordinarily resident in the Island; or
- (c) if the person is the spouse of a person referred to in sub-paragraph (a) or (b) of this paragraph; or
- (d) if the person has not attained the age of 18 years (or in the case of a student, the age of 25 years) and is a child of a person referred to in sub-paragraph (a), (b) or (c) of this paragraph.

(3) For the purpose of sub-paragraph (b) of paragraph (2) of this Regulation a person is to be taken to have been ordinarily resident on the Island during any period the person was absent from the Island for educational purposes if immediately before leaving the Island to undertake that education the person was

ordinarily resident on the Island and immediately on finishing that education the person was again ordinarily resident on the Island.

(4) In this Regulation -

“child” includes an illegitimate child, a step child and an adopted child;

“student” means a person undertaking full time studies at an educational facility either on or off the Island.”.

2. In Regulation 2 of the principal Regulations -

(a) paragraph (1) shall be omitted;

(b) the numbering of paragraph (2) shall be omitted.

3. These Regulations may be cited as the Regulation of Undertakings and Development (Amendment No. 10) (Jersey) Regulations 199 and shall come into force on the day following promulgation.