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# STATES OF JERSEY



## MANAGING MIGRATION: NEW MECHANISMS – PART 2: MANAGING ACCESS TO EMPLOYMENT AND HOUSING

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Presented to the States on 17th June 2009  
by the Chief Minister

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STATES GREFFE

# MANAGING MIGRATION: NEW MECHANISMS

## PART 2: Managing Access to Employment and Housing

Proposals to replace the Housing (Jersey) Law 1949, and Regulation of Undertakings and Development (Jersey) Law 1973, with a single Law to manage migration

**A consultation document presented by the Chief Minister**

**on behalf of**

**The Migration Advisory Group:**

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

**These new migration mechanisms have been developed in two parts –**

- **Managing Migration: New Mechanisms, Part 1:**

Part 1 proposed the creation of a Population Register to record accurately the name and address of all Island residents, as a means of managing migration, and to improve customer service across the States. The policy also proposed a registration card for all residents for Social Security purposes and to access housing and employment, and a ‘first-stop-shop’ where newcomers to Jersey could obtain their card and find out more about life in Jersey. These proposals formed the basis of a public consultation in December 2007 and the resultant Draft Laws are appended to this report for information.

- **Managing Migration: New Mechanisms, Part 2:**

These proposals set out in detail mechanisms to replace the existing Housing and Regulation of Undertakings and Development Laws which govern access to employment and housing, with new unified controls. **This will effectively manage how many people can work in Jersey and how accommodation can be occupied and owned. This in turn will effectively regulate migration, and protect local housing and employment opportunities, while supporting economic growth and diversity.**

**Consultation period: Until 14th September 2009**

## EXECUTIVE SUMMARY OF PROPOSALS

SECTION B explains how “Entitled” Residential Status will be acquired (pp.11–14):

1. A person will become “Entitled for Work” after 5 years’ residence in Jersey, and “Entitled for Housing” after 10 years’ residence. This will mean they can take up any employment or start their own business without restriction after 5 years; and purchase or lease any property after 10 years. Until such time, residents are limited in terms of the work and housing they can access. This is similar to the present rules.
2. Non-Jersey-born people will have greater opportunity to retain their Entitled status, in particular for housing, where they will be able to leave the Island for 10 years in two separate periods before losing their “Entitled for Housing” status.
3. Other means of gaining immediate access to qualified housing will continue, for example, due to hardship, essential “licensed” employment, or wealth (the “1(1)(k) initiative” will continue in its present form).

SECTION C explains how *all* businesses will need a license to commence and to engage staff (pp.15–21):

4. A licence will be issued to a business comparing the demand it places on Jersey’s natural and built environment with the need to support the economy, and a range of other factors, including the expected benefits for local employment and training, services for consumers, and tax revenues.
5. The existing Regulation of Undertakings Licences and “j” category permissions will become the new Migration Licences, which will be issued with NO increase in the existing permission held by a business. In this way, the same number of non-qualified employees presently permitted a business will be replaced with the same number of “Registered Employees”; and the same number of “j” category employees will be replaced with the same number of “Licensed Employees”.
6. An employer is free to use any quota they may hold for “Licensed” or “Registered” employees to appoint any individual to similar or comparable positions for which the licence was originally granted.
7. This system will give employers greater freedom, as well as responsibility, in managing their employee numbers; and it will reduce administration, for example by no longer requiring an application for each and every new incumbent of a role. This system will retain effective limits on numbers and a clear link between the business case and how a licence is used.
8. All adults will have a Registration Card showing their name, Social Security number and residential status, i.e. whether they are Entitled, Registered, or Licensed. This will ensure that employers are aware of their employee’s residential status and better be able to comply with the Law.

9. The Registration Card will be issued at Cyril Le Marquand House or Philip Le Feuvre House when a person arrives in Jersey. This will be an opportunity to welcome new arrivals and explain some of the rights and responsibilities of residents, and something about the Island. In this way, a more integrated and inclusive approach to immigration can be developed.
10. The States of Jersey will operate under the licensing restrictions in the same way a private business.
11. A Combined Quarterly Employer's return for Social Security, Manpower, and Income Tax purposes will be introduced to make manpower returns more frequent and easier to complete.
12. To recover costs, a small charge for each Licensed Employee will be levied on businesses. This income will replace charges for a Housing Consent, which will be scrapped.

SECTION D explains how individuals of differing residential status may purchase, lease and occupy "Qualified" and "Registered" Property (pp.22–30):

13. All property currently controlled by the Housing Law will become "Qualified Property" under the new Law, available to be leased or owned by any Entitled Person or Licensed Employee.
14. To lease or purchase Qualified Property, a person must demonstrate their Entitled or Licensed status by showing their Registration Card, and by proving their identity.
15. All other properties will be "Registered Properties", including Lodging Houses. Where the occupation of the property is by nature of a tenancy, e.g. a self-contained unit containing separate sleeping space, toilet, etc., then security of tenure will be available to the occupant under the Residential Tenancy Law.
16. The Planning and Environment Department will decide which properties are classified as Qualified and which are classified as Registered. More co-ordinated planning for Registered Property will be developed to optimise land use and enhance standards of living. Minimum standards will be administered in a manner consistent with developing public health strategies, and raised compared to those presently applied to Lodging Houses. These changes will take place gradually, and in consultation, but are important in reducing the effects of a two-tier housing market and giving more rights to newcomers.
17. Change of address procedures will be introduced placing legal obligations on all property owners as well as occupants to make a notification of change of address. This will provide an accurate record of the Population, and be able to serve for a range of States Departments as a shared Name and Address Register.
18. All property ownership by Entitled persons will only need the change of address notification to be completed, i.e. it will no longer need Housing Consent to be issued in advance. Company ownership of residential property

will continue to be restricted in the best interests of the community, and subject to advance application.

SECTION E explains how these policies will be managed and by whom (p.31):

19. These policies will be the responsibility of the Chief Minister, being advised by other Ministers, collectively forming a Migration Advisory Group. These policies will be administered by the Population Office, part of the Chief Minister's Department, in consultation with other Departments.

## MANAGING MIGRATION: NEW MECHANISMS – PART 2

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## HOW TO RESPOND

This consultation paper can be found on the States of Jersey website at: [www.gov.je/ChiefMinister/PublicConsultations](http://www.gov.je/ChiefMinister/PublicConsultations) . If you would like a paper copy of the document, please contact us by telephone, e-mail or post using the details provided below.

We welcome comments on all elements of these proposals, both the main report, and the Draft Laws appended. These comments can be:

- e-mailed to: [managingmigration@gov.je](mailto:managingmigration@gov.je)
- posted back to Managing Migration: New Mechanisms, Population Office, 3rd floor, Jubilee Wharf, Esplanade, St. Helier, Jersey, JE4 0UT.

If you have any queries on the consultation process you can call 448931.

**Responses must be received by 14th September, 2009**

***Confidentiality:** Please note that responses submitted to this public consultation may be made public to demonstrate views that have been expressed during the consultation (i.e. sent to the Scrutiny Office, quoted in a final published report, quoted in the media and published on a States of Jersey website). If a respondent has a particular wish for confidentiality please indicate this clearly when submitting the response.*

## WHAT HAPPENS NEXT?

The Population Office will collate all comments received as a result of the public consultation and pass them to the Migration Advisory Group. A report setting out the results of the consultation will then be published.

Subject to the outcome of the consultation, the Migration (Jersey) Law 200- will be completed to include the proposals in this paper.

**The complete Migration (Jersey) Law 200- and Register of Names and Addresses (Jersey) Law 200- will then be lodged early in the new year, and debated no later than June 2010.**

## SECTION A: INTRODUCTION

Jersey has one of the highest standards of living in the western world. Its economy has been buoyant over recent years, placing it in the position of being able to spend considerable sums of money on essential services such as health, education and support for the less well-off, whilst also banking money for the future. To maintain these services, Jersey needs to maintain its healthy economy. This means it must maintain a population with enough people of the right age, and with the right skills, to drive its key industries. At the same time, the States has to manage the impact of migration on our resources, infrastructure and environment, and protect local housing and employment opportunities.

### A1. HISTORY OF THE EXISTING CONTROLS

Few would dispute that there must be some controls in place over the number of people living and working in the Island. Against this background, the Housing Law was introduced in 1949, when, after the Occupation, the Island once again became an attractive place for people to come and live. Under the Housing Law every person wishing to purchase or lease land and property must have the consent of the Minister for Housing, otherwise, they can generally only live in lodgings. The Law defines the ability to qualify for such consent, mainly by virtue of a period of residence.

**66,000 adults have their housing qualifications;  
8,500 adults do not have their housing qualifications<sup>1</sup>**

In 1973, the Regulation of Undertakings and Development (Jersey) Law was introduced to manage migration and demand on the Island's resources, supplementing the controls of the Housing Law. This Law requires all businesses, trades, and professions to have a licence to commence trading. The Law also manages total numbers working – in particular, the numbers of new migrants with fewer than 5 years' residence who can be employed.

**46,890 adults work in the private sector in Jersey, of whom;<sup>2</sup>**

- **38,650, or 83% of the workforce, are locally qualified for work purposes<sup>3</sup>**
- **6,900, or 15% of the workforce, are not locally qualified for work purposes**
- **1,140, or 2% of the workforce, are j category employees with access to the local housing market**

**6,650 adults work in the public sector of whom; 660, or 10%, are “j” employees**

To many these controls appear stringent, but they have served the Island well over the last few decades. They also need improvement – to become less bureaucratic, more consistent, and fairer.

1. Statistics Unit, “Jersey in Figures 2008”. From 1980 – 2000 there was no housing qualifying period. Since then this has been reduced to 11 years' continuous residence to gain housing qualifications. This has resulted in the proportion of the population who are unqualified, and without the ability to lease or purchase property, reducing from 21% to 11%.

2 Statistics Unit, Labour Market Report, 31st December 2008.

<sup>3</sup> Being qualified for work involves having housing qualifications or having been in the Island for a continuous period of 5 years, or the spouse of such a person.



## A2. RECENT EXPERIENCE AND FUTURE CHALLENGES

### Population:

- **Jersey's population** has increased since World War II, from 60,000 to 91,800 in 2008, as the economy has grown, and new sectors such as finance have developed. More recently, between 2001 – 2008, population has grown by 4,200, and working population by 3,450.
- **Net migration** fluctuates with the health of the economy, with inward migration of 1,000, 1,100 and 700 in each of 2006, 2007, and 2008 as the economy grew substantially. The economic uncertainty in 2009 suggests the net outward migration experienced earlier in the decade may however re-establish itself.
- The Council of Ministers have introduced a **policy of net immigration** of 150 heads of households per year to manage the demographic challenges of an ageing society – this level of immigration will restrict the reduction in working population between now and 2035 to 8%, and produce an overall population of slightly under 100,000 by the same date. This target will be reviewed every 3 years, and these policies are designed to be sufficiently flexible and robust to achieve whatever targets the States agree.

### Economy:

- **Employment** rose by 560 in 2008, with 53,540 people working in Jersey – the highest figure for a decade. Registered unemployment was 660, however, and rising, providing some early indications of the changing economic climate.
- The latest figures in the **Economic Survey 2008** show that the economy had grown by 7.0%, earnings by 4.3%, and inflation by 3.3% – these are genuine improvements in productivity and standards of living. The projections for 2009 present a very uncertain picture, but measures such as the fiscal stimulus package are designed to support the economy.

### Housing:

- The **House Price Index** for January – March 2009 showed annual price growth of 7% – representing a slowing in the high rates of growth, of over 20%, experienced in 2008. Over the period since 1970, however, house prices have grown on average by 7.7% per annum, compared to earnings of 5.2%, and inflation of 4.2%. This represents a decline in the affordability of housing.
- The **Housing Needs Survey** of May 2008 shows a potential shortfall in future housing with more properties likely to be desired than available<sup>4</sup> and as such a gap exists between the public's expectations and aspirations, and the finite land resources of Jersey. This will become more pronounced as the population grows, but *overall* demand can be managed within policies which envisage +150 households per year, while also preserving Jersey's green spaces.

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<sup>4</sup> A potential demand for 10,900 properties compared to a supply of 10,700 properties, with a **large surplus in flats and a large shortfall in houses.**

### A3. NEW MIGRATION MECHANISMS

A new Migration Policy was approved by the States in June 2005. **This policy enhances the controls which manage access to housing and work, and protects local housing and employment. In this way, the Policy will regulate immigration.** Since 2005, the Migration Policy has been significantly advanced –

- (a) The **Migration Advisory Group** was formed in December 2005 to direct the Population Office. This group meets every 2 to 3 weeks to consider cases under the Regulation of Undertakings and Housing Laws, and the development of the new mechanisms to replace these Laws. The Migration Advisory Group includes the Assistant Minister, Chief Minister’s Department, the Assistant Minister for Economic Development, and the Minister for Housing.
- (b) The **Population Office** was established in March 2006, resulting in the formation of a single office responsible for the management and administration of the Regulation of Undertakings and Housing Laws under improved processes.

All applications from businesses for Regulation of Undertakings licences and “j” consents are processed by a single team under a single policy statement. The Population Office also deals with all requests for qualifications under the Regulation of Undertakings and Housing Laws, as well as all consents to purchase or lease housing, and the regulation of Lodging Houses.

- (c) In addition, **new policies** have been introduced to implement many of the principles of the Migration Policy and in response to changing circumstances, including large reductions in the housing qualification period to 11 years; the introduction of unlimited and lease only “j” consents; and less interruptive property conditions on new developments – whereby 50% of all new developments are available to all qualified persons.
- (d) A consultation document on **New Mechanisms to Manage Migration, Part 1**, was published in December 2007. As a result, 2 Laws, the Register of Names and Addresses (Jersey) Law 200- and the Migration (Jersey) Law 200- dealing with registration of all residents and the issuing of a Registration Card have been drafted, and are attached in full as an **Appendix** to this report.
- (e) The detailed proposals as contained within this document have been developed to replace the existing Housing and Regulation of Undertakings Laws. Subject to this consultation, these proposals will be drafted into legislation, and presented to the States in June 2010, together with the Part 1 legislation mentioned in (d) above.

Together these developments will ensure that access to employment and housing can be controlled in a flexible and pragmatic manner to **secure an ongoing balance over time between economic growth and diversity and the demands placed on the Island’s infrastructure, public services, housing and environment.**

**These new mechanisms DO NOT EXIST to set ANY direction as to what Jersey’s population should be - that will be decided by the Strategic Planning process.**

## SECTION B: THE INDIVIDUAL

### B1. THE NEW STATUS OF “ENTITLED”

In 2005 the States agreed that the qualifying period for individuals to purchase or lease housing should be 10 years’ ordinary residence. Since then, the housing qualification period has been reduced from 15 years to 11 years. **Further reductions to 10 years are being made as *the housing market permits***<sup>5</sup> but it is expected that 10 years will be achieved by the time the Migration Policy is introduced. Being “Entitled to Housing” will mean a person can lease or purchase any property in Jersey.

#### **Entitlement for Housing will be achieved by being –**

- (a) **Jersey-born** person and completing an **aggregate** period of 10 years’ residence.
- (b) **Non-Jersey-born** and completing a **continuous** 10 year period of residence.

In addition:

- 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 two separate periods of absence before they lose their “Entitled” status. **This is new and will replace the current single “five year break” rule.**
  - 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, 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.**
  - Non-Jersey-born children who arrive in the Island before they reach 16, and the children of locally qualified parents who arrive before the age of 20, must complete 10 years’ **aggregate** residence, and will thereafter will retain “Entitled for Housing” Status permanently. **This is new.**
- (c) Persons married to an Entitled Person will be “Entitled to Work” only, and will not be Entitled to purchase or lease property on their own until they are “Entitled for Housing” in their own right. If Civil Partnerships are introduced, such arrangements will be placed on the same footing.<sup>6</sup>

*Details of how qualifications are gained under the Housing Law are included in Appendix 1.*

<sup>5</sup> The effect of the reduction in the housing qualification period from 19 years to 11 years between 2001 and 2009 has been limited because it has taken place gradually. The reduction has resulted in the proportion of the population who are not residentially qualified reducing from 15,000 to 8,000, or from 21% of the population to around 12%, and it has been estimated that each 1 year reduction adds 3% to the number of properties purchased in that year.

<sup>6</sup> Hardship policies which enable a spouse with children from a long established marriage to purchase or lease on their own following divorce will be maintained.

The States also agreed in 2005 that the current Regulation of Undertakings rule that requires 5 years' continuous residence before a person can access any job or start their own business should be increased to 10 years.

The rationale for this increase to 10 years lay in the simplicity and clearness of a single entitlement period to replace the current confusing Housing and Regulation of Undertakings qualifying rules, and fitted with an aspiration to grant more essential employment licences which would grant immediate access to housing, and therefore improve equity in access to housing. In this way, the negative effect for employers of making entitlement for work harder to gain by increasing the period to 10 years would be compensated by licensing more positions with immediate access to housing rights.

**The Migration Advisory Group are recommending that the entitlement period for work stay at 5 years, as at present**

In particular, the Group are cautious about the extent to which immediate access to housing through essential employment can be expanded, bearing in mind the constraints of the Housing Market, and thereby the ability to compensate employers for the increase to 10 years is very restricted. While licences could be varied to grant more registered positions, i.e. to ensure that the increase in the entitlement period for work from 5 years to 10 did not damage employers; this is complex, and perhaps unnecessary, as the increase to 10 years lacked economic rationale, but rather was a means of simplifying the rules. The desire to simplify rules in itself is considered insufficient justification to change the rules, given the difficulties involved. Indeed, the introduction of Registration Cards which will clearly indicate a person's residential status will make residential status much clearer. Finally, the Group considered that any means whereby the 5 year rule could be increased to 10 years would always involve either unfairness for residents waiting to qualify or a complex and confusing transition period.<sup>7</sup>

The Group considered that retaining the 5 year rule for work did not detract from the effectiveness of the migration controls, and propose the following criteria to become "Entitled for Work".

**Entitlement for Work will be achieved by being –**

- (a) **Jersey-born** persons and completing an **aggregate** period of 5 years' residence.
- (b) Non-Jersey-born and completing a continuous 5 year period of residence.
- (c) "Entitled for Housing".
- (d) Persons married to a Person who is Entitled for Work will also be Entitled for Work. If Civil Partnerships are introduced, such arrangements will be placed on the same footing.
- (e) Persons married to an Entitled Person will be "Entitled for Work" and able to access any employment. If Civil Partnerships are introduced, such arrangements will be placed on the same footing.

<sup>7</sup> Approximately 7,000 workers have less than 5 years' residence, and a further 3,000 people have between 5 and 10 years' residence. To increase the residence period required for work from 5 years to 10 years would affect these people, or involve complex mechanisms to protect them.

**Table 1 illustrating qualification status in 2001 and 2008, using Census information, the Jersey Annual Social Survey, the Manpower Survey, and “Jersey in Figures 2008”:**

	<b>2008</b>	<b>2001</b>
Adults not qualified for work, i.e. with less than 5 years’ residence <i>Comparable to the new “Registered” category</i>	6,900	7,000
Adults qualified for work, i.e. more than 5 years’ residence, or their housing qualifications, or married to such a person: <i>Comparable to the new “Entitled for Work” only category<sup>8</sup></i>	44,800	41,900
Adults qualified for housing, i.e. with more than 10 or 11 years’ residence, or married to such a person: <i>Comparable to the new “Entitled for Work and Housing” category</i>	66,500	56,100
People given immediate access to controlled housing as 1(1)(j)s: <i>Comparable to the new “Licensed Employee” category</i>	1,800  (inc. 1,140 private sector)	1,200  (inc. 510 private sector)
<b>Total Working Population</b>	<b>53,500</b>	<b>50,100</b>

*The above table seeks to illustrate the numbers in each category. As to the future, these figures will vary according to economic circumstance, and are subject to States and Ministerial Decisions on overall population strategy and individual applications. The table does illustrate –*

- *the consistency in the numbers of people not qualified for work;*
- *increase in numbers of people with access to housing over recent years;*
- *the growth in the number of “j” positions in recent years, following economic growth, in particular, in the finance sector.*

The Migration Policy will have no impact on the ability of a person to claim benefit from the States under the Income Support Scheme.

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<sup>8</sup> Based on length of residence.

**In summary:**

**It will take less time to become “Entitled for Housing” and having become entitled, people will have a greater opportunity to keep their qualifications.**

**The time it takes to become “Entitled for Work” will remain the same.**

**These changes will have a minimal impact on the housing and employment markets, but will produce a fairer balance between different members of the Island’s community.**

**Table 2 illustrating ability to gain Entitled for Housing Status:**

	Ability to <b>gain</b> qualifications/ “Entitled for Housing“ status		Ability to <b>retain</b> 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 two 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

**Table 3 illustrating ability to gain Entitled for Work Status:**

	Ability to <b>gain</b> qualifications/ “Entitled for Work” status		Ability to <b>retain</b> qualifications/ “Entitled for Work” Status	
	Current RUDL Law	New Mechanisms	Current RUDL Law	New Mechanisms
All persons	5 years continuous	5 years continuous	Lose immediately	Lose immediately
Entitled for Housing	See Table 2 above	See Table 2 above	See Table 2 above	See Table 2 above

## SECTION C: BUSINESS LICENSING

### C1. WHY LICENCE BUSINESS?

The Regulation of Undertakings and Development (Jersey) Law 1973 requires any trade, business or profession, whether or not carried on for profit, and wherever carried out in the Island, to have a licence before commencing an activity or engaging additional staff.

**This requirement will remain under the new mechanisms – every undertaking will require a licence to commence and engage staff.**

**The purpose of this is to manage the number of new migrants who can work in Jersey – in order to manage the size of the overall population and immigration.**

Applications to commence an undertaking and engage staff will be determined with reference to the States Strategic objectives, and specifically under the new Law in order to: **“preserve and maximise the benefits of Jersey’s finite resources”**.

To achieve this, individual applications will be decided against the following criteria:

**1. The desire to minimise the demand placed on the Island’s natural and built resources:**

A business will be assessed against the additional demand it will place on Jersey’s resources, in particular through the engagement of Licensed and Registered persons.

In doing this, a business’s impact on land use, housing, public services, infrastructure, and the environment may be considered.

**2. The desire to preserve the Island’s reputation and its integrity:**

Jersey should continue to guard its reputation as a centre for financial and commercial excellence and integrity. In this way, it secures its economic future and good name.

**3. The desire to promote a balanced and prosperous economy:**

Decisions will be made to further the economic interests of Jersey in maintaining an efficient, effective and diverse economy.

This includes the promotion of competition as a positive element – driving efficiency, encouraging the best allocation of resources, tackling inflation, and ultimately, supporting an affordable standard of living.

This also includes recognizing that businesses contribute in many ways, not just financially – in particular, by providing a diverse range of services to consumers and by being part of a retail experience unique to the Island.

#### 4. The desire to promote a range of employment and training opportunities for Entitled Persons:

Opportunities for employing and training Entitled persons will be supported, in particular, where this relates to school-leavers, people over normal working age, apprentices and ‘trainees’, and those in supported/special needs employment schemes. These objectives will be supported through “Jersey Careers”, and Economic Development Department’s “Jersey Enterprise”.

#### 5. The desire to optimise tax gains from finite resources:

A business’ expected local tax liability and that of its employees will be relevant when making a decision. Tax revenues are important as they support public services, and in turn, reduce the need for further immigration.

## C2. NEW BUSINESS LICENCE

A licence granted to an undertaking will specify the activity of the undertaking.

The licence will also specify the maximum number of “Licensed” and “Registered” staff who can be engaged.

- **Licensed Employees** will be those generally deemed as highly skilled and essentially employed. Factors such as professional qualifications, salary, social contribution, e.g. nurses, doctors, teachers, as well as general expertise provided, and the shortage of those skills and the need to offer housing in order to encourage such secure them for Jersey, will be relevant. These employees will have access to local housing so long as they hold such an employment position. Numbers will be strictly managed.
- **Registered Employees** will be any other persons deemed to perform important employment. Numbers will also be strictly managed.
- **Entitled Employees** will not be restricted.

**Table 4 illustrating the new and old classifications of residential status:**

Years Residence	Regulation of Undertakings (RUDL) and Housing Law	Residential Status for Individuals under new Law	Classes on Business Licence under new Law
Less than 5 years	Non-Locally Qualified Persons (RUDL)	“Registered”	“Registered”
More than 5 years	Locally qualified (RUDL)	“Entitled for Work”	“Entitled”
10 years under new proposals; presently 11 years	Locally Qualified Persons (Housing Law)	“Entitled for Work and Housing”	Not required on the licence – only required for housing
0 – 10 years’ residence and “essential” employees	“j” employees (Housing Law)	“Licensed for Work and Housing”	“Licensed”



**These new staffing licences will be introduced gradually:**

The new Migration Licence will supersede the existing Regulation of Undertakings licence and include existing “j” category permissions –

- The **same** number of non-locally qualified posts an employer is already licensed for will be converted to the same number of registered posts on the new licence.
- The number of “j” employees an employer is engaging will be converted into the **same** number of “Licensed” posts on their new licence.

**This is an administrative exercise, designed to introduce a single staffing licence, with no intended consequence for employers or people already engaged.** From an employer and employee perspective nothing will change on day one. Instead:

- New style staffing licences will be issued over a period of time as applications are made for more staff or as existing licences expire.
- Where a business has “j” employees, they will be issued with a new staffing licence when they next make application – at which point, the existing number of “js” employed will be transferred onto the new licence.
- Most licences are renewable after 3 years, and in this way, after 3 years, in effect, all employers will have a new Migration Staffing Licence. Should they wish to receive one sooner, this will be possible on application.

**Most staffing licenses will be for 3 years, as is currently the norm. If any additional staff are required, an application must be made:**

1. If no suitable Entitled Employee can be identified following efforts to identify a suitable candidate – and if the employer does not already have capacity to engage Registered or Licensed Persons – an employer may seek permission for a Registered or Licensed employee.
2. A particularly persuasive case **with reference to the licensing criteria** is required for a Licensed Employee to be granted on a licence. This would be similar to the present “j” category employees, which are generally highly skilled employees. Less skilled, but nevertheless important employees may be granted as Registered Employees. This will not give them housing rights, but will enable them to be employed. This is similar to non-locally qualified persons under the Regulation of Undertakings and Development Law. *The Minister will have an obligation to limit all these requests.*
3. If an application for a Licensed or Registered Employee is successful, then the employer is free to engage any individual who is suitable for that position – and capacity would remain on the employer’s licence for the period the licence remains valid. As such, new employees can be taken on *within the terms of the licence* without additional application.

4. On expiry of the staffing licence, a review will be conducted and existing Registered and Licensed Employees will be ‘carried over’ on to the new staffing licence, unless posts are no longer needed or were explicitly granted for a short period **and** this was explained when the staffing licence was issued – for example, an expectation may exist that Entitled persons will be trained to replace the Licensed Employee, or the licence may relate to a specific contract.

Business plans and financial details may be requested when considering an application. Reference will also be made to other relevant decisions, in particular, those taken in relation to similar businesses to ensure that decisions are fair and consistent, and that businesses operate, as a general principal, on a level playing field with their competitors. In doing this, the Minister will nevertheless be mindful that each case presents its own unique set of circumstances, and will **ultimately have reference to the need to preserve and maximise the benefits of Jersey’s finite resources**.

Co-operative ways of working will continue between the Population Office and “Careers Jersey” – the body responsible for the job centre, special needs employment, and skills and training – and “Jersey Enterprise” – who support business development through advice and guidance. This joined-up work enables better, more efficient outcomes. Quick decisions are also important. As such, the Population Office will seek to maintain and improve its current service standard of 15 working days to respond to a licence request.

#### **Employers will have more flexibility in how they receive and use Licensed posts:**

When a licence is granted to an employer to engage a Licensed Employee, they will be free to use that licence for any similar or comparable position, i.e. not for position that is wholly different from that initially applied for.

This will mean that an employer is able to grant an employee immediate access to housing, without having to make new application for each and every new incumbent of a role, as they do now for “j” employees. This will reduce administration, and give employers greater freedom as well as responsibility in managing their employee numbers. It will also retain a firm link between the business case upon which a licence was granted and how that licence is subsequently used.

The ability to control this link is facilitated by the profile and nature of “j” permissions, because –

- They tend to relate to specific classes of role, e.g. lawyers, accountants, various financial services professionals, dentists, doctors, pharmacists, pilots, etc., or very specific roles, e.g. sports coach, project manager, chief executive, etc.
- The profile of “j”s also facilitates very close regulatory relationships, where, for example, one third of “j”s are engaged by just 16 businesses, while many other businesses have just one or two such permissions.

**Table 5 illustrating the number of “j” category employees by size of undertaking:**

<b>Number of “j”s employed in an undertaking</b>	<b>Number of Undertakings</b>	<b>Number of “j” employees</b>
1 to 5 “j” employees	289	476
6 to 10 “j” employees	17	129
11 to 15 “j” employees	6	77
15 + “j” employees	16	426
<b>TOTAL</b>	<b>328</b>	<b>1,108</b>

**Managing Access to work:**

As explained in the Consultation Paper on Part 1 of these new mechanisms, all resident individuals will be required to obtain a registration card, which will show their Social Security number and Residential Status.

The registration card will control access to work, enabling employers to evidence a person’s residential status – instead of having to establish this status themselves as they do now. This will enhance an employer’s ability to comply with the Law, and make policing the new system easier.

This card, unlike the current Social Security card, will not be held by employers, and custody will be the responsibility of the employee.

As part of this initial contact with new arrivals, an opportunity exists to provide them with a more general ‘newcomers welcome pack’, which might include information on Registered Property, Tax, Social Security and health provisions. **In this way, newcomers will be assisted in becoming more integrated into Jersey society.**

**Work permits for nationals from outside the European Economic Area:**

The current system of work permits issued by the Minister for Home Affairs will continue, and issued to an employer for a named employee to work in a specific post for a limited period of time in order to fill a temporary skills gap. All non-EU employees fall into the work permit rules.

Work permits are relatively few in number, with 205 being issued in 2007 compared to 1,699 in 2001 – the difference being the expansion of the EU and the ability of more people to come to work in Jersey permit free.

**C3. EXEMPTIONS**

All undertakings will be required to obtain a licence to commence and engage staff, including non-resident undertakings coming to the Island for a specific purpose having satisfied the licensing criteria. The only exemptions will be –

- An Entitled Person working for themselves for less than 8 hours in any week;
- Consultants and Directors engaged in a locally established undertaking for no more than 20 working days in any one year;

- The engagement of a temporary worker in the event of staff turnover, for no more than 20 days;
- The engagement of temporary staff to cover for staff on maternity, sickness, annual leave, etc.;
- Domestic staff such as cleaners, gardeners, housekeepers, working exclusively for a single or small number of private residences;
- Investment vehicles without staff, and administered by an undertaking regulated by the Jersey Financial Services Commission.

These are very simple and minor exemptions. They cannot readily be extended further without undermining the objective of regulating access to work.

#### **C4. NEW COMBINED RETURNS**

The submission of Manpower Returns will become simpler and easier.

The current Manpower Return will be combined with the existing Social Security and Income Tax Instalment System return for those businesses that submit their returns electronically. This will provide, as part of the manpower return, a full listing of employees, enabling compliance with licence conditions, in particular limits on Registered and Licensed Employees to be monitored.

This electronic means of making returns will become the standard mechanism, with exemptions where this is impractical.

Businesses will be assisted in the implementing these changes in a similar way as to when the Income Tax Instalment System was implemented.

This process will also ensure that timely and accurate employment and population statistics are available to government to assist in the development of strategy.

#### **C5. THE STATES OF JERSEY**

The States of Jersey will operate under the new Law in the same way as a private sector business – and will require a Licence which will place limits on the number of staff that can be engaged by residential category. Thereon the States of Jersey will have to manage their staff within their licence conditions.

At present, the overwhelming majority of States of Jersey employees are locally qualified people and this would be expected to continue, with investment in training a pre-requisite of a licence being issued, in particular, for Licensed Employees with housing rights.

The States of Jersey presently have 660 “j” category employees – of whom around 600 are teachers, doctors, nurses, and other medical staff. Only a small number of “j”s are issued for senior civil servants, and pressure will continue to be maintained to keep these numbers low.

**C6. FEES PAYABLE**

To recover costs, small charges will be levied on businesses, expected to be in the region of £125 – £150 *per Licensed Employee per annum*. It is expected this will generate net additional income for the States of £150,000 – £200,000 per annum.

In time, these charges may extend to Registered Employees also. No charges however will be levied on small businesses, or in respect of *any* Entitled Employees. In this way, some small additional incentive is given to finding Entitled workers.

All and any charges will be limited to the principle of recovering the costs of processing applications and operating the Population Office.

These charges will be introduced at a time that is sensitive to the economic climate, and bearing in mind the need to remain competitive with other jurisdictions.

This income will replace charges currently applied to Housing Consents, whereby £50 is charged each time a person buys a property. This charge will not be levied in future, i.e. no fees will be charged on people purchasing property.

## SECTION D: PROPERTY

### D1. QUALIFIED PROPERTY

New controls will manage how property is purchased, leased, and occupied.

Under the current Housing Law, a duty exists “to control acquisitions and sales and leases of land in order to prevent further aggravation of the housing shortage”. This ability to restrict access to housing deters immigration, and preserves the local housing stock, and is considered vital in a small Island like Jersey where demand for homes runs high. In future:

- **“Entitled” and “Licensed” persons will be able to purchase, lease, and occupy any accommodation.**
- **“Registered” persons will be able to lease Registered accommodation, or live in genuine lodgings, including those in private households or staff accommodation.**

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. This has resulted in a position whereby occupancy restrictions do not reflect consistently size, style, or location of property. At present, the controlled housing market is sharply divided and can at best be characterised as follows –

- The current **“(a)–(h)” only** category includes many flats developed from commercial property in recent years, and most houses under two years old. It is estimated that 20% of properties carry this designation.
- Conversely, many flying freehold flats, some share transfer flats, and almost all houses over two years old are available to **“(a)–(j)” qualified** persons. It is estimated that 80% of properties carry this designation.
- A limited range of properties are also available under **Regulation 1** to *any* qualified person, including “1(1)(k)” residents.<sup>9</sup>

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. Indeed, the present policies that segment the market simply shift demand the demand placed on the market by “1(1)(j)” employees from one type of property to other types – as such, this policy change does not affect the total demand for housing from the Island’s population.

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<sup>9</sup> The average price of a property purchased by a “1(1)(k)” resident is £4.2 million (2008); the average price of a property bought by a “1(1)(j)” resident is £680,000 (2008); the average price of a property in Jersey is £525,000 (2008).

Late in 2008 policies related to property classifications were amended to grant 50% of all new developments Regulation 1 status; with the remainder of the units being “(a)–(h)”. The other elements of the classifications policy remain in place, being that the 50% classed as “(a)–(h)” will become “(a)–(j)” after 2 years if free-standing property<sup>10</sup>, or if apartments, will retain the “(a)–(h)” status until the policies change again. The introduction of 50% Regulation 1 for new developments is part of a gradual introduction of the agreed Migration Policy principles, and a “halfway house” toward the single controlled property market.

It is proposed that in time all the remaining “(a)–(h)” restrictions will be removed, other than properties earmarked as ‘affordable housing’, which will remain only available to Entitled Persons who meet other relevant criteria, in particular:

- “Jersey Homebuyer” Shared Equity Housing,
- First-time Buyer Rezoned Housing,
- Sheltered Housing (where planning permits place age restrictions),
- States and Housing Trust Property.

This would suggest that the total number of employees granted immediate housing rights is just one of a wide range of factors that influence house prices in Jersey and that “j” employees by themselves have only a limited impact on house prices. Notwithstanding that, “j” employees are generally highly skilled and provide important contributors to Jersey’s well being and economy – earning in the private sector on average £90,000, supporting a range of valued businesses, and complimenting local employment opportunities.

**Table 8 illustrating purchase consents issued, total and to “j” employees, 2007 and 2008**

	Total Purchase Consents	“j” consents	% of purchases by “j”s
2007	1,881	138	7.3%
2008	1,617	98	6.0%

#### **Classifying property:**

The Planning and Environment Department designate all land through the Island Plan and monitor this using the Planning for Homes process and periodic Housing Needs Surveys.

**In future, the classification of property as Qualified or Registered will be made by the Planning and Environment Department and not the Population Office.** These classification decisions will be made in the best interests of managing the supply of accommodation in Jersey, in particular, the supply of accommodation for Entitled Persons.

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<sup>10</sup> Properties also have to be over £250,000 to be granted “(a)–(j)” status.

**These proposals place within the same Department the strategic and operational responsibilities for planning for homes, granting permission for developing homes, classifying homes with reference to who can occupy and purchase, and recording homes.**

Property classification will be recorded on the Jersey Land and Property Index, a system operated by the Planning and Environment Department, and established over the last few years which records all Island property, and gives each property and residential unit a unique property reference.

At the point of implementing these policies, all properties classified as controlled under the Housing Law, including “(a)–(j)”, “(a)–(j)”, and Regulation 1 properties will become Qualified Properties, and all properties currently classified as uncontrolled under the Housing Law, such as Lodging Houses, staff accommodation, agricultural accommodation, etc., will become Registered Property.

**The Migration Advisory Group and the Population Office will consider housing availability when making business licensing decisions and when setting rules which govern Entitlement. It will do this in close collaboration with the Planning and Environment Department and Economic Development Department.**

## **D2. REGISTERED PROPERTY**

**More fairness and opportunity will be granted to Registered Persons by introducing a lower qualification period of 10 years, greater security of tenure, and better planning mechanisms to develop a more balanced portfolio of housing.**

**Only specified premises will be available for occupation by Registered Persons.**

These properties will be initially those premises currently registered as Lodging Houses under the Lodging Houses Law. There are about 200 of these Registered Lodging Houses, with 5,600 beds. These properties are subject to minimum fire regulations, facility requirements, and space standards under the Lodging House Law, which on new lodging houses is comparable to those required of “(a)–(h)” accommodation.

**Table 9 illustrating Registered Lodging Houses and Bed Spaces**

	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Bed Spaces	4,304	5,278	5,280	5,242	5,580	5,550
Lodging Houses	220	241	241	249	249	280

The persons who presently live in these properties have no security of tenure, and can be requested to vacate without notice. They have no right to privacy either.



While the vast majority of Lodging House owners respect their lodgers, with the repeal of the Housing Law, and the introduction of these new policies, it is intended that new migrants will be able to lease certain accommodation and so be able to obtain similar security of tenure rights as qualified persons, as well as any deposit protection rights that more established Islanders will have as a result of the proposed Residential Tenancy Law. **This is considered a fair and overdue improvement.** At the same time, discussions will continue with Lodging House owners to ensure regulation remains proportionate and change is managed.

Registered Persons will also continue to be able to live in genuine lodgings in private residences and staff accommodation.

The introduction of the Migration Policy is also an opportunity to enhance the administration of legislation that relates to minimum standards in Lodging Houses, with minimum standards being enforced by Public Health Officials as part of a new and wider strategy to introduce minimum public health standards on *all* residential accommodation, including agricultural accommodation.

**Better planning for Registered accommodation is also considered essential:** In the past, planning considerations were mainly focused on qualified property, with unqualified property being left to windfall conversions of commercial premises, for example when hotels left the tourism market and converted to Lodging Houses. This approach has resulted in a fragmented market, with an assortment of property conversions. While the overall standard of the market has improved, lower quality units remain, and there is room for improvements to take place. The latest Island Plan Consultation stated:

*“Arguably, the most suitable housing for some sections of the unqualified sector (such as short term finance sector employees) are the in-town high density apartments close to the finance district which are currently solely restricted to the qualified sector. In many instances these will be preferable to what were previous family houses in the town area that have been converted into multi room lodging facilities”.*

It went on to ask whether respondents agree that planning for these unqualified homes should take place, and whether a proportion of new housing in urban areas should be available to unqualified persons.

The results of the consultation indicated that respondents broadly did not feel that a suitable proportion of land in the urban areas should be allocated to unqualified persons, but rather that the market should continue to cater for unqualified accommodation through windfall developments. These results will be inspected, but it continues to be believed that planning should be an inclusive process for the entire housing stock, and that this does not prevent preference being given to qualified housing.

**Table 10 illustrating current Housing Law property classifications and Future classifications, with differences “in bold”:**

Current Housing Law		Future Law	
Person	Property	Person	Property
Qualified under “a-h” Regulations, i.e. following a 10/11 year period of residence	Purchase or Lease “a-h”, or “a-j”, Regulation 1 property, or lodge in unqualified accommodation.	Entitled Person	Purchase or Lease any property, including affordable housing if they meet required criteria.
“j” regulations, i.e. by virtue of essential employment.	Purchase or Lease “a-j” property, or lodge in unqualified accommodation.	Licensed Person	Purchase or Lease <b>any property</b> except ‘affordable’ housing.
Not qualified under the Housing Law.	Lodge in unqualified accommodation only <sup>11</sup>	Registered Person	<b>Lease</b> Registered accommodation – or genuine lodgings.

### D3. RECORDING CHANGES OF ADDRESS

As explained in the Consultation Paper on Part 1 of these policies, there will be an obligation on all residents to notify the States of any change of address. The obligation to make notification of a change of address will rest with both the occupier of a property **and** the owner.

For those individuals who are renting or lodging, this obligation will be discharged by the occupier (lessee or lodger) completing a single short form to be signed by their landlord, being the owner or their agent for submission. This will be a joint legal obligation of the tenant and landlord. Where the occupier is also the owner, they will be solely responsible for making notification.

This simple notification procedure will replace the current system of making a purchase or lease application to the Population Office, and the issuing of consents under the Housing Law. The short notification form will contain similar information to the current housing application forms and will include –

- (i) Owner and occupier name(s)
- (ii) Social Security Number(s)
- (iii) New address in full
- (iv) Tenure type (either owner, leaser, or lodger)
- (v) Date of change of address.

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<sup>11</sup> **Non-qualified property** is open to anyone to live in, and includes staff accommodation, registered lodging houses, private lodgings with less than 5 lodgers, and a limited amount of accommodation falling outside of the Housing Law, e.g. properties inherited before 2006, or properties acquired by dégrèvement before 1993.

It will be an offence to not make this change of address notification. Failure to make a notification of a change of address will carry a penalty, and making a false notification of a change of address will carry a higher penalty. These notifications may be made in person at Philip Le Feuvre House or Cyril Le Marquand House, or by post on completion of the short notification form.

**These proposals will result in a notification process that will record the addresses of all residents, including those Registered Persons who presently do not require consent under the Housing Law.**

**This notification process will serve as a foundation for improved customer services and better population statistics.**

#### **D4. CONTROLLING PROPERTY OWNERSHIP**

**It is proposed that ownership of residential property be restricted to persons who are Entitled or Licensed, or on application, to companies.**

On repeal of the Housing Law, and cessation of the consent system, obligations will be placed on legal representatives to ensure that an individual who is purchasing is authorized to do so under the Law through the production of their registration card, showing their Residential Status, and upon proof of identity. Should this purchaser then go on to occupy the property, a change of address notification will then need to be completed.

In certain circumstances, the simple use of a registration card will not be adequate to control the ability to purchase, so additional checks, and slight variations in the card type will be required –

- Licensed Employees can lose their status and right to buy property if they are no longer essentially employed – so confirmation from the employer of up-to-date Licensed Status will be needed before purchase can take place.
- Some Entitled Persons will lose their qualifications if they return to the Island after a long absence. For these types of Entitled Persons, the card will expire 10 years after being issued to avoid people with lapsed status purchasing.

The Court Records and the Land and Property Index will be used to ensure **that ownership of residential property in Jersey is restricted to those permitted under the Law** – and to maintain the House Price Index. Should purchases be identified which have taken place contrary to the Law a prosecution may then take place.

**What these ownership provisions mean for individuals seeking to purchase property:**

- Entitled Persons will be able to purchase without having to obtain any consent, simply by using their Card to prove their Entitled Status.

- Licensed Persons will also be able to purchase without having to obtain consent, but will only be able to do so having confirmation of current Licensed Employment, and in a prescribed manner, i.e. through a company and on completion of an undertaking agreeing that ownership and occupation of the property can only be maintained so long as Entitled Employment continues.

**What these ownership provisions mean for companies seeking to purchase property:**

- Provisions will exist to enable specific application to cater for situations where a case can be demonstrated that company ownership of property is in the best interests of the community, as is presently the case. As a matter of normal policy, this permission for companies to own property will be granted for commercial developments, mixed residential/commercial developments, staff accommodation, etc., but not for residential property. The reason for this is to have a control able to prevent a situation whereby a company owns residential property and its shares are sold to outside investors.

**D5. LEASING QUALIFIED ACCOMODATION**

Under the Housing Law, only a qualified person can enter into a lease, and a landlord has an obligation to submit jointly with the lessee an application form for consent to lease, and a consent form, or exemption if the lessee is locally qualified and has transacted before, is then issued. This lease consent process will be replaced, and obligations will be placed on the landlord to ensure that an individual who is leasing from them is authorized to do so under the Law through the production of the Registration Card showing either their Entitled or Licensed Status, and authoritative proof of identity procedures.

In certain circumstances, this simple use of an Entitled or Licensed card will not be adequate to control the ability to lease, so additional checks, and slight variations in the card type will be required:

- Licensed Employees can readily lose their status, so confirmation from the Employer of current Licensed Status will be needed before property can be let.
- Some Entitled Persons will lose their qualifications if they return to the Island after a long absence. For these types of Entitled Persons, the card will be set to expire 10 years after issue to avoid people with lapsed status entering into leases.

Once a person's residential status has been confirmed, a change of address notification will need to be completed, as set out above, within a specified timeframe.

Should leases be identified which have been entered into contrary to the Law, vacation of the property will be required and prosecution may take place.

## **D6. ACCESSING REGISTERED ACCOMODATION**

### **Proposals to introduce greater equity into the housing market:**

People who do not possess housing qualifications under the Housing Law are unable to rent or buy property in Jersey. Such individuals are only able to reside in either registered Lodging Houses, staff accommodation, or as a lodger in a private house. One of the aims of the Migration Policy is to “allow the States over time to reduce the unacceptable disparity between those who have housing rights and those who are not “qualified”.

Although it is generally recognised and accepted that some form of control over access to housing is needed, due to the constraints imposed by the limited size and available resources of the Island and the need to safeguard the environment for future generations, it is also accepted that no Island resident, whether locally qualified or not, should be expected to live in sub-standard accommodation.

There is a general belief that “qualified” accommodation is of a higher standard than “unqualified.” If housing standards are to be improved for the unqualified sector, two approaches can be adopted: firstly, that more people be given their qualifications for housing and secondly, that housing standards in the unqualified sector be improved. It is acknowledged that many lodging house owners have invested considerably in improving their accommodation to high standards but there still remains unqualified accommodation that needs updating.

The Migration policy seeks to address these issues in a number of ways.

- (i) Reference has been made at Section B to the lowering of the qualification period to introduce a 10 year “Entitled to Housing” status, and the improved ability of individuals to retain their qualifications. These changes will remain that an increased number of the population will have full housing rights.
- (ii) A key factor in bringing about change will be the repeal of the current Housing legislation. It is proposed that the current legislation will be replaced by the Migration Law. This means that those people currently classified as “unqualified” will become “Registered” and will be entitled to live in “Registered” accommodation. The repeal of the Housing Law will also remove the current restriction that means that unqualified people cannot enter into a lease.
- (iii) The draft Residential Tenancy Law is currently before the States for debate. If adopted it affords various protections to both landlords and tenants who enter into residential tenancy agreements for premises qualifying under the terms of the Law. Such premises need to provide a self-contained unit with:
  - (a) a shower or bath;
  - (b) a wash-basin;
  - (c) a kitchen;
  - (d) a sleeping space; and
  - (e) a lavatory.

The inhabitants must be granted exclusive use of the premises and the tenancy agreement must be for a period of less than 9 years. Accordingly, it is envisaged that Registered individuals will be able to enter into tenancy agreements for any accommodation in Registered premises that satisfies these conditions. It is envisaged that many units of accommodation in lodging houses, and possibly private homes, will be within the definition of the Residential Tenancy Law. The current disparity whereby Registered individuals have no security of tenure will be reduced for those who enter into residential tenancy agreements by virtue of the changes arising from the introduction of the Migration Law and the Residential Tenancy Laws, if adopted, will be treated in the same way as those qualified individuals entering into such agreements.

- (iv) A new Draft Health and Safety (Dwellings) (Jersey) Law 200- is shortly to be consulted upon. The proposals will mean that ALL residential accommodation, including private lodgings, will be subject to minimum standards with reference to the size of the property and its suitability for a family or individual, and a range of hazards.

**Registration and Notification provisions for those living in Registered accommodation:**

As part of this, the Lodging House Law will be reviewed to complement, if not to be replaced by, the new health and safety strategy, with minimum living standards raised, in consultation with lodging house keepers.

A review of the current Lodging House legislation and rules regarding the position of lodgers in private homes is currently being undertaken as part of the ongoing development of the Migration policy and Residential Tenancy Law, and to ensure it compliments, if not is eventually replaced by, the new Health and Safety strategy for dwellings. Part of this review will be seeking to raise the minimum living standards at the bottom end of the market, in consultation with Lodging House Keepers. For the time however, the Lodging House Law is to remain in force and the requirement to maintain a Register of Lodgers under the Lodging House Law will remain.

When the Migration policy is implemented a keeper of Registered Accommodation will need to evidence an individual's registration card before providing them accommodation. This process of viewing the registration card will act as a control in ensuring that new arrivals do register and obtain their registration card. A notification of address, if a new arrival, or a change of address notification, will then need to be completed and returned once occupation starts. The current requirement for lodging house keepers to submit their Register on an annual basis to the Population Office will remain as a further compliance check.

Property-owners who take in a lodger will also have to evidence the existence of a registration card before allowing someone to lodge, and must thereon make notification of a change of address for each of their lodgers.

**This will mean that the States maintains a record of the names and addresses of all persons, including those living in the unqualified sector, for the first time.**

**SECTION E: POLITICAL RESPONSIBILITY****E1. CHIEF MINISTER AND POPULATION OFFICE**

These policies will be the responsibility of the Chief Minister.

In making decisions on policy and individual applications, the Chief Minister, or a designated Assistant Minister, will be advised by other Ministers. In particular, they will be advised by the Minister for Economic Development, the Minister for Planning and Environment, and the Minister for Housing.

This follows the successful Migration Advisory Group model and ensures expertise is applied, consensus strived for, and various opinions can be considered. At the same time, this approach holds a single Minister ultimately accountable for managing access to housing and employment, in order to manage migration.

These policies will be administered by the Population Office – which is part of the Chief Minister’s Department – in close conjunction with the Departments for Economic Development and Planning and Environment.

## APPENDIX 1

## HOUSING LAW QUALIFICATIONS

Under the current Housing Law an individual needs to be “qualified” in order to buy or lease property. If they are not “qualified”, they can only “lodge”. The most common ways of becoming qualified under the current Housing Law are –

- (i) Being **Jersey-born** – and having lived in the Island for an **aggregated** period of 10 years. Such persons never lose their housing qualifications. The majority of Jersey-born children achieve 10 years’ qualifying residence during their formative years.
- (ii) Being **non-Jersey-born** – and having completed a total **continuous** period of 11 years’ residence. Such persons lose their qualifications if they are out of the Island for more than 5 years once qualified.
- (iii) The spouse of a locally qualified person qualifies in their own right having completed 10 years’ **continuous** residence while married.
- (iv) Special rules also exist around **non-Jersey-born persons who arrived in the Island before 20 years** of age and whose parents are residentially qualified. Such persons need complete 10 years’ aggregated residence, and if their parents were Jersey-born or continue to reside in Jersey, they keep their qualifications permanently irrespective of any periods outside the Island.
- (v) Consent can be granted on **hardship grounds**, for example, extreme misfortune, usually medical and/or involving children (under paragraph 1(1)(g) of the Housing Regulations). Only a handful of these permissions are granted each year.
- (vi) Consent can also be granted on **social or economic grounds** (under paragraph 1(1)(k) of the Housing Regulations). The “1(1)(k)” consent is normally issued attract high net worth individuals who are required to pay a minimum of £100,000 in income tax per annum. Around 10 high net worth permissions are granted each year. This scheme will be maintained as it provides financial value.
- (vii) Consent is also granted on grounds of “**essential employment**” where it can be justified in the “best interests of the community” (under paragraph 1(1)(j) of the Housing Regulations). The Minister for Housing grants these permissions in order to assist businesses in recruiting staff, and having regard to the contribution of a business to Jersey, the availability of local candidates, and the investment in training undertaken by the business. Around 500 such permissions are given each year, and as at December 2008, 1,800 employees are employed as “essential employees”, of whom 1,140 are working in the private sector.



## APPENDIX 2

**DRAFT “REGISTER OF NAMES AND ADDRESSES (JERSEY) LAW 200-”  
AND DRAFT “MIGRATION (JERSEY) LAW 200-”**

**INTRODUCTION**

The Chief Minister issued a Consultation Paper on behalf of the Migration Advisory Group in December 2007 entitled “Managing Migration: New Mechanisms – Part 1, The Population Register and Jersey Names and Address Index”<sup>12</sup> (“Managing Migration – Part 1”). The paper put forward proposals:

- (i) for the creation and issue of a Registration Card for which all Island residents would be required to register. The card would be used for Social Security purposes and to access housing and employment; **and**
- (ii) to establish a Jersey Names and Address Index for use by States departments and the parishes for the purposes of improved public administration and better customer services.

The Migration Advisory Group issued a Report<sup>13</sup> summarising the comments of those who responded to the consultation. As responses were limited, additional consultation relating to the issue of whether the registration card should carry a photograph or not was carried out through the Jersey Annual Social Survey (“the JASS survey”). The comments of those responding to both the consultation and the JASS survey have been taken into consideration during the drafting of these two Laws.

**The Draft Register of Names and Addresses (Jersey) Law 200- (“the Names and Addresses Law”) and Part 1 of the Draft Migration (Jersey) Law 200- (“the Migration Law”), dealing with registration proposals, are published following this explanatory Report for further comment and to give insight into the details of the duties that will exist on individuals and the safeguards proposed. This publication will also assist in presenting a complete package of policies.**

The Report:

- (i) explains how the two Laws relate to each other;
- (ii) gives an overview of key provisions in both Laws and demonstrates how the original proposals that were consulted upon have been incorporated into legislation.

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<sup>12</sup> <http://www.gov.je/NR/rdonlyres/64A147CC-1882-4820-BD14-DCD7D03E5F45/0/ManagingMigrationNewMechanismsPart1ThePopulationRegisterandJerseyNamesandAddressIndex.pdf>

<sup>13</sup> <http://www.gov.je/NR/rdonlyres/EC0142A5-D32A-4FF1-9258-F2EC5672788C/0/ResponsestoConsultationonPart1ofMigrationPolicy.pdf>

**Amendments to the draft legislation may be affected as a result of the following:**

1. Comments received, including those of Scrutiny;
2. The review of the draft legislation for compliance with the Human Rights (Jersey) Law 2000 (to be conducted by the Law Officers' Department on completion and finalisation of the Laws); and
3. The review of the offences and level of penalties proposed in the draft legislation (to be conducted by the Law Officers' Department on completion and finalisation of the Laws).

Notwithstanding the above standard procedures, it is felt important in the interests of transparency to publish these Laws, which reflect the States approved and previously consulted upon policies, and which have been developed having regard to Data Protection principles.

**FURTHER INFORMATION**

The background to the Migration Policy can be found in P.25/2005 "Migration: Monitoring and Regulation"<sup>14</sup>. This projet was adopted by the States in June 2005. The Migration Advisory Group ("MAG") and the Population Office were subsequently set up in 2005 and 2006 respectively and "Managing Migration – Part 1" was released for consultation in December 2007 – February 2008.

**RELATIONSHIP BETWEEN THE LAWS**

"Managing Migration – Part 1" described how the concept of a central, corporate names and address index for use by the States evolved. It described in Section B4, p.14, how the policies would require all Island residents to be registered in order to manage migration. The proposed registration processes have been drafted as Part 1 of the Migration Law.

"Managing Migration – Part 1" also described how registration by an individual in accordance with their obligation under the Migration policies would result in their registration on the Names and Address Index (now called "the Register of Names and Addresses") to be used by other States Departments. The reason for this proposal is that it is felt that individuals should be required to notify their name and address details once to the States, and that only one registration process under the Names and Addresses Law and the Migration Law should be necessary.

**Therefore there are no registration provisions in the Names and Addresses Law. This is because the obligation to register and the details of how to register are found in the Migration Law. Therein, the Names and Addresses Law authorizes use to be made of the name and address data collected under the Migration Law to update the Register of Names and Addresses.**

The accuracy of the Register of Names and Addresses, once established, will be dependent on input from registration processes to be found in other legislation, as well as the Migration Law. This process is described in greater detail below.

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<sup>14</sup> [www.gov.je/ChiefMinister/PopulationOffice/ManagingMigration](http://www.gov.je/ChiefMinister/PopulationOffice/ManagingMigration)

**REGISTER OF NAMES AND ADDRESSES (JERSEY) LAW 200- (“THE NAMES AND ADDRESSES LAW”)**

*Note: The “Explanatory Note” provided at the beginning of the draft Law gives a clear explanation of each Article. This section will demonstrate how the original proposals that were consulted upon in connection with the Register of Names and Addresses have been incorporated into legislation.*

**(a) Purpose of the Register of Names and Addresses and Automatic Access – “Managing Migration – Part 1” B1 p.13 and B8 p.17**

Article 2(1) of the Law places a duty on the Chief Minister to establish and maintain a register of individuals to be known as the “Register of Names and Addresses”. “Managing Migration – Part 1” proposed that the Register of Names and Addresses be used for “for the purposes of improved public administration and better customer services”<sup>15</sup>.

The paper also proposed that every States department that sought access to the data held on the Register of Names and Addresses would need to get approval in the form of a Regulation granted by the States. However, in consultation with the Law Draftsman it has been concluded that this approach would be impractical and overly prescriptive. In reality, departments operate in accordance with their statutory obligations. It would seem pedantic to make it a legal requirement for a department to seek permission from the States in the form of a regulation to exercise statutory duties, i.e. duties already approved by the States.

As a result, the Law has been drafted to strictly limit those bodies who have access to the Register data, and also tightly define the purpose for which they can have access in accordance with the original purpose that access be “for the purposes of improved public administration and better customer services.”

It should be noted that the data protection principles found in the Data Protection (Jersey) Law 2005 will apply to the use of data recorded on the Register in addition to the security provisions of the Names and Addresses Law itself. It is considered that these measures will be sufficient and appropriate to safeguard the data to be recorded on the Register of Names and Addresses. This revised approach has been noted by the Data Protection Commissioner as reasonable.

Article 1 interprets a “public authority” as being a Minister; a department (i.e. the ministerial departments) of the States or a Parish. This excludes arms length organisations and quangos and the non-executive departments, namely the States Greffe and legislative departments of the States.

Article 2(2) states that the purposes for which the Register of Names and Addresses is to be established and maintained are confined to the statutory purposes and Article 2(3) goes on to qualify what is meant by a “statutory purpose” namely **only** something “to enable or facilitate public administration and customer service”.

This access to the data is further limited by the requirement in Article 2(4) which states that “public administration and customer service” means:

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<sup>15</sup> Managing Migration – Part 1 p.13.

- (a) the provision of any service under an enactment to an individual by a public authority;
- (b) anything done by a public authority to enable or facilitate compliance by an individual of any duty under any enactment;
- (c) anything done by a public authority in consequence of a breach or alleged breach by an individual of any duty under any enactment.

This wording therefore tightly restricts any use of the data to a use that relates to:

- (i) the provision of a statutory service to an individual (e.g. access to the Register of Names and Addresses to assist an individual with an application for a social security benefit; the provision of a passport or driving licence, etc.);
- (ii) assisting an individual to comply with a statutory duty (e.g. to allow departments to access the data to send out forms for completion relating to social security contributions; manpower returns; income tax forms);
- (iii) ensuring that the authority can access the Register of Names and Addresses to manage compliance by individuals who are in breach of their statutory duties (e.g. sending out notices of failure to pay contributions; return income tax forms).

If access were to be sought by a public authority for any additional purpose that was not covered under any of the provisions above, i.e. for non-statutory purposes, it would be obliged to seek approval by Regulation from the States in accordance with Articles 2(3)(b) and 4(2). Article 2(5) also allows the States to amend the definition of “public administration and customer service” by Regulation.

**(b) How you will be recorded on the Index – “Managing Migration – Part I”**  
*B4 p.14*

The Chief Minister has a duty to establish and maintain a Register of individuals.

Article 2(9) of the Names and Addresses Law enables the Minister to enter “registrable facts” (see paragraph (c) below) held by any department on the Register of Names and Addresses. This enables the Register of Names and Addresses to be created by aligning data held on various databases within the States, such as the Social Security database, and the Driving Vehicle Standards database. This Article also allows for the subsequent maintenance of the Register of Names and Addresses by virtue of the fact that data collected by other departments can be used to update it.

Part A above has described the way in which the Migration Law will require all residents in Jersey to be registered for the purposes of the Migration Law. The use of the word “resident” includes “worker” as anyone wishing to work in the Island will also be a resident unless they fall into one of the exemptions to be introduced.

Article 2(9) of the Names and Addresses Law enables registrable facts provided to the Minister as a result of registration obligations under the Migration Law to be recorded on the Register of Names and Addresses without any further effort on the part of the individual. New arrivals wishing to live and work in the Island will have an obligation

to register under the Migration Law. Once registered for Migration Law purposes all residents will be under a duty to notify any changes to their personal data, such as a change of address, to the Population Office and this will enable a corresponding change to be made to the data recorded on the Register of Names and Addresses as authorized by Article 2(9).

Relevant data may also be provided for the Register of Names and Addresses by virtue of registration processes under either the Social Security or Marriage and Civil Status Laws. For example, if someone gets married in Jersey the effect of Article 2(9) will be that their name can be updated automatically on the Register of Names and Addresses. Similarly, the birth of a child in Jersey will be automatically recorded. Registration for Social Security purposes will also suffice as registration under the Migration Law as a joint registration process is envisaged so the relevant data will be provided automatically for the Register of Names and Addresses. Updating of information on the Register of Names and Addresses as a result of information received under duties arising in the Migration Law, Social Security and Marriage and Civil Status Laws will be possible because verification processes under all three Laws will be sufficiently robust and comparable.

**(c) What Information the Index will contain – “Managing Migration – Part 1”**  
*B2 p.13*

The long title of the Names and Addresses Law states that it is a Law to make “provision for the establishment of a Register of Names and Addresses of individuals in Jersey for use by public authorities for specified purposes”.

Article 2(6) states that every individual specified in a Regulation made under Article 2(10) will need to have an entry on the Register of Names and Addresses. Article 2(10) grants the States power by Regulation to describe which categories of individual need to be recorded. These provisions will allow exemptions for some categories of people for whom it may be decided that registration is not necessary.

The entry relating to each individual on the Register of Names and Addresses will include the fields referred to in “Managing Migration – Part 1” plus the additional field of date of arrival in Jersey. This additional field is considered helpful as a means of establishing entitlement to housing and employment (although in itself will not be sufficient to confer entitled status). The data entries in these fields are to be known as “registrable facts”. They are listed in Articles 2(7)–(8):

- (a) the individual’s name (including title) and residential address;
- (b) the individual’s date and place of birth;
- (c) (if the individual was not born in Jersey), the individual’s date of arrival in Jersey;
- (d) the individual’s gender;
- (e) the individual’s social security number.

**(d) How Information will be kept accurate – “Managing Migration – Part 1”**  
*B6 p.15–16.*

Paragraph (b) above has described how various registration processes will ensure ongoing updating and verification of data held on the Register of Names and Addresses.

In addition, Article 3(1)(a) gives the individual a right to ask for a copy of the registrable facts held on the Register of Names and Addresses about him or her. Article 3(1)(b) gives individuals the right to ask for a copy of any facts held about another individual access to which he or she is authorized to have because of a Regulation agreed by the States. For example, such a Regulation may allow carers or guardians or those acting under Power of Attorney access to the registrable facts relating to another individual. If the individual notices an inaccuracy when he checks his or her registrable facts, or those of someone for whom he or she is responsible, Article 3(4) requires him or her to notify the Minister. It is proposed that anyone wishing to check their personal data will have to go to either of the Customer Services Centres at Cyril Le Marquand House or the Social Security Department, with any online facilities being provided in accordance with States strategy. Notification of any inaccuracy will be made to a data operator at either of these centres and an update made to the Register of Names and Addresses upon presentation of any necessary identity or proofs.

Article 3(5)(b) provides a method of verifying data on the Register of Names and Addresses that has been provided as a result of the alignment process used to establish it as individuals who ask to check their details will be under a duty to notify any inaccuracies that are found.

The Migration Law details the processes by which those already resident in the Island at the time the Register Law comes into force and also all those who arrive subsequent to its implementation will be required to register. Individuals will be asked to verify their data when registering and for those already resident the provisions of Article 3(5)(b) of the Register Law mean that any inaccuracies in the data held on the Register can be updated with the information that is provided.

Article 3(2)–(3) makes provision for an application process to be established through which an individual can get copies of his or her registrable facts. Provision is also included in the Law for the Minister to be able to make a charge for copies of entries. The current Data Protection (Jersey) Law 2005 enables a charge of up to £10 to be made for copy documents in certain circumstances. It is not intended that a charge will be made for a simple, single copy of an entry in the Register of Names and Addresses. If multiple copies or if detailed copies of historic activity are asked for the Minister will be able to prescribe a fee by Order.

**(e) Granting of Additional Access to the Register and use of data for statistical purposes – “Managing Migration – Part 1” B8 p.17**

Article 4 describes how access, other than for a statutory purpose and as described in Section B(a), will need to be applied for by a public authority by means of a Regulation. This process is as was proposed in “Managing Migration – Part 1” and will involve the public authority submitting a project to the States which, if agreed will result in the passing of an authorizing Regulation.

For example, if Health and Social Services wish to use the data to send out letters inviting individuals to participate in a health screening programme, the department will need to get the permission of the States by way of Regulation to access the Register of Names and Addresses as the running of screening programmes is not a statutory duty of the department. Neither would such an activity fall within the

compliance or breach categories of Article 2(4)(b)–(c). The projet would need to specify why access was needed; to which of the registrable facts held on the database access was needed; what use the information would be put to; who would have access to the information and how long it would be kept for.

Article 4 also enables the Chief Minister to use any registrable fact for providing statistical information to any other Minister for the purpose of assisting with public policy development.

The information to be provided under Article 4(4)(a) will assist with all the strategic planning for which States departments are responsible, such as planning for homes and infrastructure such as roads and drains; planning for schools and hospital requirements and social policy such as the provision of income support. Article 4(4)(b) will include information provided to the public such as the annual “Jersey in Figures” booklet issued each year by the Statistics Unit which provides information on social and economic matters.

In recognition of the need to protect the privacy of individuals’ data held on the Register of Names and Addresses Article 4(5) states that “statistical information” must not be such that can identify an individual either directly or by deduction.

The effect of Article 4(7) is to confirm that there are no other uses of the Register of Names and Addresses other than those authorized under the Law, unless authorized under any other enactment (e.g. in some cases the Data Protection legislation would grant a public authority access to the data if the request for access were to be exempt under the provisions of the Data Protection Law, for example the exemptions relating to national security, crime and taxation, etc.).

**(f) Security of information – “Managing Migration – Part 1” B7 p.16**

In addition to Article 4, Articles 5 and 6 of the Draft Names and Addresses Law specifically address security issues. It is recognised that the security of the information to be held on the Register of Names and Addresses is of key importance. This point was made in “Managing Migration – Part 1” and was raised as a concern in a number of the responses received to the consultation.

Article 4(6) means that any public authority using the data on the Register of Names and Addresses must first have in place security systems that secure the confidentiality and integrity of the data. It is not appropriate to set out in law the technological security processes that will be operational but this provision does make it clear that adequate systems need to be in place and additional protection is given in this respect in Article 6. The States’ security systems are already recognised as being of a very high calibre and staff are already required to adhere to strict internal security processes.

Article 5 includes various provisions dealing with unauthorized disclosure of information by individuals who have access to the Register of Names and Addresses whether in connection with its establishment or maintenance or whether because they have access to it for purposes of their work. The security systems surrounding the Register of Names and Addresses will mean that only authorized individuals will have access to the data and they will be required to keep the details of any information they

have access to confidential unless disclosure is covered by one of the exemptions in Article 5(3).

Article 5(5) provides that anyone found in breach of their duty under the Law is subject to a significant penalty of a potential term of imprisonment of 5 years and a fine. This penalty has been included to reflect the potential gravity of any circumstance in which data were to be misused or stolen, particularly if it related to many individuals' records.

Part 3, Article 6 of the Draft Names and Addresses Law has been introduced specifically to deal with the issue of the security of the data to be held on the Register. As proposed in "Managing Migration – Part 1" a new role of Register of Names and Address Commissioner ("the Commissioner") is provided for. It is intended that this role will be taken on as an additional duty by the Data Protection Commissioner.

Article 6(2) specifically requires the Commissioner to keep under review the arrangements made for maintaining the Register of Names and Addresses and the arrangements made by public authorities for using the registrable facts.

Article 6(3) also requires the Commissioner to review the adequacy of the provision made for securing the confidentiality and integrity of information recorded on the Register of Names and Addresses and the arrangements for dealing with complaints. Article 6(4) places a duty on public authorities to provide the Commissioner with any information he or she requires to carry out his or her duties under the Law.

Article 6(6) requires the Commissioner to submit a report to the Minister on the carrying out of his /her functions under the Law every year. This report will be made public as Article 6(8) requires the Minister to present the Commissioner's Report to the States not more than one month after he or she has received it.

It is considered that the creation of this post specifically for the purposes of monitoring how the Names and Addresses Law and the Register of Names and Addresses itself are managed, together with the considerable powers granted to the Commissioner, will provide individuals with an assurance that the confidentiality and integrity of their data is being properly and rigorously safeguarded.

As described in "Managing Migration – Part 1" the data to be held on the Register of Names and Addresses will be managed centrally and subject to stringent security controls. The draft Law does not specifically state what these controls will be as the design of systems to protect data are not matters for legal definition. However, any such system will be devised with States' security procedures in mind and under the supervision of the Commissioner. Those working with the system will be required to adhere to the procedures or face disciplinary procedures and legal sanction.

In addition, Article 6(9) gives the added assurance that the Names and Addresses Law is subject to the Data Protection Law and individuals will have the protections provided by both Laws in respect of any personal data.

The Data Protection Commissioner has been consulted with regard to these provisions and she is satisfied that they provide the necessary safeguards.



**(g) Regulations and Orders**

Article 7 allows for Regulations and Orders to be made under the Names and Addresses Law as appear necessary or expedient to its function.

**MIGRATION (JERSEY) LAW 200- (“THE MIGRATION LAW”)**

*Note: The “Explanatory Note” provided at the beginning of the draft Law gives a clear explanation of each Article. This section will demonstrate how the original proposals that were consulted upon in “Managing Migration – Part 1” relating to the requirement to register and receive a registration card have been incorporated into legislation.*

*The Migration (Jersey) Law 200- will be expanded to include provisions relating to the Part 2 consultation, i.e. the main paper above, on completion of that consultation.*

**(a) Purpose of the Law – “Managing Migration – Part 1” p.4**

“Managing Migration – Part 1” described how the Migration Policy agreed by the States in June 2005 approved new mechanisms and policies to monitor and regulate migration in a fair and transparent manner. The creation of a register of all Island residents and the control of access to housing and employment through the use of a registration card<sup>16</sup> were two features of the new policy.

It is important to note that this draft of the Migration Law refers only to Part 1 of the new Law and it deals only with the registration process that persons living in Jersey will need to comply with. It deals with the timescales within which residents and workers in Jersey will need to be registered once the Law comes into force and it sets out the requirements relating to registration cards.

Legislation relating to access to housing and employment; property ownership and business licensing, which are all referred to in the consultation paper – “Managing Migration – New Mechanisms – Part 2: Managing Access to Employment and Housing”, will be drafted once the consultation process on the Part 2 paper has finished.

**(b) The Population Register and the Names and Address Index – “Managing Migration – Part 1” A1 p.10 and B1 p.13**

As described in Part A above, an individual’s details will be included on the Register of Names and Addresses and updated by virtue of the registration obligations included in the Migration Law and other Laws.

“Managing Migration – Part 1” distinguished between the Population Register (Section A) and a Names and Address Index (Section B). In reality, the IT systems that are being designed to support the proposals will mean that there will only be one central database of “registrable facts,” namely the Register of Names and Addresses. All other information held about individuals will be retained on the relevant States departmental business systems and NOT shared. For example, for operational

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<sup>16</sup> to be combined with the Social Security card

purposes the Population Office will have access to the data on the Register of Names and Addresses, *and in addition* will retain information relating to individuals' residential status on the Population Office departmental business system. It is this combined use of data that will provide the Population Office with the necessary records to carry out its statutory duties, and no other department will have access to the department's residential status information unless otherwise permitted. Data relating to an individual's medical records will be held on the Health and Social Services systems and not shared. Data relating to an individual's tax affairs will remain on the systems of the Income Tax division and not shared.

Responsibility for the data held on the Register of Names and Addresses will be held by those individuals or "Data Operators" who are authorized to register people under the Migration Law; Social Security Law; and Marriage and Civil Status Law and to update the information held on the Register of Names and Addresses based on evidential proof of changes. It is intended that data operators will be located in the two customer services centres at Cyril Le Marquand House and the Social Security Department, and also at the Population Office. Ultimate responsibility for the data on the Register of Names and Addresses will lie with the Chief Minister.

**(c) Requirement to Register – “Managing Migration – Part 1” A1 p.10**

The Explanatory Note to the Migration Law provides a clear and helpful interpretation of the registration provisions in Articles 2–5 of the Law.

Article 2 defines what the duty to register is, namely an obligation to provide certain information to the Chief Minister. The information, required of both adults and children, is listed in Article 2(3):

- (a) the individual's name (including title) and residential address;
- (b) the individual's date and place of birth;
- (c) the individual's gender;
- (d) (if the individual was not born in Jersey), the individual's date of arrival in Jersey.

This information is the same as that required to be registered as a "registrable fact" under Article 2(8) of the Names and Addresses Law except that under the Migration Law the individual's social security number will also be required.

Article 2(4) of the Migration Law allows the Minister to decide what type of information needs to be provided to support an application for registration. It is likely to be a passport, or if a passport does not exist, then information similar to that required by the Customs and Immigration Service when applying for a new passport.

**(d) Duty to register**

The duty to register reflects the purpose of the Migration Policy, namely "to monitor and regulate migration in a fair and transparent manner".

The mechanisms to achieve this purpose will include the knowledge of the number of individuals resident in Jersey as recorded on the Register of Names and Addresses and the use of the controls that will be introduced, which will affect an individual's ability to access employment or housing.

Registration is therefore a key requirement of the Migration policy and either an intention to reside or work in the Island will trigger a duty to register under the Migration Law provisions. Generally, registration must take place within 3 months of starting a 3 month period of continuous residence, or within 2 working days of starting work.

Article 3 sets out the general duty:

- (a) Any person who is continuously resident in Jersey for 3 months after the Migration Law comes into force, but who was not resident for such a period immediately before the Law comes into force must register.
- (b) Also, any person who is working in Jersey for a continuous period of at least 2 working days after the Law comes into force but who was not a worker for such a period immediately before it comes into force, must register.

**New arrivals:**

Article 3 relates to those individuals who are new arrivals to the Island. The provisions allow for the fact that some individuals will have arrived in the Island just before the Migration Law comes into force and may not have worked. Article 3(2)(a) should be read in connection with Article 3(3)(a) and 3(4).

Examples:

(For the purposes of these examples the date of commencement of the Migration Law is taken to be 1st May 2011 as an illustration.)

- **an individual arriving in Jersey on 1st March 2011** and who remained ordinarily and continuously resident for 3 months after the Law came into force would need to register by 1st May 2011 because:
  - (a) he or she will have arrived before the Law came into force but will not have been resident for 3 months before it came into force (Articles 3(2)(a)(i)–(iii)); and
  - (b) he or she is bound by Article 3(3)(a) to register within a period of 3 months after being continuously resident for 3 months; and
  - (c) Article 3(4) extends the 3 month registration period for individuals arriving before the Law comes into force. This allowance is made because if the 3 month registration period was to start running from the date the individual started continuously residing in Jersey, i.e. 1st January, then he or she would be disadvantaged as they would have a shorter period of time within which to register. Without the provision of Article 3(4), the individual would only have one month to register from the date the Law came into force, not 3 months, which is the period to be allowed to those who arrive after the Law’s introduction.

***No definitions of the terms “ordinarily resident” and “continuously resident” are provided in the Migration Law. In the past, the Housing Committee and Minister***

*have applied an approach which accounts for individual circumstance in line with legal advice, and it is proposed that this should continue.*

- **an individual who arrives on 15th May 2011** and who remains ordinarily and continuously resident for 3 months would need to register by 15th August 2011 because:
  - (a) he or she arrived after the Law came into force (Articles 3(2)(a)(i)–(iii)) and
  - (b) he or she is bound by Article 3(3)(a) to register within a period of 3 months after being continuously resident for 3 months.

Article 3(5) means that if in the examples above either of the individuals were to leave the Island for a short break during the 3 month qualifying period, then that period would not be broken because of a temporary absence and they would still need to register by the dates given in the examples.

Articles 3(2)(b) requires a new arrival who has not worked in the Island for more than 2 days before the Law comes into force, but does work for more than 2 days after it comes into force, to register. The 2 day registration period after starting work is drafted to operate on similar principles to the Social Security Law,<sup>17</sup> under which a person can start work but must present their social security card to their employer within 2 days of starting work.

If an individual has worked in the Island for more than 2 days before the Migration Law comes into force, then he or she will be classified under Article 4(2)(b) and will be required to register in accordance with those provisions.

It should be noted that Article 15 of the Law gives the Minister authority to introduce exemptions from the need to register. For example, an Order might be introduced exempting individuals who are on short working visits to the Island, such as Directors, from the need to register.

#### **Those already resident in Jersey:**

Articles 4(1) and (2) provide that all individuals who were either already ordinarily and continuously resident in Jersey for a period of *more than* 3 months, or have been working in the Island for *more than* 2 days, before the Migration Law comes into force, will be under a duty to register within the time limits set down by Order of the Minister made under the provision of Article 4(3).

As described in Part A, registration under the Migration Law will result in individuals having registrable facts relating to them recorded on the Register of Names and Addresses. As the Register of Names and Addresses will be created from existing personal data held on a number of States databases, including the Social Security database, the majority of residents and workers will already have their data recorded on the system. However, all adults will still be under a duty to register in accordance with any Order made under Article 4(3).

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<sup>17</sup> Social Security (Collection of Contributions) (Jersey) Order 2001.

Article 4(3)(a) allows for the Minister to specify a time by which all individuals already resident or working in the Island in accordance with Article 4(1) at the time the Law comes into force will need to register. “*Managing Migration – Part 1*” *Section A1 p.10* proposed that a deadline date of 2014 be set by which time all residents or workers would need to be registered. However, this proposal has been modified as it is felt that the majority of Islanders will be accurately recorded on the Register of Names and Addresses by virtue of the alignment processes described in Section B(b). In addition, the corresponding duties placed on individuals under both the Name and Addresses and Migration Laws to notify the Minister of any changes to their details as recorded, and the need to obtain a registration card for the purposes of accessing new work or accommodation, will ensure that people register when they need a card. These requirements should ensure that a high degree of accuracy is maintained on the Register of Names and Addresses. Notwithstanding this, the Minister has an Order-making power that he can use at any time to require existing residents to register should they not already have done so, should the need arise.

**(e) Definitions of work**

The definitions of work provided in Article 1 are wide so as to cover all forms of “employment” or “work”, namely employment as defined in the Employment (Jersey) Law 2003 and work done under a contract for services as well as other working situations that these definitions may not cover. For example, directors coming to the Island for a board meeting will be “working” for the purposes of the Migration Law as well as contractors working in the Island under contract to a firm whether the firm is based in the Island or not. However, Article 15 gives the Minister an Order-making power to make exemptions to these provisions so, for example, company directors may be entitled to spend a fixed number of days in any one year in the Island on business before needing to register.

Such matters will be addressed in future law drafting. It is, however, important to remember that one purpose of the Migration Law is to monitor the population for demographic and strategic planning purposes. It will therefore be important to have a recording and licensing system that can properly reflect the demand placed on both resources and services in the Island. Anyone living and working in the Island for any length of time, even if they are not ordinarily resident, will inevitably place a demand on both, and/or may be competing with local employees and businesses and so, as a general principle, individuals should be required to register.

Article 4(4)–(6) clarifies two situations where “new work” or work for the “first time” will occur for the purposes of the Migration Law. The first is the situation where employment commences with a new employer, despite continuity of employment continuing for Employment Law purposes (e.g. on a company takeover); and the second where an employee is employed again by a former employer and continuity of employment has been broken meanwhile for Employment Law purposes. These provisions are designed to ensure that registration takes place when a person starts new work, irrespective of the provisions of the Employment Law.

**(f) Registration by other persons**

Article 5 makes provision for parents with parental responsibility for a child; those acting as a guardian, curator or attorney for another or those in charge of a nursing home, mental home or residential care home to act on behalf of another person under

the Migration Law. The Article also allows the Minister to allow by Order other categories of person to act on behalf of individuals. The terms “guardian” and “parental responsibility” are given the same meaning as those used in the Children (Jersey) Law 2002 and the definition of nursing home, mental home or residential care home is that given in the Nursing and Residential Homes (Jersey) Law 1994. In addition, procedures can be developed which assist certain types of person registering where they perhaps have difficulty doing so, perhaps the infirm, or prisoners, should this be necessary.

**(g) Changes to Information**

Article 6 places a duty on an individual who is required to register, or who is responsible for registering another person, to notify the Minister of any change of address or gender within 14 days of the change.

Change of address notifications will be required by the Population Office as the Office will be responsible for ensuring compliance with the housing provisions of the Migration Law and ensuring that individuals live in accommodation to which they are entitled in accordance with their residential status. Compliance will be enforced through monitoring address changes. In addition, recording change of address notifications will help ensure that the Register of Names and Addresses is kept up to date so enabling other departments to use it effectively for permitted purposes. Details of the proposed change of address procedures will be contained in “Managing Migration – New Mechanisms – Part 2: Managing Access to Employment and Housing”. The notification of change of address procedures will effectively supersede the current Housing Law consent process when purchasing or leasing property.

**(h) Registration Cards – “Managing Migration – Part 1” At p.10**

**Part 4 of the Law deals with the issue of the proposed combined registration cards.** “Managing Migration – Part 1” states that a registration card would be a combined registration card for the purposes of the Migration and Social Security Laws. The original intention had been that everyone would be required to obtain a registration card by 2014. However, it is intended that the card be used to access housing and employment. As such those individuals, especially those who are retired, or those who are not moving house or changing job, do not need a card for such purposes. Therefore the requirement to register by 2014 has been removed and an Order-making power has been included instead which will allow the Minister to set a prescribed time by which persons must register. At that point anyone not yet registered will be required to do so by the date set and they will be issued with a registration card as part of the registration process.

Article 8 states that the Minister will issue a card to all those who have made an application to register in accordance with Articles 2 or 5. In conjunction with Articles 3 and 4, this effectively means that anyone continuously and ordinarily resident and/or working in the Island as described in those Articles will be issued with a registration card, although minors will not, being persons under the age of 16. The “Managing Migration – Part 2” consultation paper explains how this card will enable access to housing and employment.

Article 9(1) specifies the details that will be recorded on the card namely an individual’s name; social security number and residential status. This information is as

proposed in “*Managing Migration – Part 1*” p.12, with the addition of a date of expiry.

The proposal to include an expiry date on the card has arisen as a result of further work that has been done regarding the processes to be involved in the monitoring of individuals’ residential status. “*Managing Migration – Part 2*” refers to proposals to offer greater opportunity for individuals to retain their residential status qualifications. In order to ensure that residential status as indicated on a registration card cannot be misused it will be necessary to have expiry dates on the registration cards. Further discussion on this topic is included in the Part 2 Consultation Document. However, using current regulations, an example of the need for an expiry date would be where a non-Jersey-born individual has gained their residential qualifications but is liable to lose them if he or she leaves the Island for a specific period of time. In the future, if such an individual had an “entitled” registration card it could be subject to misuse unless an expiry date was recorded on it commensurate with the period of validity of the individual’s entitled status.

It is envisaged that registration cards for those awaiting permanent entitled status will be valid for a 10 year period and as such administration should not be excessive.

Article 9(4) allows the States by Regulation to specify other information that may be recorded on the registration card. This power has been introduced to allow flexibility in the future. Specific reference is made to the possibility of including a photograph on the card. This issue was discussed in “*Managing Migration – Part 1*” at p.12 although it was not recommended in the document that a photograph be included on the card.

However, a number of those who responded to the consultation paper and the Jersey Annual Social Survey were firmly in favour of having a photograph on the card. Article 9(5) allows for Regulations to establish requirements with regards including a photograph on the card. Notwithstanding this, it remains the view of the Chief Minister that a photograph on the card is not entirely necessary, and that the registration card without a photograph could readily be used in conjunction with existing means of proving identify when accessing work and housing.

Another example of information that could, in future, be placed on the registration card is donor permissions. This option was considered by the Migration Advisory Group but the Group felt it more appropriate for future consideration and the Law has been drafted accordingly.

Article 10 deals with the custody of registration cards. The cards will remain the property of the Chief Minister, although an individual will be responsible for the custody of his or her card and also the card of anyone for whom he or she is responsible. Articles 10(2) and 10(3) require individuals to return their cards if they leave the Island and cease to be ordinarily resident or cease to work in the Island.

“*Managing Migration – Part 1*” referred to the fact that Social Security cards are currently held by employers and that the Social Security Law would need to be changed to reflect the fact that in future the combined registration card, which will be used for Social Security and residential status purposes under the Migration Law, will be held by individuals.

Article 11 provides that assignments and transfers of registration cards or deliberate damage to cards is not permissible.

Article 12 introduces provisions to deal with renewal of cards either upon expiry; after change of name or title or if the card is defaced, lost or destroyed. Article 12(2) includes authority for the Minister to charge a fee for the renewal of a card. Article 12(2) gives the Minister flexibility to vary the need for some information to be provided when a renewal application is made.

The renewal of cards will provide a further opportunity for the registration details of individuals recorded on the Register of Names and Addresses to be updated.

**(i) General provisions:**

These provisions allow for some administrative flexibility to be introduced with regards the implementation of the Migration Law.

As stated in “*Managing Migration – Part 1*” it is intended that the customer service centres at either Cyril Le Marquand House or the Social Security Department will be the centres at which individuals will register under the Migration Law and Article 13 provides for this.

Article 15(1) allows the Minister by Order to exempt individuals from their duties under Parts 2, 3 and 4 of the Law. For example, it may be decided to exempt company directors from the need to register in certain circumstances.

Article 15(2) relates to anyone under the age of 16 who, although not in need of a registration card for employment or housing purposes, must still be registered. However, such individuals are exempt from providing any information that is required to be given under either the Marriage and Civil Status or Social Security Laws as births or deaths in Jersey will be notified by the Superintendent Registrar and any relevant information recorded under the Social Security Law will be automatically recorded for registration purposes on the Register of Names and Addresses.

**Part 6 – Use of Information:**

Article 16 provides the link between the Migration Law and the Names and Addresses Law because it enables the States to pass Regulations which will authorize the use of the information provided to the Chief Minister, as a result of the registration processes in Part 2 of the Migration Law and the provision of further information in Part 3 of the Migration Law, to maintain the Register of Names and Addresses under the Names and Addresses Law.

**Part 7 – Miscellaneous:**

Article 17 provides details of the offences to be incurred if a person fails to give information or documents required under the Migration Law or to give information or documents that are false in a material particular.





## DRAFT REGISTER OF NAMES AND ADDRESSES (JERSEY) LAW 200-

### REPORT

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#### Explanatory Note

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This draft Law makes provision for the establishment of a Register of Names and Addresses of individuals in Jersey.

#### PART 1 – INTERPRETATION

*Article 1* is an interpretation provision. In particular it defines “public authority” to mean any Minister, department or parish.

#### PART 2 – REGISTER OF NAMES AND ADDRESSES

*Article 2* requires the Minister to establish and maintain a Register of Names and Addresses (“Register”). The use of the Register is confined to “statutory purposes”. “Statutory purposes” are defined to mean enabling or facilitating “public administration and customer service” and such other purposes as the States may specify by Regulation in relation to a specified public authority. “Public administration and customer service” is defined to mean the provision of any statutory service to an individual by a public authority or anything done by a public authority to enable or facilitate compliance with a statutory duty or in consequence of a breach or alleged breach of such a duty. The States may amend this definition by Regulations. The Register must contain “registrable facts” on each individual who is specified in Regulations. The registrable facts are defined to mean name, address, date and place of birth, date of arrival in Jersey if not born in Jersey, gender and social security number.

*Article 3* allows an individual to apply to the Minister for a copy of the registrable facts that are recorded in relation to him or her on the Register or in respect of an individual specified in Regulations. The individual must notify the Minister of any inaccuracies in the information and the Minister must update the information on the Register accordingly. Similarly, if the Minister becomes aware under any other enactment of any change in the information recorded, the Register must be updated.

*Article 4* allows any public authority access to the Register to use the registrable facts to enable or facilitate the exercise of any public administration and customer service. The States are given power by Regulations to specify other purposes for which a specified public authority may use registrable facts. The Minister may also use the registrable facts to provide statistical information to any Minister or department for assisting in the development and evaluation of public policy and informing the public about economic and social matters. "Use" includes accessing, obtaining, recording, holding and disclosing.

*Article 5* makes it an offence for a person to disclose information obtained under this Law in certain circumstances. Any person who obtains information in connection with establishing or maintaining the Register or in connection with using registrable facts must not disclose that information unless authorized under an enactment (whether this Law or any other) or under a Court order or direction. A person guilty of an offence is liable to imprisonment for 5 years and a fine.

#### PART 3 – SUPERVISION OF OPERATION OF LAW

*Article 6* provides for the appointment of a Register of Names and Addresses Commissioner. The Commissioner's role is to review the arrangements by the Minister and public authorities in relation to the Register, including provision for securing confidentiality and integrity of information on the Register.

#### PART 4 – MISCELLANEOUS AND CLOSING

*Article 7* makes provision for any Regulations or Order under this Law to include such transitional, consequential, incidental or supplementary provisions as appear necessary or expedient to the States or Minister, as the case requires.

*Article 8* provides for the title of this draft Law and that it will come into force on such day as the States may by Act appoint.



**DRAFT REGISTER OF NAMES AND ADDRESSES  
(JERSEY) LAW 200-**

**Arrangement**

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**DRAFT REGISTER OF NAMES AND ADDRESSES  
(JERSEY) LAW 200-**

**A LAW** to make provision for the establishment of a Register of Names and Addresses of individuals in Jersey for use by public authorities for specified purposes.

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

**PART 1  
INTERPRETATION**

**1 Interpretation**

In this Law, unless the context otherwise requires –

“Court” means the Royal Court;

“Minister” means the Chief Minister;

“prescribe” means prescribe by Order;

“public administration and customer service” has the meaning in Article 2(4);

“public authority” means any of the following –

- (a) a Minister;
- (b) a department of the States;
- (c) a parish of Jersey;

“Register” means the Register of Names and Addresses established and maintained under Part 2;

“registrable fact”, in relation to an individual, has the meaning in Article 2(8).

## PART 2

### REGISTER OF NAMES AND ADDRESSES

#### 2 The Register of Names and Addresses

- (1) The Minister must establish and maintain a register of individuals to be known as the “Register of Names and Addresses”.
- (2) The purposes for which the Register is to be established and maintained are confined to the statutory purposes.
- (3) The statutory purposes are –
  - (a) to enable or facilitate public administration and customer service; and
  - (b) such other purposes as the States may by Regulations specify under Article 4(2).
- (4) In this Law “public administration and customer service” means –
  - (a) the provision of any service under any enactment to an individual by a public authority;
  - (b) anything done by a public authority to enable or facilitate compliance by an individual of any duty under any enactment; and
  - (c) anything done by a public authority in consequence of a breach or alleged breach by an individual of any duty under any enactment.
- (5) The States may by Regulations amend the definition of “public administration and customer service” in paragraph (4).
- (6) An entry on the Register must be made in respect of every individual who is specified in Regulations made under paragraph (10).
- (7) An entry in respect of an individual shall consist of the registrable facts in relation to that individual.
- (8) In this Law, “registrable facts”, in relation to an individual, means –
  - (a) the individual’s name (including title) and residential address;
  - (b) the individual’s date and place of birth;
  - (c) (if the individual was not born in Jersey), the individual’s date of arrival in Jersey;
  - (d) the individual’s gender;
  - (e) the individual’s social security number.
- (9) The Minister may enter on the Register registrable facts in relation to an individual that are held by any department or administration of the States notwithstanding anything in any enactment to the contrary.



- (10) The States shall, by Regulations, specify individuals, whether by category, class or description, in respect of whom an entry must be made on the Register.

**3 Verification of, and changes to, the Register**

- (1) An individual may apply to the Minister for a copy of the registrable facts recorded on the Register in respect of –
- (a) that individual; and
  - (b) any individual specified in Regulations made under paragraph (7) and in accordance with those Regulations.
- (2) Such application shall –
- (a) be in such form as the Minister may determine;
  - (b) be accompanied by such fee as the Minister may prescribe; and
  - (c) comply with any requirements specified in the form, including the provision of any documents establishing the identity of the person making the application.
- (3) Following an application in accordance with paragraph (2) the Minister shall supply the individual making the application with a copy of the registrable facts relating to the individual in respect of whom the application was made.
- (4) A person (“the notifying person”) must notify the Minister forthwith of any inaccuracy in the registrable facts relating to that person, or a person in respect of whom that person may make an application under paragraph (1), of which the notifying person has become aware and shall supply the Minister with such information or document as the Minister may require to correct the inaccuracy.
- (5) The Minister shall update the information recorded on the Register as soon as reasonably practicable following –
- (a) notification of an inaccuracy under paragraph (4);
  - (b) any change in that information given to the Minister under any enactment.
- (6) The rights of an individual under this Article in respect of registrable facts are without prejudice to any rights that individual may have in respect of that information under the Data Protection (Jersey) Law 2005.
- (7) The States may, by Regulations, specify any individual, description or class of individual in respect of whom any individual, description or class of individual may make an application under paragraph (1).

**4 Access to the Register and use of information by public authorities**

- (1) A public authority may use any registrable fact for the purpose of enabling or facilitating a public administration and customer service.

- (2) The States may by Regulations make provision for any specified public authority to use registrable facts for purposes specified in the Regulations.
- (3) Regulations under paragraph (2) may specify –
  - (a) all or part of the Register;
  - (b) descriptions of registrable facts, that a specified public authority may use;
- (4) The Minister may use any registrable fact for providing statistical information to any Minister for the purpose of –
  - (a) assisting in the development and evaluation of public policy; and
  - (b) informing the public about social and economic matters.
- (5) For the purposes of paragraph (4), “statistical information” does not include personal information that is, information that relates to and identifies a particular person whether the identity is specified in the information or can be deduced from the information.
- (6) A public authority must not use registrable facts from the Register unless the Minister is satisfied that the authority has adequate systems in place for securing the confidentiality and integrity of those facts.
- (7) No public authority may use information on the Register for any purpose other than one authorized under this Law or under any other enactment.
- (8) In this Article “use” includes accessing, obtaining, recording, holding, and disclosing.

#### 5 Unauthorized disclosure of information

- (1) A person is guilty of an offence if, without lawful authority –
  - (a) he or she provides any person with information that he or she is required to keep confidential; or
  - (b) he or she otherwise makes a disclosure of any such information.
- (2) For the purposes of this Article, a person is required to keep information confidential if it is information that is or has become available to that person by reason of holding an office or employment the duties of which relate, in whole or in part, to –
  - (a) the establishment or maintenance of the Register; or
  - (b) the use of registrable facts under Article 4.
- (3) For the purposes of this Article, information is provided or otherwise disclosed with lawful authority if such provision or disclosure –
  - (a) is authorized under this Law or under another enactment;
  - (b) is in pursuance of an order or direction of the Court;
  - (c) is for the purposes of the performance of the duties of an office or employment described in paragraph (2).
- (4) It is a defence for a person charged with an offence under this Article to show that, at the time of the alleged offence, that person believed, on

reasonable grounds, that he or she had lawful authority to provide the information or to make the disclosure in question.

- (5) A person guilty of an offence under this Article shall be liable to imprisonment for a term of [5] years and a fine.

### PART 3

#### SUPERVISION OF OPERATION OF LAW

##### 6 Appointment of Commissioner

- (1) The Minister must appoint a Commissioner to be known as the Register of Names and Addresses Commissioner.
- (2) It shall be the function of the Commissioner to keep under review –
  - (a) the arrangements for the time being maintained by the Minister for the purposes of his or her functions under this Law or any Regulations made under this Law; and
  - (b) the arrangements made by public authorities for using registrable facts.
- (3) Where the Commissioner reviews any arrangements under paragraph (2) his or her review must include, in particular, a review of the extent to which the arrangements make appropriate provision –
  - (a) for securing the confidentiality and integrity of information recorded on the Register;
  - (b) for dealing with complaints made by individuals about use of information recorded on the Register.
- (4) It shall be the duty of every public authority to provide the Commissioner with all such information (including information on the Register) as he or she may require for the purpose of carrying out his or her functions under this Law.
- (5) The Commissioner is to hold office in accordance with the terms of his or her appointment and shall be paid out of the annual income of the States a salary and other remuneration in accordance with the terms of his or her appointment.
- (6) As soon as practicable after the end of each calendar year, the Commissioner must make a report to the Minister about the carrying out of the Commissioner's functions.
- (7) The Commissioner may also, at any other time, make such report to the Minister on any matter relating to the carrying out of those functions as the Commissioner thinks fit.
- (8) The Minister must lay before the States a copy of every report made to him or her under this Article not more than one month after receiving it.
- (9) The Commissioner's powers under this Law are without prejudice to the powers of the Data Protection Commissioner under the Data Protection (Jersey) Law 2005.



**PART 4**

## MISCELLANEOUS AND CLOSING

**7 Regulations and Orders**

Any Regulations or Order made under this Law may contain such transitional, consequential, incidental or supplementary provisions as appear to the States or the Minister, as the case requires, to be necessary or expedient for the purposes of the Regulations or Order.

**8 Citation and commencement**

- (1) This Law may be cited as the Register of Names and Addresses (Jersey) Law 200-.
- (2) This Law shall come into force on such day as the States may by Act appoint.

**SCHEDULE 1**

(Insert Schedule SubSubheading here)

**INSERT SCHEDULE SUBHEADING HERE**



## DRAFT MIGRATION (JERSEY) LAW 200-

### REPORT

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#### Explanatory Note

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##### PART 1 – INTERPRETATION

*Article 1* is an interpretation provision.

##### PART 2 – REGISTRATION

*Article 2* defines the requirement to register under this Law to mean provision of name, address, date and place of birth, gender and date of arriving in Jersey if not born in Jersey. A person must produce documentary evidence of the information provided.

*Article 3* sets out the general duty to register. Any person who is continuously resident in Jersey for 3 months after this Law comes into force, but who was not resident for such a period immediately before this Law comes into force must register. Also, any person who is working in Jersey for a continuous period of at least 2 working days after this Law comes into force but who was not a worker for such a period immediately before this Law comes into force, must register. Generally, registration must take place within 3 months of starting a 3 month period of continuous residence or within 2 working days of starting work.

*Article 4* sets out the duty to register for those who are resident or workers in Jersey when this draft Law comes into force. The duty applies to any person who was resident in Jersey for a continuous period of at least 3 months, or who was a worker for a continuous period of at least 2 days immediately before this Law comes into force. Registration must take place within a period of time specified by the Minister by Order, or within 14 days of changing address or within 2 working days of starting new work, whichever occurs first.

*Article 5* makes provision for persons to register for other persons. These include any person with parental responsibility for a child and who is living with that child, any guardian, curator or attorney and the chief resident officer or other person in charge of a nursing home, mental nursing home or residential care home. There is also provision

for the Minister to prescribe by Order or appoint further persons to be authorized to register for others.

#### PART 3 – DUTY TO GIVE FURTHER INFORMATION TO THE MINISTER

*Article 6* requires a person who must register under this Law to notify the Minister of any change in the information given.

*Article 7* requires a person to produce documentary evidence of the information provided under this Part.

#### PART 4 – REGISTRATION CARDS

*Article 8* requires the Minister to issue a registration card following registration by an adult.

*Article 9* sets out the information to be recorded on the registration card and makes other provision with respect to its form. It also gives the States power by Regulations to make provision for including other information on the card, including a photograph.

*Article 10* provides that a person who is issued with a registration card, including a person authorized to register for another person, is responsible for the card's custody. This *Article* also requires a person to return the card to the Minister upon leaving Jersey or ceasing work.

*Article 11* provides that a person must not assign or deface a card.

*Article 12* requires a person to apply for a new registration card when it expires, when the name or title that appears on the card changes or if the card is defaced, lost or destroyed.

#### PART 5 – GENERAL PROVISIONS FOR REGISTRATION

*Article 13* allows the Minister to require a person to attend a particular place for the purposes of registration, to give changes of information or to apply for renewal of a card.

*Article 14* gives the Minister power to amend by Order any time limits set out in Parts 2, 3 and 4.

*Article 15* allows the Minister to exempt by Order persons from the duties under Parts 2, 3 and 4.

#### PART 6 – USE OF INFORMATION

*Article 16* provides that the information provided to the Minister under this Law may be used for such purposes as the States may specify by Regulations.

#### PART 7 – OFFENCES

*Article 17* makes it an offence for a person to fail to give information or documents required under this Law or by Regulations under Part 2, 3 or 4 or to give information or documents that are false in a material particular.

#### PART 8 – HOUSING AND EMPLOYMENT CONTROLS

This Part has yet to be drafted.

## PART 9 – MISCELLANEOUS

*Article [18]* is a general Regulation and Order-making power that allows the Minister to make such transitional, consequential, incidental or supplementary provisions as appear necessary or expedient.

*Article [19]* sets out the title of the Law and provides that it will come into force on such day as the States may by Act appoint.

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Jersey

## DRAFT MIGRATION (JERSEY) LAW 200-

### Arrangement

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Jersey

## DRAFT MIGRATION (JERSEY) LAW 200-

A LAW to

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

### PART 1

#### INTERPRETATION

##### 1 Interpretation

In this Law, unless the context otherwise requires –

“adult” means any person who is not a child;

“child” means any person below school leaving age;

“Court” means the Royal Court;

“employment” means –

(a) employment, within the meaning of the Employment (Jersey) Law 2003; and

(b) work done under a contract for services,

and the expressions “employer” and “employee” shall be construed accordingly;

“Marriage and Civil Status Law” means the Marriage and Civil Status (Jersey) Law 2001;

“Minister” means the Chief Minister;

“person” means a natural person;



“prescribe” or “prescribed” means prescribe, or prescribed, by Order, as the case requires;

“school leaving age” means the upper limit of compulsory school age by virtue of Article 2 of the Education (Jersey) Law 1999;

“Social Security Law” means the Social Security (Jersey) Law 1974;

“work”, except in the definition of “employment”, means any of the following –

- (a) employment;
- (b) engagement in any trade, profession or vocation;
- (c) the holding of an office,

and the expression “worker” shall be construed accordingly;

“working day” excludes Christmas Day, Good Friday, Saturday, Sunday and a bank holiday.

## PART 2

### REGISTRATION

#### 2 Meaning of the requirement to register

- (1) In this Law, references to a duty on a person to register (however expressed) mean a requirement to provide the information specified in paragraph (3) to the Minister in relation to that person.
- (2) Cognate words and expressions, including “to register” and “registration” shall, except where the context otherwise requires, be construed in accordance with paragraph (1).
- (3) The information specified for the purposes of paragraphs (1) is –
  - (a) the person’s name (including title) and residential address;
  - (b) the person’s date and place of birth;
  - (c) the person’s gender; and
  - (d) (if the person was not born in Jersey) the person’s date of arrival in Jersey.
- (4) A person must produce, to the Minister’s satisfaction, such documents as the Minister requires (if any) establishing evidence of the information given by that person under this Article.

#### 3 Duty to register

- (1) A person who meets the condition described in paragraph (2)(a) or (2)(b), or both, must register within the time limits specified in paragraph (3).
- (2) The conditions are that –
  - (a) the person –
    - (i) is ordinarily resident in Jersey,

- (ii) is not resident in Jersey for a continuous period of at least 3 months immediately before the date this Law comes into force, and
- (iii) is resident in Jersey for a continuous period of at least 3 months after the date this Law comes into force; or
- (b) the person –
  - (i) is not a worker in Jersey for a continuous period of at least 2 working days immediately before the date this Law comes into force, and
  - (ii) is a worker in Jersey for a continuous period of at least 2 working days after this Law comes into force.
- (3) Registration must take place –
  - (a) within 3 months of the date the person starts a continuous period of residency of at least 3 months; or
  - (b) within 2 working days of the date the person starts work, whichever occurs first.
- (4) If, for the purposes of paragraph (3), the date from which a person has been resident for a continuous period of at least 3 months or has worked for a continuous period of at least 2 working days occurs before the date this Law comes into force the period within which registration must take place shall run from the date that this Law comes into force.
- (5) For the purposes of this Article any temporary absence from Jersey shall be disregarded in determining the time at or period within which someone is a worker or is continuously resident.

**4 Duty to register on persons in Jersey when this Law comes into force**

- (1) A person who meets the condition described in paragraph (2)(a) or (2)(b) or both must register within the time limits specified in paragraph (3).
- (2) The conditions are that –
  - (a) the person –
    - (i) is ordinarily resident in Jersey; and
    - (ii) is resident in Jersey for a continuous period of at least 3 months immediately before the date this Law comes into force; or
  - (b) the person is a worker in Jersey for a continuous period of at least 2 working days immediately before the date this Law comes into force.
- (3) Registration must take place –
  - (a) within the period starting on a date prescribed by the Minister and ending on a prescribed date;
  - (b) within the period ending 2 working days after the date a person starts new work; or

- (c) within the period ending 14 days after a person changes his or her residential address,  
whichever period ends first.
- (4) For the purposes of paragraph (3) a person starts new work if –
- (a) the person changes his or her employer; or
  - (b) the person is employed by an employer for the first time.
- (5) A person starts new work for the purposes of paragraph (4) even if the change of employer does not cause the continuity of the period of the person's employment to be broken within the meaning of the Employment (Jersey) Law 2003.
- (6) A person is deemed to be employed by an employer for the first time for the purposes of paragraph (4)(b) if the person has been previously employed by that employer and the continuity of the period of the person's employment has been broken with the meaning of the Employment (Jersey) Law 2003.
- (7) For the purposes of this Article any temporary absence from Jersey shall be disregarded in determining the time at or period within which someone is a worker or is continuously resident.

**5 Persons authorized to register for other persons**

- (1) A person who is a parent of a child or other person with parental responsibility for a child and who lives in a household with that child is authorized to register for that child.
- (2) Any person who is guardian, curator or attorney to act for another person for the purposes of this Law, whether expressly or by implication, is authorized to register for such person.
- (3) A person who is the chief resident officer or other person for the time being in charge of a nursing home, mental nursing home or residential care home is authorized to register for any patient residing in such a home.
- (4) The Minister may –
  - (a) authorize a person by appointment to register for another person provided that –
    - (i) a person who is a child must not be appointed,
    - (ii) any such appointment can be revoked at any time by the Minister in his or her absolute discretion, and
    - (iii) any person so appointed may resign his or her office after giving one month's notice in writing to the Minister;
  - (b) by Order authorize prescribed persons of any description to register on behalf of other prescribed persons.
- (5) In this Article –
  - (a) a person authorized to register for another person is described as the "first person"; and

- (b) a person for whom the first person registers is described as the “second person”.
- (6) The first person must register under this Part for the second person and not the second person.
- (7) If there is more than one first person in respect of a second person –
- (a) each first person is under a duty to register for the second person; and
- (b) compliance with the duty by a first person discharges all first persons in respect of that duty.
- (8) For the purposes of paragraph (1), 2 persons shall not be deemed to have ceased to live in the same household by reason of any temporary absence of either or both of them, and in particular by reason of any such absence at school or while receiving medical treatment as an in-patient in hospital or similar institution or by reason of any absence of either or both of them in such circumstances as the Minister may prescribe.
- (9) In this Article –
- (a) “guardian” and “parental responsibility” have the same meaning as in the Children (Jersey) Law 2002; and
- (b) “mental nursing home”, “nursing home” and “residential care home” have the same meaning as in the Nursing and Residential Homes (Jersey) Law 1994.

### PART 3

#### DUTY TO GIVE FURTHER INFORMATION TO MINISTER

##### 6 Changes to information given to the Minister after registration

A person who must register under Part 2 must inform the Minister, in such form as the Minister may specify, of any change of which that person becomes aware in the information that has been given to the Minister under this Law relating to residential address or gender in respect of –

- (a) that person; or
- (b) an individual for whom that person is authorized to register under Article 5,

not later than 14 days after the date of the change.

##### 7 Evidence of further information given

A person must produce, to the Minister’s satisfaction, such documents as the Minister requires (if any) establishing evidence of the information given by that person under this Part.



**PART 4**  
REGISTRATION CARDS

**8 Issue of registration cards**

The Minister shall issue a registration card to an adult who has registered under Article 2 or in respect of an adult for whom a person has registered under Article 5.

**9 Form of registration card**

- (1) A registration card shall record the following information in respect of the person to or for whom it is issued –
  - (a) name;
  - (b) date of expiry of the card;
  - (c) social security number;
  - (d) residential status;
- (2) A registration card –
  - (a) shall be in such form as the Minister may from time to time determine; and
  - (b) remains the property of the Minister.
- (3) A registration card shall be valid for the prescribed period.
- (4) The States may by Regulations –
  - (a) specify other information to be recorded on the registration card concerning the person; and
  - (b) make provision for the inclusion on the registration card of a photograph of the person,  
whose identity is recorded on the registration card.
- (5) Regulations under paragraph (4) may –
  - (a) require a person to supply information in such form as may be specified;
  - (b) make provision with respect to any requirements for a photograph to be supplied by a person;
  - (c) require a person to attend such place as may be specified for the purpose of giving information or supplying a photograph.

**10 Custody of registration cards**

- (1) A person issued with a registration card (whether in respect of that person or another person) is responsible for the custody of that card.
- (2) A person to whom a card is issued in respect of that person must return the card to the Minister –
  - (a) when that person ceases to be ordinarily resident in Jersey; or

- (b) if the person is a worker but not ordinarily resident in Jersey, when the person ceases to be a worker in Jersey.
- (3) A person to whom a registration card is issued in respect of another person must return the card to the Minister –
  - (a) when that other person ceases to be ordinarily resident in Jersey; or
  - (b) if that other person is a worker but not ordinarily resident in Jersey, when that person ceases to be a worker in Jersey.

**11 Registration cards not to be assigned, defaced, etc.**

- (1) A person must not assign or agree to assign a registration card.
- (2) A sale, transfer or assignment of a registration card is of no effect.
- (3) A person must not wilfully deface or destroy a registration card.

**12 Renewal of cards**

- (1) A person who is responsible for custody of a registration card must apply for renewal of a registration card –
  - (a) within such period as may be specified by the Minister before the expiry of that card;
  - (b) within such period as may be specified by the Minister following the change of the name or title that appears on the card;
  - (c) as soon as is practicable if the card is defaced in a material particular, lost or destroyed.
- (2) An application under this Article shall –
  - (a) be in such form as the Minister may determine;
  - (b) be accompanied by such fee as the Minister may prescribe;
  - (c) include such information as may be required by the Minister as is specified in Article 2(3) or in Regulations under Article 9(4) and any documents required by the Minister establishing to his or her satisfaction evidence of that information.
- (3) For the purposes of paragraph (2) “information” includes any photograph for which provision is made in Regulations under Article 9(4).
- (4) If more than one person is responsible for custody of a registration card, the requirement to apply for renewal under paragraph (1) is discharged if one of those persons makes an application for renewal in accordance with paragraph (2).

**PART 5**

## GENERAL PROVISIONS FOR REGISTRATION

**13 Requirement to attend place**

The Minister may require a person to attend such place as he or she may specify for the purpose of registration under Part 2, giving information under Part 3 or for renewal of a card under Part 4.

**14 Power of Minister to amend time limits**

The Minister may, by Order, amend the time specified in any provision in Part 2 or 3 by which a person must register or give information as the case requires.

**15 Exemptions etc from the duty to register or give information**

- (1) The Minister may by Order provide that any person or person of a prescribed description is exempt from the duty to register, give information or apply for renewal of a card under Part 2, 3 or 4 as the case requires.
- (2) A person who must register or give information under Part 2 or Part 3 is not required to give any information that is required to be given (whether by that person or another) under –
  - (a) the Marriage and Civil Status Law; or
  - (b) the Social Security Law.
- (3) If the Minister considers it expedient to do so in any case, the duty on a person to give information under this Law may be discharged by that person verifying information held by the Minister.

**PART 6**

## USE OF INFORMATION

**16 Use of information given under this Law**

- (1) The information given to the Minister under this Law may be used for any purpose specified in Regulations made by the States.
- (2) For the avoidance of doubt, this Law does not affect the operation of any enactment authorizing the use of information given to the Minister under this Law.

**PART 7**

## OFFENCES UNDER PARTS 2, 3 AND 4

**17 Offences**

- (1) A person shall be guilty of an offence and liable to a fine of level [3] on the standard scale if he or she fails to do any of the following when required to do so –
  - (i) register under Part 2;
  - (ii) give information under Part 3;
  - (iii) apply for renewal of a registration card under Part 4;
  - (iv) produce any document or other information required under Part 2, 3 or 4 or required by Regulations made under this Law.
- (2) A person shall be guilty of an offence and liable to a fine of level [4] on the standard scale if he or she does any of the following –
  - (a) knowingly gives information that is false in a material particular under Part 2, 3 or 4 or required by Regulations made under this Law;
  - (b) knowingly produces any document that is false in a material particular under Part 2, 3 or 4 or required by Regulations made under this Law.

**PART 8**

## HOUSING AND EMPLOYMENT CONTROLS

(TO BE COMPLETED)

**PART 9****[18] Regulations and Orders**

- (1) The Minister may by Order prescribe any matter that shall or may be prescribed under this Law.
- (2) Any Regulations or Order under this Law may contain such transitional, consequential, incidental or supplementary provisions as appear to the States or the Minister, as the case requires, to be necessary or expedient for the purposes of the Regulations or Order.

**[19] Citation and commencement**

- (1) This Law may be cited as the Migration (Jersey) Law 200-.



- (2) This Law shall come into force on such day as the States may by Act appoint.

**SCHEDULE 1**

(Insert Schedule SubSubheading here)

**INSERT SCHEDULE SUBHEADING HERE**