

STATES OF JERSEY



DRAFT CONTROL OF HOUSING AND WORK (RESIDENTIAL AND EMPLOYMENT STATUS) (JERSEY) REGULATIONS 202- (P.15/2025): COMMENTS

**Presented to the States on 27th March 2025
by the Corporate Services Scrutiny Panel**

STATES GREFFE

COMMENTS

Background and Context

1. The [Control of Housing and Work Law 2012](#) (hereafter the “Primary Law”) was introduced in 2013 to consolidate into a single Law a range of previous controls on the occupation of property, the running of businesses and the employment of workers.
2. The Chief Minister lodged the Proposition - Draft Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 202- [\[P.15/2025\]](#) (hereafter the “draft Regulations”) on 17th February 2025. The Corporate Services Scrutiny Panel (hereafter the “Panel”) observed that the Chief Minister has delegated responsibility for the draft Regulations to Deputy Carina Alves, Assistant Chief Minister.
3. The draft Regulations, if adopted, will reflect the changes brought by the Draft Control of Housing and Work (Amendment) (Jersey) Law 202- [\[P.13/2022\]](#) (hereafter the “Amendment Law”), which was approved in principle by the States Assembly in March 2022 to amend the Primary Law and will also replace the [Control of Housing and Work \(Residential and Employment Status\) \(Jersey\) Regulations 2013](#) (the current Regulations).
4. The Amendment Law amends the Primary Law to introduce a Common Population Policy (hereafter the “CPP”) for Jersey and to provide more responsive migration controls as a key control mechanism within the CPP. At that time, it was understood that the CPP coupled with the Amendment Law would provide a framework and control mechanism in which short, medium and long term plans could be successfully implemented to manage and impact the population of Jersey.
5. The Panel wishes to emphasise that, should the draft Regulations be adopted by the States Assembly, the structure of the existing migration controls in the Primary Law will be maintained and that, in practice, no policy changes will occur. However, the draft Regulations, will set out the existing control of housing and work (hereafter the “CHW”) rules and legal statuses to support the Amendment Law and will introduce flexibility for Ministers to amend or introduce new legal statuses in future through the approval of the States Assembly. Thereby, through the adoption of the draft Regulations, future changes could be made through Regulations to respond to Jersey’s changing needs in a more flexible manner and without unintentionally altering the Primary Law.
6. Notwithstanding the above, on 18th March 2025, the Chief Minister lodged an [Amendment](#) to the draft Regulations, which proposes a policy change by amending Regulation 2(1)(d) to reduce the period of time required to achieve Permanent Entitled status from 30 years or more, to 25 years or more. The report to the Amendment explains that *the lodging of these draft Regulations provides an opportunity to recognise the significant period of time spent contributing to*

*the Jersey community by a person, not born in Jersey, who has been continuously and ordinarily resident in Jersey for a period of 25 years.*¹

7. The Panel notes that should the States Assembly approve the draft Regulations as amended by the proposed Amendment, the draft Regulations will provide *a clear framework of how a person achieves a status under the Amendment Law, how a status can be lost or revoked, and the access each status gives to occupy accommodation, enter into property transactions, and to access work in Jersey. Overall, the existing statuses are maintained in the new Regulations, but the opportunity is taken to update some areas, simplify the structure and language of the Regulations and provide additional rights in some areas* (as explained in the accompanying report to the draft Regulations).² In addition, a policy change would be brought to Regulation 2(1)(d) to reduce the period of time required to achieve Permanent Entitled status from 30 years or more, to 25 years or more.³

Relationship between the Amendment Law and the Draft Regulations

8. The Amendment Law provides for flexibility to be achieved through the use of Regulations and Orders. It also establishes within the Primary Law two new bodies to replace the Housing and Work Advisory Group (HAWAG) and creates - a political Panel (Housing and Work Control Panel) that will support decision-making in respect of individual applications by both specialist Officers and on review, by the Chief Minister; and an expert Council (Population Advisory Council) that will advise the Chief Minister on overall population policy.⁴ The Panel notes that the establishment of these bodies has already been approved by the States Assembly through the approval of the Amendment Law (however, not yet enacted).
9. Following the approval of the Amendment Law, it was anticipated that Secondary Legislation, in the form of Regulations and Orders would be brought forward for States Assembly approval during 2022 with the aim to lodge Regulations and an Appointed Day Act by the end of 2022 to enforce the Amendment Law (this did not occur as intended).
10. The Amendment Law responds to the need to create more responsive controls on migration, which aligned with the findings of the Migration Policy Development Board [[R.20/2020](#)] and the States Assembly's decision to endorse the Migration Control Policy [[P.137/2020](#)] in March 2021. It was understood that Regulations would set out the detail on the CHW statuses in accordance with those policy decisions.
11. However, the accompanying report⁵ to the draft Regulations explains that the policy decisions that were taken in 2021, where the findings were made against a backdrop of a much higher predicted population in 2019, no longer meet the needs of the local population. It is further clarified that more recent statistical data demonstrates that Jersey has required inward migration to maintain its

¹ [P.15/2025Amd.](#)

² [P.15/2025 – Pg 3](#)

³ [P.15/2025Amd.](#)

⁴ [P.13/2022 – Pg 14](#)

⁵ [P.15/2025 – Pgs. 2-3](#)

working age population as a result of the impacts of Brexit and the Covid-19 Pandemic.

12. Therefore, the draft Regulations instead aim to maintain the existing migration controls within the Primary Law. It is explained in the accompanying report to the draft Regulations that they are drafted so that they:

- *“Are easy to understand – using simpler language and structure;*
- *Modernise considerations of relationships and family units;*
- *Provide for increased transparency in making future changes;*
- *Allow for digital solutions in supplying and demonstrating a status under the Amendment Law.”⁶*

13. Together, the Amendment Law and the draft Regulations are part of a broader workstream to provide a framework to allow mechanisms to be implemented for more responsive migration controls within the CPP. The following table demonstrates how this would be enabled by the enactment of the Amendment Law and the draft Regulations.

Amendment Law	Draft Regulations
Most policy areas were moved to Regulations	Sets out existing CHW rules and statuses to support the Amendment Law
The language and structure of the Primary Law were simplified	Would be easy to understand through using simpler language and structure
No changes were made to the CHW policies	Modernisation considerations of relationships and family units
Designed for the digital economy	Allowing for digital solutions in supplying and demonstrating a status under the Amendment Law
Information sharing was expanded between Government and parishes	Provision for increased flexibility in making future changes
It provided a direct replacement for Housing and Work Advisory Group (HAWAG)	Renaming “registered” status as “standard” status to reduce confusion with registered accommodation

14. Should the Amendment⁷ be adopted by the States Assembly then in addition to the above changes, a further change will be made to reduce the period of time required to achieve Permanent Entitled status from 30 years or more, to 25 years or more.

Scrutiny of the Developing Workstream

15. Scrutiny has remained abreast of the developing workstream which has spanned two Government terms and encompassed the leadership of three Chief Ministers.

⁶ [P.15/2025 – Pg 2](#)

⁷ [P.15/2025Amd.](#)

16. The Corporate Services Scrutiny Panel established between 2018-2022 reviewed and reported on the Population and Migration Policy in 2019 [[S.R.14/2019](#)]. A Scrutiny Review Panel was then established to review and report [[S.R.6/2021](#)] on Migration Control Policy [[P.137/2020](#)], which considered potential amendments to the Primary Law and provided the basis for the legislative changes undertaken to date. A review of the Common Population Policy [[P.116/2021](#)] followed and was reported on in 2022 [[S.R.2/2022](#)]. Comments were also presented on the Amendment Law in 2022 [[P.13/2022 Com.](#)]. In 2022, with one Government term ending and another beginning, it was the view of Scrutiny that Jersey remained without meaningful migration controls and had acknowledged that the Amendment Law provided a framework for this, yet action on migration controls was dependent on the priorities of the incoming Government.
17. In 2023, the States Assembly adopted Draft Control of Housing and Work (Residential and Employment Status) (Amendment No. 2) (Jersey) Regulations 202- [[P.20/2023](#)], to which Scrutiny presented Comments [[P.20/2023.Com](#)]. These regulations focused on employment rights and enabled unmarried eligible partners the same employment rights as partners who are married or in a civil partnership.

Scrutiny of the Draft Regulations and Panel Observations

18. The Panel received an Officer-led briefing on the draft Regulations on 14th February 2025 and also raised questions with the Chief Minister during a [public hearing](#) on 7th March 2025. The Panel notes that the briefing did not include detail on the Amendment. However, the Amendment was alluded to during the hearing with the Chief Minister. The following notable observations were made by the panel:

Current and future intentions for change

19. With the exception of the Amendment to the draft Regulations proposed by the Chief Minister, further Government proposals to change population policy were not made clear to the Panel. During the hearing, the Chief Minister acknowledged the importance of putting in place a structure to implement future change. However, outside of the Amendment⁸ to the draft Regulations, the Chief Minister was mindful that changes would be required in the future (5-10 years) as opposed to within this Government term.

The Chief Minister:

The updated law basically aims to maintain the existing migration controls. The law will provide increased flexibility in making future changes, allow for digital solutions in supplying and demonstrating a control of the housing and work status are easier to understand, some of the language has been changed using a simpler language and a simpler structure. I think, importantly, they modernise considerations of relationships and family units. Those are the key changes, but basically it sets up a structure that I think we are going to need to revisit

⁸ [P.15/2025Amd.](#)

*that when we look at our population policies and workforce requirements in the future, so that just sets out the storm.*⁹

Deputy H.M. Miles:

You talked about, as we know, that these draft regulations are a foundation and the basis for change. Can you tell us anything about the changes that you anticipate bringing forward once the amended legislation is enacted?

The Chief Minister:

I understand Deputy Alves has been in conversation with Deputy Curtis, for example, to look at reducing the length of time for permanent residents from 30 to 25 years. I think we are open to that. So those conversations ... that is one example. But I think looking ahead, the falling birth rate, immigration versus emigration. Yesterday I received a presentation on how that impacts on schools. We are soon going to have 25 per cent capacity at these current rates in the next 5 to 10 years in our schools. When we look at those challenges that are facing us that is going to ... I think we might have to significantly continue to refine these to ensure we can bring in the right skills, we can provide the right standard of housing at the right cost. Those are the sort of things.

Deputy H.M. Miles:

Have you got any timeline in mind for these changes?

The Chief Minister:

*Looking at the demographic forecasting, I think we have probably a window of up to 5 years to set out how we want to plan for the future, because the challenges really start to hit us in approximately 10 years from now.*¹⁰

Deputy J. Renouf:

Chief Minister, you talked about there will be a need for a more radical change to population policy. Is the intention to do that within your term of Government or have you settled on the idea that that will take 4 or 5 years?

The Chief Minister:

I did not use the word “radical”.

Deputy J. Renouf:

All right. A bigger change, then.

⁹ [Quarterly Hearing Transcript – Pg 19](#)

¹⁰ [Quarterly Hearing Transcript – Pg 20](#)

The Chief Minister:

I do not think it will because some of it we are looking at starting that process with what we know, but I think that will be probably the next Government that will be dealing with the bulk of that.¹¹

20. The Panel highlights that by adopting the draft Regulations, a legislative structure for enabling more expedient changes to migration controls will be possible. However, as previously noted, delivering any actionable change to impact population policy would be dependent on any Regulations brought forward by the current and future Governments, in accordance with their priorities and the decisions of the States Assembly.
21. The Panel clarified to the Chief Minister its intention to be involved in the scrutiny of any changes that may be proposed within this Government term.

Deputy H.M. Miles:

In terms of Scrutiny's role in that, will we be involved during the planning and the thinking stages, or will we be presented with a policy to scrutinise at the end of the process?

The Chief Minister:

I think our policy is always to involve Scrutiny. I know the Assistant Chief Minister, who is dealing with it, is collaborative in approach and will undertake to make sure on this issue Scrutiny is involved and regularly briefed.¹²

Communicating the effects of the draft Regulations

22. The Panel notes that the primary intent of the draft Regulations is to provide clarity between CHW statuses under different articles of the Primary Law. During the briefing, the Panel was provided with an overview of the changes that were being proposed (detail of these changes can be viewed in the accompanying report to the Proposition¹³). It was understood by the Panel that the proposed changes aimed to make it easier to amend the definition of specific statuses by Regulation in the future, and less likely to bring unintentional changes to other parts of the Primary Law when doing so.
23. It was clarified to the Panel that in practice the draft Regulations would provide Jersey residents with a greater understanding about their status and what their status entitles them to. It is the Panel's understanding that nobody would be required to make new applications or change their registration cards as a result of the draft Regulations being adopted. The Panel emphasised during the briefing that clear communications on these matters should be delivered to States Members and the public to avoid any unnecessary confusion.

¹¹ [Quarterly Hearing Transcript – Pg 23](#)

¹² [Quarterly Hearing Transcript – Pgs. 20-21](#)

¹³ [P.15/2025 – Pgs. 3-4](#)

24. The Panel raised concern about communications relating to the effects of the draft Regulations, having understood that through their adoption no policy changes would be actioned (in the absence of the Amendment). During the briefing, the Panel requested that the effects of the draft Regulations should be made explicit within the report to accompany the draft Regulations (as the Proposition had not yet been lodged at that time) to provide assurances to the States Assembly and the public about the changes that would be made in practice. The Panel also raised this matter during the hearing with the Chief Minister:

Deputy H.M. Miles:

I think interestingly, the communications around the draft regulations landed a bit oddly and some of the public ... certainly some of the feedback that we have had. So what steps are you going to take to make sure that the public are properly informed about the fact that nothing is changing as a result of these regulations?

The Chief Minister:

We actually took the right steps. Regrettably, the BBC misreported and we had to correct that. I believe we have asked the BBC to correct it. I think they corrected it on the website piece, but it was a news item broadcast and it would be helpful if they broadcast the correct lines, but Comms are working on that.¹⁴

25. Following the lodging of the Amendment¹⁵ by the Chief Minister, the Panel notes that a policy change is now being proposed. The Panel is unaware of how the Amendment has been communicated.

Statistics and data

26. The Panel notes that the availability of improved data has resulted in the change of policy approach as opposed to the policy decisions made in 2021. The Panel explored this area further during the hearing and how statistics were being utilised to support the CPP.

Deputy H.M. Miles:

The Chief Minister has talked about how changes will support the Common Population Policy. My questions are around how accurate and timely statistics are being gathered, and the broader question is whether Statistics Jersey are adequately resourced to provide the necessary information to properly evidence the changes that are likely to be made?

Senior Policy Officer:

I can speak in relation to the data that we are getting at the moment. We are getting significantly better data than we had even 2 or 3 years

¹⁴ [Quarterly Hearing Transcript – Pg 19](#)

¹⁵ [P.15/2025Amd.](#)

ago from Statistics Jersey. Previously, census data was the only really reliable data that we had that was coming every 10 years. Statistics Jersey did projections moving forwards but, as we saw from the last census, those projections can be out for reasons that were ... changing economic and global ...

Deputy H.M. Miles:

COVID and Brexit.

Senior Policy Officer:

COVID and Brexit, leaving us with a population that was somewhat different to that that was being projected and planned for. We are getting now instead of 10 years historically, we are looking at 12 months backwards. Statistics Jersey are moving to gather much more live data of who is on the Island. That is giving us a much better idea who is here now as opposed to who was here 10 years ago.¹⁶

Tribunals, appeals and review process

27. As explained in paragraph 8 of these Comments, two new bodies will be established within the Primary Law through the enactment of the Amendment Law. The Panel notes that the Housing and Work Control Panel (a political panel) would consist of at least three elected States Members appointed by the Chief Minister that will support decision-making in respect of individual applications by both specialist Officers and on review, by the Chief Minister. It is to be noted that appointment of Panel Members by the Chief Minister would be at variance with the procedure applicable to other tribunals where appointment is by the Assembly.
28. It was the Panel's understanding that the establishment of this political panel would enable decisions of appeals to no longer be referred directly to the Royal Court, but instead an Officer (represented by the Chief Minister) would review the decisions prior to any appeal being referred to the Royal Court. The grounds for appeals would be set out in the Regulations and in the supporting guidance (which remains to be updated).
29. The Panel sought to understand how the appeals process against licensing decisions would now function and any resulting implications.

The Connétable of St. Mary:

... we understand that this will allow appeals through a tribunal for which the membership will be allocated by yourself, Minister. Can you confirm that is correct?

The Chief Minister:

¹⁶ [Quarterly Hearing Transcript – Pgs. 21 -22](#)

That is correct, as I understand it. That gives more freedom as there were prescribed Ministers who had to be on that group at the moment. The new regulations allow basically not for Ministers but for any States Member to be on that panel.

The Connétable of St. Mary:

That you are responsible for the appointment of?

The Chief Minister:

Yes.¹⁷

30. The Panel sought to explore whether a previous recommendation¹⁸ of the Jersey Law Commission to establish a single Jersey Administrative Appeals Tribunal, to replace multiple separate tribunals, had been considered:

The Connétable of St. Mary:

Looking at the situation more generally you will recall that the Law Commission report on access to administrative redress, and this is the one before the public ombudsman report, recommended the establishment of a new Jersey Administrative Appeals Tribunal, I will call it J.A.A.T., which would effectively replace 8 separate tribunals presently in place. What consideration has been given to that recommendation being implemented, having particular regard to costs and the fact that that could incorporate the responsibilities of any new tribunal?

The Chief Minister:

I am not sure.

Senior Policy Officer:

Specifically for the Control of Housing and Work Law, so at the moment there is a Housing and Work Advisory Group which was set up within the legislation, which, as the Chief Minister has said, is a statutory group of individuals being Ministers that need to be part of that. The Housing and Work panel that is set up within the new legislation that was agreed by the Assembly in March 2022, I think, sets up a similar panel but it removes that requirement for it to be a specific person or Minister on that panel. The Chief Minister still has the ability, as he does now, to appoint other people to that panel but it opens up the potential membership of that group, as the Chief Minister wishes, to do the same role as the Housing and Work Advisory Group does now.

The Connétable of St. Mary:

¹⁷ [Quarterly Hearing Transcript – Pgs. 23-24](#)

¹⁸ [Jersey Law Commission - Improving Administrative Redress in Jersey](#)

Thank you for that. What I am really getting at is that there was a recommendation that we have one appeals tribunal some time ago and if that had been in place whether that could have been the vehicle to take on responsibilities under the new proposals. That is what I am getting at. Would it not be a sensible thing to do, to look at the general point of tribunals in the context of any new tribunal?

Senior Policy Officer:

The panel also has a role of, as cases come to them, they can make recommendations to the Chief Minister to amend policy and potentially legislation if that is felt appropriate. It does not just have a review responsibility. It also has ability to give guidance to the Chief Minister on other matters.

The Connétable of St. Mary:

I hear that but again I would have thought that the general powers of the J.A.A.T. could be sufficiently wide to embrace what you are talking about but let us leave it at that for now...¹⁹

31. The Panel also raised concerns in relation to the membership of that body and its functioning in respect of how its role could be perceived. The Panel raised a view that, where the Chief Minister was responsible for selecting the membership, as well as reviewing and making decisions on appeals, which were effectively against decisions of his department, it would be equivalent to the Chief Minister ‘marking his own homework’.

The Connétable of St. Mary:

... Going on to the other point regarding the J.A.A.T., one of the intentions in the recommendation was that apart from the question of applying resources more efficiently it would hear appeals against departmental decisions which currently are often made to the Minister whose department it is, which effectively is equivalent to the Minister marking his own homework. That would, to many, appear to be contrary to the rules of natural justice. Do you agree with that basic philosophy, that it is wrong for a Minister to hear appeals against decisions of his department?

The Chief Minister:

I am not sure. I think it depends on the circumstances. The principle of not marking your own homework is fine, but marking the homework of your officials as a Minister is okay, I think.²⁰

32. The Panel notes that there appears to be no Government intention to revisit the matter regarding tribunals during this Government term.

The Connétable of St. Mary:

¹⁹ [Quarterly Hearing Transcript – Pgs. 24-25](#)

²⁰ [Quarterly Hearing Transcript – Pg 25](#)

In the context of the tribunal, would you be prepared to commit yourself to relooking at the whole idea of a J.A.A.T. again before the next Budget, possibly? The Chief Minister: We can certainly have a look at it.

Group Director, Policy:

Just to be clear, we have no current plans to do that and, if we look at the prioritisation process that we went through, that was one of the things that was considered but there are more pressing matters that were chosen.²¹

Orders, Guidance and Appointed Day Act

33. The Panel notes that following the adoption of the draft Regulations that Orders, guidance and an Appointed Day Act would need to be brought to the States Assembly for approval so that the Amendment Law (bringing forward the new Primary Law), can be enforced. The Panel sought to understand the timeline for the provision of the Orders and guidance and when the Appointed Day Act would be brought to the States Assembly for debate. The Panel wanted to determine when the new Primary Law, Regulations and Orders would be enacted.
34. During the briefing, the Panel heard that the draft Regulations, if approved, would come into force by the end of 2025, following the debate and approval of the Appointed Day Act.
35. It was confirmed that the Orders (for fees and exemptions, in the main) were to support the Primary Law and that public guidance would be updated to improve the understanding of the Primary Law and published before that date.
36. It was clarified that the Amendment Law required that the Appointed Day Act be debated in the States Assembly to bring into force the new Primary Law, Regulations and Orders.
37. The Panel emphasised during the briefing its intention to have sight of the Orders and guidance to examine what they would cover. The Panel raised this matter during the hearing with the Chief Minister as well.

Deputy H.M. Miles:

... We know that there will be some guidance and some orders drafted to accompany the regulations. Can you give us an idea of the timeline of that?

Senior Policy Officer:

Yes. There will be 2 orders; the exemption order and the fees order. They are being drafted now. Our expectation is after the debate there

²¹ [Quarterly Hearing Transcript – Pg 25](#)

will be an Appointed Day at a later date. I would expect that to be maybe quarter 3, quarter 4 of this year; to be this year.

Deputy H.M. Miles:

Okay, and enough time would be provided to Scrutiny to be able to scrutinise that guidance before it goes through?

Senior Policy Officer:

Absolutely. The intention is that the orders will pretty much be a carbon copy of what exists now. We just have to do that because when the new law comes into place the existing orders are wiped out.²²

Conclusion

38. The Panel is grateful for the time provided by Ministers and Officers to brief the Panel and answer questions in relation to the proposals, which have assisted the Panel in informing its Comments.
39. The Panel is supportive of the draft Regulations as it is aware of the need to secure a legislative structure which can enable more swift change to the Primary Law in order to be flexible to Jersey's population needs as these change over time. Notwithstanding its support of the Proposition, the Panel is minded that consideration would need to be given to the potential implications of policy decisions by both current and future Governments, which would be brought through Regulations for approval by the States Assembly.
40. The Panel has emphasised its intention to be involved in the scrutiny of any proposals that may be brought by the current Government to affect the Primary Law. However, cognisant that there is a greater likelihood for changes to be brought by future Governments, looking ahead, the Panel would urge Scrutiny to continue to remain abreast of the developing workstream.
41. The Panel has also highlighted its intention to consider the Orders and guidance when these are made available to it and prior to the debate by the States Assembly of the Appointed Day Act, which is anticipated later this year.
42. The Panel notes that it was not briefed on the Amendment to the draft Regulations, however, during the hearing²³, the Chief Minister raised the potential policy direction that is being proposed by the Amendment and that it was under discussion at that time between Deputy Alex Curtis and the Assistant Chief Minister. It is the Panel's understanding that the Amendment was proposed by Deputy Alex Curtis (in his personal capacity) for consideration by the Chief Minister, which has resulted in the Chief Minister's Amendment to the draft Regulations.

²² [Quarterly Hearing Transcript – Pgs. 22-23](#)

²³ [Quarterly Hearing Transcript – Pg 20](#)