



Business Licensing guidance notes

Part 7: Controls on Working

Control of Housing and Work (Jersey) Law 2012

Introduction

1. This guidance is designed to assist applicants to understand the purpose and application of the law. It highlights the key parts but is not a substitute. The full Control of Housing and Work legislation can be found here: www.jerseylaw.je.
2. The purpose of the Control of Housing and Work (Jersey) Law 2012 (“the Law”) is to provide legislation and mechanisms that can be used to control the overall population density of Jersey. Maintaining a sustainable population is imperative on an island with finite resources of land. This operates within the Council of Minister’s agreed common position on population policy.
3. Assistance or clarification is available on request by contacting the Business Hub at Employment, Social Security & Housing on businesshub@gov.je or by calling 01534 444444, option 5.

Business licence required to operate a business/organisation in Jersey

4. A person shall not carry on an undertaking (business) or employ staff in Jersey unless there is in force an appropriate licence (or they meet one of the exemptions listed in paragraph 12).
 - *An appropriate licence is one of those listed in the table below:*
 - *An undertaking means any trade, business or activity involving work or services performed for, or offered to members of the public, including a section of the public, carried on in Jersey by any person whether or not carried on for profit.*

Business licence types

Licence type	Details	Link
Resident business licence	Required by anyone wishing to run a business/organisation based permanently in Jersey, or a non-Jersey based business that has an employee working for them physically based in Jersey	https://www.gov.je/Industry/BusinessAdviceHub/StartingABusiness/Pages/home.aspx
Non-resident business licence	Required by visiting businesses completing specific contracts of work in Jersey and then returning home (e.g. a UK construction company completing part of a Jersey building project)	https://www.gov.je/working/workpermits/licencesworkjersey/pages/nonresidentbusinesslicence.aspx
Non-resident trading licence	Required by a visiting person or business wishing to sell (or offer the sale of) goods or services direct to customer in Jersey and then return home	https://www.gov.je/Working/WorkPermits/LicencesWorkJersey/Pages/NonResidentTraderLicence.aspx
Hawkers licence	Required by anyone wishing to sell goods door to door in Jersey	https://www.gov.je/Working/WorkPermits/LicencesWorkJersey/Pages/NonResidentHawkerLicence.aspx

Resident business licence

5. Normal policy is to only grant a resident business licence to individuals with Entitled/Entitled for work employment status. Exceptions can be made in support of paragraphs 33-37 below. Applicants with Registered or Licensed employment status should contact the Business Licensing team for advice before making an application. The table below paragraph 16 explains the different employment statuses.
6. A resident business licence automatically allows businesses/organisations to conduct their activity and employ individuals with Entitled/Entitled work employment status. Businesses/organisations must apply for permission to employ individuals with Registered or Licensed residential status. Paragraph 14 onwards explains this in more detail.
7. Non-residents or individuals with Registered employment status can be the beneficial owners of an undertaking. However, ownership does not confer any right to work in an undertaking or to obtain a permission to work in that undertaking (and permission may be refused if there are reasonable grounds to believe this to be the case).
8. Jersey does not seek to limit the number of business licences, but business licences are subject to restrictions on the number of persons who may work for that business and who do not have particular employment statuses.
9. A business licence is normally granted without expiry to operate, but some licences may be granted with an expiry date, or a specific licence condition may be time limited, to support the objectives outlined in paragraphs 33-37 below.

Disclosure and barring service (DBS) checks (criminal record checks)

10. For applicants (beneficial owners) that intend to carry on an undertaking working with children or vulnerable adults, evidence of relevant police checks, or a request for these to be obtained may be required. Furthermore, a condition may be imposed to require police checks to be obtained in respect of any staff or persons involved in the undertaking.

Manpower returns

11. All undertakings with a resident business licence shall provide a statement of the name and current residential status of staff engaged. This is known as a 'manpower return.' For businesses with just working owners (no employees) this is required every six months. For employers this is required every month and submitted along with your employees' tax (ITIS) and Social Security contributions on the combined employer return. All working owners must also be declared on the return. This information enables the Business Licensing team to confirm compliance with any licence conditions and provides valuable statistics on employment in the Island. More information is available at www.gov.je/manpowerreturns.

When a resident business licence is not required

12. There are several common reasons when a resident business licence is not required. These are:
 - a business visitor for establishment purposes in Jersey for a period of less than 90 days in 12 months
 - no one (including the owner) who works for the organisation receives any form of payment of any kind (including commissions, benefits in kind, accommodation etc)

- the owner is a sole trader who has entitled or entitled for work status, there are no employees and the owner works for less than 8 hours per week on average
- the business is a limited company, there is only 1 person working for the business, this person has entitled or entitled for work status and works for less than 8 hours per week on average
- a household is employing someone to provide domestic services in their home. For example, a nanny to look after children or a carer to look after a relative. Domestic services must be either:
 - gardening
 - cooking
 - cleaning
 - ironing
 - nursing
 - other care services
 - looking after children

There are other rare exemptions which can be found here:

[Control of Housing and Work \(Exemptions\) \(Jersey\) Order 2013](#)

Hawkers

13. Other than non-resident Hawkery, the policy is normally to grant a Hawkery licence to persons whose status is Entitled/Entitled for Work Only and not those who are Registered.

[Permission to employ people who don't hold Entitled or Entitled for work employment status](#)

14. A business must check the residential status of a potential employee by seeing their registration card before offering employment. It is the employee's responsibility to get a current registration card from the Employment, Social Security & Housing Department. The registration card will show one of the statuses listed in the table below. A business can only employ a person if they have the appropriate permission on their business licence.
15. Businesses can employ as many Entitled/Entitled for Work persons as they wish (provided they have a resident business licence) and do not need to apply for permission to employ people with this status.
16. Business/organisations who wish to employ Registered or Licensed persons must have the appropriate permission on their business licence. If they do not, they must apply to Business Licensing and be granted a Registered or Licensed permission before offering employment.

Summary of Employment Status

Employment Status	Definition	Employment	Housing
Entitled	Someone who has lived in Jersey for 10 years or who is granted this status on hardship or on social or economic grounds	Someone who can work anywhere	Can buy, sell or lease any property
Entitled for Work Only	Someone who has lived in Jersey continuously for the last 5 years, or is married to, or in a civil partnership or enduring relationship with, someone who is Entitled, Licensed, or Entitled for Work Only	Someone who can work anywhere	Can buy property jointly with an 'entitled' spouse or civil partner (this does not apply to eligible partner). Can lease 'registered' property as a main place of residence.
Licensed	Someone who is an 'Essential Employee' engaged by a specific business with permission to engage such a person	Employer needs permission to employ a 'licensed' person	Can buy, sell or lease any property, apart from assisted purchase or social rented housing, in their own name if they keep their 'licensed' status
Licensed - with Lease Only condition	Someone who is an 'Essential Employee' engaged by a specific business with permission to engage such a person	Employer needs permission to employ a 'licensed' person	Can lease any property, apart from assisted purchase or social rented housing, in their own name if they keep their 'licensed' status
Registered	Someone who does not qualify under the above categories	Employer needs permissions to employ a 'registered' person	Can lease 'registered' property as a main place of residence

17. The Registered and Licensed permission application form can be found at <https://www.gov.je/working/contributions/registrationcards/pages/businessstafflicences.aspx>
18. If an undertaking applies for Registered and/or Licensed staff, they must provide the following in the application:
 - *Details of current staffing numbers broken by residential status and contract type*
 - *Details of the roles where Registered or Licensed permissions are being sought including salary, qualifications and experience required*
 - *Evidence of sourcing from local market, where appropriate. If not considered appropriate, an explanation of why that is the case*
 - *Details of the importance of the role to the business*
 - *Information about how the business attracts, develops and retains employees*
 - *Information about the financial contribution of the business to the island*

Criteria used to review an application

Officers will review the application against two sets of criteria

i. Qualifying criteria

Unless there are exceptional circumstances, the application must pass through all 7 of the checks below before progressing to the main criteria

There are no ongoing investigations against the business related to employing Registered or Licensed staff without permission
The exact same application has not already been refused (if details within the application have changed this can be accepted)
The individual is not within 6 months of gaining Entitled for work status
The business does not already have a spare Registered or Licensed permission that could be used for this role
The business has explained why they have been unable to find Entitled/Entitled for work applicants

ii. Main criteria

There is no set number of main criteria an application must meet to be approved. The strength of each factor is considered in the context of the business, industry and circumstances outlined in each application

How important is the role to the business?
Is the salary set at an appropriate level for the role and industry to ensure an employee receives a fair and positive salary
Does the role have experience/qualifications requirements that make the role hard to recruit for locally and could not be developed through an apprentice/trainee role?
Is the business economically sustainable? (e.g. profitable after all costs) with a positive track record?
How much effort is the business making to attract, value, retain and develop its employees? Examples could include (but not limited to) offering flexible hours, considering job share, part time roles, student employment, offering progression, qualifications, development, support, reward and positive terms and conditions (working hours, leave etc). If a business is not doing any of these things, this may explain why it is finding a role hard to fill rather than there being a genuine skills or person shortage
Will the skills of the role or individual help train other employees within the business or help the business/sector innovate?

Where the permissions will see a growth in total employee numbers, does the business case demonstrate sufficient predicted increase in business/income to warrant and afford the salaries of the new employees if the permissions are granted?
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Is the business utilising a WTO GATS route?

19. Where a Registered or Licensed permission is granted, it will be added to the staffing limits shown on the business/organisations business licence. Additional conditions may also be attached to the business licence including, but not limited to:
- *A description of the types of roles for which any Licensed permissions may be used*
 - *The period for which such a person(s) may be engaged by the undertaking;*
 - *Naming such person(s) who may be engaged.*
20. Applications for permission to employ short term seasonal workers or those on temporary work permits will generally be supported. This is because seasonal permissions do not always add to the permanent resident population of the Island. At the same time, Entitled/Entitled for Work Only individuals will continue to be supported into these roles and employers will be expected to advertise these roles to Entitled/Entitled for Work Only residents before a seasonal permission can be considered.

Varying a business licence

21. A licence can be varied at any time:
- *An undertaking may apply for a variation of its licence at any time, including with reference to the maximum number of Registered and Licensed staff who are permitted; or*
 - *The Minister, with notice, may vary the licence at any time, including reducing/removing permission(s); and/or applying additional conditions; so long as this does not result in a breach of the licence by continuing to employ staff permitted prior to the variation.*

Business ownership and changing ownership

Limited companies

22. Where a Limited company changes ownership (whether or not by means of one or more acquisitions) such that the share capital in the company owned by Entitled, Entitled for work or Licensed people (whether or not acting collectively) is, when aggregated, less than 60%, the original Business Licence is no longer valid. This is known as a “significant change of ownership” under the law. Where this is proposed a full application to the Business Licensing team must be made at this link:

<https://www.gov.je/Working/Contributions/RegistrationCards/Pages/NewBusiness.aspx>

This request will be treated “as if” it was an application for a new undertaking. While the majority of these applications are approved, they can be refused in line with paragraph 7

above, so it is recommended to make the application ahead of the change formally taking place.

23. Where a change in ownership occurs but the share capital is 60% or more owned by Entitled, Entitled for work or Licensed people there is no requirement to make an application to Business Licensing. Instead the company should follow the instructions shown here:
<https://www.gov.je/working/contributions/registrationcards/pages/newbusiness.aspx>
24. There is no presumption in the CHW legislation against persons who do not live in Jersey from owning a business. However, ownership does not confer any right to work in an undertaking or to obtain a permission to work in that undertaking (and permission may be refused if there are reasonable grounds to believe this to be the case).
25. The purpose of this requirement is to ensure that the significant changes in ownership of businesses are not likely to damage the reputation of Jersey, e.g. not issued to businesses or countries that are blacklisted or where international sanctions apply.

Sole traders and partnerships

26. Where a sole trader or partnership changes ownership, an application to business licensing is required. While the vast majority of these applications are approved, consideration will be given to paragraphs 33-37 and paragraph 7 above.

World Trade Organization General Agreement on Trade in Services

27. The General Agreement on Trade in Services (GATS) is a treaty of the World Trade Organisation (WTO) that entered into force in 1995. The objectives are to create a reliable and predictable system of international rules for trade in services and to facilitate the progressive liberalisation of services markets. The core principles of the GATS include the Most-Favoured-Nation Treatment (MFN) and National Treatment.
28. All members of the WTO are party to the GATS. The United Kingdom's WTO membership was extended to Jersey in 2020 which meant that Jersey companies gained access to global rules not only for services, but goods and intellectual property alongside other WTO members.
29. Alongside CHW legislation, there is a requirement for Jersey to be compatible with WTO GATS Mode 3 and Mode 4 routes.
 - Mode 3 - allows a service supplier to establish a commercial presence in Jersey
 - Mode 4 - allows an individual service supplier to move temporarily to Jersey to supply a service
30. Routes exist within the CHW legislation, either through exemption or through access to Registered and Licensed permissions, to allow the following to work temporarily in Jersey:
 - Business visitor for establishment purposes
 - Short term business visitor
 - Intra-corporate transfers
 - Contractual Service Suppliers

- Independent service providers
31. Economic Needs Tests do not form part of considerations under CHWL and WTO GATS routes.
 32. Assistance or clarification is available on request by contacting the Business Hub at Employment, Social Security & Housing on businesshub@gov.je or by calling 01534 444444, option 5.

The decision-making process

33. When deciding whether to grant a business licence, additional Registered and Licensed permissions (for employees), a non-resident trading licence, hawkers licence or vary the conditions of a business licence, the following matters are relevant:
 - a. *Preserving and maximising the benefits of Jersey's resources*
 - b. *Promoting a balanced and prosperous economy*
 - c. *Protecting the integrity and reputation of Jersey in commercial and financial matters*
 - d. *Any relevant policies of the States of Jersey*
 - e. *Whether such a grant would be in the public interest; and*
 - f. *In the case of a hawker's licence, whether the applicant is a fit and proper person.*
34. The most relevant policy is, in particular but not exclusively, the Council of Minister's common policy position on population. This is considered alongside Jersey's commitment to honour WTO GATS requirements.
35. The policies of the States Assembly seek to establish a sustainable population growth for Jersey.
36. Other policies dealing with the reputation of the Island are also important - promoting Jersey as a well-respected jurisdiction in which to do business and promoting the widest interests of the Island.
37. Each application presents its own unique range of facts and circumstances and will be considered accordingly in support of the objectives outlined in paragraphs 33-37 above.
38. For the avoidance of doubt, the Law shall be applied unfettered by previous decisions that would be inconsistent with these policies.
39. The Chief Minister is responsible for the Law. Specialist Officers, and other selected staff of the Employment, Social Security & Housing Department, have delegated in particular, where there is a concern about Jersey's reputation in commercial or financial matters; or where an applicant appeals a decision; or for larger applications where there may be a significant impact.

Re-considerations and appeals

40. If a licence is refused or granted or any condition requested by the applicant refused, the applicant has the following courses of action.

Re-consideration

41. If the applicant wishes to challenge the decision they can ask for a reconsideration by submitting any additional information that was not submitted as part of the original

application or if the circumstances have changed, within 4 weeks of the original decision being made.

42. Should the applicant continue to be unsatisfied with the decision once the above process is complete, the following courses of action remain open.

Statutory Appeal

43. Under Article 41 of Law any person aggrieved by a decision may, within two months of the date of the decision, or within such longer period as the Court may allow, appeal to the Court on the ground that the decision is unreasonable having regard to all the circumstances of the case.

Copies of the enactments referred to are available on the Jersey Legal Information Board website at www.jerseylegalinfo.je or from the States Bookshop, the contact details for which are as follows:

Address: Morier House,
Halkett Place,
St. Helier,
JE1 1DD.
Telephone: 00 44 (0) 1534 441020
Email: statesgreffe@gov.je

Customer promise, data sharing and enforcement powers

Customer promise

Business Licensing aims to deal with applications within the following time frames:

Application type	Working days to complete
Email to businesslicensing@gov.je / businessshub@gov.je	2 days
Resident business licence	5 days
Registered or Licensed permission Significant change of ownership Non-resident trader licence Non-resident business licence Ceased trading notification	10 days

If you are unable to access an online form, paper copies can be obtained from the Business Licensing team.

44. An application may take longer if all the information required is not provided, or additional information is required to determine the application, or if the application is referred to the Minister. All efforts will be made to provide a decision as soon as possible.
45. Assistance with making an application can be obtained by contacting the Business Licensing team. In addition, other agencies will be able to offer advice and guidance on the application process or other matters relating to your business, in particular:

- *If you are Entitled/Entitled for Work and are considering starting a new business, it is recommended that you seek advice from Jersey Business (www.jerseybusiness.je/ 01534 610300) (who can also provide advice on the set-up of a business).*
- *If you are not resident in Jersey, and are considering relocating your business to Jersey, or setting up a new business in Jersey, in the first instance you should contact Locate Jersey (locatejersey.com / 0044 (0)1534 440604) to discuss this further. If you are a digital business, you should contact Digital Jersey (digitaljersey.je or (0) 1534 789333)*

Data sharing

46. Information may be sought from and disclosed to relevant organisations and Government Departments for the processing of applications and verifying the information provided pursuant to the Law, or to enable them to conduct their functions. This includes supplying information to other parts of the Employment, Social Security & Housing Department to support the employment of Entitled/Entitled for Work Only persons, in line with the objectives outlined in paragraphs 33-37 above.
47. For new business licence applications data will be shared with the Jersey Financial Services Commission and Revenue Jersey in line with the tell us once agreement to help you to apply for a Registered business name, organise your personal social security contributions and register as an employer to pay ITIS (tax) and Social Security for your employees (where necessary).
48. Personal data provided will be used by the Business Licensing team to discharge its statutory functions, and it may be disclosed to third parties for those purposes.
49. For more information on Business Licensing's privacy policy, visit <https://www.gov.je/Government/Departments/PrivacyPoliciesRetentionSchedules/CLSPri vacyPolicies/Pages/BusinessLicensingPrivacyPolicy.aspx> or request a written copy by calling +44 (0) 1534 444444.

Enforcement powers

50. Failure to obtain an appropriate licence when required, or to comply with any licence conditions, or to comply with any provisions of the Law, may result in fines, the revocation of licences, notice of cessation of the undertaking or prosecution. If an undertaking operates without an appropriate licence, it is an offence under the Law for which the maximum penalty is imprisonment for two years and an unlimited fine.
51. The Business Licensing team has Compliance Officers who ensure businesses are compliant with the law.
52. The granting of any appropriate licence does not absolve the licensee from obtaining, nor does it overrule, any other permission that may be required under any other law. You can find more information on industry specific licensing here: <https://www.gov.je/Industry/BusinessAdviceHub/IndustryRegulationsResponsibilities/Pages/IndustrySpecificLicencesRegulations.aspx>