

HOUSING QUALIFICATIONS IN JERSEY

The legislation currently governing the ownership and occupation of residential housing in Jersey is the Housing (Jersey) Law 1949 (the "Law") and the Housing (General Provisions)(Jersey) Regulation 1970 (the "Regulations").

The main bands of residential qualification under the Regulations are:-

- "a to h" properties – only available to "local" residentially qualified persons, generally either through birth or length of residence in Jersey.
- "j" properties – available to "essentially employed" individuals; and
- "k" properties – which are available to individuals whose residence in the Island "can be justified on social or economic grounds" (usually wealthy residents).

All freehold property sales and most leases require the consent of the Housing Minister.

1. **Regulation 1(1)(a) - Jersey born + 10 years residence**

This applies to a Jersey born person who has lived in the Island for a total aggregate period of ten years. Qualifications obtained this way can never be lost.

2. **Regulation 1(1)(b) - pre 1949 resident**

This applies to a person who owned or leased dwelling accommodation prior to the Housing Law coming into force and who has since remained resident in this accommodation. With the passage of time this Regulation has effectively become redundant.

3. **Regulation 1(1)(c) - previously exempt transaction**

This applies to a person who owned or leased accommodation, the acquisition of which was a transaction exempt under the Law, and who has since remained resident in that accommodation.

4. **Regulation 1(1)(d) - previously granted consent and continually resided since**

This applies to a person who has already been granted consent to purchase and has actually bought and occupied that property for the whole period commencing no later than six months from the date of the relevant Housing Consent. It does not apply to persons who obtained their previous consent under Regulations (g), (j), (k), (n)(i) (n)(ii) or to unqualified spouses who purchased jointly with the person qualifying under Regulation (g), (j) or (k).

Where a spouse who does not have residential qualifications purchased property in joint names with their residentially qualified spouse *prior to 11 October 1995* they are then entitled to purchase or lease alternative property in their own name.

5. **Regulation 1(1)(e) - previous consent to rent + 10 years continuous residence**

This applies to a person who has rented property with the consent of the Housing Minister for a continuous period of at least ten years immediately prior to an application to purchase.

It also applies to persons who have been in essential employment under Regulation 1(1)(j) for a continuous period of ten years on completion of which they qualify in their own right to lease or purchase property.

6. Regulation 1(1)(f) - 11 years continuous residence

This applies to any person who has accrued 11 years' continuous residence in the Island.

7. Regulation 1(1)(g) - hardship (other than financial hardship)

This applies to a person who does not qualify under any of the other Regulations but would experience hardship (other than financial hardship) in the view of the Housing Minister if consent were not granted.

The Housing Minister has to be satisfied that the degree of hardship which the applicant would suffer is sufficient to outweigh the fact that he has no residential status in his own right. Each application is considered on its own merits.

8. Regulation 1(1)(h) - child of residentially qualified parent + 10 years residence

This applies to a non Jersey born person who:

- (a) Arrived in the Island before their 20th birthday; and
- (b) Is the child of a residentially qualified person; and
- (c) Has lived in the Island for an aggregate period of at least ten years.

This also applies to children of (j) and (k) residents except where those individuals leave the Island prior to the children obtaining their qualifications.

9. Regulation 1(1)(j) - Essentially employed person

This applies to a person whom the Housing Minister accepts as being essentially employed in the Island where the Minister is satisfied that consent can be "*justified*" in the best interests of the community.

The 1(1)(j) provision is designed to assist employers with recruitment when no satisfactory local person is available.

10. Regulation 1(1)(k) – Social or Economic

1(1)(k) category residents are generally high net worth individuals. The Housing Minister can issue a consent under Regulation 1(1)(k) where he is satisfied that consent can be justified:-

- (i) on social or economic grounds, or both; and
- (ii) as being in the best interests of the community.

A separate advisory is available on Homelink regarding 1(1)(k) policy.

11. Regulation 1(1)(l) - Trust or Association registered with Royal Court

This relates to an association or trust known as a *fidei-commis* incorporated by the Royal Court.

12. Regulation 1(1)(m) - religious bodies

This relates to recognised religious bodies.

13. Regulation 1(1)(n) - spouse of residentially qualified person

This enables a non-residentially qualified person to join in the purchase or lease (for more than nine years) of a property with his or her residentially qualified spouse and to take a transfer of the qualified spouse's interest. Consent is granted for a specific transaction and does not give the non qualified spouse any further residential status under the Regulations.

14. Regulation 1A - Renting property

This relates only to renting property. Persons qualifying to purchase (with a few exceptions) also qualify to rent property.

15. Regulation 2 - the Public, Parishes and Company acquisitions

The Housing Minister may grant consent to the Public or a Parish or (where he is satisfied that to do so will not be detrimental to the interests of the community) to a company.

The Housing Minister will generally permit a company purchase:

- (a) Where a property comprises more than one unit of residential accommodation or is a mixed residential and commercial development.
- (b) Where a property is to be redeveloped - a condition is usually imposed that all the units built will be sold out of the company when the development is complete.
- (c) Acquisition or lease by an approved (j) category essential employee.
- (d) Acquisition by an approved (k) category resident.

16. Continuous Residence

Save for where an aggregate period of residence is sufficient, qualifications can be lost by absence from the Island.

A person who has gained their housing qualifications under Regulations 1(1)(b), 1(1)(c), 1(1)(d), 1(1)(e), 1(1)(f) and certain categories of 1(1)(h) can leave the Island for a single period of up to five years without losing their qualifications.

It is always sensible to check the position with the Housing Minister's department before any significant period of absence starts.

This advisory does not constitute legal advice and must not be relied on as such.

Please contact Julie Melia at Walkers for specific advice.

Julie Melia

Direct Tel: +44 (0)1534 700 775

Direct Fax: +44 (0)1534 700 800 or 700 711

Email: julie.melia@walkersglobal.com