



Jersey

# **CONTROL OF HOUSING AND WORK (EXEMPTIONS) (JERSEY) ORDER 2013**

## **Official Consolidated Version**

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Jersey

## **CONTROL OF HOUSING AND WORK (EXEMPTIONS) (JERSEY) ORDER 2013**

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Jersey

## CONTROL OF HOUSING AND WORK (EXEMPTIONS) (JERSEY) ORDER 2013

**THE CHIEF MINISTER**, in pursuance of Articles 3(7), 25(9), 27(3), 44 and 50(5) of the [Control of Housing and Work \(Jersey\) Law 2012](#), orders as follows –

Commencement [[see endnotes](#)]

### 1 Interpretation<sup>1</sup>

In this Order –

“business visitor for establishment purposes” means a person who –

- (a) is working in a senior position in a body, other than a non-profit body, which is responsible for the setting up, in Jersey, of a commercial presence of a relevant service provider;
- (b) is engaged in activity necessary for the setting up of the commercial presence of that service provider;
- (c) is not engaged in selling goods or supplying services to the general public;
- (d) is not engaged in any economic activity other than that necessary for the setting up of the commercial presence;
- (e) does not receive remuneration from any undertaking in Jersey; and
- (f) is not directly employed by an undertaking in Jersey;

“company” means a body corporate incorporated in any part of the world with or without limited liability;

“council of a foundation” has the same meaning as in the [Foundations \(Jersey\) Law 2009](#);

“day” includes any part of a day;

“full-time employment” means employment of not less than 30 hours per week;

“Law” means the [Control of Housing and Work \(Jersey\) Law 2012](#);

“domestic premises” means –

- (a) a dwelling house; or
- (b) other building used principally as one or more dwellings,  
including adjoining land;

“domestic purposes” means any purpose which is not for or in connection with the carrying on of any undertaking;

“domestic services” means any of the following services –

- (a) gardening;
- (b) cleaning (whether indoors or outdoors);
- (c) cooking;
- (d) ironing;
- (e) nursing or other personal care services;
- (f) services involving looking after children;

“financial services company” means a company providing financial services business referred to in –

- (a) Part A; or
- (b) paragraphs 1 and 2 of Part B,

of Schedule 2 to the [Proceeds of Crime \(Jersey\) Law 1999](#), whether or not, in the case of Part A, such business falls within an exception or exclusion referred to in that Part;

“international group” means a group consisting of at least one company incorporated outside Jersey;

“GATS” means the General Agreement on Trade in Services which is part of Annex 1B to the WTO Agreement;

“group” in relation to a company, means that company, any other company which is its holding company or subsidiary and any other company which is a subsidiary of that holding company;

“holding company” has the same meaning as in Article 2 of the [Companies \(Jersey\) Law 1991](#) (as if references to a “body corporate” were to a “company” as defined in this Order);

“medical purposes” means any of the following –

- (a) preventative medicine;
- (b) medical diagnosis;
- (c) medical research;
- (d) the provision of care and treatment;
- (e) the management of healthcare services;

“non-resident undertaking” means an undertaking which is not a resident undertaking;

“nurse” has the same meaning as in the [Health Care \(Registration\) \(Jersey\) Law 1995](#);

“person working in a senior position” in relation to a business visitor for establishment purposes means a person who works within a body and who primarily directs the management of the body, receiving general supervision or direction principally from the board of directors or stockholders of the business or their equivalent;

“registrable occupation” means an occupation specified in the Schedule for the purposes of Article 4(4)(a), which is a registrable occupation within the meaning of the [Health Care \(Registration\) \(Jersey\) Law 1995](#);

“regulated activity” means an activity in respect of which a person –

- (a) is registered under the [Banking Business \(Jersey\) Law 1991](#);

- (b) holds a permit or is a certificate holder under the [Collective Investment Funds \(Jersey\) Law 1988](#);
  - (c) is registered under the [Financial Services \(Jersey\) Law 1998](#); or
  - (d) is authorized by a permit under the [Insurance Business \(Jersey\) Law 1996](#);
- “relevant service provider” means a service supplier falling within Mode 4 of GATS that –
- (a) has its principal place of business in the territory of another World Trade Organization member; and
  - (b) has no other representative, office, branch or subsidiary in Jersey;
- “resident undertaking” means an undertaking which has one or more persons working in or for it in Jersey where –
- (a) if one person only works for the undertaking, that person is ordinarily resident in Jersey; or
  - (b) if more than one person works for the undertaking, all or the majority of the persons working in or for the undertaking are ordinarily resident in Jersey;
- “subsidiary” has the same meaning as in Article 2 of the [Companies \(Jersey\) Law 1991](#) (as if references to a “body corporate” were to a “company” as defined in this Order);
- “World Trade Organization” means the organization established by the WTO Agreement;
- “WTO Agreement” means the Agreement Establishing the World Trade Organization done at Marrakesh on 15th April 1994;
- “zero hours contract” means a contract or other arrangement between an individual and an undertaking such that the individual may work for the undertaking from time to time but there is no minimum requirement for the individual to do any work for the undertaking.

## **2 Persons exempt from duty to have registration card for work<sup>2</sup>**

A person who falls within any of the following descriptions shall, under Article 3(7) of the Law, be exempt from the duty to have an appropriate valid registration card in accordance with Article 24 of the Law –

- (a) a person who is in Jersey for an aggregate period of 60 days or less in any period of 12 months for the purposes of that person’s work as one or more of the following –
  - (i) a director or secretary of a company,
  - (ii) a partner in a partnership,
  - (iii) a member of the council of a foundation,
  - (iv) a trustee of an express trust, or
  - (v) a person with equivalent responsibility to any of the foregoing;
- (b) a person who is in Jersey for an aggregate period of 60 days or less in any period of 12 months for the purposes of that person’s work for one or more financial services companies, each such company being a member of an international group and for which the person works mainly outside Jersey;
- (c) a person who is a hawker or a non-resident trader for the purpose of the activities of hawking or being a non-resident trader;

- (d) a person working in or for a resident undertaking –
  - (i) where the person carries on activities in respect of which no business licence is required for the operation of the undertaking by virtue of any sub-paragraphs (b), (d), (g), (h) and (i) of Article 3(1), or
  - (ii) for the operation of which no business licence is required by virtue of any of sub-paragraphs (j) to (m) of Article 3(1);
- (e) a person who works in or for a non-resident undertaking;
- (f) a person who works in Jersey for an aggregate period of 10 days or less in any period of 12 months for one or more undertakings;
- (g) a person who is a business visitor for establishment purposes and who is in Jersey for an aggregate period of 90 days or less in any period of 12 months.

### **3 Undertakings exempt from duty to have a business licence**

- (1) Under Article 25(9) of the Law, an undertaking is exempt from the duty to have a business licence –
  - (a) in respect of any regulated activity by a non-resident undertaking;
  - (b) in respect of any regulated activity by a resident undertaking where each person working in or for the undertaking works for that undertaking for an aggregate period of 60 days or less in any period of 12 months and each person is any of the following in respect of the undertaking –
    - (i) in the case of a company, a director or secretary,
    - (ii) in the case of a partnership, a partner,
    - (iii) in the case of a foundation, a member of the council,
    - (iv) in the case of an express trust, a trustee,
    - (v) a person with equivalent responsibility to any of the foregoing;
  - (c) in respect of any activity by a non-resident undertaking where the activity is administered or managed by a person or body of persons carrying out regulated activities;
  - (d) in respect of any activity by a resident undertaking where –
    - (i) the activity is administered or managed by a person or body of persons carrying out regulated activities,
    - (ii) each person working in or for the undertaking works for that undertaking for an aggregate period of 60 days or less in any period of 12 months, and
    - (iii) each person working in or for the undertaking is any of the following in respect of the undertaking –
      - (A) in the case of a company, a director or secretary,
      - (B) in the case of a partnership, a partner,
      - (C) in the case of a foundation, a member of the council,
      - (D) in the case of an express trust, a trustee,
      - (E) a person with equivalent responsibility to any of the foregoing;
  - (e) in respect of any activity of the undertaking in the building or construction industry where –

- (i) the undertaking is a non-resident undertaking, and
  - (ii) the undertaking operates in Jersey for an aggregate period of 5 days or less in any period of 12 months;
- (f) in respect of any activity in Jersey for medical purposes where –
  - (i) the undertaking is a non-resident undertaking,
  - (ii) the undertaking operates in Jersey for an aggregate period of 60 days or less in any period of 12 months, and
  - (iii) the undertaking's activities in Jersey are carried out on behalf of, or pursuant to arrangements with, any of the following –
    - (A) a States funded body,
    - (B) an undertaking that receives funding from the States of Jersey,
    - (C) an undertaking registered under the [Nursing Homes \(Jersey\) Law 1994](#) or the [Regulation of Care \(Jersey\) Law 2014](#);
- (g) in respect of any activity involving the provision of accommodation or premises in Jersey for any purpose where –
  - (i) the undertaking does not carry on property development in Jersey,
  - (ii) the undertaking is not registered under the [Tourism \(Jersey\) Law 1948](#), the [Nursing Homes \(Jersey\) Law 1994](#), the [Regulation of Care \(Jersey\) Law 2014](#) or the [Lodging Houses \(Registration\) \(Jersey\) Law 1962](#), and
  - (iii) any of the following applies –
    - (A) the undertaking is a non-resident undertaking,
    - (B) the aggregate number of separate units of accommodation or separate premises provided by the undertaking in Jersey does not exceed 5, or
    - (C) the undertaking is a sole trader who has Entitled, Licensed or Entitled for Work Only status or a company with one member, such member having Entitled, Licensed or Entitled for Work Only status;
- (h) in respect of any activity of a resident undertaking involving the sale of goods from domestic premises where –
  - (i) the goods are situated on or in the vicinity of the domestic premises at the time of the sale, and
  - (ii) the sale is incidental to the use of those premises for domestic purposes;
- (i) in respect of any activity of a resident undertaking involving the provision of domestic services to not more than 2 households;
- (j) where the undertaking was carried on by a person immediately before the date that the Law came into force and, at that time, the person was exempt from the need to have a licence under Regulation 1(2) of the Regulation of Undertakings and Development (Jersey) Regulations 1978 and the person continues to carry on the undertaking –
  - (i) from the person's principal place of residence,
  - (ii) on the person's own account, and
  - (iii) without any other persons working in or for the undertaking;
- (k) where the undertaking is –

- (i) a sole trader who has Entitled or Entitled for Work Only status, or
  - (ii) a company with one member who has Entitled or Entitled for Work Only status, and

the sole trader or member, as the case may be, works in or for the undertaking for less than 8 hours in any week;
- (l) where none of sub-paragraphs (a) to (k) apply and –
  - (i) the undertaking is a resident undertaking that operates in Jersey for an aggregate period of 60 days or less in any period of 12 months, and
  - (ii) each person who works for the undertaking has a status that is any of the following –
    - (A) Entitled,
    - (B) Licensed, or
    - (C) Entitled for Work Only;
- (m) where –
  - (i) none of sub-paragraphs (a) to (k) apply,
  - (ii) the undertaking is a resident undertaking,
  - (iii) the undertaking operates in Jersey for an aggregate period of 10 days or less in any period of 12 months, and
  - (iv) one or more persons working for the undertaking at any time during that period has Registered status;
- (n) where the undertaking is a non-resident undertaking and –
  - (i) none of sub-paragraphs (a) to (k) apply, and
  - (ii) the undertaking operates in Jersey for an aggregate period of 30 days or less in any period of 12 months;
- (o) in respect of any activity by an undertaking which is –
  - (i) carried out by a person who is a business visitor for establishment purposes, and
  - (ii) carried out by that person in Jersey for an aggregate period of 90 days or less in any period of 12 months.<sup>3</sup>
- (2) For the purposes of paragraph (1)(g)(iii)(B), a unit of accommodation or premises (collectively referred to as “property”) is separate from other property in the same building if the former property is not ordinarily accessible by the occupiers of the other property.<sup>4</sup>
- (3) In this Article, a reference to any activity by description includes any activity that is reasonably incidental to that activity.

#### **4 Description of individuals to be disregarded for maximum numbers condition in business licences**

- (1) For the purposes of complying with a condition under Article 27(1)(a) of the Law concerning the maximum number of individuals with Licensed or Registered status who are permitted to work in or for the undertaking there shall be disregarded any person –
  - (a) working in or for the undertaking as a replacement for another person continuing to work in or for the undertaking provided that the 2 persons do



- not work simultaneously for the undertaking for a period of more than 30 days;
- (b) providing cover for a person working in or for the undertaking who is on leave (including secondment or leave for training purposes), such period not exceeding –
    - (i) 52 weeks, in the case of parental leave (as defined in Article 55A(1) of the [Employment \(Jersey\) Law 2003](#)) or sick leave, or
    - (ii) 3 months in all other cases of leave;
  - (ba)
  - (c) working in or for the undertaking for an aggregate period of 10 days or less in any period of 12 months;
  - (d) working in Jersey for an aggregate period of 60 days or less in any period of 12 months for the purposes of that person's work as any of the following –
    - (i) in the case of a company, a director or secretary,
    - (ii) in the case of a partnership, a partner,
    - (iii) in the case of a foundation, a member of the council,
    - (iv) in the case of an express trust, a trustee,
    - (v) a person with equivalent responsibility to any of the foregoing;
  - (e) working in Jersey for an aggregate period of 60 days or less in any period of 12 months for the purposes of that person's work for a financial services company which is a member of an international group, such person being employed to work mainly outside Jersey;
  - (ea) working in Jersey as a business visitor for establishment purposes for an aggregate period of 90 days or less in any period of 12 months;
  - (f) with Registered status working in or for the undertaking who –
    - (i) has been ordinarily and continuously resident in Jersey for a period of less than 5 years, such period having commenced at any time before the person was below the upper limit of compulsory school age within the meaning of Article 2 of the [Education \(Jersey\) Law 1999](#), and
    - (ii) has a parent who has Entitled, Entitled for Work Only or Licensed status;
  - (fa) with Registered status working in or for the undertaking who –
    - (i) has been ordinarily and continuously resident in Jersey for a period of less than 5 years,
    - (ii) is over compulsory school age within the meaning of Article 2 of the [Education \(Jersey\) Law 1999](#),
    - (iii) has not attained the age of 26 years, except where –
      - (A) the person is working in or for an undertaking within the meaning of Article 23 of the Law and has worked continuously in or for that undertaking since immediately before attaining the age of 26 years, or
      - (B) the Minister determines that exceptional circumstances exist in relation to the person,
    - (iv) has a parent (referred to below as "his or her parent") who –

- (A) has Entitled, Entitled for Work Only or Licensed status and is in full-time employment in a registrable occupation,
  - (B) is a party to a contract for full-time employment in a registrable occupation and upon commencement of such employment will have Entitled, Entitled for Work Only or Licensed status, or
  - (C) is a cohabiting partner of a person with Entitled, Licensed or Entitled for Work Only status,
- (v) was ordinarily resident in his or her parent's residence for a continuous period of at least 3 months immediately prior to the date an offer of full-time employment in a registrable occupation was received by his or her parent or, if applicable, the person with Entitled, Licensed or Entitled for Work Only status referred to in clause (iv)(C),
- (vi) commences ordinary residence in Jersey in his or her parent's residence no later than 3 months after the commencement of employment in a registrable occupation by his or her parent, or, if applicable, the person with Entitled, Licensed or Entitled for Work Only status referred to in clause (iv)(C),
- (vii) was wholly or substantially financially dependent on his or her parent for a continuous period of at least 3 months immediately prior to the date the offer of full-time employment was received as referred to in clause (v), and
- (viii) was not in full-time paid employment for a continuous period of at least 3 months immediately prior to the date the offer of full-time employment was received as referred to in clause (v);
- (g) with Registered status working in or for the undertaking who –
  - (i) has been ordinarily and continuously resident in Jersey for a period of less than 5 years, such period having commenced before 1st July 2013,
  - (ii) immediately before 1st July 2013 was a person who was locally qualified for engagement in a position in an undertaking under Regulation 2(2)(d) of the Regulation of Undertakings and Development (Jersey) Regulations 1978, and
  - (iii) has a parent who has Entitled, Entitled for Work Only or Licensed status;
- (h) with Registered status working in or for the undertaking who –
  - (i) has been ordinarily and continuously resident in Jersey for a period of less than 5 years, and
  - (ii) is the cohabiting partner of a person with Entitled, Licensed or Entitled for Work Only status.<sup>5</sup>
- (2) Where a person works for an agency and is supplied by that agency to work for another undertaking ("second undertaking") in circumstances where, under Article 24(6) of the Law, the person is not deemed to work for the second undertaking, the agency shall, for the purposes of compliance with a condition of its licence under Article 27(1)(a) of the Law, disregard any person working for the second undertaking in the circumstances described in sub-paragraph (a), (b) or (c) of paragraph (1) as if "the undertaking" in those sub-paragraphs referred to the second undertaking.
- (3) An undertaking may, for the purposes of complying with a condition of its licence under Article 27(1)(a) of the Law, disregard any person who has a zero hours

contract with the undertaking who would otherwise cause the condition to be breached provided that the person is disregarded only for such length of time as the person is not working for the undertaking.

- (4) In this Article “cohabiting partner” means a person whom the Minister is satisfied fulfils the following requirements –
- (a) the person (“P”) has met the condition set out in paragraph (b) for a continuous period of at least 3 months on the date the person with Entitled, Licensed or Entitled for Work Only status (“ELP”) received an offer of full-time employment in a registrable occupation; and
  - (b) the condition is that ELP and P are living together as if they were spouses or civil partners.<sup>6</sup>
- (5) Subject to paragraph (6), the Minister shall require a person to provide the Minister with such documents or other evidence as the Minister may require, within such reasonable time as the Minister may specify, for the purpose of determining or verifying whether that person is the cohabiting partner of a person with Entitled, Licensed or Entitled for Work Only status.<sup>7</sup>
- (6) The Minister may dispense with the requirement in paragraph (5) if he or she considers it appropriate to do so.<sup>8</sup>
- (7) <sup>9</sup>

## **5 Conditions of existing licences to be disregarded**

A condition of a licence granted under the Regulation of Undertakings and Development (Jersey) Law 1973 for the purpose of any activity for which a licence was required under the Part entitled “Regulation of Undertakings”, such condition being to require, or the effect of which was to require, any change in the ownership of a person carrying on an undertaking to have the prior consent of the Minister for Economic Development, shall not be deemed under Article 50(1) of the Law to be a condition subject to which the licence is deemed to be granted under Article 26 of that Law.

## **6 Citation**

This Order may be cited as the Control of Housing and Work (Exemptions) (Jersey) Order 2013.

**SCHEDULE<sup>10</sup>**

(Articles 1 and 4(4)(a))

**REGISTRABLE OCCUPATIONS**

Midwife

Nurse

Registered nurse: first level

Registered nurse: second level

Social worker

Specialist community public health nurse

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	°Projet No (where applicable)
Control of Housing and Work (Exemptions) (Jersey) Order 2013	<a href="#">R&amp;O.85/2013</a>	1 July 2013	
Control of Housing and Work (Exemptions) (Amendment) (Jersey) Order 2013	<a href="#">R&amp;O.112/2013</a>	30 July 2013	
Control of Housing and Work (Exemptions) (Amendment No. 2) (Jersey) Order 2018	<a href="#">R&amp;O.4/2018</a>	22 January 2018	
Regulation of Care (Regulated Activities) (Jersey) Regulations 2018	<a href="#">R&amp;O.118/2018</a>	1 January 2019	
Control of Housing and Work (Exemptions) (Amendment No. 3) (Jersey) Order 2019	<a href="#">R&amp;O.30/2019</a>	10 April 2019	
Control of Housing and Work (Exemptions) (Covid-19 – Temporary Amendment) (Jersey) Order 2020	<a href="#">R&amp;O.43/2020</a>	18 April 2020	
Control of Housing and Work (Exemptions) (Amendment No. 4) (Jersey) Order 2020	<a href="#">R&amp;O.87/2020</a>	28 June 2020	
Covid-19 (Amendments – Extension, Suspension and Repeal) (Jersey) Regulations 2020	<a href="#">R&amp;O.115/2020</a>	30 September 2020	<a href="#">P.103/2020</a>
Control of Housing and Work (Exemptions) (Amendment No. 5) (Jersey) Order 2021	<a href="#">R&amp;O.56/2021</a>	4 May 2021	

°Projets available at [statesassembly.gov.je](https://statesassembly.gov.je)

### Table of Endnote References

<sup>1</sup> Article 1	<i>amended by R&amp;O.4/2018, R&amp;O.56/2021</i>
<sup>2</sup> Article 2	<i>amended by R&amp;O.56/2021, editorial change in Article 2(d)(ii), “business licences” deleted, “business licence” inserted instead</i>
<sup>3</sup> Article 3(1)	<i>amended by R&amp;O.118/2018, R&amp;O.56/2021</i>
<sup>4</sup> Article 3(2)	<i>editorial change, “(1)(g)(iii)(B)” deleted, “(1)(g)(iii)(B)” inserted instead</i>
<sup>5</sup> Article 4(1)	<i>amended by R&amp;O.112/2013, R&amp;O.4/2018, R&amp;O.30/2019, R&amp;O.43/2020, R&amp;O.87/2020, R&amp;O.115/2020, R&amp;O.56/2021</i>
<sup>6</sup> Article 4(4)	<i>inserted by R&amp;O.4/2018</i>
<sup>7</sup> Article 4(5)	<i>inserted by R&amp;O.4/2018</i>
<sup>8</sup> Article 4(6)	<i>inserted by R&amp;O.4/2018</i>
<sup>9</sup> Article 4(7)	<i>inserted by R&amp;O.43/2020, deleted by R&amp;O.115/2020</i>

<sup>10</sup> *Schedule*

*inserted by R&O.4/2018*