

"J category" Residential Housing Qualifications

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The States of Jersey, through the Housing Minister, exercise certain controls over the purchase and occupation of, amongst other things, residential property in the Island, principally under the Housing (Jersey) Law 1949 and the Housing (General Provisions) (Jersey) Regulations 1970 (the "Regulations"). For those not born in Jersey or without a considerable period of continuous residency, acquiring property can be difficult. This briefing provides an overview of an alternative route to Housing qualifications, under the provisions of Regulation 1(1)(j) - commonly known as "J Category" or "J-Cat" for short.

What is Regulation 1(1)(j)?

This is a Regulation designed to assist employers with recruiting to posts where there are no satisfactory local candidates. It applies to persons whom the Minister accepts as being essentially employed in the Island and where the Minister is satisfied that consent can, in the best interests of the community, be justified.

When will the Minister be satisfied that consent can be justified?

The main criteria upon which the Minister considers applications are as follows:

- The contribution made to the Island by the employer, eg tax revenues, services.
- The significance of the post in question to the achievement of such contribution.
- The track record of the employer in the recruitment and training of local people.
- Evidence that there is not a satisfactory local candidate for the post in question.

Once the Minister is satisfied that consent is justified he may issue consent, which may or may not be time limited. For senior highly skilled employees consent will usually be unlimited.

Time limited consents are usually for three

or five years or, in the case of an employee working under a work permit, until the expiration of the work permit. New businesses without a proven track record will generally be granted time limited consents. Time limited consents may allow an applicant to extend prior to their expiration. Whilst there is no guarantee that a consent will be renewed, where the employee fulfils the above criteria there is a good chance that it will be.

It should be noted that the employer must also obtain consent to the employment of J-Cat employees under the Regulation of Undertakings and Development (Jersey) Law 1973.

What does consent permit?

The consent permits occupation of property which is classified as available to J-Cats for the duration of the consent. In relation to individual residential properties, under current Housing policy and subject to certain exceptions in respect of newly built accommodation, any property having a sale price in excess of £250,000 is usually categorised as being available to J-Cats.

On what basis may property be occupied under a J-Cat consent?

There are a number of ways that property may be occupied by a J-Cat employee. The consent granted may limit the occupation to rental only or allow acquisitions of property.

The employee may occupy a property owned or leased by an employer. In the case of a lease the employer must take on a lease in its own name from the landlord, for occupation by the employee, subject to the employer having received consent to the lease from the Housing Minister. It is usual for the employer in such cases to require the employee to enter into a licence indemnifying the employer against any damage to the property, neighbours, etc, or breaches of the terms of

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the lease.

It is worth noting that in the case of public sector employees there is no requirement for properties to be leased in the employer's name. J-Cat employees in the public sector may instead rent properties in their own name. This may be extended to private-sector J Category employees in the near future when the new law comes into force - see below.

Additionally, a property may be purchased in the name of a company, which is beneficially owned by the employee. Once the employee has completed ten years' continuous residence in essential employment he or she will qualify under Regulation 1(1)(e) of the Regulations and the property must then be transferred from the company into the employee's own name. The non-qualified spouse of the employee also obtains Housing qualifications at the same time.

What happens if the J-Cat employee leaves the company?

If the employee is leaving his job then the following must happen:

- In the case of a lease, the employee will need to come to an arrangement with his employer as to the remainder of the term of the lease.

The lease will be in the name of the employer, so it is the employer who is liable to the landlord. However, as stated above, it is likely that the employer will have required the employee to sign a licence requiring the employee to comply with the terms of the lease, so the employee would have similar obligations as the employer, albeit to the employer, rather than the landlord. If the employee is moving to a new J-Cat position then his new employer, with the consent of the Housing Minister, may take on the residue of the term of the lease.

If not, and the employee is not moving to a new J-Cat position, then the existing employer may be prepared to try to house a new J-Cat employee in the property for the residue of the term. However, if the employer is not prepared to do this, and the employee has signed a licence, then the employee will be liable for the residue of the term, but will not be

able to occupy the property.

- In the case of a purchase, the employee will be required to take steps to effect the sale of the property by the company (being the company beneficially owned by the employee) if the employee should leave the employment for which his J-Cat consent was granted.

Once again, it may be possible for the consent to be transferred if the employee is moving to another J-Cat position, in which case the property holding company should be able to retain the property.

Do the children of a J-Cat employee also gain Housing qualifications?

Children of J-Cat employees are granted residential status in their own right once an aggregate period of ten years residence has been completed, which must commence prior to their twentieth birthday and is subject to the parent(s) remaining qualified during the time in which the requisite period of residence is completed.

New law in progress

The States of Jersey is in the process of consultation and review of the Housing laws and this should result in simplification of the system of ownership and letting of properties by J Category employees.

Where can I find out more?

For detailed advice concerning qualifying under Regulation 1(1)(j) and the occupation and purchase of J Category property please contact the Property Team at Mourant Ozannes.

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