

GUIDE TO ESTABLISHING A BUSINESS IN JERSEY

CONTENTS

PREFACE	1
1. Legal Entity	2
2. Taxation	2
3. Control of Housing and Work (Jersey) Law 2012	3
4. Work Permits	3
5. Employment Law	3
6. Social Security	3
7. Regulatory Licences and Consents	4
8. Accommodation	4
9. Data Protection	4

PREFACE

If you wish to set up a new business in Jersey, a number of general legal issues need to be addressed. Those mentioned here would equally apply to acquiring an existing business.

We recognise that this Guide will not completely answer detailed questions which clients and their advisers may have; it is not intended to be comprehensive. If any such questions arise in relation to the contents, they may be addressed to any member of the team, using the [contact information](#) provided at the end of this Guide.

Appleby

Jersey

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1. LEGAL ENTITY

Jersey provides a wide range of vehicles for businesses including:

- sole trader;
- foundation;
- partnership;
- limited partnership;
- separate limited partnership;
- incorporated limited partnership;
- limited liability partnership;
- company (par value; no par value; guarantee; unlimited and hybrid);
- protected cell company; or
- incorporated cell company.

The legal entity to be used for the new business will very much depend on your objectives, the size and nature of the business itself and tax and regulatory issues. Legal and tax advice should be taken on the most appropriate vehicle for the business.

Particular regulatory consents are required to incorporate or register a particular vehicle. For instance, consents under the Control of Borrowing (Jersey) Order 1958 will be required to incorporate companies or to register limited partnerships. The consents are issued by the Commission who will require details of the ultimate beneficial owners of the entity in question together with the proposed activities of the business. Certain activities are classified as "sensitive" and will be subject to particular scrutiny by the Commission before consent is issued. Further information may be obtained from the Commission (www.jerseyfsc.org).

2. TAXATION

Although not part of the EU, Jersey has legislated to achieve a uniform income tax system for the whole business sector which meets the stringent requirements of the tax package adopted by all Member States of the EU in June 2003. Jersey has phased out the Jersey exempt company regime and, with full effect from 1 January 2009, a new standard zero rate of corporate tax applies. A higher rate of 10% is levied on defined regulated business established in Jersey, such as banks and trust companies. Utility companies and rental income and property development companies are taxed at 20%. Non-financial services companies are zero-rated. "Look through" provisions apply to locally owned businesses so that local beneficial owners must pay tax on their business income at the standard personal tax rate of 20%.

However, companies incorporated in Jersey may be considered exclusively tax resident in another jurisdiction where they are centrally managed and controlled outside Jersey, are tax resident in the jurisdiction of control and management and where the rate of corporation tax in that jurisdiction is 20% or higher.

There is no capital gains tax in Jersey. A Goods and Services Tax (**GST**) was introduced from 6 May 2008, the current rate is 5%. The tax is payable on the domestic consumption of imported and locally-produced goods or services unless those goods or services are categorised by law as "exempt" or "zero-rated".

It is possible for some entities as approved by the Comptroller of Income Tax to qualify as "International Services Entities", allowing them to avoid the burden of registering for GST, charging GST on their supplies, and, in most cases, paying GST on supplies made to them.

3. CONTROL OF HOUSING AND WORK (JERSEY) LAW 2012

Under the Control of Housing and Work (Jersey) Law 2012 (the **CHW Law**) anyone establishing a new “undertaking” (which, for our purposes in this Guide, includes most trades, businesses and professions whether or not carried on for profit) in Jersey must obtain a licence subject to a number of limited exceptions. Licences under the CHW Law are administered by the Population Office. Essentially, when doing so, it considers the demands on the resources of Jersey and the protection of its integrity and reputation.

Licences issued under the CHW Law contain the permitted undertaking’s quotas (which may be nil) of Licensed (approved as essentially employed) and Registered (less than five years’ continuous residence in Jersey) employees. There are no quotas for Entitled (Jersey-born with ten years’ aggregate residence or ten years’ continuous residence) or Entitled for Work Only (five years’ continuous residence) persons.

The CHW Law requires a new licence to be obtained upon an undertaking becoming less than 60% beneficially owned by Entitled/Licensed/entitled for Work Only persons.

Employees are required to have a registration card showing their residential and employment status i.e. Entitled, Licensed, Entitled for Work Only or Registered.

More information is available from the Population Office (www.gov.je) or from Locate Jersey (a government agency which facilitates inward investment – www.locatejersey.com).

4. WORK PERMITS

Work permits are not required in Jersey for employees from the United Kingdom or other countries within the European Union or the European Economic Area. Work permits will, however, be required for employees from further afield under the Immigration (Work Permits) (Jersey) Rules 1995. Again, consideration will be given to the availability of alternative suitably qualified local staff as well as to the employee’s qualifications, character and housing requirements. Any work permits issued are normally restricted in time and there are limitations on renewals of permits. Further information is available from the Immigration Office (www.gov.je).

5. EMPLOYMENT LAW

A new employment law was introduced in 2005 and includes unfair dismissal and redundancy rights. An employer is required to provide every employee, within four weeks of commencement of employment, with a statement setting out the employee’s terms of employment. The statement must cover the specified topics set out in the regulations, for example, level and frequency of pay, holiday entitlement, etc. Any changes to such terms must similarly be notified to the employee.

In addition, there are laws and regulations covering minimum periods of notice for termination of employment, permitted deductions from wages, calculation of continuous employment on transfer of undertakings and social security. Further, the Discrimination (Jersey) Law 2014, which came into force on 1 September 2014, provides there shall be no discrimination against a person of a particular racial group.

For further information, please see our client guides on employment law.

6. SOCIAL SECURITY

Under the Social Security (Jersey) Law 1974, an employer must register and must pay primary Class 1 contributions on behalf its employees. Class 1 contributions may be deducted from the employee’s salary and currently amount to a maximum of 6%. Secondary Class 1 contributions cannot be

deducted from the employee's wages. An employer's guide to social security and contribution tables are available from the Social Security Department (www.gov.je).

Also, employers must obtain and display a current approved policy of insurance against liability for bodily injury or disease sustained by employees in the course of employment under the Employers Liability (Compulsory Insurance) (Jersey) Law 1973.

7. REGULATORY LICENCES AND CONSENTS

Depending on the nature of the business, other licences and consents may need to be obtained before business can commence in Jersey. For example, banking licences may be required under the Banking Business (Jersey) Law 1991. Similarly, licences under the Financial Services (Jersey) Law 1998 may be required to carry on investment business or to provide fiduciary services.

Also, consents may be required under the Insurance Business (Jersey) Law 1996 or the Collective Investment Funds (Jersey) Law 1988 depending on the nature of the business. Further information may be obtained from the Jersey Financial Services Commission (the **Commission**) (www.jerseyfsc.org).

8. ACCOMMODATION

Premises and housing are scarce resources in Jersey and so there are statutory controls governing the ownership and use of accommodation by non-local residents. However, there is some unrestricted accommodation but it is limited in supply. Broadly speaking, it will only be possible for someone who has not lived in Jersey for at least ten years to occupy restricted accommodation if that person has the benefit of a Licensed post for the purposes of the CHW Law. Further information may be obtained from the Population Office.

If a new or existing business needs to acquire accommodation in Jersey, specific legal advice should be obtained on any proposed lease or purchase of premises. Jersey property law is unusual and concepts from other jurisdictions do not necessarily easily translate, particularly in relation to security given over Jersey property. The necessity for planning consents, particularly in relation to any change of use, should be carefully considered.

9. DATA PROTECTION

Data protection is currently governed by the Data Protection (Jersey) Law 2005 which has placed Jersey's law on a similar footing to that of the United Kingdom and the rest of Europe. This law requires, in effect, every data controller processing or controlling an individual's personal information to register on the Data Protection Register. Anyone processing personal information must comply with eight enforceable principles of good information handling practice, e.g. as to fair and lawfully processing. Employees and other individuals have certain rights including rights of access to their personal data and the transfer of this data to countries outside the European Economic Association is restricted unless the receiving country has adequate data protection for the individual. Further information may be obtained from the Jersey Data Protection Registry (www.dataprotection.gov.je).

For more specific advice on establishing a business in Jersey, we invite you to contact one of the following:

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For the convenience of clients in other time zones, a list of contacts available in each of our jurisdictions may be found [here](#).