

SHORT BRIEFING NOTE ON SETTING UP A BUSINESS IN JERSEY



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Introduction This briefing note is intended as an overview of some of the legal issues which should be considered when setting up a business in Jersey. More detailed guidance on specific subjects is available on request.

Business Licence

Every new business setting up in Jersey needs a licence from the Population Office under the Control of Housing and Work (Jersey) Law 2012 before it starts to operate, whether it is operated from your home or otherwise. Business licences are ordinarily only granted to individuals who have residential and employment statuses of entitled, entitled for work or licensed. The business licence will state whether the business is permitted to employ any individuals with less than 5 years' residence on the Island. If the business intends, to employ individuals with less than 5 years' residence on the Island, then specific permission must be sought.

The business licence application form can be found on the States of Jersey website. You can fill in the application form online but you will need to print off and sign the form before you submit your application.

In addition to the business licence application form, some businesses may be advised to submit a business case to supplement the application form. We can provide further information and advice on submitting a business case on request.

If your business licence application is refused, you can appeal the decision. Full details on how to do this can be found in the States of Jersey's business licensing guidance notes.

Other Licences

Depending on the type of business being established, additional licences may be required. We have set out a few examples below:

- **Financial Services:** If the business is a financial services business, it may require a licence under

the Financial Services (Jersey) Law 1998; less favourably than they would treat others;

- **Refreshment Licence:** If you are planning to open a place of refreshment (ie. a restaurant, café, snack bar, tea shop, canteen or any other place that sells meals or refreshments) you may need to register for a licence under the Places of Refreshment (Jersey) Law 1967;
- **Liquor Licence:** A business selling alcohol will need a liquor licence from the Judicial Greffier under the Licensing (Jersey) Law 1974. It is an offence to sell intoxicating liquor without a licence;
- **Care Home:** A care home will need a licence under the Nursing and Residential Homes (Jersey) Law 1994.

Employees

If the new business will engage employees, it will need to ensure that it complies with the legal requirements relating to engaging individuals in the Island. In particular, you should consider the following:

- Each employee needs a licence or registered permission to work if they have less than 5 years' residency on the Island, even if they work for less than 8 hours per week;
- Each employee must be provided with an employment contract which complies with the Employment (Jersey) Law 2003, within 4 weeks of starting employment;

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- The employees will be required to show the employer their Registration Card issued under the Control of Housing and Work (Jersey) Law 2012, confirming their employment status, before their employment commences;
- If the business wishes to employ registered and/or licensed staff, you need to complete a separate application form and submit this to the Population Office with supporting documentation (as detailed on the application form); and
- The business must register with the Social Security Department and the Income Tax Department as an employer. The business will be required to deduct social security and income tax (ITIS) from the employees' wages.

Legal Structure

Any individual setting up a new business should decide whether they want to trade in their own name or incorporate a company and operate the business through that company.

The following factors should be taken into account in considering this:

- The cost of set up and annual registration and filing requirements of a limited company;
- Protecting the individual's personal assets from business claims;
- Tax and accounting advice;
- Any legal restrictions on operating through a company; and
- Separating any other business interests of the individual or their family members.

When operating a business (even as a sole trader or a partnership), it is strongly advisable to open a separate business bank account to enable you to keep a track of the business' finances and produce trading accounts, without mixing them in with your personal funds.

Tax and accounting advice

It would be prudent to take tax and accounting advice before setting up a business in Jersey. This will help you decide on the most appropriate legal structure (see above) and will also provide you with guidance on issues such as tax deductible expenses and Goods and Services Tax (GST).

Premises

The location of the business is an important consideration. If you are thinking of buying or leasing commercial premises to operate your business from, before making any commitments, please take the time to read our short briefing notes buying commercial premises and leasing commercial premises.

Operating from Home

If the business will be operated from your home, the following should be considered:

- Planning Law restrictions on home-operated businesses;
- Any restrictions on businesses contained in the title or lease of the property;
- Insurances (see below);
- Security, storage and confidentiality of business documents and computers; and
- Suitability of premises for customer/client meetings.

A change of use permit may be needed from the Planning and Building Services Department if you intend to use a room in your home as an office. If you are a tenant in social housing, you should also seek prior permission from your housing provider.

Commercial Premises

If you are taking over commercial premises, the occupation should be covered by a lease, to protect both the landlord and the tenant.

The following (non-exhaustive) points should be checked by the new tenant:

- That the rent is a fair market rent;
- When and how the rent will be reviewed;
- How long the lease is;
- Whether there is any ability to break the lease (for example, if the business needs larger premises or closes);
- The repair obligations of the tenant;
- The landlord's responsibilities;
- The costs other than rent (such as Parish and island wide rates, water costs, other service costs and the service charge);
- That there are no problematic restrictions on the use of the premises; and
- Whether GST is payable on the rent.

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Contracts with customers

Before starting to trade, every business should consider its terms and conditions of business such as its payment terms and whether it will be charging GST on its invoices (please see the section on tax advice above). These terms will vary depending on the nature of the business and the services being provided. Certain businesses may also be required to comply with specific laws or trading body regulations in their terms and conditions of business.

Insurances

Every new business should consider what insurances it should take out. These may include:

- Professional indemnity insurance;
- Public liability insurance;
- Employers' Liability insurance (this is a legal requirement if the business employs staff); and
- Office equipment insurance.

Other Legal Duties

Depending on the nature of the business, there may be additional legal requirements before the business can legally operate in the Island.

Every business will need to register with the Information Commissioner under the Data Protection legislation in the Island. This can be done online and there is an annual requirement to renew your registration at a cost of £50 per year.

Jersey Business Limited

Jersey Business Limited is a States-funded body (which trades independently of the States of Jersey) which provides advice to all individuals wishing to set-up a business in the Island. They can assist with business-planning and other non-legal aspects of the business set-up process. More information can be found on their website: www.jerseybusiness.je.

Locate Jersey

Locate Jersey is a States of Jersey department which supports inward investment into the Island. They can assist with the application process and other non-legal aspects of re-locating and setting up a business in the Island. More information can be found on their website: www.locatejersey.com.

Summary

In summary, every new business in Jersey will need to consider the following legal matters before it starts to trade:

- What licences are required;
- Its legal obligations on employing staff;
- What legal structure will be used to form the business;
- Accounting and tax advice;
- What premises it will operate from and how they will be occupied;
- Terms and conditions of business; and
- Insurances.

Contact

This briefing is only intended to give a summary of the subject matter. It does not constitute legal advice. If you would like legal advice or further information, please contact us using the contact details below.

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