

1(1)(k) Housing Qualifications

As a general rule, individuals gain their right to Housing qualifications on the basis of long-term residence in the island. Certain individuals, however, can acquire Housing qualifications and the right to acquire landed property in the island on the basis that consent "can be justified on social or economic grounds". Most usually, that provision is applied to applications made for permission to buy and live in property in the island by would-be wealthy immigrants. The relevant provision of the Housing (General Provisions) (Jersey) Regulations 1970, as amended ("the Regulations") which applies to would-be wealthy immigrants is Regulation 1(1)(k) and such applicants are frequently referred to as "1(1)(k)s" or simply as "Ks".

Whereas the Housing Minister must grant consent to certain individuals who can show they have completed the relevant period of residency in the island, in respect of Ks the Housing Minister has a discretion as to whether or not to grant a consent. Guidance as to how that discretion is likely to be exercised can be given.

The application for a consent under regulation 1(1)(k) is a two-stage application. Firstly, the applicant applies to be approved as a 1(1)(k) resident and once this approval is forthcoming he applies for consent to purchase a particular property.

Consent under Regulation 1(1)(k) is normally granted to a would-be wealthy immigrant where the Minister is satisfied that the applicant will make a major contribution to the island's tax revenues if he were to reside in Jersey. Although each application is considered on its merits, a successful applicant will be required to generate an annual tax contribution of no less than £100,000 on his worldwide personal income.

The general criteria against which 1(1)(k) applications are considered are as follows:

- the likely contribution to tax revenues;
- the business/social background of the applicant;
- the number of dependants and the extent to which these persons may in time acquire housing rights if consent is granted;
- other, non-economic benefits which the island may receive if consent is granted;
- total net worth;

- the possibility of the applicant bringing a business to the island which will generate tax revenues and provide employment whilst not adversely impacting upon the island's resources.

The availability of substantial properties outside the financial reach of the vast majority of local residents is an important issue in the administration of this Regulation and a successful applicant will have to purchase a property the value of which is likely to exceed £1m.

There are no limits on the number of consents the Minister may grant each year under this Regulation, although in practice until recently the number tended to be small. Whilst in previous years the Minister actually limited the number of 1(1)(k) permits to a maximum number (in more recent years 5) since November 2003, the notion of a limit on the number of 1(1)(k)s that would be permitted to move to the island has been abolished and the policy of the island's government is now to try to attract as many potential 1(1)(k)s to the island as reasonably possible.

Indeed the island's enthusiasm to attract a greater number of 1(1)(k)s to the island has led to the appointment of the island's first Director of High Value Residency being Nigel Philpott. (+44 1534 603715 nigel.philpott@jersey.com; www.reflectonjersey.com).

The function of the Director of High Value Residency is to provide a one stop shop for all 1(1)(k) applicants so that relocating to Jersey can be a very straightforward process. All applications are handled personally by the Director who provides a single point of contact with the local authorities so as to provide a very personal and individual support mechanism with the safeguarding of confidentiality given paramount importance.

The Director will assist the new 1(1)(k) with virtually every aspect of his proposed move to the island and application for a permit, providing information on everything from housing and schooling to membership of golf-clubs and boat moorings.

As soon as an enquiry is made to the Director, full application details are sent to the applicant. On return of the application an initial response is usually provided within 48 hours with a final decision often being made within 10 working days.

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We feel it is important, however, that the potential 1(1)(k) seeks professional advice from, in particular, his tax advisor before submitting his application.

Firstly, some thought will need to be given by the potential applicant to what he proposes he will actually pay to the island's authorities by way of income tax. Income tax will be charged on all Jersey income at the rate of 20% subject to certain personal allowances. Thereafter the first £1,000,000 of non-Jersey income is charged at a rate of 20%, the next £500,000 of non-Jersey income is taxed at 10% and any balance of non-Jersey income over and above the figure of £1,500,000 is charged at the rate of 1%.

As indicated above, the local authorities will be looking to receive a commitment from the new 1(1)(k) to the effect that he will be paying income tax of at least £100,000 per annum. In addition to considering how this will be achieved, given the different taxation bands for Jersey and non-Jersey income, thought may well need to be given as to the possible impact of double taxation treaties and other relevant legislation to which the applicant is subject.

Secondly, before approaching the local authorities it is well for the potential 1(1)(k) and his tax advisor to bear in mind that the individual applicant, or his trustees if his assets are held in trust, will be required to provide a written undertaking that their asset disposition will be such as to yield a level of income taxable in Jersey sufficient to provide for the required minimum tax liability. If the financial affairs of the applicant have been structured in such a way as to produce only the bare minimum required tax liability then there may be a further undertaking required that the minimum sum will increase by 2% above RPI per annum. Regard is of course also had to whether the applicant's asset wealth is sufficient to support the required level of income liable to Jersey tax. Long term, recent experience would suggest that asset wealth of some £15-£20million would be required.

Thirdly, although recent legislative changes in various tax regimes have reduced the possibilities for tax planning, some such opportunities do still exist. The absence of any capital gains taxes, wealth or inheritance taxes in Jersey still make Jersey an attractive option for many. It is best to carefully consider the possible tax benefits and any tax planning that may be possible with a tax advisor before making any formal proposals to the local authorities.

Fourthly, it should be borne in mind that the successful 1(1)(k) applicant will gain Housing qualifications in his own right once he has resided continually in the island for a set period of time. That period is currently 11 years but it is a declared aim of the States of Jersey to reduce that period to 10 years.

Finally, any individual application will need to be accompanied by a full curriculum vitae, together with evidence of the applicant's personal commitment to the community in which he or she previously resided. Consideration is also given to the nature of any business activities that the applicant may wish to engage in within the island. An applicant may also offer a benefit to the island community in other ways, such as the introduction of a business which would help diversify the economy and provide useful employment opportunities for Island residents.

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