



# Why not let out your Jersey property so others can enjoy an island retreat?

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With summer (hopefully) around the corner, many islanders will be looking forward to spending quality time with their families. While this may be a holiday abroad for some, following changes to the Planning and Building (General Development - Short-term Holiday Lets) (Jersey) Amendment Order 2024, it could be an Airbnb staycation in Jersey's picturesque countryside for others.

As of 1 April 2024, islanders can let out their property (or a part of their property) as short-term holiday lets for up to 12 weeks in each calendar year. This legislative change not only offers locals (and tourists alike) to choose from a greater number of properties for their holiday, but also the opportunity to earn a few pennies.

Before this legislative change, islanders wanting to Airbnb their homes faced a big legal barrier. They could not use a dwelling house (or any part of it) for short-term holiday lets without obtaining prior planning permission for a change of use under the Planning and Building (Jersey) Law 2002 as it did not fall within the Planning and Building (General Development) Jersey Order 2011.

The General Development Order provides consent to certain stated classes of development and changes of use without the property owner needing to apply for planning permission, but it was limited. The amendment updates the General Development Order to permit a change in use of a building, or part of one, from a dwelling only to allow for accommodation stays, for leisure, for a combined duration of no more than 12 weeks in the calendar year.

It is important to note that:

- the accommodation is for leisure purposes only, it cannot be used as a main dwelling during those 12 weeks
- the 12 weeks maximum limit covers the total combination of visitors, it is not a limit per visitor

- should you wish to let your property, or part of it, out as a short-term holiday let for more than 12 weeks per calendar year, then planning permission for a change of use will still be required

While this amendment to the legislation is fantastic news for tourism, other requirements for homeowners wishing to register with Airbnb to host short-term lets are still in place. These include ...

## **Title restrictions**

If the property is a share transfer or flying freehold apartment, it is necessary to ensure the relevant articles of association / declaration of co-ownership and any house rules and regulations have no restrictions on Airbnb or short-term lettings. With Airbnb becoming more popular over recent years, these restrictions are appearing more in legal documents for apartment blocks.

## **Assisted buyer schemes**

For those who have purchased their homes using an assisted buyer scheme, it is highly likely your scheme documents prohibit any form of leasing or sharing of occupation without first obtaining consent through the terms of the scheme, which may or may not be granted.

## **Lending restrictions**

Some mortgages and loans contain restrictions on letting or sharing occupation of the property without the lender's consent, so check your paperwork carefully. These restrictions are very commonplace where a homebuyer's mortgage has been entered into (rather than a buy to let). Failure to comply with the terms of the mortgage and obtain the lender's consent risks triggering an event of default which would result in the lender being able to call in the loan.

## **Lease restrictions**

If you rent your property, it is essential to consider whether you have the authority to sub-let the home or a room within the property. Residential leases in Jersey often contain restrictions over subletting, either absolutely or without first obtaining the prior written consent of your landlord. Listing your property on Airbnb in breach of the terms of your lease may have serious consequences. It could lead to the landlord seeking a court order for early termination of the lease, recovering possession of the property, and a claim for damages to compensate for any loss they have suffered.

## **Insurance considerations**

In addition to the restrictions set out above, it is necessary to inform your home and contents

insurer that you are considering registering with Airbnb to take on paying guests. Failure to seek prior consent of the insurer may risk the insurance company refusing to pay out if the property is being used against the terms of the insurance policy.

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