

To Airbnb or not to Airbnb

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The JEP earlier this month reported that Jersey has seen an explosion in the number of Airbnb properties listed in the Island with an increase of more than 800% in the last four years. For those unfamiliar with the website, Airbnb allows people to offer short-term lodgings or home stays for a fee of 3% of the booking subtotal.

At the time of writing there are 166 Jersey homes listed on Airbnb with an assorted range of accommodation on offer, from the panoramic views of Jessica's 1930s home over St Aubin's Bay to a private room in Chris and Kate's traditional granite property in Trinity.

While the statistics are fantastic news for tourism, it is essential that any homeowners wishing to register with Airbnb to host short-term lodgings comply with any applicable restrictions.

Title Restrictions

Where 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 lettings. With Airbnb becoming more popular over the recent years these restrictions are beginning to appear more often in the 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 will have a prohibition on any form of leasing or sharing of occupation without first obtaining consent through the terms of scheme, which may or may not be granted.

Lending Restrictions

Another consideration for homeowners is whether any mortgage or loan in place over the property contains restrictions on any form of letting or sharing occupation of the property without the lender's consent. 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 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. Often residential leases in Jersey 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 which could potentially 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.

Tourism Restrictions

Jersey Law also seeks to regulate the tourism industry and therefore legislative restrictions are in place for those intending to make accommodation available to tourists to the Island. In Jersey, any lodging premises provided for reward must be registered for tourism except in cases where the property is to be sublet to 5 persons or less. Therefore the current Tourism Law would restrict short-term lodging in Jersey properties for more than 5 people through Airbnb, save where they were registered under the Tourism Law.

Furthermore, the exemption from registration under the Tourism Law only applies provided you (an Entitled owner of the property) are resident at the property during the period of the lodging. Therefore making it not possible to use Airbnb to rent out the whole of a property.

If you are looking to register with Airbnb we would recommend you review any contracts and legal documents in respect of your property before doing so to understand what rules and restrictions may affect your ability to host. Where no restrictions prevent you from hosting guests through Airbnb, it is also worth remembering that any money you earn as a host is taxable income and should be declared.

The information and expressions of opinion which this article contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found [here](#).

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