

Regulations, registration and keepers? - A guide to lodging houses in Jersey

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Lodging houses are privately owned properties offering accommodation for occupation by persons who do not possess residential qualifications. People can occupy lodging houses both as lodgers and tenants.

It should be noted if a lodging house has self-contained units which are occupied by individuals as tenants, any lease must be a residential tenancy agreement and compliant with the Residential Tenancy (Jersey) Law 2011, with any deposit held in the MyDeposits Jersey Scheme and a copy of the tenant's registration card taken by the landlord. These requirements do not apply for lodgers, who do not have the same legal status as tenants, particularly regarding protection from eviction.

Registration

Under the Lodging Houses (Registration) (Jersey) Law 1962 (**the Law**), the Minister for Housing regulates the amenities of lodging house accommodation and licences its maximum occupation. The Law requires lodging houses to register, and re-register annually (unless falling within certain limited exceptions), and specifies minimum standards as laid down by the Minister for Housing which must be met in order to qualify for registration or re-registration. The units must also have a good standard of decor, both internally and externally, and furnishings, before registering or re-registering accommodation.

Applications for registration must be made in December of each year in advance of expiration, which occurs on the last day of February. The associated fee, being £14.35 in respect of each person aged five years and over, multiplied by the maximum number of such persons proposed to be lodged at the lodging house, must be paid with the application.

Inspection

An officer, for whom the Minister is assigned responsibility, may be generally or specially authorised in writing to enter and inspect any registered lodging house and to require the keeper,

or any person in occupation thereof or employed therein, to furnish to the inspector such information in relation to the lodging house as may be reasonably necessary for the purposes of the enforcement of the provisions of the Law.

Keeper and duties

The Law requires an approved person to be nominated as the lodging house keeper in order to ensure that the lodging house is managed satisfactorily. The Keeper should be ordinarily resident in Jersey and should be approved by the Minister. The keeper should have an up to date DBS check.

It is the duty of the keeper to keep conspicuously displayed in every registered bedroom a notice:

1. giving full details of the charges to be made for the room and, in the case of a room to be occupied by more than one person, for each such person;
2. informing the occupant, or occupants as the case may be, of the room, that he, she or they may be evicted without an order of Court; and
3. specifying the maximum number of persons that may be accommodated in the room.

Otherwise they will be guilty of an offence.

Owners are permitted to set the fees for their lodging accommodation as they deem fit. However, the maximum lodging fee for a flat must be displayed in a prominent place in each registered unit at the lodging house and, following registration or re-registration, it cannot be increased until the next registration period. There is nothing, however, to prevent the owner from reducing the lodging fee for the period in question.

It is also the duty of the keeper to keep the Lodging House Registration Certificate displayed in a prominent position in the lodging house. The keeper must additionally, maintain a register of all lodgers residing in the property otherwise the keeper is guilty of an offence and liable to a fine. Details to be recorded must be entered on the day of entry and departure, and include the following for every person lodging in the house:

- a) full name;
- b) place and date of birth;
- c) nationality;
- d) address prior to arrival;
- e) date of arrival; and
- d) date of departure.

A keeper must not offer or provide accommodation for reward in the lodging house to any person whom the keeper believes to be a tourist to Jersey, otherwise the keeper will be liable to a fine.

Business licence

An owner of a lodging house is required to hold a business licence under the Control of Housing and Work (Jersey) Law 2012 on the basis that under Regulation 3(1)(g) of the Control of Housing and Work (Exemptions) (Jersey) Order 2013, the exemption from the requirement to have a business licence does not apply to registered lodging houses. A registered permission is often attached to the business licence for employing the keeper, to allow a registered person who is in occupation of one of the units to carry out the keeper's duties.

Employment of the keeper

As mentioned above, a registered lodging house requires a keeper. There are two options for the employment of the keeper:

1. the keeper is self-employed and receives reduced rental in return for their services (this does not create an employment relationship); or
2. the keeper is on a suitable employment contract and receiving either reduced rent or payment for their services.

If the reduced rental is seen as a "benefit in kind" this implies the caretaker is an employee. In order to be certain the benefit in kind meets the minimum wage threshold and does not exceed the accommodation allowance, confirmation would need to be provided as to approximate hours and value of the reduction. Alternatively, if the caretaker is not considered an employee and is instead merely acting as keeper and receiving a slightly reduced rate for their services then the above point falls away.

If a keeper is considered to be employed, additional considerations will arise, including that a valid employment contract will need to have been entered into, manpower returns should be completed by the employer and employer liability insurance should be procured.

Data protection

The owner of a lodging house must ensure they register for data protection. This is on the basis that they are processing personal data by the inclusion of names and addresses within the lodging house register. As a lodging house is run as a business, it is not able to fall within the "domestic purposes" exemption.

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