



J CATEGORY PROPERTY TRANSACTIONS

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It is amazing that a substantial amount of J Category employees are still unaware that they can purchase property in Jersey and how this can be achieved. Therefore they often opt for the rental market (dead equity).

Buying a house in Jersey if you are an essential employee is no simple matter, so Chris Duverger, Head of Residential Conveyancing at Collas Crill shows how it can be done.

Jersey's Housing Law enables essential employees to purchase a house by forming their own company specifically for the purpose of buying a property. The beneficial ownership in the company can be vested in the joint names of the essential employee and their spouse but be warned, this doesn't permit the spouse to live there on his/her own. If the 'J category' employee dies, then the spouse will have to move out and sell the home and this also applies to both should the essential employee lose his/her J Category Status. By jointly owning the company, the spouse is only protected financially rather than gaining any residential rights.

Most importantly, if you are thinking of buying a property, your employer should check with the Housing Minister that you qualify for 'J category' status. Once this has been confirmed and you have found the right property, instruct your lawyer to begin the buying process, making sure that he clearly understands that the purchase will be through a 'J category' company.

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The first step in forming the company is to reserve a suitable name (the writer has seen a number of amusing names suggested and approved) with the Jersey Financial Services Commission (JFSC), then inform the Estate Agent and the mortgage provider that it is to be a 'J Category' purchase and advise them of the approved company name. This is important as far as the mortgage provider is concerned as this could cause untold delays if the application is first made in personal names without taking the Company acquisition into account. This has happened on a number of occasions whereby the purchase of the property has stalled or nearly failed.

In order to buy the property, you will have to provide the Housing Minister with an undertaking to the effect that there will be no change in the ownership of the shares in the company without the Minister's consent (unless it is to another J Category) and that the property will be sold out of the company when necessary or transferred out of the company name into the name of the essential employee once full housing qualification is achieved.

Because you have to form a company in order to buy the house, the costs are higher than those for a normal property transaction. It is worth shopping around law firms as some, like Collas Crill, offer discounted fees for the company formation and varying levels of advice on how to run the company. You'll also have to pay £200 to the JFSC for the initial company registration and £150 yearly, for the

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annual return and the costs for the Company books and Seal.

Don't forget the mortgage! There are two ways this is normally arranged if you have 'J Category' status. The most popular method is for the lender to enter into the loan directly with the essential employee and spouse, whilst the company enters into a guarantee which is registered in the Royal Court to secure the loan against the property.

A few lenders enter into the loan directly with the company. Again, this will be registered in the Royal Court with the essential employee and spouse providing a personal guarantee. The lender will go a stage further by entering into a Security Interest Agreement with the buyers and take further security over the shares in the company. You will be expected to sign a blank transfer form which enables the lender to avoid the bankruptcy route (if necessary) by simply taking the shares in the company. The lender's legal fees will also be higher than those for a normal loan.

The most important point is that you should seek good advice before buying a house as an essential employee. It is a complicated process and your lawyer will ensure that you are fully protected at all stages.

The good news, however, is that once you have achieved fully qualified residential status and have enjoyed many happy years in your home, the costs of transferring the property from the company and into your personal name/s are currently nominal as far as Collas Crill are concerned.

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