

## **Guidance on the application of the Discrimination (Amendment of Law) (Jersey) Regulations 2021**

### **The New Regulations**

1. The Discrimination Law has been extended to prohibit discrimination against potential occupiers of residential property who will or may have children under the age of 18 living with them.
2. If a person who is letting or selling the property, or a person or company who is instructed to do so, refuses to let or sell, or to show or advertise the property, purely on the fact that a child or children under the age of 18 could be living in the property then this is an act of discrimination which is prohibited. There are some exceptions which are set out below.
3. The Regulations do not override other Jersey Laws that relate to the provision of accommodation. One example is the law relating to lodging houses. Some lodging houses are specifically excluded because the layout of the premises is not appropriate, safe or suitable to accommodate children. The introduction of these Regulations will not affect such exclusions.
4. Certain types of accommodation are also exempt from the new Regulations. These include tourist premises, care homes or accommodation reserved for particular categories of people – for example, those who are over a certain age, or where disabled facilities for adults are a requirement in the accommodation.
5. The Regulations also provide for a defence to a claim of discrimination, where health and safety issues pose a potential hazard to a child. This means that an owner or landlord can refuse the transaction on the grounds of health and safety. The hazard must be one that is covered by the Public Health and Safety (Rented Dwellings) Jersey Law 2018.

### **What the Regulations don't do**

6. The Regulations do not apply retrospectively. It is not possible to make a complaint of discrimination if a potential occupier thinks they have been denied access to a property in the past. The Regulations came into force on XXXX. Transactions completed before this date are not covered.
7. The Regulations do not require the Minister to “police” compliance by owners of residential property with the requirement not to discriminate against potential occupiers with children. Discrimination on the grounds of the other protected characteristics contained in the Discrimination Law is not “policed” in this way either.

### **The Jersey Employment and Discrimination Tribunal**

8. If a potential occupier believes that they have been unfairly discriminated against because they have children, they can lodge a claim with the Jersey Employment and Discrimination Tribunal, which is an independent judicial body.
9. The Tribunal has jurisdiction to consider claims of acts of discrimination more generally; the new Regulations add discrimination against potential occupiers with children to the list.
10. The Tribunal will hear evidence from the owner and the prospective occupier and will make a decision as to whether discrimination has taken place.
11. The Tribunal Service will help applicants make an application. There is no need to use a lawyer.