

Acquiring Commercial Property in Jersey - a brief comparison with England

Freehold property in Jersey has its origins in French law. In 1602, Sir Walter Raleigh as Governor of the island decreed that all contracts relating to land passed before the Royal Court should be recorded in the rolls of the Public Registry. Based upon these ancient origins, Ogier has established a modern commercial property law practice.

	Jersey System	English System
Contract and transfer	Conveyances are passed before the Royal Court only on Friday afternoons. Similarly, all charges secured over real property in Jersey can only be registered on a Friday.	Parties can exchange contracts for the sale and purchase of property at any time, for simultaneous or later completion.
Leases	Leases for a period in excess of nine years are also passed before the Royal Court on Friday afternoons. Leases are in English and are in a substantially similar form to institutional English leases.	Leases of any length (whether a 21 year registrable term or not) can be completed when the parties choose.
Security of Tenure	A Tenant has no right to remain in premises after the term expiry without a new lease.	All Tenants with a lease of at least one year automatically have a right to remain in the premises on the same terms after the expiry of the term, unless this right is specifically excluded by a Consent Order at Court.
Attendance	Attendance at the Royal Court is necessary either by the parties or their Advocate, duly authorised under a Power of Attorney to pass a conveyance or long lease.	The parties solicitors are able to exchange contracts for a later sale at any time, day or night, over the telephone subject to Law Society formula protocol.
Land Registry	There is a Land Registry in Jersey, but it is a register of deeds and not title. There is no certificate of title provided in respect of a property transaction and title is based upon the conveyance of lease recorded at the Public Registry. Hence there are no deeds to hold.	Her Majesty's Land Registry guarantees the title to property and the land certificate is handed over to the purchaser on completion. If the property is charged the charge certificate is held by the Lender.
Consents	Every freehold conveyance and Lease in excess of nine years requires the formal consent of the States of Jersey Housing Committee. There is a standard form of application for this consent and an application fee of £50 is payable.	None, other than consents of superior landlords in the case of leasehold transactions.
Specific Performance	Under Jersey Law it is only possible to get specific performance to grant a lease up to a period of nine years with the remedy for the balance being damages - <i>York Street Pharmacy v Rault 1974 JJ65</i> . Specific performance can be obtained in respect of an agreement to acquire shares, but not freehold property.	Specific performance of an agreement for sale or lease can be ordered by Court in order to complete a sale and purchase or to grant a lease of any term length.
Assignment	The position is unclear on the continuing	The Landlord and Tenant (Covenants Act)

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	liability of the original tenant following an assignment. The usual practical solution is that the assignor requires release from the Landlord and the assignee takes on liabilities from the completion date.	1995 provides that under all leases granted after January 1996 an assignee is released from the tenant's covenants at the time of assignment.
Stamp Duty on Purchase	Accumulative scale 0.5% up to £50,000 Plus 1.5% £50,001 to £300,000 Plus 2% £300,001 to £500,000 (Thus £13,000 on the first £700,000) 3% of the price in excess of £700,000	Non accumulative scale Zero up to £150,000 1% £150,001 to £250,000 3% £250,001 to £500,000 4% over £500,000
Stamp Duty on Leases	Duty is calculated on leases in excess of nine years by multiplying the annual rent by the length of term (subject to maximum multiplier of 21) with any premium added in. Of this total, there is an accumulative scale: 0.5% up to £100,000 0.75% over £100,000	Non accumulative scale (non-residential) Zero up to £150,000 NPV 1% over £150,000 NPV = Net Present Value of rent When calculating duty payable on the NPV of leases you must reduce your NPV calculation by £150,000 before applying the 1% rate.
Stamp Duty on Loan	0.5% of the amount of the loan	None
Stamp Duty on Share Transfers	None	0.5% is payable
VAT	There is no VAT in Jersey.	Fees charged may be subject to irrevocable VAT. VAT is payable on Stamp Duty in respect of any lease.
GST	GST at a rate of 3% was introduced on 1 May 2008.	

About Ogier

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