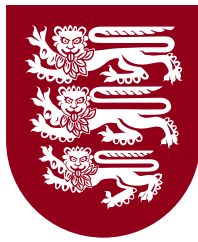


# STATES OF JERSEY



Jersey

## **DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS) (LICENSING) (JERSEY) REGULATIONS 202- (P.40/2023): FIFTH AMENDMENT**

---

**Lodged au Greffe on 23rd October 2023  
by the Environment, Housing and Infrastructure Scrutiny Panel  
Earliest date for debate: 7th November 2023**

---

**STATES GREFFE**

DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS) (LICENSING)  
(JERSEY) REGULATIONS 202- (P.40/2023): FIFTH AMENDMENT

---

**1 PAGE 19, REGULATION 3 –**

In Regulation 3 –

- (a) for paragraph (1) –
  - (i) for “licence a dwelling to be used as a rented dwelling” substitute “issue a licence for a dwelling to be used as a rented dwelling, subject to the standard licence conditions set out in Schedule 1,”,
  - (ii) for “application meets” substitute “application and dwelling to which it relates comply with”;
- (b) for paragraph (4) substitute –

“(4) If the dwelling is inspected and the dwelling does not meet the minimum safety standards or there is a prescribed hazard present in the dwelling, the Minister must –

  - (a) refuse to issue or renew the licence; or
  - (b) issue or renew the licence subject to a condition that, by a specified date, specified actions are taken to meet the minimum safety standards or to address the prescribed hazard.”.
- (c) for paragraph (7) substitute –

“(7) The Minister may withdraw a licence if the Minister considers that –

  - (a) there is a prescribed hazard present in the dwelling; or
  - (b) a standard licence condition set out in Schedule 1 has not been complied with.”.
- (d) delete paragraph (8).

**2 PAGE 21, SCHEDULE –**

In the Schedule –

- (a) for the heading substitute –

**“SCHEDULE 1”;**
- (b) for the text of paragraph 1 substitute –

“(1) The licence holder must ensure that the rented dwelling complies with the minimum safety standards whenever it is used as a rented dwelling.

(2) A failure to comply with a minimum safety standard is not a breach of sub-paragraph (1) if –

  - (a) the licence for the dwelling was issued with a condition requiring that, by a specified date, specified action is to be taken to meet the minimum safety standard;
  - (b) the failure is a continuation of the situation that gave rise to the requirement that the specified action was to be taken (as established by

- an inspection of the dwelling before the licence was issued) or arises as a result of taking that specified action; and
- (c) the failure occurs before the specified date.”.

## ENVIRONMENT, HOUSING AND INFRASTRUCTURE SCRUTINY PANEL

## REPORT

---

### CLARIFY PROVISION FOR LICENCES TO BE GRANTED SUBJECT TO ANY NECESSARY REMEDIAL WORKS BEING CARRIED OUT WITHIN DEFINED TIMEFRAME

The aim of this proposed amendment is to provide clarity over whether licence approvals will be granted subject to remedial works being carried out within a specific timeframe where a defect to the property is deemed to be minor and/or low risk.

Regulation 3(4) currently states:

*If the dwelling is so inspected, the Minister must –*

- (a) issue or renew the licence;*
- (b) refuse to issue or renew the licence if the dwelling does not meet the minimum safety standards or there is a prescribed hazard present in the dwelling; or*
- (c) issue or renew the licence if the licence holder complies with any conditions set out in the licence designed to meet the minimum safety standards or address a prescribed hazard within a specified period.*

In a written submission, Justice for Tenants UK comment that it is inferred that (c) relates to situations where a property does not meet the minimum standards upon inspection, but the licence that is granted will have a condition requiring action by a specific date to address the issues which have caused the property to fail to meet the minimum safety standards. Furthermore, that the completion of the remedial works would be expected to lead to the property subsequently meeting the minimum safety standards.

Justice for Tenants UK further comment that it is not clear whether Regulation 3(4)(c) is either:

- Withholding the granting of a licence until the rectification works are complete; or*
- Granting the licence but adding specific conditions requiring certain works by a certain date.*

Considering it is an offence to operate without a licence, it is presumed that the licence would be considered granted with these added conditions that require works be done by a certain date, and failure to carry out the works to the required standard by the required date would be considered a breach of the licence conditions.<sup>1</sup>

The Panel questioned the Minister for the Environment further on this in the public quarterly hearing held on 11th October 2023:

***The Connétable of St. Brelade:***

*I suppose, really just taking it to the next stage, and you have answered part of it saying that the licence will be there until such time as works may be completed and that would be a condition on the licence. But considering it is an offence to operate without a licence ... so it is presumed that it may be best for the licence to be considered to be granted with the added conditions, that is clear, is it? Because that will worry landlords if they have not got*

---

<sup>1</sup> [Written Submission – Justice for Tenants UK – 21 September 2023](#)

*a licence. So they will be guaranteed up to a certain level to have a conditioned licence without breaching the conditions, is my understanding correct?*

***The Minister for the Environment:***

*The aim is when we start the scheme everybody gets a licence. Licences will only come under threat, if you like, if a problem is identified. The aim of the scheme as written, and those clauses you are pointing out, is to try and enable the functioning of the market to continue as much as possible while remedy is being sought. That is what that is seeking to achieve. The whole intent of the legislation is that licence withdrawal would be a last resort because we are trying to put in very explicitly these conditional clauses, which mean that things can be done, short of withdrawing a licence, in order to allow time for remedy.*

***The Connétable of St. Brelade:***

*How would you anticipate dealing with those who did not comply? So you have issued a licence subject to conditions, would you internally have a follow-up procedure to deal with those and would it involve further inspection or would you expect the landlord to self-regulate?*

***The Minister for the Environment:***

*Let me take it first, if I may, from my point of view and then possibly the more formal thing. The intent with this, as I say, is that we want this to be a functioning ... we want co-operation. By far the best method of compliance is if we can persuade people to take the necessary action. That is simpler for everyone. If we have to go down a legal route, that is exceptionally time-consuming, resource heavy, and may not work because the law officers put a high bar on prosecution. That is the ultimate stop. The licence withdrawal is the last step on a process of compliance. The aim is persuasion. Persuasive compliance is the mantra that Kelly uses in terms of compliance, not just in this area but planning and so on, and I get stick for it because people say: "Nothing is happening. This is taking too long. Why is something not happening?" It is because the first step is to give people the benefit of the doubt, to assume that there has been a mistake, a misunderstanding, people have not quite got there, they need a bit of help, a bit of encouragement, and that is what we do. That means that quite often for several months we are engaging ... or not me, officers are engaging with people and trying to get them to do what is required. That is a process that can be frustrating for people. But it is, I think, the only way on a small island with a community of many competing interests that we can make this work, and that is the approach we are adopting...<sup>2</sup>*

The Panel proposes this amendment to provide absolute clarity that the licence is deemed to be granted with the added condition that works be carried out within a specified timeframe.

### **Financial and staffing implications**

The Panel is not aware of any financial and manpower implications associated with this proposed amendment.

---

<sup>2</sup> Transcript – Public Quarterly Hearing with the Minister for the Environment, 11th October 2023, p.16-17