

STATES OF JERSEY



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

**Presented to the States on 23rd November 2023
by the Minister for the Environment**

STATES GREFFE

COMMENTS

The Minister for the Environment welcomes the comments on the Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 202- (P.40/2023) issued by the Environment, Housing and Infrastructure Scrutiny Panel. The panel makes a number of recommendations to which the Minister is happy to respond.

Minister’s response to recommendations

Recommendation	Pannel’s Recommendation	Minister’s Response
R1	The Minister for the Environment should publish a code of practice containing guidelines of how the law and proposed regulations will be applied in practice. In addition, a landlord toolkit should accompany the code of practice containing pro-forma templates of relevant documentation that landlords will be expected to provide to occupiers before the end of February 2024.	<p>Accept in part</p> <p>The Housing and Nuisance Team are currently migrating to a new IT system which has the capability to standardise informal and formal advice, guidance and enforcement activities including warning letters. It can also support standardised conditions applied to licences under Regulation 3(4)(c) in respect of additional work to be addressed in a specified period.</p> <p>A Code of Practice is currently under development and will be published ahead of enactment.</p> <p>A number of templates will also be made available to include appropriate wording to signpost under the condition contained within the Schedule in 3(7)(d).</p> <p>The intention is to have guidance and information available by the end of March 2024, bearing in mind applications can be made during the transitional period up to 31st July 2024, subject to the approval of my amendment.</p>
R2	Should the draft Regulations be adopted, the Minister for the Environment should further explore, before the date of enactment, what existent inspection regimes take place by other accredited bodies in	<p>Accept in part</p> <p>The Minister would be happy to receive details of ‘existing inspection regimes’ taking place by other accredited bodies before and after the date of enactment.</p>

	<p>relation to worker accommodation. Consideration should be given to what extent the criteria of these audits align with the minimum standards and how this can be factored in to avoid duplication and unnecessary extra cost for the agriculture industry.</p>	<p>The purpose of the licensing scheme is to have the details of such rented dwellings and relevant contact details. Until then, enquiries would be very difficult.</p> <p>The Licence holder can make submissions which once assessed may lead to the de-risking of those rented dwellings and therefore reduce the likelihood of inspection, but understandably will not eliminate the risk completely.</p> <p>This process can be developed outside of the Regulations with the Housing and Nuisance Team.</p>
R3	<p>Should the draft Regulations be adopted, prior to the date of enactment, a helpline should be provided by Government to support both tenants and landlords in relation to licensing queries and concerns raised regarding poor rental accommodation conditions. Alternatively, Government should explore and consult on the possibility of providing additional funds to Citizens' Advice Jersey to provide this service.</p>	<p>Accept</p> <p>This line is already in operation.</p> <p>Tenants and Landlords can contact the Housing and Nuisance Team on:</p> <p>445808 or email environmentalhealth@gov.je</p> <p>These are also the contact details that are referred to in Schedule 3(7)(d):-</p> <p>'a statement on the occupier's right to seek advice from or raise a complaint to the administration of the States responsible for environmental and consumer protection, together with the up-to-date contact details for the said administration of the States.'</p>
R4	<p>The Minister for the Environment should commission a high level economic impact assessment based on the number of rental properties (from the 2021 Census) as well as estimates of the sector's Gross Value Added (GVA) (from the Measuring Jersey's Economy</p>	<p>Not accepted</p> <p>The impact on landlords should be negligible, with one form being completed every two years as part of the application and renewal process, bearing in mind rented dwellings should already be compliant with the legislation.</p>

	<p>Report) and comparing this to the fee costs and an estimate for the administrative costs of compliance. This initial assessment should be completed and provided to States Members prior to the enactment date. Should the draft Regulations be adopted and enacted, a more in-depth distributional analysis should be conducted ensuring that data is collected in relation to the details of individual landlords and the number / size / type of properties they own; and details of individual rents / lease agreements for rented dwellings. This distributional analysis should be completed and reported back to the States Assembly within 12 months of the scheme coming into force.</p>	<p>Reference should be made back to the consultancy services of Justice for Tenants UK which the Panel engaged with and which helps local authorities to identify what outcomes they seek from licensing schemes, looking at practical ways of achieving those outcomes, as well as proportionate ways of deterring non-compliance.</p> <p>In its assessment, it considered the proposed licence application fee in Jersey to be significantly lower than any LA in England, and therefore should not be a significant factor for landlords, as it is very low compared with the rental prices on the island. Furthermore, the officers in place are expected to be able to meet the demands of the proposed licensing regime, which is not expected to be a significant issue in Jersey.</p>
<p>R5</p>	<p>The Minister for the Environment should ensure that relevant data regarding the value and effectiveness of the licensing regime be collated and published on a quarterly basis such as (but not limited to): number of registrations and breakdown of types/sizes of rental accommodation / types of complaints and issues reported / enforcement action and number of prosecutions etc. This data should also be utilised, along with stakeholder engagement, to prepare and publish an annual report on the value and effectiveness of the licensing regime.</p>	<p>Accept in part</p> <p>In the report accompanying P.40/2023 on page 5 there is an undertaking to ‘Review’ the scheme after a year of operation to help inform the level of fees that would apply for the next renewal period.</p> <p>To reduce unnecessary expenditure on manpower, the specific elements of this recommendation will be incorporated into this review which would be carried out on an annual basis. This is in line with other regulators reporting requirements including the Health and Safety Inspectorate.</p>
<p>R6</p>	<p>The Minister for the Environment should consider, in consultation with all relevant stakeholders, the benefits or</p>	<p>Accept in part</p> <p>Following the publication of the review of the scheme after one</p>

	<p>otherwise of introducing fixed penalty notices for landlords who fail to comply with the law and that the income generated from the collection of these financial penalties be used to subsidise the licensing scheme, thus reducing the fees that are required to be paid by ‘good’ landlords who operate within the law. This should be implemented after an initial grace period of 12 months to allow time for landlords to become familiar with their obligations under the proposed draft Regulations. Further consideration should also be given to only pursuing prosecutions regarding offences under the draft Regulations in absolute exceptional circumstances within the first 12 months of the scheme coming into force.</p>	<p>year in operation (recommendation 5), consideration will be given to the benefits or otherwise of introducing civil financial penalties utilising the data provided.</p> <p>It should however be noted that the levels of compliance in the first year of any new scheme is unlikely to be reflective of subsequent years.</p> <p>Implementation is dependent on many factors including the outcome of the considerations, law drafting pressures and subsequent approval in the Assembly of any legislative changes.</p> <p>As Minister for the Environment, I have outlined in my report accompanying P.40/2023 the ‘Measured and proportionate approach to enforcement’ which I consider addresses concerns.</p>
<p>R7</p>	<p>The Minister for the Environment should consider publishing the names of landlords who commit an offence under the Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) 2018 Law and/or under any subordinate legislation. The aim of which would be to increase the effectiveness of enforcement measures with minimal added resource or cost. This measure should be implemented after an initial ‘grace period’ of 12 months to allow time for landlords to become familiar with their obligations under the proposed draft Regulations, if adopted.</p>	<p>Accept in part</p> <p>The legal requirement for rented dwellings to meet modest ‘minimum standards’ has been in place since 1st October 2018.</p> <p>Any person, including landlords who commit an offence under the Law or under subordinate legislation will be, by their very nature, in the public domain when they attend court.</p> <p>Further consideration will be given to the merits and legal provisions to enable the Minister to publish further information.</p>