

STATES OF JERSEY



DRAFT BUILDING LOANS (AMENDMENT No. 13) (JERSEY) LAW 201-

**Lodged au Greffe on 5th September 2017
by the Minister for Housing**

STATES GREFFE



Jersey

DRAFT BUILDING LOANS (AMENDMENT No. 13) (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Housing has made the following statement –

In the view of the Minister for Housing, the provisions of the Draft Building Loans (Amendment No. 13) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Deputy A.E. Pryke of Trinity**

Minister for Housing

Dated: 4th September 2017

REPORT

Introduction

The [Building Loans \(Jersey\) Law 1950](#) requires an amendment in order to make it consistent with the [Building Loans \(Miscellaneous Provisions\) \(Jersey\) Regulations 1961](#).

The Regulations include a provision that enables the Minister for Housing to vary the interest calculation methodology applied to States loans to ensure it remains compliant with modern practice. This provision is absent from the Building Loans (Jersey) Law 1950, which requires interest to be calculated using a tightly defined method based on the balance of the loan on 1st January annually (i.e. not on a reducing balance as applied by modern loan calculations).

This amendment to the Law will close the inconsistency.

Background

A review of the administration of the Housing Loans Portfolio has recently been undertaken by the Treasury and Resources Department following handover of the Loan Fund accounting function to the Treasury Investment Management team. The administration of the States' housing loans had been outsourced to an external loan administrator since September 2001, but steps have been taken during the course of 2016 and 2017 to centralise certain aspects of loan administration within the Treasury and Resources Department.

As part of the centralisation of loan administration, a review of the methodology applied to interest calculation has been carried out to ensure that it is in accordance with modern standards and practice. During this process, an inconsistency was identified between the relevant laws and regulations.

Article 4(1) of the Building Loans (Jersey) Law 1950 prescribes –

4 *Loan to be secured by hypothec, to bear interest and to be repaid by instalments*

(1) Except as provided by Article 5, every loan shall be secured by a simple conventional hypothec charged on the property in relation to which the loan is made and shall bear interest at the prescribed rate calculated annually on the amount of the principal of the loan for the time being remaining unpaid on the first day of January.

The above Article prescribes the method of calculating the interest due on a loan as 'on the amount of the principal of the loan for the time being remaining unpaid on the first day of January' (i.e. the interest charge for the year does not take into account the capital payments made during that year).

Conversely, paragraph 3 of Schedule 2 of the Building Loans (Miscellaneous Provisions) (Jersey) Regulations 1961 prescribes –

3. *Interest*

The Debtor will pay interest on the loan moneys at the rate fixed by Article 4(2) of the Building Loans (Jersey) Law 1950 or, where another rate is from time to time and for the time being fixed by Order made under that Article, at that other rate and will pay such interest on the days and in the manner required from time to time by the Minister and in the event that payments are not made punctually, such

interest shall be compounded with rests on the days on which payments are to be made.

As opposed to the Law, the Regulations therefore provide the Minister for Housing with the power to amend the interest payment methodology. The Law Officers' Department has said that the arrangements were intended to provide the Minister for Housing with the power to periodically update the calculation methodology and, although it is unlikely that application of modern standards and practice would be challenged, it would be sensible to close the inconsistency between relevant Laws and Regulations.

The draft Law removes the requirement for interest to be calculated annually on the amount of the principal of the loan unpaid on 1st January each year, and introduces a provision which enables the Minister for Housing to choose the time at which, and manner in which, interest is to be calculated and paid.

Collective responsibility under Standing Order 21(3A)

The Council of Ministers has a single policy position on this proposition, and as such, all Ministers are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers ([R.11/2015](#) refers).

Financial and manpower implications

There are no financial or manpower implications for the States arising from this draft Law.

Human Rights

No human rights notes are annexed because the Law Officers' Department has indicated that the draft Law does not give rise to any human rights issues.

Explanatory Note

This Law amends the Building Loans (Jersey) Law 1950 in relation to the calculation and payment of interest on housing loans made by the Minister for Housing under that Law. Currently, that Law requires interest to be calculated annually on the amount of the principal of the loan unpaid on 1st January each year. *Article 1* of this Law substitutes for that requirement a provision which allows the Minister for Housing to choose the times at which, and manner in which, interest is to be calculated and paid.

Article 2 sets out the title of this Law and provides that it will come into force on the day after this Law is registered by the Royal Court.



Jersey

DRAFT BUILDING LOANS (AMENDMENT No. 13) (JERSEY) LAW 201-

A LAW to amend further the Building Loans (Jersey) Law 1950

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Article 4 of Building Loans (Jersey) Law 1950 amended

For Article 4(1) of the Building Loans (Jersey) Law 1950¹, there shall be substituted the following paragraph –

“(1) Except as provided by Article 5, every loan shall be secured by a simple conventional hypothec charged on the property in relation to which the loan is made and shall bear interest at the prescribed rate calculated and paid on the days and in the manner required from time to time by the Minister.”.

2 Citation and commencement

This Law may be cited as the Building Loans (Amendment No. 13) (Jersey) Law 201- and shall come into force on the day after it is registered by the Royal Court.

¹

chapter 24.090