

STATES OF JERSEY



Jersey

DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS) (LICENSING) (JERSEY) REGULATIONS 201- (P.106/2019): SECOND AMENDMENT

**Lodged au Greffe on 20th February 2020
by the Environment, Housing and Infrastructure Scrutiny Panel**

STATES GREFFE

DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS)
(LICENSING) (JERSEY) REGULATIONS 201- (P.106/2019): SECOND
AMENDMENT

PAGE 18, REGULATION 3 –

In Regulation 3(2) for “anniversary” substitute “5th anniversary”.

ENVIRONMENT, HOUSING AND INFRASTRUCTURE SCRUTINY
PANEL

REPORT

The Environment, Housing and Infrastructure Scrutiny Panel has carried out a review of [P.106/2019](#) “Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 201-” and will be presenting its Report to the States Assembly prior to the debate on 25th February 2020. This amendment arises from that work.

If approved by the States, P.106/2018 will enable the Minister for the Environment to license dwellings to be used as rented dwellings, and to impose charges for the issuing of licences and in relation to enforcement action arising out of a breach of the Regulations or a requirement of any licence. Specifically, Regulation 3(2) stipulates that a licence commences on 1st January following the date on which it is granted, unless the Minister specifies another date of commencement in the licence and expires on the anniversary of the date of commencement.

In regard to Regulation 3(2) the Panel queries the rationale and necessity to issue licences on an annual basis. The matter of the licence renewal period was raised with the Minister for the Environment during the Panel’s review and, despite this, it still remains unclear as to why the one-year period was put forward. Under the current proposals the landlords will be required to pay an annual licence fee, as set out in the Report to the Proposition. The draft Regulations gives the Minister for the Environment power to impose charges for the issue of a licence and, if such charges are imposed, they must be published.

In the Panel’s view, the current proposals would impose an unwarranted bureaucracy on landlords. To date, we have not heard a reasonable justification for requiring landlords to renew their licence on an annual basis. Furthermore, charging landlords a substantial amount of money every year could have a significant impact on Jersey’s rental property market. During our review, we found that the introduction of fees under the proposed licensing scheme could result in landlords increasing their rents to meet the costs and/or could lead to rental properties being sold if they were no longer considered by the landlord to be viable investments.

The Panel is therefore of the opinion that the validity of licences issued under the draft Regulations should be extended from one year to 5 years in line with current practice in the United Kingdom (including Wales – see below). Alongside its amendment, the Panel would also recommend that the fee structure is amended in line with the extended licence renewal period. Thus, landlords would only be required to pay the amount specified in the fee structure at the beginning of the 5-year licence period and would not be required to pay again until the validity of that licence had expired.

The Panel was advised during its review that the proposed scheme would cost £640,960 per annum to operate and that the funds raised from the licensing fees would cover the costs of running the scheme. However, we found that the estimated revenue was set to rise from £690,013 in 2020 to £954,250 in 2023, therefore generating considerably more than the estimated operating costs. Furthermore, the Panel was not satisfied that the Minister for the Environment provided adequate justification as to why the proposed licensing scheme would cost such a significant amount to operate.

Context: Licencing Schemes in the United Kingdom

In the United Kingdom, [Part 3 Section 80 of the Housing Act 2004](#), enables a local housing authority to designate the whole or any part or parts of its area as subject to 'selective licensing'. Selective licensing schemes can operate for a maximum of 5 years and renewal needs to be approved by the Secretary of States for Communities and Local Government. Licences granted to landlords last for the duration of the scheme (i.e. a maximum of 5 years).

In the UK a [house in multiple occupation](#) is a property rented out by at least 3 people who are not from one "household" (e.g. a family) but share facilities like the bathroom and kitchen (effectively a house share). To rent out a property as a house in multiple occupation in England or Wales, the landlord must contact the local council to check if they need a licence. A licence is valid for 5 years. There is no fixed cost, with the local council deciding the price of how much each licence should carry. For example, a mandatory HMO licence for one property in [Barking & Dagenham costs £956](#), whilst a licence in [Islington costs £280](#) per letting (a 3-person occupancy would therefore cost £840). A further licence is required for each separate property.

[Rent Smart Wales](#) is a service hosted by Cardiff Council, which is the designated Licensing Authority for the whole of Wales, and ensures compliance with the legislation under the [Housing \(Wales\) Act 2014](#) in partnership with 22 local Welsh authorities. The Scheme, the first of its kind to be introduced in the UK, ensures that landlords and agents of private residential property in Wales are required by law to be registered or licenced, along with their portfolio of property.

Section 26 of the Housing (Wales) Act, upon which we understand the Jersey scheme is based, provides –

“A licence expires at the end of a period of 5 years beginning with the date it was granted, unless the licence holder makes an application to renew the licence in accordance with subsection (2).”

Conclusion

In consideration of all of the above, this amendment seeks to enable the Minister for the Environment to issue a licence on the 1st January following the date in which it is granted, unless otherwise specified, for renewal 5 years after the date of commencement. The Panel believes this to be proportionate and fair to both landlords and tenants and hopes the States Assembly will support its amendment.

Financial and manpower implications

Advice from the Department shows that if the validity of a licence is extended from one to 5 years and, simultaneously, the fee structure is amended so landlords are only required to pay a fee once every 5 years then the implications will be as follows –

- It has been estimated that the total expenditure of the licensing scheme in 2020 would amount to £640,960 and would reduce to £591,960 for the following 4 years (2021–2024).

- It has been estimated that the income received in 2020 would total £690,013 and would reduce to £461,738 in 2021 and to £79,000 in 2022, 2023 and 2024.

The Department provided the Panel with the tables below –

Staff Costs	2020	2021	2022	2023	2024
6 FTE	£385,000	£385,000	£385,000	£385,000	£385,000
GHE Regulation managerial oversight (not including wider GHE and Corporate overheads)	£95,000	£95,000	£95,000	£95,000	£95,000
Central business and administrative support	£42,000	£42,000	£42,000	£42,000	£42,000
Supplies and Services					
IT development and maintenance	£57,500	£15,000	£15,000	£15,000	£15,000
Equipment purchase	£1,500	£3,000	£3,000	£3,000	£3,000
Training incl travel	£13,000	£5,000	£5,000	£5,000	£5,000
3 Lease vehicles	£4,800	£4,800	£4,800	£4,800	£4,800
Fuel	£2,160	£2,160	£2,160	£2,160	£2,160
Office Rent and associated costs	£35,000	£35,000	£35,000	£35,000	£35,000
Other office consumables	£5,000	£5,000	£5,000	£5,000	£5,000
Total Expenditure	£640,960	£591,960	£591,960	£591,960	£591,960

	No's	Fee	2020	2021	2022	2023	2024
Adjusted Licence income to correct financial year			01 April to 31 Dec				
Rent Safe (2,772 properties as of end Nov 2019)							
32% (887) at 5* (£50 licence fee)	887	£ 50	£ 33,263	£ 11,088	£ -	£ -	£ -
66% (1830) at 4* (£100 licence fee)	1830	£ 100	£ 137,250	£ 45,750	£ -	£ -	£ -
2% (55) at 3* (£150 licence fee)	55	£ 150	£ 6,188	£ 2,063	£ -	£ -	£ -
Total for existing Rent Safe			£176,700	£ 58,900	£ -	£ -	£ -
Other Properties (6,317)							
15% (948) at 5* (£50 licence fee)	948	£ 50	£ 35,550	£ 11,850	£ -	£ -	£ -
35% (2,211) at 4* (£100 licence fee)	2211	£ 100	£ 165,825	£ 55,275	£ -	£ -	£ -
35% (2,211) at 3* (£150 licence fee)	2211	£ 150	£ 248,738	£ 82,913	£ -	£ -	£ -
5% (316) not signing up to Rent Safe £50 Application Fee	316	£ 50	£ 15,800	5% (316) not initially failing to licence Yr1	£ -	£ -	£ -
£200 licence fee	316	£ 200	£ 47,400	316 x £200	£ 15,800	£ -	£ -
10% (632) initially failing to licence £50 Application Fee		£ -	£ -	10% (632) initially failing to licence £50 Application Fee	£ 31,600		
£200 Licence fee		£ -	£ -	632 x £200	£ 126,400		
				5% (316) allowance for change of ownership and new builds £50 Application Fee	£ 15,800	£ 79,000	£ 79,000
				316 x £200	£ 63,200		
Total for Other Properties			£513,313	£ 402,838	£79,000	£79,000	£79,000
			2020	2021	2022	2023	2024
Overall Totals			£690,013	£ 461,738	£79,000	£79,000	£79,000