

STATES OF JERSEY



MINI-BUDGET 2022 (P.80/2022): SECOND AMENDMENT

Lodged au Greffe on 30th August 2022
by Deputy S.Y. Mézec of St. Helier South
Earliest date for debate: 13th September 2022

STATES GREFFE

MINI-BUDGET 2022 (P.80/2022) – SECOND AMENDMENT

1 PAGE 2, PARAGRAPH (e) –

After paragraph (e), insert new paragraph (f) as follows –

“ (f) introducing residential rent controls for a period of two years to include, but not limited to –

- (i) the suspension of rent increases;
- (ii) the transference of both fixed-term and periodic tenancies to open-ended tenancies;

and with the Minister for Housing and Communities instructed to bring forward legislation to implement the above for debate before the Assembly on, or before, 1st November 2022”.

DEPUTY S. Y. MÉZEC OF ST. HELIER SOUTH

Note: After this amendment, the proposition would read as follows –

THE STATES are asked to decide whether they are of opinion –

to agree that the following actions should be taken to address cost of living concerns –

- (a) increasing the personal income tax thresholds and allowances by 12% above the 2022 thresholds and allowances, in accordance with the Table in Appendix 2 of the report accompanying the proposition, to take effect for the year of assessment 2023;
- (b) temporarily reducing by 2 percentage points Class 1 and 2 social security contributions for the period 1st October 2022 to 31st December 2022, comprising a reduction, in respect of earnings below the standard earnings limit (SEL), from 6% to 4% for the Class 1 employee contribution rate, and from 12.5% to 10.5% for the Class 2 contribution rate;
- (c) doubling the value of the Community Costs Bonus for 2022 by increasing the value of the bonus from £258.25 to £516.50.
- (d) setting a fixed value at £70 per month for the Cold Weather Bonus and Cold Weather Payments, regardless of temperature, for the winter months (October 2022 to March 2023 inclusive);
- (e) postponing the commencement of the obligation for offshore retailers to register under the Goods and Services Tax (Jersey) Law 2007 from 1st January 2023 to 1st July 2023; and

(f) introducing residential rent controls for a period of two years to include, but not limited to –

- (i) the suspension of rent increases;
- (ii) the transference of both fixed-term and periodic tenancies to open-ended tenancies;

and with the Minister for Housing and Communities instructed to bring forward legislation to implement the above for debate before the Assembly on, or before, 1st November 2022.

REPORT

Summary

If adopted, this proposition will require the Minister for Housing and Communities to urgently bring forward legislation to prohibit rent increases in residential tenancies for a period of two years and to convert tenancies to 'open-ended' tenancies.

The Minister will not be purely limited to these changes if he wishes to include complementary measures in this legislation. The States Assembly will then have the final say in the adoption of this legislation when it is subsequently brought forward.

Introduction

“The Government will work with landlords and estate agent representatives to encourage them to agree to cancel, or reduce, rent increases in the short-term given the current cost of living issues. If rents do rise in line with the high RPI figures now being experienced, these increases will feed into future RPI rates, keeping inflation higher for longer than necessary and having a negative impact on the overall economy.”- Paragraph 59 of P.80/2022

In recognition of the effect that rental inflation is having on the cost-of-living crisis, the government has referred to this issue in the report to P.80/2022 and has put out communications to encourage landlords to refrain from imposing rent increases at this time.

Whilst the intention of this is noble, it ultimately constitutes just words rather than tangible action to protect people from what may be the harshest increase in their living expenses they will face.

The only way to be sure that tenants are protected from extraordinary rental inflation is to impose a ban on rent increases and introduce protections for tenants from having their tenancies ended to get around this ban.

There is a risk that if no real action is taken to protect tenants from extortionate rent increases now, they will feel no benefit from the rest of the measures in P.80, as any extra income they receive will simply go towards paying the rent. This will represent a redistribution of wealth from the less wealthy in our society to those with investment portfolios and passive income.

Real rent inflation figures are currently not able to be collected by Statistics Jersey. When they produce their House Price Indices, the figures they explore are for “advertised” rents. Most rent increases will not be advertised, because they are applied to existing tenants in accordance with their tenancy contracts.

However, there is much anecdotal evidence being provided to me that many tenants are facing rent increases at extortionate levels. I am now regularly being contacted by constituents asking for advice after they are informed by their landlord or letting agent that their monthly rent will be increased by hundreds of pounds a month. These are often not tenants who had benefited from years of not having their rent increased. Most recently, I heard from a constituent who was facing a rent increase of 38%, from £1,200

per month to £1,650. The extra expense that these households are facing now is many times higher than the amount they will benefit from as a result of the measures in the Mini Budget. This renders the P.80 futile to them.

Precedent

When faced with a crisis previously, the States of Jersey has very recently imposed a rent freeze, as I am now proposing we must do again because of this new crisis.

During the early stages of the Covid pandemic, when health advice was against people leaving their homes unless it was necessary, the States Assembly adopted P.42/2020¹ which imposed a temporary rent freeze and converted tenancies to open-ended tenancies. This came alongside a decision of the Courts not to process eviction applications.

This serves as an example of what is possible in Jersey. It has been done before and it can be done again.

I stress that the key difference between what I am proposing now and what I brought forward during the pandemic is that there will be no ban on evictions this time. If a tenant breaks their tenancy contract (by not paying rent or not taking care of the property etc), this will be grounds for the tenancy to be declared null and void. The landlord will be within their rights to issue notice to the tenant to leave their property and (if they refuse to leave) apply to the Petty Debts Court to seek an eviction. This proposition is not designed to protect bad tenants who do not fulfil their contractual obligations.

Unlike during the pandemic, the Court will have no reason to refuse to provide an Eviction Order if a tenant is in breach of their tenancy contract and a landlord needs to retake possession of their property to protect their investment.

‘Open-ended’ tenancies

Residential tenancies in Jersey are currently defined under the current Residential Tenancy (Jersey) Law 2011² as being either ‘fixed term’ or ‘periodic’.

A fixed term tenancy comes to an end at a fixed date agreed at the start of the tenancy. Once it ends, it is up to the landlord whether they wish to offer the tenant an opportunity to sign up for a further fixed term so they can continue to live there.

A periodic tenancy has no fixed end date but can be unilaterally ended by the landlord at any time, for any reason, with just 3 months’ notice. There is no ability to appeal this and there is no enhanced notice period required for tenants who have lived in their homes for substantial periods of time. This lack of security of tenure for those on periodic tenancies allows ‘revenge evictions’ and ‘no fault evictions’ to be perfectly legal, with no protection whatsoever for those who suffer as a result. It is reasonable to conclude that this also prevents tenants from feeling empowered to attempt to negotiate

¹<https://statesassembly.gov.je/assemblypropositions/2020/p.42-2020.pdf>

²<https://www.jerseylaw.je/laws/current/PDFs/18.720.pdf>

rent increases or complain when their homes are not maintained, in case they are issued notice and lose their home entirely.

If a rent freeze is to work, it must come alongside enhanced security of tenure, so that landlords cannot simply refuse to offer a tenancy renewal at the end of a fixed term tenancy, or issue 3 months' notice in a periodic tenancy, so they can find a new tenant and begin the tenancy at a higher rent.

'Open-ended' tenancies are tenancies with no fixed end date, but which cannot be unilaterally ended by the landlord except in specific circumstances. These types of tenancies are the default in many parts of Europe. A tenancy is considered to go on indefinitely unless certain circumstances apply, such as the landlord wishing to live in that property themselves,

The Housing Policy Development Board³ has already recommended that Jersey should overhaul the Residential Tenancy Law to provide for European-style open-ended tenancies as standard. In fact, the UK Secretary of State for Levelling Up, Housing and Communities (Michael Gove) has recently published a white paper⁴ outlining the government's plans to introduce open-ended tenancies in England. These proposals have been widely welcomed by housing charities, but also by landlords who believe that this will provide a level playing field and certainty for investors.

By not already having open-ended tenancies, Jersey is an outlier. This is particularly bad, given Jersey has lower homeownership rates than the UK, and a level of private renters which is closer to countries like Germany, where their legislation provides much greater protections for tenants.

This amendment provides an opportunity to fix this, by treating it as a loophole which must be closed to make a rent freeze effective and viable.

Children's Rights Impact Assessment

Article 27 of the United Nations Convention on the Rights of the Child⁵ promotes the "right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development".

Article 27(3) of the United Nations Convention on the Rights of the Child places an obligation on States Parties to assist those responsible for children to implement this right, including by providing material assistance to access support, including housing.

It is clearly fundamental to children's wellbeing that they are able to grow up in a stable home environment where their needs can be met, and they have the foundations to thrive. The cost of that housing is a key part of this. By legislating to impose a rent freeze, the States of Jersey will effectively be providing "material assistance" to

³<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20Housing%20Policy%20Development%20Board%20Final%20Report%20April%202021.pdf>

⁴https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1083378/A_fairer_private_rented_sector_web_accessible.pdf - Page 28

⁵<https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-unrcr.pdf>

households to maintain their child's home and protect the household budget from further pressure. This will enable families to provide greater support for their children.

Article 12 of the UNCRC provides that there must be respect for views of the child in all matters affecting them.

In 2021, the Children's Commissioner published the 'Life on the Rock' report⁶, after an extensive consultation process with children from all walks of life in Jersey. The issue of housing featured as one of the top concerns that children have. Page 10 of the report contains a powerful testimony from one young person about how the cost of housing had affected her and her family.

Financial and manpower implications

If this amendment is adopted, the Minister for Housing and Communities will be required to produce legislation to give effect to this decision. I have discussed this with Law Drafters to provide them with notice to consider ways in which this may be achieved. There are no direct financial implications.

⁶<https://www.childcomjersey.org.je/media/1533/lifeontherock080721.pdf>