

# STATES OF JERSEY



**SOCIAL HOUSING IN JERSEY:  
INTRODUCTION OF A REGULATORY  
FRAMEWORK (P.120/2017) –  
AMENDMENTS  
(P.120/2017 Amd.Amd., P.120/2017 Amd.(2),  
P.120/2017 Amd.(2).Amd.  
AND P.120/2017 Amd.(3)) –  
CONSOLIDATED COMMENTS**

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**Presented to the States on 19th February 2018  
by the Minister for Housing**

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**STATES GREFFE**

## COMMENTS

In order to assist States Members with consideration of the amendments to [P.120/2017](#) 'Social housing in Jersey: introduction of a regulatory framework,' the Comments of the Minister for Housing have been presented in a consolidated document. The Comments respond to –

- the amendment to the first amendment, lodged on 6th February 2018 by Senator P.F.C. Ozouf ([P.120/2017 Amd.Amd.](#));
- the second amendment, lodged on 29th January 2018 by Deputy M. Tadier of St. Brelade ([P.120/2017 Amd.\(2\)](#)).
- the amendment to the second amendment, lodged on 13th February 2018 by Senator P.F.C. Ozouf ([P.120/2017 Amd.\(2\).Amd.](#)).
- the third amendment, lodged on 8th February 2018 by the Environment, Housing and Infrastructure Scrutiny Panel ([P.120/2017 Amd.\(3\)](#)).

Senator Ozouf's first amendment has been responded to in separate Comments presented to the States on 23rd January 2018 (see [P.120/2017 Amd.Com.](#)).

These consolidated Comments are presented in the anticipated order of the debate.

### **Amendment to Second Amendment ([P.120/2017 Amd.\(2\).Amd.](#)) – lodged by Senator P.F.C. Ozouf**

#### **Summary:**

The Minister for Housing has rejected this amendment.

Senator Ozouf's amendment would amend Deputy Tadier's second amendment and enable the extension of the proposed regulatory framework to different housing providers in stages rather than simultaneously, and only where there was a proven economic case for regulation.

Senator Ozouf is seeking to amend Deputy Tadier's second amendment and enable the extension of the proposed regulatory framework to the private rented sector, but provides that regulation could be extended to different categories of housing providers in stages rather than simultaneously, and only where there was a proven case for regulation.

The Minister for Housing does not support this amendment. The proposals set out in the main proposition are intended to apply to social housing providers only, based on the principles that were agreed by the States Assembly in [P.33/2013](#) 'The Reform of Social Housing' (adopted by the States on [16th May 2013](#)).

The rationale for regulating social housing providers is explained in the proposition. There are clear reasons why social housing should be regulated more rigorously than the private sector, particularly in view of the investment and incentives that social housing providers receive in order to deliver public housing policy objectives (e.g. the delivery of affordable housing). The same cannot be said for the private sector, where there is a different imperative for regulation.

Although the amendment is seeking to moderate the potential expansion and promotion of the regulatory framework into the private rented sector, the amendment would still have potential to expand regulation that is designed for the specific requirements of the social housing sector to private landlords, including financial and governance requirements.

The Minister believes that this is an unnecessary and disproportionate approach to regulation, which could reduce the number of private landlords in the market, the consequence of which would be to create shortages of private rented accommodation and increase rental costs.

The Minister reiterates that there are other more proportionate mechanisms through which the private rented sector can be regulated, including the [Residential Tenancy \(Jersey\) Law 2011](#), and the [Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 2011](#) (adopted by the States on [13th December 2017](#) and currently awaiting Privy Council sanction). These Laws are geared towards the regulation of the generic relationship between a landlord and a tenant – e.g. the legal tenancy relationship and physical standards of accommodation – whereas the proposed social housing regulation would encompass areas where Government requires additional reassurance, such as the application of the 90% rents policy; financial management and viability; and protection of vulnerable households with specialist housing needs.

The Minister therefore asks Members to reject this amendment.

### **Financial and manpower implications**

The amendment would extend regulation to different categories of housing provider in stages rather than simultaneously. However, any expansion of the mandate of the proposed regulator would create additional costs associated with regulating more housing providers.

### **Second Amendment (P.120/2017 Amd.(2)) – lodged by Deputy M. Tadier of St. Brelade**

**Summary:**

The Minister for Housing has rejected this amendment.

Deputy Tadier's amendment is seeking to amend the proposition so that all forms of rented accommodation are covered by the proposed regulatory framework.

The Minister for Housing opposes this amendment on the basis that it would change the scope and purpose of the proposition to such an extent that it would make the regulatory framework for social housing complicated and unworkable. In essence, the amendment

would expand the role of the proposed regulator from having oversight of the social housing sector to oversight of all private sector landlords as well.

The proposals in P.120/2017 are very specific to social housing providers, and it would not be appropriate for private landlords to be covered within this regulatory framework. It would not be reasonable or proportionate, for example, to apply to private landlords the same financial management and governance standards that will potentially apply to social housing providers, or to impose on a private landlord – who may only own one or two properties – performance monitoring, reporting and assessment requirements. Such an approach to the regulation of the private rented sector is not found anywhere in the world, and would have the effect of forcing landlords from the market, reducing supply and increasing rents.

The Minister for Housing's proposal to regulate social housing providers has been developed with a clear policy intention to protect and promote the rights and interests of social housing tenants, and safeguard public and private investment in social housing. This is not to say that Government should not protect the rights of households who live in the private rented sector, but there specific reasons why social housing should be regulated above and beyond the generic requirements of rental sector as a whole.

As highlighted in the Minister for Housing's proposition, social housing providers (Andium Homes and the housing trusts) receive a number of benefits on account of their status, which include –

- an advantaged position under the [Income Support \(Jersey\) Law 2007](#), where social housing rents are uncapped and can be charged at up to 90% of the market equivalent rent;
- access to financial assistance through a £250 million housing bond made available for social housing development and refurbishment;
- support to access private borrowing such as loan guarantees and letters of comfort;
- access to rezoned land for the specific purpose of affordable housing development;
- an exemption from taxation on not-for-profit activities;
- an exemption from Population Office fees for property transactions consents.

It is therefore reasonable that there should be safeguards to ensure that the public investment made in social housing, and the benefits it gives social housing providers, are used effectively and deliver public housing policies.

It is, of course, expected that social housing providers will follow the same statutory regulation as is applied to the private rented sector in terms of standards of tenancy management and the repair and maintenance of rented accommodation, as stated in the [Residential Tenancy \(Jersey\) Law 2011](#) and the [Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 201-](#)

However, social housing provision is much more than simply good standard homes and secure tenancies. There are many activities that social housing providers perform that

landlords in the private rented sector do not, and these activities need appropriate regulatory oversight. There is a need for regulation of social housing to ensure that –

- social housing rents are applied in accordance with the States’ 90% rents policy;
- social housing providers build the right size, type and tenure of housing;
- social housing providers are well-managed and have the financial resources to deliver their plans.

Regulatory oversight is also required to ensure that low-income households (some of the most vulnerable people in our community) receive fair, equal and transparent access to good-quality homes and housing-related services. Social housing providers work with multiple agencies to help the elderly, people with serious illnesses and disabilities, care-leavers, domestic abuse survivors and ex-offenders, and it is important that regulation seeks to protect and promote the interests of these groups, where otherwise they would have limited control over their housing circumstances.

Notwithstanding the above differentiation between regulation of the social housing sector and the private rented sector, the Minister for Housing wishes to highlight the important work that is underway to improve the regulation of the private rented sector. In particular, the States Assembly adopted the [Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 201-](#) on [13th December 2017](#), which will introduce minimum standards of repair and maintenance for all rented accommodation. This legislation will be followed later this year by Regulations brought forward by the Minister for the Environment to introduce a licensing scheme for landlords in the private rented sector.

The Minister for Housing, therefore, urges Members to reject this amendment on the basis that there is clear rationale for the introduction of a regulatory framework for social housing as set as one of the principles of [P.33/2013](#): ‘The Reform of Social Housing’. The amendment has not been consulted on, and would introduce regulation over the private rented sector which is disproportionate and, ultimately, would have the potential effect of reducing the supply of rented accommodation in the Island.

### **Financial and manpower implications**

The amendment states that there would be no resource implications arising from this amendment.

However, there would be costs involved in extending the proposed regulatory framework to the private sector landlord, as this is a much broader system of regulation than is proposed in the original proposition. Whereas the Minister for Housing’s proposition seeks to regulate Andium Homes and the housing trusts, the scope of the amendment would extend regulation to thousands of private tenancies and many hundreds of small-scale landlords.

As such, there would be a significant administrative cost involved, and a need to employ a full-time regulator, whereas the main proposition proposes the appointment of a part-time regulator for the social housing sector only, at the cost of no more than £100,000 per annum. It is expected that a regulator for the whole private rented sector could cost close to £1 million.

**Third Amendment (P.120/2017 Amd.(3)) – lodged by  
the Environment, Housing and Infrastructure Scrutiny Panel**

**Summary:**

The Minister for Housing has accepted this amendment.

The amendment is seeking to include reference in the proposition to the interaction between the 90% rents policy for social housing and the Income Support system.

The Environment, Housing and Infrastructure Scrutiny Panel’s amendment seeks to include a specific reference in the proposition to the interaction between Income Support and the 90% rents policy. The Minister is pleased to accept the Scrutiny Panel’s amendment, and wishes to extend gratitude to Panel Members for the comprehensive dialogue that has taken place prior to the debate on the proposition.

As the Scrutiny Panel highlights in the report to its amendment, one of the main objectives of the introduction of a regulatory framework for social housing is to protect investment made in social housing, and to ensure that that investment is being used effectively in order to provide good standard homes and housing services for tenants. One example of the mechanisms used to secure investment in social housing provision is the housing component of Income Support, which allows social housing providers to set their rents at 90% of the market equivalent.

Under Income Support, social housing providers have a privileged status in comparison to the private rented sector, and there is no “cap” in the amount of rent they may charge, provided it accords with the 90% rents policy. This model provides a sustainable financial model for social housing providers through which they can develop new housing and refurbish existing properties.

Moreover, in some circumstances, social housing tenants may receive an additional premium where bespoke accommodation is required in order to meet a household’s specific needs – for example, a specially adapted property to meet the needs of a severely disabled person. This is an important aspect of the role of social housing providers in terms of providing housing for households whose needs could not be readily met in the open market, and it is vital that these types of arrangements are subject to appropriate levels of public oversight.

It is important to reiterate that changes to the Income Support system approved by the States Assembly on [16th May 2013](#) in [P.33/2013](#) ‘The Reform of Social Housing’ were made on condition that, at some point in the future, regulation would be introduced in order to have oversight of the approximately £20 million that is provided in Income Support payments to social housing tenants each year.

As a result, oversight of the 90% rents policy is an essential aspect of the proposed regulatory framework, and the mandate of the proposed social housing regulator will include monitoring of the implementation of the policy by social housing providers. While this function had been indicated in the proposition, the Minister agrees that – given the integral nature of the 90% rents policy to the provision of social housing – it is important to include a specific reference in the proposed regulatory framework.

It should be noted that the principal objective of the proposed social housing regulator will be to protect the rights and interests of current and prospective social housing tenants. Therefore, it is anticipated that the regulator would have a responsibility to monitor both the social and economic impacts of the 90% rents policy on social housing tenants and, if cause for concern were to be found, highlight them to the Minister and the States Assembly, through which they could be addressed.

This is consistent with the Minister for Housing's intention to accept Senator Ozouf's amendment, which proposes the inclusion in the regulatory framework of a specific reference to housing supply. In this regard, it is reasonable that a social housing regulator should take a cross-sectorial view of social housing provision and seek to identify matters such as housing supply, affordability and standards, which affect the interests of social housing tenants.

### **Financial and manpower implications**

The Minister confirms there are no additional resource implications arising from the proposed amendment.

### **Amendment to the Amendment (P.120/2017 Amd.Amd.) – lodged by Senator P.F.C. Ozouf**

#### **Summary:**

The Minister for Housing has accepted this amendment.

The amendment is seeking to amend the original amendment ([P.120/2017 Amd.](#)) and remove reference to the introduction of a "Housing Supply Commissioner". The other amendment – including a power of direction to the regulator by the Minister for Housing and the reference to "housing supply" within the proposed regulatory framework are retained.

The Minister for Housing supports the amendment brought by Senator Ozouf, which seeks to amend his original amendment to the proposition and remove reference to the introduction of a "Housing Supply Commissioner". The Minister notes the Senator's intention to lodge a standalone proposition in order to debate the important issue of housing supply across all categories of tenure.

In the first instance, the Minister wishes to express support for the Senator's other 2 amendments, which seek to –

- include provision of an appropriate power of direction to the regulator by the Minister for Housing;
- include reference to "*housing supply*" within the proposed regulatory framework, so as to ensure that regulation focuses on the delivery of affordable housing in conjunction with the determination of the need for affordable housing.

The Minister reiterates the content of her Comments presented on 23rd January 2018 ([P.120/2017 Amd.Com.](#)), which note that the power to give Ministerial direction is an important check and balance so that there is democratic oversight of a regulator in the performance of its functions. The institutional arrangements for regulation will include mechanisms to ensure the oversight and accountability of the regulator, but it is prudent to include additional safeguards to ensure that a regulator acts in the public interest. However, any such power of Ministerial direction – and the circumstances in which it might be exercised – should be clearly set out in legislation.

Moreover, the Minister agrees there should be reference to housing supply within the proposed regulatory framework. The former Health, Social Security and Housing Scrutiny Sub-Panel, in its review of the Housing Transformation Programme ([S.R.6/2013](#)), highlighted this issue when it stated that “*growing the sector should be the goal of regulatory activity*”. While this is not the only objective of regulation, it is essential that the proposed regulator has cross-sectorial oversight of social housing provision and identifies issues affecting the sector – such as standards, affordability and housing supply – so that the Minister and the States Assembly can take appropriate action in terms of developing housing policy.

It is important to highlight that, throughout the proposition, the Minister for Housing has been clear that social housing regulation must add value. The proposed regulatory framework is an integral tool which can be used to monitor the performance of social housing providers, and ensure the provision of good quality homes and services for tenants. At the same time, it must encourage innovation and the sharing of best practice, drawing on the expertise of a regulator to develop new models of affordable housing provision; support access to private borrowing; and, ultimately, assist in the delivery of new housing supply.

The Minister notes that Senator Ozouf has removed reference to the establishment of the role of a “Housing Supply Commissioner”. The Minister acknowledges that the Senator is concerned about the supply of housing, but does not believe that the creation of such a role would, by itself, increase housing supply, and would have the potential to confuse the clear role of a regulator to protect and promote the rights and interests of social housing tenants.

Furthermore, functions around the supply of housing sit firmly with the Minister for Housing and the Minister for the Environment, namely through the Housing Strategy and the Island Plan. Ministers must, therefore, maintain responsibility for the delivery of housing policies, and be held accountable to the Assembly for doing so.

The Minister believes that Senator Ozouf’s concerns about the supply of housing might be addressed more effectively in a standalone proposition. The Senator, in the report to his amendment, clearly highlights many of the issues that the Island is experiencing in terms of its housing, including supply and affordability, and there is probably a constructive debate to be had in the Assembly around these issues.

Over the term of the Council of Ministers, there has been a significant increase in the supply of affordable housing as a result of the Assembly’s decision to approve P.33/2013 ‘The Reform of Social Housing’, and recent changes to the Planning system have created greater incentives for landowners to develop sites more rapidly, or otherwise risk losing their planning permission.



More than 1,000 affordable homes for rent and purchase will be developed by 2020, and there are opportunities to deliver even more in the years ahead through sites such as the Gas Works. The Minister for Housing has recently commissioned an 'Objective Assessment of Housing Need Report,' which will help determine the level of demand for housing across all categories of tenure and, in turn, inform the next Island Plan in 2021.

There are, of course, many important housing issues facing the Island, including the ability for first-time buyers to purchase their own home at an affordable level, but action is being taken to ensure that the right policy and delivery framework exists to meet those needs and to deliver a consistent supply of good standard and affordable homes for Islanders.

### **Financial and manpower implications**

The Minister for Housing confirms there are no additional resource implications arising from the proposed amendment.