DRAFT HOUSING (GENERAL PROVISIONS) (AMENDMENT No. 16) (JERSEY) REGULATIONS 200-

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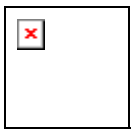
Lodged au Greffe on 11th December 2001
by the Housing Committee



STATES OF JERSEY

STATES GREFFE

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Report

On 21st November 2000 the Housing Committee lodged au Greffe a report and proposition to the States as follows -

"THE STATES are asked to decide whether they are of opinion -

(a) to agree, in principle, that the Housing (General Provisions) (Jersey) Regulations 1970, as amended, should be amended in order to reduce the twenty-year residence rule to nineteen years with immediate effect; and

(b) to agree that further reductions in the required residence period should be made in stages, as soon as is practicable, until a fifteen-year residence requirement is reached."

On 16th January 2001 the States debated the proposition, which was approved by a clear majority. The previous 20-year rule continuous residence requirement in the Regulations was immediately reduced to 19.

Members who have served on the Housing Committee will be well aware of the high degree of stress suffered by families without residential qualifications who have been permanently resident in the Island for many years and who have decided to start a family. Despite both partners working, it is extremely difficult to obtain even what most people would consider accommodation of a minimum standard in which to bring up young children. There is no doubt that these circumstances are the cause both currently, and potentially in the future, of a high degree of social unrest that stems from children being brought up in such restricted circumstances with a lack of ability to learn normal social skills through the provision of what the average person would accept as decent living accommodation.

These problems have been highlighted by many agencies in the Island, including the Church, Children's Services, Eradication of Poverty Group and Citizens' Advice Bureau. At every meeting the Housing Committee considers distressing cases making application under the hardship clause. The cases that come before the Committee are extreme but reflect a situation whereby some schoolchildren, born in Jersey, may refer to home as a room number. Behind that room number the family will live, sleep and eat in an area less than half the size of a standard one-bedroom flat. The adults in the family will undoubtedly be working long hours simply to pay for their inadequate accommodation, with no prospects of obtaining better because the cost is so high. These people are not newcomers to the Island. They are long-standing residents who pay their taxes and contribute to the Island's economy. Returning to whence they came is not an option because Jersey is their home and has been for many years.

Although there has been a slight increase in proposed new lodging houses, this is helpful in the short-term but should not be viewed as a solution to this wider housing problem. Whilst the Committee is concerned at the continual increase in the population by way of immigration, with a resultant increased demand on the housing stock, any such controls must be by other methods, and not by making life progressively uncomfortable for people whilst they are living and working in the Island. Reducing the period of residence steadily to 15 years should have no effect on any proposals to introduce immigration/population controls, but it will make a significant difference to long-term residents who have in many ways become just as important to the Island's economy as those formally granted essential employment status under the Housing Regulations. It would also allow more families with young children born in the Island to bring up their children in a stable home environment, something which is very difficult to achieve, particularly for those on modest incomes in the lodging sector.

Before the debate reducing the 20-year period to 19 years, fears were expressed that by reducing the period, additional demand would be put on the local housing stock which would have an adverse effect on local families seeking suitable accommodation for themselves. Whilst early predictions were that this figure would be likely to be in the region of 100 additional households qualifying a year, the reality has been that for the period January to September 2001, the additional number of persons qualifying by virtue of the period being reduced from 20 to 19 years was 26. It is estimated that this figure by the end of 2001 will be no more than 40, and therefore the Committee has no reason to believe that reducing the residence period by one further year will have a particularly negative impact on those already qualified and seeking accommodation.

There are no manpower implications for the States and the financial implications are minimal. The financial implications arise mainly from the number of persons who will, if the States agree to reducing the qualifying period by one year, be entitled to claim rent subsidy one year earlier than anticipated. For example, if 25 persons gaining qualifications earlier than anticipated were entitled to £2,500 each in rental subsidy the States would pay out £62,500 in subsidy with effect from 2002 instead of 2003. This would apply as a "one-off" for each year of reduction in the qualifying period. There could also be "one-off" cost in providing some additional social rented housing, but again this is only a brought-forward cost and not the absolute cost which would arise if the person benefiting would have moved from a position of never qualifying to qualifying.

With regard to the Human Rights (Jersey) Law 2000 which comes into force in 2002, the Housing Committee is currently

reviewing its legislation and policy to ensure compatibility with the Law. In general the Committee believes, on the basis of a case considered in 1987 by the European Court of Human Rights, that it is entitled to discriminate against newcomers to the Island in determining who should have full access to the regulated housing stock. This is because Jersey has a limited land resource and may therefore take appropriate measures to ensure that this is used in the first instance for the benefit of the existing resident population. The Committee is satisfied that Human Rights are not breached by simply seeking to restrict access by newcomers to the Island to the regulated housing stock. However, requiring a residence period of 19 or 18 years with its resultant denial to the individual of access to the housing stock could be interpreted as an interference in a person's right to respect for private and family life.

For the reasons outlined above and in the interest of fairness, the Committee strongly believes that the continuous period of residence required to obtain housing qualifications should be reduced with immediate effect to 18 years, with the aim as previously approved by the States, of subsequently reducing this period further as soon as is practicable.

Explanatory Note

Regulation 1 of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, provides that for the purposes of Article 10 of the Housing (Jersey) Law 1949, the Housing Committee shall consent to a sale or transfer of land or a lease if the Committee is satisfied that the intending purchaser, transferee or lessee has been ordinarily resident in the Island for a continuous period of at least 19 years immediately preceding his application.

The effect of these amending Regulations would be to reduce that qualifying period to 18 years.

If made, the amending Regulations will come into force on the day after they are promulgated.

Housing (Jersey) Law 1949

HOUSING (GENERAL PROVISIONS) (AMENDMENT No. 16) (JERSEY) REGULATIONS 200-

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(Promulgated on the day of 200-)

STATES OF JERSEY

The day of 200-

THE STATES, in pursuance of Articles 10 and 15 of the Housing (Jersey) Law 1949, as amended,[1] have made the following Regulations -

1. In the Housing (General Provisions) (Jersey) Regulations 1970,[2] as amended[3] -

(a) in Regulation 1(1)(f), for the word "nineteen" there shall be substituted the word "eighteen";

(b) in Regulation 1(2C), for the word "nineteen" there shall be substituted the word "eighteen".

2. These Regulations may be cited as the Housing (General Provisions) (Amendment No. 16) (Jersey) Regulations 200- and shall come into force on the day following promulgation.

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[1] Recueil des Lois, Tome VII, pages 539 and 543, and Volume 1992-1993, page 117.

[2] No. 5444.

[3] Nos. 8866 and 16/2001.