

STATES OF JERSEY

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DRAFT HOUSING (AMENDMENT No. 12)(JERSEY) LAW 200-

**Lodged au Greffe on 6th September 2005
by the Housing Committee**

STATES GREFFE



Jersey

DRAFT HOUSING (AMENDMENT No. 12)(JERSEY) LAW 200-

European Convention on Human Rights

The President of the Housing Committee has made the following statement –

In the view of the Housing Committee the provisions of the Draft Housing (Amendment No. 12) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Deputy T.J. Le Main of St. Helier**

REPORT

1. The registration in the Royal Court of the ownership of property by way of inheritance is not subject to any part of the Housing Law and Regulations, hence a person inheriting a property in the Island, whether or not they have residential qualifications, is automatically entitled, along with their family, to occupy that property. Although this lack of control has been evident, and available since the inception of the Housing Regulations, it is only in recent years at a time of increased demand on the housing stock, and with the operation of the 1(1)(j) category contract policy, that the issue became one of concern.
2. If an inherited property is subject to either a purchase or a lease application, that transaction is one which enables the Housing Committee to regain control of occupation. Generally, as there is no opportunity for the Committee to impose occupancy conditions on inherited properties, it is possible for the owner to enter into a licence agreement which enables an occupant, irrespective of residential status, to be able to occupy the property in return for an agreed payment. Any such individual does not have security of tenure, nor exclusive right of occupation, but this arrangement is utilised to in effect evade the controls contained in the Housing Regulations.
3. Occupation of inherited property can be by inheritors currently living outside the Island, and therefore not having residential qualifications, or more usually by local spouse/siblings of the former owner. As this market became more attractive an increasing number of locally qualified people, on inheriting property, sought to have it occupied by way of licence as opposed to seeking local tenants. It certainly enables both locally qualified persons and employers to exploit this loophole in the Housing Law and Regulations. Employers found it more expedient to move ex-five-year 1(1)(j) category employees into this sector rather than suffering the disruptions of employing a new five-year 1(1)(j) post-holder. This ability to in effect evade the contract policy objectives diluted the effectiveness of this still current States approved policy.
4. It should be noted that it is impossible to estimate the number of inherited properties in the Island, but it is known that many are occupied by persons without residential qualifications at a higher “rent” than would be the case if they were occupied by locally qualified persons. The lack of control has on occasions caused locally qualified people to be evicted from uncontrolled accommodation in order that a landlord can gain greater returns by entering into a license agreement with persons without residential qualifications.
5. The Housing Committee in the past has agreed that it should take steps to close this loophole, but has had differing views as to what extent any control could be retrospective. Irrespective of whether or not they possess residential qualifications, it has never been the intention, neither would it be acceptable, to deny the person inheriting a property the right to occupy. The issue which the Committee addressed is whether any control should affect properties inherited to date, or whether the control should be effective only from the date of States approval of any amendment to the Law and Regulations.
6. The Committee has decided that any control introduced should only be effective from the date of enactment – previously inherited properties would gradually feed back into the controlled sector when sold on.
7. This means of proposed control is very similar to that brought in, in 1995, which closed an earlier loophole relating to the occupation of dégrèvement property. This automatically imposes 1(1)(a)-(h) occupancy conditions on any property obtained by dégrèvement since June 1993, or on a property inherited by a body corporate since that date.
8. The Committee sees no conflict between these proposals and the policy to be achieved following the establishment of the Population Office approved as part of the Migration Policy. Whilst the current 1(1)(j) contract policy is still in force, it is likely this will be amended as new policy develops.

Financial/manpower statement

This Draft Law has no implications for the financial or manpower resources of the States.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the

Committee in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 26th August 2005 the Housing Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Housing Committee the provisions of the Draft Housing (Amendment No. 12) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

Article 1 inserts a new Article 7A into the Housing (Jersey) Law 1949. The Article will place a condition on land that is inherited after the commencement of this amending Law. The condition will require that only the inheritor occupying the house as his or her sole or principal place of residence or as holiday accommodation, or a person otherwise qualified under the Regulations to occupy land without the consent of the Committee, may occupy the land without the consent of the Committee.

Article 2 amends the proposed Article 7A so as to take into account the move to ministerial government set out in the States of Jersey Law 2005.

Article 3 specifies the name by which this Law may be cited and when it will come into effect.



Jersey

DRAFT HOUSING (AMENDMENT No. 12)(JERSEY) LAW 200-

A LAW to further amend the Housing (Jersey) Law 1949.

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 7A inserted

In the Housing (Jersey) Law 1949^[1] there shall be inserted after Article 7 the following Article–

“7A Condition on land acquired by inheritance

If, after the date on which the Housing (Amendment No. 12) (Jersey) Law 200 comes into force, any land is acquired by inheritance (other than by a body corporate), the land shall be deemed to have been acquired subject to the condition that any unit of dwelling accommodation on the land at the time of the inheritance or which is created on the land after the inheritance, shall not, without the consent of the Committee, be occupied by a person other than –

- (a) the person who inherited the land, occupying the unit of dwelling accommodation as his or her sole or principal place of residence or as holiday accommodation; or
- (b) a person who is within a class of persons specified in Regulations made under Articles 14 and 21.”.

2 Machinery of government amendment

In Article 7A of the Housing (Jersey) Law 1949 for the word “Committee” there shall be substituted the word “Minister”.

3 Citation and commencement

- (1) This Law may be cited as the Housing (Amendment No. 12) (Jersey) Law 200.
- (2) This Law, apart from Article 2, shall come into force on the seventh day following its registration.
- (3) Subject to paragraph (4), Article 2 shall come into force on the same day as Article 1 comes in force.

- (4) If Article 1 is in force before Article 42(3) of the States of Jersey Law 2005 comes into force Article 2 shall come into force on the same day as the said Article 42(3).

[\[1\]](#) Chapter 18.315.