STATES OF JERSEY

DRAFT RESIDENTIAL TENANCY (JERSEY) AMENDMENT LAW 202-

Lodged au Greffe on 25th March 2025
by the Minister for Housing
Earliest date for debate: 13th May 2025

STATES GREFFE

Jersey

DRAFT RESIDENTIAL TENANCY (JERSEY) AMENDMENT LAW 202-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Housing has made the following statement –

In the view of the Minister for Housing, the provisions of the Draft Residential Tenancy (Jersey) Amendment Law 202- are compatible with the Convention Rights.

Signed: **Deputy S.Y. Mézec of St. Helier South**

Minister for Housing

Dated: 24th March 2025

REPORT

The amendments to the Residential Tenancy (Jersey) Law 2011 (the "2011 Law"), if adopted, will strengthen Jersey's legal framework for residential tenancies. The amendments deliver on the Common Strategic Policy (2024-2026) commitment to improve arrangements for tenants and landlords.

Jersey is facing a housing crisis that, if unchecked, poses a significant threat to the Island's future prosperity and will discourage many young people from considering Jersey as a place where they can settle down and build a future.

It is the duty of a responsible government to implement policies that ensure Islanders have access to safe, secure, and affordable homes that meet their needs. The rental market plays an important role in helping to meet this objective, with half of the households in Jersey today living in rental accommodation. The rental market must be supported by a modern and fit-for-purpose legal framework that helps to protect tenants and landlords, which, it must be said, is not currently the case.

When the 2011 Law was introduced over a decade ago, it was an important step forward in providing legislative protection for tenants and landlords in Jersey. It attempted to create a fair and transparent mechanism to regulate the contractual relationship between landlords and tenants. It introduced provisions for contents and basic terms of tenancy agreements and powers for the introduction of Regulations and Orders to deal with matters such as deposits, condition reports and the supply of services.

Whilst the 2011 Law has undoubtedly had a positive impact on Jersey's rental market, over time it has become increasingly apparent that the protection it offers does not go far enough, with aspects of the law needing substantial improvement. Tenants can be evicted from their home without reason, which therefore leaves them vulnerable to revenge evictions. Tenants can also face excessive or unreasonable rent hikes with little or no warning, and there have been many cases where tenants have been surprised by hidden fees not set out in the tenancy agreement. This can push tenants into financial hardship and ultimately undermines their security of tenure.

Although most landlords are good landlords who treat their tenants reasonably, this is not always the case. Similarly, whilst most tenants are responsible and look after the homes they live in, landlords must at times deal with problems created by tenants who do not meet their contractual obligations. The time has come for a meaningful and proportionate enhancement of the 2011 Law, so that when things do go wrong in landlord-tenant relationships, there are minimum guarantees (greater protections) and more clearly defined rights and responsibilities that tenants and landlords can have confidence in.

Previous governments and Housing Ministers have made various commitments to review and introduce new legislation for residential tenancies. But a lack of substantive progress and many missed deadlines have, unfortunately, been consistent themes – until now. After the current government was formed in early 2024, improving the experience of renters was designated as one of three housing ministerial policy priorities. A decision was made to simplify existing unwieldy and complex legislative proposals that could have taken years to implement and instead pursue a primary law amendment to the 2011 Law, making a smaller number of essential legislative changes, deliverable within the current government term. Figure 1 (below) shows the policy development process from the initial proposals in 2023 through to lodging in 2025.

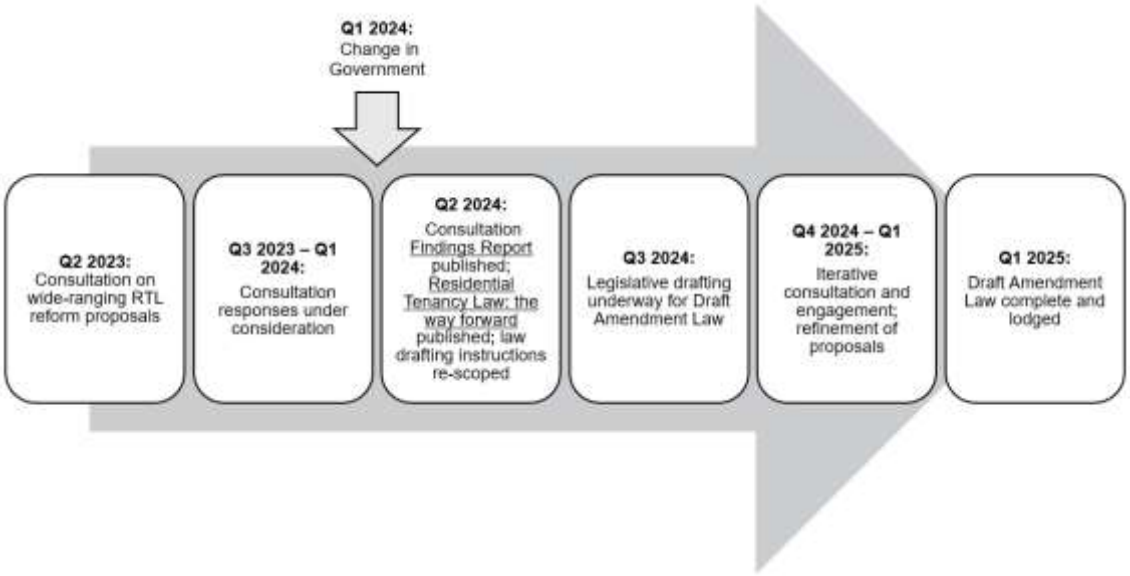

Figure 1: Policy development process

These legislative changes are lodged as the Draft Residential Tenancy (Jersey) Amendment Law 202- (the "Draft Amendment Law"). The high-level policy objectives of the Draft Amendment Law are as follows:

- Enhance security of tenure for tenants, principally through notice provisions and rent stabilising measures.
- Encourage more settled longer tenancies for tenants, which also benefit landlords through reduced costs associated with high rates of tenant turnover.
- Ensure Landlords can continue to make a stable rental return and reclaim their properties when they need them.
- Establish explicit provisions that allow landlords to serve shorter notice to deal with unforeseen circumstances or bad tenants.
- Ensure landlords and tenants have clearly set out responsibilities.

Improving conditions for renters and giving them confidence that they can enjoy more security and affordability in their homes has benefits for everyone, including good landlords who have nothing to fear from the changes. Consultation with stakeholders about the Draft Amendment Law, including representatives of landlords and those who assist tenants, has been an important element of the process. Relevant internal stakeholders, states owned entities, and external stakeholders have been involved throughout the policy development and legislative design process.

External stakeholders who have been engaged and consulted with on the Draft Amendment Law proposals:

- Environment, Housing and Infrastructure Scrutiny Panel
- Jersey Landlords' Association
- Chamber of Commerce
- Jersey Hospitality Association
- Jersey Farmers Union

- Jersey Homes Trust
- Les Vaux housing trust
- FB Cottages / Clos de Paradis Trust
- Comité des Connétables
- Office of the Children's Commissioner
- Citizens Advice Jersey
- Homelessness Cluster
- Jersey Bankers Association
- Tribunal Service
- Judiciary

Feedback from stakeholders on the proposed measures has been overwhelmingly positive, with recognition that the changes are reasonable and proportionate. This is in no small part because the interests of landlords and industry, not just tenants, have been represented in the policies underpinning the Draft Amendment Law. It is however acknowledged that there are some landlords in Jersey who remain concerned about the proposals, which close engagement and consultation with landlord representatives has sought to allay throughout the policy development process. Ultimately, the States Assembly must expect that it will not please everyone all the time, and that often concerns are borne of a fear of change.

There has been sustained engagement with the Environment, Housing and Infrastructure Scrutiny Panel ("the Scrutiny Panel") throughout the development of the Draft Amendment Law, through a mix of public hearings and private briefings, with details concerning the legislative changes passed to the Scrutiny Panel on request. It has been agreed with the Scrutiny Panel that the lodging period for the Draft Amendment Law will be extended to accommodate the time the Scrutiny Panel will need to review the Draft Amendment Law.

Key messages

Below is a high-level summary of what the Draft Amendment Law proposals mean (and what they do not mean):

1. **The Draft Amendment Law does not change the premises that are within scope of the 2011 Law**. Therefore, non-self-contained lodging houses or staff accommodation will continue to be out of scope. Non-self-contained dwellings remain an important issue, but the complexity of the issue means it must be considered at a later time.
2. **Landlords will still have control of their properties and can serve notice if they need to reclaim them**, which is no different to the current situation. What is different is that when landlords serve notice, they will need to explain why they need their property back, which should be for one of several reasons set out in the Draft Amendment Law (see 'New residential tenancy agreement' section, below). To be clear, notice issued to a tenant because they have sought to uphold their rights would be invalid.
3. **It will still be possible to have a fixed term agreement,** of up to 3 years. Under the fixed or "initial" term, if a minimum amount of notice (3 months) is served before its expiry date, a landlord can end the tenancy, no reason needed. However, there can be no consecutive fixed term tenancy agreements with the same tenant. Either

the tenancy ends at the end of the initial term, or it becomes periodic automatically. This initial term offers flexibility, so that if a landlord knows they are likely to need their property back by a certain time (e.g., they plan to sell), this type of agreement (with an expiry date) can be used at the outset, with all parties being clear as to where they stand. The initial term can also act as a probationary period, allowing confidence to build in the landlord-tenant relationship before the agreement rolls over into a periodic tenancy.

4. **Under periodic tenancies, landlords will need to serve longer notice to tenants who have lived in the residential unit for a long time.** Under existing periodic tenancies, the statutory minimum notice period is 3 months. Under the Draft Amendment Law, in normal circumstances, the minimum notice period will be 3 months, increasing to 6 months for tenants who have lived in the residential unit continuously for more than 5 years. This is a reasonable amount of notice for longstanding tenants and will simply require landlords to plan more in advance if they need to reclaim their property.

5. **Landlords can serve shorter periods of notice**, regardless of whether the tenancy agreement is for an initial term or is a periodic tenancy, to ensure landlords can reclaim their property in unexpected circumstances or if they are dealing with bad tenants. Depending on the circumstance these shorter notice periods can be for 1 month (e.g., breach of contract) or 7 days (e.g., nuisance behaviour). In some of these circumstances (e.g., breach of contract) landlords will be required to give tenants an opportunity to correct any issues before serving notice to end the tenancy.

6. **In all circumstances under a periodic tenancy, a tenant can give 1 months' notice** and will not need a reason. During an initial term, a tenant can serve a minimum of 1 months' notice before the end of the initial term to end the tenancy and will need to give 1 months' notice should they need to end the initial term early or activate a break clause.

7. **At the outset of an initial term only, landlords and tenants can agree to include a break clause provision** which, if a minimum amount of notice is served and any stipulations agreed at the outset of the tenancy agreement are met, would allow either party to end the initial term agreement early.

8. **A landlord and tenant will still be able to end a tenancy by mutual agreement**, whether initial term or periodic, at the time of their choosing.

9. **Landlords can still increase rents** if the increase is consistent with the rent stabilisation provisions of the Draft Amendment Law. Rents must increase by no more than once per year, with 2 months' notice, and by RPI capped at 5% ("the statutory limit"). **Landlords can also increase rents by more than the statutory limit** if they have invested in the residential unit to the tenant's benefit, or the level of rent charged has fallen significantly behind the market value. In these circumstances landlords will need to cite at least one of these two reasons when notifying the tenant of an exception to the rent increase cap.

10. **Landlords do not need to apply to the Rent Tribunal for permission to increase rents by more than the statutory limit**. The Rent Tribunal becomes involved only if a tenant decides to appeal a rent increase, believing it has been applied unlawfully, or that there is insufficient justification for a rent increase above the statutory limit. Most landlords and tenants, in the normal course of their relationship, should be able to manage rent increases privately, making referrals to the Rent Tribunal the exception rather than the rule.

11. **The Petty Debts Court will retain jurisdiction over all residential tenancy matters except for the rent stabilisation provisions**, which will be regulated by the Rent Tribunal.

12. **The Rent Tribunal will be independent of the Government of Jersey and part of the Tribunal Service of the Judicial Greffe**. Rent Tribunal members will have a balance of legal qualifications and housing expertise and will be appointed by the States Assembly. Landlords and tenants can have confidence that the decisions the Rent Tribunal reaches are evidence-based and impartial.

13. **Social housing providers and certain landlord-employers can be exempted from the rent stabilisation provisions of the Draft Amendment Law.** With respect to social housing providers, as defined in the Draft Amendment Law, if they have a written agreement with the Minister for Housing about how their rents should increase, they can be exempted from the rent stabilisation provisions of the Draft Amendment Law. Similarly, landlord-employers with employees living in self-contained residential units,[1] but who deduct rent from their wages according to minimum wage offsets, would also be exempted from the rent stabilisation provisions of the Draft Amendment Law. In each of these circumstances rent increases would not be open to consideration by the Rent Tribunal.

14. **There will be no caps imposed on fees and charges**. The Draft Amendment Law will instead ensure there is clarity in residential tenancy agreements around who arranges and pays for which services, and who arranges and pays for the maintenance and repair of any related equipment. The Draft Amendment Law will also require there to be clarity on landlords and tenants' responsibilities (including any fees) when ending an initial term early. This will ensure that tenants can make informed decisions and not be surprised by hidden costs.

15. **Landlords will need to insure their property.** Building insurance must be comprehensive enough to cover any risk, loss, or damage for which the residential unit can be reasonably insured. Tenants will not be required to have contents insurance, although there is nothing to stop this being a condition of a tenancy agreement.

16. **Landlords will be required to submit information on the amount they are charging for rent.** The intention is to collect this information alongside the Rented Dwellings Licensing Scheme to ease the administrative burden on landlords. It will also provide needed statistical insight into actual rents charged in the rental sector over time, which should also be of use to the Rent Tribunal in making decisions.

17. **Transitional arrangements from the 2011 Law to the Draft Amendment Law have been designed to reduce disruption to the rental sector.** Fixed term agreements that pre-date the Draft Amendment Law (and remain unvaried) will be allowed to reach their natural conclusion under the terms of the 2011 Law. Landlords can enter a new agreement with the same tenant under the Draft Amendment Law with a "clean slate" (including setting the rent level and starting with an initial term). However, periodic tenancies that pre-date the commencement of the Draft Amendment Law will become periodic tenancies automatically under the Draft Amendment Law on commencement. Any new agreements (whether initial term or periodic) entered post-commencement will need to comply with the Draft Amendment Law.

[1] Any agreements between landlord-employers and tenant-employees who live in non-self-contained dwellings, excluded under the 2011 Law, will not be in scope of the Draft Amendment Law and therefore not in scope of the rent stabilisation provisions.

Scope

In contrast to proposals envisaged by previous governments, the premises to which this Draft Amendment Law applies will remain unchanged.

The Draft Amendment Law will continue to apply to "residential units", which are self-contained dwellings, comprising a shower or bath, a washbasin, a kitchen, a sleeping space and a lavatory for the exclusive use of the occupants. Shared facilities such as gardens, swimming pools, or parking areas, do not mean the dwelling is not self-contained.

Whilst there are deficiencies in the legislative framework for non-self-contained dwellings, attempting to include these premises as part of the amendments would only serve to delay and complicate the Draft Amendment Law. Legislation for non-self-contained dwellings will be reviewed once the most substantive part of the rental market has been addressed through the implementation of the Draft Amendment Law.

New residential tenancy agreement

The 2011 Law allows for either consecutive fixed terms, where tenants face uncertainty at each renewal period as to whether they will be able to remain in their homes for a further period, or periodic tenancies where landlords are able to give 3 months' notice, no reason needed. This leaves tenants vulnerable to "revenge evictions" and can make them afraid to make simple requests of a landlord or complain rightfully about issues like mould and damp in case they are handed notice.

Instead, a new type of residential tenancy agreement will be introduced to change the current system. This will set periodic tenancies as the norm but allow for an optional initial term of up to 3 years, which can be ended by either party before it becomes periodic. The initial term option also offers landlords and tenants a "probation period" of sorts, where they can decide whether the arrangement is a good fit. This balanced and flexible approach provides for enhanced notice provisions and protection against no-fault evictions; enhancing tenants' security of tenure, whilst allowing landlords to reclaim their properties when they need them back.

Consecutive fixed term agreements will not be possible. These limit flexibility for tenants and do not provide the security of tenure that a periodic tenancy with specified reasons for notice would provide. At the end of the initial term, an agreement will either be ended (with appropriate notice, no reason needed) or will become periodic automatically, where a reason for notice will be required, and longer notice will be possible for longstanding tenants (five or more years). A comprehensive list of reasons for notice will be set out in the Draft Amendment Law (see Table 1, below).

Tenants must give landlords 1 months' notice in all circumstances where they wish to end a tenancy, no reason needed. During an initial term, tenants may end the tenancy either by "breaking" their lease early,[2] or give the minimum notice before the end of the initial term if they do not wish the tenancy to become periodic. During periodic tenancies, tenants can give 1 months' notice at any time during the tenancy.

During an initial term, landlords may end the tenancy either by breaking the lease early (see footnote 2), giving 3 months' notice, or they must give tenants at least 3 months' notice before the end of the initial term. Landlords will not need to provide a reason for ending an initial term agreement.

During a periodic tenancy, landlords may only end the tenancy for specific reasons, with notice periods ranging from 7 days to 6 months depending on the circumstances. The shorter minimum notice periods (i.e., 1 month or 7 days) are applicable to both initial term and periodic tenancies,

[2] It will be a requirement for a tenancy agreement to set out any obligations for the landlord and tenant when breaking a lease early, regardless of whether the agreement contains a "break date".

allowing landlords to reclaim their properties more quickly in unexpected circumstances or if they are dealing with bad tenants.

Reasons for notice that require longer notice periods (i.e., 3 or 6 months) allow landlords to regain possession of their property for reasonable reasons, such as wanting to move into the property, renovating it, or selling it. This strikes a balance between landlords retaining control over their property and ensuring tenants have sufficient notice reflective of the time they have spent making the residential unit their home. Under the Draft Amendment Law, if tenants have been in the residential unit for 5 years or more, they will be entitled to 6 months' notice for these reasons, whereas if they have been in the residential unit for less than 5 years, they will be entitled to 3 months' notice. These reasons for notice with extended notice periods will only apply to periodic tenancies. The rationale is that a landlord should wait for an initial term to end before renovating the property, selling it, or needing to move into it, because they will know when the term is to end and can plan around this. Equally, during periodic tenancies, landlords should plan for renovations, selling properties or changing their use well in advance, which is reflected in the longer notice periods to notify tenants.

Landlords may end a residential tenancy for a certain reason during an initial term or a periodic tenancy by giving tenants written notice of at least the specified period, as follows:

Reason	**Initial term**	**Periodic tenancy**
Landlord intends to sell the residential unit or change its use	This reason for notice is not allowed for initial term tenancies ("Not allowed")	3 months if tenancy is under 5 years long, 6 months if tenancy is over 5 years long ("3 or 6 months")
Landlord intends to renovate the residential unit	Not allowed	3 or 6 months
Landlord or their family member intends to occupy the residential unit for 6 months or more	Not allowed	3 or 6 months
Landlord requires a helper to occupy the residential unit for 6 months or more	Not allowed	3 or 6 months
Social housing residential unit is under-occupied	3 months	3 or 6 months
Tenant is not able to occupy the residential unit because of the tenant's residential status, or the residential unit's housing category	3 months	3 months
Tenant has seriously breached tenancy agreement, and the landlord has given the tenant notice to correct the breach, but the tenant has not done so	1 month	1 month
Residential unit is uninhabitable	1 month	1 month
Tenant has breached a requirement of the landlord's ownership document, and the landlord has given the tenant	1 month	1 month

notice to correct the breach, but the tenant has not done so		
Tenant has breached a requirement of the landlord's insurance policy, and the landlord has given the tenant notice to correct the breach, but the tenant has not done so	1 month	1 month
Residential unit has been left empty for 2 months or another period specified in the tenancy agreement	1 month	1 month
Tenant's employment (tied to accommodation) has ended, or the employment contract provides for how the tenancy may be ended before the employment ends	7 days	7 days
Tenant's work permit or visa has ended	7 days	7 days
Tenant has caused or permitted the residential unit to be used for illegal purposes, or caused or permitted a serious or repeated nuisance	7 days	7 days
Tenant is not able to occupy the residential unit because the tenant's residential status was provided based on incorrect information	7 days	7 days

Table 1 – Reasons for notice and notice periods

During stakeholder engagement and consultation with landlord representatives, it was suggested that landlords would benefit from feeling more confident that they could regain possession of their property after giving notice. To support this, the proposals were changed to set out some notice reasons as mandatory grounds for eviction (if vacant possession is not complied with). These mandatory grounds include reasons for notice such as selling the property or renovating it, and more objective shorter notice reasons such as the tenant's visa or work permit expiring. The Petty Debts Court will retain discretion to issue a stay of eviction if in the circumstances it considers it just to do so, which will serve to protect tenants in case reasons for notice are misused.

As an additional protective measure, there will be an offence for knowingly or recklessly giving a false or misleading reason for notice, which would result in a maximum fine of Level 3 on the standard scale (£10,000). Separately, tenants will have recourse to the Petty Debts Court to recover any losses from landlords due to being served a false or misleading reason for notice.

Rent stabilisation

The increase in private rental households in Jersey has reinforced the policy and legislative imperative to improve conditions in the rental sector. The cost of private rents in Jersey has risen faster than earnings in recent years, which has had a negative impact on affordability.

The Findings Report of the Residential Tenancy Law Reform public consultation (April 2024) indicated that tenant respondents were concerned by the high cost of rents and by the extent of unjustified rent increases for properties in poor condition, along with limited notice of rent increases. The Jersey Opinions and Lifestyle Survey Report 2024 has also reported that half of adults living in rented property felt they had a significant rent increase in the last 3 years, and of those adults, 64% reported finding it difficult to meet the cost of their housing.

The Draft Amendment Law provides an opportunity to introduce a statutory safety-net to protect tenants from incidences of excessive, unreasonable, or unexpected rent increases that will enhance security of tenure and improve the experience of renters in Jersey. This measure should contribute to mitigating the worsening trend of rental stress set out in the Island Outcomes Indicators report.

This Draft Amendment Law contains measures that will:

- limit rent increases to once per year.
- require a minimum 2 months' notice of a rent increase.
- cap the amount by which rent can increase in one go (the "statutory limit") – Jersey Retail Prices Index ("RPI")[3] capped at 5%.

These measures will apply to rent increases within tenancies, so landlords will be free to reset rents without restriction in between tenancies. There will also be a provision that ensures that during rare periods of deflation, rents cannot be decreased within tenancies and will instead remain at the rent level before the review period.

Exemptions from these measures will be possible for certain groups of landlords as follows:

- Social housing providers who have alternative rent stabilising measures agreed with the Minister for Housing.
- Landlord-employers who deduct rent from tenant-employees' wages and the rent per week is increased to no more than the maximum amount specified in Article 3A(3) of the Employment (Minimum Wage) (Jersey) Order 2007.

Exceptions to the statutory limit (RPI capped at 5%) will be possible if:

- The landlord has invested in the property to the tenant's benefit, or
- The level of rent charged has fallen significantly below the market value.

Permitting these exceptions is intended to encourage landlords to explain proposed rent increases to tenants. This will promote transparency, generate trust in landlord-tenant relations and will encourage landlords to think carefully before issuing a rent increase that may be challenging for tenants to meet. If landlords can present a reasonable justification as to why they are increasing rent above the statutory limit, it is anticipated that many tenants will not dispute it.

As such, these rent stabilisation measures are a soft form of "third generation" rent control that are designed to promote positive behavioural changes and enhance tenants' security of tenure, whilst retaining some important flexibility for landlords around how they increase their rents.

Careful consideration was given to which metric to use. Officers explored a long list of options that were then shortlisted and reevaluated. RPI capped at 5% performed consistently well across the evaluative process, which was conducted with the support of the Economics Department. Over the recorded period of RPI data in Jersey (36 years), RPI has rarely and briefly exceeded 5%,

[3] This index uses the most recently published All Items RPI percentage difference from the previous year, e.g., from December 2023 to December 2024, All Items RPI increased by 2.5% Jersey Retail Prices Index December 2024

averaging 4.1% overall. There was a period of high inflation between March 1989 and March 1993 where RPI averaged 7.8%, and Jersey recently experienced a period of high inflation between March 2022 and March 2024, where RPI averaged 9.3%. Aside from those two high inflationary periods, RPI has exceeded 5% for only three short periods which each spanned no more than two quarters and never averaged more than 6%.

During the most recent period of high inflation, there is some evidence that landlords exercised restraint, and many increased their rents significantly below inflation, if at all. Nevertheless, it is important to futureproof the Draft Amendment Law for the possibility of sustained periods of high inflation. The Draft Amendment Law includes a Regulation-making power which allows the States Assembly to amend the 5% cap on RPI. This provision would allow the States Assembly to increase the 5% cap or even remove it in periods of high inflation, if it were considered necessary to do so. It is noted that the exception of allowing rent to be increased above the statutory limit if the rent has fallen significantly below the market value also provides landlords with flexibility during periods of high inflation, where market prices undoubtedly increase.

It is also important that the rent increase metric used sits well with existing practices to limit unintended consequences. Consultation with industry professionals and other stakeholders has established that RPI is commonly used in tenancy agreements as a rent increase metric. From anecdotal evidence and indications from the Findings Report of the 2023 public consultation, it is apparent that RPI capped at 5% is currently used by some landlords and managing agents in their tenancy agreements.

Advice from the Law Officers' Department and the Legislative Drafting Office is that this percentage metric is suited to being set out in primary legislation, together with the power to amend the 5% cap by Regulations, which aligns with advice from the Economics Department to ensure that it can be futureproofed in case of periods of sustained high inflation to allow landlords to continue to realise a stable return. The ability for the States Assembly to amend the amount at their discretion makes this option more flexible and responsive to economic conditions relative to other options that were evaluated.

The 5% cap protects tenants from unmanageable rent increases in a way that no other indexing option was able to do in periods of high inflation. It also avoids above-inflation increases, which other options – such as an average of RPI – would not do. The statutory limit therefore protects tenants from unfair or unmanageable rent increases, whilst the exceptions allow landlords to be recompensed fairly if they invest in their properties to the tenant's benefit, or if their property's rent is significantly below its market value. The ability of the Rent Tribunal to adjudicate on these matters (see 'Rent Tribunal' section, below) further works towards achieving a just rental sector, where there can be confidence that tenants will not be priced out of their homes, and equally landlords will not be priced out of the market.

Rent Tribunal

For the rent stabilisation provisions of the Draft Amendment Law to operate, a statutory mechanism is needed to regulate them. It was decided that the best means of achieving this was through a Rent Tribunal, that will receive, evaluate, and decide on referrals as to whether proposed rent increases are consistent with the rent stabilisation provisions of the Draft Amendment Law.

As with the general rent stabilisation measures, the Rent Tribunal's remit will be limited to rent increases within, and not between, residential tenancy agreements and will therefore not be involved in setting rents, which will remain a matter for landlords and tenants at the outset of a tenancy agreement. The Rent Tribunal will be responsible for regulating the rent stabilisation provisions of the Draft Amendment Law only, with all other residential tenancy matters remaining under the exclusive jurisdiction of the Petty Debts Court.

Landlords will not need to apply to the Rent Tribunal for permission to increase rents above the statutory limit (RPI capped at 5%), with the Rent Tribunal becoming involved only if a tenant

decides to appeal a rent increase, in the belief that it is unlawful or because there are insufficient grounds to justify an increase above the statutory limit. Most landlords and tenants, in the normal course of their relationship, should be able to manage rent increases privately, making referrals to the Rent Tribunal the exception rather than the rule.

If a tenant decides to appeal a rent increase, they will need to do so within 2 months and 2 weeks (10 weeks) of the landlord giving notice of the increase, with any extension to this deadline on exceptional grounds being a decision for the Rent Tribunal.

The Rent Tribunal will use the Draft Amendment Law's rent stabilisation provisions to make decisions about rent increases and can:

- Decide if a rent has been increased more than once in a year.
- Decide if a rent has been increased with less than 2 months' written notice.
- Decide if a rent has been increased by more than the statutory limit (RPI capped at 5%), without the requisite justification required by the Draft Amendment Law.
- Decide if an exception to the statutory limit, with the requisite justification required by the Draft Amendment Law, is allowed.
- Decide if a social housing provider or landlord-employer is exempt from the rent stabilisation provisions as set out in the Draft Amendment Law.

For example, if a rent is increased above RPI capped at 5% and the landlord gives the tenant the lawful amount of notice as well as the justification (e.g., renovation that has improved the property to the tenant's benefit), and the tenant doubts whether the improvements are worth the proposed increase, the tenant can decide to appeal to the Rent Tribunal, who would determine whether the increase was justified and therefore lawful.

Generally, if the Rent Tribunal finds in favour of a landlord, then the rent increase will proceed as proposed. But where the Rent Tribunal upholds a tenant's appeal, it can order a correction as appropriate for the circumstances, e.g., a landlord might need to reimburse a tenant a certain amount and – should the landlord fail to comply – the tenant could recover the amount as a civil debt through the Petty Debt's Court.

There are limitations to what the Rent Tribunal can and cannot order. For example, whilst the Rent Tribunal can order a rent increase to conform with statutory limit, it cannot order the increase to be less than the statutory limit. Nor can the Rent Tribunal order a rent increase to be more than the amount proposed by landlord. The decision of the Rent Tribunal is binding until the next rent review period for the tenancy agreement, unless the decision is overturned on appeal (explained further below).

It may arise that a tenant has applied to the Rent Tribunal, but the Rent Tribunal has not been able to decide before the rent increase is scheduled to start, in which case the tenant may continue to pay the existing level of rent until the Rent Tribunal decides. In this type of situation, but where the tenant is appealing a rent increase that is more than the statutory limit but is otherwise lawful, the tenant can pay a rent increase that is up to (but not exceeding) the statutory limit until the Rent Tribunal decides. Once the Rent Tribunal decides, the tenant will either need to pay any extra amount owed, or the landlord must repay any amount that was overpaid.

The Rent Tribunal will reach decisions independently of the Minister for Housing and Government of Jersey. It will be part of the Tribunal Service of the Judicial Greffe, which has the requisite operational expertise in administering this type of body. Rent Tribunal members will have a balance of legal qualifications and housing expertise. The Minister for Housing, having consulted the Jersey Appointments Commission, will nominate the members of the Rent Tribunal for approval by the States Assembly. There will also be limitations on who can serve on the Rent Tribunal, such as elected officials and States Employment Board (SEB) officials (including within

2 years of being in these roles). Landlords and tenants can therefore have real confidence that the decisions the Rent Tribunal reaches are evidence-based, impartial and credible.

Decisions of the Rent Tribunal will be appealable to the Royal Court on point of law only, as the Rent Tribunal in all other regards will be considered best qualified to reach decisions on issues within its competence. Leave of the Rent Tribunal to appeal must be applied within 28 days of the Rent Tribunal's decision, and if the Rent Tribunal does not grant leave, leave to appeal may be granted by the Royal Court if applied for within a period required by its rules of court. In applying for leave to appeal, a person may also apply for a stay of the of the decision until leave can no longer be granted or the appeal is determined.

The Rent Tribunal offers a statutory safeguard for tenants, allowing them to challenge unlawful rent increases. There is also a legal route through the Petty Debts Court should a tenant need to recover rent-related payments connected to an unlawful increase. These safeguards make it unnecessary to create a criminal offence for landlords who have either proposed or applied an unlawful rent increase. However, any person – whether landlord or tenant, and without reasonable excuse – who acts in relation to the Rent Tribunal in a way that would be contempt of court if the Rent Tribunal were the Royal Court, could be liable to imprisonment for a term of up to 6 months and a maximum fine of Level 3 on the standard scale (£10,000).

Most of the important provisions for the Rent Tribunal are contained within the Draft Amendment Law, although procedural elements for the day-to-day operation of the Rent Tribunal will be established through secondary legislation that will be ready by the time the Draft Amendment Law is in operation. Engagement with the Judicial Greffier has ensured that the legislative design of the Rent Tribunal is aligned with the practices of the Judicial Greffe. As such the Rent Tribunal will be composed of a Chair and Deputy Chair who are legally qualified, and other members who should have the requisite skills and/or experience appropriate for making determinations on rental matters.

Outcomes will be determined by majority decision of a quorate Rent Tribunal, with the Chair having a casting vote if there is a split decision.

In May 2023 the States Assembly adopted a proposal within P.18/2023 - Rent Control Measures to "*establish a body, such as a Rent Tribunal or Housing Commission, to adjudicate on disputes arising from rent control or breaches of contract which may necessitate the termination of a tenancy*". The introduction of the Rent Tribunal is consistent with the expressed will of the States Assembly, at least regarding disputes arising from rent increases. The approach of the Draft Amendment Law has been to keep wider residential tenancy matters the exclusive purview of the Petty Debts Court, and as such the Rent Tribunal will not be a Housing Tribunal, as was put forward in earlier legislative reform proposals.

Although the general rent stabilisation provisions of the Draft Amendment Law should be easy to comply with, the subset of rent increase "exceptions", where a landlord increases the rent by more than the statutory limit, are likely to be more subjective in their nature and therefore most likely to generate referrals to the Rent Tribunal for adjudication. It is anticipated that a new measure in the Draft Amendment Law that requires landlords to submit information on the rent they are charging (see 'Rents charged data' section, below) will, in time, offer landlords, tenants and the Rent Tribunal a reliable means of gauging the market value.

As a new approach, it has not been possible to draw from comparable tribunals or services to estimate the number of cases that could arise for the Rent Tribunal. However, relevant data from Citizens Advice Jersey helped to create an estimate for the Rent Tribunal to be able to consider a minimum of 40 cases annually.

The appointment of the Rent Tribunal will be accompanied by the repeal of the Dwelling Houses (Rent Control) Jersey Law 1946 and its Rent Control Tribunal, which has remained unused for close to 20 years. It was decided that the outdated legislation for the Rent Control Tribunal was both misaligned with the policy objectives for rent stabilisation and not fit for purpose in creating

a tribunal that conforms to the modern practices of the Tribunal Service. It is anticipated that the Rent Tribunal will be ready for appointment soon after the Draft Amendment Law is commenced.

Rents charged data

Without data on actual rents charged, our understanding of what is really going on in the rental sector is limited. The Draft Amendment Law provides a valuable opportunity to collect this important data, which has been missing over recent years. Over time this would yield valuable insights to the economic conditions of the rental sector.

To address this data gap for the rental sector, the Draft Amendment Law will require landlords to submit information on, and relating to, the amount of rent they are charging for their property. Over time this will build a valuable dataset reflecting actual rents charged in the rental market that will help inform both tenants and landlords and can be used by Rent Tribunal as needed to help resolve disputes about rent increases.

There is historic precedent in Jersey for landlords submitting rental data, with information having been collected across the rental market under the authority of the Housing (Jersey) Law 1949. This information was used by the former Housing Department to understand actual rents being charged in the rental market to make informed decisions relating to the provision of a rent rebate.

This legal requirement for landlords to supply relevant information on rents charged fell away with the introduction of the Control of Housing and Work (Jersey) Law 2012. Since then, the only means of assessing Jersey's rental market has been through engagement with various stakeholders and industry experts such as estate agents (who manage tenancy agreements), and through the Jersey Private Sector Rental Index ("PSRI") provided by Statistics Jersey in the quarterly House Price Index.

The PSRI is produced from advertised rental prices collected from a variety of both internet and classified sources rather than actual rents that are being charged. The Fiscal Policy Panel's Housing Market Review (April 2024) considered reliance on advertised information to be a limitation because it does not reflect actual rents.[4] As the advertising of rental properties shifts more towards social media, accurate collection of this data is becoming more challenging, and Statistics Jersey considers data collected from advertised rents to be a stop gap measure until a more reliable method of collection is developed.

Consideration was given to several data collection options on rents charged, with the objective of striking a balance between the least onerous data collection method with the most comprehensive and wide-ranging submission to capture as much of the rental market as possible. Consideration was also given to utilising existing systems and where efficiencies of process could be optimised.

On balance, collecting the data alongside the Rented Dwellings Licensing Scheme is considered to offer the best means of collecting data on rents charged because of its unique ability to routinely gather data on many rental properties. This scheme includes a requirement for all landlords to register for a licence for each of their properties and re-register every two years for renewal of this licence. The success of this scheme and the related processes have been impressive, and to date just under 18,000 licences have been issued.

It is therefore proposed that a parallel process will run alongside the Rented Dwellings Licensing Scheme to collect relevant information on rents. As landlords or their agents submit their application for a licence, they will be asked for rental information at the same time. Collecting the information in this way is a pragmatic approach that seeks to ease the burden of submission for landlords, whilst ensuring compliance and the receipt of data on an ongoing basis through the biennial license renewal process.

[4] Jersey's Fiscal Policy Panel Housing Market Review.pdf see Key Finding 5 on p.5

The Draft Amendment Law will not be prescriptive as to what information relating to rents is to be collected and this will be set out by Ministerial Order. This reflects previous practice under the Housing (Jersey) Law 1949 and allows flexibility in setting information requirements that are based on considerations such as the avoidance of burden for a landlord and facilitating ongoing engagement, development of a reasonable database that is fit for purpose, as a well as the practicalities of managing the data.

If a landlord fails to provide information on rents charged, or knowingly or recklessly provides false or misleading information on rents charged, the landlord commits an offence and is liable to a fine of Level 2 on the standard scale (£1,000).

Fees and charges

Tenants can be stung by hidden fees, which are often unreasonable, and leave them with no choice but to pay up. As such, the Draft Amendment Law will require transparency on fees and charges so that there are no "hidden costs".

This change is intended to give confidence to tenants that, provided they have read their tenancy agreement carefully, there will be no unwelcome surprises as to what fees or charges they may be responsible for.

It is important to be clear that there will be no statutory limits on fees and charges, in recognition that landlords and managing agents have different business models and it is not the intention to undermine these. Rather, the change is intended as an important step to give tenants more agency in the decisions they make. Whilst there is an inherent imbalance in the negotiating power of landlords and tenants when entering into tenancy agreements, tenants as a minimum should be able to read about any fees or charges that they may be liable for, so they can make informed choices about whether those fees and charges are fair or manageable and whether to sign the tenancy agreement in the first place.

The tenancy agreement must set any requirements that the landlord or tenant must satisfy in order end an initial term early without giving a reason (i.e., "breaking" the lease). This means that any "finders fees" or other requirements must be set out so that anyone breaking the lease is aware of their obligations.

The tenancy agreement must also set out who will arrange/pay for the supply of services (such as electricity, gas, and water) and the maintenance and repair of the related equipment, and who will maintain and repair any white goods, fixtures or furnishings that are included with the residential tenancy.

The tenancy agreement must state that if the tenant pays the landlord or managing agent any rent or other amount that is not payable under the residential tenancy, then the landlord must repay the amount within 10 working days after the day the landlord became aware that the amount was not payable. In these circumstances, should a landlord fail to reimburse the tenant, the tenant would be free to approach the Petty Debts Court to recover the sum as a civil debt.

If a tenant requests a receipt within 5 working days after paying rent or other amounts under the residential tenancy, the landlord must give the tenant the receipt within 5 working days of the date on which the receipt was requested.

Overall, it is anticipated that this additional clarity should improve landlord-tenant relations by reducing uncertainty and miscommunication.

Uninhabitable residences and landlord insurance

It is essential that tenants can live in a safe and habitable home, which can act as a benchmark upon which to measure the quality of tenure. Whilst the work undertaken in the Rented Dwellings Licencing Scheme helps to ensure the ongoing quality of provision in the rental market,

unforeseen circumstances may arise that cause a residential unit to become damaged to such an extent that it becomes uninhabitable. The Draft Amendment Law sets out the actions and responsibility for costs and rent payments should the worst happen.

If a residential unit suffers damage and becomes uninhabitable, and this has been assessed to be the case by an officer qualified to make such a determination, then the tenant must vacate the property.

Under these circumstances, the tenant will not be required to pay rent or any other costs associated with their tenancy agreement from the date that the property became uninhabitable. If the tenant has paid rent or other costs in advance, then the landlord is required to reimburse these funds from the date that the residential unit became uninhabitable. A tenant is not expected to pay for a home that they cannot or should not live in.

Such circumstances can be disruptive to both the tenant and the landlord, and solutions can often be sought with mutual agreement as part of a good landlord-tenant relationship. If the landlord can provide alternative temporary accommodation that is of an appropriate standard, and the tenant agrees to move into the temporary accommodation, then rent can continue to be paid to the landlord.

It is recognised that damage can also be caused by the reckless or intentional conduct of the tenant and if this is the case, the landlord will not be required to repay any rent or other amount paid for any part of the affected period unless required to do so by an order of the Petty Debts Court (for example, if the Petty Debts Court finds that the amount exceeds the cost of the damage caused by the tenant).

If a tenant is not responsible for the residential unit becoming uninhabitable, then they will not be required to compensate a landlord for any damages or costs that arise as a result.

Under the Draft Amendment Law, the landlord must, for the duration of the residential tenancy, insure the residential unit against any risk, loss or damage for which it can reasonably be insured for, such as damage caused by fire, storm, flood or subsidence. This will be a contractual obligation.

Whilst it is advisable for tenants to have comprehensive contents insurance to protect their belongings, this will not be a legal requirement. This is because a landlord's building insurance affects both the tenant and landlord, whereas contents insurance mainly applies to a tenant's possessions like their furniture or elements that may be covered by a deposit should damage occur. However, some parts of a property like carpets and white goods mean it may be preferable for a tenant to have contents insurance to protect the landlord's potential loss (in case, e.g., carpets are damaged by a flood). Indeed, it is known anecdotally that many tenancy agreements require tenants to have contents insurance and there is nothing in the Draft Amendment Law to prevent this being a condition of a tenancy agreement.

Contacting a landlord

A tenant may need to report a concern or may be experiencing an emergency involving their home and as such should be able to notify and inform their landlord or managing agent at short notice and receive a timely response. Therefore, under the Draft Amendment Law, a residential tenancy agreement must specify the name of the landlord and managing agent (if any), their business address, and daytime and out-of-hours telephone numbers, so that tenants can have confidence that they have a means of contact, including for issues that require immediate attention.

Transitional arrangements

It is anticipated that the Draft Amendment Law will come into force via a day specified by the Minister by Order (known as a Commencement Order).

In designing the transitional arrangements for the Draft Amendment Law, it was important to ensure there were no sudden changes that could risk creating negative unintended consequences for the rental sector, leaving landlords and managing agents scrambling to update their tenancy agreements and make overnight changes to their practices. Likewise, it would be unfair and unduly onerous to set a cut-off date at which point all residential tenancy agreements would need to comply with the Draft Amendment Law.

Instead, a staggered approach will be adopted that will allow fixed term agreements that pre-date the commencement of the Draft Amendment Law ("pre-existing fixed term agreements") to reach their natural conclusion, and these agreements will not need to change to comply with the Draft Amendment Law. Pre-existing fixed term agreements would therefore continue to operate after the Draft Amendment Law has been enacted and would be subject to the requirements of the 2011 Law until the fixed term is ended or reaches its natural conclusion in accordance with the tenancy agreement.

However, if the pre-existing fixed term agreement is varied, either a periodic tenancy will arise, or the parties may enter into a new agreement that complies with the Draft Amendment Law. For the avoidance of doubt, carrying out a rent review will not constitute "varying" the tenancy agreement. If a landlord wants to enter a new tenancy agreement – under the Draft Amendment Law – with the same tenant, they can proceed as if they are dealing with a new tenant, i.e., with a new agreement that is either periodic from the outset or after an initial term; no need to consider how long the tenant has already lived in the property; freedom to agree the rent level anew, with no application of a rent increase restriction between the pre-existing fixed term agreement and the new agreement under the Draft Amendment Law.

With respect to periodic tenancies that pre-date the commencement of the Draft Amendment Law ("pre-existing periodic agreements"), these will be treated differently to pre-existing fixed term agreements because they have no end date. Instead, they will become periodic tenancies automatically under the Draft Amendment Law as soon as it commences, subject to all the provisions of the Draft Amendment Law, including notice provisions. This will mean that for a sitting tenant who has lived in a rental property for more than 5 years, they will qualify for the minimum statutory notice period of 6 months for several reasons for notice. For a sitting tenant who has lived in a rental property for less than 5 years, they will qualify for the minimum statutory notice period of 3 months for several reasons for notice. However, the length of time they have lived in the residential unit prior to commencement of the Draft Amendment Law will be considered, so they may achieve the 6 months' notice period sooner (i.e., once they have lived in the residential unit for 5 years).

The Government of Jersey will not attempt to enforce Article 4 of the 2011 Law (to be retained in the Draft Amendment Law)[5] as a transitional measure so there will be no pressure on landlords or managing agents to update these agreements by a fixed deadline, which will reduce any associated administrative burden. Except for pre-existing fixed term agreements, which can run their course under the 2011 Law, the Draft Amendment Law will apply to all agreements on enactment, regardless of whether the old agreement has been replaced physically. Therefore, landlords and tenants of pre-existing periodic agreements should know that they have the rights and responsibilities afforded to them under the Draft Amendment Law regardless of whether their tenancy agreement reflects this. It will be at the landlord's own risk if they decide not to update their agreement. A tenant would be entitled to take a complaint to the Petty Debts Court (as a civil matter) for any agreement that does not comply with Article 4(1). The Petty Debts Court will have the power to require a written tenancy agreement consistent with the Draft Amendment Law's requirements and can vary or end a tenancy in these circumstances.

[5] Article 4 deals with the essential provisions of residential tenancy agreements, including a requirement to comply with Schedules 1 and 2 as set out in the 2011 Law.

Any new agreements (initial term or periodic) entered into post-commencement will need to comply with the Draft Amendment Law.

The transitional arrangements for pre-existing fixed term agreements that end after commencement of the Draft Amendment Law should (where possible) respect the provisions in the agreement that set out what happens when the tenancy ends. For example, if a pre-existing fixed term agreement were to state that "*if the tenancy expires, and the tenant continues to live in the property, then the tenancy continues on the basis of a recurrent period*" – in these circumstances the tenancy would be treated as a periodic tenancy under the Draft Amendment Law, which means the landlord could only end the agreement for the reasons provided under the Draft Amendment Law. For the avoidance of doubt, in these circumstances the time spent in the property (under the pre-existing fixed term agreement) would not count towards the total duration of the new periodic tenancy. To avoid a pre-existing fixed term tenancy rolling into a new periodic tenancy automatically under the Draft Amendment Law, the landlord or tenant would need to act before the expiry of the pre-existing fixed term agreement, e.g., giving notice as required by the agreement. If notice was given to end the pre-existing fixed term agreement, there would be nothing to prevent a landlord and tenant from entering a new agreement under the Draft Amendment Law (that could be periodic or for an initial term).

In another example, if a pre-existing fixed term agreement states that "*it ends after the end date unless…* [some sort of action is taken, e.g., a request from a tenant for the agreement to be extended as a periodic tenancy after the fixed term ends]", and if no action is taken, then the tenancy would have ended, and a periodic tenancy would not be created automatically. Therefore, a landlord would simply be able to regain possession as provided for under the 2011 Law. However, in this sort of circumstance, where the old tenancy has ended but the tenant continues to occupy the same residential unit, with the landlord accepting rent for any appreciable period of time, it is possible that, as per Article 3(3)(a)[6] of the 2011 Law (to be retained in the Draft Amendment Law), the landlord and tenant would be implying that they have entered into a new residential tenancy agreement, which would be treated as a periodic tenancy under the Draft Amendment Law[7].

To be clear, it is not possible to provide certainty as to whether a tenancy will eventually become periodic after it has ended because of the implied actions of a landlord or tenant. These sorts of circumstances may ultimately be tested and determined at the Petty Debts Court. But it is worth landlords and tenants being aware that the operation of Article 3(3)(a) could lead to the creation of a new periodic tenancy under the Draft Amendment Law in these sorts of circumstances.

It is recognised that some tenancy agreements require one of the parties to the agreement to give notice at the end of a fixed term that they intend to end the tenancy so that it does not roll into a periodic tenancy. As such, if, after the law is enacted but before the pre-existing fixed term agreement ends, the landlord (for example) fails to give the required amount of notice before the end of the tenancy, then the tenancy can be extended for an additional period as necessary to honour the minimum notice in the agreement. This will allow landlords to consider whether they wish for the pre-existing fixed term tenancy to evolve into a periodic tenancy under the Draft Amendment Law and give tenants an appropriate amount of time to consider their next steps if the tenancy is to be ended. As above, once the tenancy has ended, nothing would prevent the landlord and tenant agreeing a new initial term or periodic tenancy under the Draft Amendment Law.

Finally, with respect to the Rent Tribunal, it will be constituted once its members are appointed, which can only be after the Draft Amendment Law is enacted. The Rent Tribunal will be appointed as soon as possible after commencement, which will mean that all tenants whose

[6] Article 3(3)(a): For the purposes of this Law, an agreement is no less a residential tenancy agreement just because – (a) it is partly or wholly implied, or partly or wholly oral.

[7] The tenancy could only be periodic in nature as there would be no agreed fixed term.

agreements comply with the Draft Amendment Law (i.e., all new agreements and pre-existing periodic tenancies) will be able to contest any rent increases that they are notified about post-commencement. For the avoidance of doubt, action cannot be taken on rent increases issued prior to commencement.

Financial and staffing implications

The proposals include the establishment of a Rent Tribunal under the Tribunal Service to adjudicate on rent matters. A draft Business Case has been prepared which identifies an expected ongoing revenue requirement of £130,000 per annum, principally funding Rent Tribunal member remuneration and administrative support.

The revenue requirements for this are planned to be substantially offset by a £90,000 internal budget transfer of funds which were secured in the 2021 Government Plan for tenants' rights. The remaining budget requirements (£40,000) will be addressed in the Budget 2026 process.

There are expected to be some unfunded cost pressures in 2025, principally relating to administrative set-up costs to enable the Tribunal to become operational prior to the enactment of the Law, which are anticipated to be manageable within forecast departmental underspends.

Children's Rights Impact Assessment

A Children's Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

Human Rights

The notes on the human rights aspects of the Draft Amendment Law in the **Appendix** have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX TO REPORT

Human Rights Notes on the Draft Residential Tenancy (Jersey) Amendment Law 202-

These notes have been prepared in respect of the draft Residential Tenancy (Jersey) Amendment Law 202- (the "draft Law") by the Law Officers' Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers' opinion, the draft Law, in the form reviewed by them, is compatible with the European Convention on Human Rights ("ECHR").

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The draft Law, if passed, would make several amendments to the Residential Tenancy (Jersey) Law 2011 (the "Law"). The key amendments for the purposes of these notes are –

a. Amendments to the format of residential tenancies that may be granted under the Law (and associated provisions providing for the transition of existing residential tenancies under the draft Law at commencement). Landlords would have the option of granting a periodic tenancy, or granting an initial fixed term of 3 years after which, if the fixed term ends without the tenancy being ended by notice, the residential tenancy will become a periodic tenancy.

b. The introduction of revised notice provisions by which fixed term and periodic tenancies can be ended, at their expiry or during their term, and the conditions for doing so. This would include a requirement for landlords to serve extended notice to tenants who have lived in the residential unit for a substantial period, and provision requiring the giving of a notice by a landlord stating one reason from a specified list of reasons for ending a tenancy during the initial term or the periodic term.

c. The introduction of provisions implementing a rent increase cap and a requirement to serve advance notice of rent increases on tenants. Several exceptions and exemptions to these rent stabilisation provisions would be provided for certain landlords, specifically landlords who had invested in the property to the tenant's benefit, or who owned residential units where the level of rent charged has fallen significantly behind the market rental rate, and for social housing providers and landlord-employers.

d. Enhanced provision determining the obligations of landlord and tenant when a residential unit is deemed to be uninhabitable.

e. The introduction of provisions for the establishment, constitution and functions of a new tribunal, the Rent Tribunal, to determine rent stabilisation disputes between landlord and tenant.

Words and phrases in these notes have the meaning given in the draft Law, and references to provisions are to those in the draft Law, unless otherwise stated.

These notes provide an assessment of the ECHR compatibility of the principal amendments that would be made to the Law by the draft Law. Other than the matters addressed in these notes, there are considered to be no substantial human rights issues engaged.

Reform of nature of residential tenancy that may be granted under the Law

Article 6 of the draft Law would substitute a new Part 3 to the Law. New Part 3 would, inter alia, establish a revised format of residential tenancy agreement (new Article 6). The Law in its current form allows for the granting of periodic tenancies or a fixed term of up to 9 years or consecutive fixed terms. The Law, if amended, would revise the format of residential tenancies so that a residential tenancy could be granted only as either a periodic tenancy at the outset, or as a single initial term of up to 3 years. The Law, as amended, would not permit consecutive fixed terms with the same tenant. The landlord and tenant would have the option of the fixed term tenancy ending at the expiry of the initial term or opting for it to continue only as a periodic tenancy.

The draft Law, at Articles 20 and 23, would also insert a new Article 24A and Schedule 3, respectively, to the Law setting out transitional provisions for the commencement of the draft Law. In outline, these provisions would enable fixed term residential tenancies that were entered into before the commencement of the draft Law to continue under the Law as amended but governed by the Law largely as if it were unamended by the draft Law. The residential tenancy would not, however, be permitted to be varied or renewed (despite its provisions), i.e. so a further fixed term could not be granted at the expiry of the fixed term. Instead, at the expiry of the fixed term, a periodic tenancy would arise (as would be the case with new tenancies granted under the Law, as amended) or the parties would be free to enter into a new fixed term agreement that complies with the Law, as amended. Periodic tenancies that pre-date the commencement of the draft Law would be transitioned to periodic tenancies as governed under the Law, as amended, at the commencement of the draft Law, and would, in particular, be subject to the new notice provisions in the draft Law (see further below).

In policy terms, the current approach of landlords granting consecutive fixed terms is considered to contribute to tenants being in a position of insecurity at the end of each fixed term, uncertain as to whether their landlord will agree to a further fixed term or seek to take possession of the residential unit. The revised format of residential tenancies – in particular the prohibition on consecutive terms, the transition to a periodic term if the tenancy is not ended by the landlord by notice at the end of the fixed term, and the requirement for reasoned notice to end a tenancy during the periodic term (see below) – is thought to contribute to greater security for tenants in their tenancies. For landlords, the changes are thought to offer improved flexibility in tenancy arrangements, so that if a landlord planned to take possession of a residential unit by a certain date in the future, the landlord, and the tenant, can be assured from the outset of the tenancy that the tenancy arrangement would come to an end by that date. It is also considered that the initial fixed term would act as a form of 'probationary period', allowing confidence to build in the landlord-tenant relationship before the agreement transitions into a periodic tenancy.

The revised residential tenancy format will engage a landlord's right to property under Article 1 of the First Protocol to the ECHR ("A1P1"). The introduction of provision permitting a residential tenancy for an initial term of only 3 years, and the prevention of consecutive terms, and alternatively for enabling a periodic tenancy to arise are likely to constitute an interference with the A1P1 right as these measures regulate the way in which the landlord can utilize and offer their property as a leasehold unit.

An interference will be deemed compatible with A1P1 if the measure in question is in accordance with the law and pursues a legitimate aim by means reasonably proportionate to the aim sought to be realised. It is considered that the interferences imposed through the revised tenancy measures noted above constitute a "control of use" of property for the purposes of A1P1 rather than depriving a landlord of their property rights or asset. There is existing ECHR jurisprudence which has found other comparable regulatory action in relation to landowners and tenants to amount to control of use.

In ECHR terms, the revised residential tenancy measures would be in accordance with the law as they would be provided for in domestic legislation in a way that would be foreseeable and certain. The measures would, in general terms, be considered to be in pursuit of a legitimate aim. That

legitimate aim might be said to be improving or enhancing the regulation of the residential tenancy market in Jersey, which in policy terms is considered to be a key objective for, and anticipated outcome of the implementation of, the residential tenancy measures outlined here. The policy expectation is that the measures would provide greater security in residential tenancies and offer greater flexibility in how residential tenancies are arranged. They are considered to be proportionate to meeting the general legitimate aim, balancing the interests of landlords and tenants. For completeness, it is noted too that the State benefits from a broad margin of appreciation in implementing domestic measures in housing matters that engage A1P1, and it is considered that the residential tenancy reform measures in the draft Law outlined above would come within that margin.

Ending a tenancy – notice provisions and periods

The revised residential tenancy format set out in Article 6 of the draft Law would also include new and detailed provisions for the notice period required to be given by a landlord or tenant in a residential tenancy agreement, where the tenancy is sought to be brought to an end when the initial term ends, or during the initial term or during a periodic term. The relevant provisions are –

a. New Article 6C: provides the required notice period to be given by a landlord or tenant when a tenancy is to terminate at the end of the initial term. A landlord is required to give 3 months' notice; a tenant is required to give 1 months' notice.

b. New Article 6D: provides the required notice period to be given by a landlord or tenant when a tenancy is to terminate during the initial term. A landlord is required to give 3 months' notice; a tenant is required to give 1 months' notice, each without having to give a reason for ending the tenancy but complying with any requirement in the residential tenancy agreement as to the giving of the notice.

c. New Article 6E: provides the required notice period to be given by a tenant when a tenancy is to terminate during a periodic tenancy. A tenant must give 1 months' written notice, but is not required to give a reason for seeking to end the tenancy.

d. New Article 6F: provides the required notice period to be given by a landlord when a tenancy is to terminate during either an initial term or during a periodic term. The landlord may only terminate a tenancy if one of a prescribed list of reasons for terminating the tenancy is given in the notice, and with the notice period stipulated for that reason in the table set out in Article 6F(1). The stated notice periods range from 7-days up to 6 months, and where notice is given to terminate a periodic tenancy, the requisite notice period may be 3 or 6 months depending on the total duration of the tenant's residential tenancy (i.e. if less than 5 years, the notice period is 3 months, if 5 years or more the notice period is 6 months), see new Article 6F(2).

In ECHR terms, the key amendments are considered to be –

a. Currently, the Law allows for consecutive fixed terms or periodic tenancies where landlords can give 3 months' notice to tenants but without stating a reason for seeking to bring the tenancy to an end, essentially permitting "no-fault" evictions. The ability for landlords to pursue no-fault evictions under the Law is thought in policy terms to leave tenants vulnerable to unpredictable eviction action by landlords. New Article 6F and 6G would make provision requiring a landlord seeking to end a tenancy during the initial fixed term or periodic term to provide a specific, prescribed reason, and with associated notice periods ranging from 7-days to 6 months depending on the circumstances.

b. If tenants have been in the residential unit for 5 years or more, the Law as amended would entitle the tenant to 6 months' notice, rather than 3 months' notice as is currently the case generally, and as would be required where the tenant had occupied the residential unit for less than 5 years (where 3 months' notice would be required).

These notice reform measures will engage the right to private and home life in Article 8 ECHR and the right to property in A1P1. For context, the ECHR does not guarantee a right to accommodation and housing in A1P1 terms, and many cases involving housing rights have been examined under Article 8 ECHR as regards the protection of the applicants' right to respect for their private or family life. Under A1P1, ECHR jurisprudence focusses in, among other things, to the balancing of the landlords' rights with rights granted to tenants under national law.

The measures in question are likely to constitute an interference with a landlord's A1P1 right as they regulate the way in which the landlord manages a residential tenancy and how they can bring it to an end. For example, the requirement in new Article 6F that a landlord state a reason for ending a tenancy during the initial term or periodic tenancy will to a certain extent make it more difficult for a landlord to evict a tenant. A landlord would be required to determine that a particular reason exists (i.e. the reasons stated in new Article 6F and further described in new Article 6G) and, in proceedings for the stay of execution of an eviction order under Articles 14 and 15 of the Law, as amended, the Court may, in deciding whether to order a stay of execution, consider the landlord's reason under new Article 6F for ending the tenancy (see new Article 15(2)(aa)). The requirement to give tenants extended notice periods in cases where there has been a long period of occupation will also interfere with the landlord's ability to bring a tenancy to an end on a short timescale. Provision permitting short notice periods to be given to a tenant in certain circumstances will engage the tenant's right to home life under Article 8 ECHR.

In ECHR terms, these measures would be in accordance with the law as they would be provided for in domestic legislation in a way that would be foreseeable and certain. In policy terms these measures are thought to serve the legitimate aim of enhancing the regulation of the residential tenancy market in Jersey, which contributes overall to the housing economy in Jersey.

The enhanced provisions for notice are thought to serve both landlord and tenant interests. In outline, the requirement for a landlord to give a reason for ending a tenancy will contribute to improving security of tenancies and address the identified problem of no-fault evictions. Notice reasons which may be given only where longer notice periods apply (e.g. 3 to 6 months) allow a landlord to regain possession of their property for reasonable reasons, such as wanting to renovate or sell the property but ensure tenants have sufficient notice reflective of the time they have spent making the residential unit their home. The reduced notice periods in certain cases would also provide a greater ability for landlords to regain possession of their property in times of urgent need or in pressing circumstances, and often in situations where the tenant's unlawful or detrimental conduct would reasonably necessitate expedient action.

As such, in an overall assessment, the enhanced notice provisions are considered to be proportionate in meeting the legitimate aim, carefully balancing the interests of landlords and tenants and noting especially that a system in which a landlord must give a reason for ending a tenancy does not create a disproportionate or excessive burden on landlords.

<u>New Article 6F(1)(l)-(o) – focussed analysis</u>

New Article 6F(1)(l) – (o), which would permit the landlord to serve 7-days' notice, warrant further ECHR analysis. As outlined earlier, notice periods provided to tenants will, in principle, engage Article 8 ECHR and A1P1. An interference with Article 8 ECHR will be deemed compatible if the measure in question is in accordance with the law and pursues a legitimate aim within the scope of Article 8(2) ECHR by means reasonably proportionate to the aim sought to be realised. An interference with A1P1 will be deemed compatible if the measure in question is

in accordance with the law, is in the public interest and is reasonably proportionate to that public interest. It is noted that the State benefits from a margin of appreciation in implementing domestic measures in housing matters that engage Article 8 ECHR or A1P1. The margin of appreciation is, however, narrower in respect of the rights under Article 8 ECHR compared to those protected under A1P1, regard being had to the central importance of Article 8 ECHR to the individual's identity, self-determination, physical and moral integrity, maintenance of relationships with others and a settled and secure place in the community.

A compatibility assessment of new Article 6F(1)(l) – (o) is set out below, but some statements of general application can be made at the outset –

a. in each case, the measure in question would be in accordance with the law, as the measure would be provided for in domestic legislation in a way that would be foreseeable and certain;

b. the legitimate aim or public interest in each case, for Article 8 ECHR and A1P1 purposes respectively, and the proportionality assessment are detailed in each case below; and

c. in each case, too, the notes refer, for comparative purposes, to provisions of the UK's Housing Act 1988 (the 1988 Act) which provides for the way in which certain tenancies in England and Wales, including assured shorthold tenancies, may be ended through proceedings for possession. The 1988 Act provides[8] that landlords who seek to take possession of a dwelling-house must serve notice on a tenant which, inter alia, states that the landlord intends to begin proceedings for possession of the dwelling-house on one or more of the grounds specified in the notice, and that the proceedings for possession will not begin earlier than a date specified in the notice. The 1988 Act sets out the applicable notice periods[9] by reference to prescribed grounds for possession[10]. Several of those grounds, and notice periods, have comparative relevance to the notice periods and reasons proposed in new Article 6f(1)(l) – (o), as noted in turn below.

New Article 6F(1)(l): Tenant's employment

New Article 6F(1)(l) would provide a notice period of 7-days, to be given by a landlord to a tenant, in cases where the reason for ending the tenancy is stated to be the tenant's employment. New Article 6G(2)(l) would define this reason further to mean a landlord had granted the residential tenancy to the tenant because the tenant was their employee; and either (i) the employment has ended, or been ended, in accordance with the employee's contract of employment and the Employment (Jersey) Law 2003 (the "2003 Law"); or (ii) the contract of employment provides for how the landlord may end the tenancy before the employment ends and the landlord's ending of the tenancy under this Law will comply with those provisions and the 2003 Law.

The policy rationale for proposing a 7-day notice period in these cases considers the needs of public sector and private businesses employers in Jersey, recognising that extended notice periods when a tenant-employee has been dismissed, or where the employment arrangements dictate that a residential tenancy is to be ended in accordance with transitional employee accommodation policies, might compromise workforce planning, operational interests and potentially business models of landlord-employers, for example the ability to hire a new employee to replace the outgoing employee but not having available staff accommodation to house them. The policy

[8] Section 8(3).
[9] Section 8(3A) to (4B).
[10] See Schedule 2.

rationale takes account of the need to ensure the notice period could address negative employee behaviour, for example circumstances where employees had been dismissed for serious reasons that might be prejudicial to the welfare of other employees in shared self-contained staff accommodation. The policy rationale acknowledges too that the proposed 7-day notice period would apply to a relatively small number of employment-tied self-contained rental units, noting that most staff accommodation in Jersey is non-self-contained and is not subject to the Law[11].

It is a notable tenet of the policy rationale that the 7-day notice period in Article 6F(1)(l) would apply only where the tenant's employment had ended in accordance with the employment contract and the 2003 Law, or the tenancy had been ended in accordance with the terms of the employment contract and the 2003 Law. In the former case, a tenant-employee whose employment is terminated would be provided at least the statutory minimum notice period under the 2003 Law (which ranges from one week to 12 weeks)[12], or would be offered an extended notice period under their employment contract (other than in cases of serious misconduct in which an employee's employment may be terminated without notice). That employment notice period would precede the 7-day notice period for ending the residential tenancy under the Law. The policy view is that this period of employment-related notice would, in most cases, provide the tenant-employee with a reasonable period overall within which to plan towards vacating the residential unit, and particularly in accordance with the 7-day notice period when served. In the latter case, the employment contract would set out the basis, and circumstances in which, the landlord would seek to end the tenancy, specifically circumstances relating to the transitional employee accommodation policies that several landlord-employers will have. This would mean, in practice, that a tenant-employee would have an expectation that the tenancy would be ended at a particular stage in their employment with the employer, and it would be reasonable to expect the tenant-employee to be able to vacate the residential unit on a reduced timescale in those circumstances.

In Article 8(2) and A1P1 ECHR terms, the relevant legitimate aim or public interest for imposing a short notice period in these cases might be said to be the economic well-being of the country, or the protection of the rights and freedoms of others. The ability for employers to offer comprehensive employment packages to new employees, including accommodation where those employees are recruited into the island, contributes to ensuring effective employment into the public service and many other key employment sectors and industries in Jersey. Employer-landlords have a financial and property interest in being able to attract employees, especially those from outside the island where workforce considerations will require overseas recruitment. There is a public interest in ensuring the facilitation of recruitment into the public sector in Jersey (through key workers, such as teachers, hospital workers) and recruitment by private business, and ensuring the availability of suitable residential conditions for employee-tenants coming to the island.

Assessed against these aims and public interest, it is reasonable to suggest that a 7-day period strikes a proportionate balance between the relevant interests of the landlord and tenant. As mentioned above, employer-landlords have a key interest in being able to offer vacant residential accommodation where that accommodation forms part of an employment offer. Extended notice periods might be expected to complicate or hinder recruitment efforts. It is also important, from an employer perspective, that employees whose employment is terminated for gross misconduct, or similarly serious employee conduct, are swiftly vacated from employer-provided residential accommodation. This is especially the case where other employees of the employer might also be accommodated in the same residential property, and living arrangements involving ex-employees and current employees might lead to conflict or other negative behaviour.

From a tenant's perspective, a tenant could reasonably be expected to understand the basis on which their employment could be terminated (as specified in their employment contract and as regulated by the 2003 Law), and the applicable termination notice that would need to be served

[11] See Article 2 of the Law.
[12] Article 56, Employment (Jersey) Law 2003.

by their employer to terminate their employment. A tenant could reasonably be expected to understand too that at the end of that notice period their landlord-employer would serve a 7-day notice period on them to vacate their employment-tied accommodation. While in principle it might fairly be said that this 7-day period provides limited time between the point of termination of employment and the ending of the tenancy in which to make alternative accommodation arrangements and to vacate the premises, a tenant could have no reasonable expectation other than having to vacate the residential unit if they lost their employment with the landlord-employer. On receiving notice of termination of their employment, which in many cases would amount to several weeks or months of notice, tenants would have a reasonably sufficient period overall in which to plan for, at least, alternative residential and, perhaps, employment arrangements.

On this basis, on balance, it is considered that a reasonable argument can be made that Article 6F(1)(l) and 6G(2)(l) are compatible with the ECHR. The notice period would contribute to serving important employer-landlord interests, but, combined with ordinary employment termination notice periods and contractual terms, would not result in a disproportionate burden on employee-tenants. It is reasonable that tenants would be expected to anticipate, based on their employment contracts and the applicable residential tenancy provisions, needing to make alternative residential arrangements at the point of receiving notice of termination of their employment, or where their employment contracts made clear the circumstances in which their tenancy would be terminated by their employer-landlord.

It is noted also that there is a margin of appreciation in implementing domestic measures in housing matters which should encapsulate provisions dictating arrangements for the termination of a tenancy that engage Article 8 ECHR or A1P1. It is considered that the situation of employer-landlords in an island economy and the need to ensure conditions for effective recruitment is an issue of general concern. It is suggested that it follows from this that the States would, as a result, benefit from a sufficient margin of appreciation to implement statutory measures for a 7-day period in employment termination and transitional employee accommodation cases, as an effective measure contributing to addressing the general concern.

For comparative purposes, it is noted that, while the 1988 Act does not currently appear to provide an identical ground for possession, the Renters' Rights Bill would propose to introduce to the 1988 Act a new ground for possession ('Ground 5C') relating to employment-tied tenancy accommodation[13]. The ground is comparable to Article 6F(1)(l) because it would permit a landlord to seek possession where a dwelling-house was let to the tenant in consequence of the tenant's employment by the landlord seeking possession and the tenant has ceased to be in that employment, or the tenancy was granted for the purpose of providing the tenant with accommodation during the early period of their employment, that purpose has been fulfilled and the landlord seeking possession intends to let the dwelling-house to another current or future employee of the employer. The notice period in such cases is proposed to be 2 months beginning with the date of service of the notice[14], but for the reasons stated further above, a shorter notice period can arguably be justified in the draft Law based on the prevailing policy considerations applying in Jersey.

New Article 6F(1)(m): Tenant's work permit or visa

New Article 6F(1)(m) would provide a notice period of 7-days, to be given by a landlord to a tenant, in cases where the reason for ending the tenancy is stated to be the tenant's work permit or visa. New Article 6G(2)(m) would define this reason further to mean that for employment in Jersey, the tenant requires but no longer has, and appears not to have applied for (i) a work permit under the Immigration (Work Permits) (Jersey) Rules 1995; or (i) leave to enter or remain in

[13] Schedule 1, para 14, of the Renters' Rights Bill.
[14] Section 4(3)(e) of the Renters' Rights Bill.

Jersey, a visa or another authorisation under the Immigration (Jersey) Order 2021 (the 2021 Order).

A person in Jersey on immigration permissions, including those on work permits, is required to meet the requirements for which their permissions have been issued for the duration of the authorised period. When a person no longer meets these requirements their permissions to remain in the Island and the wider Common Travel Area (CTA) are liable to cancellation. The 2021 Order provides that a person who does not have leave to remain in Jersey shall be deemed to be remaining in Jersey unlawfully[15], and in such cases a person may be removed from Jersey under the authority of the Minister for Home Affairs or an immigration officer if the person requires leave to enter or remain in Jersey but does not have it[16]. In practice, it is understood that persons who no longer have the necessary immigration permissions or work permit are given a deadline by which they must leave the CTA. This period is determined on a case-by-case basis and is normally up to a maximum period of 14 days, but there is no definitive period given in legislation or policy.

It is considered reasonable in policy terms for a landlord to seek to end a tenancy where a tenant no longer has the requisite permissions to remain in Jersey, and for the Law to provide that reason as a ground on which notice can be served. Providing a 7-day notice period, in a situation where the individual would be expected to leave the Island within 14 days, is also not considered to be an unreasonable timeframe.

In Article 8(2) ECHR and A1P1 terms, the relevant legitimate aim or public interest for imposing a short notice period in these cases might be any of national security, the economic well-being of the country, or the protection of the rights and freedoms of others. A residential tenancy law that would guarantee a tenant an extended notice period, and therefore the basis on which to assert a right to remain in occupancy of a residential unit, and within Jersey, at a time when they have been deemed to be remaining in Jersey unlawfully, might arguably represent a conflict in the policy and domestic regulation of immigration and residential tenancies. There is a national security interest in robust measures that contribute toward persons without leave to remain being removed from Jersey, and an associated economic interest in ensuring that only those with the appropriate immigration status should be enabled to live and work in Jersey. A landlord has a commercial interest, amounting to a property right, in ensuring that those who occupy their residential property do so lawfully as that contributes to ensuring a settled and financially secure return from their property. Where a tenant is occupying a residential unit unlawfully it will be in a landlord's interests to be able to quickly remove that tenant and bring in a tenant who has the requisite permissions to live and work in Jersey, and so take up a residential tenancy under the Law.

Assessed against these aims, it is considered that a 7-day period strikes a proportionate balance between the relevant interests of the landlord and tenant. A tenant who no longer had the necessary immigration and work permit permissions would be prohibited as a matter of Jersey law from occupying a residential unit, and there would be no legitimate expectation of that tenant to any right to remain in Jersey. There would, in turn, be a requirement for the tenant to take expedient measures to leave Jersey, and the likely intervention by immigration officials to oversee the individual's removal from the island. In view of the realistic need for that individual's expediency in arranging to leave Jersey within, at most, 14 days (according to immigration policy practice), it is not disproportionate to impose a 7-day notice period for the ending of the residential tenancy arrangement. From a landlord's perspective, there would be a need to manage the residential unit in compliance with applicable laws, and an interest to ensure that tenants living in the unit had the necessary immigration status to reside there. Where that turns out not to be the case, it would

[15] See various provisions in the 2021 Order.
[16] Schedule 4A, para 10(1), to the 2021 Order.

be a pressing concern of the landlord to bring in a tenant who did have the necessary status, as that would ensure a settled tenancy and, in turn, ensure a financial return from their property.

For comparative purposes, it is noted that the 1988 Act provides a similar ground for possession. 'Ground 7B' provides that a landlord may give notice of proceedings for possession if, inter alia, the tenant(s) or a person occupying the dwelling-house is disqualified because of their immigration status from occupying the dwelling-house under the tenancy. Proceedings for possession in a Ground 7B shall not be earlier than the expiry of the period of two weeks from the date of the service of the notice[17]. This provides a guiding indication that a two week notice period is considered reasonable, as a matter of English law, where the tenant does not have a requisite immigration status. It is suggested that a 7-day notice in a Jersey context is not a substantially dissimilar approach.

Article 6F(1)(n): Tenant's illegality or nuisance

New Article 6F(1)(n) would provide a notice period of 7-days, to be given by a landlord to a tenant, in cases where the reason for ending the tenancy is stated to be the tenant's illegality or nuisance. Article 6G(2)(n) would define this reason further to mean that the tenant has used, or caused or permitted the use of, the residential unit for illegal purposes; or has caused or permitted a repeated or serious nuisance in, or interference with the reasonable peace, comfort or privacy of a neighbour of, the residential unit to which a police officer or a States' employee with a relevant enforcement or regulatory function has attended.

It is considered that the illegal use of, or the tenant causing repeated or serious nuisance in, a residential unit is a reasonable ground for a landlord to give notice to bring the tenancy to an end. The landlord's interest in the residential unit – in proprietary, business and personal terms – would be impacted, potentially severely, by conduct of this nature being carried on within the property. It is reasonable too for a tenant to expect that the tenancy would be ended if illegal or serious or repeated nuisance was being carried on from a residential unit, but that a single instance of nuisance or lesser conduct would not give cause for ending the tenancy.

In Article 8(2) ECHR and A1P1 terms, the relevant legitimate aim or public interest for imposing a short notice period might be any of the economic well-being of the country, the prevention of disorder or crime, or the protection of the rights and freedoms of others. A residential tenancy law that enables landlords to deal expediently with problematic tenants would contribute to an efficient residential tenancy market, which in turn supports the island economy. It might also in some cases potentially prevent the escalation of behaviour in residential units toward criminal offending or disorder, and operate to ensure by enabling direct measures to remove problematic tenants that landlord's property interests are not compromised.

Assessed against these aims, it is considered that a 7-day period strikes a proportionate balance between the relevant interests of the landlord and tenant. In a situation where the landlord's proprietary, business and personal interest in a residential unit is potentially impacted or compromised by the tenant's unlawful conduct or nuisance, it is reasonable that the landlord would seek to regain control of the residential unit swiftly to remove that tenant from the property. A tenant in these circumstances will have a short period of notice in which to plan to leave the property, however, that is considered not to be an unreasonable timeframe, particularly as it is the tenant's conduct that will have initiated the landlord seeking to end the tenancy, and there could no expectation of a prolonged notice period in such cases.

For comparative purposes, it is noted that the 1988 Act provides a similar ground for possession. 'Ground 14' provides that a landlord may give notice of proceedings for possession if, inter alia, the tenant or a person residing in or visiting the dwelling-house has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in

[17] Section 8(4B).

a lawful activity in the locality, has been guilty of conduct causing or likely to cause a nuisance or annoyance to the landlord of the dwelling-house, or has been convicted of using the dwelling-house or allowing it to be used for immoral or illegal purposes. Proceedings for possession in a Ground 14 case can commence immediately upon the service of notice, the 1988 Act providing that the date specified in the notice shall not be earlier than the date of the service of the notice[18]. It is noted that the Law, as amended, would not permit the landlord to end the tenancy immediately, as is possible in English law, but instead would require a 7-day notice period.

Article 6F(1)(o): Tenant's residential status from incorrect information

New Article 6F(1)(o) would provide a notice period of 7 days, to be given by a landlord to a tenant, in cases where the reason for ending the tenancy is stated to be the tenant's residential status from incorrect information. Article 6G(2)(o) would define this reason further to mean that the tenant is prohibited by Article 17 of the Control of Housing and Work (Jersey) Law 2012 (the "CHWL") from occupying the residential unit because of a change in their residential and employment status that resulted from their provision of incorrect information under that Law.

The occupation of housing in Jersey is regulated under the CHWL, and Article 17(1) of that Law provides, inter alia, that a person shall not occupy a unit of dwelling accommodation that is Qualified as his or her ordinary residence unless the person is Entitled or Licensed (those capitalised terms to be understood by reference to the CHWL). Article 17(7) of the CHWL provides that it is a criminal offence for a person to occupy a unit of dwelling accommodation as his or her ordinary residence in contravention of Article 17 of the CHWL. It is, therefore, a matter of housing law and policy that a person who does not have the necessary housing qualifications to occupy a residential unit should not be permitted to stay in that property. Further, Article 18 of the Law provides that nothing in the Law shall affect the operation of the CHWL, nor should it require or permit the occupation of premises in breach of the CHWL. This ascribes to the regulation of housing in Jersey what might be considered a degree of paramountcy over the regulation of residential tenancies. It can reasonably be implied that, at a policy level, the proper regulation of entitlement to housing should be a key consideration in the balancing of landlord and tenant rights in a residential tenancy context.

In Article 8(2) ECHR and A1P1 terms, the relevant legitimate aim or public interest for imposing a short notice period might be any of the economic well-being of the country, the prevention of disorder or crime, or the protection of the rights and freedoms of others. A residential tenancy market that is regulated in harmony with the CHWL contributes to the condition of the housing economy overall. Further, ensuring that tenants are not encouraged by extended notice periods to remain in qualified accommodation in contravention of the CHWL serves to ensure, in principle, that the commission of offences under the CHWL will be mitigated. Finally, landlords have an interest in ensuring that their residential units are occupied in accordance with the CHWL.

Assessed against these aims, it is considered that a 7-day period strikes a proportionate balance between the relevant interests of the landlord and tenant. The tenant would be prohibited as a matter of Jersey law from occupying the residential unit. For any period in which the tenant occupied the property without the necessary residential status the tenant would be liable for the commission of a criminal offence. It is reasonable, therefore, to expect a tenant who was aware of these regulatory provisions to seek to leave the property in short time. In view of this, a 7-day notice period would not be a disproportionate or unreasonable timescale. From a landlord's perspective, there would be a need to manage the residential unit in compliance with applicable laws, especially housing legislation, and to ensure that tenants living in the unit had the necessary housing qualifications to reside there. Where that turns out not to be the case, it would be a pressing concern of the landlord to bring in a tenant who did have the required housing

[18] Section 8(4).

qualifications, as that would ensure a settled tenancy and, in turn, ensure a financial return from their property.

There is no directly equivalent system of housing regulation in England and Wales as that provided for in Jersey through the CHWL. There is, therefore, no equivalent provision in the 1988 Act setting out a ground for comparative purposes to the Article 6F(1)(o) ground. There is, however, comparable provision in the 1988 Act that can usefully be considered, specifically 'Ground 7B' (tenant does not have the right to rent), as discussed in detail further above, and 'Ground 17' (tenancy obtained by false pretences[19]). In each case[20], the date specified in the notice is required to not be earlier than the expiry of the period of two weeks from the date of the service of the notice. Ground 7B and 17 offer, to an extent, a guiding indication that a two week notice period is considered reasonable, as a matter of English law, where the tenant does not have a requisite right to occupy the premises (in that case, immigration rules, but by analogy that might also involve a lack of some other domestic law qualification, e.g. a housing qualification), or has established a right or qualification to occupy the premises which does not accord with the applicable law (in that case, by fraudulent means, but by analogy, that might also come as a result or providing inaccurate information in obtaining that right or qualification). It is suggested that a 7-day notice in a Jersey context is reasonable in comparison to the approach in the English law provisions cited here.

Restrictions on rent increases (new Part 3A)

Article 6 of the draft Law would insert a new Part 3A (new Articles 7A – 7G) to the draft Law. New Articles 7A – 7F would, inter alia, do the following –

a. Restrict a landlord to one increase in rent charged per year (i.e. 1 year after the day on which the rent was last set or increased), and require a minimum 2 months' notice to tenants of a rent increase (new Article 7A(2)(a)).
b. Impose a cap (annual increase in RPI, capped at 5%) on the amount by which a landlord can increase rent in one increase (new Article 7A(3)).
c. Provide an exemption from these measures in the case of social housing providers, who will have an alternative rent stabilising measures agreed with the Minister for Housing (new Article 7C); and landlord-employers who deduct rent from tenant-employees' wages and the rent per week is increased to no more than the maximum amount specified in Article 3(A)(3) of the Employment (Minimum Wage) (Jersey) Order 2007 (new Article 7B).
d. Provide an exception from the cap on amount of rent increase in the case of landlords who have undertaken work to improve the property or where the rental amount has fallen substantially below the market rate (new Article 7D).

The measures outlined above will apply to rent increases within tenancies, so landlords will be free to reset rents without restriction in between tenancies. The Rent Tribunal, to be established under new Part 3A (see Article 11) will have jurisdiction to decide whether a proposed increase in rent payable under a residential tenancy complies with the Law (new Article 7E). Where the Rent Tribunal determines that a rent increase does not comply with the Law, it will have the power to determine that the rent is to be increased by a specified amount that complies with the Law and is no more than the increase proposed by the landlord.

[19] Schedule 2.
[20] Section 8(4B).

In policy term, it is considered that the cost of private rents in Jersey has risen faster than earnings in recent years, which has had a negative impact on affordability. The Minister's Report notes the Findings Report of the Residential Tenancy Law Reform public consultation (April 2024) which indicated that tenant respondents were concerned by the high cost of rents and by the extent of unjustified rent increases for properties in poor condition, along with limited notice of rent increases. The Jersey Opinions and Lifestyle Survey Report 2024 has also reported that half of adults living in rented property felt they had a significant rent increase in the last 3 years, and of those adults, 64% reported finding it difficult to meet the cost of their housing.

The 5% rent increase cap on RPI is considered in policy terms to protect tenants from unmanageable rent increases, while an exception to the rent cap permits landlords to be recompensed fairly if they have invested in their properties to the tenant's benefit, or if their property's rent is significantly below its market value. The jurisdiction of the Rent Tribunal to adjudicate on these matters is considered to contribute toward achieving a just rental sector. Overall, the rent stabilisation measures are considered to promote positive behavioural changes and enhance tenants' security of tenure, whilst retaining some important flexibility for landlords around how they increase their rents.

The rent stabilisation measures will engage the right to property in A1P1 ECHR. It is considered that the measures constitute a "control of use" of property rather than depriving a landlord of their property rights or asset. There is existing analogous caselaw which has found other regulatory action in relation to housing to amount to control of use. An interference with the A1P1 ECHR right will be deemed compatible if the measure in question is in accordance with the law and pursues a legitimate aim by means reasonably proportionate to the aim sought to be realised.

The interference with A1P1 that would result from the rent stabilisation measures in new Part 3A would be considered to be 'in accordance with the law', as those measures would have a basis in domestic law and be viewed as sufficiently precise and accessible, therefore being foreseeable. In each case involving an alleged violation of A1P1 it must be ascertained whether by reason of the State's interference the person concerned had to bear a disproportionate and excessive burden.

It can be noted that, in spheres such as housing, States necessarily enjoy a wide margin of appreciation not only in regard to the existence of a problem of general concern warranting measures of control of individual property but also to the choice of the measures and their implementation. State control over levels of rent is one such measure and its application may often cause significant impact on the amount of rent chargeable.

Further, in situations where the operation of rent-control legislation involves wide-reaching consequences for numerous individuals and has significant economic and social consequences for the jurisdiction as a whole, the authorities must have considerable discretion in choosing the form and deciding on the extent of control over the use of property. That discretion, however considerable, is not unlimited and its exercise cannot entail consequences at variance with the ECHR standards. The European Court of Human Rights has acknowledged that difficult housing situations (for instance, shortages of dwellings or the high costs of purchasing residential property) can justify stringent tenant protection measures in the rent market and controls on rents charged.

In the present case, the policy objective for the rent stabilisation measures in the draft Law, outlined above, might be correlated with a legitimate aim of the economic well-being of the country (i.e. a robust and well-regulated residential tenancy market, and addressing a politically acknowledged housing crisis) and protection of the rights of others (protecting the interests of tenants while ensuring landlords can continue to derive value from their asset). Indeed, in ECHR jurisprudence, various regulatory measures applied by the State in the area of housing, such as rent control, have been often accepted by the Court as being in the public interest as serving the purpose of social protection of tenants.

The rent stabilisation measures are assessed to be proportionate with these legitimate aims. There is a strong policy incentive to implement measures that would contribute to addressing the politically acknowledged 'housing crisis' in Jersey, and rent stabilisation measures are considered key in contributing to the mitigation of a politically identified worsening trend of rental stress in Jersey. The measures will protect tenants from excessive, unreasonable, or unexpected rent increases, enhancing security of tenure. Balanced against these tenant interests, it is considered that the measures do not amount to the imposition of a disproportionate and excessive burden on landlords. Landlords remain able to increase the rent charged for their residential units and can also apply rent increases above the proposed statutory cap if they can bring themselves within the exemptions and exception stated in the provisions, for example where there has been significant investment in the property or the rent charged has fallen below the market rate.

Provision of rent information (new Article 7G)

Article 6 would insert new Article 7G into the Law. New Article 7G would require landlords to provide the Minister with specified information (to be further prescribed by order) relating to residential tenancies. The information requested would, in general terms, be that which relates to the rent payable under a landlord's residential tenancies, including information about each residential unit (new Article 7G(1)(a)). The Minister would be permitted to request this information if required for the purpose of informing the Minister about the market for residential tenancies and rent amounts, and allowing the Minister to provide information to the Rent Tribunal (new Article 7G(1)(b)(ii) and (3)). A landlord who fails to provide information required by the Minister under this provision, without reasonable excuse, would be subject to a criminal offence and penalty (new Article 7G(4) and (5)).

The information which is intended to be captured by new Article 7G would primarily be information concerning rents charged in residential tenancies, and contextual information about the residential units concerned. It is considered unlikely that the information requested would involve personal data relating to individuals (i.e. the personal data of tenants occupying the units). However, to the extent that personal information and data is required to be provided, then, in principle, the information gathering power in new Article 7G would have the potential to engage Article 8(1) ECHR (the right to private life). Article 8(1) ECHR has been held to protect personal data, such as names and addresses, as part of the subject's private life. Moreover, an obligation to provide data for statistical purposes has been held to amount to an interference with the Article 8(1) ECHR right and the processing of personal information collected for statistical purposes may also interfere with that right.

An interference with Article 8(1) ECHR must be justified under Article 8(2) ECHR, meaning it must be in accordance with the law; pursue one of the legitimate aims set out in Article 8(2) ECHR; and be necessary in a democratic society (i.e. proportionate to a legitimate aim).

New Article 7G would be considered to be 'in accordance with the law', the measure in question would have a basis in domestic law and be viewed as sufficiently precise and accessible, therefore being foreseeable.

A power for the Minister to require information from landlords would be considered necessary for social and economic policy reasons. The collection of this information would enable the Minister to provide the Rent Tribunal with rental market information that would inform and facilitate the discharge of aspects of the Rent Tribunal's functions under Part 3A of the Law, as amended, in particular under new Article 7D. That Article would permit (by applying an exception in such cases) a landlord to increase the rent charged for a residential unit above the rental cap set out in new Article 7A(3) if the landlord can show that, among other things, the rent has fallen significantly below the rent expected for a new residential tenancy of the type of residential unit in question. The availability to the Rent Tribunal of accurate and up to date rental market information would assist in enabling the Rent Tribunal to determine the prevailing market

rent of types of residential units. In turn, this would facilitate the Rent Tribunal deciding whether an increase in rent does or does not comply with the Law under new Article 7E(1), where that decision would rest upon the landlord establishing the increase is lawful under new Article 7D. This objective for the gathering of information under new Article 7G falls within the 'economic well-being' and 'protection of rights of others' objectives within Article 8(2) ECHR, in that the information gathering power facilitates statutory and judicial measures aimed at the safeguarding of landlord and tenant rights in rental disputes, which in turn contributes to the condition of the residential tenancy market in Jersey.

The collection of rental information by the Minister through administrative measures is proportionate to the aims noted above. It is relevant when considering the question of proportionality to consider the safeguards which mitigate the risk that the processing of this information will interfere with the right to private life. The information that may be requested using the power in new Article 7G would be that which is prescribed by order, so that the scope of information required would be clearly and precisely defined. Further, as stated earlier, while it is unlikely that the information requested would involve personal data, to the extent that it might, the power is narrowly stated, in that it relates only to rent payable and information about residential units, and relates only to information required for provision to the Rent Tribunal for the discharge of its functions under Part 3A, and can be exercised by the Minister only.

Provision relating to uninhabitable residences (new Article 9)

Article 8 of the draft Law would insert a new Article 9 to the Law. New Article 9 would make provision for the rent payment obligations of tenant and landlord in situations in which an authorised person has determined that something has caused a residential unit to become uninhabitable. In such a case, the Law as amended would permit the tenant to withhold rent payments for a period of time, unless the condition of the residential unit is a result of the intentional or reckless conduct of the tenant, or the landlord and the tenant have agreed that the landlord will provide the tenant with other appropriate accommodation until the affected period ends. In cases in which the cause of the premises being uninhabitable is the intentional or reckless conduct of the tenant, and the tenant has paid any rent or other amount that was payable under the residential tenancy agreement for any part of the affected period, the Law, as amended, would not require a landlord to repay rental amounts received from a tenant unless required by an order of the Court (for example, if the Court finds that the amount exceeds the cost of the damage caused by the tenant).

The effect of these measures, in determining situations in which rent payments can be withheld or not repaid, will interfere with the A1P1 rights of landlord and tenant. An interference with the A1P1 ECHR right will be deemed compatible if the measure in question is in accordance with the law and pursues a legitimate aim by means reasonably proportionate to the aim sought to be realised.

New Article 9 would be considered to be 'in accordance with the law', the measure in question would have a basis in domestic law and be viewed as sufficiently precise and accessible, therefore being foreseeable. The legitimate aim of the measure could be said to be the economic well-being of the country (i.e. a robust and well-regulated residential tenancy market) and protection of the rights of others (protecting the property, i.e. financial, interests of landlord and tenant in situations in which a contractual obligation to pay or repay rent might be considered disproportionate or otherwise unjustified).

New Article 9 is assessed to be proportionate with these legitimate aims. The provision addresses interests of both landlord and tenant in a carefully balanced manner so that rental payments or repayments must only be made, but are permitted to be withheld, where there are good grounds to do so. The withholding of rent payments or repayments does not constitute a disproportionate

or excessive burden on either party in these circumstances, and provisions of this nature would fall within the States' broad margin of appreciation in A1P1 matters.

Establishment, constitution and functions of Rent Tribunal (new Part 3A and Part 4A)

Article 11 of the draft Law would introduce a new Part 4A into the Law. Part 4A would set out provisions for the establishment of a new tribunal, the Rent Tribunal, its constitution, certain procedural features and functions. The jurisdiction of the Rent Tribunal is confined to determining on application specific matters relating to the rent increase restrictions in New Part 3A to the Law (discussed above), predominantly deciding whether a proposed rent increase in the rent payable under a residential tenancy complies with the Law (new Article 7E). A decision of the Rent Tribunal would be appealable to the Royal Court (new Article 13H).

Article 6(1) ECHR requires that those who face a determination of their 'civil rights and obligations' must be entitled to a 'fair and public hearing…by an independent and impartial tribunal'. The applicability of Article 6(1) ECHR in civil matters depends on the existence of a "dispute" that relates to "rights and obligations" which, arguably at least, can be said to be recognised under domestic law, and which are "civil" rights within the meaning of the ECHR.

The matters to be considered by the Rent Tribunal under new Article 7E, and in turn where necessary, by the Royal Court on appeal under new Article 13H, would involve the determination by the Tribunal of a dispute between opposing parties (landlord and tenant) that would be genuine and of a serious nature. It would involve not insignificant financial contractual obligations of the parties, and would be instigated by one of the parties (the tenant) in response to a real sense of grievance as to the rent imposed by the landlord. The proceedings before the Tribunal would also be directly decisive for the pecuniary rights in question because the powers of the Tribunal under new Article 7E would permit the Tribunal to determine that a rent increase has no effect or that the rent payable on the residential unit should in fact be increased by a specified amount.

In principle the applicability of Article 6(1) ECHR to disputes between private individuals which are classified as civil in domestic law, such as disputes between landlord and tenant under the Law, is uncontested as a matter of ECHR jurisprudence. The key "right" in question would invariably be the pecuniary right of landlords to charge and receive rent on their property. That right is provided for in domestic law, as the Law defines a residential tenancy agreement, which grants the right to occupy a residential unit, being provided "for value", i.e. rent payable to a landlord. In ECHR terms, though merely showing that a dispute is "pecuniary" in nature is not in itself sufficient to attract the applicability of Article 6(1) ECHR under its civil head, there are associated proprietary rights potentially encompassed in disputes before the Rent Tribunal which could make the proceedings as whole determinative of a "civil right" for ECHR purposes. As such, to the extent that Article 6(1) ECHR does apply to those disputes, its requirements are considered below.

Article 6(1) ECHR imposes a number of procedural guarantees, in particular that civil rights be determined by an 'independent and impartial tribunal'. The independence in question here is independence from the executive, the parties and the legislature. Access to an independent and impartial tribunal may be granted in two ways: either the decision making body itself, eg the Tribunal, complies with the requirement of Article 6(1) ECHR, or the decision making body is subject to control by a body which complies with the requirements of Article 6(1) ECHR and which has full jurisdiction. In effect, it is possible for decisions that affect civil rights to be made by bodies that do not provide all the guarantees of Article 6 ECHR, provided there is a right of review or appeal sufficient to render the proceedings compatible with Article 6 ECHR.

There are several features of an "independent and impartial tribunal" which have been set out in case law and a number of these features can be assessed against provisions relating to the establishment and constitution of the Rent Tribunal. Specifically, these features are the manner of appointment of the members of the Rent Tribunal, the term of their appointment, the existence

of guarantees against outside pressures, and a general appearance of independence. Independence does not need to be guarded by statute but should be assessed based on all the facts that are publicly known.

The appointment of a tribunal by the executive or the legislature is permissible from an Article 6 ECHR perspective, provided the appointees are free from influence or pressure when carrying out their adjudicatory role. New Article 13B provides that the members of the Rent Tribunal will be appointed by the States on recommendation of the Minister, and candidates for appointment must first be the subject of consultation between the Minister and the Jersey Appointments Commission (JAC) (new Article 13B(3)). A function of the JAC is to ensure that States' employees are appointed on merit and their recruitment is fair and conducted in accordance with best practice[21]. Appointment of Tribunal members by the States ensures their appointment is independent of the executive. The involvement of the JAC, an arms-length body, in the process contributes as a check on the merit and fair practice of a candidate's recommendation for appointment. New Article 13B(4) would also disqualify from appointment to the Tribunal a person who is currently, or within the previous 2 years had been, a States' employee.

As for independence from the legislature, it has been held, in the context of court appointments, that the fact that judges are appointed by a parliament does not by itself render them subordinate to the authorities if, once appointed, they receive no pressure or instructions in the performance of their judicial duties. The Law, as amended, would not provide the basis for any direct measures that could reasonably result in such pressure being applied to Tribunal members. Moreover, Tribunal members are disqualified from appointment if they have in the previous 2 years been a member of the States (new Article 13B(4)(c)), which provides a further check against Tribunal members with current parliamentary interests being appointed.

Another feature of independence from an Article 6 ECHR perspective centres on the term of office of tribunal members and possibility of removal. A tribunal with members having no specified term of office and who can be removed at the whim of the executive will not meet the requirements of independence. In addition, it is necessary to have a sufficiently long term of office. These features are satisfied in the draft Law: Tribunal members will be appointed for three year terms, with the possibility of serving terms of up to 9 years (new Article 13C(1)). The grounds on which a Tribunal member could be removed from post would be specified precisely in the Law (new Article 13E), ensuring that any grounds to end a Tribunal members appointment are based in law rather than at executive discretion. The existence of guarantees against outside pressure will also stem from the fact that sittings will, as a default, be held in public (new Article 13I), and from the provision of statutory rules for the procedural elements of the Tribunal (to be implemented by Order[22].

For the reasons stated above, it is considered that the Rent Tribunal might itself be considered an Article 6(1) ECHR compliant body in terms of its constitution, membership and procedural elements.

An additional guarantee of compatibility with Article 6(1) ECHR is the right of appeal from decisions of the Rent Tribunal to the Royal Court (see new Article 13H(2)), which is an independent and impartial tribunal for the purposes of Article 6(1) ECHR. The appeal ground is a point of law (new Article 13H(2)(a)), a scope of review that will enable the Court to exercise, in the context of disputes as to increases in rent, a requisite sufficient jurisdiction that provides Article 6 ECHR guarantees. Moreover, the Court has the ability to quash the impugned decision or to remit the case for a new decision by an impartial body in the adjudicatory powers set out in new Article 13H(4), which includes the Court's power to cancel the Tribunal's decision and decide the matter itself, or require the Tribunal to reconsider the matter.

[21] Article 23(1), Employment of States of Jersey Employees (Jersey) Law 2005.
[22] See new Article 23(2)(le).

Regulation power to grant powers of entry onto premises and powers of investigation (new Article 24(1)(1f))

Article 19 of the draft Law would insert a new Article 24(1)(1f) to the Law providing a regulation power to make provision enabling the granting to authorised officers powers to investigate whether a person has committed an offence or a civil penalty breach under the Law. Regulations made under this power could, among other things, include provision to enter a residential unit, a place of business or other place at any reasonable time with reasonable notice or under a warrant issued on reasonable grounds, and to enter along with any other person or equipment required for the investigation.

Powers that would permit entry by persons into private premises, and in some cases, business premises, will engage the right to private and home life in Article 8 ECHR. An interference with Article 8(1) ECHR must be justified under Article 8(2) ECHR, meaning it must be in accordance with the law; pursue one of the legitimate aims set out in Article 8(2) ECHR; and be necessary in a democratic society (i.e. proportionate to a legitimate aim).

The draft Law does not, itself, contain provisions permitting entry onto premises, and any Regulations enacted under the proposed power would need to be assessed for ECHR compatibility. The power to make Regulations for entry onto premises is, however, considered to be compatible with the ECHR in principle. The measures enabling entry onto premises, and which would engage Article 8 ECHR, will be provided for in Regulations, and would therefore be in accordance with the law. The investigation of conduct that might be a criminal offence, or is a civil penalty breach, would be in pursuit of several legitimate aims, not least the economic well-being of the country (ensuring a well-regulated residential tenancy industry), for the prevention of crime (ensuring criminal offences and civil penalty breaches can be investigated) and the protection of the rights of others (ensuring respective landlord and tenant rights are safeguarded).

Further, the Regulation power contains features that would contribute toward ensuring any power that is provided through Regulations remains proportionate. The power of entry can only be exercised for the stated purpose of investigating criminal offences and civil penalty breaches; the entry power is to be exercised at a reasonable time and with reasonable notice, or with a warrant; and the entry power can only be exercised by authorised officers appointed by the Minister.

Regulation power to establish civil penalty regime (new Article 24(3)(ba) and (bb))

Article 19 would insert a new Article 24(3)(ba) and (bb) to the Law providing a regulation power to make provision for specified breaches under the Law or a residential tenancy agreement being penalised by the imposition of a civil penalty. Those provisions would, inter alia, include provision for specifying the maximum amount of the penalty as £1,000, the criteria for giving a notice of proposed fixed penalty and for providing a right of appeal against the imposition of a penalty.

The criminal limb of Article 6 ECHR (the right to a fair trial) provides substantive and procedural safeguards where a person is subject to a criminal charge. The classification of a domestic law penalty in ECHR terms as either a criminal charge or a civil penalty is important as it determines the extent of safeguards necessary in order for the domestic law penalty to be compatible with Article 6 ECHR. This classification of a penalty as criminal or civil is for ECHR purposes only; it does not operate to make a domestic law civil penalty criminal in nature.

Whether a penalty is considered to be ‘criminal’ or not will depend on the domestic classification of the offence, the nature of the offence, and the nature and degree of severity of the penalty that the person concerned may incur (the ‘Engel criteria’). In general terms, penalties with the following characteristics are likely to be considered as ‘criminal’ in nature for the purposes of Article 6 ECHR: those that are primarily intended to be a punishment and a deterrent; large penalties, in terms of percentage rate or total amount charged; and those where proof of qualitative misconduct is required, for example deliberate behaviour.

The draft Law will not, in itself, directly engage Article 6 ECHR in the manner outlined above. New Article 24(3)(ba) and (bb) provide a regulation making power for establishing a civil penalty regime, meaning that the Article 6 ECHR considerations noted here would be relevant in the development and enactment of Regulations using that power. The relevance of Article 6 ECHR to the exercise of the regulation making power is, however, noted here for completeness.

EXPLANATORY NOTE

This Law amends the Residential Tenancy (Jersey) Law 2011 (the "2011 Law"). It comes into force on a day specified by the Minister by Order. This note refers to the Articles, Parts and Schedules of the 2011 Law.

Article 1 (interpretation) is amended to change the terms that are defined for use in the 2011 Law. A "residential tenancy agreement" is now defined as not being passed before the Royal Court (as not a "contract lease") instead of in terms of its duration. The "total duration" of a tenant's residential tenancy is defined as the total consecutive duration for which they have a residential tenancy of a residential unit, whether during an initial term or a periodic tenancy. All notices given under the 2011 Law must be written, and "writing" includes an electronic form.

Part 3 (termination of periodic tenancies) is replaced. The new Part 3 (granting and ending tenancies) contains new Articles 6, 6A to 6G and 7.

Article 6 (tenancy granted for initial term or as periodic tenancy) confines residential tenancies to being granted either –

- for an initial term of 3 years or less; or
- as a periodic tenancy.

A periodic tenancy is a residential tenancy that is not granted for an initial term or that continues after an initial term. A tenancy granted for an initial term cannot be renewed for another specified term, so references to renewal are deleted from the 2011 Law. The rules about periodic tenancies preclude tenancies from being created or continued by reconduction tacite under customary law, so Article 3(2) (which covered that concept) is deleted.

Article 6A (tenancy may be ended only as provided) confines residential tenancies to being ended –

- by 1 party under Articles 6C to 6F;
- by both parties agreeing under Article 20; or
- by the Court.

Article 6B (giving notice to end tenancy) sets out the main requirements for a notice ending a residential tenancy.

Article 6C (landlord or tenant can give notice to end tenancy when initial term ends) provides that a residential tenancy for an initial term ends when the initial term ends only if notice is given –

- by the landlord at least 3 months earlier; or
- by the tenant at least 1 month earlier.

Article 6D (how landlord or tenant ends tenancy by notice, without reason, during initial term) lets either party end a residential tenancy during an initial term without giving a reason. To end the tenancy, notice must be given –

- by the landlord at least 3 months earlier; or
- by the tenant at least 1 month earlier.

That party must also satisfy any applicable requirements included in the residential tenancy agreement.

Article 6E (how tenant ends tenancy by notice, without reason, during periodic tenancy) lets the tenant end a periodic tenancy by giving at least 1 month's notice, and without giving a reason.

Article 6F (how landlord ends tenancy by notice, for certain reasons, during initial term or periodic tenancy) lets the landlord end any residential tenancy for certain reasons. The reasons are defined in Article 6G (reasons for landlord to end tenancy).

To end a periodic tenancy for the following reasons, notice must be given at least 3 or 6 months earlier (depending on whether or not the total duration of the tenant's residential tenancy is less than 5 years) –

- sale or change of use;
- renovation;
- use by landlord or family;
- use by landlord's helper;
- under-occupied social rented housing.

Or to end a residential tenancy during an initial term for the final reason (under-occupied social rented housing), notice must be given at least 3 months earlier.

To end any residential tenancy for the following reason, notice must be given at least 3 months earlier –

- tenant's residential status.

To end any residential tenancy for the following reasons, notice must be given at least 1 month earlier –

- serious breach of tenancy agreement;
- uninhabitable residence;
- breach of ownership document;
- breach of insurance policy;
- residence left empty.

The first reason (serious breach of tenancy agreement) replaces Article 12 (termination and eviction where failure to rectify breach), which is deleted.

To end any residential tenancy for the following reasons, notice must be given at least 7 days earlier –

- tenant's employment;
- tenant's work permit or visa;
- tenant's illegality or nuisance;
- tenant's residential status from incorrect information.

Article 7 makes it an offence for a person to knowingly or recklessly give a written notice stating a reason for ending a residential tenancy that is false or misleading. The penalty is a maximum fine of level 3 on the standard scale (£10,000).

A new Part 3A (restrictions on rent increases, and providing rent information) is inserted. It contains new Articles 7A to 7G.

Article 7A (restrictions on rent increases during total duration) restricts rent increases during the total duration of a tenant's residential tenancy. A rent increase cannot start until at least –

- 1 year after the rent was last set or increased; and
- 2 months after the landlord gives notice of the increase.

The rent must not be increased by more than the annual increase in RPI (the Retail Prices Index), capped at 5%. But different restrictions on rent increases may apply under Articles 7B to 7D.

Article 7B (different restrictions on rent increases for certain landlord employers) excludes the restrictions on rent increases if a landlord employer's rent is increased within a certain maximum and deducted from their tenant employee's salary or wages.

Article 7C (different restrictions on rent increases for certain social rented housing) excludes the restrictions on rent increases if the Minister and a landlord of social rented housing agree to different restrictions.

Article 7D (different limit on amount of rent increase for certain improvements or market rent) excludes the limit on the amount of a rent increase if a reason for an exception applies and the landlord's notice meets certain requirements. A decision of the Rent Tribunal may also be required (if the Minister makes a relevant Order). A reason for an exception is that –

- the residential unit has been improved to the tenant's benefit; or
- the rent has fallen significantly below the rent expected for a new residential tenancy of that type of residential unit (the "market rent").

Instead, a different limit applies based on the reason for the exception.

Article 7E (tenant may apply to Rent Tribunal for decision on rent increase) provides that the Rent Tribunal may decide whether a proposed rent increase complies with the 2011 Law. The tenant must apply for the decision by a deadline. If the Tribunal decides that the increase does not comply with the 2011 Law, it may also decide on the amount, and starting date, of an alternative rent increase.

Article 7F (rent payments if Tribunal decides after start of rent increase) provides for how much rent the tenant may pay after a proposed rent increase would start but while the Tribunal has not decided on the increase. Once the Tribunal decides, any under- or over-payments must be reconciled.

Article 7G (landlords must provide rent information) requires a landlord to provide the Minister with information relating to rent amounts, as specified in an Order made by the Minister. A landlord commits an offence if –

- without reasonable excuse, they fail to provide the information; or
- they knowingly or recklessly provide the information but it is false or misleading.

The penalty is a maximum fine of level 2 on the standard scale (£1,000).

Article 8 (termination if service element fails, agreement not in writing, details missing or opportunity to read denied) is amended so that it no longer covers agreements with provisions about providing labour or services or about employment. Under Article 8(2), the Court can no longer vary or end a residential tenancy agreement on that basis. Under Article 8(3), the Court may now require a residential tenancy agreement to be set out in writing and signed by the parties.

Article 9 (premises uninhabitable) is replaced. The new Article 9 (residence uninhabitable) applies if an authorised person decides that something has caused a residential unit to become uninhabitable. The tenant is not liable to pay rent or other amounts for the affected period unless –

- the cause is their intentional or reckless conduct; or
- the parties have agreed that the landlord will provide the tenant with other appropriate accommodation until the affected period ends.

If the cause is the tenant's intentional or reckless conduct and they pay any rent or other amounts for the affected period, the landlord may retain the payments unless the Court orders otherwise.

Article 11 (eviction where failure to give vacant possession) is replaced. The new Article 11 (order for eviction of tenant) still lets –

- a landlord apply to the Court for an order to evict the tenant; and

- the Court order the eviction if satisfied that the residential tenancy has ended and the tenant has not given vacant possession.

But Article 11(3) now requires the Court to order the eviction if satisfied of those matters and that the landlord ended the tenancy for any of the following reasons –

- sale or change of use;
- renovation;
- use by landlord or family;
- use by landlord's helper;
- tenant's residential status;
- tenant's employment;
- tenant's work permit or visa;
- tenant's residential status from incorrect information.

A new Part 4A (Rent Tribunal) is inserted. It contains new Articles 13A to 13Q.

Article 13A (Rent Tribunal established) establishes the Rent Tribunal.

Article 13B (appointment of members) provides for how members of the Tribunal are appointed and requires at least 3 members.

Article 13C (appointment's duration and reappointment of member) provides for the duration of appointments and for how members are reappointed.

Article 13D (member's oath or affirmation) requires a member to take an oath or make an affirmation.

Article 13E (ending membership) provides for how a person's membership is ended.

Article 13F (deputy chair and secretary of Tribunal) provides for the roles of the deputy chair and the secretary of the Tribunal.

Article 13G (decision-making) sets the requirements before the Tribunal may proceed with a sitting or make a decision.

Article 13H (jurisdiction and appeals) provides for the Tribunal's jurisdiction and for how its decisions are appealed.

Article 13I (sittings generally public) requires Tribunal sittings to be public, with exceptions.

Article 13J (publication of decisions) lets the Tribunal publish its decisions.

Article 13K (preparation of annual report) requires the Tribunal to report to the Minister each year.

Article 13L (interests of members) requires a member to disclose certain interests and restricts the member's involvement in related matters. A member commits an offence if they breach the requirement or restriction without reasonable excuse. The penalty is a maximum fine of level 3 on the standard scale (£10,000).

Article 13M (disclosure of information by members) restricts the disclosure of information by members and persons acting for the Tribunal. A person commits an offence if they knowingly or recklessly breach the restriction. The penalty is a maximum fine of level 3 on the standard scale (£10,000).

Article 13N (liability of members and secretary) limits the liability of members and the secretary.

Article 13O (remuneration of members and payment of expenses) requires the payment of remuneration to members, as required by an Order made by the Minister, and the repayment of their reasonable expenses.

Article 13P (powers for proceedings) gives the Tribunal powers similar to the Royal Court's powers.

Article 13Q (offences in dealing with Tribunal) makes it an offence for a person to, without reasonable excuse, act in relation to the Tribunal in a way that would be contempt of court if the Tribunal were the Royal Court. The penalty is 1 or both of –

- imprisonment for a maximum term of 6 months;
- a maximum fine of level 3 on the standard scale (£10,000).

Article 15 (matters to be considered in deciding on stay) is amended to require the Court, when deciding whether to stay the execution of an eviction order, to also consider the landlord's reason for ending the tenancy. It applies only if Article 11(3) required the Court to order the eviction (because the landlord ended the tenancy for certain reasons). In any case, the Court may now consider any reason of the landlord for ending the tenancy.

Article 16 (jurisdiction) is amended to exclude the Court's jurisdiction over any matter for which the Rent Tribunal has jurisdiction.

A new Article 18A (notices: receipt date and notice period) is inserted. It provides for when written notices are treated as being received and sets the rule for when a minimum notice period starts.

A new Article 18B (amounts may be recovered as civil debt) is inserted. It lets a person apply to the Court to recover an amount owing as a civil debt.

Article 23 (Orders) is amended so that the Minister may make Orders –

- for the purposes of other amendments; or
- to provide for the procedures of the Rent Tribunal.

Article 24 (Regulations) is amended so that the States Assembly may make Regulations –

- to amend certain new parts of the 2011 Law;
- to provide for the Minister to appoint authorised officers;
- to grant authorised officers powers to investigate whether a person has committed an offence or a civil penalty breach under the 2011 Law; or
- to provide for civil penalty breaches.

A new Article 24A and Schedule 3 (transitional provisions) are inserted. They provide for the transition that occurs when the amendments come into force.

Schedule 1 (what an agreement must specify) is amended to change some of the details, and add more details, that a residential tenancy agreement must contain.

Schedule 2 (provisions that an agreement must contain) is amended to add more provisions that a residential tenancy agreement must contain.

This Law also repeals the legislation on rent control for dwelling-houses and amends other legislation as a consequence of the repeals.

DRAFT RESIDENTIAL TENANCY (JERSEY) AMENDMENT LAW 202-

Contents

Article

Jersey

DRAFT RESIDENTIAL TENANCY (JERSEY) AMENDMENT LAW 202-

A LAW to amend the Residential Tenancy (Jersey) Law 2011, including to improve tenants' rights under residential tenancies.

Adopted by the States	*[date to be inserted]*
Sanctioned by Order of His Majesty in Council	*[date to be inserted]*
Registered by the Royal Court	*[date to be inserted]*
Coming into force	*[date to be inserted]*

THE STATES, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law –

---

1 Residential Tenancy (Jersey) Law 2011 amended

This Law amends the Residential Tenancy (Jersey) Law 2011.

2 Long title amended

In the long title, "of 9 years or less" is deleted.

3 Article 1 (interpretation) amended

(1) In Article 1(1), after the definition "deposit" there is inserted –

> "initial term" means an initial specified term for which a residential tenancy is granted (after which the tenancy ends only if the required notice is given under Article 6C), if any;
>
> "Jersey Appointments Commission" means the Commission established by Article 17 of the Employment of States of Jersey Employees (Jersey) Law 2005;

(2) In Article 1(1), for the definition "period" there is substituted –

> "periodic tenancy" means a residential tenancy covered by Article 6(2) (that is not granted for an initial term or that continues after an initial term);
>
> "reason" means a reason for which a landlord may end a residential tenancy, as defined in Article 6G;

(3) In Article 1(1), in the definition "rent", ", or the term," is deleted.

(4) In Article 1(1), after the definition "rent" there is inserted –

"Rent Tribunal" means the Tribunal established by Article 13A;

(5) In Article 1(1), in the definition "residential tenancy agreement" –

(a) after "means an agreement" there is inserted "that is";

(b) for sub-paragraph (c) there is substituted –

(c) not passed before the Royal Court;

(6) In Article 1(1), after the definition "residential unit" there is inserted –

"social rented housing" means a residential unit –

(a) that may be occupied under a residential tenancy only by people who are eligible under the policy on renting social housing that is published by the Minister; and

(b) for which the amount of rent must comply with a policy on social housing rents that is published by the Minister;

"States' employee" has the meaning given in Article 2 of the Employment of States of Jersey Employees (Jersey) Law 2005;

(7) In Article 1(1), after the definition "tenant" there is inserted –

"total duration" means the total consecutive duration for which the same tenant has a residential tenancy of the same residential unit, whether during 1 or both of –

(a) an initial term; and

(b) a periodic tenancy;

"working day" means a day other than –

(a) a Saturday, a Sunday, Good Friday or Christmas Day; or

(b) a public holiday or bank holiday under Article 2 of the Public Holidays and Bank Holidays (Jersey) Law 1951;

"writing" includes writing in an electronic form.

4 Article 3 (agreements to which this Law applies) amended

(1) For Article 3(1) and (2) there is substituted –

(1) This Law applies only in respect of –

(a) residential tenancy agreements; and

(b) residential tenancies under residential tenancy agreements.

(2) In Article 3(4), for "paragraphs (2) and (3)" there is substituted "paragraph (3)".

5 Article 4 (essential provisions in agreements) amended

For Article 4(1) and (2) there is substituted –

(1) A residential tenancy agreement, as made or varied, must –

(a) be in writing;

(b) be signed by or on behalf of the parties to the agreement;

(c) set out the details that are specified in Schedule 1 when the agreement is made or varied; and

(d) set out the provisions that are specified in Schedule 2 when the agreement is made or varied.

(2) The provisions that are specified in Schedule 2 when an agreement is made or varied are treated as part of the agreement even if the agreement –

(a) does not set them out; or

(b) purports to limit or exclude them.

6 Part 3 (termination of periodic tenancies) substituted

For Part 3 there is substituted –

PART 3

GRANTING AND ENDING TENANCIES

6 Tenancy granted for initial term or as periodic tenancy

(1) If a residential tenancy is granted, it must be granted –

(a) for an initial term of 3 years or less; or

(b) as a periodic tenancy.

(2) A residential tenancy is a periodic tenancy if –

(a) it is not granted for an initial term; or

(b) it was granted for an initial term but the term ended without the tenancy being ended by notice under Article 6C.

(3) A tenant's residential tenancy cannot be granted or varied so that –

(a) a further specified term starts after their initial term ends (a renewal);

(b) their periodic tenancy ends and their tenancy for a specified term starts; or

(c) the initial term of their tenancy is extended to more than 3 years.

(4) If a residential tenancy is purportedly granted for an initial term of more than 3 years, the initial term is treated as being 3 years.

(5) A residential tenancy cannot be granted, created or extended by reconduction tacite.

6A Tenancy may be ended only as provided

(1) The landlord or the tenant –

(a) may end a residential tenancy only in accordance with a provision in Articles 6C to 6F;

(b) may choose which provision to use if 2 or more apply; and

(c) if the other has given notice to end the tenancy on a particular day, may end the tenancy earlier if allowed by another provision.

(2) But also –

(a) the landlord and the tenant may agree to end the tenancy under Article 20; or

(b) the landlord or the tenant may apply to have the Court end the tenancy under Article 8, 10 or 16.

6B Giving notice to end tenancy

(1) A written notice to end a residential tenancy (given by the landlord or the tenant) must comply with the Article under which it is given, this Article and Article 18A.

(2) The written notice must –

(a) state that the residential tenancy is to end;

(b) specify the Article under which the notice is given;

(c) if a reason must be given for ending the tenancy, state the reason;

(d) specify the final day of the tenancy, or state how the final day is calculated (for example, an emailed notice received by a tenant on 10 June, with a 1-month notice period, may end the tenancy at the end of the day on 10 July because of Article 18A);

(e) if the notice is given under Article 6D, specify the requirements (if any) that the landlord or the tenant must satisfy under Article 6D(b) for the tenancy to end; and

(f) if on paper, be signed and dated by the notice-giver.

6C Landlord or tenant can give notice to end tenancy when initial term ends

(1) If a residential tenancy has an initial term, the tenancy ends when the term ends only if a written notice to end the tenancy is given –

(a) by the landlord to the tenant at least 3 months before the end of the term; or

(b) by the tenant to the landlord at least 1 month before the end of the term.

(2) The initial term is extended if the landlord or the tenant gives the notice –

(a) after their deadline under paragraph (1); but

(b) before the term was to end.

(3) In that case, the extended term and the tenancy end –

(a) 3 months after the notice is given, if given by the landlord; or

(b) 1 month after the notice is given, if given by the tenant.

(4) But the tenancy continues as a periodic tenancy under Article 6(2)(b) after the initial term ends if –

(a) the landlord and the tenant agree to that, even if a notice is given under this Article after they agree; or

(b) no notice is given under this Article.

6D How landlord or tenant ends tenancy by notice, without reason, during initial term

If a residential tenancy has an initial term, the term may be ended early (without giving a reason) if –

(a) either –

(i) the landlord gives the tenant at least 3 months' written notice; or

(ii) the tenant gives the landlord at least 1 month's written notice; and

(b) the notice-giver satisfies the requirements (if any) in the residential tenancy agreement (see Schedule 1, paragraph 12).

6E How tenant ends tenancy by notice, without reason, during periodic tenancy

The tenant may end a periodic tenancy by giving the landlord at least 1 month's written notice (without giving a reason).

6F How landlord ends tenancy by notice, for certain reasons, during initial term or periodic tenancy

(1) The landlord may end a residential tenancy for a certain reason during an initial term, or during a periodic tenancy, by giving the tenant written notice of at least the specified period, as follows –

Reason		Initial term	Periodic tenancy
(a)	sale or change of use	Not allowed	3 or 6 months
(b)	renovation	Not allowed	3 or 6 months
(c)	use by landlord or family	Not allowed	3 or 6 months
(d)	use by landlord's helper	Not allowed	3 or 6 months
(e)	under-occupied social rented housing	3 months	3 or 6 months
(f)	tenant's residential status	3 months	3 months
(g)	serious breach of tenancy agreement	1 month	1 month
(h)	uninhabitable residence	1 month	1 month
(i)	breach of ownership document	1 month	1 month
(j)	breach of insurance policy	1 month	1 month
(k)	residence left empty	1 month	1 month
(l)	tenant's employment	7 days	7 days
(m)	tenant's work permit or visa	7 days	7 days
(n)	tenant's illegality or nuisance	7 days	7 days
(o)	tenant's residential status from incorrect information	7 days	7 days

(2) If the specified period is "3 or 6 months", the period is –

(a) 3 months if the total duration of the tenant's residential tenancy is less than 5 years; or

(b) 6 months if the total duration is 5 years or more.

6G Reasons for landlord to end tenancy

(1) This Article defines the reasons for which a landlord may end a residential tenancy under Article 6F.

(2) The reasons are –

(a) "sale or change of use", meaning that the landlord needs the residential unit to be empty because they –

(i) intend to sell it; or

(ii) have planning permission to change its use under the Planning and Building (Jersey) Law 2002;

(b) "renovation", meaning that the landlord needs the residential unit to be empty because –

(i) they intend to renovate or carry out other building work on the unit; and

(ii) the tenant could not reasonably live in the unit during the building work;

(c) "use by landlord or family", meaning that the landlord intends to occupy, or have a family member occupy, the residential unit for at least 6 months;

(d) "use by landlord's helper", meaning that –

(i) the landlord intends to have a carer, housekeeper or other helper occupy the residential unit for at least 6 months;

(ii) the residential unit is near where the landlord lives; and

(iii) the type and regularity of the help requires the helper to live near the landlord;

(e) "under-occupied social rented housing", meaning that –

(i) the residential unit is social rented housing that is assessed as having more bedrooms than the tenant needs under the policy on renting social housing that is published by the Minister; and

(ii) the landlord has tried reasonably to help the tenant arrange a residential tenancy that meets their needs;

(f) "tenant's residential status", meaning that the tenant is prohibited by Article 17 of the Control of Housing and Work (Jersey) Law 2012 from occupying the residential unit because of –

(i) their residential and employment status under that Law; or

(ii) the residential unit's housing category under that Law;

(g) "serious breach of tenancy agreement", meaning that –

(i) the tenant has breached the residential tenancy agreement in a way that is sufficiently serious to justify the landlord ending the tenancy; and

(ii) the landlord has given written notice under paragraph (3) but the tenant has not corrected the breach as requested by the notice;

(h) "uninhabitable residence", meaning that an authorised person decides that something has caused a residential unit to become uninhabitable under Article 9(1);

(i) "breach of ownership document", meaning that –

(i) the tenant's conduct has caused the landlord to breach an ownership document in relation to their residential unit; and

(ii) the landlord has given written notice under paragraph (3) but the tenant has not corrected the breach as requested by the notice;

(j) "breach of insurance policy", meaning that –

(i) the tenant's conduct has caused the landlord to breach their insurance policy for the residential unit; and

(ii) the landlord has given written notice under paragraph (3) but the tenant has not corrected the breach as requested by the notice;

(k) "residence left empty", meaning that –

(i) no one has occupied the residential unit for at least 2 months, or another period specified in the residential tenancy agreement;

(ii) the landlord has not given written approval for the unit to remain empty; and

(iii) the landlord reasonably believes that the unit will remain empty for a significant period unless the tenancy is ended;

(l) "tenant's employment", meaning that –

(i) the landlord granted the residential tenancy to the tenant because the tenant was their employee; and

(ii) either –

(A) the employment has ended, or been ended, in accordance with the employee's contract of employment and the Employment (Jersey) Law 2003; or

(B) the contract of employment provides for how the landlord may end the tenancy before the employment ends and the landlord's ending of the tenancy under this Law will comply with those provisions and the Employment (Jersey) Law 2003;

(m) "tenant's work permit or visa", meaning that, for employment in Jersey, the tenant requires but no longer has, and appears not to have applied for –

(i) a work permit under the Immigration (Work Permits) (Jersey) Rules 1995; or

(i) leave to enter or remain in Jersey, a visa or another authorisation under the Immigration (Jersey) Order 2021;

(n) "tenant's illegality or nuisance", meaning that the tenant –

(i) has used, or caused or permitted the use of, the residential unit for illegal purposes; or

(ii) has caused or permitted the following, to which a police officer or a States' employee with a relevant enforcement or regulatory function has attended –

(A) a repeated or serious nuisance in the residential unit; or

(B) interference with the reasonable peace, comfort or privacy of a neighbour of the residential unit; and

(o) "tenant's residential status from incorrect information", meaning that the tenant is prohibited by Article 17 of the Control of Housing and Work (Jersey) Law 2012 from occupying the residential unit because of a change in their residential and employment status that resulted from their provision of incorrect information under that Law.

(3) A landlord's written notice under this paragraph must ask the tenant to correct the breach by –

(a) stopping certain activity immediately; or

(b) doing something to correct the breach within 7 days (or a specified longer period) after receiving the notice.

(4) In this Article –

"family member", of a person, means –

(a) their spouse or civil partner, or another person with whom they live as partner in an enduring relationship and have done so for at least 2 years ("spouse or partner");

(b) their child, or someone who lives with them as if their child, or their parent, sister, brother, grandparent or grandchild, including for a step or half relationship ("relative");

(c) their spouse's or partner's relative; or

(d) the spouse or partner of their relative or of their spouse's or partner's relative;

"ownership document", for a landlord's residential unit, means a document relating to their ownership or leasehold of the unit, including –

(a) a lease under which they hold the unit in leasehold;

(b) a déclaration under the Loi (1991) sur la copropriété des immeubles bâtis (for ownership in flying freehold); or

(c) articles of association of a company whose shares give a right to occupy the unit (for ownership by share transfer).

7 Offence to give false or misleading reason to end tenancy

(1) A person commits an offence if they knowingly or recklessly give a written notice stating a reason for ending a residential tenancy that is false or misleading.

(2) The person is liable to a fine of level 3 on the standard scale.

PART 3A

RESTRICTIONS ON RENT INCREASES, AND PROVIDING RENT INFORMATION

7A Restrictions on rent increases during total duration

(1) This Article applies to the rent payable during the total duration of a residential tenancy.

(2) The rent must not be increased unless the day on which the increase starts is at least –

(a) 1 year after the day on which the rent was last set or increased; and

(b) 2 months after the day on which the landlord gives the tenant written notice of the increased rent ("notice date").

(3) The rent must not be increased by more than the annual increase in RPI, capped at 5%.

(4) But different restrictions on rent increases may apply under Articles 7B to 7D.

(5) In this Article, "annual increase in RPI, capped at 5%" means –

(a) the percentage increase in the Retail Prices Index during the previous 12 months as most recently published by the Chief Statistician before the notice date, but capped at a maximum of 5%; or

(b) 0% if there was a percentage decrease in the Retail Prices Index during that period.

7B Different restrictions on rent increases for certain landlord employers

The restrictions in Article 7A(2) and (3) (on the minimum period before, and the amount of, a rent increase) do not apply if –

(a) there is a residential tenancy between a landlord employer and their tenant employee;

(b) the landlord deducts the rent from the employee's salary or wages; and

(c) the rent per week is increased to no more than the maximum monetary amount specified for each week in Article 3A(3) of the Employment (Minimum Wage) (Jersey) Order 2007 (the monetary amount that may be attributed to the employer's provision of living accommodation as a benefit in kind).

7C Different restrictions on rent increases for certain social rented housing

The restrictions in Article 7A(2) and (3) (on the minimum period before, and the amount of, a rent increase) do not apply if –

(a) the residential unit is a landlord's social rented housing; and

(b) the Minister has given the landlord written notice of the following for all of the landlord's social rented housing, after agreeing the matters with the landlord –

(i) a minimum period that replaces the minimum period in Article 7A(2); and

(ii) a limit on the amount of a rent increase that replaces the limit in Article 7A(3).

7D Different limit on amount of rent increase for certain improvements or market rent

(1) The limit in Article 7A(3) (on the amount of a rent increase) does not apply if –

(a) a reason for an exception applies; and

(b) the landlord's written notice of the increased rent –

(i) states that the rent is increased by more than the limit in Article 7A(3);

(ii) specifies the reason for the exception and the basis under paragraph (3) for the replacement limit; and

(iii) if paragraph (4) applies, states that the Rent Tribunal has decided on the reason for the exception and the replacement limit, and specifies the amount of the replacement limit.

(2) A reason for an exception is that –

(a) the residential unit has been improved to the tenant's benefit; or

(b) the rent has fallen significantly below the rent expected for a new residential tenancy of that type of residential unit (the "market rent").

(3) Instead, the limit is replaced by the amount by which the rent could reasonably be expected to increase –

(a) because of the improvements, if paragraph (2)(a) applies; or

(b) to equal the market rent, if paragraph (2)(b) applies.

(4) If this paragraph is applied by Order, this Article has effect only if, on written application by the landlord, the Rent Tribunal –

(a) decides that a reason for an exception applies; and

(b) decides on the amount of the replacement limit.

7E Tenant may apply to Rent Tribunal for decision on rent increase

(1) The Rent Tribunal may decide whether a proposed increase in the rent payable under a residential tenancy complies with this Law.

(2) The decision may be made only on written application by the tenant by the following deadline –

(a) within 2 months and 2 weeks after the notice date under Article 7A(2)(b); or

(b) a later deadline set by the Tribunal if its chair is satisfied that the tenant could not meet the earlier deadline because of exceptional circumstances.

(3) If the Tribunal decides that the increase complies with this Law, the increase has effect as from the day on which it is, or was, to start.

(4) If the Tribunal decides that the increase does not comply with this Law –

(a) the increase has no effect; and

(b) the Tribunal may also decide that the rent is instead increased –

(i) by a specified amount that complies with this Law and is no more than the increase proposed by the landlord; and

(ii) starting on a specified date that would comply with this Law if it were specified in the landlord's notice given under Article 7A(2)(b).

7F Rent payments if Tribunal decides after start of rent increase

(1) This Article applies if –

(a) the tenant has applied to the Rent Tribunal under Article 7E on any grounds (in relation to a proposed rent increase); and

(b) the Tribunal has not decided on the increase by the date on which it would start.

(2) The tenant may continue to pay the rent that was payable before the increase, while the Tribunal has not decided on the increase, unless paragraph (3) applies (which generally applies if the grounds relate to the amount of the increase).

(3) The tenant may pay the rent that would be payable if it were increased to the limit in Article 7A(3), while the Tribunal has not decided on the increase, if –

(a) the tenant's only grounds are that the increase does not comply with that limit;

(b) the increase does not depend on Article 7B or 7C (applying a different limit); and

(c) for an increase that depends on Article 7D (applying a different limit), it was notified by a notice that complied with Articles 7A(2) and 7D(1)(b).

(4) But in either case, once the Tribunal decides, its decision must be given effect by –

(a) the tenant paying any extra amount that is owed; or

(b) the landlord repaying any amount that was overpaid.

7G Landlords must provide rent information

(1) A landlord must provide the Minister with the information required by Order ("rent information") that –

(a) relates to the rent payable under each of their residential tenancies, including information about each residential unit; and

(b) is required for the purpose of –

(i) informing the Minister about the market for residential tenancies and rent amounts; and

(ii) allowing the Minister to provide information to the Rent Tribunal.

(2) The landlord must provide the rent information at the times, and in the way, specified by Order.

(3) The Minister may provide any rent information, or information derived from it, to the Rent Tribunal.

(4) A landlord commits an offence if –

(a) without reasonable excuse, they fail to provide the Minister with rent information; or

(b) they knowingly or recklessly provide the Minister with rent information that is false or misleading.

(5) The landlord is liable to a fine of level 2 on the standard scale.

7 Article 8 (termination if service element fails, agreement not in writing, details missing or opportunity to read denied) amended

(1) In Article 8, in the heading, for "service" there is substituted "agreement".

(2) Article 8(1)(a) and (b) are deleted.

(3) In Article 8(3), after "make an order varying or terminating the agreement" there is inserted ", or requiring it to be set out in writing and signed by or on behalf of the parties,".

(4) In Article 8(4), "or renewal" is deleted in both places.

(5) In Article 8(5), "or as renewed" is deleted.

(6) Article 8(6) is deleted.

8 Article 9 (premises uninhabitable) substituted

For Article 9 there is substituted –

9 Residence uninhabitable

(1) This Article applies if an employee or representative of the following who is authorised to do so ("authorised person") decides that something has caused a residential unit to become uninhabitable –

(a) the residential unit's insurer;

(b) the States of Jersey Fire and Rescue Service; or

(c) an administration of the States (relating to planning and building, environmental health or otherwise).

(2) The tenant is not liable to pay any rent or other amount that is otherwise payable under the residential tenancy agreement for the affected period unless –

(a) the cause is the intentional or reckless conduct of the tenant; or

(b) the landlord and the tenant have agreed that the landlord will provide the tenant with other appropriate accommodation until the affected period ends.

(3) Paragraph (4) applies if –

(a) the cause is the intentional or reckless conduct of the tenant; and

(b) the tenant has paid any rent or other amount that was payable under the residential tenancy agreement for any part of the affected period.

(4) The landlord need not repay the amount unless required by an order of the Court (for example, if the Court finds that the amount exceeds the cost of the damage caused by the tenant).

(5) This Article does not prevent or affect a review of rent during the affected period.

(6) In this Article, the "affected period" –

(a) starts on the day on which –

(i) the residential unit became uninhabitable, if that day is known; or

(ii) the authorised person made their decision under paragraph (1), otherwise; and

(b) ends when –

(i) the residential unit becomes inhabitable again; or

(ii) the residential tenancy ends, if that is earlier.

9 Article 11 (eviction where failure to give vacant possession) substituted

For Article 11 there is substituted –

11 Order for eviction of tenant

(1) A landlord may apply to the Court for an order to evict the tenant from their residential unit.

(2) The Court may order the eviction if it is satisfied that –

(a) the residential tenancy has ended; and

(b) the tenant has not given vacant possession of the residential unit.

(3) The Court must order the eviction if it is satisfied –

(a) of the matters under paragraph (2); and

(b) that the landlord ended the residential tenancy under Article 6F for any of the following reasons –

(i) sale or change of use;

(ii) renovation;

(iii) use by landlord or family;

(iv) use by landlord's helper;

(v) tenant's residential status;

(vi) tenant's employment;

(vii) tenant's work permit or visa; or

(viii) tenant's residential status from incorrect information.

10 Article 12 (termination and eviction where failure to rectify breach) deleted

Article 12 is deleted.

11 Part 4A (Rent Tribunal) inserted

After Article 13 there is inserted –

PART 4A

RENT TRIBUNAL

13A Rent Tribunal established

The Rent Tribunal is established once its initial members are appointed.

13B Appointment of members

(1) The States Assembly may, if recommended by the Minister, do 1 or both of the following –

(a) appoint a new member of the Rent Tribunal;

(b) appoint the new member as the chair or the deputy chair of the Tribunal.

(2) There must be no fewer than 3 members, of whom –

(a) 1 must be the chair; and

(b) 1 must be the deputy chair.

(3) The Minister must recommend people for appointment but, before recommending a person –

(a) must consult the Jersey Appointments Commission and consider its recommendations; and

(b) must be satisfied that the person is qualified for the position.

(4) A person is "qualified for the position" if –

(a) they have appropriate experience in matters of housing and residential tenancies and are otherwise suitable for the position;

(b) they are ordinarily resident in Jersey;

(c) they are not, and within the previous 2 years have not been –

(i) a member of the States, meaning a person listed in Article 2(1) of the States of Jersey Law 2005; or

(ii) a States' employee;

(d) they do not hold, and have never held, an office listed in Schedule 1 to the Employment of States of Jersey Employees (Jersey) Law 2005; and

(e) for the chair or the deputy chair, they have a law degree or similar qualification from a university or other institution, as approved by the Judicial Greffier, unless this requirement is excluded by Order.

13C Appointment's duration and reappointment of member

(1) A member of the Rent Tribunal may be appointed or reappointed for 3 years or less each time, as long as the combined duration of their membership is 9 years or less.

(2) Only the Minister may –

(a) reappoint a member; or

(b) appoint a reappointed member as the chair or the deputy chair.

(3) Before reappointing a member, the Minister –

(a) must consult the Jersey Appointments Commission and consider its recommendations; and

(b) must be satisfied that the person remains qualified for the position under Article 13B(4).

13D Member's oath or affirmation

(1) A member of the Rent Tribunal must take an oath, or make an affirmation, before the Royal Court that they will carry out their functions well and faithfully.

(2) The member must do so –

(a) before first acting as a member; and

(b) before being reappointed as a member.

13E Ending membership

A person stops being a member of the Rent Tribunal only if –

(a) they resign by giving written notice to the Minister;

(b) they die;

(c) they are bankrupted;

(d) they stop being qualified for the position under any of Article 13B(4)(b) to (e);

(e) they have a delegate appointed for them under Part 4 of the Capacity and Self-Determination (Jersey) Law 2016;

(f) they are liable to be detained, or are subject to guardianship, under the Mental Health (Jersey) Law 2016;

(g) they have not performed their functions, and have not attended meetings of the Rent Tribunal, for at least 2 months without the prior consent of the Minister;

(h) they do not take the oath, or make the affirmation, under Article 13D within a reasonable time after their appointment; or

(i) the Royal Court removes them on being satisfied that they neglected their functions or misconducted themselves.

13F Deputy chair and secretary of Tribunal

(1) The deputy chair may act as the chair of the Rent Tribunal only when the chair is not able to.

(2) The Judicial Greffier –

(a) must act as the Tribunal's secretary; but

(b) may delegate all or part of that function to an officer of the Judicial Greffe.

13G Decision-making

(1) A quorum of the chair and 2 other members is required for the Rent Tribunal –

(a) to proceed with a sitting, whether a hearing or otherwise; or

(b) to make a decision.

(2) The Tribunal decides by simple majority and, if there is no majority, the chair has a casting vote.

13H Jurisdiction and appeals

(1) The Rent Tribunal has exclusive original jurisdiction over a matter that it may decide under –

(a) Article 7E; or

(b) Article 7D(4), if applicable.

(2) The Tribunal's decision may be appealed but only –

(a) on a point of law;

(b) to the Royal Court (Inferior Number); and

(c) with the following leave –

(i) leave of the Tribunal that is applied for within 28 days after the day on which the decision was made, or by a later deadline set by the Tribunal that, in all the circumstances, it considers to be just; or

(ii) if leave is not granted by the Tribunal, leave of the Royal Court that is applied for within the period required by its rules of court.

(3) The person who applies for, or is granted, leave to appeal against a decision of the Tribunal may also apply to stay the execution of the decision until leave to appeal can no longer be granted or the appeal is finally determined.

(4) On appeal, the Royal Court may –

(a) affirm the decision; or

(b) cancel the decision and –

(i) decide the matter itself; or

(ii) require the Tribunal to reconsider the matter.

(5) The power to make rules of court under Article 13 of the Royal Court (Jersey) Law 1948 –

(a) applies as if the Rent Tribunal were a court; but

(b) is subject to this Part and an Order made under Article 23(2)(le) or (lf).

13I Sittings generally public

(1) The Rent Tribunal must hold its sittings (whether a hearing or otherwise) in public.

(2) But the Tribunal must hold a sitting in private –

(a) if the chair is satisfied that there are good reasons to do so; or

(b) if required by Order.

13J Publication of decisions

(1) The Rent Tribunal may publish a report of its decision on any particular proceedings, even if its sittings were held in private.

(2) But the Tribunal must not publish a report if the chair is satisfied that there are good reasons not to.

13K Preparation of annual report

(1) The Rent Tribunal must, within 4 months after the end of each calendar year –

(a) prepare a report for the calendar year; and

(b) provide a copy of the report to the Minister.

(2) The report must –

(a) summarise the Tribunal's activities; and

(b) summarise the outcomes of the Tribunal's decisions but without disclosing information that would identify a party to its proceedings.

(3) The Minister must present a copy of the report to the States Assembly as soon as reasonably practicable after receiving it.

13L Interests of members

(1) This Article applies if there is a matter before the Rent Tribunal in which a member has an interest that is –

(a) personal or financial, whether direct or indirect; and

(b) not merely an interest as a member of the public.

(2) The member, as soon as practicable after the matter or interest arises –

(a) must disclose their interest to the other members of the Tribunal; and

(b) must not be involved in any decision or sitting to which the matter relates unless their interest is an indirect financial interest that is marginal.

(3) In this Article –

(a) a member has an indirect financial interest if, for example –

(i) the member or their nominee is a partner, adviser, member or employee of an entity; and

(ii) the entity is, or is associated with, a party to the proceedings that involve the matter;

(b) an indirect financial interest is marginal only if it is a beneficial interest in an entity's securities whose nominal value is 1/1000th or less of the total nominal value of the entity's issued share capital; and

(c) an entity includes a body corporate, a partnership or an unincorporated association.

(4) A member commits an offence if they breach paragraph (2) without reasonable excuse.

(5) The member is liable to a fine of level 3 on the standard scale.

13M Disclosure of information by members

(1) A member of the Rent Tribunal, or a person acting for it, must not disclose any document or other information that –

(a) relates to a person's activities or circumstances; and

(b) they acquire in carrying out their functions.

(2) But they may disclose the document or information –

(a) with the consent of –

(i) the person to whom the document or information relates; and

(ii) if different, the person who provided the document or information; or

(b) so far as it is necessary –

(i) to enable them to carry out their functions;

(ii) in the interests of the investigation, detection, prevention or prosecution of an offence; or

(iii) to comply with a court order.

(3) A person commits an offence if they knowingly or recklessly breach paragraphs (1) and (2).

(4) The person is liable to a fine of level 3 on the standard scale.

13N Liability of members and secretary

A member or the secretary of the Rent Tribunal is not liable in damages for an act in carrying out, or purporting to carry out, their functions unless –

(a) their act is in bad faith; or

(b) they are liable because the act is unlawful under Article 7(1) of the Human Rights (Jersey) Law 2000.

13O Remuneration of members and payment of expenses

(1) The members of the Rent Tribunal must be –

(a) paid the remuneration that is set by, or calculated in accordance with, an Order; and

(b) repaid for their reasonable expenses.

(2) The consolidated fund must be used to –

(a) make those payments; and

(b) pay the expenses for the administration of the Rent Tribunal.

13P Powers for proceedings

(1) The Rent Tribunal has the same powers, rights and privileges as the Royal Court in relation to –

(a) the attendance, oaths and affirmations or examination of witnesses;

(b) the production and inspection of documents and other information; and

(c) anything else that is necessary or proper for the Tribunal to exercise its jurisdiction.

(2) The Tribunal may, as part of those powers, rights and privileges –

(a) issue a summons requiring a person –

(i) to appear at a specified hearing;

(ii) to testify to a relevant matter that they know about; and

(iii) to provide a relevant document or information that they have or control;

(b) administer oaths and affirmations and examine people;

(c) ask a question of a party to proceedings and require them to answer, in writing and by a specified time, if the Tribunal considers that the answer –

(i) may help to clarify an issue likely to arise for decision in the proceedings; or

(ii) is likely to help to progress the proceedings if available before a sitting; or

(d) infer adversely from a person's failure, without reasonable excuse, to do anything that the Tribunal requires.

(3) But a person need not give a document or other information to the Tribunal if it may incriminate them.

13Q Offences in dealing with Tribunal

(1) A person commits an offence if, without reasonable excuse, they act in relation to the Tribunal in a way that would be contempt of court if the Tribunal were the Royal Court.

(2) The person is liable to imprisonment for a term of 6 months and to a fine of level 3 on the standard scale.

12 Heading to Part 5 (jurisdiction and proceedings) amended

In the heading to Part 5, for "Jurisdiction" there is substituted "Court's jurisdiction".

13 Article 14 (stay of eviction) amended

In Article 14(1), "or 12" is deleted.

14 Article 15 (matters to be considered in deciding on stay) amended

(1) In Article 15(1), for "shall" there is substituted "must".

(2) After Article 15(1)(d) there is inserted –

(e) the landlord's reason for ending the tenancy, if the eviction was ordered under Article 11(3).

(3) For Article 15(2)(a) there is substituted –

(a) whether the residential tenancy was granted for an initial term and whether the tenancy has ended after notice was given under Article 6C;

(aa) the landlord's reason for ending the residential tenancy, if the tenancy was ended by the landlord under Article 6F;

(4) For Article 15(2)(f) and (g) there is substituted –

(f) whether the tenant has used, or caused or permitted the use of, the residential unit for illegal purposes;

(g) whether the tenant has caused or permitted the following, to which a police officer or a States' employee with a relevant enforcement or regulatory function has attended –

(i) a repeated or serious nuisance in the residential unit; or

(ii) interference with the reasonable peace, comfort or privacy of a neighbour of the residential unit;

15 Article 16 (jurisdiction) amended

After Article 16(1) there is inserted –

(1A) But the Court has no jurisdiction over a matter for which the Rent Tribunal has jurisdiction under Article 13H(1).

16 Articles 18A and 18B inserted

Before Article 19 there is inserted –

18A Notices: receipt date and notice period

(1) A written notice given under this Law is treated as being received –

(a) if sent electronically, in accordance with Article 6 of the Electronic Communications (Jersey) Law 2000;

(b) if given in person, on the day on which it is given;

(c) if sent by post with tracked delivery, on the day of its delivery; or

(d) if sent by post otherwise, on the second working day after it is sent.

(2) If a written notice must be given at least a certain period before it ends a residential tenancy, that period starts at the end of the day on which the notice is received.

18B Amounts may be recovered as civil debt

The person to whom an amount must be paid or repaid under this Law may apply to the Court to recover the amount as a civil debt.

17 Article 19 (documents to be provided to tenant) amended

For Article 19(1) there is substituted –

(1) The landlord under a residential tenancy agreement must give the tenant a copy of the agreement as made or varied, as soon as reasonably practicable after the residential tenancy agreement, or an agreement for its variation, has been signed by or on behalf of the parties to the agreement.

18 Article 23 (Orders) amended

(1) For Article 23(2)(f) there is substituted –

> (f) the giving and content of notices or other documents under this Law other than any application, summons, notice or other document that is filed in, or issued from, the Rent Tribunal, the Royal Court or the Court;

(2) After Article 23(2)(l) there is inserted –

> (la) applying Article 7D(4) (so that certain exceptions to the limit on rent increases are determined by the Rent Tribunal);
>
> (lb) requiring rent information to be provided under Article 7G(1) of the type, and for the purpose, specified in that provision (which relates to rent amounts);
>
> (lc) specifying the times at which, and the way in which, the rent information must be provided under Article 7G(2);
>
> (ld) excluding the requirement in Article 13B(4)(e) (for the chair and the deputy chair of the Tribunal to have a qualification in law);
>
> (le) providing for the procedures of the Rent Tribunal in making its decisions or otherwise, including any related time limits;
>
> (lf) requiring the Rent Tribunal to hold certain sittings in private (for the purposes of Article 13I(2)(b));
>
> (lg) setting, or providing for the calculation of, the amount or rate of remuneration for a member of the Rent Tribunal (for the purposes of Article 13O(1)(a));

(3) After Article 23(3) there is inserted –

> (3A) Before making an Order under any of paragraph (2)(ld) to (lg), the Minister must consult the Judicial Greffier.

19 Article 24 (Regulations) amended

(1) After Article 24(1)(l) there is inserted –

> (la) amending Article 6F or 6G to add, remove or change –
>
> > (i) a reason for which a landlord may end a residential tenancy during an initial term or a periodic tenancy, and the specified period of the written notice, in Article 6F; or
> >
> > (ii) a reason for which a landlord may end a residential tenancy, as defined in Article 6G;
>
> (lb) amending Article 7A to specify a different maximum percentage at which the annual increase in RPI is capped (for limits on rent increases during the total duration);
>
> (lc) amending Article 7B, 7C or 7D, or inserting or deleting a provision, to add, remove or change –
>
> > (i) the circumstances in which a restriction in Article 7A(2) or (3) (on the minimum period before, or the amount of, a rent increase) does not apply; and
> >
> > (ii) any other restriction that applies instead;

(ld) amending, inserting or deleting any provisions of this Law that relate to the Rent Tribunal to change anything relating to the following aspects of the Tribunal –

(i) its composition, the appointment of its members and the ending of membership;

(ii) its decision-making and procedures;

(iii) its functions, its powers, rights and privileges and its jurisdiction;

(iv) its name;

(le) providing for the Minister to appoint a States' employee as an officer for certain purposes ("authorised officer");

(lf) granting to authorised officers powers to investigate whether a person has committed an offence or a civil penalty breach under this Law, including related powers –

(i) to require a person to provide a document or other information relating to a residential tenancy, or the 1 or more residential tenancies for which the person is the landlord or managing agent;

(ii) to enter a residential unit, a place of business or another place at any reasonable time with reasonable notice or under a warrant issued on reasonable grounds;

(iii) to enter along with another person or equipment required for the investigation;

(iv) to measure, photograph or record anything required for the investigation; or

(v) to take and copy a document or other information that the officer is given or discovers by investigation;

(2) For Article 24(3)(b) there is substituted –

(b) create an offence punishable by a penalty not exceeding level 3 on the standard scale, and provide for the offence in the Regulations themselves or by amending this Law;

(ba) provide that a specified breach under this Law or a residential tenancy agreement is a civil penalty breach, for which –

(i) an authorised officer (see paragraph (1)(le)) may give the person in breach a notice imposing a civil penalty;

(ii) the maximum amount of a civil penalty is £1,000;

(iii) the amount of the civil penalty is specified in the Regulations, calculated in accordance with the Regulations or set by the authorised officer in accordance with the Regulations; and

(iv) the civil penalty must be paid, within a specified period, to an authorised officer who must then pay it into the consolidated fund;

(bb) provide for anything relating to civil penalty breaches, such as –

(i) specifying criteria for giving a notice;

(ii) providing for a notice of proposed civil penalty;

(iii) setting deadlines for giving notices; or

(iv) providing for a right to appeal against the imposition of a civil penalty;

20 Article 24A (transitional provisions) inserted

After Article 24 there is inserted –

24A Transitional provisions

Schedule 3 provides for the transition that occurs when amendments to this Law come into force.

21 Schedule 1 (what an agreement must specify) amended

(1) In the heading to Schedule 1, for "Article 4(1)" there is substituted "Article 4(1)(c)".

(2) In Schedule 1, for paragraphs 3 to 5 there is substituted –

3. That the tenancy has an initial term, and either the length of the term or the date on which it ends, or that the tenancy is a periodic tenancy.

4. The name of the landlord and, if there is one, the managing agent.

5. The following information for the landlord or, if there is one, the managing agent –

(a) their business address;

(b) their daytime and out-of-hours telephone numbers for the tenant to communicate a concern or complaint or to use in an emergency.

(3) In Schedule 1, after paragraph 11 there is inserted –

12. If there is an initial term, the requirements (if any) that the following must satisfy to end the residential tenancy under Article 6D (ending tenancy early without giving a reason) during the initial term –

(a) the landlord;

(b) the tenant.

13. Who must do the following for each service (such as electricity, gas, water or drainage) that is available at the residential unit –

(a) arrange its supply;

(b) pay for the supply;

(c) arrange, and pay for, the maintenance and repair of its related equipment.

14. Who must maintain and repair the landlord's fixtures, fittings and movable property (such as furnishings and electrical appliances) that are included with the residential tenancy.

15. The landlord's obligations under an ownership document or insurance policy that could be breached because of the tenant's conduct, for the purposes of Article 6G(2)(i) and (j).

22 Schedule 2 (provisions that an agreement must contain) amended

(1) In the heading to Schedule 2, for "Article 4(1)" there is substituted "Article 4(1)(d)".

(2) In Schedule 2, after paragraph 4 there is inserted –

5. The landlord must, for the total duration of the residential tenancy, insure the residential unit for any risk, loss or damage for which it can reasonably be insured, such as damage caused by fire, storm, flood or subsidence.

6. If the tenant pays to the landlord or their managing agent any rent or other amount that is not payable under the residential tenancy, the landlord must repay the amount within 10 working days after they become aware that the amount was not payable.

But this provision does not apply to an overpayment under Article 3 of the Residential Tenancy (Supply of Services) (Jersey) Order 2013.

7. If the tenant requests a receipt within 5 working days after paying any rent or other amount under the residential tenancy, the landlord must give them a written receipt for the payment within 5 working days after receiving the request.

23 Schedule 3 (transitional provisions) inserted

After Schedule 2 there is inserted –

SCHEDULE 3

(Article 24A)

TRANSITIONAL PROVISIONS

1 Interpretation

In this Schedule –

"2025 amendments" means the amendments made to this Law by the Residential Tenancy (Jersey) Amendment Law 202-;

"existing tenancy" means a residential tenancy to which this Law applied immediately before the 2025 amendments came into force;

"this Law as amended" means this Law as amended by the 2025 amendments.

2 Existing tenancies for specified term

(1) An existing tenancy for a specified term remains subject to this Law as it was immediately before the 2025 amendments came into force.

(2) But –

(a) the residential tenancy agreement for the existing tenancy cannot be varied or renewed, despite its provisions (instead the parties may enter into a new agreement under this Law as amended that starts after the existing tenancy ends or a periodic tenancy may arise under clause (c));

(b) if the agreement requires that, for the tenancy to end when the specified term ends, notice must be given at least a required period before then, paragraph 3 applies to the giving of that notice; and

(c) if, after the 2025 amendments came into force, the specified term ends and the tenant continues to occupy the residential unit on the basis of a

recurrent period, the existing tenancy becomes a periodic tenancy to which this Law as amended applies.

(3) For clarity, it is not a variation to carry out a rent review under the existing tenancy's agreement.

3 Giving notice to end tenancy when specified term ends

(1) If the notice described in paragraph 2(2)(b) is given as required by the residential tenancy agreement, including at least the required period before the end of the specified term, the tenancy ends when the specified term ends.

(2) Sub-paragraph (3) applies if the notice described in paragraph 2(2)(b) is given as required by the agreement, except that it is given –

(a) less than the required period before the end of the specified term; but

(b) before the end of the specified term.

(3) In that case –

(a) the specified term is extended; and

(b) the extended term and the tenancy end that required period after the notice is given.

(4) For example, if the required period is 3 months (before the end of the specified term) but the tenant gives notice only 2 months before that, the tenancy ends 3 months after the notice is given, so that the specified term is extended by 1 month.

(5) In all cases under this paragraph, once the specified term ends, the tenant cannot continue to occupy the residential unit on the basis of a recurrent period (meaning that paragraph 2(2)(c) does not apply).

4 Existing periodic tenancies

This Law as amended applies to an existing tenancy under which the tenant occupied a residential unit on the basis of a recurrent period, as if it were a periodic tenancy.

5 Existing tenancies that become subject to this Law

If this Law as amended starts to apply to an existing tenancy, Article 4 applies as if the residential tenancy agreement had been varied when this Law as amended started to apply to it.

6 Total duration of existing periodic tenancy includes earlier tenancies

(1) If paragraph 2(2)(c) applies to a tenant's existing tenancy (for a specified term), the tenancy's total duration starts when the existing tenancy becomes a periodic tenancy under that provision.

(2) If paragraph 4 applies to a tenant's existing tenancy (a periodic tenancy), the tenancy's total duration includes the total consecutive duration of –

(a) that existing tenancy and any specified term after which it became periodic; and

(b) any 1 or more consecutive earlier residential tenancies of the same tenant and residential unit.

(3) But sub-paragraph (2) does not mean that anyone must have done anything before the 2025 amendments came into force.

(4) For clarity, if a residential tenancy is granted under this Law as amended and starts immediately after the same tenant's existing tenancy for a specified term ended, the new tenancy's total duration starts when the new tenancy starts.

24 Repeals

The following are repealed –

(a) the Dwelling-Houses (Rent Control) (Jersey) Law 1946;

(b) the Dwelling-Houses (Rent Control) (Jersey) Regulations 1946; and

(c) the Dwelling-Houses (Rent Control) (Standard Tenancy Agreement) (Jersey) Regulations 1993.

25 Consequential amendments

(1) In the Agriculture (Loans) (Jersey) Regulations 1974, for Regulation 12(2) there is substituted –

(2) If the Minister determines under paragraph (1)(c) the maximum rental payable for a residential tenancy under the Residential Tenancy (Jersey) Law 2011, the restrictions in Article 7A(2) and (3) (on the minimum period before, and the amount of, a rent increase) of that Law do not apply to the residential tenancy.

(2) In the Building Loans (Jersey) Law 1950, for Article 14(2) there is substituted –

(2) If the Minister determines under paragraph (1)(e) the maximum rental payable for a residential tenancy under the Residential Tenancy (Jersey) Law 2011, the restrictions in Article 7A(2) and (3) (on the minimum period before, and the amount of, a rent increase) of that Law do not apply to the residential tenancy.

26 Citation and commencement

(1) This Law may be cited as the Residential Tenancy (Jersey) Amendment Law 202-.

(2) It comes into force on a day specified by the Minister by Order.