

STATES OF JERSEY



Jersey

DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS) (LICENSING) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 1st October 2019
by the Minister for the Environment**

STATES GREFFE

REPORT

1. Summary

Background

Following the adoption by the States of the [Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 2018](#), the principles of which were unanimously supported by the Assembly, and the subsequent making of the [Public Health and Safety \(Rented Dwellings – Minimum Standards and Prescribed Hazards\) \(Jersey\) Order 2018](#), the Department responsible for enforcement continues to uncover rented dwellings in really poor condition, some in the control of allegedly ‘good’ landlords. Whilst these properties are known about, it is certain that there are many more that the regulators simply have no knowledge of. The sector had been largely unregulated, and now requires licensing to ensure that all rented dwellings are safe and will not contribute to poor mental and physical health.

Minimum standards within the rental sector are prescribed to be just that; the minimum accepted level to avoid harm to the tenant. They are not designed to influence decoration or interior design. Minimum standards fall into 3 loose categories of – health and safety; fire, gas and electrical safety; and furnishings (where supplied).

They are designed to reduce the risk of illness or injury within a rental property, based on the assessment of potential risks to the health and safety of occupants of, and visitors to, rented residential properties.

Research¹ has demonstrated that children’s life chances (the factors that affect their current and future well-being) are affected by the standard of their housing.

Registration has been shown not to work, for example through the [Food Safety \(Jersey\) Law 1966](#). Despite being a legal requirement to register food premises, the number of food businesses in the ‘Eat Safe’ scheme rose from 800 to around 1,100 when there was consumer demand to check ratings. Other jurisdictions have similar outcomes. Registration data becomes out-of-date very quickly. It is telling the Government an activity is taking place. Licensing is the Government of Jersey permitting that activity to take place. In time, after any ‘grandfather rights’ have expired, this ensures that an activity is compliant before it takes place.

Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 201- (the “draft Regulations”)

The [Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 2018](#) made provision, under Article 5, for the States by Regulations to establish a scheme for the purpose of further ensuring the safety of rented dwellings, and the health and safety of persons occupying such dwellings.

In accordance with this Law, and without prejudice to that general purpose, such Regulations may make provision including, but not limited to, provision enabling the Minister –

- (a) to license dwellings to be used as rented dwellings; and

¹ [Chance of a lifetime](#) – the impact of bad housing on children’s lives – Shelter – September 2006

[Brick by brick](#) – A review of mental health and housing – Mind – November 2017

[A licence to rent](#) – A joint research project between Chartered Institute of Environmental Health and Chartered Institute of Housing – January 2019

- (b) to impose charges –
 - (i) in respect of the issue of licences for rented dwellings, and
 - (ii) in relation to enforcement action arising out of a breach of the Regulations or a requirement of any licence.

Regulations under this Article may further –

- (a) create offences of, and impose penalties for, breach of a provision of the Regulations or of any licence; and
- (b) make such transitional, consequential, incidental or supplementary provisions as the States may consider necessary or expedient.

The draft Regulations, if passed by the Assembly, will ensure that the Government of Jersey, for the first time ever, develops data about what property is being rented out, and its suitability, occupancy and location, for the purposes of ensuring that it meets, or is being brought up to, modest minimum standards. Using this data, more accurate risk assessments can be carried out to prioritise and target inspections. This data will also be of use in informing future policy developments.

It is intended that, as with all regulation in this area, a light touch will be adopted. The Environmental Health Team will work with landlords and managing agents to achieve compliance within an agreed timetable, being cognisant of difficulties in procuring tradesmen, and the nature of the work; for example, larger-scale roof repairs carried out in good weather, or the immediacy of providing adequate heating in the winter.

It should, however, be noted that the minimum standards as detailed in the [Public Health and Safety \(Rented Dwellings – Minimum Standards and Prescribed Hazards\) \(Jersey\) Order 2018](#) have been in place for some time, and the requirements are those expected in a decent home.

The proposed licensing conditions are attached at **Appendix 1** to this report. It is also proposed to charge for licences. The draft Regulations allow for the introduction of charges, which are detailed in **Appendix 2** to this report. The fees have been set at a level enabling Environmental Health to recover the full cost of the activities which require regulation. This therefore includes running the scheme, and the provision of advice, inspections and enforcement in respect of the legal obligations under the [Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 2018](#) and subordinate legislation. This is in line with current and best practice, and ensures that there are no additional resource implications through the approval of these Regulations.

Those landlords already renting will be granted a licence without pre-inspection, and will be given until the end of March 2020 to apply. This will enable landlords and managing agents to continue business as usual, and will therefore not have any negative impact on the availability of rented accommodation. The information captured in the licence will enable Environmental Health to manage their resources, by adopting a risk-rating approach to determine frequency and order of inspection, coupled with a program of proactive visits.

Properties not first registered within this timeframe (after 31st March 2020) will require an inspection prior to the issue of a licence.

To reward best practice, substantial discounts are available for those properties in the [‘Rent Safe Scheme’](#). The ‘Rent Safe’ Scheme is voluntary and free of charge. It gives a star rating to those who meet all legal requirements. Additional stars are awarded for those properties where the landlord goes beyond the bare minimum, and where the property has energy efficiency measures in place. Further details on ‘Rent Safe’ may be found in **Appendix 3** to this report.

The discounts offered therefore reflect the lesser degree of regulation that these properties and landlords will require.

Social Housing Providers and Parishes are given 100% discount on their properties if they are in 'Rent Safe'.

Licences will be issued via an online process. It is being specifically designed to ensure subsequent annual renewals require little input, other than reviewing the previous year's data, adding, amending or deleting properties. 'Rent Safe' accredited properties also require less input. There will also be a dedicated process for landlords or managing agents with large-scale portfolios.

Financial and manpower implications

These draft Regulations allow for the introduction of charges which are detailed in **Appendix 2** to this report. This will ensure that there is no need to increase departmental budgets to cover the costs of the activities which require regulation, including advice, inspection and enforcement. There are therefore no financial or manpower implications arising from the adoption of these draft Regulations.

APPENDIX 1 TO REPORT**Proposed Licence Conditions****Notification of changes**

The Licence Holder, or nominated other, must inform Environmental Health directly, using the online portal or in writing, of any changes listed below within 28 days of the change occurring –

- (a) Licence Holder change of address, contact telephone number or e-mail address
- (b) Manager change of address, contact telephone number or e-mail address
- (c) Change of emergency contact number provided to the tenant.

Information to occupiers

The Licence Holder must, within 28 days of a request, supply the occupiers of the property with a copy of the licence for the property they occupy.

A copy of the licence should be sent to the address the licence is in respect of, or electronically to the tenant's e-mail address.

This condition is fulfilled if a copy of the licence is provided to the tenant a maximum of two times per licensed year.

Within 28 days of the commencement of any new tenancy, or within 28 days of the first licence coming into force for tenants already in occupation on that date, the Licence Holder must provide the occupier(s) with written information explaining how they can raise an issue or make a complaint to the landlord or nominated other in relation to matters concerning their occupation, such as disrepair, pests, and emergency issues relating to the security of the property.

This must include –

- a contact address
- a daytime telephone number
- an emergency out-of-hours telephone number
- how the Licence Holder or nominated other will deal with such issues
- a statement on the occupier's right to complain to Environmental Health, together with contact details.

It is recommended that this information is included as a supplement to the Tenancy Agreement.

This information can be provided in hard copy or electronic format (including notices displayed in communal areas, handbooks, e-mails, SMS, apps, websites and other bespoke systems) being fully accessible to the occupier. Consideration should also be given to occupiers who may have difficulty in accessing some forms of electronic communication.

Occupiers should be advised in advance of any changes to the above information and must be advised within 28 days of changes taking place. This can be communicated electronically or in writing and a record should be kept.

References

It is recommended that the Licence Holder or nominated other obtains references from persons who wish to become tenants before entering into any tenancy agreement with them.

Property inspections

There is a legal requirement on Licence Holders or nominated others to inspect the property at the start and end of a tenancy agreement, in order to inform the Conditions Report.

It is recommended that the Licence Holder or nominated other carries out inspections at appropriate intervals. Any records made should be kept for the duration of the tenancy.

It is suggested that a record contains details of –

- who carried out the inspection and other persons present
- date and time of the inspection
- a breakdown of each room, including the common parts and external curtilage of the property, with any issues identified
- changes in any equipment, furniture and furnishings supplied as part of the tenancy
- the number and location of each smoke and carbon monoxide (if applicable) detector in the property
- confirmation that each detector in the property has been tested, and whether it is in working order
- action(s) taken or to be taken as a result of any issues identified during the inspection.

Occupier's right to quiet enjoyment

The Licence Holder or nominated other must ensure that the occupier's right to quiet enjoyment of the property is respected.

Where entry is required to the property, the Licence Holder or nominated other must ensure that any notice requirements contained in a lawful tenancy agreement are complied with.

Where the tenancy agreement does not contain any such requirements, the Licence Holder or nominated other must ensure that the tenant receives at least 24 hours' written notice of intention to enter the property during reasonable hours. They must specify the reason entry is required, save where it would not be reasonable to give such notice, such as a genuine emergency.

Minimum property standards

The Licence Holder will ensure that the rental property to which the licence relates meets those standards maintained within the [Public Health and Safety \(Rented Dwellings – Minimum Standards and Prescribed Hazards\) \(Jersey\) Order 2018](#).

Equipment, furniture and furnishings

The Licence Holder or nominated other must ensure that any goods they make available to the occupier(s) as part of their residential tenancy are safe and in full working order. They should check these goods during inspections.

Hostel type accommodation

Application fee¹ £50

Free for Rent Safe accredited dwellings

Annual licence fee based on maximum occupancy:

(babies under 1 = 0 person, children 1–10 years = ½ person, over 10 years = 1 person):

Up to 10	£250
11 – 20	£350
21 and over	£400

Discounts for Rent Safe accredited dwellings –

- 100% for Social Housing² providers
- 75% for 5* Rent Safe accredited dwellings
- 50% for 4* Rent Safe accredited dwellings
- 25% for 3* Rent Safe accredited dwellings.

Table demonstrating costs for hostel type with maximum occupancy up to 10 people

Property type	Application Fee	Annual Licence Fee (before discount)	Discount applied	Amount per unit – first year	Amount per unit – subsequent years
Social Housing Provider (Rent Safe Accredited)	£0	£250	100%	£0	£0
5 Star Rent Safe Accredited Dwellings	£0	£250	75%	£62.50	£62.50
4 Star Rent Safe Accredited Dwellings	£0	£250	50%	£125	£125
3 Star Rent Safe Accredited Dwellings	£0	£250	25%	£187.50	£187.50
Unaccredited Dwelling	£50 (paid first year only)	£250	0%	£300	£250

1 The application fee is non-refundable and paid only at initial application, not on subsequent years.

2 Social Housing Providers for the purpose of this scheme include housing associations, housing trusts, registered charities, and the Parishes.

All prices relate to each property to be licensed.

Table demonstrating costs for hostel type with maximum occupancy between 11–20 people

Property type	Application Fee	Annual Licence Fee (before discount)	Discount applied	Amount per unit – first year	Amount per unit – subsequent years
Social Housing Provider (Rent Safe Accredited)	£0	£350	100%	£0	£0
5 Star Rent Safe Accredited Dwellings	£0	£350	75%	£87.50	£87.50
4 Star Rent Safe Accredited Dwellings	£0	£350	50%	£175	£175
3 Star Rent Safe Accredited Dwellings	£0	£350	25%	£262.50	£262.50
Unaccredited Dwelling	£50 (paid first year only)	£350	0%	£400	£350

Table demonstrating costs for hostel type with maximum occupancy over 20 people

Property type	Application Fee	Annual Licence Fee (before discount)	Discount applied	Amount per unit – first year	Amount per unit – subsequent years
Social Housing Provider (Rent Safe Accredited)	£0	£400	100%	£0	£0
5 Star Rent Safe Accredited Dwellings	£0	£400	75%	£100	£100
4 Star Rent Safe Accredited Dwellings	£0	£400	50%	£200	£200
3 Star Rent Safe Accredited Dwellings	£0	£400	25%	£300	£300
Unaccredited Dwelling	£50 (paid first year only)	£400	0%	£450	£400

Other terms

- Change of name or address details of any existing licence holder or managing agent – **No fee**
- Variation of licence instigated by Government – **No fee**
- Change of licence holder – **New application fee**
- Revocation of licence – **No fee**
- Application to licence following revocation of licence – **Application fee and licence fee**
- Application refused by Government – **Application fee with no refund**
- Application withdrawn by the applicant – **Application fee with no refund**
- Application made in error – **Application fee with no refund**
- Licence lapsed and new licence required – **Application fee and licence fee.**

Late applications and failing to attend pre-arranged inspections

Where Government has to contact property owners that are required to licence their property and have not done so within the prescribed period, a fee of £150 may be added in addition to the application fee and licence fee. When considering whether a charge is appropriate, mitigating factors are taken into account; for example, whether the person hadn't realised they should be licensed, or has repeatedly evaded all calls to licence their known rental property.

Where a licence holder or nominated person fails to turn up for a pre-arranged inspection without reasonable excuse, a missed appointment fee of £50 may be charged. When considering whether a charge is appropriate, mitigating factors are taken into account; for example, a fee may be considered if the landlord has repeatedly failed to attend at pre-arranged times.

Fee structure

In setting these fees, Government has taken into account that it may not set fees that are dissuasive, and any fees must be reasonable and proportionate to the cost of the licensing process, inspection, enforcement, and the issuing of the licence. Government will continue to work hard to reduce the fees, whilst striking a balance between providing an effective service.

These fees have been benchmarked against other UK private rental sector licensing schemes, and endeavour to keep the licence fees at the lowest possible level. These application and licensing fees are some of the lowest.

If the landlord fails to renew the licence before its expiry date, the full application process is required. The application fee and licence fee would both then be charged (where required).

APPENDIX 3 TO REPORT

About the standards for Rent Safe

Rent Safe is a voluntary scheme which provides potential tenants with a list of landlords that have reached accredited status under the [Rent Safe Scheme](#), together with an overview of the number of properties that have reached the accredited minimum standards required for 3, 4 or 5 stars. The scheme is free with the intention of remaining so.

By using an accredited landlord you know, before looking at a property, that the landlord –

- takes their tenant’s welfare seriously
- takes action to resolve issues quickly
- works to make sure their properties continue to meet recognised housing standards.

Only those that meet an accredited rating of 3 to 5 stars are listed on the Rent Safe register.

Number of stars	Standards
5	The property exceeds the minimum Rent Safe standard and has achieved accreditation through compliance with legal standards. Energy efficiency measures are also in place.
4	The property exceeds the minimum Rent Safe standard and has achieved accreditation through compliance with legal standards.
3	The property meets the minimum Rent Safe standard and has achieved accreditation through compliance with the minimum legal standards.
2	The property does not quite meet the minimum Rent Safe standard, and some improvement is required.
1	The property does not meet the minimum Rent Safe standard, and improvement is required in several areas.
0	The property does not meet the minimum Rent Safe standard and much work is required to ensure that the health, safety and welfare of tenants is protected.

EXPLANATORY NOTE

These Regulations would establish a scheme in connection with the health and safety of rented dwellings and provide for the issuing of licences in respect of dwellings to be used as rented dwellings.

Regulation 1 defines the terms used in the Regulations.

Regulation 2 establishes the scheme and prohibits a dwelling being used as a rented dwelling unless licensed by the Minister for the Environment in accordance with the scheme and the Regulations. It also lists the matters that the scheme may provide for.

Regulation 3 empowers the Minister to licence rented dwellings for one year, commencing on 1st January (unless the Minister directs otherwise) and to inspect and be satisfied that a dwelling meets the health and safety standards required under the Law. It creates a power for the Minister to impose charges for the issue of a licence and if so imposes a requirement to publish those charges. There is also power for the Minister to withdraw a licence if the Minister considers that a dwelling does not meet those standards.

Regulation 4 provides an appeal to the Royal Court against a decision of the Minister not to grant a licence or to withdraw a licence.

Regulation 5 makes it an offence to contravene the prohibition on using an unlicensed dwelling as a rented dwelling or any requirement of a licence, punishable by a fine of up to £10,000.

Regulation 6 requires the Minister to issue a licence where a dwelling is a rented dwelling on commencement of the Regulations and a licence application is received by 31st March 2020. In this case the Minister does not need to inspect the dwelling under *Regulation 3(3)*.

Regulation 7 gives the title by which the Regulations are to be cited and provides for them to come into force on 1st December 2019.



Jersey

DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS) (LICENSING) (JERSEY) REGULATIONS 201-

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Jersey

DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS) (LICENSING) (JERSEY) REGULATIONS 201-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Article 5 of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018¹, have made the following Regulations –

1 Interpretation

In these Regulations –

“applicant” means an applicant for a licence;

“licence” means a licence granted under Regulation 3;

“Law” means the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018²;

“new licence” means the first licence granted in respect of the dwelling to which it relates.

2 Establishment of Scheme

- (1) A scheme is established for the purpose of further ensuring the safety of rented dwellings and the health and safety of persons occupying such dwellings.
- (2) A person must not allow a dwelling to be used as a rented dwelling unless the dwelling is licensed for such use by the Minister in accordance with the scheme and these Regulations.
- (3) Without limiting paragraph (1) the scheme may provide for the following matters –
 - (a) the manner and form of an application for a licence;
 - (b) the information to be contained in such an application; and
 - (c) for the Minister to require further information in relation to the application.

3 Licences

- (1) The Minister may license dwellings to be used as rented dwellings.
- (2) A licence commences on 1st January following the date on which it is granted, unless the Minister specifies another date of commencement in the licence, and expires on the anniversary of the date of commencement.
- (3) Before issuing a new licence the Minister must –
 - (a) inspect the dwelling and
 - (b) be satisfied that the dwelling meets the standards in respect of health and safety required under the Law.
- (4) A licence may contain such requirements as the Minister thinks fit.
- (5) The Minister may impose charges for the issue of a licence and if such charges are imposed they must be published.
- (6) The Minister may withdraw a licence if the Minister considers that the dwelling does not meet the standards set out in paragraph (3).

4 Appeals

- (1) A person aggrieved by a decision of the Minister not to grant a licence or to withdraw a licence may appeal to the Royal Court within 28 days of that decision.
- (2) On hearing the appeal, the Court may –
 - (a) confirm, reverse or vary the decision against which the appeal is brought; and
 - (b) make such other order as it thinks fit, including any order with respect to the payment of the costs of the appeal.

5 Offences

- (1) A person who contravenes Regulation 2(2) or any requirement of a licence commits an offence and is liable to a fine of level 3 on the standard scale.
- (2) Articles 15(2), 16(1) and (2) and 17 of the Law apply to an offence under paragraph (1) as they apply to offences under Article 15(1) of the Law.

6 Transitional provisions

- (1) The Minister must issue a new licence in respect of any dwelling that, on the day that these Regulations come into force, is a rented dwelling, if the application for the licence in respect of that dwelling is received by 31st March 2020.
- (2) Regulation 3(3) does not apply in respect of a licence issued under paragraph (1).
- (3) Nothing in this Regulation limits the Minister's powers under Regulation 3(6).

7 Citation and commencement

These Regulations may be cited as the Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 201- and come into force on 1st December 2019.

ENDNOTES

Table of Endnote References

<i>1</i>	<i>chapter 22.700</i>
<i>2</i>	<i>chapter 22.700</i>