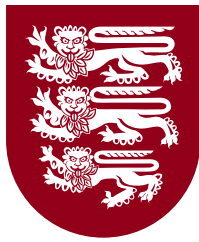


STATES OF JERSEY



Jersey

DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS) (LICENSING) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 5th June 2023
by the Minister for the Environment
Earliest date for debate: 18th July 2023**

STATES GREFFE

REPORT

The [Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 2018](#) (the “2018 Law”) set minimum standards across the rented dwelling sector. The legislation provided the Minister with powers to enact subordinate legislation to protect the health and safety of occupants of, and visitors to, rented dwellings.

The 2018 Law established:

- provision that the States may make Regulations to establish a scheme of licensing rented dwellings, and enable the Minister to issue and charge for licences.

The Regulations being brought forward would, if adopted, make it a requirement for rented dwellings to be licensed. Under these proposed Regulations, it would be an offence to allow a property to be used as a rented dwelling unless it had a valid licence.

At the 2021 census, it was found that a third of households were privately rented (qualified or non-qualified) and one in seven households were in social housing. Of the 44,583 occupied private dwellings, 10,739 were qualified private rental, 5,826 were social housing rented and 1,496 dwellings were described as ‘other non-qualified accommodation’.

The powers established under the 2018 Law fell into two broad categories. First:

- powers to introduce minimum health and safety standards with respect to rented dwellings.

This was given effect from November 2018 when the (then) Minister for the Environment signed the [Public Health and Safety \(Rented Dwellings – Minimum Standards and Prescribed Hazards\) \(Jersey\) Order 2018](#). This set out the minimum standards that apply to rented dwellings – covering health and safety, fire, gas and electrical safety and furnishings (where supplied).

Second, the 2018 Law established:

- provision that the States may make Regulations to establish a scheme of licensing rented dwellings, and enable the Minister to issue and charge for licences.

The relevant Article (*Article 5*) of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 is reproduced below:

“5 *Licensing Regulations*

- (1) *The States may by Regulations 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*
 - (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.*
- (2) *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.”*

Few would deny that Jersey has a problem with some of its rental accommodation being sub-standard. This is evidenced by complaints to the Regulation Directorate (albeit many of these cannot be acted upon because of the reluctance of tenants to pursue action against a landlord). The answer to written question [WQ303/2022](#) from November 2022 provided a snapshot of the occurrences of poor quality and unsafe accommodation found upon inspection. The Children's Rights Impact Assessment accompanying this Proposition makes reference to children's concerns over the quality of accommodation. It is furthermore well established that sub-standard accommodation has a significant impact on life chances and health outcomes.

The 2018 Law made clear what the minimum health and safety standards in relation to rental accommodation should be. The introduction of a licensing regime will allow significant compliance issues to be tackled, making it easier to give effect to these minimum standards. Licensing is in effect the 'front end' of the Law, allowing action to be taken more easily against those who, after repeated engagement, fail to bring their property up to a minimum standard. We cannot allow Islanders, many of whom will be the poorest and most vulnerable in our society, including children, to live in homes that are unsafe or pose a risk to their health and wellbeing.

Islanders should be able to live in a safe and healthy environment and licensing provides the wherewithal to make this happen. It creates an expectation that landlords are meeting minimum criteria and the licence recognises that certain standards are being met. A failure to meet these standards will ultimately see a licence withdrawn, thereby making it easier to tackle instances of non-compliance and avoiding recourse to the criminal law in all but the most serious of cases. Over time, expectations will be clear and the quality of our rental stock will improve.

A licensing scheme will allow officers for the first time to have a comprehensive set of data regarding rented dwellings. They can then apply a risk-based approach to inspection, seeking out accommodation that falls below minimum standards and work with these landlords to bring them into compliance.

Versions of these Regulations have been presented to the Assembly previously, but narrowly failed to receive sufficient support to become law. Learning from that experience, the Regulations being presented this time are intended to be more streamlined and proportionate in relation to what they are intended to achieve, such that they are not an excessive burden to those required to adhere to them.

Particular effort has been spent engaging with the Jersey Landlords' Association and there have been helpful discussions. That is not to say that there is complete agreement on the way forward, but the goal is to bring forward a scheme that is proportionate, that would work and has a degree of acceptance on all sides. The Minister is mindful that the majority of landlords are providing properties to at least minimum standards, with many easily surpassing these. These landlords want us to deal with those who give them a bad name. There is a desire to work with the community of landlords, not against them.

The Minister is therefore keen to limit the requirements involved in the licensing arrangements to those that are absolutely necessary.

Scope of the licensing scheme

All dwellings that fall within the meaning of 'rented dwelling' as set out in Article 2 of the 2018 Law would require a licence. This would mean each individual dwelling in a block of flats or apartment block would require a licence, as would social housing providers, including Andium. This will ensure a level playing field.

However, the Regulations do not apply to a rented dwelling already having an active registration under the [Lodging Houses \(Registration\) \(Jersey\) Law 1962](#). This would remain the case so long

as the dwelling remained registered under the afore mentioned law. Should this cease, and the property be made available for rent, then it would be required to become licensed. The same provision would apply to establishments registered under the [Tourism \(Jersey\) Law 1948](#). No fees would therefore be due under this scheme for those dwellings. Any part of a dwelling not covered by these registrations would require a licence which may include, for example, caretakers' flats.

For the avoidance of doubt, where there are dwellings which are already regulated under other statutory provision, such as rooms in a care or nursing home, then there would be no requirement for them to be licensed under this scheme.

Where a person who is both the owner and occupier of a dwelling permits that dwelling to be occupied, for reward, by up to two other persons, then that dwelling is not a rented dwelling for the purposes of this Law.

Relationship to Rent Safe

The voluntary non-statutory Rent Safe scheme allows landlords to become accredited if they meet certain standards. Under the licensing scheme, three-, four- or five-star accredited properties would still need a licence and should apply for one but, recognising that they have already been inspected, and also in recognition of the efforts that landlords have made to improve their properties, the licence fees for these properties would be waived for the two-year period of the first licence (if the property had been certified under Rent Safe on or before 1 May 2023.) Non-accredited properties (zero, one or two star) will not be subject to this first fee waiver.

Inspection regime

While minimum standards are already a legal requirement, the Infrastructure and Environment Department, which is responsible for enforcement, continues to identify rented dwellings that are in a state of non-compliance. The Regulations would provide Environmental and Consumer Protection Officers in the Housing and Nuisance Team with a complete data set of rented dwellings. Using this, officers would be able to carry out proactive, targeted, risk-based inspections and have much easier access to details of the landlords for each property should it be necessary to contact them. There would also be random inspections, so that landlords will not know whether or not an inspection was the result of a complaint or just random selection.

This will act as a safeguard to reduce the risk of so called "revenge evictions" and therefore should encourage tenants to come forward and report their concerns.

Measured and proportionate approach to enforcement

A key element of licensing is the ability to respond flexibly and efficiently to problem properties. Currently, criminal prosecution is the only way to deal with non-compliance and it is well known that there is a high bar to successful prosecution. Criminal prosecution is resource heavy and a relatively clumsy way of dealing with non-compliance. There are challenges in getting sufficient evidence to meet a criminal threshold – there has to be a complainant and any witnesses have to be prepared to come forward and be prepared to give evidence in court. To date, while a number of notices have been served, there have been no prosecutions.

Under the proposed licensing scheme, the intention would be to adopt a four-phase approach to enforcement: engage, explain, encourage and enforce. Initially officers will try to work with relevant parties to ensure matters are dealt with in appropriate timescales, safeguarding the health and safety of tenants. In determining relevant timescales, consideration would be given to the risk to the health and safety of tenants, potential difficulties in obtaining materials, the time of year to carry out weather-dependent repairs, and the availability of contractors.

There is a mechanism in the Regulations to ultimately withdraw a licence should the dwelling fail to comply with minimum standards and the landlord fails to bring about improvements within a specified period, but this would be actioned very much as a last resort.

If a property has a licence application refused, not renewed or a licence is withdrawn, then it could not be rented out.

Offences and appeals

Ultimately, an offence would be committed if an unlicensed dwelling was used as a rented dwelling and this would be punishable by a fine of level 3 on the standard scale i.e. a fine of up to £10,000 – consistent with primary law offences.

Some concern has been expressed around the prohibitive costs of appeals regarding the withdrawal or refusal of a licence. To address this, under these proposals, the appeal would be to the Minister. The licence would be issued, refused or withdrawn by officers through delegated authority.

Persons aggrieved by the Minister's decision would still have the right of a judicial review.

There are plans for a Housing Tribunal to be created under the Residential Tenancies Law and it may be the case that, at some point in the future, this body is deemed to be best placed to determine such appeals. However, at present any appeal would be to the Minister.

Fees

The licensing arrangements would start from 1 January 2024. A simple and straightforward approach is being adopted to the setting of fees. Fees would be £60 for a two-year licence. The licence pertains to the dwelling, so if the property changed hands during that two-year period, no further fee would be payable. However, the new owner would have a responsibility to notify the department that they were the new owner of that dwelling so details could be updated.

All licences would expire on their two-year anniversary.

Landlords who are already renting will be able to apply for a licence for their rented dwellings **without** pre-inspection if the application is made up until 31 March 2024. 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. During this transition period, the commencement date of the licence will be 1 January 2024 which is when the Regulations would come into force.

Properties for which licence applications are received after 31 March 2024 may be inspected before a licence is issued, subject to a risk-based assessment. It follows that landlords who may be intending to let out a dwelling for the first time would be encouraged to contact the department well in advance to avoid any licensing difficulties so that tenants only move in after a licence has been issued.

Issuing of licences

Licences will be issued via an online process. The process is being specifically designed with an intention to ensure subsequent renewals are as easy as possible.

Review

The intention would be for officers to review the scheme after a year of operation. This would help inform the level of fees that would apply for the next renewal period.

Proposed licence conditions

The intention is to keep the licence conditions to an essential minimum. These are detailed in the Schedule in the draft Regulations. They are primarily focused on providing the occupier with a copy of the licence and essential information so they can address concerns they may have with the dwelling and are signposted to where they may seek additional advice.

Summing up

The licensing scheme proposed has been designed to:

- be as simple as possible
- be proportionate
- have a licence fee that is based around cost recovery
- avoid a mass of inspections.

In summary, the Regulations would introduce a licensing scheme:

- that applies to all rented dwellings as defined in the Law
- that applies equally, thus achieving a level playing field
- that will come into force on 1 January 2024
- that allows for the granting of a licence without pre-inspection if the application is made before 31 March 2024 – outside of this period those making a licence application may be inspected before a licence is issued, subject to a risk-based approach
- where the licence would be valid for two years.

In many ways, the need for licensing could be compared to the requirement for car drivers to have a driving licence. You can't legally drive a car without one – all drivers need one, even good drivers – and it is easy to find and punish the bad ones, with the prospect of losing your licence for the most serious offences.

There have been comments such as 'if it ain't broke, don't fix it', but we do have a significant issue with sub-standard rental accommodation, and people are suffering because of it. Those behaving badly give landlords who meet and exceed the required standards a bad name.

The scheme does place additional requirements on landlords at the outset, but thereafter the burden should be limited. However, the burden is no greater than would be the case if the JLA's preferred "registration" scheme was adopted. Exactly the same forms would be filled in, the same conditions applied and a fee would also be applicable. The huge additional advantage of a licensing scheme is that the power to withdraw a licence gives a powerful incentive for landlords to comply with the relevant standards.

The aim is to deal with the worst offenders. Minimal cost is involved and this has to be balanced against the wider cost to individuals, families – particularly children – and society if people suffer ill-health through sub-standard accommodation. The reward is for society as a whole.

Financial and manpower implications

The level of the licence fee is intended to be broadly commensurate with the costs of the scheme i.e. to pay towards the salaries of the six FTE officers who will be engaged on this work. Mindful of concerns that have been expressed in some quarters that the level of fees could grow 'by

stealth', the Minister is happy to give a public commitment that any future rise in the level of fees would not be higher than the appropriate inflation measure at the time the increase was due.

The level of charges will ensure that there are no additional financial or manpower implications arising from the adoption of these Regulations.

It is important to remember that the introduction of the licensing Regulations is not a money-raising measure – the fees raised are set at or below the cost of regulation. The levying of a charge is considered fair to ensure that taxpayers do not end up paying for the licensing scheme.

Children's rights impact assessment

An assessment of the impact of this proposition on the rights of children has been carried out and is in the **Appendix** of this report.

APPENDIX TO REPORT

CHILDREN'S RIGHTS IMPACT ASSESSMENT

Impact Assessment by: Minister for the Environment

Date: 22/02/2023

STAGE 1: SCREENING	
1.1: Name the proposed decision and briefly describe its aim	
Draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 202-	
1.2: Which children's rights will be impacted?	
Cluster 6 - Basic health / welfare	
1.3: Which groups of children and young people are likely to be affected most?	
All children and young people living in rented accommodation in Jersey.	
1.4: What is the likely impact of the proposed decision on children in Jersey?	
If accepted, the new Regulations will help reduce the risk of children living in sub-standard rental accommodation with the associated negative effects on their health and life in general.	
1.5: Is a full child rights impact assessment required? Explain your rationale	
Yes because children will be among those potentially positively affected by the new Regulations.	

Stage 2: Scoping	
2.1: Thinking about the children's rights identified in Section 1.2, explain the expected effect of the proposed decision on those rights?	
Cluster/Article	Further analysis on the expected effect
Article 24 right to health and health services	Children's health is compromised in dwellings where there is a lack of access to bathroom facilities, clean water, heating in the winter and damp conditions

Article 27 Every child has the right to a standard of living that is good enough to meet their physical, social; and mental needs, and support their development.	For this to happen, children should have access to adequate housing.
General Comment No 15 (2013) on the rights of the child to the highest attainable standard of health	Paragraph 49 states: ‘Adequate housing that includes non-dangerous cooking facilities, a smoke-free environment, appropriate ventilation, effective management of waste and the disposal of litter from living quarters and the immediate surroundings, the absence of mould and other toxic substances, and family hygiene are core requirements to a healthy upbringing and development.’

Stage 3: Evidence

3.1: What evidence has been used to inform your assessment? Include published results which have involved consultation with children and young people and any relevant research

Evidence collected	Explanation of the importance	What are the data gaps, if any?
<p>No new evidence was collected in the development of the proposed Regulations as it was not considered proportionate to do so.</p> <p>However, evidence does exist which captures children’s views on rental accommodation in Jersey and housing more generally.</p>	<p>Life on the Rock commissioned by the Children’s Commissioner for Jersey tells the life stories of 21 children and young people, aged from 9-18, on the island of Jersey. One of the ten core themes discussed was on housing. The publication states that ‘Poor or inadequate housing conditions featured in a number of children’s stories where they told of, for example, cramped living spaces, sharing a bedroom with parents, run down property or an inability to play freely at home.’</p> <p>A secondary school group (age 15-16) agreed that ‘houses and flats were very expensive in Jersey.’ They spoke of the knock-on effect high housing costs may cause families who struggle to pay high rent such as ‘homelessness or children being made [sic]to social services when it’s not their (the parents) fault.’</p>	<p>Direct discussion with children and young people in Jersey regarding the likely impact of the Regulations</p>

	<p>They were aware that different housing markets operated on the island (state and private landlords) and queried the government's lack of regulation, particularly with private housing. They suggested governments should encourage private landlords to adjust prices that were more in line with what people could afford.</p> <p>An additional system of housing they were aware of was that provided by companies for people who come to the island specifically to work with a company. This was good if you worked as a professional or in hospitality and are provided with suitable, modern and clean accommodation. Not so good if you come to work in agriculture on a farm with a young family. The accommodation provided may not be up to standard or in some instances be hazardous. They thought the government should do more to regulate housing and ensure families have adequate and safe housing that meets their specific needs.</p>	
<p>No new evidence was collected in the development of the proposed Regulations. However, evidence does exist which captures children's views on rental accommodation in Jersey and housing more generally</p>	<p>A range of studies has demonstrated the link between housing and health. They have, in general, identified four pathways through which housing can affect health – housing stability, affordability, quality and safety, and neighbourhood conditions. Obviously, this would apply to people of all ages, not just children.</p> <p>While the evidence is complex, it indicates that housing can influence health outcomes both directly through exposure to environmental factors and indirectly through activities that influence health behaviours (Braveman, 2014).</p> <p>Housing can, therefore, support a range of Public Health objectives such as controlling and preventing non-communicable diseases</p>	

	<p>(diabetes, cancers, cardiovascular diseases and respiratory diseases); supporting psychological health and wellbeing; and addressing the lifestyle factors that affect people's health.</p> <p>Housing instability – where people are moving frequently or there is overcrowding and eviction and homelessness – can negatively affect physical and mental health.</p> <p>Certain population groups may be more affected by housing instability. The British Medical Journal found, for example, that children living in temporary housing are at an increased risk of experiencing behavioural problems, developmental delays, anxiety and poor cognitive outcomes (BMJ, 2003)</p> <p>Studies such as Coley et al (2009) have found evidence of a connection between the length of tenure in a property and the likelihood that adult residents report behavioural and mental health problems. Long tenures are associated with lower levels of depression and anxiety among adults and fewer behavioural issues.</p> <p>A household is judged to be in housing stress when more than 30% of its income is spent on housing costs. The financial strain of housing may, as a result, constrain a household's ability to invest in other health-related goods and services, including healthy foods, clothing, utilities and medical care.</p> <p>There is a substantial body of evidence that links housing conditions and population health. Thomson et al (2013) identify the key hazards associated with poor health effects as:</p>	
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	<p>air quality; warmth and humidity; radon; slips, trips and falls; noise; inadequate light and space; environmental tobacco smoke; fires.</p> <p>The types of health effects commonly linked with poor housing include:</p> <p>respiratory symptoms, asthma, lung cancer; depression and anxiety; injury or death from accident and fires; hypothermia; skin and eye irritation; and general physical symptoms.</p> <p>Substandard housing conditions such as water leaks, mould, poor ventilation, pest infestation and exposure to toxins has been associated with poor health outcomes, most notably asthma (see, for example, Bryant-Stephen, 2021).</p> <p>The British Medical Journal identified that people's health was adversely affected by old, damp and cold homes, and that this was most prevalent among vulnerable groups (BMJ 2003).</p> <p>The charity Shelter has also found links between overcrowded housing and depression, anxiety, sleep problems and strained relationships.</p> <p>The physical, social and economic conditions in the neighbourhoods where homes are located can also improve or constrain health. This can include access to health-supportive resources such as public transport; shops selling healthy food; and safe spaces for children to play and for people to exercise. In contrast, living in proximity to high volume roads can increase respiratory diseases (RWJF, 2016), and the social characteristics of a neighbourhood can lead to crime, segregation and social capital deficits.</p>	
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	<p>The Children and Young People’s Plan 2019-2023 includes an outcome that ‘All children in Jersey live healthy lives’ where it is noted that: ‘Timely access to health services is important in securing a healthy start in life. In addition, wider factors such as good quality housing, active transport and access to parks and countryside are recognised as having a key role to play in supporting healthy childhoods.’</p>	
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Stage 4: Children’s Involvement

4.1: What groups of children and young people (or those who speak on their behalf, such as social workers, teachers or youth workers) have been directly or indirectly involved in developing the decision?

Groups consulted	How they were involved	What were the findings?
<p>No groups of children or young people were formally consulted on the Regulations being proposed.</p> <p>However, various reports as shown above have shown children’s concerns over various aspects of housing generally that may impact on them and their families and the Regulations as proposed will help to alleviate these concerns.</p>		

Stage 5: Assessing Impact

5.1: What likely impact will the proposed decision have on children and young people’s rights?

Type of impact	Justification for Argument.	Likely or actual short/medium/long-term outcomes. Include resource implications

		(financial, regulatory, workforce, structural) as necessary
Positive	The Regulations will provide Environmental and Consumer Protection Officers with comprehensive data identifying rented dwellings. Using this, officers will be able to carry out proactive and targeted, risk-based inspections and have access to accurate and up to date contact details of landlords for each dwelling. The Regulations provide the tools to assist Officers in identifying sub-standard rental accommodation and bringing about improvements, leading to better lives and outcomes for families and children. Improving the overall health of tenants and occupants in rented dwellings is of overall benefit to society as a whole.	

5.2: What are the likely different impacts on different groups of children and young people?

Group of children affected	Initial analysis of the positive impact on rights	Initial analysis of the negative impact on rights
Children living in rented accommodation in Jersey	Upholding the right to an adequate standard of living and supporting the right to the best standard of health.	None identified

5.3: If a negative impact is identified for any area of rights or any group of children and young people, what options are there to modify the proposed decision to mitigate the impact?

Describe the negative impact	What options are there to modify the measure(s) or mitigate the impact?
None identified	N/a

Stage 6: Conclusions

6.1: In summary what are your key findings on the impact of the decision on children and young people's rights?

The Regulations would introduce a licensing scheme that applies to all rented dwellings defined under the primary law. This will allow officers for the first time to have a comprehensive set of data identifying rented dwellings. They can apply a risk-based approach to inspection, seeking out accommodation that falls below minimum standards and / or has prescribed hazards and then working with these landlords to bring them into compliance. The Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 sets out minimum standards and a method of identifying prescribed hazards that apply to the rented dwelling sector in respect of health and safety, fire, gas and electrical safety and furnishings. These Regulations are intended as a tool to assist in the enforcement of these statutory rules.

It is anticipated that a good proportion of the rental sector is fully compliant and offers accommodation that is at this modest standard or above. What these Regulations will do is to introduce a scheme to allow Officers to identify and permit this activity with minimal regulatory impact or burden, whilst targeting their resources at the areas of highest risk to bring about real improvements.

This should have the effect of going some way to alleviating any housing instability, negative health effects and neighbourhood detriment that may be attributed to poor housing conditions for families including children.

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 including a right of appeal to the Minister if a licence is refused or withdrawn.

Regulation 3 empowers the Minister to licence rented dwellings for 2 years, commencing on the date specified in the licence or on the date issued, if no date is specified, and to inspect the dwelling. This Regulation provides for the Minister to refuse to issue or renew a licence if the dwelling does not meet minimum safety standards required under the Law or if there is a prescribed hazard present in the dwelling. The Minister may issue or renew the licence subject to the licence holder complying with conditions to address the minimum safety standards or hazard. This Regulation also provides –

- for a licence to be subject to certain standard licence conditions that are set out in the Schedule. Those include requirements on the licence holder to provide certain information to occupiers of the dwelling including how occupiers may raise a concern or complain about the state of the dwelling;
- for the Minister to impose charges for the issue of a licence and to publish those charges, if any; and
- for the Minister to withdraw a licence if the Minister considers that a dwelling does not meet the minimum safety standards, if there is a prescribed hazard present in the dwelling or if the licence holder is not complying with the standard licence conditions or other requirements contained in the licence.

Regulation 4 makes it an offence to contravene the prohibition on using an unlicensed dwelling as a rented dwelling or to contravene any requirement of a licence, punishable by a fine of up to £10,000.

Regulation 5 makes transitional provisions. The Minister must issue a licence in respect of a rented dwelling if it is a rented dwelling on 1st January 2024, provided an application for a licence in respect of that dwelling is received not later than the end of 31st March 2024. The applicant for a licence in that case does not commit an offence under Regulation 4.

Regulation 6 gives the title by which the Regulations are to be cited and provides for them to come into force on 1st January 2024.



Jersey

DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS) (LICENSING) (JERSEY) REGULATIONS 202-

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Jersey

DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS) (LICENSING) (JERSEY) REGULATIONS 202-

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

THE STATES make these Regulations under Article 5 of the [Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 2018](#) –

1 Interpretation

In these Regulations –

“application” means an application for a licence;

“licence” means a licence in respect of a rented dwelling issued or renewed under Regulation 3 and “licence holder” is construed accordingly;

“Law” means the [Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 2018](#);

“minimum safety standards” means the requirements of Articles 5, 6 and 7 of the [Public Health and Safety \(Rented Dwellings – Minimum Standards and Prescribed Hazards\) \(Jersey\) Order 2018](#).

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) The scheme is devised and administered by or on behalf of the Minister.
- (3) A person must not allow a dwelling to which this Regulation applies to be used as a rented dwelling unless the dwelling is licensed for use as a rented dwelling by the Minister in accordance with the scheme and these Regulations.
- (4) This Regulation applies to any part of a rented dwelling other than –
 - (a) a registered lodging house within the meaning of the [Lodging Houses \(Registration\) \(Jersey\) Law 1962](#);
 - (b) premises registered under Article 6 of the [Tourism \(Jersey\) Law 1948](#);
 - (c) premises which are used or intended to be used as a nursing home within the meaning of Article 1A of the [Nursing Homes \(Jersey\) Law 1994](#); or

- (d) residential accommodation that is a care home service, a children's home service or a residential family centre service within the meaning of Schedule 1 to the [Regulation of Care \(Jersey\) Law 2014](#).
- (5) Without limiting paragraph (1) the scheme may provide for –
 - (a) the manner and form of an application;
 - (b) the information to be contained in the application;
 - (c) the Minister to require further information in relation to the application; and
 - (d) a right of appeal to the Minister if a licence is refused or withdrawn.

3 Licences

- (1) The Minister may license a dwelling to be used as a rented dwelling if the Minister is satisfied that the application meets the requirements of the scheme.
- (2) A licence –
 - (a) commences on –
 - (i) the date specified by the Minister in the licence, or
 - (ii) if no date is specified, the day it is issued; and
 - (b) expires 2 years after it commences.
- (3) Before issuing or renewing a licence the Minister may decide whether to inspect the dwelling.
- (4) If the dwelling is so inspected, the Minister must –
 - (a) issue or renew the licence;
 - (b) refuse to issue or renew the licence if the dwelling does not meet the minimum safety standards or there is a prescribed hazard present in the dwelling; or
 - (c) issue or renew the licence if the licence holder complies with any conditions set out in the licence designed to meet the minimum safety standards or address a prescribed hazard within a specified period.
- (5) A licence is subject to the standard licence conditions set out in the Schedule and may contain additional requirements that the Minister thinks fit.
- (6) The Minister may impose charges for the issue of a licence and if charges are imposed, they must be published.
- (7) The Minister may withdraw a licence if the Minister considers that –
 - (a) the dwelling does not meet the minimum safety standards;
 - (b) there is a prescribed hazard present in the dwelling; or
 - (c) the licence holder is not complying with any of the standard licence conditions or additional requirements contained in the licence.
- (8) In this Regulation “prescribed hazard” is construed in accordance with Article 2 of [Public Health and Safety \(Rented Dwellings – Minimum Standards and Prescribed Hazards\) \(Jersey\) Order 2018](#).

4 Offences

- (1) A person who contravenes Regulation 2(3) or a requirement of the 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.

5 Transitional provisions

- (1) The Minister must issue a licence in respect of a dwelling that, on the day that these Regulations come into force, is a rented dwelling, if the application in respect of that dwelling is received by the Minister not later than the end of 31st March 2024.
- (2) A licence issued under paragraph (1) commences on 1st January 2024 despite Regulation 3(2)(a).
- (3) A person is not liable to be convicted of an offence under Regulation 4 if the person's application is received in accordance with paragraph (1).
- (4) Regulation 3(3) does not apply in respect of a licence issued under paragraph (1) but nothing in this Regulation limits the Minister's power under Regulation 3(7).

6 Citation and commencement

These Regulations may be cited as the Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 202- and come into force on 1st January 2024.

SCHEDULE

(Regulation 3(5))

STANDARD LICENCE CONDITIONS

1 Compliance with minimum safety standards

The licence holder must ensure that the rented dwelling complies with the minimum safety standards whenever it is used as a rented dwelling.

2 Notification of changes to the Minister

The licence holder must ensure that the Minister is notified of the following changes within 28 days of their occurring –

- (a) a change to the licence holder's address, contact telephone number or email address;
- (b) if there is a manager or agent acting on behalf of the licence holder, a change to that person's address, contact telephone number or email address;
- (c) a change to the emergency contact number provided to the occupier of the rented dwelling;
- (d) the dwelling is no longer being used as a rented dwelling; or
- (e) any other change in circumstances that could lead to the Minister withdrawing the licence.

3 Information to occupiers

- (1) The licence holder must provide the occupier of the rented dwelling with –
 - (a) a copy of the licence; and
 - (b) written information explaining how to raise a concern or complaint concerning the dwelling.
- (2) The licence holder must provide the copy of the licence and written information –
 - (a) within 28 days of the day the licence commences in accordance with Regulation 3(2)(a); or
 - (b) in the case of anyone already in occupation of the dwelling on, or before, the commencement of these Regulations, within 28 days of the day the licence is issued.
- (3) Sub-paragraph (4) applies if –
 - (a) the dwelling is occupied by the existing or a new occupier;
 - (b) the dwelling is occupied under a renewed agreement in respect of an existing occupier, or under a new agreement in respect of a new occupier; and
 - (c) there is already a licence in respect of the dwelling.
- (4) In a case falling under sub-paragraph (3), the licence holder must provide the existing or new occupier with the copy of the current licence and written information

at the same time as the occupier is provided with the renewed or new agreement under which the dwelling is occupied.

- (5) The copy of the licence and written information may be provided in hard copy or electronic format including by way of notices displayed in communal areas, handbooks, emails, applications, websites or other similar systems so long as it is fully accessible to the occupier having regard to the needs of an occupier who may have difficulty in accessing certain forms of communication.
- (6) The written information, but not the copy of the licence, may also be provided by way of short message service.
- (7) The written information must include –
 - (a) a contact address and daytime telephone number to be used to communicate the concern or complaint;
 - (b) an out-of-hours telephone number to be used in an emergency;
 - (c) how the concern or complaint will be dealt with; and
 - (d) a statement on the occupier’s right to seek advice from or raise a complaint to the administration of the States responsible for environmental and consumer protection, together with the up-to-date contact details for the said administration of the States.
- (8) The licence holder must ensure that the occupier is advised of any material change to the written information within 28 days of the change taking place in the same form as that in which the original written information was provided.
- (9) In this paragraph “administration of the States” has the same definition as in the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#).