

# STATES OF JERSEY



Jersey

## **DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS) (LICENSING) (JERSEY) REGULATIONS 202- (P.40/2023): ELEVENTH AMENDMENT (P.40/2023 Amd.(11)) – SECOND AMENDMENT**

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**Lodged au Greffe on 21st November 2023  
by the Environment, Housing and Infrastructure Scrutiny Panel  
Earliest date for debate: 28th November 2023**

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**STATES GREFFE**

DRAFT PUBLIC HEALTH AND SAFETY (RENTED DWELLINGS) (LICENSING)  
(JERSEY) REGULATIONS 202- (P.40/2023): ELEVENTH AMENDMENT (P.40/2023  
AMD.(11)) – SECOND AMENDMENT

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**PAGE 2, SUBSTITUTED REGULATION 2 –**

After substituted Regulation 2(4), insert –

- “(5) The Minister must not impose fees if the dwelling to which the application relates is owned by –
  - (a) Andium Homes;
  - (b) Christians Together in Jersey Housing Trust;
  - (c) Clos de Paradis Housing Trust;
  - (d) F.B. Cottages Housing Trust;
  - (e) Jersey Homes Trust; or
  - (f) Les Vaux Housing Trust.”.

ENVIRONMENT, HOUSING AND INFRASTRUCTURE SCRUTINY PANEL

## REPORT

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### EXEMPTION OF LICENSING FEES FOR SOCIAL HOUSING PROVIDERS

*N.B. The Environment, Housing and Infrastructure Scrutiny Panel has lodged this amendment to the 11th amendment which is intended to supersede its original 8th amendment. The principle of the original 8th amendment remains the same and the re-lodging of the amendment in this manner is to ensure that, if adopted, the Panel's amendment would be compatible with the Minister for the Environment's 11th amendment. Accordingly, the original 8th amendment will be withdrawn. As outlined in the Minister's 11th amendment, the Panel's remaining amendments (3rd, 4th, 5th, 6th, 7th, 9th and 10th) are now incorporated into the Minister's 11th amendment and therefore will also be withdrawn. The remainder of this report remains unchanged from the original 8th amendment.*

The aim of this proposed amendment is to amend the draft Regulations to require social housing providers to obtain a licence under the proposed licensing regime but to exempt them from the associated licence fee.

Regulation 1 of the [Income Support \(Jersey\) Regulations 2007](#) states that:

- “social housing” means housing that is provided by any of the following –*
- (a) the States, such housing being under the control of the Minister for Housing and Communities;*
  - (b) a company prescribed under Article 2 of the Social Housing (Transfer) (Jersey) Law 2013;*
  - (c) Jersey Homes Trust;*
  - (d) Les Vaux Housing Trust;*
  - (e) Christians Together in Jersey Housing Trust;*
  - (f) FB Cottages Housing Trust;*
  - (g) Clos de Paradis Housing Trust;<sup>1</sup>*

It is further noted that the providers listed above are also recognised as social housing providers under the '[Eligibility Criteria for Renting Social Housing](#)' policy.

In views expressed to the Panel, social housing providers question the necessity for their inclusion in the proposed licensing regime and have also shared their concerns with the Panel around the potential impact of licence fee costs. A summary of these views is included below:

1. The Government of Jersey already knows where social housing properties are (one of the main arguments for the introduction of a licensing scheme is that it will enable Government to identify which properties are privately rented).
2. Social housing providers already keep their homes to UK Decent Homes standards and carry out regular inspections of their units.
3. If there was an issue with the condition of a social housing property, provision is already made within the Public Health and Safety (Rented Dwellings) (Jersey) Law

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<sup>1</sup> [Income Support \(Jersey\) Regulations 2007 \(jerseylaw.je\)](#)

for tenants to complain to Environmental Health who will carry out an inspection to determine whether the property conforms to the minimum safety standards or not.

4. A further rationale for the introduction of a licensing scheme is to prevent ‘revenge evictions’ from occurring by enabling Government to know where rental properties are so that ‘random’ inspections can be made on the property without the tenant being left concerned that a complaint made to Environmental Health will result in a revenge eviction by their landlord. The reality is that social housing landlords do not evict tenants as an act of revenge. Evictions are extremely rare and only where proof can be provided that the tenant is in breach of their tenancy agreement. Even where breaches do occur, Andium Homes operate a tenancy sustainment service, the purpose of which is to help tenants in rental arrears or where they may be in breach for other reasons, such as anti-social behaviour, to avoid eviction.
5. Exempting social housing providers from the licensing regulations *does not* mean that they will be exempt from having to comply with minimum standards as currently set out in law.
6. The cost of the licence fee will either need to be passed onto tenants through rents, or absorbed from social housing providers’ reserves, which ultimately means that they have less money to build more homes and maintain existing ones.
7. Whilst the Minister’s argument is that the currently proposed cost of the licence is sufficiently small (£60 spread over two years) that it will not impact negatively by being included in the rent, there is a risk that the fee could rise disproportionately in the future, should operating costs increase. Furthermore, Andium Homes’ annual rental increases are currently capped at 4% regardless of whether RPI is higher than this, therefore leaving little additional scope to add the cost of the licence fee onto rents.

A written submission received from Sir Mark Boleat also commented that:

*The stated purpose of the regime is “to ensure that minimum standards are adhered to and that tenants and their families are living in safe homes”. However, the proposal embraces social housing providers. This is unnecessary for three reasons –*

- *The social landlords and their properties are already known.*
- *There is no evidence of the malpractice that is being used to justify the regime.*
- *If there was malpractice the government has other means of addressing it, particularly in respect of Andium Homes, which the government wholly owns.<sup>2</sup>*

During the public quarterly hearing held on 11th October 2023, the Panel questioned the Minister for the Environment on the rationale for including social housing providers in his proposals, particularly given that social housing providers in England and Wales are exempt<sup>3</sup> from the selective licensing regime:

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<sup>2</sup> [Written Submission – Sir Mark Boleat – 22 September](#)

<sup>3</sup> [Selective licensing of private rented housing in England and Wales – House of Commons Library Research Briefing – March 2023](#)

***Deputy M.R. Le Hegarat:***

*Minister, we have heard from social housing providers who have made their case for why they should be considered exempt from the licensing regulations. We note that housing associations and registered social landlords in the U.K. are exempt from the U.K.'s selective licensing scheme. As social landlords would be obliged under law to meet the minimum standards and would be subject to an inspection if a complaint was made about substandard conditions, can you explain your rationale for including social housing providers in the proposed licensing regulations when government is already aware where these rented properties are?*

***The Minister for the Environment:***

*It is not to do with, in the case of social housing, of where they are. It is a question of standards, and the 2018 law is about rented dwellings. It does not exempt social housing from that. The underlying law is very clear.*

*It is also the case that, I am afraid, although social housing providers are generally good and have a very good record, it is not the case that we believe that they are absolutely perfect, and that there does need to be a level of inspection possible that can tackle problem properties. Again, it is quite ironic, because this was something the J.L.A. made as a point to us very early on in the process, that it would be unfair to exempt the social housing because they have problems as well, and why should they get away without having to be examined? I think that is quite a compelling argument. We have different sectors of the market. They should all be held to the same standard, in my view.*

***Deputy M.R. Le Hegarat:***

*Okay. To what extent do you consider that the level playing field will always not exist for social housing providers by the nature of how they operate, and therefore trying to ensure a level playing field with these licensing regulations is perhaps a moot point?*

***The Minister for the Environment:***

*I think this is, again, a misunderstanding. The point about the standards that are established in the law is that they are basic fundamental standards about safety. It is not like we are trying to say, well, everybody should have a certain size of television or bathrooms of this size or whatever. This is about basic levels of safety, and these are fundamental. These sit before anything else in terms of the provision of housing. It is the safety of rented dwellings that we are talking about. Therefore, I think it is appropriate that every housing provider should meet that standard because it is so basic.*

***Deputy M.R. Le Hegarat:***

*I do not think there is any sort of idea that they would not be meeting those basic standards. I think the point might be is that the social housing landlords, their rentals and everything else, are capped and they all come through Gateway. It is really about that sort of idea that there will obviously be an increase in costs to those particular providers, and some of them may or may not be able to increase their rentals in relation to those costs. It was just really to sort of get ... and obviously the U.K. does something different.*

***The Minister for the Environment:***

*No, fair enough.*

**Deputy M.R. Le Hegarat:**

*I am sure their standards will be the same for both sectors as well.*

**The Minister for the Environment:**

*Yes, we always like to do things differently in Jersey, do we not?*

**Deputy M.R. Le Hegarat:**

*Well, why not?*

**The Minister for the Environment:**

*So the point being then that they, unlike private rental, cannot raise their prices and they are on fixed income models and so on. I come back to the fact that it is £60 every 2 years, £30. Yes, for a company like Andium it is a large amount of money, but their income is very large. I think from the point of view of Andium, the sympathy I have, if you like, is that I am aware that their business model keeps getting squeezed from different angles. We put the rents down to 80 per cent. There are always extra things we are asking from Andium, and they do not increase their income. They make it harder for them. So I do have sympathy with that. But I would see that in the context of an argument about let us rethink what our requirement is from Andium in the round, rather than, say, trying to carve out an exemption of a particular law, which is about fundamental basic standards for tenants.*

**Deputy M.R. Le Hegarat:**

*I suppose maybe the better question might be to ask is: should they pay ... they are registered anyway to a degree. Most of them belong to Rent Safe. But what about the exemption of a fee, then? If you were having the same information and you were exempting fees. Because the question is: at what point will this legislation then impact on their ability to deliver what we want them to deliver?*

**The Minister for the Environment:**

*If the fee was a significant amount of money, I would have a lot of sympathy with that. But it is not. It is a relatively small ... in fact, a very small amount of money. If you think of £30 a year in terms of the rent per unit, it is tiny. It is a fraction of 1 per cent. So it is not a threat on its own to the business model, which is why I put it in the context of the bigger picture. The things that are more threatening to them are the pressure to reduce their rents in relation to the market and so on, or the cap on the rent increases. Those things significantly affect social housing renting models. I do not believe that £30 a year per unit does. I tell you, if we were to do that, the J.L.A. would have a reasonable case and private landlords would have a reasonable case to say: "Why are they exempt? I mean, we have to pay. Why are we picking up the bill to pay for inspections of somebody and maintaining standards in another sector of the economy?" That, I would undoubtedly hear.*

**Deputy S.G. Luce:**

*But is there not a different responsibility, Minister, under a definition of social rented landlord?*

***The Minister for the Environment:***

*I keep coming back to this point about it being basic universal standard in terms of the safety. It is the threshold which everybody should have to cross.*

***Deputy S.G. Luce:***

*I am not disagreeing with that at all. I am just asking: are social landlords asked to do things which mean that money is tighter; their income is reduced and therefore any additional overheads that they have to bear impact on their ability to deliver social housing?*

***The Minister for the Environment:***

*As I say, I have that limited sympathy but I have that sympathy, but I do think I would rather ... I would see it in that wider context. I cannot really say much more than that.*

***Deputy S.G. Luce:***

*That is fine. You made your pitch for treating everybody the same and that is, in certain circumstances, difficult to disagree with.*

***The Connétable of St. Brelade:***

*Just to finish off on that, do you not see this as rather a circumlocutory argument in that we charge the social landlords £60, whatever it is, it just goes straight back to the tenant for very little benefit in that they already have their inspection regimes? They have to comply with minimum standards. What is the net gain for the tenant?*

***The Minister for the Environment:***

*The gain is ... the law is in existence now, yes, but we are bringing in the regulations because we do not believe that we are maintaining those standards that the law requires. I am afraid that that is true also in some social rented accommodation. I have seen pictures and I have had letters from tenants, and these are not always the social housing tenants. These are often complex problems. I get that. These are often to do with tenants in challenging circumstances who may be unable to maintain properties and so on. These are challenging situations and so they are investigated in that way. They are not investigated in a kind of: "You have done something terrible here", but they have to be investigated. Standards are there for a reason and we have to understand why those standards are not being met and do something about them. The point being that we do need to include them because there is a potential issue in that sector, possibly not as big as in the private rented sector, but I am not really going to speculate too much on that. The question of the circular money is true of almost any regulatory activity, you could argue that. The principle being that we do charge for regulation. We charge for regulation because we believe that there is ultimately a benefit to the sector from better regulation, and therefore it is appropriate that people should pay. I know that not everybody who is being regulated will necessarily agree with that, but that is a rationale.<sup>4</sup>*

Having reviewed cases put forward from both the Minister for the Environment and the social housing providers, the Panel is of the view that social housing providers should be required to

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<sup>4</sup> Transcript – Public Quarterly Hearing with the Minister for the Environment, 11th October 2023, p.8-12

obtain a licence. However, considering their status as non-profit organisations, the Panel believes the case has been satisfactorily made that they should be exempt from the licence fee, and therefore proposes this amendment.

### **Financial and staffing implications**

If adopted, this amendment would exempt social housing providers from being required to pay the £60 licence fee per unit of accommodation every two years (£30 per annum) and would therefore reduce the amount of income generated by the scheme by an estimated £191,010 per annum.

These figures have been estimated using the number of individual units of accommodation owned by each of the social housing providers and which are currently available online, as follows:

Andium Homes = 4,895 units

Christians Together in Jersey Housing Trust = 177 units

Jersey Homes Trust = 839 units

Le Vaux Housing Trust = 326 units

FB Cottages Housing Trust = 48 units

Clos de Paradis = 82 units

**TOTAL = 6,367 individual dwellings**