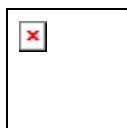


**HOUSING REGULATIONS: REDUCTION IN RESIDENCE PERIOD**

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**Lodged au Greffe on 21st November 2000  
by the Housing Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

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## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion -**

- (a) to agree, in principle, that the Housing (General Provisions) (Jersey) Regulations 1970, as amended, should be amended in order to reduce the twenty-year residence rule to nineteen years with immediate effect; and
- (b) to agree that further reductions in the required residence period should be made in stages, as soon as is practicable, until a fifteen-year residence requirement is reached.

**HOUSING COMMITTEE**

## Report

1. In September 1999 the Housing Committee of the time lodged a five-year Strategic Policy Report which was not debated as the Committee fell shortly afterward. The current Committee supports many of the proposals in that document and is working on an updated and revised strategic plan to cover the period up to 2005. The Committee had intended to complete revision of the housing plan in the light of a debate on population and immigration policy but as this has been further delayed the Committee will press ahead and seek a full housing debate early in 2001.
2. One issue which the Committee believes should be debated separately, and in advance of the five-year strategy, is whether or not the current “twenty-year rule” should be maintained or reduced. The requirement to complete twenty years’ continuous residence applies to those persons who do not achieve housing qualifications by other means and are therefore not permitted to lease or purchase accommodation subject to regulation under the Housing Law. This accommodation subject to housing control is referred to hereafter as “regulated accommodation”.
3. The decision of the States in 1979 to withdraw the right of persons arriving in the Island to become entitled, after a period of continuous residence, to lease or purchase regulated accommodation was believed, at the time, to be a strong weapon in the fight to prevent further aggravation of the housing shortage. It was intended to ensure that accommodation would be more freely available for those already resident and accepted by the Housing Committee as residentially qualified.
4. In the 1960s a five-year period of residence had been required to gain access to the residential stock which was subject to the Housing Law. In 1970 the Housing Regulations brought in a requirement for ten years’ residence to lease, with a total of twenty years required before purchase was allowed. In 1979 the Housing Regulations were amended so that with effect from 1st January 1980, the opportunity to qualify through length of residence alone was completely withdrawn.
5. The change in the Regulations in 1979 gave the impression that Jersey had “shut the door” and that, as well as protecting the housing stock for those residents qualifying by birth and by other means, there would also be a significant fall in immigration and stabilisation of the population level. The reality has been quite different, and successive Census figures have shown a rise in the population and many new people arriving in the Island year by year. Mark Boleat makes the point in his 1996 population policy report -  

“For the most part the Housing Regulations limit how people can live in the Island rather than whether they can live in the Island.”.
6. The 1979 change in the Law did not begin to have any effect until 1990. This was because those arriving in the Island prior to 1980 were able to complete ten years’ residence and move from non-residentially qualified accommodation into the regulated sector throughout the 80s. These persons qualified to lease and subsequently to buy regulated accommodation. From 1990 onward, a steady build-up occurred of the non-residentially qualified population although the mini recession over the period 1992 to 1994, during which there was net emigration from the Island, temporarily gave the impression that there was not a problem.
7. However, by 1995, the Housing Committee recognised that the growth of the non-residentially qualified population was becoming a very significant problem that should not be ignored. As a result, the Committee brought to the States a proposal to amend the Housing Law and Regulations in order to introduce a Regulation under which persons arriving in the Island could once more secure residential qualifications through length of residence alone. The States approved the proposal, which entitled persons after twenty years’ continuous residence to lease or purchase regulated accommodation. Although approved in 1995, the effect of this change in the Regulations was not felt until 2000, when the first persons to qualify approached the Housing Committee for consent.
8. In the 1996 Strategic Policy Review it was agreed by the States that “conditions to be met before rights of residence can be enjoyed should be the subject of ongoing review in the light of the five-yearly Census of the population.....”. The MORI poll conducted prior to the 1996 review indicated that over 60 per cent of Island residents believed that persons should have to live in Jersey for no more than fifteen years before gaining their housing qualifications. Unfortunately, the 1996 Census proved unhelpful in determining the number of residents likely to qualify to occupy (a) to (h) accommodation under the twenty-year rule or indeed a fifteen-year or ten-year rule. It is expected that the Census in 2001 will contain questions which will extract the relevant information.
9. In 1997 the Housing Committee carried out a consultation exercise with the public on all aspects of the Housing Law, and the twenty-year rule generated considerable comment. A number of submissions to the Housing Committee supported a reduction from twenty years to fifteen years and some even ten, on the grounds that persons

with this length of continuous residence were quite clearly not transient workers but permanent residents, who, in the majority of cases, had a long history of full employment in the Island. The point was made by the Jersey Rights Association that, despite the contribution made to the Island by long-term residents without residential qualifications, they were penalised by housing legislation and policy, with access only to lodgings and non-controlled accommodation. In addition, lodgers had no security of tenure, no entitlement to any housing subsidy and, in some cases, little privacy.

10. With the Human Rights (Jersey) Law 2000 likely to come into force in early 2002, the Housing Committee will be reviewing all its legislation and policy to ensure compatibility with the Law. In general the Committee believes, on the basis of a case considered in 1987 by the European Court of Human Rights, that it is entitled to discriminate against newcomers to the Island in determining who should have full access to the regulated housing stock. This is because Jersey has a limited land resource and may therefore take appropriate measures to ensure that this is used in the first instance for the benefit of the existing resident population. The Committee is satisfied that human rights are not breached by simply seeking to restrict access by newcomers to the Island to the regulated housing stock.

However, the twenty-year time limit for this restriction which applies to some, but not all, newcomers does cause concern. At what point does the denial to the individual of access to the housing stock become an interference in their right to respect for private and family life and their home? Ten years does not seem unreasonable, but after that time the matter becomes debatable.

11. On a regular basis the Housing Committee receives applications from Island residents without housing qualifications who have lived in the Island continuously for more than fifteen years and now have dependent children. There is considerable difficulty for families with children seeking non-residentially qualified accommodation. Registered lodging houses range from those just meeting the minimum standards to luxurious apartments aimed at high earners, but generally they cater for single people and childless couples.

12. Many of the cases applying to the Housing Committee under Regulation 1(1)(g) (the hardship clause) are aged in their late thirties or early forties. While the Committee believes it is reasonable to expect persons newly arrived in the Island or with short periods of residence not to start families or bring over children from their homeland, it is perhaps not so reasonable to expect persons who have spent half their working lives in the Island and are approaching middle age to be denied the opportunity to have children and to bring up those children in satisfactory accommodation. In some cases children who are born in Jersey will spend all their school lives in lodging accommodation. Members who have served on the Housing Committee will be well aware of the high degree of stress suffered by families without residential qualifications who have been permanently resident in the Island for many years and have decided to start a family. Despite both partners working it is extremely difficult to obtain even what most people would consider accommodation of a minimum standard in which to bring up young children. Unfortunately there may be some who decide that termination of pregnancy is the better option than to bring up a child in these conditions.

13. If the intention in 1979 was originally to ensure that persons only remained in the Island for a short period and therefore net immigration would not occur, it has failed. Some new arrivals to the Island qualify in ten years or less because they form relationships with residentially qualified persons. As stated above, ten years in lodging-type accommodation is not unreasonable, particularly for the single and those couples without dependent children. However, in 1995, it was belatedly recognised that it is totally unrealistic to discriminate indefinitely against long-term residents in the Island with regard to access to the regulated housing stock.

14. Enormous problems are faced by some long-term residents, particularly those with young children. These problems have been highlighted by many agencies in the Island including the Churches, children's services, Eradication of Poverty Group and Citizens Advice Bureau. At every meeting the Housing Committee considers distressing cases making application under the hardship clause. The cases that come before the Committee are extreme but reflect a situation whereby some schoolchildren, born in Jersey, may refer to home as a room number. Behind that room number the family will live, sleep and eat in an area less than half the size of a standard one-bedroom flat. The adults in the family will undoubtedly be working long hours simply to pay for their inadequate accommodation, with no prospects of obtaining better because the cost is so high. These people are not newcomers to the Island, they are long-standing residents who pay their taxes and contribute to the Island's economy. Return to whence they came is not an option because Jersey is their home and has been for many years.

15. While there are concerns about the ageing population, which is likely to begin to impact on the Island from 2010 onward, the present-day problem is a shortage of labour to serve many areas of the Island's economy. Short-term residents can only meet a part of that requirement, and the discrimination in housing terms against long-term residents without qualifications is a negative factor in retaining good quality staff. The Housing Committee's (j)

category policy is used to provide mainly short-term help - up to five years - for employees considered to be essential. Some of these employees will move into the non-residentially qualified sector once the (j) category licence has expired and continue to work in the same job, thus negating the principal reason for the (j) category policy.

16. In order to help overcome the problems arising from the growth of the non-residentially qualified population, which according to the recent LECG report on housing could be as high as 20 per cent of all households, it has been suggested that more registered lodging houses should be permitted. This may be helpful in the short-term, but should not be viewed as the solution. A culture of haves and have-nots would be emphasized if we simply allowed the non-residentially qualified population to grow to even greater proportions and the misery of these long-term residents to be extended.
17. When the States, in 1995, approved the introduction of the twenty-year rule, one concern was the impact this would have on the demand for the regulated housing stock. The assumption at that time was that, on an annual basis, perhaps only thirty to forty households would “survive” the twenty years and therefore the impact would be minimal. Since 1998 the Housing Committee has set up a registration scheme for non-residentially qualified persons who have been continuously resident for ten years or more. The indications from the registration scheme, reported in Committee Propositions lodged (but not debated) in 1998 and 1999, was that a maximum of about 100 households a year would qualify. While this may still be the case, the actual number of consents issued since 1st January 2000, to persons qualifying under this rule is 21, indicating an annual figure of about 30 qualifiers. One must, however, assume that perhaps as many who have applied for consent are awaiting a suitable opportunity to lease or purchase and therefore a higher figure should be allowed for.
18. Given the number of consents granted in the first year and the information from the Registration Scheme, it would be prudent for the Planning and Environment Committee to make allowance for an additional 500 dwellings over the next ten years to allow for a reduction in the twenty-year rule down to fifteen years. This would be 100 for each year by which the twenty-year rule is reduced. Although the Housing Committee is only proposing initially to reduce to nineteen years, the intention is to reduce year by year to achieve a fifteen-year qualifying rule as soon as practicable. With the co-operation of the Planning and Environment Committee, this can be achieved with no adverse impact on those who already have residential qualifications.
19. There is an argument that there is currently not enough accommodation available for the qualified resident and so - why make matters worse? One of the main roles of the Planning and Environment Committee is to plan for the needs of all Island residents, and the historic difficulties arising from insufficient land being made available for residential purposes should not be used as an excuse for not being realistic about the future. The Housing Committee will need to be satisfied that, as a result of Planning and Environment Committee policy, sufficient additional dwellings are being provided to meet the need before there is any further reduction beyond the initial proposal to reduce to nineteen years.
20. Immigration has occurred regardless of the twenty-year rule and reducing to fifteen years should have no particular impact. Fifteen years takes up such a large part of any person’s working life that it is highly unlikely to be an incentive to persons to come to Jersey. The Census figures over the last thirty years illustrate that changes in the qualifying residence period have been irrelevant in regard to immigration patterns. Between 1971 and 1981, when persons qualified after ten years’ residence, immigration occurred at an average rate of 410 persons per annum. Yet between 1981 and 1991, when there was no means of qualifying by length of residence alone, immigration occurred at the higher rate of 690 persons per annum. Clearly, whether it is a ten-year, fifteen-year or an indefinite time period of residence, it is not a significant factor for newcomers to the Island.
21. If immigration is to be restricted, it must be by other methods, not by making life progressively uncomfortable for people while they are working here. Reducing the twenty-year rule steadily to fifteen years should have no effect on any proposals to introduce immigration controls, but it will make a significant difference to long-term residents who have in many ways become just as important to the Island’s economy as those granted (j) category licences. It will also allow more families with young children born in the Island to bring up their children in a stable home environment, something which is very difficult to achieve, particularly for those on modest incomes, in the lodging sector.
22. There are no manpower implications for the States and the financial implications are minimal. The financial implications arise mainly from the number of persons who will, if the States agree to reduce the qualifying period by one year, be entitled to claim rent subsidy one year earlier than anticipated. For example, if twenty-five persons gaining qualifications earlier than anticipated were entitled to £2,500 each in rental subsidy, the States would pay out £62,500 in subsidy with effect from 2001 instead of 2002. This would apply as a “one-off” for each year of reduction in the qualifying period. There would also be a “one-off” cost of providing some additional social rented

housing, but again this is only a brought-forward cost, not the absolute cost which would arise if the persons benefiting would have moved from a position of never qualifying to qualifying.

23. For the reasons outlined above and in the interests of fairness, the Committee strongly believes that the continuous period of residence required to obtain housing qualifications should be reduced initially to nineteen years and subsequently in stages down to fifteen years as soon as is practicable.