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# STATES OF JERSEY



## **DRAFT RESIDENTIAL TENANCY (JERSEY) LAW 200-: CONSULTATION REPORT – WHITE PAPER**

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**Presented to the States on 29th April 2008  
by the Minister for Housing**

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**STATES GREFFE**

Population Office  
**White Paper**

**Residential Tenancy (Jersey) Law 200-**

**24th April 2008**

**PURPOSE OF CONSULTATION**

To inform the public about the proposed Residential Tenancy (Jersey) Law 200- and to gauge public opinion on new provisions to formalise the obligations between landlord and tenant.

**DEADLINE FOR RESPONSES**

**24th June 2008**

**SUMMARY/QUESTIONS TO CONSIDER**

The Minister for Housing is proposing the introduction of this new Law which will modernise current legislation in this area and create a regulatory framework which will offer security of tenure and clarity to the rôles and responsibilities of those entering into the relationship of landlord and tenant.

*The key proposals are to introduce:*

- (i) a law applicable to all residential tenancies of 9 years or less;
- (ii) clarity of obligations between landlord and tenant including:
  - new fixed notice periods for both landlord and tenant;
  - a requirement for all tenants to be given a written copy of their tenancy agreement;
- (iii) revised legal procedures for evictions;
- (iv) the potential for Regulations to be made around a variety of issues to further clarify the tenant/landlord relationship;
- (v) recommendations to deal with the issue of the return of tenants' deposits.

**The Minister for Housing would appreciate your views on the provisions of the proposed law and questions are included on the following specific areas:**

1. Are there any issues arising in landlord/tenant relationships that are not specifically mentioned in the draft law that you feel should be regulated?
2. Do you agree with the proposals for fixed periods of notice to be given by both landlord and tenant?
3. Do you agree with the proposed periods of one month from tenant to landlord and three months from landlord to tenant?
4. If not, you are asked what periods of notice you think would be acceptable.
5. Do you agree with the recommendation that the mediation process offered in the Petty Debts Court provides an appropriate forum for resolving issues concerning the return of deposits? Or, do you believe there is a need to establish a formal Deposit Scheme?
- 6/8. There are also some additional questions raised in connection with rental deposits.

**FURTHER INFORMATION**

The background to the draft Law and further information about it are provided in the attached paper.

**CONFIDENTIALITY**

*Please note that responses submitted to this public consultation may be made public to demonstrate views that have been expressed during the consultation (i.e. sent to the Scrutiny office, quoted in a final published report, quoted in the media and published on a States of Jersey website). If a respondent has a particular wish for confidentiality please indicate this clearly when submitting the response.*

**SEND COMMENTS TO:**

Residential Tenancy Consultation Population Office 3rd floor, Jubilee Wharf 24 Esplanade St. Helier Jersey JE4 0UT	Tel: 01534 448931 E-mail: <a href="mailto:rtl@gov.je">rtl@gov.je</a> Fax: 01534 448988
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The questions are repeated in Appendix 3 at the back of the paper. These pages can be removed once the questions have been completed and returned to the address above. The questionnaire has also been placed on the [www.gov.je](http://www.gov.je) website (Chief Minister's Department/Public Consultation) as a separate document for downloading, completion and return as an e-mail attachment to [rtl@gov.je](mailto:rtl@gov.je) if preferred.

**This consultation paper has been sent to the following individuals/organisations:**

The Public Consultation Register	Age Concern
The Housing Department, States of Jersey	The Law Society
The Magistrate, Petty Debts Court	Citizens Advice Bureau
Lodging House Association	The Housing Trusts
Jersey Estate Agents Association	Consumer Council

**SUPPORTING DOCUMENTS**

P.257/1998 Security of Tenure – Report of the Working Party

Draft Residential Tenancy (Jersey) Law 200-

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

**Consultation Paper**

**RESIDENTIAL TENANCY (JRSEY) LAW 200-**

**Executive Summary**

**The Minister for Housing is proposing the introduction of this new Law which will modernise current legislation in this area and create a regulatory framework which will offer security of tenure and clarity as to the rôles and responsibilities of those entering into the relationship of landlord and tenant.**

The former Housing Committee appointed a Working Party under the Chairmanship of Senator Corrie Stein in December 1996 which considered eviction procedures and security of tenure for tenants. *P.257/1998 Security of Tenure – Report of the Working Party* was presented to the States in 1998 and the current draft Law is based on the proposals in P.257 as adopted by the States.

The Council of Ministers and the States have committed to achieving the vision for Jersey offered in the States Strategic Plan 2006 -2011. Commitment Three<sup>1</sup> focuses on policies to deal with social inequity and refers to the aim to provide a good standard of accommodation for all and the need to introduce security of tenure legislation<sup>2</sup>.

In view of the length of time that has passed since the Working Party produced its Report the Minister for Housing feels it appropriate to publish the draft Law that has been prepared along with this explanatory paper. Comments will be welcome from anyone who wishes to respond to the questions raised.

The following report:

- explains the development of the Residential Tenancy (Jersey) Law 200-;
- explains who will and will not be covered by the proposed Law;
- highlights new obligations and procedures to be introduced by the proposed Law;
- describes the approach that has been adopted towards resolving issues arising over recovery of tenants' deposits.

**The key proposals are to introduce:**

- (i) a Law applicable to all residential tenancies of 9 years or less;
- (ii) clarity of obligations between landlord and tenant including:
  - new fixed notice periods for both landlord and tenant;

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<sup>1</sup> We will promote a safe, just and equitable society – p.26 and 3.8.9 p.31

<sup>2</sup> At paragraphs 3.8 and 3.8.9 p.30

- a requirement for all tenants to be given a written copy of their tenancy agreement;
- (iii) revised legal procedures for evictions;
- (iv) the potential for Regulations to be made around a variety of issues to further clarify the landlord/tenant relationship;
- (v) recommendations to deal with the issue of the return of tenants' deposits.

[1] **INTRODUCTION:**

In the mid 1990s concern was raised about the lack of legal protection tenants had in law. Two Working Parties were established. The first dealt with Landlord and Tenant obligations and in 1993 the Dwelling Houses (Rent Control) (Standard Tenancy Agreement) (Jersey) Regulations 1993 were introduced, which set out a standard form of agreement, which if used, exempts landlords from rent control<sup>3</sup>.

The second Working Party, set up by the former Housing Committee, looked at issues surrounding eviction procedures and security of tenure for tenants<sup>4</sup>. The Working Party considered the “Loi (1919) sur la location des bien-fonds”<sup>5</sup> as amended and the “Loi (1946) concernant l’expulsion des locataires réfractaires” as amended<sup>6</sup>. Both Laws are written in French and are still applicable, although since they came into force both Jersey society and the Jersey housing market have changed considerably.

Under the Chairmanship of Senator Corrie Stein, the Working Party put forward a number of recommendations in *P.257/1998 – Security of Tenure – Report of the Working Party*<sup>7</sup> to resolve the issues. These are listed in Appendix 1.

Subsequently, in 2002, Senator Stein brought an amendment to the States seeking the setting up of a Tenants’ Deposit Scheme to assist tenants in getting back deposit monies paid to landlords at the commencement of tenancy agreements<sup>8</sup>.

The majority of the Working Party’s proposals have been adopted in the provisions of the Draft Residential Tenancy (Jersey) Law 200- (“RTL”). Some of the proposals in the RTL go wider and introduce the possibility of a standard form of tenancy agreement<sup>9</sup> to be issued under the RTL and also procedures for a tenants’ deposit scheme.

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<sup>3</sup> See Article 2(d) of the Dwelling Houses (Rent Control) (Jersey) Law 1946 and page 9 of this Paper

<sup>4</sup> Many will remember the eviction cases of La Folie Estate and Troy Court which in part sparked the need for the review of security of tenure provisions carried out by the Working Party

<sup>5</sup> Translates as: “Law (1919) on the Letting of Property”

<sup>6</sup> Translates as: “Law (1946) Concerning the Eviction of Refractory Tenants”

<sup>7</sup> <http://www.statesassembly.gov.je/frame.asp> Propositions/1998/257

<sup>8</sup> Housing Committee Strategic Policy Report 2002 - 2006 (P.2/2002): amendment (lodged au Greffe 23rd April 2002)

<sup>9</sup> Note: see page 9 of this paper which refers to the “standard tenancy agreement” which is a separate agreement introduced under the terms of the Dwelling Houses (Rent Control) (Standard Tenancy Agreement) (Jersey) Regulations 1993

The attached Draft Residential Tenancy (Jersey) Law 200- (“RTL”) is designed to provide a framework which will provide a legal basis for the development of fair, transparent, well-regulated agreements between landlord and tenant.

**This report gives an overview of key provisions in the RTL and its application:**

- (i) Who the Residential Tenancy (Jersey) Law 200- applies to
- (ii) Standard tenancy agreements
- (iii) Regulatory powers for the future
- (iv) New notice periods for landlord and tenant
- (v) New eviction procedures
- (vi) Recovery of tenants’ deposits.

**The Minister for Housing is seeking the opinion of the public on a number of questions relating to the proposals.** These questions are included in the relevant sections of this paper. They are also repeated in Appendix 3 at the end<sup>10</sup>.

**Note: Explanation of other related pieces of legislation:**

Four other pieces of legislation which deal with landlord and tenant issues are currently in force. They are:

- (i) Dwelling Houses (Rent Control) (Jersey) Law 1946 which established the Rent Control Tribunal;
- (ii) Dwelling Houses (Rent Control) (Standard Tenancy Agreement) (Jersey) Regulations 1993 which provides for a standard tenancy agreement which, if used by landlords and tenants, exempts the parties from rent control;
- (iii) the Loi (1919) sur la location des bien-fonds” which deals with notice periods;
- (iv) the “Loi (1946) concernant l’expulsion des locataires réfractaires” which deals with eviction procedures.

These Laws and Regulations will remain in force so far as they are applicable once the new Residential Tenancy (Jersey) Law 200- comes into force.

**However, it is suggested that a review of these Laws be undertaken, with the objective of producing a unified piece of legislation based on the new Residential Tenancy (Jersey) Law 200-.**

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<sup>10</sup> The questionnaire can be removed once the questions have been completed and returned to the address above. The questionnaire has also been placed on the gov.je website as a separate document for downloading, completion and return as an e-mail attachment to [rtl@gov.je](mailto:rtl@gov.je) if preferred.

[2] **OVERVIEW:**

**Who the Residential Tenancy (Jersey) Law 200- (“RTL”) applies to:**

The RTL will apply to all residential tenancy agreements<sup>11</sup> for exclusive occupation of a residential unit for value (i.e. consideration or payment) for a period of 9 years or less.

A residential unit is classified as one offering exclusive use to the inhabitants of a shower or bath; a washbasin; a kitchen; a sleeping space and a lavatory<sup>12</sup>. Current legislation dealing with landlord and tenant issues will continue in force and apply, where applicable, to agreements that fall outside of these definitions.

The RTL will apply to all who enter into residential tenancy agreements as defined by the RTL including the States; Housing Trusts and companies who let residential property. Exceptions are limited and are included at Article 3(4).

Because the RTL will apply to all residential tenancy agreements that fall within its terms it will also apply to residential tenancy agreements drawn up under Article 2(d) of the Dwelling Houses (Rent Control) (Jersey) Law 1946 and the Dwelling Houses (Rent Control) (Standard Tenancy Agreement) (Jersey) Regulations 1993. The relationship between these Laws and the RTL is discussed on page 9 below. The standard States tenancy agreement is also referred to on page 10.

**However, the RTL will only apply to those qualified under the Housing Law. It will not apply to those classified as lodgers under current housing legislation.**

This is because if lodgers were given security of tenure, they would no longer be lodgers by legal definition, and on becoming tenants, could no longer occupy the property by virtue of being ‘unqualified’ under the Housing Law. This cannot readily be remedied by amendment of the Housing Law, as the entire foundation of the Housing Law is the exclusion of unqualified persons from leasing and purchasing arrangements.

**The provision of some security of tenure for unqualified persons is a clear objective of the new Migration Law, should that be at all possible.**

It is intended that the Housing Law will be replaced as part of the policy development to support the introduction of the forthcoming Migration Law. Consultation on Part 2 of the new Migration Law, which will deal with housing issues, is planned in the summer of 2008.

As such, it is possible that in future those currently classified as “unqualified” and who wish to enter into leasing arrangements will be able to do so without being in breach

<sup>11</sup> For full definition see Article 1(1) of the RTL

<sup>12</sup> For full definition see Article 2 of the Law



of housing controls. Such individuals would then be eligible for protection under the RTL, if the leasing arrangement were to be one that fell within the RTL's terms.

A final policy decision will be made once consultation on the issues closes. The Migration Law is expected to come into force at the end of 2009.

Article 3(1) applies the RTL to all future residential tenancy agreements made after implementation of the RTL **and** those residential tenancy agreements which, though made **before** implementation, are varied or renewed **after** the RTL's implementation.

This means that although the RTL is not retrospective, the provisions of Article 4 and Schedules 1 and 2 and also all the remedies in the RTL available to both parties will apply to any residential tenancy agreements created before the RTL came into force, and falling within the definitions of the RTL, if the agreement is varied or renewed after the RTL comes into force.

Article 21 makes it an offence for anyone to try to enter into an agreement to avoid the provisions of the RTL.

In 2004 the Petty Debts Court established its Tenancy Division which deals with housing issues, and it is intended that all legal matters requiring referral to the Court under the RTL will commence in the Tenancy Division.

**(ii) Standard tenancy agreements:**

Article 4 of the RTL introduces a requirement for all residential tenancy agreements to be in writing and to set out the details listed in Schedule 1 and set out provisions to the effect of those specified in Schedule 2 to the Law.

Article 19 also includes a number of provisions regarding requirements for landlords to provide tenants with copies of residential tenancy agreements and any varied agreements; receipts for deposits and a statement at least once every 6 months during the residential tenancy showing the amounts and dates of payment of any monies paid to the credit of the landlord.

Schedule 1 deals with essential issues to ensure clarity including what the residential unit comprises; date of commencement of the tenancy agreement and length of term; who the landlord is and his/her address and arrangements concerning the rent due.

Schedule 2 sets out a minimal list of other obligations placed upon the parties to a residential tenancy agreement including provisions relating to the payment of rates and arrangements relating to fixtures and fittings. The Schedule also makes it clear that key money and premiums are not to be paid in respect of residential tenancy units.

The provisions of Schedules 1 and 2 effectively lay out the minimal terms that should be addressed in a standard residential tenancy agreement. The parties are able to add further terms so long as they do not contravene the provisions of the RTL.

It is believed that many landlords currently use the “Standard Form of Written Contract for Exemption from Rent Control” document issued under the provisions of the Dwelling Houses (Rent Control) (Standard Tenancy Agreement) (Jersey) Regulations 1993.

This document is already essentially compliant with the terms of the RTL and a copy is attached in Appendix 2 to this paper for information. Once the RTL is implemented, parties wishing to be exempt from rent control will need to continue to use the 1993 standard tenancy agreement in accordance with the provisions of the Dwelling Houses (Rent Control) (Jersey) Law 1946. However, some revisions will be necessary, in particular in relation to the notice period provisions, in order for the standard agreement to be compliant with the RTL when it comes into force. Therefore it is proposed to present a Regulation to the States, which would come into force at the same time as the RTL, to revise those terms of the standard tenancy agreement that need revision to ensure compliance with the RTL.

Any of these standard tenancy agreements in force prior to the implementation of the RTL will continue as before. However, as with any other residential tenancy agreement for 9 years or less, any variation or renewal of such a standard tenancy agreement agreed after the RTL comes into force will result in the agreement being subject to the terms of the RTL<sup>13</sup>. This will result, for example, in the RTL’s notice periods applying to the agreement.

The tenancy agreement currently used by the Housing Department with States tenants occupying States rental accommodation managed by the Department is already essentially compliant with the terms of the RTL. However, the Department is already in the process of developing a new Tenancy Agreement and this will incorporate the provisions of the new RTL in respect of notice periods<sup>14</sup>.

**(iii) Regulatory powers for the future:**

Schedule 2 allows for the States to make Regulations to deal with other provisions that it may in time be deemed appropriate to formalise into the RTL.

Article 23 includes a list of such issues that could be brought forward in Regulations, including documentation; charges and deposits; fixtures and fittings and tenants’ moveable property and the terms of a standard tenancy agreement. The list is not definitive.

Opinion is sought on the need to formalise any further requirements in law. However, if it is shown that there is a need to formalise any of the issues listed in Article 23, or any other matters raised in consultation, at this stage the Minister for Housing will consider bringing forward Regulations to the States to do so.

Note: Article 23(2)(k)–(n) deals with issues surrounding tenants’ deposits. These are discussed further at paragraph (v) below.

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<sup>13</sup> See reference to Article 3(1) on page 9

<sup>14</sup> States tenants need take no action



Although the notice provisions of the RTL will not apply to fixed term residential tenancy agreements falling under the Law, all other provisions of the RTL will be applicable to such agreements.

New notice periods of **3 months from landlord to tenant and one month from tenant to landlord** are proposed for all periodic tenancies to which the RTL applies.

A “periodic tenancy” is one which is for an indefinite period but which can be terminated by a period of notice. The word “periodic” refers to the recurrent interval on the basis of which the tenancy runs e.g. a “weekly tenancy” is one where rent is payable weekly; a “monthly tenancy” where rent is payable monthly and so on. Both parties expect such periodic tenancies to continue “rolling over” until notice is given so a periodic tenancy can last for years.

It should be noted that any fixed term residential tenancy agreement to which the RTL applies that continues after the due date of its expiry will become a periodic tenancy based on the recurrent interval period, i.e. weekly, monthly, etc. and the notice provisions of the RTL would start to apply<sup>15</sup>.

The RTL will apply to periodic residential tenancy agreements that have lasted longer than 9 years so long as the agreement is for not longer than 9 years, i.e. if someone has entered into a periodic tenancy with agreement to pay the rent monthly and that agreement has gone on for 10 years the RTL will still apply because the agreement is for a tenancy based on a monthly period.

The Report of the Working Party contained proposals that landlords be required to give a new fixed period of notice of 6 months to all tenants who had been in their accommodation for a minimum of 3 months and that tenants be required to give their landlords a period of notice based on the length of their tenancy but with a maximum requirement for 3 months’ notice. Details of the Working Party’s proposals are contained in Appendix 1: P.257 paragraph 2.1 (h-i).

However, the disparity between the minimum notice periods required of landlords and tenants originally proposed by the Working Party was felt to be onerous on landlords, and unnecessarily complicated for tenants. The Working Party reviewed United Kingdom legislation as part of their research and decided it was unnecessarily complex. Additional research was carried out in preparation for the RTL and current legislation in Australia, Canada and New Zealand was considered. These revised proposals have arisen as a result of that research.

In order to give clarity and certainty to both landlords and tenants when entering into periodic residential tenancy agreements, it is proposed to adopt a “flat” policy towards notice periods in the RTL, i.e. notice periods that are fixed without regard to the length of the tenancy.

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<sup>15</sup> e.g. an agreement for a residential tenancy for a period of 3 years with rent due on a weekly basis was entered into. Three years have passed but the tenancy is continuing with rent still being paid weekly. The fixed term tenancy has ended but the tenancy agreement has now become a weekly periodic tenancy.

It is felt that the periods proposed are fair to both landlord and tenant: both need to be allowed some flexibility to end tenancy agreements, but one of the purposes in introducing the RTL was to grant tenants some degree of security of tenure. Moreover, the RTL does give additional protection to both landlord and tenant to end an agreement without giving the 3 months' or one month's notice required by the RTL if either party is in breach of its terms. (See paragraph on page14.)

**Consultation Questions 2 – 4**

<p>2. <i>Do you agree with the proposals for fixed periods of notice to be given by both landlord and tenant?</i></p> <p><i>(i.e. notice is not based on length of tenancy)</i></p> <p><i>If "Yes" please go to Q3</i></p> <p><i>If "No" please go to Q4</i></p>	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

<p>3. <i>Do you agree with the proposed periods of one month from tenant to landlord and 3 months from landlord to tenant?</i></p> <p><i>If "No" please go to Q4</i></p>	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

<p>4. <i>Please include a figure in the boxes to show the number of months notice you think that:</i></p> <p><i>(a) a landlord should give a tenant</i></p> <p><i>(b) a tenant should give a landlord</i></p>	(a) Landlord	<input type="checkbox"/>
	(b) Tenant	<input type="checkbox"/>

<p><i>Comments: Please add any further comments you may have</i></p>
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(v) **New eviction procedures:**

The Working Party requested that tenants be provided with a greater explanation of the grounds upon which they could be evicted. They wanted a better understanding to be available to tenants of the sort of issues that a court might take into account when ordering an eviction<sup>16</sup>; a more simplified eviction procedure and a right of appeal granted to the tenant in appropriate circumstances.

Accordingly, Articles 8–12 of the draft RTL grant powers to both landlords and tenants in a number of circumstances to apply to the Court for an order to either vary or terminate a residential tenancy agreement in a variety of circumstances. The RTL introduces a number of provisions to meet these goals.

Article 8: this deals with a number of matters including situations where the tenancy includes a service element. Either party might apply to the Court, for example, where a tenant occupies accommodation that is linked to the tenant's employment by the landlord. If the tenant is removed from his job it may not be fair to expect the landlord to allow him to stay in his accommodation. The Court could be asked to consider the matter.

Article 8 also gives the Court powers to act where the residential tenancy agreement is not in accordance with the RTL or where a tenant has not been allowed 24 hours to read a proposed tenancy agreement.

Article 9 gives rights to the parties to bring an action in situations where premises subject to the tenancy agreement become uninhabitable.

Article 10 requires a landlord to give a tenant quiet enjoyment of premises and gives a tenant the right to bring an action where any breach of this duty by a landlord causes a tenant loss or damage.

Articles 11 and 12 give a landlord rights to apply to the Court for an eviction order if a tenant fails to give vacant possession of the premises or breaches one or more of the provisions of the tenancy agreement. In the latter case, a landlord must first give a tenant 7 days' notice of the breach and the tenant must have failed to rectify the breach before the landlord applies to the court for an order.

Article 13 provides details of the eviction process and describes the Viscount's rôle.

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<sup>16</sup> Current law makes no such specific provision and it was felt only fair that tenants should have a clearer idea of what their position might be

Article 14 outlines the Court's powers to stay an eviction.

Article 15 lists the matters to be considered and that may be considered by the Court when it decides on a stay of eviction.

Article 17 gives both landlords and tenants a right of appeal to the Royal Court against any decision, determination or order of the Petty Debts Court relating to the residential tenancy or the residential tenancy agreement. The right of appeal depends on leave to appeal being granted by either the Petty Debts Court or the Royal Court.

**(vi) Recovery of tenants' deposits:**

Subsequent to the Working Party's Report, Senator Corrie Stein lodged a proposition in the States<sup>17</sup> in which she asked the States *"to charge the Housing Committee to bring forward for States' approval a scheme to safeguard the rental deposits paid by tenants to landlords or agents in the private sector, and deposits paid by lodgers to lodging house owners and to ensure the prompt return of monies at the end of the period of occupation."*

Since that time, questions have been put to the States asking when a deposit scheme to protect tenants' and lodgers' deposits will be introduced.

The proposal was researched and considered by the former Housing Committee and has been reviewed again as part of the final work done in connection with the proposed RTL.

It has been decided **not** to put forward proposals for a Tenants' Deposit Scheme as part of the RTL **at this time.**

The true extent of any problem is unknown as there is inadequate documented evidence regarding the current situation. That is not to deny that problems do exist, but there are only limited records kept by the Citizen's Advice Bureau and the Petty Debts Court to assist with an analysis of the problem. Further information is required as to the nature of the problem, the number of people affected and the amount of deposits currently paid.

It is acknowledged that other jurisdictions, including Australia, Canada and New Zealand<sup>18</sup> all have such schemes and that the United Kingdom introduced a tenancy deposit scheme in April 2006. A recent report on the first year's operation of the latter was quite positive but there are still compliance issues to be resolved.

Interestingly, all the schemes researched recommend mediation as a tool to resolving landlord/tenant disputes over the return of deposit monies. If mediation fails, a mechanism, such as the setting-up of a tribunal, is established to formally resolve the issue.

<sup>17</sup> Housing Committee Strategic Policy Report 2002 - 2006 (P.2/2002): amendment (lodged au Greffe 23rd April 2002)

<sup>18</sup> All of whose legislation was considered when drafting the notice periods proposals in the draft RTL

Since the time of Senator Stein's original amendment, the Petty Debts Court has established a recognised mediation process which is now highly successful. The Petty Debts Court scheme reflects the mediation processes established elsewhere to resolve disputes over deposits paid by tenants.

The pilot scheme to trial the setting-up of a mediation process for small claims in the Petty Debts Court was set up in 2002. Mediation is an ideal tool for the resolving of disputes in the Petty Debts Court for, by its nature, it is a court where only relatively small claims are filed. The pilot was highly successful with more than 70% of claims being resolved, and as a result the scheme was formally incorporated into the Petty Debts Court processes in 2004. An average of 70% of claims continue to be settled annually using the small claims mediation process. Only a small proportion of the remaining 30% of cases progress to trial.

The Petty Debts Court Greffier has confirmed that the mediation scheme is now well known in the community and that cases involving rental arrears and deposit issues have been handled already through the mediation process.

The mediation process is managed by the Petty Debts Court in as much as a claim is still filed as before, but when the parties appear in the court, the presiding magistrate has power under the Rules of Court to send the parties to mediation rather than hear the case himself. Mediation hearings are held on Fridays and it is always the aim to try and get cases before the mediator within 2 or 3 weeks of the first court hearing.

Forty-five minutes are allowed for a mediation hearing, as it has been found that parties can usually prioritise their issues and reach a solution and finalise an agreement in this time. The hearings are held in private and any agreement reached is confidential between the parties. The parties are encouraged to represent themselves and no awards for costs are made.

However, it is recognised that often it is not only the resolution of a dispute that is important, but the speed with which resolution is achieved. This is one area on which feedback is needed.

Overall, it is therefore concluded that no legally binding Tenancy Deposit Scheme should be introduced **at present** in the Island for the following reasons:

- (a) the real extent of the problem is not known;
- (b) any scheme established in law will create bureaucracy and Government is committed to reducing "red tape" where possible;
- (c) setting-up and administering a scheme is likely to have a cost. If government were to be involved in any way, it would require resources which would entail additional government expenditure;



- (d) there is already provision available in the Petty Debts Court for applicants to have their cases dealt with privately using mediation processes and additional means of accessing mediation are available;<sup>19</sup>
- (e) there are several new provisions in the RTL which seek to clarify the rights and obligations of tenants and landlords with regard to financial transactions which take place between them, including the payment and repayment of deposit monies. It is hoped that these provisions will help manage any issues arising over the return of deposits;
- (f) as described above, the RTL at present only extends to those qualified to rent property. Thus, any scheme established under the RTL would not afford protection to those falling outside its remit, including lodgers.

**It is proposed that:**

- (i) the current mediation process in the Petty Debts Court be promoted for resolution of deposit disputes;
- (ii) further research be done on the value of deposits and cases where there is a dispute concerning the return of a rental deposit;
- (iii) once further evidence has been acquired, a review of the need for a Tenancy Deposit Scheme takes place within the next 2 years.

To assist in the research it is intended to include some questions relating to the return of deposits in the forthcoming Jersey Annual Social Survey (“JASS”) which is due out in the autumn. However, the proposed questions (questions 6 – 8) are included in this consultation paper as well in order to reach as many people as possible.

Arrangements have also already been put in place with the Citizen’s Advice Bureau and the Petty Debts Court to record statistics on any cases relating to deposit issues.

Once further evidence has been acquired it is suggested that it be incorporated into the general review of the current landlord/tenant legislation proposed and referred to at page 7 above. Thereafter, a decision could be made as to the need or otherwise to establish a deposit scheme that was open to all tenants and lodgers.

**Consultation Questions 5 – 8**

<p><b>5A.</b> <i>Do you agree with the recommendation that the mediation process offered in the Petty Debts Court provides an appropriate forum for resolving issues concerning the return of deposits?</i></p>	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

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<sup>19</sup> [http://www.jerseylegalinfo.je/Mediation/Accredited\\_Mediators/Accredited\\_Mediators.aspx](http://www.jerseylegalinfo.je/Mediation/Accredited_Mediators/Accredited_Mediators.aspx)

<b>5B.</b> <i>Do you believe there is a need to establish a formal Deposit Scheme?</i>	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

<b>6.</b> <b>Did you pay a deposit when you began living in your <i>current</i> accommodation?</b>  <b>If “Yes” please go to Q6A</b>	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

<b>6A.</b>  <b>If “Yes”, how much was the deposit?</b>	<input type="radio"/> Up to £500 <input type="radio"/> Up to £1,000 <input type="radio"/> Up to £1,500 <input type="radio"/> Over £1,500
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<b>7.</b> <b>In the last 5 years, have you had a dispute with a landlord over the return of a deposit?</b>  <b>If “Yes” please go to Q8</b>	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

<b>8.</b> <b>If yes, please answer the next 2 questions in the following table. Please fill in one column for each dispute you have had in the last 5 years. If you have just had one dispute, just fill in the first column.</b>			
	<b>Dispute 1</b>	<b>Dispute 2</b>	<b>Dispute 3</b>
<b>What type of accommodation was the dispute about?</b>	01 <input type="radio"/> Qualified 02 <input type="radio"/> Non-qualified	01 <input type="radio"/> Qualified 02 <input type="radio"/> Non-qualified	01 <input type="radio"/> Qualified 02 <input type="radio"/> Non-qualified

<b>How was the dispute resolved?</b>	01 <input type="radio"/> Through the court 02 <input type="radio"/> Between yourself and the landlord 03 <input type="radio"/> It was not – the deposit was not returned 04 <input type="radio"/> Other – e.g. with advice from the Citizens Advice Bureau	01 <input type="radio"/> Through the court 02 <input type="radio"/> Between yourself and the landlord 03 <input type="radio"/> It was not – the deposit was not returned 04 <input type="radio"/> Other – e.g. with advice from the Citizens Advice Bureau	01 <input type="radio"/> Through the court 02 <input type="radio"/> Between yourself and the landlord 03 <input type="radio"/> It was not – the deposit was not returned 04 <input type="radio"/> Other – e.g. with advice from the Citizens Advice Bureau
--------------------------------------	---	---	---

**Consultation Paper:****Residential Tenancies (Jersey) Law 200-****APPENDIX 1**

*P.257/1998 – Security of Tenure Report of the Working Party pp.10 – 16*

**Detailed Proposals of Working Party:**2.1 *Proposed amendment to existing law*

- (a) It is proposed that the 1919 and 1946 statutes be repealed to the extent that they deal with residential property. Their provisions which relate to other types of property should be codified in the single new statute.
- (b) A new statute is proposed, the short and long title of which should reflect the intention of the Law to create a fair balance between the rights of the landlord and tenant in relation to eviction from residential property. The title of the 1946 Law, referring as it does to refractory tenants, is perceived to be defective in that it does not properly reflect the protection given to tenants thereunder.
- (c) The new Law should be drafted in English.
- (d) It is proposed to create a new fixed period of notice for all tenancies of residential property, whether for a fixed term or for a self-renewing term. It would expressly exclude licensees, that is to say lodgers. It may be considered necessary to include a statutory definition of “licensee” and “tenant”, in particular to prevent a landlord from avoiding the provisions of the new Law by describing a tenant as a licensee. The definition should extend to encompass all those tenants who have exclusive occupation of a residential unit. It is intended that this include situations where occupation of the property is tied to employment or operation of a business including an agricultural business.
- (e) The new Law will require all tenants of residential property to be given a written statement setting out the main terms of their tenancy, which main terms would be prescribed by Regulations. The terms envisaged as being fundamental for inclusion in such Regulations are set out in the report of the Working Party on Landlord and Tenant attached as Appendix 2 hereto. Failure to provide such written terms in advance of the commencement of the tenancy would be an offence. Any subsequent amendment or renewal of the terms of tenancy should also be made in writing. It was considered that the written terms should give to the tenant a clear indication as to when the tenancy may determine.
- (f) The new Law should expressly state that all matters relating to eviction of tenants of all types of property will fall into the exclusive jurisdiction of the aforementioned separate division of the Magistrate’s Court. The power to cancel paper leases should also fall

into the jurisdiction of that same Court. Power to cancel contract leases will remain vested in the Royal Court.

- (g) It should be a prescribed criminal offence and a statutory tort to unlawfully deprive a tenant from occupying the whole or part of the premises which he is entitled to occupy under a tenancy agreement without an Order of the Court.
- (h) Save in the circumstances envisaged under sub-paragraph 2.1(o), all tenants who have taken a tenancy of a residential property and who have continuously occupied that property as their principal residence, in accordance with the terms of the tenancy for a period of 3 months or more, shall be entitled to a minimum period of notice/stay from eviction of 6 months following service of a notice to quit in a form prescribed by Regulations, which form should include a statement of the tenants' rights under the new Law.
- (i) A tenant of residential property shall be required to give notice to the landlord as follows –
  - (i) where the tenancy was a weekly, monthly or quarterly self-renewing term, one week, one month or one quarters notice respectively;
  - (ii) where the tenancy was for a self-renewing term in excess of one quarter, one quarter's notice;
  - (iii) no period of notice shall be required from the tenant to the landlord at the end of a fixed term lease. It is considered that there should be an implied duty upon the landlord to supervise whether the tenancy is to continue in such circumstances, and thus no notice period from tenant to landlord needs to be imposed.
- (j) The prescribed form of notice to quit should be served by the Viscount's Department (or in such other manner as the Court may require, upon application by the landlord).
- (k) In the event that the tenant has not given vacant possession of the premises after the 6 months period of notice/stay from eviction, the landlord shall be entitled to serve upon the tenant in the same manner as the notice to quit, a summons to appear before the Magistrate's Court to seek an order for the tenant's eviction. The period of notice for such appearance should be longer than at present; 14 days is considered appropriate. The summons should be in a form prescribed by Regulations and should include a statement of the tenant's rights under the new Law.
- (l) Upon an application for an eviction order, the Court should have the power to grant an order authorising the Viscount or his officers to evict the tenant. The Court shall further have the power to stay the

execution of that Order for such period as it considers fit, to a maximum period of 10 years.

- (m) The Court will be entitled in exercising its discretion to stay the execution of the eviction order to take in to account all the circumstances of the case including -
- (i) Whether any rent lawfully due from the tenant has not been paid or any other obligation of the tenancy has been broken or not performed.
  - (ii) Whether there is suitable alternative accommodation available for the tenant, or whether such accommodation be available when the Judgement or Order takes effect.
  - (iii) Whether at the time the tenancy was created any deposit was paid or any other contract (including without prejudice to the generality of the foregoing any contract for the purchase of furniture or furnishings situate on the premises in question) was entered into by the landlord or tenant with each other or with a third party either directly related to or directly resulting from the creation of the tenancy.
  - (iv) Whether the tenant or any person residing or lodging with him, has been guilty of conduct which is a nuisance or annoyance to the landlord or adjoining occupiers.
  - (v) Whether the condition or value of the premises has in the opinion of the Court improved or deteriorated owing to the act, neglect or default of the tenant or of any person residing or lodging with him.
  - (vi) Whether any financial or other commercial benefit will accrue to the landlord as a direct result of his obtaining vacant possession of the premises.
  - (vii) Whether the landlord has sought or is likely to seek or is seeking to evict other tenants from other properties owned by him or in the same ultimate beneficial ownership.
  - (viii) Whether the tenant has been using the premises or allowing the premises to be used for an immoral or illegal purpose.
  - (ix) Whether the tenant has given notice or agreed to quit the premises, and in consequence the landlord has contracted to sell or let the premises, or has taken other steps in reliance of that notice or agreement as a result of which he would, in the opinion of the Court, be seriously prejudiced if he could not obtain possession.

- (x) Whether the premises consist of or include premises licensed for the sale of intoxicating liquor and the tenant or sub-tenant has committed an offence as holder of the licence, or has not conducted the premises to the satisfaction of the Court.
- (xi) Whether the premises are in such a condition so as to be dangerous or injurious to the health of the residents or the public, and whether the condition may be improved after the removal of any occupant.
- (xii) Whether generally any hardship would be caused to the tenant or any other person directly arising from the granting or delaying of the order sought; hardship will be regarded as the subjective effect of a detrimental nature upon the person concerned, whether physical, financial or otherwise.
- (xiii) Whether a lease was granted for a fixed period and whether the fixed period has expired.

These items should be expressly included in the new Law.

- (n) The new Court should have a discretion to require the filing of pleadings in appropriate cases.
- (o) The new Law will give to the landlord a power to apply for immediate eviction in the event that it is alleged that the tenant has not complied with the terms of the tenancy and has failed to rectify that non-compliance within 7 days of receipt of notice in prescribed form from the landlord, or where the tenant has not continuously occupied those premises for a period of 3 months or more. In such a case no formal Notice to Quit will be required, and a summons of immediate eviction in a form prescribed by regulation may be issued with a notice period for appearance before the Court equivalent to that prescribed for the summons following the 6 month notice period referred in subparagraph 2.1(k) hereof. Thereafter, the Court shall have the power to order the immediate eviction of the tenant, or to refuse to order the same, or to stay the eviction for such period as it may consider fit up to maximum period of 10 years.
- (p) The Magistrate's Court (Civil Division) will have the same powers to grant judgments in respect of sums due between landlords and tenants as the Petty Debts Court.
- (q) A right of appeal to the Royal Court in respect of decisions of law of the Magistrate's Court (Civil Division) (but not of fact) should be created.
- (r) Hearings of the Magistrate's Court (Civil Division) will be held in camera but judgments thereof relating to stays from evictions referred to only by case number will be available for inspection as a public record. Judgments of the Court in respect of debt for rent and costs for example shall be available for inspection separately and shall include

the names of the parties. Provision will therefore need to be made for two judgments within the same proceedings.

- (s) A discretion to award costs on a taxed or indemnity basis should be given to the Magistrate's Court (Civil Division).



**Consultation Paper:**

**Residential Tenancy (Jersey) Law 200-**

**APPENDIX 2**

**Note:** *The wording below is provided for information only and for the purposes of this consultation process.*<sup>20</sup>

**DWELLING HOUSES (RENT CONTROL) (STANDARD TENANCY AGREEMENT) (JERSEY) REGULATIONS 1993**

**SCHEDULE**

(Regulation 1)

**STANDARD FORM OF WRITTEN CONTRACT FOR EXEMPTION FROM RENT CONTROL**

1. THIS TENANCY AGREEMENT between

.....of.....  
.....  
.....  
.....  
("the landlord")

AND

.....of.....  
.....  
.....  
.....  
(who, whether one or more is or are referred to as "the "tenant") is  
made the.....  
day of.....

THE PREMISES TO BE LET are .....  
.....  
.....  
("the premises").

The tenancy commences on the ..... day of .....  
and (subject to being terminated earlier as provided herein) terminates  
on the ..... day of .....

2. The premises are let unfurnished (save the fixtures and fittings listed in the inventory attached to this Agreement).

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<sup>20</sup> Copies of the Standard Tenancy Agreement may be obtained from the Population Office, 4th floor, Jubilee Wharf, Esplanade, St. Helier or viewed on the Jersey Legal Information Board website at [http://www.jerseylaw.je/Law/display.aspx?url=lawsinforce%2fconsolidated%2f18%2f18.270.60\\_DwellingHouses\(RentControl\)\(StandardTenancyAgreement\)Regs1993\\_RevisedEdition\\_31August2004.htm](http://www.jerseylaw.je/Law/display.aspx?url=lawsinforce%2fconsolidated%2f18%2f18.270.60_DwellingHouses(RentControl)(StandardTenancyAgreement)Regs1993_RevisedEdition_31August2004.htm)

3. The rent for the premises is £..... per  
[week/month/quarter] payable in advance on the .....  
.....  
by [cash/cheque/bankers order] without deductions. [In addition to the  
rent the sum of £..... will be payable weekly/monthly/  
quarterly in respect of the following service charges .....  
.....]<sup>\*</sup>

The first rent payment shall be made on .....  
and all rental payments shall be made to.....  
.....  
at .....  
.....

- 4. If the tenant so requests, a rent book will be provided by the landlord and a record of the rent payments will be recorded in the rent book by the landlord.
- 5. Subject to the foregoing, this tenancy is subject to –
  - (a) the agreements between the landlord and the tenant set out in Part 1 of the Schedule to this Agreement;
  - (b) the covenants by the tenant set out in Part 2 of that Schedule;
  - (c) the covenants by the landlord set out in Part 3 of that Schedule; and
  - (d) the additional agreements set out in Part 4 of that Schedule in so far as the same do not derogate from any of the agreements and covenants above-mentioned.
- 6. Where more than one tenant is a party to this Agreement, every obligation, undertaking and liability of the tenants is joint and several.

IN WITNESS whereof the landlord and the tenant have hereunto set their hands [and seals] in duplicate the day and year first before written:

Signed, etc. ....  
.....

---

<sup>\*</sup> delete if not applicable

---

## SCHEDULE TO STANDARD FORM OF CONTRACT

### PART 1

#### AGREEMENTS

The parties agree as follows –

- (a) if a deposit is required from the tenant it shall not exceed an amount equal to one periodical payment of the rent for the premises as set out in clause 3 of the contract, and the landlord shall give a written receipt to the tenant for the deposit;
- (b) the deposit, if any, paid by the tenant shall be repaid to the tenant at the expiry or earlier determination of the tenancy subject only to the deduction therefrom by the landlord of any arrears of rent and a reasonable sum in respect of damage to the premises (and any of the landlord's fixtures and fittings therein) caused by the tenant, the tenant's servants, agents or invitees other than damage caused by fair wear and tear and damage in respect of which the landlord is required to insure under this Agreement;
- (c) [the rent for the premises shall be reviewed one year from the date of this Agreement and thereafter annually on the anniversary of this Agreement and any increase in the rent shall not exceed the increase (if any) in the Jersey retail prices index since the date of this Agreement or, as the case may be, the last review. The last quarterly index figure prior to the date of this Agreement was ..... at the ..... of .....]<sup>21</sup> [The charge for a service may be varied from time to time in accordance with the variation in the charge made by the service company for providing that service but in any event shall not exceed the charge levied by the appropriate service company]<sup>22</sup>;
- (d) the tenant is not required to purchase from the landlord any fixtures or fittings in the premises or any furniture or other movable property nor shall the landlord make the grant of the tenancy conditional upon the purchase by the tenant of any furniture or other movable property from any person;
- (e) other than the rent reserved and the deposit, if any, mentioned in clause (a) of this Part, no premium, fee or other charge shall be payable by or on behalf of the tenant to the landlord or any person on the landlord's behalf in respect of this Agreement or the grant of the tenancy;
- (f) the children of the tenant may join the tenant in occupation of the premises subject to any statutory limitation or lawful restriction by any public authority for the time being in force;
- (g) the tenant shall have the absolute right to opt to be supplied with services direct from the company supplying the service and in that event shall be responsible for all payments in respect of any such supply which is received by the tenant;

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<sup>21</sup> omit these words if the tenancy is for a term of one year or less

<sup>22</sup> omit these words if no service charge is payable under this Agreement

- (h) in the event of the premises or any part thereof being rendered unfit for occupation by reason of any damage against which the landlord is required by this Agreement to insure then the rent or a proportionate part of the rent according to the extent of the damage shall not be payable in respect of any period from the date of the occurrence of the damage until the premises or the damaged portions of them are restored to a condition fit for occupation;
- (i) the landlord shall pay the foncier rate for the premises, any other rate, charge or assessment usually payable by the landlord and any Schedule A income tax to which the landlord may be liable in respect of the rent received under this Agreement and the tenant shall pay the occupier's rate in respect of the premises:

Provided that in the first and last years of the tenancy the tenant shall be liable in respect of the occupier's rate only in respect of the portion of those years during which the tenancy is in effect;

- (j) the tenant may terminate this tenancy by giving written notice accordingly to the landlord of no less a period than that required by this clause expiring on a day on which the rent is payable. If the rent is payable under this Agreement at intervals of one month or less the period of notice required is one month; in all other cases the period of notice required is 3 months. The notice shall be duly given if posted by recorded delivery to the landlord at the landlord's usual address or delivered to the person to whom the rent is payable under this Agreement;
- (k) if –
  - (i) the rent or any part of it is for no good reason in arrears for 10 days, whether having been formally demanded or not,
  - (ii) there has been a breach of any of the tenant's covenants for a similar period (whether or not the landlord has given notice to the tenant that such a breach is considered to be in the course of being committed), or
  - (iii) the property of the tenant is declared *en désastre* or if the tenant commits any act of insolvency whether in Jersey or elsewhere,

then in any such case the landlord may by written notice forthwith terminate the tenancy and shall become entitled to institute proceedings for the recovery of possession of the premises under the Loi (1946) concernant l'expulsion des locataires réfractaires, or any statutory modification or re-enactment of that Loi or any law having similar effect, without prejudice to the landlord's rights, if any, to claim damages or to any other relief or remedy;

- (l) if the landlord does not intend to renew or, as the case may be, further to renew the tenancy, the landlord shall give the tenant written notice accordingly and the notice shall be given, if the tenancy or the latest renewal of it is for a term –
  - (i) not exceeding 2 years, no later than the last day on which the rent is due to be paid, or
  - (ii) exceeding 2 years, at least 6 months before the expiry of that term;

- (m) if –
  - (i) and for so long as they remain bound by the terms, covenants and conditions contained in this Agreement (or a renewal of this Agreement) the Dwelling-Houses (Rent Control) (Jersey) Law 1946 shall not apply to the premises,
  - (ii) any of the terms, conditions and covenants contained in this Agreement (or a renewal of this Agreement) except as to the rent and except any variation of this Agreement which is an additional agreement within the meaning of clause 5(d) of the contract, are at any time varied, whether by writing or by conduct, the Dwelling-Houses (Rent Control) (Jersey) Law 1946 shall thereupon apply to the premises without further legal process.

## **PART 2**

### **TENANT'S COVENANTS**

The tenant covenants as follows –

- (a) to pay the rent in full on the days and in the manner provided by this Agreement;
- (b) not to cause or permit or suffer to be done on the premises–
  - (i) anything illegal or prejudicial to the safety of the premises or any adjoining or neighbouring premises,
  - (ii) any nuisance or annoyance to the occupiers of adjoining or neighbouring premises,
  - (iii) anything which may cause the insurance of the premises to be void or voidable, or
  - (iv) anything which, without prejudice to sub-clause (i), above, is in breach of the Island Planning (Jersey) Law 1964 or any re-enactment thereof;
- (c) not to keep any animal on the premises without the prior written consent of the landlord;
- (d) not, without the prior written consent of the landlord, to use the premises for any purpose other than as a private residence;
- (e) not to make any structural alteration to the premises nor to erect any aerial, satellite dish or similar apparatus without the prior written consent of the landlord, which consent shall not be unreasonably withheld;
- (f) to keep the interior of the premises and all fixtures and fittings therein clean and in good decorative repair and condition (fair wear and tear and damage for which the landlord is required by this Agreement to insure, excepted) and repair or replace any part of the premises and any fixtures or fittings which require repair or replacement as a result of the negligence or wilful act or default of the tenant or the tenant's servants, agents or invitees;

- (g) to keep the garden and any yard, patio or similar area of the premises in clean and tidy condition and in particular not to allow or suffer the accumulation of any refuse, rubbish or waste thereon;
- (h) not to lop or cut down any trees or bushes in any garden to the premises without the prior written consent of the landlord;
- (i) to allow the landlord, the landlord's agent or workmen access to the premises at all reasonable times and upon reasonable notice to view the condition of the premises and to effect any necessary repairs to the premises or to other parts of the building in which the premises are situate to which access for those purposes cannot otherwise conveniently be obtained;
- (j) not to leave or allow or suffer to be left on the premises any disused or derelict vehicle without the consent of the landlord;
- (k) not to assign the tenancy, sub-let or otherwise part with possession of the premises or a part thereof;
- (l) not to take in lodgers or paying guests in the premises without the prior written consent of the landlord and where such consent is given to ensure compliance with any laws governing the operation and registration of lodging houses;
- (m) to pay all existing and future rates, taxes, assessments and other outgoings on the premises except as provided otherwise by this Agreement; and
- (n) at the expiration or earlier determination of the tenancy to give possession of the premises and the fixtures and fittings listed in the inventory attached to this Agreement to the landlord in good and tenantable repair in accordance with the tenant's covenants in this Agreement (fair wear and tear and damage for which the landlord is required by this Agreement to insure, excepted).

### **PART 3**

#### **LANDLORD'S COVENANTS**

The landlord covenants as follows –

- (a) so long as the tenant pays the rent and performs and observes the tenant's covenants to allow the tenant peaceable possession of the premises during the term of the tenancy;
- (b) to keep the premises wind and water tight and to keep in tenantable repair the exterior and interior of the premises (except in so far as the want of repair is due to the negligence or wilful act or default of the tenant or the tenant's servants, agents or invitees);
- (c) to insure the premises and any building in which the premises are situate and to keep them insured against loss or damage by fire, flood and other risks, third party liability and special perils normally insured in an insurance office of repute to the full cost of reinstatement of the same from time to time together with the costs of architect's, surveyor's and other professional fees and all other fees associated with the reinstatement and the costs of demolition

site clearance and temporary works which may be incurred in making the premises or building safe;

- (d) to keep in tenable repair all halls, landings, passageways, stairs and other areas of the building in which the premises are situated and any open areas used by the tenant in connection with the premises; and
- (e) allow the tenant free and uninterrupted use of all pipes, drains, wires, flues and chimneys serving the premises, excepting and reserving the existing use thereof by the landlord and use by other tenants of the landlord.

**PART 4**

**ADDITIONAL AGREEMENTS**

The landlord and the tenant further agree that –  
[set out any additional obligations not derogating from any of the agreements and covenants above-mentioned]

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Signed by the landlord.....

Signed by the tenant.....

**Consultation Paper:**

Residential Tenancy (Jersey) Law 200-

APPENDIX 3

**QUESTIONNAIRE****For completion and return to:**

Residential Tenancy Consultation Population Office 3rd floor, Jubilee Wharf 24 Esplanade St. Helier Jersey JE4 0UT	Tel: 01534 448931  E-mail: <a href="mailto:rtl@gov.je">rtl@gov.je</a>  Fax: 01534 448988
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**CONFIDENTIALITY**

*Please note that responses submitted to this public consultation may be made public to demonstrate views that have been expressed during the consultation (i.e. sent to the Scrutiny office, quoted in a final published report, quoted in the media and published on a States of Jersey website). If a respondent has a particular wish for confidentiality please indicate this clearly when submitting the response.*

Please tick this box if you wish the information given in this questionnaire to be kept confidential <input type="checkbox"/>
Please tick this box if you are willing for the information given in this questionnaire to be attributed <input type="checkbox"/>

**Consultation Questions**

<p><i>1.</i> <i>Are there issues arising in landlord/tenant residential tenancy agreements that are not specifically mentioned in the draft RTL [Article 4 and Schedules 1 and 2 of the RTL] that you feel should be regulated?</i></p> <p><i>If "Yes" please go to 1A below</i></p>	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>
<p><b>1A Please provide a list of the issues you would like to see regulated:</b></p>		



<p><b><i>NB: It would be helpful if respondents could specifically refer to any of the matters listed at 23(2)(a) – (r) of the RTL that they feel should be formalised in Regulations at the time the RTL is brought into force.</i></b></p>

<p><b>2.</b> <b><i>Do you agree with the proposals for fixed periods of notice to be given by both landlord and tenant?</i></b>  <b><i>(i.e. notice is not based on length of tenancy)</i></b>  <b><i>If “Yes” please go to Q3</i></b>  <b><i>If “No” please go to Q4</i></b></p>	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

<p><b>3.</b> <b><i>Do you agree with the proposed periods of one month from tenant to landlord and three months from landlord to tenant?</i></b>  <b><i>If “No” please go to Q4</i></b></p>	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

<p><b>4.</b> <b><i>Please include a figure in the boxes to show the number of months notice you think that –</i></b>  <b><i>(a) a landlord should give a tenant</i></b>  <b><i>(b) a tenant should give a landlord</i></b></p>	<b>(a) Landlord</b>	<input type="checkbox"/>
	<b>(b) Tenant</b>	<input type="checkbox"/>

**Comments: Please add any further comments you may have**

<b>5A.</b> <i>Do you agree with the recommendation that the mediation process offered in the Petty Debts Court provides an appropriate forum for resolving issues concerning the return of deposits?</i>	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>
<b>5B.</b> <i>Do you believe there is a need to establish a formal Deposit Scheme?</i>	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

<b>6.</b> <i>Did you pay a deposit when you began living in your current accommodation?</i>  <b>If "Yes" please go to Q6A</b>	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

<p><b>6A.</b></p> <p><b>If “Yes”, how much was the deposit?</b></p>	<p><input type="radio"/> Up to £500</p> <p><input type="radio"/> Up to £1,000</p> <p><input type="radio"/> Up to £1,500</p> <p><input type="radio"/> Over £1,500</p>
---	--

<p><b>7.</b></p> <p><b>In the last 5 years, have you had a dispute with a landlord over the return of a deposit?</b></p> <p><b>If “Yes” please go to Q8</b></p>	<p>Yes <input type="checkbox"/></p>
	<p>No <input type="checkbox"/></p>

<p><b>8.</b></p> <p><b>If yes, please answer the next 2 questions in the following table. Please fill in one column for each dispute you have had in the last 5 years. If you have just had one dispute, just fill in the first column.</b></p>			
	<b>Dispute 1</b>	<b>Dispute 2</b>	<b>Dispute 3</b>
<p><b>What type of accommodation was the dispute about?</b></p>	<p>01 <input type="radio"/> Qualified</p> <p>02 <input type="radio"/> Non-qualified</p>	<p>01 <input type="radio"/> Qualified</p> <p>02 <input type="radio"/> Non-qualified</p>	<p>01 <input type="radio"/> Qualified</p> <p>02 <input type="radio"/> Non-qualified</p>
<p><b>How was the dispute resolved?</b></p>	<p>01 <input type="radio"/> Through the court</p> <p>02 <input type="radio"/> Between yourself and the landlord</p> <p>03 <input type="radio"/> It was not – the deposit was not returned</p> <p>04 <input type="radio"/> Other – e.g. with advice from the Citizens Advice Bureau</p>	<p>01 <input type="radio"/> Through the court</p> <p>02 <input type="radio"/> Between yourself and the landlord</p> <p>03 <input type="radio"/> It was not – the deposit was not returned</p> <p>04 <input type="radio"/> Other – e.g. with advice from the Citizens Advice Bureau</p>	<p>01 <input type="radio"/> Through the court</p> <p>02 <input type="radio"/> Between yourself and the landlord</p> <p>03 <input type="radio"/> It was not – the deposit was not returned</p> <p>04 <input type="radio"/> Other – e.g. with advice from the Citizens Advice Bureau</p>

**Consultation Paper:****Residential Tenancies (Jersey) Law 200-****APPENDIX 4**

**DRAFT RESIDENTIAL TENANCY (JERSEY)  
LAW 200-**

**REPORT**

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**Explanatory Note**

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The object of the proposed Law is to set out a number of principles relating to residential tenancy agreements in Jersey and to confer jurisdiction on the Petty Debts Court to hear residential tenancy disputes and to make orders to resolve them.

*Part 1* sets out how the proposed Law is to be interpreted (*Article 1*) and specifies that it is to apply to self-contained residential premises (*Article 2*).

*Article 3* applies the Law to –

- (a) residential tenancy agreements of 9 years or less in duration made after the Article comes into force; and
- (b) existing residential tenancy agreements of 9 years or less in duration that are varied or renewed after the Article comes into force.

*Article 3* makes it clear that the Law does not apply to sales, agreements for residential or nursing home accommodation, agreements for board or lodging or short lets.

*Part 2* deals with the content of residential tenancy agreements.

*Article 4* requires an agreement to be in writing, to set out the details mentioned in *Schedule 1* to the Law and to contain the provisions set out in *Schedule 2*.

*Article 5* makes it clear that an agreement can contain other terms.

*Part 3* deals with the termination of residential tenancies from week to week or any other recurrent period when they are not subject to any specific term.

*Article 6* requires a landlord to give 3 months' written notice to a tenant in terminating such a periodic tenancy.

*Article 7* requires a tenant to give 1 month's written notice to a landlord in terminating such a periodic tenancy.

*Part 4* sets out remedies.

*Article 8* allows the Petty Debts Court to make orders to vary or terminate a residential tenancy agreement if it includes an agreement to provide services but those services can no longer be provided, or if the residential tenancy agreement has not been entered into in accordance with the proposed Law.

Under *Article 9* if residential premises become uninhabitable through no deliberate act of the tenant, the tenant does not have to pay rent and the Court may vary or terminate the agreement.

*Article 10* requires a landlord to give the tenant quiet enjoyment of premises and gives the tenant a remedy where the landlord fails to do so.

Under *Article 11*, the Petty Debts Court may order the eviction of a tenant who fails to leave when a residential tenancy agreement comes to an end.

Under *Article 12*, the Petty Debts Court may, if a tenant fails to remedy a breach of a residential tenancy agreement and if the Court thinks the matter serious enough, order the termination of the agreement and the eviction of the tenant.

*Article 13* sets out how an order for eviction is given effect to. The Viscount puts the landlord back in possession of the premises and may remove the tenant's movable property and dispose of it by sale or otherwise if the tenant does not claim it.

*Part 5* deals with proceedings under the proposed Law in the Petty Debts Court.

Under *Article 14*, the Court may stay an eviction order, and impose conditions on the stay.

*Article 15* sets out the matters that the Court must (and the matters that it may) take into account in deciding whether to stay an eviction. Broadly speaking, those matters are the behaviour of the landlord and of the tenant as well as their circumstances and the state of the premises.

*Article 16* gives the Court exclusive original jurisdiction in all matters relating to any residential tenancy to which the proposed Law applies, and makes it clear that the Court has power to adjust the rights between parties.

*Article 17* provides for appeals to the Royal Court.

*Article 18* makes it clear that the proposed Law is not intended to displace the requirements of certain other Laws relating to housing, planning or other matters.

*Part 6* contains miscellaneous provisions.

*Article 19* requires a landlord to give a tenant a copy of a residential tenancy agreement, as well as copies of updates of it. A landlord must also give a receipt for a tenancy deposit and quarterly statements of rent payments.

*Article 20* makes it clear that the proposed Law is not intended to prevent the parties to a residential tenancy agreement from agreeing to terminate it.

*Article 21* prohibits attempts to prevent the Law from applying to a residential tenancy agreement.

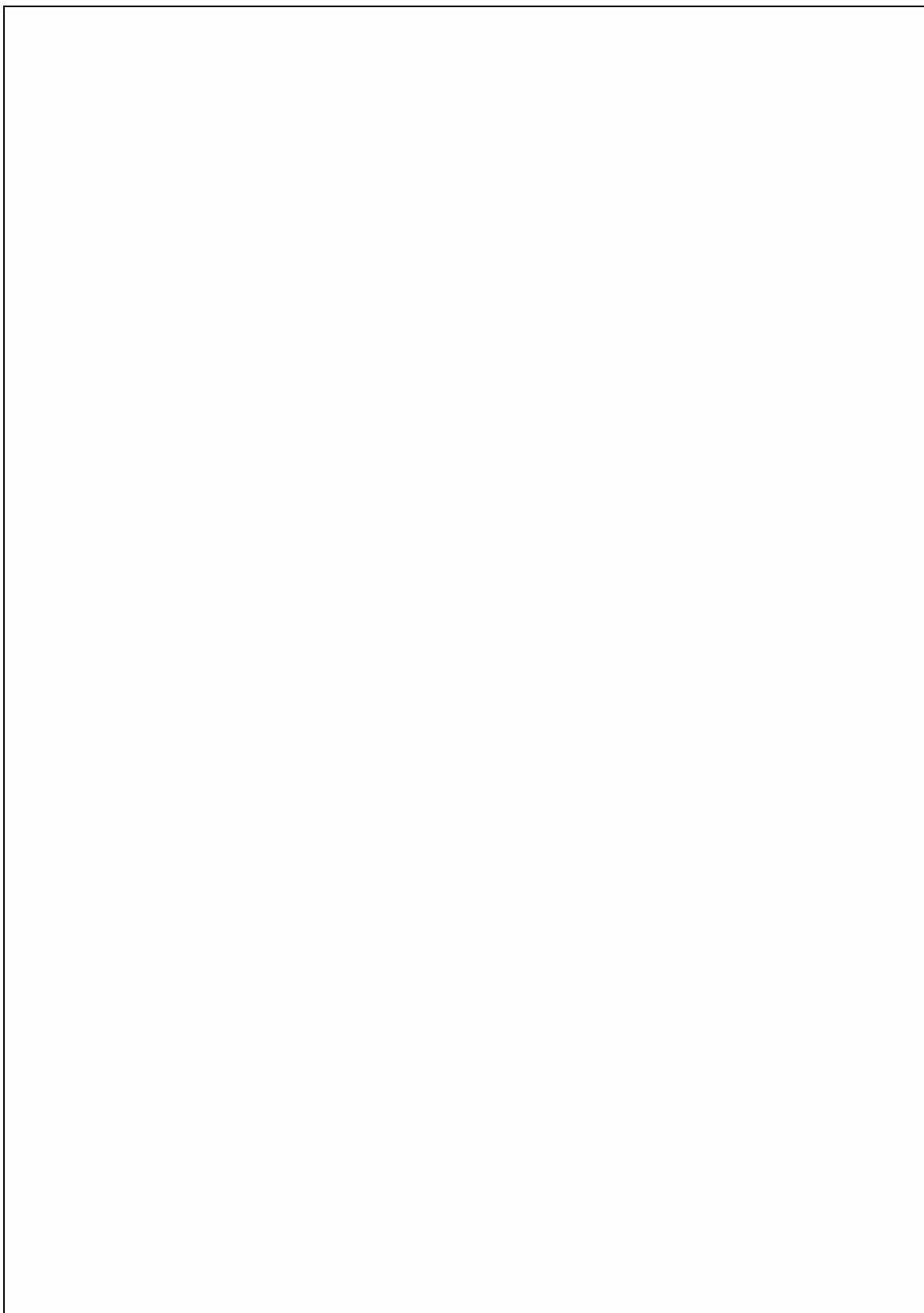
*Article 22* is a general provision against assisting in the commission of an offence against the proposed Law.

*Article 23* allows the States to make Regulations in aid of the proposed Law, including Regulations dealing with documentation, charges and deposits, as well as fittings and fixtures and tenants' movable property.

*Article 24* and *Schedule 3* amend consequentially 2 other Laws about tenancies.

*Article 25* sets out a power to make Regulations prescribing savings and transitional provisions.

*Article 26* sets out the name of the Law and when it is to come into force.





**DRAFT RESIDENTIAL TENANCY (JERSEY)  
LAW 200-**

**Arrangement**

**Article**

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**DRAFT RESIDENTIAL TENANCY (JERSEY)  
LAW 200-**

**A LAW** to make more detailed provision about residential tenancies of 9 years or less; and for other purposes.

*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

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

**PART 1**

INTERPRETATION AND APPLICATION

**1 Interpretation**

(1) In this Law, unless the context otherwise requires –

“breach” includes failure to comply;

“Court” means the Petty Debts Court;

“landlord” means, in relation to a residential unit, residential tenancy or residential tenancy agreement, the person who grants the right to occupy the residential unit that is the subject of the residential tenancy under the residential tenancy agreement;

“period” means, in relation to a residential tenancy, the recurrent interval (if any) on the basis of which the tenancy runs (for example a week in relation to a residential tenancy that is weekly or runs from week to week);

“Regulations” means Regulations made under this Law;

“rent” means a sum payable by a tenant under a residential tenancy agreement in respect of a period, or the term, of the residential tenancy under the agreement;

“residential tenancy” means the right to occupy a residential unit under a residential tenancy agreement;

“residential tenancy agreement” means an agreement for the exclusive occupation, for value and for 9 years or less and by one or more natural persons, of a residential unit as a dwelling;

“residential unit” has the meaning set out in Article 2;

“tenant” means, in relation to a residential unit, residential tenancy or residential tenancy agreement, the person who has the right to occupy the residential unit that is the subject of the residential tenancy under the residential tenancy agreement.

- (2) A reference in this Law to a landlord includes –
- (a) both natural persons and bodies corporate;
  - (b) the landlord’s heirs, executors, administrators and assigns; and
  - (c) a tenant who has granted the right to occupy a residential unit to a sub-tenant by an agreement that is for the purposes of this Law a residential tenancy agreement.
- (3) A reference in this Law to a tenant includes –
- (a) the tenant’s heirs, executors, administrators and assigns; and
  - (b) a person who is the sub-tenant of a tenant because the tenant has granted to the person the right to occupy a residential unit by an agreement that is for the purposes of this Law a residential tenancy agreement.

## **2 Premises to which this Law applies**

- (1) In this Law, “residential unit” means a self-contained dwelling, that is, a dwelling that has, for the exclusive use of the inhabitants of the dwelling, a minimum of all of the following, whether or not in separate rooms –
- (a) a shower or bath (or other facility, no less convenient than those, in which a person may wash);
  - (b) a washbasin;
  - (c) a kitchen;
  - (d) a sleeping space; and
  - (e) a lavatory.
- (2) For the purposes of paragraph (1), the fact that a dwelling has (or is associated with the use of) a garden, a swimming pool, a parking space, a garage or other space or facility does not make the dwelling any less a residential unit.
- (3) For the purposes of paragraph (1), any of the following parts of premises is not a residential unit unless used solely as a place of residence by a person employed on the premises –
- (a) any part of a hotel;

- (b) any part of premises ordinarily used for holiday purposes;
  - (c) any part of an educational institution, or of a hospital, hospice, nursing home, shelter, or residential home;
  - (d) any part of a club offering accommodation to its members.
- (4) The States may, by Regulations, amend or replace this Article.

### **3 Agreements to which this Law applies**

- (1) This Law applies to residential tenancy agreements that –
  - (a) are made after the commencement of this Article; or
  - (b) though made before that commencement, are varied or renewed after that commencement.
- (2) The continuation of a residential tenancy agreement by tacit reconduction shall not, for the purposes of this Law, constitute a making, variation, or renewal, of a residential tenancy agreement.
- (3) For the purposes of this Law, an agreement is no less a residential tenancy agreement just because –
  - (a) it is partly or wholly implied, or partly or wholly oral;
  - (b) it contains provisions that are additional to those required for the creation of a residential tenancy;
  - (c) it or another agreement purports to exclude or limit the operation of this Law; or
  - (d) it fails to comply with Article 4(1).
- (4) Despite paragraphs (2) and (3), this Law does not apply to a residential tenancy agreement –
  - (a) if the agreement has been made in good faith for the sale or purchase of a residential unit and the tenant is a party to that agreement;
  - (b) if the agreement is a residence contract for the occupation of a residential unit within any premises to which the Nursing and Residential Homes (Jersey) Law 1994 applies;
  - (c) if, under the agreement, the occupier of a residential unit occupies it only as a boarder, lodger or other licensee; or
  - (d) if the agreement is made in good faith for the purpose of giving a person a right to occupy a residential unit (not being premises ordinarily used for holiday purposes) for not more than 3 months for the purpose of a holiday.

## **PART 2**

### **CONTENT OF AGREEMENTS**

#### **4 Essential provisions in agreements**

- (1) A residential tenancy agreement shall –

- (a) be in writing;
  - (b) set out the details specified in Schedule 1 as that Schedule is in force at the date of the making, variation or renewal (as the case requires) of the agreement; and
  - (c) set out provisions to the effect of those specified in Schedule 2 as that Schedule is in force at that date.
- (2) Those provisions shall be taken to form part of the agreement (as made, varied or renewed) even if the agreement fails to set them out or purports to limit or exclude their application to the agreement.
- (3) To the extent of any inconsistency between those provisions and the purported provisions of the agreement, the latter provisions shall be void.

**5 Other provisions in agreements**

The parties to a residential tenancy agreement are not prevented by Article 4 from including provisions in the agreement that are not inconsistent with the provisions set out in Schedule 2.

**PART 3**

**TERMINATION OF PERIODIC TENANCIES**

**6 Periodic tenancy: requirement by landlord to quit**

- (1) This Article applies to a residential tenancy under which the tenant occupies a residential unit on the basis of a recurrent period for an indefinite term.
- (2) A landlord shall not, except by a requirement that is in accordance with this Article, require a tenant to quit the residential unit that the tenant has occupied under a residential tenancy to which they are both parties and to which this Article applies.
- (3) A requirement is in accordance with this Article if –
- (a) it is in writing;
  - (b) in the case where the Regulations prescribe a form for such a requirement, it is in such a form;
  - (c) it is served on the tenant; and
  - (d) it is so served at least 3 months before it is to take effect.
- (4) A residential tenancy to which this Article applies shall terminate when a requirement that is in accordance with this Article takes effect.

**7 Periodic tenancy: notice by tenant to terminate**

- (1) A residential tenancy under which the tenant occupies a residential unit on the basis of a recurrent period for an indefinite term shall terminate according to notice given to a landlord if the notice is in accordance with this Article.

- (2) A notice is in accordance with this Article if –
- (a) it is notice by the tenant;
  - (b) it makes it clear that the tenant is terminating the tenancy;
  - (c) it is in writing;
  - (d) it is served on the landlord; and
  - (e) it is served at least 1 month before it is to take effect.

#### PART 4 REMEDIES

#### **8 Termination if service element fails, agreement not in writing, details missing or opportunity to read denied**

- (1) If a residential tenancy agreement contains provisions about –
- (a) the provision of labour or other services;
  - (b) employment;
  - (c) the letting of movables;
  - (d) the letting of any immovable property for business purposes (other than any business purpose that is implicit in the letting or sub-letting of a residential unit for use simply as a dwelling); or
  - (e) the letting or use of a garden, a swimming pool, a parking space, a garage or other space or facility,
- or there is another agreement that purports to make fulfilment of any of those matters a term or condition of the residential tenancy agreement or purports to make the latter dependent on the fulfilment of any of those matters, and the matter becomes impossible to fulfil, the residential tenancy agreement shall not to be taken to have been frustrated or to be at an end just because of that impossibility.
- (2) However, in the case of such impossibility, the Court may on the application of a party to the residential tenancy agreement make an order varying or terminating the residential tenancy agreement if in all the circumstances the Court considers it just to do so.
- (3) If a residential tenancy agreement is not in writing or fails to contain the details specified in Schedule 1, the Court may, on application by the tenant, make an order varying or terminating the agreement if in all the circumstances the Court considers it just to do so.
- (4) A person who is to be (or is) the landlord under a residential tenancy agreement shall allow the person who is to be (or is) the tenant under the agreement at least 24 hours in which to read the agreement (or any variation or renewal of the agreement) before the latter person signs the agreement (or variation or renewal).
- (5) If the first person does not do so, the Court may on application by the second person make an order varying or terminating the agreement (or

agreement as varied or as renewed) if in all the circumstances the Court considers it just to do so.

#### **9 Premises uninhabitable**

If a residential unit that is the subject of a residential tenancy agreement becomes uninhabitable through any event other than a malicious act of the tenant –

- (a) the tenant is not required to pay any rent or other amount payable under the agreement in respect of any time during which the residential unit is uninhabitable; and
- (b) the Court may, on the application of the landlord or tenant, make an order varying or terminating the agreement if in all the circumstances the Court considers it just to do so.

#### **10 Breaches by landlord**

- (1) A landlord shall not, without lawful reason, prevent a tenant from occupying the whole or any part of a residential unit that is the subject of a residential tenancy agreement to which they are both parties, or otherwise interfere with the tenant's enjoyment of the residential unit, being enjoyment that is not inconsistent with the agreement.
- (2) A person who contravenes paragraph (1) shall be guilty of an offence and liable to a fine.
- (3) The obligation to comply with paragraph (1) is a duty owed by the landlord to the tenant.
- (4) Any breach of the duty, being a breach that causes loss or damage to the tenant, shall be actionable by the tenant.
- (5) Any act that, by inducing a breach of the duty or interfering with its performance, causes loss or damage to the tenant, and is done wholly or partly in order to achieve that end, shall be actionable by the tenant.

#### **11 Eviction where failure to give vacant possession**

The Court may, on application by a landlord under a residential tenancy agreement, order the eviction of the tenant if the Court is satisfied that the tenant has failed to give vacant possession of the residential unit to which the agreement applies when the residential tenancy terminated.

#### **12 Termination and eviction where failure to rectify breach**

- (1) Except in accordance with this Article, a breach of a residential tenancy agreement shall not of itself cause, or give grounds for, the avoidance or termination of the agreement, notwithstanding any law or the agreement itself.

- (2) A landlord under a residential tenancy agreement may apply to the Court for an order for the termination of the agreement and the eviction of the tenant if –
- (a) the tenant has breached one or more provisions of the agreement;
  - (b) the tenant has been served with notice to cease the conduct that constitutes the breach, or to take reasonable steps within 7 days after the service to rectify the breach, or to do both those things; and
  - (c) the tenant has failed to comply with the notice.
- (3) This Article does not depend for its operation on the service on the tenant of a notice to quit.
- (4) The Court may order the termination of the agreement and the eviction of the tenant if satisfied of the matters set out in paragraph (2)(a) to (c) and that the breach is sufficiently serious to warrant termination and eviction.

### 13 Execution of order for eviction

- (1) If the Court orders the eviction of a tenant under this Law and does not stay the execution of the order, the Viscount shall execute that order by going to the residential unit that is the subject of the order and putting the landlord in possession of the residential unit.
- (2) In order to do that, the Viscount may exercise the same powers of entry in respect of the residential unit as he or she could if executing an order by the Court for distraint on movable property in the residential unit.
- (3) If –
  - (a) the tenant does not at or before the time when the landlord is put in possession remove the tenant's movable property from the residential unit;
  - (b) the tenant has not entered into any agreement with the landlord about disposal of that property;
  - (c) the landlord has not applied for an order under Article 1 of the Loi (1867) sur la cour pour le recouvrement de menues dettes in respect of the property; and
  - (d) no such order has been made in respect of the property,
 the Viscount may remove the property and keep it in any place that he or she thinks fit.
- (4) If –
  - (a) the tenant has not within 15 days of that removal claimed and removed the movable property from that place;
  - (b) the landlord has not applied for an order under Article 1 of the Loi (1867) sur la cour pour le recouvrement de menues dettes in respect of the property; and
  - (c) no such order has been made in respect of the property,
 the Viscount may sell or otherwise dispose of the property.



- (5) The proceeds of any such sale shall be credited to the consolidated fund.

## PART 5

### JURISDICTION AND PROCEEDINGS

#### 14 Stay of eviction

- (1) The Court may, of its own accord or on application by a party to a hearing under Article 11 or 12, by order stay the execution of an eviction order that the Court has made under that Article until a specified condition is satisfied or a specified period has passed.
- (2) If the Court stays the execution of an eviction order, it may make the order for the stay subject to conditions as to the review and variation of rent payable under the tenancy and any other conditions that it considers just in all the circumstances.
- (3) The Court may impose those conditions at the time when it orders the stay or in accordance with paragraph (4).
- (4) The Court may, on application by the landlord or tenant, by order vary, revoke or impose conditions on the order for the stay from time to time while the order for the stay is in force.
- (5) A condition to which an order for a stay under this Article is made subject cannot be a condition that would, if a residential tenancy agreement were subject to the condition, be void because of this Law nor a condition whose inclusion in a residential tenancy agreement would be in breach of this Law.

#### 15 Matters to be considered in deciding on stay

- (1) The Court shall consider the following matters before deciding whether to exercise its power under Article 14 to order the stay of execution of an eviction order relating to a residential tenancy under a residential tenancy agreement –
  - (a) whether there is still rent that remains unpaid under the residential tenancy;
  - (b) whether the landlord or the tenant has breached any provision of the agreement;
  - (c) whether the landlord or the tenant has continued or repeated the breach or has not taken reasonable steps to rectify the breach;
  - (d) if a stay were ordered, where the balance of hardship would fall as between the landlord and the tenant.
- (2) The Court may consider the following matters before deciding whether to order the stay –
  - (a) whether the residential tenancy was for a fixed term and whether that term has expired;
  - (b) whether other accommodation is available to the tenant;

- (c) whether the tenant has looked for other accommodation;
- (d) whether a deposit has been paid in respect of the residential tenancy by the tenant;
- (e) whether there is a contract in force concerning movables in the residential unit that is the subject of the tenancy (or a contract in some way made in contemplation of or in connection with the tenancy or having the tenancy or the residential tenancy agreement as *cause*), being a contract between the tenant and the landlord, between the landlord and another person or between the tenant and another person;
- (f) whether the tenant has used the residential unit for immoral or illegal purposes or has caused or permitted its use for immoral or illegal purposes (if the use, causing, or permitting, is not a breach by the tenant of a provision of the residential tenancy agreement);
- (g) whether the tenant has caused or permitted a nuisance in the residential unit or caused or permitted any interference with the reasonable peace, comfort or privacy of any neighbour of the tenant (if the causing or permitting is not in either case a breach of a provision of the residential tenancy agreement);
- (h) whether the condition of the residential unit has deteriorated, or been maintained or improved, during the tenancy, and whether that change is attributable to the conduct of the tenant or to conduct caused or permitted by the tenant;
- (i) whether the tenant has given notice to terminate the agreement (or has agreed to the termination of the agreement) and the landlord has acted in reliance on that notice or agreement, so that a failure to obtain vacant possession of the residential unit would seriously disadvantage the landlord;
- (j) whether, in a more general sense, vacant possession of the residential unit could reasonably be expected to benefit or disadvantage the landlord;
- (k) the pattern of evictions in other residential units let by the landlord;
- (l) whether the residential unit is dangerous to, or bad for the health of, its occupants or of the public;
- (m) whether rectification of any matter referred to in sub-paragraph (l) would be easier if the residential unit were vacant;
- (n) whether hardship would be caused to persons other than the landlord and the tenant if the stay were not ordered;
- (o) such other matters as the Court considers relevant.

#### 16 Jurisdiction

- (1) The Court shall have exclusive original jurisdiction over any matter relating to a residential tenancy or to a residential tenancy agreement, and shall have power to hear and determine any such matter and to make orders relating to any such matter, including orders for the termination of a residential tenancy agreement.

- (2) The Court may, in deciding any matter relating to a residential tenancy or to a residential tenancy agreement, being a matter that has come before the Court on an application, summons or other instrument that relates expressly to the tenancy or agreement and if satisfied that it would in all the circumstances be just to do so, make an order as to arrears of rent, repayment of rent or repayment of any deposit, or for damages for any breach of the relevant residential tenancy agreement, or generally adjusting the rights between the parties to that agreement.
- (3) Paragraph (2) shall have effect whether or not the order, or the effect of the order, referred to in that paragraph had been mentioned in the application, summons or other instrument by which the matter came before the Court.
- (4) The jurisdiction of the Court with respect to residential tenancies or to residential tenancy agreements shall not be subject to the monetary limitations (whether on the matters that the Court may hear or on the orders that the Court may make) that apply, under Article 1 of the Petty Debts Court (Miscellaneous Provisions) (Jersey) Law 2000, to the jurisdiction of the Court in other matters.

#### **17 Appeals**

- (1) A party to proceedings before the Court in respect of a residential tenancy or residential tenancy agreement may, with the leave of the Court or of the Royal Court, appeal to the Royal Court against any decision, determination, or order, of the Court.
- (2) In the case of such an appeal that concerns wholly or partly an order for eviction, the Court or the Royal Court may order the stay of the execution of that order pending the Royal Court's hearing of the appeal and judgment on the appeal.

#### **18 Housing Law and other enactments**

- (1) Nothing in this Law shall affect the operation of, or requires or permits a court to make an order that would require or permit the occupation of premises in breach of the Housing (Jersey) Law 1949 or the Planning and Building (Jersey) Law 2002.
- (2) Nothing in this Law shall affect the operation of the Building Loans (Jersey) Law 1950, of the Separation and Maintenance Orders (Jersey) Law 1953 or of any Regulations made under the Agriculture (Loans and Guarantees) (Jersey) Law 1974.
- (3) Paragraph (1) is included only for the avoidance of doubt.

**PART 6**  
**MISCELLANEOUS**

**19 Documents to be provided to tenant**

- (1) The landlord under a residential tenancy agreement shall serve on the tenant under the agreement a copy of the agreement as made, varied, or renewed (as the case requires), as soon as reasonably practicable after the residential tenancy agreement, or an agreement for its variation or renewal, has been signed by or on behalf of the parties to the agreement.
- (2) The landlord under a residential tenancy agreement shall provide the tenant under the agreement with a receipt for the deposit (if any) paid by the tenant in respect of the residential tenancy as soon as possible after it is paid.
- (3) A landlord under a residential tenancy agreement shall provide a tenant under the agreement with a statement in accordance with paragraph (4) at least once during every 6 months of the residential tenancy (or if the residential tenancy is for a term of less than 6 months, at least once).
- (4) The statement shall show the amounts and dates of payments for the credit of the landlord (including rent payments) by the tenant in respect of the residential tenancy (or in respect of the residential unit to which the tenancy relates) and contain brief descriptions of what the payments were for.
- (5) A person who fails to comply with this Article shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

**20 Termination by agreement**

Nothing in this Law shall prevent the parties to a residential tenancy agreement from terminating it by agreement.

**21 Contracting out prohibited**

- (1) The provisions of this Law shall have effect despite anything to the contrary in any contract, agreement or other arrangement and no residential tenancy agreement (and no other contract, agreement or other arrangement), whether oral or wholly or partly in writing, and whether made or entered into before or after the commencement of this Article shall operate in respect of a residential tenancy agreement to annul, vary or exclude any of the provisions of this Law.
- (2) A person shall not enter into any contract, agreement or other arrangement with the intention, either directly or indirectly, of defeating, evading or preventing the operation of this Law in respect of a residential tenancy agreement.
- (3) A person who contravenes paragraph (2) shall be guilty of an offence and liable to a fine.

**22 General provisions as to offences**

- (1) Where an offence under this Law committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
  - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person purporting to act in any such capacity,
 the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.
- (3) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of an offence and liable in the same manner as a principal offender to the penalty provided for that offence.

**23 Regulations generally**

- (1) The States may by Regulations make provision for the purpose of carrying this Law into effect and, in particular, but without prejudice to the generality of the foregoing, for prescribing any matter that may be prescribed under this Law by Regulations.
- (2) Regulations may be made, in particular, for or with respect to –
  - (a) the completion by a landlord and a tenant of reports about the condition of a residential unit (including movables that are the property of the landlord and are in a residential unit) at or before the commencement, or at or after the termination, of a residential tenancy that relates to that unit, or at both those times;
  - (b) the content of those reports;
  - (c) the provision of information or documentation to the tenant by the landlord before, at the time of, or after entering into a residential tenancy agreement;
  - (d) the content of that information or documentation;
  - (e) the maximum charge for the preparation of a residential tenancy agreement or any other matter connected with the preparation of a residential tenancy agreement;
  - (f) the service (and content) of notices or other documents under this Law other than any application, summons, notice or other document that is filed in the Royal Court or the Court or issued from the Royal Court or the Court;
  - (g) a standard form or standard forms of residential tenancy agreement or of other instruments that relate to residential tenancies;

- (h) the forms to be used under this Law, other than the form of any application, summons, notice or other document that is filed in the Royal Court or the Court or issued from the Royal Court or the Court;
  - (i) the status of, rights relating to, and removal and disposal of, movables that a tenant leaves in a residential unit when the tenant leaves the residential unit after the termination of a residential tenancy;
  - (j) the status of, and rights relating to, and removal of, fixtures and fittings in a residential unit, being a residential unit that has been or is subject to a residential tenancy;
  - (k) deposits or guarantees in relation to residential tenancies;
  - (l) setting up a scheme for the safe-keeping or investment of deposits paid in respect of residential tenancies;
  - (m) requiring the payment of deposits into such a scheme;
  - (n) the recovery of those deposits;
  - (o) the supply of services under or in relation to residential tenancies or in residential units subject to residential tenancies;
  - (p) imposing limits on charges for the supply of those services, or otherwise with respect to charges for those services;
  - (q) requiring fees to be paid under this Law;
  - (r) the amounts and payment of those fees.
- (3) The reference in paragraph (2)(o) and (p) to the supply of services includes a reference to the supply of electricity, gas, water, drainage and other services, whether those services are resupplied under the control of the landlord or are supplied in any other way.
- (4) Regulations may create an offence punishable by a penalty not exceeding level 3 on the standard scale.
- (5) Regulations may do any one or more of the following –
- (a) authorize any matter or thing to be from time to time determined, applied or regulated by any specified person or body;
  - (b) exempt from the operation of this Law or any specified provision of this Law any specified person, specified residential tenancy, specified residential tenancy agreement or specified residential unit or any specified class of persons, of residential tenancies, of residential tenancy agreements or of residential units, either unconditionally or subject to conditions;
  - (c) contain such transitional, consequential, incidental or supplementary provisions as appear to the States to be necessary or expedient for the purposes of the Regulations.

#### 24 Amendments to enactments

Schedule 3 shall have effect.

**25 Savings and transitional provisions**

- (1) The States may, by Regulations, make provision of a saving or transitional nature consequent on the enactment of this Law.
- (2) A provision of Regulations made under this Article may, if the Regulations so provide, come into force on the day on which this Article comes into force or on a later day.
- (3) To the extent to which any such provision comes into force on a date that is earlier than the date of its promulgation, the provision does not operate so as –
  - (a) to affect, in a manner prejudicial to any person (other than the States or an administration of the States), the rights of that person existing before the date of its promulgation; or
  - (b) to impose liabilities on any person (other than the States or an administration of the States) in respect of anything done or omitted to be done before the date of its promulgation.

**26 Citation and commencement**

- (1) This Law may be cited as the Residential Tenancy (Jersey) Law 200-.
- (2) This Law shall come into force on such day or days as the States may by Act appoint and different days may be appointed for different provisions or different purposes.

**SCHEDULE 1**

(Article 4(1))

**WHAT AN AGREEMENT MUST SPECIFY**

1. A description sufficient to identify the residential unit that is the subject of the residential tenancy agreement.
2. The date when the residential tenancy commences.
3. The date (if any) when the residential tenancy under the agreement comes to an end, or term (if any) at the end of which that residential tenancy comes to an end or the condition (if any) on the fulfilment of which the residential tenancy comes to an end.
4. The name and business address of the landlord.
5. The name and business address of the managing agent (if any) of the residential unit.
6. The rent payable under the agreement and its frequency of payment.
7. The name of the person to whom the rent is to be paid.
8. How the rent is to be paid.
9. The amount of any deposit or guarantee in respect of the residential tenancy, and how and when any deposit is to be repaid.
10. When the rent is to be reviewed (if at all) and the basis of the review.
11. An inventory of the movables in the residential unit to the extent that the movables are the property of the landlord.



**SCHEDULE 2**

(Article 4(1))

**PROVISIONS THAT AN AGREEMENT MUST CONTAIN**

1. The landlord shall pay any foncier rate imposed in respect of the residential unit or attributable to the residential unit.
2. The tenant shall pay any occupier's rate imposed in respect of the residential unit or attributable to the residential unit.
3. The tenant may detach and remove anything that the tenant has fixed to the residential unit, subject to the tenant's making good any damage caused by the tenant's so doing.
4. To the extent that the residential tenancy agreement (or another agreement between the landlord and the tenant) requires the tenant to obtain the landlord's consent before the tenant does something in respect of the residential unit, that consent shall not be unreasonably withheld or delayed by the landlord.
5. The tenant is not required to purchase any fixtures, fittings, or movable property in general, in, for, or in respect of, the residential unit.
6. The tenant is not required to pay any premium, or key money, in respect of the residential unit.
7. Such provisions as the States may prescribe by Regulations.

**SCHEDULE 3**

(Article 24)

**AMENDMENTS TO ENACTMENTS**

1. In the Loi (1919) sur la location de bien-fonds, after Article 3 there shall be inserted the following Article –

**“3A**

Cette Loi ne s’applique ni à un “residential tenancy agreement” ni à un “residential tenancy” auxquels la Residential Tenancy (Jersey) Law 200- s’applique.”

2. In the Loi (1946) concernant l’expulsion des locataires réfractaires, after Article 5 there shall be inserted the following Article –

**“Article 6**

Cette Loi ne s’applique ni à un “residential tenancy agreement” ni à un “residential tenancy” auxquels la Residential Tenancy (Jersey) Law 200- s’applique.”

Endnotes

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