



Rented Dwellings Licencing Scheme

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Supplementary legislation

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- *Residential Tenancy (Condition Reports) (Jersey) Order 2014*
- *Residential Tenancy (Deposit Scheme) (Jersey) Regulations 2014*
- *Residential Tenancy (Supply of Services) (Jersey) Order 2013*

Rented Dwellings Licencing Proposal

Introduction

The Government of Jersey introduced the Public Health and Safety (Rented Dwellings) (Jersey) Law in October 2018. This Law provides the tools necessary to address health and safety deficiencies within the private rental sector.

The rental sector licencing proposal; also referred to as “the scheme” will be established through introduction of Regulations titled draft ‘Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 201- **Appendix A**.

The scheme considers compliance with all legislation related to the safe use of the property, legal use of tenancy agreements, inventories and tenant deposits. The proposal does not relate to legal matters surrounding tax requirements or whether the landlord chooses to purchase buildings or contents insurance.

Specific references to a proposed licencing scheme were made by the States Assembly on two occasions. The Law was voted on by the States Assembly on two occasions. On both occasions it was unopposed. The ability for the Minister to bring forward a proposal for licencing as part of the above Law were referenced during the Scrutiny Panel for the Law in 2017.

Why Licencing of the Private Rental Sector?

The property conditions of the private rental sector were, prior to the introduction of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 unregulated. Licencing assists in improving standards of those properties that fail to meet minimum standards by placing an obligation on the industry to identify all properties, so enabling inspection. Those that are rented in compliance with existing legislation will see little change, whilst highlighting those properties that place tenants at risk of injury or ill health and / or are subjected to poor management standards.

Licensing has been used in other areas on Jersey to regulate specific industries where specific health and safety risks are associated with that industry.

The following areas are targeted through this proposed licencing scheme:

Health

The link between health and housing is well documented in articles such as;

Shelter’s ‘Chance of a Lifetime’

https://england.shelter.org.uk/_data/assets/pdf_file/0016/39202/Chance_of_a_Lifetime.pdf

And mind’s ‘Brick by Brick’

<https://www.mind.org.uk/media/17947884/20171115-brick-by-brick-final-low-res-pdf-plus-links.pdf>

Those at most risk of ill health and / or injury being the young and the elderly. The majority of childhood asthmas can be traced back to exposure to mould.

Excess cold and premature deaths are directly correlated in our elderly population.

The most common hazards in a home relate to falls and excess cold. Licensing enables the early identification of these hazards during compliance visits. There are also specific licence conditions relating to the safety of gas and electrical installations, the provision of smoke detectors and where appropriate carbon monoxide detectors; and the adequacy of arrangements for carrying out repairs to properties. Poor housing means lower life chances for our residents and understanding the impact of poor housing conditions on health outcomes and mitigating this is a key strategic housing objective for the Island.

Support for tenants

Licensing provides a clear indication of the standards that tenants can expect from their landlords. The licence conditions include a number of measures regarding the information that should be provided by landlords to their tenants.

A proposed register of licensed properties enables current and prospective tenants to confirm that the property they are renting or intending to rent is licensed. If the property is accredited on Rent Safe the tenant and landlord also know the property meets or exceeds the minimum legal requirements.

The Licensing scheme provides an avenue for tenants to raise concerns about the way their tenancy is being managed. It also enables them to complain about the way in which neighbouring properties are being managed, for example in dealing with anti-social behaviour.

Homelessness prevention

Licensing provides a degree of protection for tenants from 'revenge' and 'no fault' evictions.

Revenge evictions can occur if a tenant complains about a defect in the property. The landlord evicts the tenant through legal or non-legal process and re-lets the property advising the person what will occur if they complain. The regulating body, Environmental Health, receives regular complaints of revenge evictions occurring on the Island.

No fault evictions occur where the tenant is evicted through no fault of their own. They paid their rent on time, they followed the rules. However the landlord has decided at the end of a tenant's lease term that he no longer wishes to rent to that tenant.

If a property isn't licenced the landlord would have no legal ability to re-let the property until a licence was obtained, which could only be achieved if the property meets minimum standards. This reduces the risk of eviction following complaint and provides the tenant additional time for an alternative to be found.

Licensing will also prevent unsuitable accommodation from coming to the market until it is brought up to standard.

Economic prosperity

The growth of the private rental sector and its potential for levering in investment can contribute positively to the Island's economic growth. Licensing supports this objective by promoting professionally managed tenancies and good property conditions. This will raise the quality of the private rented offer in Jersey, create greater confidence in the sector and will increase the attractiveness of Jersey as a place to live and work.

Proposal

The Government proposes that all dwellings defined as 'rental' within the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 should be licensed. Currently there is only requirement for lodging houses to be licenced under the Lodging Houses (Registration) (Jersey) Law 1962 and subsequent Orders.

Landlords, letting agents, managing agents and other interested bodies will have access to an online portal enabling application for a licence, timely processing and easy renewals. The intention is for licensing of the rental sector to improve the quality and management of privately rented properties in Jersey by setting a decent standard for landlords to comply with and enable compliance inspections to be undertaken where intelligence suggests the property is not being well managed.

This proposal is designed to increase confidence within the sector, reflecting the many good landlords whilst requiring poor landlords to improve their offer. Thus creating a level playing field. The proposed licence conditions can be found in **Appendix B**

Tackling unlicensed properties

Government is committed to ensuring a level playing field across the private rental sector, protecting Islanders from accommodation that is a potential risk to their health. Part of this commitment is to ensure all rental properties are licensed by actively pursuing those that have failed to obtain a licence.

Compliance checks

The majority of private rented dwellings meet minimum standards for health and safety. They are managed well, by people that wish to comply with their legal obligations. In recognition of this there are limited compliance checks unless intelligence identifies a need.

Examples of intelligence sources:

- Referral from the hospital if injury or ill health was a likely result of the conditions within a privately rented dwelling.
- The property is not accredited through Rent Safe and the licensing self-assessment form indicates the property fails to meet minimum standards.

Appendix C provides answers to some frequently asked questions.

Landlord Accreditation - Rent Safe

Rent Safe is the Government of Jersey's landlord accreditation scheme and available only for properties that meet prescribed minimum standards. It is proposed any property accredited as part of this scheme will not be subject to a licence application fee. In recognition of the reduced need for inspection of such properties, a discounted charging structure is included as **Appendix D**.

Rent Safe uses a 1 – 5 star rating scheme, with only properties rated at three stars or above able to become accredited. Where a property fails to meet the minimum of three stars, advice is provided as to what should be done to achieve the minimum rating.

The following table provides an overview of minimum standards required for a property to become accredited on Rent Safe.

Number of stars	Standards
3	<p>Meets the minimum requirements as prescribed by the following legislation:</p> <ul style="list-style-type: none"> • Public Health and Safety (Rented Dwellings – Minimum Standards and Prescribed Hazards) (Jersey) Order 2018 • Residential Tenancy (Condition Reports) (Jersey) Order 2014 • Residential Tenancy (Deposit Scheme) (Jersey) Regulations 2014 • Residential Tenancy (Supply of Services) (Jersey) Order 2013
4	<p>Meets the minimum requirements as prescribed by the following legislation:</p> <ul style="list-style-type: none"> • Public Health and Safety (Rented Dwellings – Minimum Standards and Prescribed Hazards) (Jersey) Order 2018 • Residential Tenancy (Condition Reports) (Jersey) Order 2014 • Residential Tenancy (Deposit Scheme) (Jersey) Regulations 2014 • Residential Tenancy (Supply of Services) (Jersey) Order 2013 <p>All written information (tenancy agreement and condition report) is provided in Plain English.</p>
5	<p>Exceeds the minimum requirements as prescribed by the following legislation:</p> <ul style="list-style-type: none"> • Public Health and Safety (Rented Dwellings – Minimum Standards and Prescribed Hazards) (Jersey) Order 2018 • Residential Tenancy (Condition Reports) (Jersey) Order 2014 • Residential Tenancy (Deposit Scheme) (Jersey) Regulations 2014 • Residential Tenancy (Supply of Services) (Jersey) Order 2013 <p>All written information (tenancy agreement and condition report) is provided in Plain English.</p> <p>Energy efficiency measures are in place</p>

The Government of Jersey has so far accredited over 1700 dwellings under Rent Safe.

Further information about minimum standards can be found in **Appendix E**.

The application process for a property to become accredited can be found here:

<https://www.gov.je/Home/RentingBuying/OtherRentalOptions/Pages/RegisterRentSafe.aspx>

The Licencing Application Process

The application is design led to ensure ease of use, minimal duplication of information and simple renewal. It is also designed to enable the process to be outsourced by the landlord to an external agent should they so wish.

A landlord, managing agent, letting agent or other registered body, for example an advocate, can apply for a licence for each private rental property via www.gov.je, which enables payment (if required) to be made electronically.

Pre and post 31 Jan 2020

The licensing scheme will have two application routes. One for those who apply on or before the 31 January 2020 and another for those that apply after 31 January 2020.

- If an application is received for a licence on or before the 31 January 2020 a licence will be automatically granted. The applicant (or applier on behalf of the applicant) will self-assess the property for legal compliance. A licence will be granted even if defects exist or there is failure to comply with tenancy or deposit legislation.
- Applications received after 31 January 2020 will be subject to inspection prior to the granting of a licence. Defects in the property or failure to comply with tenancy or deposit legislation may result in refusal of that application.

Flow diagrams representing each application process can be found in **Appendix F**

Instances where a licence may be withdrawn or refused

Failure to comply with the requirements of the scheme may result in revocation of a licence at the Minister's request or refusal to grant renewal of a licence. In either instance the landlord must ensure eviction of the tenant(s) follows a prescribed legal process laid down in the (Residential Tenancy (Jersey) Law 2011. In recognition of the serious impact the revocation of a licence may cause, this is considered a last option.

Working with the Private Rental Sector

Information is available to Landlords, Managing Agents, Letting Agents and other interested parties through:

- www.gov.je
- Publications
- Direct letters
- Officer visits
- Signposting
- Training (the popular Breakfast Bites sessions and more)
- Rent Safe Accredited Managing Agents
- Rent Safe Accredited Letting Agents
- Third sector support
- Assessment of a property as part of a Rent Safe application

Charges and Fees

The fee structure and worked examples are set out in **Appendix D**

Views on the proposed maximum charges and the charging mechanism are sought during consultation. Other options such as charging for missed inspections, re-inspections and increased fees for properties that Government actively have to seek out will be considered.

Summary

Licensing of private rental properties is not a panacea for improving the housing market in Jersey. However, in conjunction with a range of other measures it helps maintain standards within this sector once improvements are made.

Licensing will deliver real improvements in the quality of housing provision and will have a positive and direct impact on housing demand and security of tenure.

Licensing will directly address the reputation for poorly managed properties on Jersey, making it easier to recruit and maintain key personnel that rely on this sector. Poor landlords will be isolated and therefore easier to identify.

Jersey has never embarked on an Island wide house condition survey of the private rental sector. Licensing will provide evolving information to build a profile of the sector and understand the scale of the issues. Critical to this scheme is to expedite the identification of serious cases of housing disrepair that would otherwise remain undetected.

Licensing will improve standards of tenancy management. The associated compliance activity will secure housing improvements that will positively impact on the health and wellbeing of Islanders. Licensing will create a level playing field promoting an understanding among tenants about what they can reasonably expect from their landlord. It will help to enable a targeted, intervention-based approach to significantly improve housing and the related health and wellbeing of Islanders.

Consultation

This document forms part of a full consultation on the draft Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Law 201-.

The consultation will run for four weeks, with the following support:

- Briefing sessions offered to;
 - Jersey Landlords Association
 - Jersey Estate Agents Association
 - Rent Safe accredited landlords, Letting Agents, Managing Agents and other accredited organisations
 - Parishes, Housing Associations and Charities.
 - Other landlords

Consultation documents are available on Gov.je and opportunity to respond, through a questionnaire are available through this site.

Responses are also invited in writing directly to Environmental Health;

- by email: environmentalhealth@gov.je
- or by post: Environmental Health, Maison Le Pape, The Parade, St Helier, Jersey JE2 3PU

Unfortunately it is not possible to receive responses by phone.