

Residential Tenancy Law: the way forward

Jersey faces a severe housing crisis which poses an existential threat to our future prosperity. It is vital that the government acts swiftly and decisively to implement policies aimed at resolving this crisis. This must include measures to improve conditions for renters, to provide them with confidence that they can enjoy security and affordability in their homes – and therefore happy lives in Jersey.

A new Residential Tenancy Law will be a crucial part of achieving this, which is why I first proposed these changes in 2019. It is no secret that I have been critical of the approaches taken by recent governments in respect of this work since then, which I believe are responsible for the lack of progress made to date. It is vital that a new law is proposed and brought into force as soon as possible.

Upon becoming Minister for Housing at the start of this year, I immediately took steps to realign the work in producing a new Residential Tenancy Law to expedite its delivery and provide clearer instructions on what this new law will contain. In doing this, I have been cognisant of the work of my predecessors, whilst not bound by it. I have also been in constant dialogue since then with key stakeholders, including representatives of landlords and those who assist tenants.

I am pleased to now update States Members and the public on my proposed route forward.

In summary – I have issued law drafting instructions for a modern and focused law, which will provide enhanced security of tenure for tenants, rent stabilisation measures, a new Housing Tribunal and regulation of fees and charges. I have removed previously proposed elements which I believe would overly complicate the law, and would likely see a significant delay in the implementation of key reforms which ought to be made sooner rather than later.

I am proposing:

- **Enhanced security of tenure for tenants.** I intend to establish a new type of tenancy, which provides for enhanced notice provisions and protection against no-fault evictions. However, I am to do this in a way that balances the needs of landlords against these aims. This new type of tenancy will:
 - Allow for an initial fixed-term arrangement.
 - Offer longer minimum notice periods for long-standing tenants.
 - Enable landlords to take swifter action against tenants in serious breach of their tenancy agreement, to protect their properties.
 - Ensure there will be a comprehensive set of reasons, in law, to allow landlords to issue notice and reclaim their properties when appropriate.

- **Rent stabilisation measures.** I intend to limit rent increases to once a year, provide for minimum notice periods for rent reviews being implemented, and protect tenants from excessive rent increases. A previous public consultation and my own stakeholder engagement show that there is widespread support for the first two of these measures, including among landlords, most of whom already follow this best practice. However, there are still sadly too many instances where renters are pushed into financial hardship by excessive and unreasonable increases.

With respect to providing protection from excessive rent increases, work is currently underway with the government's Economics Unit, to consider and prepare options for indexing these limits. This work will be vital to test and understand any potential unintended consequences associated with any changes in this area. To provide reassurance for landlords, I will propose that an avenue will still be available to them through the new Housing Tribunal, when there is a need for them to deviate from the prescribed rent stabilisation measures to set their rents at the most appropriate level.

- **A new Housing Tribunal.** The establishment of a new Housing Tribunal has already been agreed by the States Assembly because of my proposition P.18/2023. I want landlords and tenants to be able to appeal to the Tribunal on a range of residential tenancy matters, providing a fair and accessible way to resolve disputes. Advice is being sought from expert stakeholders such as the Tribunal Service, Judicial Greffe and the Viscounts Department. It is likely that the Tribunal will become operational after the law is enacted, with key elements of how it is to operate introduced through secondary legislation, to ensure there is no unreasonable delay to the delivery of the substantive law.
- **Regulation of fees and charges.** I intend to introduce provisions to prohibit inappropriate fees and charges, including offences and penalties connected to unlawful practices. I will ensure that landlords and tenants will have the right of appeal and that there are appropriate penalties for non-compliance.

As well as these headline areas, I am also intending to provide greater clarity on the responsibilities and liabilities for when rental accommodation is rendered uninhabitable. The importance of addressing this has been highlighted by the impact of Storm Ciarán. I would also like to introduce safeguards that will permit a tenancy to be passed on, on the same terms, to other members of an existing household in circumstances where the tenant has passed away.

By focusing on these priorities, I believe we can have a fit for purpose law proposed and in force, benefiting Islanders by next year.

There are other areas that I believe should be addressed, and which were originally proposed to be included in the draft law by my predecessors, but which I believe have not

been adequately explored to date, and which will overcomplicate and delay the substantive law if I continue to pursue them now. I have therefore decided to descope these elements from the initial draft law, in order to deliver on the most pressing issues facing renters in Jersey.

These areas include:

- **Non-self-contained accommodation.** The current Residential Tenancy Law only applies to self-contained accommodation. It was originally proposed that non-self-contained accommodation be brought into the same law. But it is difficult to apply a “one size fits all” approach which does not impose absurd requirements on either party. Addressing the two kinds of accommodation at the same time has transpired to be impractical. I acknowledge that a modernisation of the law for non-self-contained accommodation would be beneficial, and I intend to revisit this subject once the most substantive part of the rental market has been dealt with.
- **Obligations of landlord-employers.** I am aware that the original proposal to include staff accommodation was a cause of concern for businesses. I have taken feedback on this into account and will pursue a more measured approach. I believe greater consultation with business representatives will be necessary to find the right balance of rights and responsibilities for landlord-employers and tenant-employees.
- **Social housing regulation.** Creating a new and comprehensive system of regulation for social housing is a significant piece of work, which does not sit comfortably alongside a law that primarily focuses on governing contractual matters. While regulating social housing would be beneficial, it is not urgent, especially given that some of the enhancements provided for in the new Residential Tenancy Law will be equally applicable to social housing tenancies as they are to private tenancies. However, the social housing rents policy (which caps rent increases during times of high inflation) will remain separate to the core rent stabilisation measures.

I have instructed that the new Residential Tenancy Law be drafted in such a way where these issues can be addressed at a later stage, through secondary legislation. Once the law has been adopted, I intend to revisit the areas that have been descope to plot a way forward.

Last year, the previous government published a white paper titled *“Improving Residential Tenancies in Jersey”* and held an extensive public consultation, to inform the contents of a new Residential Tenancy Law. In the interests of transparency, I have agreed that the findings of this consultation are published.

I raised concerns at the launch of the consultation, suggesting it lacked focus and political direction, which would likely lead to difficulties in using the insights obtained to inform a

new law. I am sorry to say that this has proven to be the case, and the findings document does not resemble the kind of evidence base which could be used to construct a vision for positive change.

I am grateful to Islanders who engaged with this process in good faith and assure them that I determined to learn from this mistake. This is why I pledge to be open with the States, stakeholders, and the public, about how I intend to move forward. When we consult with stakeholders, this will be done in a focused way, with a clear purpose in mind so the contribution they make can genuinely inform the contents of the new law.

A new Residential Tenancy Law will provide the bedrock for a thriving rental sector, balancing the needs of landlords and tenants, whilst making long overdue progress in alleviating our housing crisis. I look forward to presenting this law later in the year and further engaging with Islanders and stakeholders to seek their contribution in a meaningful way.

Deputy Sam Mézec, Minister for Housing