

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Housing (Control of Occupation) (Guernsey) Law, 1975

(Registered on the Records of the Island of Guernsey
on the 11th day of November, 1975.)



1975

XII
1975

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 11th day of November, 1975, before Ernest Pattison Shanks, Esquire, C.B.E., Deputy Bailiff, present:—Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Edward James Lainé, Esquire, C.B.E., D.F.C., Walter Francis Robin, Richard Alan Kinnersly, Esquires, Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Richard Brook Sutcliffe, Richard Oliver Symons, Albert Richard McCartney Straw, Esquires, Frederick William Winslow Chandler, Esquire, D.S.O., D.F.C. and Lionel Walter Sarre, Esquire, M.B.E., K.P.M., Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 22nd day of October, 1975, ratifying a *Projet de Loi* entitled "The Housing (Control of Occupation) (Guernsey) Law, 1975", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 22nd day of October 1975

PRESENT,

The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 20th day of October 1975, in the words following, viz:—

"YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee

(a) an humble Petition of the States of the Island of Guernsey, setting forth:—

' 1. That, in pursuance of their Resolutions of the 1st day of March, 1973, and the 2nd day of April, 1975, the States of Deliberation at a meeting held on the 4th day of June, 1975, approved a Bill or "Projet de Loi" entitled "The Housing (Control of Occupation) (Guernsey) Law, 1975", and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or "Projet de Loi" is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or "Projet de Loi" of the States of Guernsey entitled "The Housing (Control of Occupation) (Guernsey) Law, 1975",

and to order that the same shall have force of Law in the Island of Guernsey;’ and

(b) an humble Petition of Frank E. Wilson, Esquire, relating to the said *Projet de Loi*:

“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petitions and the said *Projet de Loi* into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition of the States of the Island of Guernsey and to approve of and ratify the said *Projet de Loi*.”

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said *Projet de Loi*, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said *Projet de Loi* (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant-Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty’s Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

N. E. Leigh

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Housing (Control of Occupation) (Guernsey) Law, 1975

ARRANGEMENT OF SECTIONS

PART I

Section

Control of occupation of dwellings

1. Prohibition on occupation without a licence.
2. Application for a licence to occupy.
3. Grant or refusal of licence.
4. Notice of refusal to grant a housing licence.
5. Factors to be taken into account by the
Authority.
6. Law not to apply to certain persons.

PART II

Registration of dwellings to which this Law applies

7. Housing Control Register.
8. Authority to inscribe certain dwellings on
Register.
9. Authority may delete certain dwellings from
Register.
10. States to make provision for Register.
11. Classes of dwellings to which this Part applies.
12. Dwellings which are altered, etc.
13. Dwellings to which this Part does not apply.

Section

14. Burden of proof.
15. Provisions concerning additional classes of dwellings to which this Part applies.

PART III

Special provisions relating to the occupation of certain dwellings

16. Prohibition on occupation of dwellings other than on Register.
17. Prohibition on occupation as member of household of child.

PART IV

Miscellaneous and general

18. Supply of further information.
19. Appeals.
20. Licences to be personal.
21. Occupation by members of household of certain persons.
22. Exceptions.
23. Service of notices.
24. Offences against Law.
25. False statements.
26. Certain penalties to be prescribed by Ordinance.
27. Savings for Ordinances.
28. Savings for licences.
29. Interpretation.
30. Repeals.
31. Citation.
32. Commencement and duration..

PROJET DE LOI

ENTITLED

The Housing (Control of Occupation) (Guernsey) Law, 1975

THE STATES, in pursuance of their Resolutions of the first day of March, nineteen hundred and seventy-three, and the second day of April, nineteen hundred and seventy-five, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

PART I

Control of occupation of dwellings

1. Subject to the succeeding provisions of this Law, a person shall not occupy, or cause or permit any other person to occupy, a dwelling in this Island otherwise than under and in accordance with a licence granted by the Authority under the provisions of section three of this Law.

Prohibition on occupation without a licence.

2. (1) Subject to the provisions of subsection (2) of this section, any person desirous of obtaining a licence under the provisions of section three of this Law shall make application in that behalf to the Authority and such application shall be in such form and accompanied by such information as the Authority may, from time to time, require.

Application for a licence to occupy.

(2) An application under the provisions of the last preceding subsection may be made:—

(a) by the owner of the dwelling to which the application relates, or

- (b) by a person, not being the owner thereof, who is desirous of occupying the dwelling to which the application relates.

Grant or
refusal of
licence.

3. (1) The Authority may, upon receipt of an application under the provisions of the last preceding section, grant a licence (hereinafter referred to as a "housing licence") in respect of a dwelling:—

- (a) to the owner thereof, for the occupation of that dwelling—

(i) by persons generally, or

(ii) by a person or persons named in the licence,

who would, by virtue of the provisions of this Law, be otherwise precluded from occupying that dwelling;

- (b) to a person, not being the owner thereof, for the occupation of that dwelling by that person who would, by virtue of the provisions of this Law, be otherwise precluded from occupying that dwelling.

(2) The Authority may attach to the grant of a housing licence such conditions as it may deem necessary or expedient to impose by reason of any shortage of housing accommodation in this Island at the time of the grant of the licence including a condition specifying the maximum continuous period during which the dwelling in respect of which the licence is granted may be occupied by any person.

(3) The Authority may, upon receipt of an application under the provisions of the last preceding section, refuse to grant a housing licence in respect of the dwelling to which the application relates.

4. If the Authority decides to refuse to grant a housing licence under the provisions of the last preceding section or to grant such a licence subject to conditions a notice in writing, signed by the President or Vice-President of the Authority, shall, as soon as may be after the Authority so decides, be served by the Authority on the applicant for the housing licence concerned and such notice shall be in such form as the Authority may, from time to time, determine and shall contain—

Notice of refusal to grant a housing licence.

- (a) a statement of the fact of such refusal or the terms of such conditions, as the case may be, and the date of the meeting of the Authority at which the decision to refuse the housing licence concerned or to grant it subject to such conditions was taken, and
- (b) a statement of the reasons why the Authority refused to grant the housing licence concerned.

5. (1) In deciding whether or not, in the exercise of its powers under the provisions of section three of this Law, to grant a housing licence the Authority shall take into account the following factors:—

Factors to be taken into account by the Authority.

- (a) whether the employment of the applicant for the licence is by reason of his qualifications, skill or experience essential to the community;
- (b) whether the number of dwellings, similar by reason of size or rateable value as inscribed in the Cadastre to the dwelling in respect of which the application is made, which are available for occupation at the time of the application is sufficient to meet the housing requirements of persons possessing the specified residential qualifications:

- (c) where the applicant for the licence is or is to be employed by a Committee of the States, the views of the Committee concerned on the application;
- (d) where the application is for a licence for a person to occupy, otherwise than as a guest, premises, not being a self-catering unit, in respect of which there is for the time being in force a boarding permit granted under the provisions of the Tourist Law, 1948(a), the views of the States Tourist Committee on the application.

(2) Nothing in the last preceding subsection contained shall be taken to preclude the Authority in deciding whether or not, in the exercise of its powers under the provisions of section three of this Law, to grant a housing licence from taking into account such other factors as the Authority may, from time to time, deem necessary or expedient.

Law not
to apply
to certain
persons.

6. (1) Subject to the provisions of subsection (2) of this section, the provisions of section one of this Law shall not apply to:—

- (a) a person who was born in this Island and thereafter has been continuously ordinarily resident in this Island otherwise than during any period of absence not exceeding or periods of absence in the aggregate not exceeding a period of five years or such other period as the States may, from time to time, by Ordinance prescribe;
- (b) a person who was born in this Island and who has been ordinarily resident in this Island during any period of at least ten consecutive years; or

(a) Ordres en Conseil Vol. XII, p. 329.

- (c) the spouse of such a person as is specified in the last preceding paragraph; or
- (d) a person who was born in this Island and who is the child of a person who was or has been ordinarily resident in this Island during any period of at least ten consecutive years; or
- (e) the spouse of such a person as is specified in the last preceding paragraph; or
- (f) a person who is the child of a person who was born in this Island and who has himself been ordinarily resident in this Island during any period of at least ten consecutive years; or
- (g) the spouse of such a person as is specified in the last preceding paragraph; or
- (h) a person—
 - (i) who, at any time during the period commencing on the first day of January, nineteen hundred and thirty-eight, and ending on the thirtieth day of June, nineteen hundred and fifty-seven, was ordinarily resident in this Island, and
 - (ii) who, on the thirty-first day of July, nineteen hundred and sixty-eight, was occupying a dwelling in this Island, or
- (i) a person who, on the thirty-first day of July, nineteen hundred and sixty-eight, was the spouse or child of such a person as is mentioned in the last preceding paragraph and who, prior to the twenty-sixth day of March, nineteen hundred and seventy-five, had been ordinarily resident in this Island for a period or periods in the aggregate of at least five years; or

(j) a person who has been ordinarily resident in this Island during any period of at least ten consecutive years and has been throughout that period in occupation of a dwelling—

(i) under or by virtue of a licence granted under the Law of 1948, the Law of 1967 or the Law of 1969, or

(ii) under or by virtue of a housing licence granted under the provisions of section three of this Law,

because, at the time of the grant of the licence, the employment of that person was by reason of his qualifications, skill or experience essential to the community; or

(iii) otherwise than under or by virtue of such a licence as is mentioned in subparagraph (i) or (ii) of this paragraph but in circumstances that are, in the opinion of the Authority, such that his period of such occupation should be treated as being occupation under or by virtue of such a licence as is mentioned as aforesaid;

(k) the surviving spouse of such a person as is mentioned in the last preceding paragraph; or

(l) the child of such a person as is specified in paragraph (j) of this subsection who has himself been ordinarily resident in this Island during any period of at least ten consecutive years in a dwelling—

(i) under or by virtue of a licence granted under the Law of 1948, the Law of 1967 or the Law of 1969, or

(ii) under or by virtue of a housing licence granted under the provisions of section three of this Law, or

(iii) by virtue of being a member of the household of such person as aforesaid, or

who has himself been ordinarily resident in this Island during any period amounting in the aggregate to a period of at least ten consecutive years in a dwelling or dwellings under or by virtue of two or more of the qualifications set out in subparagraphs (i), (ii) or (iii) of this paragraph; or

- (m) a person in respect of his occupation of a dwelling which he was occupying on the twenty-sixth day of March, nineteen hundred and seventy-five, and which, on that date, he did not require a licence to occupy under the Law of 1948, the Law of 1967 or the Law of 1969 or which, on that date, he was occupying under or by virtue of a licence granted under the provisions of any of those Laws; or
- (n) a person in respect of his occupation of a dwelling which is for the time being inscribed in the Housing Control Register established and maintained in pursuance of the provisions of Part II of this Law; or
- (o) a person in respect of his occupation of the whole or any part of a furnished dwelling if the period of occupation of such a dwelling by that person in any period of twelve consecutive months does not exceed a period or periods in the aggregate of ninety days; or
- (p) a person in respect of his occupation of accommodation as a guest in any premises,

not being a self-catering unit, in respect of which there is for the time being in force a boarding permit granted under the provisions of the Tourist Law, 1948;

- (q) a person in respect of his occupation of a self-catering unit in respect of which there is for the time being in force a boarding permit granted under the provisions of the Tourist Law, 1948, if the period of occupation of such a unit by that person in any period of twelve consecutive months does not exceed such period or periods in the aggregate as the States may, from time to time, by Ordinance prescribe.

(2) The States may, from time to time, by Ordinance suspend the operation of the provisions of paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i) or (o) of the last preceding subsection.

(3) If in any proceedings for a contravention of section one of this Law, a person claims that he is a person to whom section one of this Law does not apply by virtue of the provisions of subsection (1) of this section, the burden of proving that fact to the satisfaction of the Court shall be discharged by the person who so claims.

PART II

Registration of dwellings to which this Law applies

Housing
Control
Register.

7. (1) The Authority shall, subject to the succeeding provisions of this Law and of any Ordinance made thereunder, establish and thereafter maintain, in a book kept solely for the purpose, a register of dwellings to which this Part of this Law applies (hereinafter referred to as "the Housing Control Register").

(2) The Housing Control Register established and maintained under the provisions of the Law of 1969 as in force immediately before the date of coming into force of this Law shall, on the said date, be deemed to be the Housing Control Register required to be established in accordance with the provisions of the last preceding subsection and shall thereafter be maintained by the Authority in accordance with the provisions of this Law and of any Ordinance made thereunder.

8. The Authority shall, subject to the succeeding provisions of this Law and of any Ordinance made thereunder, upon application being made to it in accordance with the provisions of any such Ordinance by the owner of a dwelling to which this Part of this Law applies, inscribe that dwelling in the Housing Control Register in accordance with the provisions of any such Ordinance.

Authority
to inscribe
certain
dwellings
in Register.

9. (1) The Authority shall, subject to the succeeding provisions of this Law and of any Ordinance made thereunder, upon application being made to it in accordance with the provisions of any such Ordinance by the owner, being a person who possesses the specified residential qualifications, of a dwelling which is for the time being inscribed in the Housing Control Register, delete the inscription relating to that dwelling from the Housing Control Register in accordance with the provisions of any such Ordinance.

Authority
may delete
certain
dwellings
from
Register.

(2) If the inscription of a dwelling in the Housing Control Register is deleted therefrom upon the application of the owner, being a person who possesses the specified residential qualifications, that dwelling shall, on the said owner thereafter selling or otherwise disposing of or ceasing to occupy that dwelling, cease to be a dwelling to which this Part of this Law applies.

States
to make
provision
for Register.

10. Subject to the succeeding provisions of this Law, the States may, from time to time, by Ordinance make such provision as they may deem necessary or expedient for the establishment and maintenance by the Authority of the Housing Control Register and, without prejudice to the generality of the foregoing, they may, from time to time, by Ordinance, in particular, make provision for all or any of the following matters:—

- (a) the form of the Housing Control Register and the matters to be inscribed therein;
- (b) the manner in which the owner of a dwelling to which this Part of this Law applies who is desirous of having that dwelling inscribed in the Housing Control Register shall make application in that behalf to the Authority;
- (c) the information which shall accompany any such application as aforesaid, whether to be supplied by the owner or the occupier of the dwelling concerned or by both such owner and such occupier;
- (d) the manner in which the owner of a dwelling which is inscribed in the Housing Control Register who is desirous of having the inscription relating to that dwelling deleted from the Housing Control Register, shall make application in that behalf to the Authority;
- (e) the information which shall accompany any application referred to in the last foregoing paragraph, whether to be supplied by the owner or the occupier of the dwelling concerned or by both such owner and such occupier;
- (f) the furnishing of information at any time by the owner or occupier of a dwelling

which is inscribed in the Housing Control Register or by both such owner and such occupier;

- (g) the times during which, and the places at which, the Housing Control Register shall be available for inspection by members of the public;
- (h) the entry into, and inspection of, any premises for any purpose connected with the exercise of any power conferred by the provisions of any such Ordinance;
- (i) such incidental and supplementary matters for which the States deem it necessary or expedient for the purposes of any such Ordinance to provide.

11. (1) This Part of this Law shall apply to the following classes of dwellings:—

Classes of dwellings to which this Part applies.

- (a) any dwelling constructed or to be constructed on the area of land situate in the Parish of Saint Peter Port known as Fort George and conveyed by the States to Fort George Developments Limited the registered office of which is situate at No. 10, Lefebvre Street, in the said Parish, by a conveyance registered at the Greffe on the twenty-ninth day of September, nineteen hundred and sixty-one;
- (b) a dwelling—
 - (i) of which the rateable value as inscribed in the Cadastre on the thirty-first day of December, nineteen hundred and sixty-two, was, or
 - (ii) if no rateable value was so inscribed on that date, the rateable value when first so inscribed was or is,

in excess of eighty-five pounds sterling per annum:

Provided that if no rateable value was so inscribed on the nineteenth day of July, nineteen hundred and sixty-eight, such a dwelling shall not be a dwelling to which this Part of this Law applies unless the owner thereof satisfies the Authority that he had constructed or purchased or entered into a contract for the construction or purchase of that dwelling before the said nineteenth day of July;

(c) a dwelling—

(i) of which the rateable value as inscribed in the Cadastre on the thirty-first day of December, nineteen hundred and sixty-two, was, or

(ii) if no rateable value was so inscribed on that day, the rateable value when first so inscribed was or is,

in excess of fifty pounds sterling per annum but not in excess of eighty-five pounds sterling per annum if the dwelling is one—

(iii) in respect of the construction or purchase of which a person not possessing the residential qualification set out in subsection (1) of section one of the Law of 1967 had, prior to the twenty-sixth day of January, nineteen hundred and sixty-six, entered into a contract and had thereafter so satisfied the Authority within the meaning of that expression in the Law of 1948, or

(iv) which on the twenty-sixth day of January, nineteen hundred and sixty-six, was occupied by a person who did not

require a licence to occupy that dwelling under the provisions of the Law of 1948;

- (d) a dwelling (hereinafter referred to as "the new dwelling") constructed to replace a dwelling (hereinafter referred to as "the old dwelling") which was destroyed or damaged and which at the time of such destruction or damage was inscribed in, or was eligible to be inscribed in, the Housing Control Register if the owner of the new dwelling satisfies the Authority that—
 - (i) the new dwelling is constructed on the same site as the old dwelling; and
 - (ii) the destruction or damage to the old dwelling was of such extent as to render it incapable of being wholly used for the purposes of human habitation; and
 - (iii) the destruction of or damage to the old dwelling was caused by circumstances beyond the control of the owner thereof; and
 - (iv) the construction of the new dwelling was commenced before the expiration of the period of twelve months commencing on the date on which the destruction or damage of the old dwelling took place or was commenced before the expiration of such period and was completed before the expiration of such further period thereafter as the Authority may in any particular case require; and
 - (v) the rateable value of the new dwelling as inscribed in the Cadastre is not less than—

- (aa) the rateable value of the old dwelling as inscribed in the Cadastre on the thirty-first day of December, nineteen hundred and sixty-two; or
- (bb) if no rateable value was so inscribed on that date, the rateable value of the old dwelling when first so inscribed.

(2) Notwithstanding the provisions of the Proviso to paragraph (b) of the last preceding subsection, a dwelling in respect of which no rateable value is inscribed in the Cadastre shall be a dwelling to which this Part of this Law applies if the owner thereof satisfies the Authority that—

- (a) if a rateable value were so inscribed it would be in excess of eighty-five pounds sterling per annum, and
- (b) he had constructed or purchased or entered into a contract for the construction or purchase of that dwelling before the nineteenth day of July, nineteen hundred and sixty-eight.

(3) The owner of a dwelling who is of opinion that—

- (a) the rateable value of that dwelling as inscribed in the Cadastre on the thirty-first day of December, nineteen hundred and sixty-two was, or
- (b) if no rateable value was so inscribed on that date, the rateable value when first so inscribed was or is,

incorrect, whether because of an incorrect assessment or an error at the time of inscription in the Cadastre, may, prior to the expiration of the period of twelve months commencing on the date of the coming into force of this Law, apply to the States Cadastre Committee (hereinafter referred to as "the

Committee") to rectify the said rateable value and amend the inscription in the Cadastre accordingly if the said owner was the owner of the dwelling on the date on which the dwelling was incorrectly inscribed in the Cadastre and was the owner of the dwelling continuously from that date until the date on which he applies to the Committee as aforesaid.

(4) If upon the receipt of an application in accordance with the provisions of the last preceding subsection the Committee is satisfied that the rateable value of the dwelling as so inscribed was or is incorrect as aforesaid, the Committee shall rectify the rateable value and amend the inscription in the Cadastre accordingly and, notwithstanding the preceding provisions of this section, the rateable value as inscribed in the Cadastre as amended as aforesaid shall be the rateable value of the dwelling for the purposes of determining whether the dwelling is a dwelling to which this Part of this Law applies.

12. (1) Where two or more dwellings, any one of which is not a dwelling to which this Part of this Law applies, are combined, whether by alteration or otherwise, so as to be used or usable as a single dwelling which, but for the provisions of this subsection, would be a dwelling to which this Part of this Law applies, then that single dwelling whether or not inscribed as such in the Cadastre shall not be a dwelling to which this Part of this Law applies.

Dwellings
which are
altered, etc.

(2) Subject to the provisions of the next succeeding subsection, where a single dwelling, whether inscribed in the Housing Control Register or not, which is a dwelling to which this Part of this Law applies is, whether by alteration or otherwise, used or made usable as two or more dwellings, then the first mentioned single dwelling whether or not in-

scribed as such in the Cadastre shall cease to be a dwelling to which this Part of this Law applies and if inscribed in the Housing Control Register shall be deleted therefrom by the Authority.

(3) Where a single dwelling whether inscribed in the Housing Control Register or not, which is a dwelling to which this Part of this Law applies, ceases to be such a single dwelling by virtue of the provisions of the last preceding subsection, the Authority upon application being made to it in that behalf may, in its discretion, inscribe in the Housing Control Register any dwelling created by the alteration or otherwise of the first mentioned single dwelling.

(4) A single dwelling which, but for the provisions of subsection (2) of this section, would be a dwelling to which this Part of this Law applies and which during the period commencing on the first day of March, nineteen hundred and seventy-three, and ending on the twenty-sixth day of March, nineteen hundred and seventy-five was, whether by alteration or otherwise, used or made usable in the manner set out in subsection (2) of this section and ceased to be a dwelling to which Part II of the Law of 1969 applied, shall be a dwelling to which this Part of this Law applies and may, if application is made in that behalf by the owner thereof in accordance with the provisions of an Ordinance made under this Law, be inscribed in the Housing Control Register.

Dwellings
to which
this Part
does not
apply.

13. (1) A dwelling which, but for the provisions of this subsection, would be a dwelling to which this Part of this Law applies and which, on the twenty-third day of December, nineteen hundred and sixty-eight, was owned and occupied by a person possessing the specified residential qualifications

shall not be a dwelling to which this Part of this Law applies—

- (a) if that person ceased to occupy that dwelling and occupied another dwelling in this Island before the coming into force of this Law and before the first mentioned dwelling was inscribed in the Register of 1969, or
- (b) if that person ceases to occupy that dwelling and occupies another dwelling in this Island after the coming into force of this Law but before the first mentioned dwelling is inscribed in the Housing Control Register.

(2) A dwelling which, but for the provisions of this subsection, would be a dwelling to which this Part of this Law applies and which, on the twenty-third day of December, nineteen hundred and sixty-eight, was owned by a person jointly with the spouse of that person and was occupied by those persons one of whom possessed the specified residential qualifications, shall not be a dwelling to which this Part of this Law applies—

- (a) if both those persons or, after the death of one of those persons, the surviving spouse living with that person on the date of death, ceased to occupy that dwelling and occupied another dwelling in this Island before the coming into force of this Law and before the first mentioned dwelling was inscribed in the Register of 1969, or
- (b) if both those persons or, after the death of one of those persons, the surviving spouse living with that person at the date of death, ceases to occupy that dwelling and occupies another dwelling in this Island after the coming into force of this Law but before the first mentioned dwelling is inscribed in the Housing Control Register.

(3) A dwelling which, but for the provisions of this subsection, would be a dwelling to which this Part of this Law applies and which, on the twenty-third day of December, nineteen hundred and sixty-eight, was owned jointly by two persons neither of whom was the spouse of the other and was occupied by one or both of those persons, at least one of whom possessed the specified residential qualifications, shall not be a dwelling to which this Part of this Law applies—

- (a) where the dwelling was occupied by one of those persons possessing the specified residential qualifications—
 - (i) if that person ceased to occupy that dwelling and occupied another dwelling in this Island before the coming into force of this Law and before the first mentioned dwelling was inscribed in the Register of 1969, or
 - (ii) if that person ceases to occupy that dwelling and occupies another dwelling in this Island after the coming into force of this Law but before the first mentioned dwelling is inscribed in the Housing Control Register;
- (b) where the dwelling was occupied by both of those persons—
 - (i) if one of those persons possessing the specified residential qualifications or, after the death of one of those persons, the survivor possessing the specified residential qualifications who occupied the dwelling with that person at the date of death, ceased to occupy that dwelling and occupied another dwelling in this Island before the date of the coming into force of this Law and

before the first mentioned dwelling was inscribed in the Register of 1969, or

- (ii) if one of those persons possessing the specified residential qualifications or, after the death of one of those persons, the survivor, possessing the specified residential qualification who occupied the dwelling with that person at the date of death, ceases to occupy that dwelling and occupies another dwelling in this Island after the coming into force of this Law but before the first mentioned dwelling is inscribed in the Housing Control Register.

14. Where any person claims that a particular dwelling falls within one of the classes of dwellings to which this Part of this Law applies the burden of proving that fact to the satisfaction of the Authority shall be discharged by that person.

Burden of proof.

15. The States may, from time to time, by Ordinance make provision for such classes of dwellings as may be specified therein, in addition to the classes specified in section eleven of this Law, to be classes of dwellings to which this Part of this Law applies and any such Ordinance shall make provision for the conditions subject to which any class of dwelling specified therein shall be inscribed in, or deleted from, the Housing Control Register.

Provisions concerning additional classes of dwellings to which this Part applies.

PART III

Special provisions relating to the occupation of certain dwellings

16. (1) A person being the sole owner or the owner jointly with another person of a dwelling for the time being inscribed in the Housing Control Register who—

Prohibition on occupation of dwellings other than in Register.

- (a) possesses the specified residential qualifications, and
- (b) was occupying that dwelling on the twenty-third day of December, nineteen hundred and sixty-eight,

or, after the death of that person, the spouse of that person if living with him at the date of death, shall not occupy any other dwelling in this Island other than a dwelling inscribed in the Housing Control Register.

(2) Where a person is the sole owner of a dwelling for the time being inscribed in the Housing Control Register, the spouse of that person who—

- (a) possesses the specified residential qualifications, and
- (b) was occupying that dwelling jointly with the said person on the twenty-third day of December, nineteen hundred and sixty-eight,

shall not at any time while living with the said person occupy jointly with the said person any other dwelling in this Island other than a dwelling inscribed in the Housing Control Register.

(3) Notwithstanding the preceding provisions of this section, a person being the sole owner or the owner jointly with another person of a dwelling inscribed in the Housing Control Register who—

- (a) possesses the specified residential qualifications, and
- (b) is occupying that dwelling,

or, after the death of that person, the spouse of that person if living with him at the time of his death, may, if, whether by alteration or otherwise, that dwelling is used or made usable as two or more dwellings at least one of which is not a dwelling to

which Part II of this Law applies, occupy any other dwelling in this Island.

(4) A person being the sole owner or the owner jointly with another person of a dwelling which, whether before or after the date of the coming into force of this Law, he has caused to be inscribed in the Housing Control Register who—

- (a) possesses the specified residential qualifications;
- (b) was occupying that dwelling on the date on which it was inscribed as aforesaid; and
- (c) sells that dwelling or his interest therein, as the case may be;

shall not occupy any other dwelling in this Island other than a dwelling inscribed in the Housing Control Register save that nothing in this subsection contained shall be taken to prohibit a person from continuing to occupy a dwelling which immediately prior to the date of the coming into force of this Law he was occupying under or by virtue of a licence granted under the provisions of Part III of the Law of 1969.

(5) Where a person is the sole owner of a dwelling and is a person referred to in the last preceding subsection, the spouse of that person who possesses the specified residential qualifications and is occupying a dwelling jointly with that person shall not at any time while living with the said person occupy jointly with the said person a dwelling in this Island other than—

- (a) that which the said spouse was occupying on the date of the coming into force of this Law; or
- (b) a dwelling inscribed in the Housing Control Register.

(6) A person who possesses the specified residential qualifications and who was the sole owner or the owner jointly with another person of a dwelling on the twenty-third day of December, nineteen hundred and sixty-eight, which he caused to be inscribed in the Housing Control Register shall not, if on the said twenty-third day of December that dwelling was occupied by another person possessing the specified residential qualifications, occupy a dwelling in this Island other than—

- (a) that which he was occupying on the date of the coming into force of this Law, or
- (b) a dwelling inscribed in the Housing Control Register.

(7) Where a person is the sole owner of a dwelling and is a person referred to in the last preceding subsection the spouse of that person who possesses the specified residential qualifications and is occupying a dwelling jointly with that person shall not at any time while living with the said person occupy jointly with the said person a dwelling in this Island other than—

- (a) that which the said spouse was occupying on the date of the coming into force of this Law, or
- (b) a dwelling inscribed in the Housing Control Register.

(8) Notwithstanding the preceding provisions of this section, the Authority may, in its absolute discretion, grant permission in writing, subject to such conditions as the Authority may consider necessary or expedient, to a person who possesses the specified residential qualifications to occupy any dwelling in this Island which he would otherwise be precluded from occupying by virtue of the preceding provisions of this section.

17. A person being the sole owner or the owner jointly with another person of a dwelling for the time being inscribed in the Housing Control Register who possesses the specified residential qualifications shall not occupy as a member of the household of a child of his any other dwelling in this Island other than a dwelling inscribed in the Housing Control Register except with the permission in writing of the Authority.

Prohibition on occupation as member of household of child.

PART IV

Miscellaneous and general

18. Upon receipt of an application under the provisions of section two of this Law, or at any time thereafter, the Authority may require the applicant to supply the Authority with such information, in addition to any information supplied in accordance with the provisions of the said section as the Authority may require.

Supply of further information.

19. (1) Any person aggrieved by any decision of the Authority under any of the provisions of this Law may appeal therefrom to the Royal Court on the grounds that the decision of the Authority was ultra vires or was an unreasonable exercise of its powers.

Appeals.

(2) Any appeal under this section shall be instituted by way of summons which shall set out the material facts upon which the appellant relies and which shall be served upon the President of the Authority to show cause why the decision appealed from should not be set aside or varied.

(3) On any appeal under this section the burden of satisfying the Royal Court that the decision of the Authority which is the subject of the appeal is

intra vires or reasonable shall be discharged by the Authority and the Authority shall be entitled to a final right of reply.

(4) The decision of the Royal Court on any appeal under this section shall be final and conclusive.

Licences
to be
personal.

20. A housing licence shall be a personal licence and shall not be assignable.

Occupation
by members
of household
of certain
persons.

21. (1) Subject to the provisions of section seventeen of this Law, nothing in this Law contained shall be taken to apply to the occupation of a dwelling by a person as the spouse or a member of the household of a person who possesses the specified residential qualifications or of the household of a person to whom a housing licence has been granted to occupy that dwelling.

(2) If in any proceedings for a contravention of any of the provisions of this Law, a person claims that he is in occupation of a dwelling as a member of the household of a person who possesses the specified residential qualifications or of the household of a person to whom a housing licence has been granted to occupy that dwelling, the burden of proving that fact to the satisfaction of the Court shall be discharged by the person who so claims.

Exceptions.

22. Nothing in this Law contained shall be taken to apply to the occupation of any dwelling in the possession or ownership of the States.

Service of
notices.

23. Any notice which may be served for the purposes of this Law shall be validly served—

(a) on any person, if delivered to him, left, or sent by registered post or by recorded de-

livery service to him at his usual or last known place of abode;

- (b) on any firm, if delivered to any partner of the firm, or left at, or sent by registered post or by recorded delivery service to, the principal or last known principal place of business of the firm;
- (c) on any body corporate, if left at, or sent by registered post or by recorded delivery service to, its registered office if situate in this Island, or, if its registered office is not so situate, its principal or last known principal place of business in this Island.

24. Any person—

Offences
against
Law.

- (a) who occupies or causes or permits any other person to occupy a dwelling in contravention of any of the provisions of this Law; or
- (b) who contravenes any conditions of a housing licence;

shall be guilty of an offence and liable, on conviction, to a fine not exceeding five hundred pounds, and, in the case of a continuing offence, to a further fine not exceeding fifty pounds for each day during which the offence continues after conviction.

25. Any person—

False
statements.

- (a) who, in connection with any application for the grant of a housing licence or in connection with an application for the inscription of a dwelling in the Housing Control Register under the provisions of an Ordinance made under this Law, knowingly makes any false statement or recklessly makes any statement which is false in a material par-

ticular or produces or furnishes any information which he knows to be false; or

- (b) who knowingly fails to produce or furnish any information which he is required to produce or furnish under the provisions of this Law or any Ordinance made thereunder;

shall be guilty of an offence and liable, on conviction, to a fine not exceeding five hundred pounds.

Certain penalties to be prescribed by Ordinance.

26. Save as otherwise expressly provided in the last preceding section, the States may, from time to time, by Ordinance prescribe the penalties which shall be incurred by any person guilty of an offence under any Ordinance made in pursuance of any of the provisions of this Law and different penalties may be so prescribed for different such offences.

Savings for Ordinances.

27. Any Ordinance made under the provisions of the Law of 1969 and in force immediately before the coming into force of this Law shall continue in force as though it were made under the provisions of this Law until repealed or varied by an Ordinance made under the provisions of this Law.

Savings for licences.

28. Any housing licence granted or having effect under the provisions of the Law of 1948, the Law of 1967 or the Law of 1969 and valid immediately before the coming into force of this Law shall be deemed to have effect as though it were a housing licence granted under this Law and any conditions attached thereto were conditions attached under the provisions of this Law.

Interpretation.

29. (1) In this Law, unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"adopted child" means a child who is adopted under the provisions of the Adoption (Guernsey) Law, 1960(b);

"the Authority" means the States Housing Authority;

"the Cadastre" means the Cadastre prepared and maintained under the provisions of the Cadastre Law, 1947(c);

"child" means the issue of the first degree of a person and includes a step-child, an adopted child and an illegitimate child;

"dwelling" means, other than in Part II of this Law, any premises or any part of any premises used or usable for the purposes of human habitation and includes—

(a) a flat; and

(b) any premises in respect of which there is for the time being in force a boarding permit granted under the provisions of the Tourist Law, 1948;

"dwelling" means, in Part II of this Law, any premises or any part of any premises used wholly for the purposes of human habitation which have been so used continuously since the thirty-first day of December, nineteen hundred and sixty-two, or if the premises were not inscribed in the Cadastre on that date, continuously since first so inscribed and includes—

(a) a flat, and

(b) any premises in respect of which there is for the time being in force a boarding permit granted under the provisions of the Tourist Law, 1948,

(b) Ordres en Conseil Vol. XVIII, p. 192.

(c) Ordres en Conseil Vol. XIII, p. 78.

but does not include any premises or any part of any premises used at any time since the thirty-first day of December, nineteen hundred and sixty-two, for purposes other than for human habitation;

“the Law of 1948” means the Housing Control (Emergency Provisions) (Guernsey) Law, 1948(d);

“the Law of 1967” means the Housing Control (Guernsey) Law, 1967(e);

“the Law of 1969” means the Housing Control (Guernsey) Law, 1969(f);

“owner” in relation to any dwelling means—

- (a) where that dwelling is the subject of saisie proceedings which have resulted in the making of an interim vesting order, the person in whose favour such order has been made;
- (b) where that dwelling is not the subject of saisie proceedings but is the subject of a vested right of usufruct, the usufructuary;
- (c) where that dwelling is not the subject of such saisie proceedings or of such right of usufruct—
 - (i) the beneficial owner, if that dwelling is not held in trust, or
 - (ii) the trustees, if that dwelling is held in trust;

“the Register of 1969” means the Housing Control Register established and maintained under the provisions of the Law of 1969 before the coming into force of this Law;

(d) Ordres en Conseil Vol. XIII, p. 262.

(e) Ordres en Conseil Vol. XXI, p. 204.

(f) Ordres en Conseil Vol. XXII, p. 260.

"self-catering unit" means any premises in respect of which there is for the time being in force a boarding permit granted under the provisions of the Tourist Law, 1948, which are treated by the Authority as a self-catering unit;

"the specified residential qualifications" means the qualifications specified in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) or (l) of subsection (1) of section six of this Law but does not include the qualifications specified in any of the said paragraphs for the time being suspended under the provisions of an Ordinance made under the provisions of subsection (2) of the said section six;

"spouse" includes a surviving spouse who has not re-married and a person whose marriage has been terminated by divorce or has been annulled and who has not re-married.

(2) Except in so far as the context otherwise requires, any reference in this Law to any other enactment shall be construed as a reference to that enactment as repealed and re-enacted, amended, extended or applied by or under any other enactment including this Law.

(3) Any power conferred by this Law to make any Ordinance shall be construed as including a power exercisable in the like manner to vary or repeal the Ordinance.

30. The Laws set out in the Schedule to this Law **Repeals.** are hereby repealed.

31. This Law may be cited as The Housing (Con- Citation.
trol of Occupation) (Guernsey) Law, 1975.

Commence-
ment and
duration.

32. (1) This Law shall come into force on the first day of January, nineteen hundred and seventy-six: Provided that any powers conferred by this Law on the States to make any Ordinance may be exercised at any time after the registration of this Law and before the day appointed or to be appointed as afore-said, subject to the restriction that any such Ordinance shall not come into force until this Law comes into force.

(2) This Law shall remain in force until the thirty-first day of December, nineteen hundred and eighty, or such earlier date as the States may by Ordinance appoint.

SCHEDULE Section thirty

The Housing Control (Guernsey) Law, 1969.

The Housing Control (Extension) (Guernsey) Law 1974.

R. H. VIDELO,
Her Majesty's Greffier.