

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Housing Control (Guernsey) Law, 1967.

(Registered on the Records of the Island of Guernsey
on the 28th day of November, 1967.)



1967.

XIII
1967

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 28th day of November, 1967, before Dr. Francis Coningsby, Lieutenant-Bailiff; present:—Bertram Guy Blampied, Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., Carl Edward Blad, Albert Victor Dorey, Esquires, Laurence Francis de Vic Carey, Esquire, C.B., C.B.E., D'Arcy George Le Tissier, William Burton Fox, Esquires, Edward James Lainé, Esquire, C.B.E., D.F.C., and Jean Le Pelley, Esquire, Jurats.

The Lieutenant-Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 13th day of November, 1967, ratifying a *Projet de Loi* entitled "The Housing Control (Guernsey) Law, 1967", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur 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 13th day of November 1967

PRESENT,

The Queen's Most Excellent Majesty.

LORD PRESIDENT

LORD STEWARD

LORD SHEPHERD

MR CROSLAND

MRS HART

MR HENRY WILSON

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 31st day of October 1967, 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 the humble Petition of the States of the Island of Guernsey, setting forth:—

‘1. That, in pursuance of their Resolution of the 26th day of July, 1967, the States of Deliberation at a meeting held on the 27th day of September, 1967, approved a Bill or “Projet de Loi” entitled “The Housing Control (Guernsey) Law, 1967” 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 (Guernsey) Law, 1967" and to order that the same shall have force of law in the Island of Guernsey.'

THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition 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 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.

W. G. Agnew.

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

PROJET DE LOI

ENTITLED

The Housing Control (Guernsey) Law, 1967

THE STATES, in pursuance of their Resolution of the twenty-sixth day of July, nineteen hundred and sixty-seven, 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.

1. (1) A person, other than a person who at some 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, had his ordinary place of residence in this Island, shall not occupy a dwelling to which this Law applies unless there is in force in respect of that dwelling a licence granted by the Authority under the provisions of section two of this Law.

Occupation
of certain
dwellings
controlled.

(2) This Law applies to any dwelling in this Island—

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

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

not in excess of one hundred pounds sterling per annum or such lesser sum as may, from time to time, be prescribed by Ordinance, or any part of such a dwelling.

(3) In this Law, unless the context otherwise requires the expression "dwelling" means any premises, or any part of any premises, wholly or principally used or usable for the purpose of human habitation.

Applications
for and
issue of
housing
licences.

2. (1) The Authority may, upon receipt of an application in that behalf in such form and containing such information as the Authority may from time to time require, grant a licence (hereinafter referred to as a "housing licence") in respect of any dwelling to which this Law applies:—

(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 section one of this Law, be otherwise precluded from occupying that dwelling,

(b) to any person, for the occupation of that dwelling by that person, being a person who would, by virtue of the provisions of the said section one, 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 and different such periods may be so specified in different licences and in respect of different persons or different classes of persons.

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

Dwellings which are altered, etc.

(2) Where a dwelling which is not a dwelling to which this Law applies is, whether by alteration or otherwise, used or made usable as two or more dwellings, then each of those dwellings unless separately inscribed in the Cadastre shall, for the purposes of this Law, be deemed to be a dwelling to which this Law applies.

4. (1) The provisions of subsection (1) of section one of this Law shall not apply to a person—

Law not to apply in certain cases.

- (a) occupying the whole or any part of a furnished dwelling to which this Law applies if the period of such occupation by that person in any period of twelve consecutive months does not exceed a total period of ninety days; or
- (b) occupying accommodation in any hotel, inn, guest-house or boarding-house in the ordinary course of the business of the person conducting the same or in any premises under an agreement for the provision of board and lodging by the occupier of those premises; or
- (c) as respects the occupation by that person of any dwelling to which this Law applies

which he was entitled to occupy before the commencement of this Law.

(2) Notwithstanding the provisions of subsection (2) of section sixteen of this Law, the States may, from time to time, by Ordinance suspend the operation of the provisions of paragraph (a) of the last preceding subsection.

Occupation only invalid for purposes of the Law.

5. The occupation by any person of any dwelling to which this Law applies in breach of the provisions of subsection (1) of section one of this Law shall be invalid only for the purposes of this Law and shall not be questioned except by the Authority in pursuance of the provisions thereof.

Appeals.

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

(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 Ordinary 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.

Breach of provisions of section one.

7. (1) If any person occupies a dwelling to which this Law applies in contravention of the provisions of subsection (1) of section one of this Law or fails to comply with any condition attached to the grant

of a housing licence the Authority may make an application to the Ordinary Court for an order vesting the possession of the dwelling so occupied, or a part thereof, in the Authority, for such period and upon such terms and conditions, having regard to all the circumstances of the case, as the Ordinary Court may prescribe and upon the making of such an order the possession of that dwelling or of the part thereof to which the order relates shall vest in the Authority accordingly as though the Authority were a tenant thereof with power to make application for the granting of an eviction order against any person in occupation of the dwelling or part thereof to which the order relates and to sub-let the same to, or permit the use thereof by, or with the assent of the owner to assign the interest of the Authority to, any person for the purposes of human habitation.

(2) Notice of the day and time on and at which an application to the Ordinary Court under the provisions of this section is to be made shall be served by the Authority on the occupier concerned; such notice shall require him to attend at the hearing of the application.

(3) Where an occupier upon whom a notice is served in pursuance of the provisions of the last preceding subsection is not the owner of the dwelling concerned a copy of the notice shall be served by the Authority on the owner who may attend at the hearing of the application and make representations thereon.

(4) Upon an application as aforesaid by the Authority for the granting of an eviction order against any person, the Court shall not be bound to take into account any of the matters referred to in section three of the Law giving the Court

increased power to stay execution in actions for eviction registered on the thirty-first day of August, nineteen hundred and forty-six (a).

Legal proceedings
against
landlords or
vendors.

8. Upon the making of an order under the provisions of section seven of this Law vesting the possession of a dwelling or any part thereof in the Authority, any person occupying that dwelling or that part thereof, as the case may be, at the time of the making of the order under a lease or tenancy agreement or by virtue of his ownership of that dwelling under a conveyance shall be entitled, within the ninety days next following the date of the making of the order, to take legal proceedings:—

- (a) in the case of a lease or tenancy agreement, against his landlord with a view to the making by the Ordinary Court of an order declaring the lease or tenancy agreement to be avoided; or
- (b) in the case of a conveyance as aforesaid, against the vendor thereunder with a view to the making by the Ordinary Court of an order requiring the latter to take a reconveyance of the dwelling or any part thereof for the same consideration and on the same terms and conditions as nearly as may be as those for and on which he himself acquired the ownership of the dwelling or part thereof;

and, in either case, for the reimbursement of the legal charges and disbursements incidental to such acquisition incurred by him, and thereupon the Ordinary Court, if it is satisfied that at the time of the execution of the lease or of the making of the tenancy agreement or of the completion of the

(a) Ordres en Conseil Vol. XII, p. 263.

conveyance, neither the lessee, tenant or purchaser, as the case may be, nor his servant or agent, was aware of the necessity for procuring a housing licence in order that he should be entitled to occupy the dwelling or part thereof so leased, let or conveyed to him, may make an order accordingly subject to such directions and conditions as shall appear to the Ordinary Court to be just.

9. (1) Notwithstanding the provisions of any Savings. Ordinance made in pursuance of the provisions of subsection (2) of section one of this Law a person who, immediately before the coming into force of that Ordinance, was occupying a dwelling to which this Law applies for which a housing licence was not required shall not, on and after the coming into force of that Ordinance, be required to obtain a housing licence in respect of his continued occupation of that dwelling.

(2) Any licence granted by the Authority under the provisions of any Law repealed by this Law for the occupation of a dwelling to which this Law applies 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 the provisions of this Law and any conditions attached thereto were conditions attached under the provisions of this Law except in so far as any such conditions would be inconsistent with any such provisions.

10. Nothing in this Law contained shall be taken Exceptions. to apply to the occupation of any dwelling to which this Law applies in the possession or ownership of the States or any Committee of the States.

11. Any notice which may be served for the Service of notices. 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 delivery 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 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.

False
statements.

12. Any person who, in connection with any application for the grant of a housing licence in pursuance of the provisions of this Law, knowingly makes any false statement or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty pounds.

Repeals.

13. The enactments set out in the first column of the Schedule to this Law are hereby repealed to the extent specified in the second column of that Schedule.

Interpreta-
tion.

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

“the Authority” means the States Housing Authority;

“the Cadastre” means the Cadastre prepared and maintained under the provisions of the Cadastre Law, 1947, as amended;

“the Ordinary Court” means the Royal Court sitting as an Ordinary Court;

“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.

(2) 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.

15. This Law may be cited as the Housing Control Citation. (Guernsey) Law, 1967.

16. (1) This Law shall come into force on the first day of January, nineteen hundred and sixty-eight: Commence-
ment and
duration.
Provided that any power conferred by this Law to make any Ordinance may be exercised at any time after the registration of this Law and before the said first day of January, subject to the restriction that any such Ordinance shall not come into force until the said first day of January.

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

SCHEDULE

Section thirteen

Enactments repealed	Extent of repeal
The Housing Control (Emergency Provisions) (Guernsey) Law, 1948 (b)	The whole Law.
The Housing Control (Extension and Amendment) (Guernsey) Law, 1957 (c)	So much of the Law as remains unrepealed.
The Housing Control (Extension and Amendment) (Guernsey) Law, 1962 (d)	The whole Law.
The Housing Control (Amendment) (Guernsey) Law, 1965 (e)	The whole Law.
The Housing Control (Amendment) (Guernsey) Law, 1966 (f)	The whole Law.

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

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- (b) Ordres en Conseil Vol XIII, p. 262.
(c) Ordres en Conseil Vol. XVII, p. 224.
(d) Ordres en Conseil Vol. XIX, p. 79.
(e) Ordre en Conseil No. III of 1965.
(f) Ordres en Conseil No. IV of 1966.