

ORDER IN COUNCIL

IV
2005

ratifying a Projet de Loi

ENTITLED

The States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004

(Registered on the Records of the Island of Guernsey
on the 12th April, 2005.)



2005

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 12th day of April, 2005 before Geoffrey Robert Rowland Esquire, Deputy Bailiff; present:– Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Michael Henry De La Mare, Michael John Tanguy, Esquires, and Susan Mowbray, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 22nd day of March, 2005, approving and ratifying the Projet de Loi entitled “The States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004”, 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.

At the Court at Buckingham Palace

The 22nd day of March, 2005

PRESENT,

The Queen's Most Excellent Majesty in Council

THE FOLLOWING report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“IN ACCORDANCE WITH YOUR MAJESTY’S General Order of Reference of the 22nd day of February 1952 the Committee have considered a petition of the States of Guernsey:”

“That, in pursuance of their Resolution of 24th November, 2004, the States of Deliberation at a meeting on 8th December, 2004, approved a Projet de Loi entitled “The States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the Projet de Loi is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction “The States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004” and to order that it shall have force of law in the Island of Guernsey.

“THE COMMITTEE have considered the Projet de Loi and have agreed to report that it may be advisable for Your Majesty to approve and ratify it.”

HER MAJESTY, having taken the Report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the Projet de Loi (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Island of Guernsey and shall be entered on the Register of the Island of Guernsey and observed accordingly.

HER MAJESTY'S Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

A. K. Galloway

PROJET DE LOI

ENTITLED

The States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004

THE STATES, in pursuance of their Resolution of the 24th November, 2004^a, 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

OCCUPATION OF STATES RESIDENTIAL PROPERTY

States housing tenancies.

1. (1) The States may by Ordinance terminate -

(a) any States housing tenancy, or

(b) any class or description of States housing tenancy,

with effect from such date as may be specified by the Ordinance.

(2) The termination of a States housing tenancy under subsection (1) does not affect -

(a) any right, privilege, obligation or liability acquired, accrued or incurred under the tenancy, or

^a Article VI of Billet d'État No. XX of 2004.

- (b) any legal proceeding or remedy in respect of any such right, privilege, obligation or liability.

(3) The Department may by regulation make such provision as it thinks fit for the purpose of amending, modifying or disapplying any or all terms and conditions of any, or any prescribed class or description of, States housing tenancy which has not been terminated under subsection (1).

Statutory tenancies.

2. (1) The Department may by regulation make such provision as it thinks fit for the purpose of -

- (a) prescribing the terms and conditions of the tenancies under which persons, or any prescribed class or description of persons, shall occupy States residential property,
- (b) amending, modifying or disapplying any or all such terms and conditions, and
- (c) terminating any such tenancy or any terms and conditions thereof.

(2) Where a person is permitted by the States (acting by and through the Department) to occupy any States residential property upon terms and conditions prescribed under subsection (1)(a), there shall exist, in respect of the property in question, a statutory tenancy.

(3) A statutory tenancy shall create, as between the States (acting by and through the Department) and the statutory tenant, the relationship of landlord and tenant of the property in question -

- (a) at such rent or premium,
- (b) for such fixed or periodic term, and
- (c) subject to such other terms and conditions,

as regulations under this Law may prescribe.

(4) Regulations under this section may, without limitation, contain provisions for determining the person who is to be the statutory tenant.

PART II

RENT AND REBATE SCHEME

Regulations as to rent and rebate schemes.

3. (1) The Department may by regulation make such provision as it thinks fit for the purpose of the implementation of a rent and rebate scheme relating to the occupation of States residential property or any other prescribed class or description of property.

(2) Regulations made under this subsection (1) may, without limitation, include provision -

- (a) relating to the method by which there shall be determined or calculated -
 - (i) the amount of rent payable in respect of the class or description of property covered by a rent and rebate scheme,
 - (ii) the amount of rent rebate (if any) available for qualifying individuals,

- (iii) the allowances and charges (if any) to be made in respect of dependants of qualifying individuals and any other persons residing with qualifying individuals,
- (b) prescribing those factors relating to the personal and other circumstances of a qualifying individual which may be taken into account for the purposes of a rent and rebate scheme, and
- (c) prescribing any charges incidental to the operation of a rent and rebate scheme and how those charges may be met or paid.

PART III

INTERPRETATION AND GENERAL PROVISIONS

Interpretation.

4. (1) In this Law, unless the context otherwise requires -

"the Department" means the States Housing Department,

"enactment" means any Law, Ordinance, Rule of Court or other legislative instrument having effect in Guernsey, and includes any provision of this Law,

"prescribed" means prescribed by regulations of the Department,

"qualifying individual" means an individual of a class or description specified in a rent and rebate scheme,

"rent and rebate scheme" means a scheme which is approved in a resolution of the Department and the rules of which are laid down by regulations of the Department under section 3(1),

"States" means the States of Guernsey,

"States housing tenancy" means any tenancy agreement existing between a tenant and the States (acting by and through the Department) which relates to the occupation of States residential property and, for the avoidance of doubt, excludes a statutory tenancy,

"States residential property" means any residential property an estate of inheritance of which is vested in the States (or in which the States has any other form of property right enabling it to grant or create a States housing tenancy or a statutory tenancy),

"statutory tenancy" has the meaning given by section 2(2),

"statutory tenant" means a person who occupies a States residential property under a statutory tenancy and who is the statutory tenant by virtue of regulations under section 2, and

"terms and conditions" includes covenants.

(2) Any reference in this Law to an enactment is a reference thereto as amended, re-enacted (with or without modification), extended or applied.

General provisions as to regulations.

5. (1) Regulations made under this Law -

(a) may prescribe all such matters as are usually provided for by way of agreement between a landlord and a

tenant of residential property,

- (b) may make provision for the purpose of dealing with matters arising out of, or related to, States housing tenancies and statutory tenancies,
- (c) may make provision for the purpose of dealing with any matters related to third parties and their rights and obligations which arise out of the rent and rebate scheme, States housing tenancies or statutory tenancies,
- (d) may provide for the time, manner and format of applications for the rent and rebate scheme,
- (e) may make provision for the purpose of dealing with matters arising out of, or related to, the rent and rebate scheme,
- (f) may provide for -
 - (i) the obtaining of information and documents by,
 - (ii) the furnishing of information and documents to, and
 - (iii) the exchange of information and documents between,

such persons or departments of the States, or class or description of persons or departments of the States, as may be prescribed,

- (g) may provide for the suspension or disqualification of a qualifying individual from the rent and rebate scheme and for the cancellation, suspension, repayment and reduction of rebates,
- (h) may provide for the payment and collection of rents and rent arrears and for their recovery by the States (acting by and through the Department) as a civil debt,
- (i) may make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences,
- (j) may make provision in relation to appeals,
- (k) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force,
- (l) are valid notwithstanding that they make provisions which are of general application and the purpose of which is not limited to implementing, or facilitating the implementation of, rent and rebate schemes or statutory tenancies,
- (m) may be amended or repealed by subsequent regulations hereunder, and
- (n) may contain such transitional, consequential, incidental, supplementary and savings provisions as the Department thinks fit.

(2) Any power conferred by this Law to make a regulation may be exercised -

(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

(b) so as to make, as respects the cases in relation to which it is exercised -

(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

(iii) any such provision either unconditionally or subject to any prescribed conditions.

(3) Regulations under this Law shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

Citation.

6. This Law may be cited as the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004.