

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 26th day of April, 1994 before de Vic Graham Carey, Esquire, Deputy Bailiff; present:—Harry Wilson Bisson, Stanley Walter John Jehan, Raymond Arthur Heaume, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley, Lawrence Oscar Ozanne, John Richard Rowe Henry, David Charles Lowe, Esquires and Mrs. Eileen May Glass, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 15th day of March, 1994, approving and ratifying a *Projet de Loi* entitled “The Housing (Control of Occupation) (Guernsey) Law, 1994”, 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 15th day of March 1994

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 1st day of March 1994 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 29th day of October 1992, the States of Deliberation at a meeting held on the 11th day of August 1993, approved a Bill or “Projet de Loi” entitled “The Housing (Control of Occupation) (Guernsey) Law, 1994”, 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 as 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, 1994”, 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, and 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. H. Nicholls

(No.IV - 1994)

PROJET DE LOI

ENTITLED

The Housing (Control of Occupation) (Guernsey) Law, 1994

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The Housing (Control of Occupation)
(Guernsey) Law, 1994

THE STATES, in pursuance of their Resolution of the 29th October, 1992(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
CONTROL OF OCCUPATION OF DWELLINGS

Occupation prohibited without housing licence.

1. Subject to the provisions of this Law, no person shall occupy or cause or permit another person to occupy a dwelling in Guernsey otherwise than under and in accordance with the conditions of a licence (a "housing licence") granted by the Authority under section 3.

Applications for housing licences.

2. (1) A person wishing to obtain a housing licence shall apply to the Authority in such form and manner and giving such information as the Authority may require.

(2) An application under subsection (1) may be made only by-

- (a) the owner of the dwelling to which the application relates;

(a) Billet d'État No. XVIII of 1992.

- (b) a person or the employer of a person wishing to occupy a dwelling in Guernsey; or
- (c) the prospective employer of a person who wishes or who will wish to occupy a dwelling in Guernsey (whether or not that person is particularised in the application).

(3) Upon receipt of an application under subsection (1) and at any time thereafter, the Authority may require the applicant to supply such additional information as the Authority may require.

Grant, refusal and conditions of housing licences.

3. (1) The Authority, upon receipt of an application pursuant to section 2(2)(a) or (b), may grant a housing licence in respect of a dwelling-

- (a) to the owner thereof, for the occupation of the dwelling by a person named in the licence;
- (b) to a person who is not the owner thereof, for the occupation of the dwelling by him.

(2) A housing licence shall, subject to section 4(1), be granted for such period as the Authority may in its absolute discretion think fit, and shall specify the date upon which it will (unless terminated earlier under the provisions of this Law) cease to be valid.

(3) The Authority may, when granting a housing licence or at any time thereafter, impose such conditions in respect of the licence as it considers to be necessary or expedient, including, without prejudice to the generality of the foregoing-

- (a) conditions considered to be necessary or expedient by reason of any shortage of housing accommodation or of any description of housing accommodation in Guernsey at the time in question;
- (b) conditions in relation to a person's employment or in relation to his familial or like connections with Guernsey (including his continued occupation of a dwelling as the member of the household of a specified person);
- (c) conditions as to the dwelling or description of dwelling (whether expressed by reference to size, value, rateable value or otherwise) to be occupied, having regard to the personal, financial and other circumstances of any person who is or who will be occupying a dwelling in Guernsey under or by virtue of the licence.

(4) The Authority may vary or withdraw any condition imposed in respect of a housing licence.

(5) In deciding whether or not to impose, vary or withdraw any condition in respect of a housing licence the Authority may take into account any matter which it can take into account under section 6 when deciding whether or not to grant a housing licence.

(6) The Authority may refuse an application under section 2 for the grant of a housing licence.

(7) The Authority, upon receipt of an application pursuant to section 2(2)(c), may issue a statement under this subsection (a "statement in principle") to the prospective employer if satisfied that the employment in question is of sufficient essentiality to the community to justify the grant of a housing licence.

(8) A statement in principle shall be valid for a period of six months beginning on the date of the statement or for such other period as may be specified therein.

(9) The Authority may impose such conditions in respect of a statement in principle as it considers to be necessary or expedient and may subsequently vary or withdraw any such condition.

(10) The Authority may refuse to issue a statement in principle.

(11) A statement in principle shall, during the period of its validity, be binding upon the Authority for the purposes of section 6(2)(a)(i) as to the question of whether the employment in question is of sufficient essentiality to the community to justify the

grant of a housing licence, but shall not be binding upon the Authority as to any other question whatsoever.

Short-term housing licences.

4. (1) If the Authority grants a housing licence in order to enable a person to occupy a dwelling so that he may undertake employment in Guernsey-

- (a) on a temporary or seasonal basis; or
- (b) which is not, in the Authority's opinion, of sufficient long-term essentiality to the community to justify the grant of a housing licence permitting that person to occupy a dwelling for more than three years,

then the licence shall state that fact and shall cease to be valid-

- (i) in a case falling within paragraph (a), on a date not more than 9 months after the licence is expressed to come into effect; or
- (ii) in a case falling within paragraph (b), on a date not more than 3 years after the licence is expressed to come into effect;

and such a housing licence is referred to in this Law as a "short-term housing licence".

(2) In a case falling within subsection (1)(a), the Authority shall not grant a short-term housing licence if the person who would be permitted by it to occupy a dwelling has been physically present in Guernsey at any time during the preceding 3 months.

(3) In a case falling within subsection (1)(b)-

(a) the Authority may, subject to subsection (4), grant a short-term housing licence in order to enable a person to continue to occupy accommodation which he is occupying at the date of his application under a short-term housing licence granted in the circumstances specified in subsection (1)(a); but in any other circumstances

(b) the Authority shall not grant a short-term housing licence if the person who would be permitted by it to occupy a dwelling has been resident in Guernsey at any time during the preceding 3 years.

(4) Subsection (3)(a) does not apply if the person occupying a dwelling under a short-term housing licence granted in the circumstances specified in subsection (1)(a) has, at any time during the 3 years preceding the grant of that licence, been resident in Guernsey.

(5) The Authority may vary a short-term housing licence so as to enable the holder to change either his employment or the dwelling he is permitted by the licence to occupy; and, in deciding whether or not to effect such a variation, the Authority may take into account any matter which it can take into account under section 6 when deciding whether or not to grant a housing licence.

(6) A variation of a short-term housing licence under subsection (5) shall not extend the period of validity of the licence.

Notice of refusal etc. of housing licences.

5. If the Authority decides to refuse to grant a housing licence, or to grant a housing licence subject to conditions, or to impose, vary or withdraw any condition in respect of a housing licence, or to revoke a housing licence, or that a licence has ceased to be valid by virtue of any ground mentioned in section 7(1)(c) or (e), a notice signed by a person authorised in that behalf by the Authority and in such form as the Authority may determine shall, as soon as possible after the decision, be served on the applicant or, as the case may be, on the holder; and the notice shall state-

- (a) the fact of the refusal, revocation or invalidity of the licence, or the terms of the conditions, as the case may be; and

- (b) in the case of the refusal, revocation or invalidity of a licence, or the imposition or variation of conditions, the reasons for the decision.

Procedure for consideration of applications.

6. (1) The Authority, upon receipt of an application under section 2, shall proceed to decide whether or not to grant a housing licence or to grant a housing licence subject to conditions in accordance with the provisions of this section.

(2) The Authority shall firstly consider-

- (a) where the application is made in order to enable a person to occupy a dwelling so that he may undertake employment in Guernsey, all or any of the following matters-

- (i) whether the employment of that person, by reason of his qualifications, skill or experience, or whether that employment, is of sufficient essentiality to the community to justify the grant of a housing licence;

- (ii) the number of people appearing to the Authority to be resident in Guernsey and lawfully available to undertake employment of the type concerned;

- (iii) the number of people for the time being entitled to occupy a dwelling under a housing licence of the type concerned; or
- (b) in any other case, all or any of the following matters-
 - (i) whether the person who would be permitted by the housing licence to occupy a dwelling has familial or like connections with Guernsey of sufficient strength to justify the grant of a housing licence;
 - (ii) without prejudice to the generality of subparagraph (i), the periods during which and the circumstances in which that person has been resident in Guernsey or elsewhere.

(3) The Authority, having considered the appropriate matter set out in subsection (2)(a) or (b), may decide to refuse to grant a housing licence.

(4) If the Authority does not so decide, it shall proceed to consider the application further, and in so doing may take into account whether the number of dwellings (similar by reason of size or rateable value to the dwelling in respect of which the application is made) available for occupation is, in the Authority's opinion, sufficient to meet the housing requirements of qualified residents and persons who have been granted

housing licences other than short-term housing licences.

(5) Notwithstanding the provisions of subsections (2) and (4), the Authority may, at any stage of its consideration of an application under section 2, take into account all or any of the following matters-

- (a) in the case of an application for a housing licence to enable a person to occupy a dwelling so that he may undertake employment in Guernsey-
 - (i) any criminal convictions (whenever and wherever recorded) of that person;
 - (ii) whether that person has previously held such a licence or occupied such a dwelling and, if so, when and for what period and in what circumstances;
- (b) any population objective set out in the most recent Policy Planning Report or Strategic and Corporate Plan;
- (c) any other objective, policy or provision of the most recent Policy Planning Report or Strategic and Corporate Plan;

- (d) the likely effect upon any objective, policy or provision mentioned in paragraph (b) or (c) of any decision to grant the application;
- (e) such other factors as it may deem necessary or expedient.

Expiry and revocation of housing licences.

7. (1) A housing licence shall cease to be valid-

- (a) upon the date specified in it in that regard;
- (b) upon the grant to the holder thereof of another housing licence permitting him to occupy a dwelling;
- (c) upon the holder thereof ceasing to be ordinarily resident in the dwelling in respect of which the licence was granted;
- (d) if the Authority revokes it;
- (e) if any person is convicted of an offence under section 58(a) in connection with the application in consequence of which the licence was granted.

(2) The Authority may revoke a housing licence-

- (a) in the case of a licence granted in order to enable a person to occupy a

dwelling so that he may undertake employment in Guernsey-

- (i) if that person ceases to be engaged or employed, on a full-time basis, in that employment;
 - (ii) if the application in consequence of which the licence was granted failed to disclose any criminal conviction (whenever and wherever recorded) of that person;
- (b) if any condition of the licence is contravened;
- (c) if the holder applies in that behalf to the Authority.

(3) In deciding whether or not to revoke a housing licence, the Authority may take into account any matter which it can take into account under section 6 when deciding whether or not to grant a housing licence.

Housing licences to be personal.

8. A housing licence is personal to the holder and not assignable.

Interpretation of Part I.

9. In this Part of this Law the expression "owner", in relation to a dwelling, includes a lessee thereof.

PART II
PERSONS WHO DO NOT REQUIRE A HOUSING LICENCE

Qualified residents not to require housing licence.

10.(1) Subject to the succeeding provisions of this Law, a qualified resident shall not require a housing licence to occupy a dwelling in Guernsey.

(2) The following persons are qualified residents-

(a) a person-

(i) who, at any time during the period commencing on the 1st January, 1938 and ending on the 30th June, 1957, was ordinarily resident in Guernsey; and

(ii) who, on the 31st July, 1968, was occupying a dwelling in Guernsey;

(b) a person who, on the 31st July, 1968, was the spouse or child of a person described in paragraph (a) and who, prior to the 26th March, 1975, had been ordinarily resident in Guernsey for an aggregate of not less than 5 years;

(c) a person who was born in Guernsey before the commencement of this Law and who, since his birth, has been continuously ordinarily resident in Guernsey;

(d) a person-

- (i) who was born in Guernsey before the commencement of this Law;
- (ii) who has been ordinarily resident in Guernsey for an aggregate of not less than 10 years in any 20 year period; and
- (iii) who is the child of parents at least one of whom was ordinarily resident in Guernsey at the time of the birth of that person;

(e) a person-

- (i) who was born in Guernsey on or after the commencement of this Law;
- (ii) who has been ordinarily resident in Guernsey for an aggregate of not less than 10 years in any 20 year period; and
- (iii) who is the child of parents at least one of whom is a qualified resident and was ordinarily resident in Guernsey at the time of the birth of that person;

(f) a person who has been ordinarily resident in Guernsey for an aggregate of not less than 10 years in any 20 year period as the child of a person-

(i) described in paragraph (d) or (e); or

(ii) deemed to be a person described in paragraph (d) or (e) by virtue of paragraph (m);

(g) a person-

(i) who has been ordinarily resident in Guernsey for a period of not less than 10 consecutive years and who has, throughout that period, cohabited with a qualified resident as his spouse; or

(ii) who is the surviving spouse of a qualified resident and who cohabited with him as his spouse for a period of not less than 5 consecutive years immediately prior to his death and who has been ordinarily resident in Guernsey for a period of not less than 10 consecutive years after the date of their marriage;

(h) a person who has been ordinarily resident in Guernsey for a period of not less than 15 consecutive years and who throughout that period has been in occupation of a dwelling or dwellings-

(i) under or by virtue of a licence granted under the Law of 1948, the Law of 1967, the Law of 1969, the Law of 1975, the Law of 1982 or section 3 of this Law; or

(ii) under or by virtue of successive such licences,

because his employment was, by reason of his qualifications, skill or experience, essential to the community; or

(iii) otherwise than under or by virtue of such licences but in circumstances which, in the Authority's opinion stated in a notice served on that person, are such that his period of occupation should be treated as being occupation under or by virtue of such licences;

(i) a person-

(i) who is the child of a person described in paragraph (h);

- (ii) who first occupied a dwelling in Guernsey as a minor and as a member of the household of a person described in paragraph (h); and
 - (iii) who has been ordinarily resident in Guernsey for an aggregate of not less than 15 years in any 25 year period;
- (j) a person who has been ordinarily resident in Guernsey for a period of not less than 20 consecutive years and who throughout that period has been in occupation of a dwelling or dwellings-
- (i) under or by virtue of a licence (other than a licence for the occupation of a dwelling which, at the time in question, was a dwelling inscribed in Part B or C of the Housing Register or was a dwelling inscribed in Part D of the Register of which he was the owner) granted under the Law of 1948, the Law of 1967, the Law of 1969, the Law of 1975, the Law of 1982 or section 3 of this Law;
 - (ii) under or by virtue of successive such licences; or

(iii) otherwise than under or by virtue of such licences but in circumstances which, in the Authority's opinion stated in a notice served on that person, are such that his period of occupation should be treated as being occupation under or by virtue of such licences;

(k) a person, whether or not born in Guernsey, who has been ordinarily resident in Guernsey for an aggregate of not less than 20 years in any 30 year period and who first occupied a dwelling in Guernsey as a minor and as a member of the household of his father or mother;

(l) the surviving spouse of a person described in paragraph (d), (e) or (f) who died while serving in the armed forces of the Crown if the surviving spouse was cohabiting with him as his spouse immediately prior to his death and became ordinarily resident in Guernsey within a period of six months immediately following the date of his death;

(m) a person-

(i) whose birth took place elsewhere than in Guernsey by reason of a need for special medical or

surgical care or treatment at or in connection with the birth or for other reasons or in other circumstances beyond the control of his mother;

(ii) whose mother was ordinarily resident in Guernsey at the time of his birth; and

(iii) who, but for the fact that he was born elsewhere than in Guernsey, would be a person described in paragraph (c), (d) or (e).

(3) For the purposes of subsection (2), a person born elsewhere than in Guernsey at any time during the period commencing on the 1st June, 1940 and ending on the 31st December, 1947 shall be deemed to satisfy the requirements of subsection (2)(d)(i) and (iii) if at least one of his parents-

(a) was ordinarily resident in Guernsey at any time during 1940;

(b) subsequently ceased to be so ordinarily resident; and

(c) having so ceased to be so ordinarily resident, resumed such ordinary residence before the 31st December, 1947.

Application for status declaration.

11.(1) A person wishing to know whether he is a qualified resident may apply to the Authority in such form and manner and giving such information as the Authority may require.

(2) Upon receipt of an application under subsection (1) and at any time thereafter, the Authority may require the applicant to supply such additional information as the Authority may require.

Issue of status declaration.

12.(1) The Authority shall, upon receipt of an application under section 11, issue to the applicant a declaration ("a status declaration"), signed by a person authorised in that behalf by the Authority and in such form as the Authority may determine, stating its decision as to whether or not the applicant is a qualified resident.

(2) Where the Authority decides that the applicant is not a qualified resident, the status declaration shall, as soon as possible after the Authority makes its decision, be served on the applicant and shall state the reasons for the decision.

Appeals concerning status declarations.

13.(1) A person aggrieved by a decision of the Authority under section 12 may appeal to the Ordinary Court on the ground that the decision was wrong.

(2) An 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 within a period of two months immediately following the date of the declaration stating the decision of the Authority.

(3) On an appeal under this section the appellant shall have the burden of proof and the final right of reply.

(4) An appeal on a question of law shall lie to the Court of Appeal from a decision of the Ordinary Court under this section within such period and in such manner as may be prescribed by Order of the Royal Court.

Application for declaration of lawful residence.

14.(1) A person who claims to be occupying a dwelling in such circumstances as not to require a housing licence by virtue of section 19, 20, 21, 25, 27 or 65 may apply to the Authority, in such form and manner and giving such information as the Authority may require, for a declaration of lawful residence.

(2) Upon receipt of an application under subsection (1) and at any time thereafter, the Authority may require the applicant to supply such additional information as the Authority may require.

Issue of declaration of lawful residence.

15.(1) If, upon receipt of an application under section 14, the Authority is satisfied that the applicant is occupying a dwelling in any of the circumstances referred to in section 14, the Authority shall issue to him a declaration of lawful residence, which shall-

- (a) identify the applicant and the dwelling to which the declaration relates;
- (b) state the provision of this Law by virtue of which, and the circumstances in which, the Authority is satisfied that the applicant does not require a housing licence to occupy that dwelling;
- (c) state the date on which the declaration will expire for the purposes of the Right to Work Law (being such date as the Authority may in its absolute discretion determine);
- (d) be signed by a person authorised in that behalf by the Authority; and
- (e) contain such other particulars, and be in such form, as the Authority may determine.

(2) If the Authority is not satisfied as mentioned in subsection (1), it shall as soon as possible serve on the applicant a notice, signed by a person authorised in that behalf by the Authority and in such form as the Authority may determine, refusing the application and stating the reasons for the refusal.

Appeals concerning declarations of lawful residence.

16.(1) An applicant aggrieved by a refusal of the Authority to issue a declaration of lawful residence under section 15 may appeal to the Ordinary Court on

the ground that the Authority ought to have issued such a declaration.

(2) An 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 within a period of two months immediately following the date of the notice refusing the application.

(3) On an appeal under this section the appellant shall have the burden of proof and the final right of reply.

(4) An appeal on a question of law shall lie to the Court of Appeal from a decision of the Ordinary Court under this section within such period and in such manner as may be prescribed by Order of the Royal Court.

Suspension of certain provisions.

17.(1) The States may by Ordinance suspend, indefinitely or for a specified period, all or any of the provisions of paragraphs (d) to (m) of section 10(2).

(2) An Ordinance under subsection (1) suspending a provision of this Law shall not have effect in relation to any person who, on the date of commencement of the Ordinance, was a qualified resident by virtue of that provision or had begun any qualifying period of residence specified in that provision.

Burden of proof in relation to status, occupation etc.

18.(1) If in proceedings for a contravention of section 1-

- (a) a person claims that he or another person whom he caused or permitted to occupy the dwelling to which the proceedings relate is a qualified resident or does not require a housing licence to occupy that dwelling, the burden of proving that fact shall lie upon the person who so claims;
- (b) it is shown that the accused or some other person was in occupation of the dwelling to which the proceedings relate on a particular date, the burden of proving that the accused or other person was in lawful occupation thereof on that date (whether by reason of his being a qualified resident, or holding a housing licence, or not requiring a housing licence to occupy that dwelling, or otherwise) shall (whether or not the identity of that other person is established by the prosecution) lie upon the accused.

(2) Subject to subsection (3), in proceedings for a contravention of section 1, a status declaration that a person is a qualified resident, or a declaration of lawful residence that, on any particular date or in any particular circumstances, a person does not require a housing licence to occupy the dwelling to which the declaration relates, shall be evidence of that fact.

(3) Where a person is convicted of an offence under section 58(a) in connection with an application for a status declaration or a declaration of lawful residence, any such declaration issued in consequence of the application shall thereupon be deemed to be void ab initio and shall not be evidence of any fact stated therein.

PART III
CIRCUMSTANCES IN WHICH A HOUSING LICENCE
IS NOT REQUIRED

Occupiers of dwellings in Part A.

19. A person shall not require a housing licence to occupy a dwelling inscribed in Part A of the Housing Register.

Occupiers of dwellings in Part B.

20. A person shall not require a housing licence to occupy a dwelling inscribed in Part B of the Housing Register provided that he is-

- (a) the owner or principal tenant thereof, or in full-time employment as the manager thereof and not employed elsewhere; or
- (b) in full-time employment as a member of staff thereof other than the manager and is not employed elsewhere.

Occupiers of dwellings in Part C or D.

21. A person shall not require a housing licence to occupy a dwelling inscribed in Part C or D of the Housing Register provided that he is the owner thereof.

Occupiers of hotels.

22. A person who is a tourist shall not require a housing licence to occupy accommodation in a hotel.

Occupiers of self-catering units.

23. A person who is a tourist shall not require a housing licence to occupy a self-catering unit provided that the period of his occupation thereof in any 12 month period does not exceed such period or aggregate period as the States may by Ordinance prescribe.

Occupiers of nursing homes.

24. Notwithstanding the provisions of Part V of this Law, a qualified resident to whom any provision of Part V applies shall not require the permission of the Authority to occupy accommodation as a patient in a nursing home registered under the Nursing Homes Law.

Occupiers as members of household.

25. Subject to the provisions of Part V of this Law, a person shall not require a housing licence to occupy a dwelling as a member of the household of a person who is the householder of that dwelling and who-

- (a) is a qualified resident;
- (b) is the holder of a housing licence, other than a short-term housing licence, to occupy that dwelling; or

- (c) under section 20(a), 21 or 27(1) does not require a housing licence to occupy that dwelling.

Occupiers as guests.

26. A person shall not require a housing licence to occupy a dwelling as a guest of a person who-

- (a) is a qualified resident;
- (b) is the holder of a housing licence, other than a short-term housing licence, to occupy that dwelling; or
- (c) under section 20(a), 21 or 27(1) does not require a housing licence to occupy that dwelling;

provided that the period during which the guest is present in Guernsey does not exceed an aggregate of 90 days in any 12 month period and the guest is not in employment in Guernsey.

Persons previously in lawful occupation.

27.(1) Subject to the provisions of Part V of this Law and subsection (2), a person shall not require a housing licence to occupy a dwelling which he was occupying on the 31st October, 1982 and which, on that day, he did not require a licence to occupy under the Law of 1975.

(2) A person who, on the 31st October, 1982, was occupying a dwelling in Guernsey as a member of the household of another person in accordance with section

21 of the Law of 1975 shall, if he has continuously so occupied that dwelling in the same circumstances since that date, be deemed to be a member of the household of that other person within the meaning of this Law.

(3) A person shall not require a housing licence to occupy a dwelling inscribed in Part C or D of the Housing Register if he was occupying that dwelling on the 6th September, 1984 in accordance with the provisions of the Law of 1982 in force on that date and if he has continuously so occupied that dwelling in the same circumstances since that date.

(4) A person shall not require a housing licence to occupy a dwelling inscribed in Part B of the Housing Register if he was occupying that dwelling on the date of commencement of this Law in accordance with the provisions of the Law of 1982 in force on that date and if he has continuously so occupied that dwelling in the same circumstances since that date.

Burden of proof.

28. If in proceedings for a contravention of section 1-

- (a) a person claims that he or another person whom he caused or permitted to occupy the dwelling to which the proceedings relate is a person to whom any of sections 19 to 27 applies or does not require a housing licence or permission of the Authority to occupy that dwelling, the burden of proving that fact shall lie upon the person who so claims;

- (b) it is shown that the accused or some other person was in occupation of the dwelling to which the proceedings relate on a particular date, the burden of proving that the accused or other person was in lawful occupation thereof on that date (whether by reason of his being a person to whom any of sections 19 to 27 applies, or not requiring a housing licence or permission of the Authority to occupy that dwelling, or otherwise) shall lie upon the accused.

PART IV

THE HOUSING REGISTER

The Housing Register.

29.(1) The Authority shall continue to maintain the register of dwellings which was established under section 22(1) of the Law of 1982 and which is referred to in this Law as the Housing Register.

(2) The Housing Register shall continue to be divided into Parts A, B, C and D.

Closure of Housing Register.

30. Subject to the provisions of sections 31, 35(b), 38 to 44, 49 and 52, the Authority shall not inscribe a dwelling in the Housing Register after the commencement of this Law.

Replacement dwellings.

31. Subject to the provisions of this Law and of any Ordinance made under it the Authority shall, upon

application being made to it in accordance with the provisions of any such Ordinance by the owner of a dwelling ("the new dwelling") constructed to replace a dwelling ("the old dwelling") which was demolished, destroyed or damaged at a time when it was inscribed in, or eligible to be inscribed in, the Housing Register, inscribe the new dwelling in the Housing Register if the owner thereof satisfies the Authority that-

- (a) the new dwelling is constructed on the same site as the old dwelling;
- (b) the demolition, destruction or damage was of such extent as to render the old dwelling incapable of being wholly used for the purposes of human habitation; and
- (c) the construction of the new dwelling was commenced within a period of 12 months (or such other period as the Authority may determine in any particular case) immediately following the date on which the demolition, destruction or damage took place and was completed before the expiration of such further period thereafter as the Authority may so determine.

Deletion from Register by Authority.

32. Where a dwelling inscribed in the Housing Register is used wholly for purposes other than human habitation, the Authority shall delete the inscription relating to that dwelling from the Housing Register.

Deletion from Register at request of owner.

33. Subject to the provisions of this Law and of any Ordinance made under it the Authority shall, upon application being made to it in accordance with the provisions of any such Ordinance by the owner of a dwelling inscribed in the Housing Register, delete the inscription relating to that dwelling from the Housing Register; and, notwithstanding any other provision of this Law, the dwelling shall not thereafter be eligible to be inscribed, in whole or in part, in the Housing Register.

Dwellings which are combined.

34. Where two or more dwellings, any of which are not inscribed in the Housing Register, are combined, whether by alteration or otherwise, so as to be used or made usable as a single dwelling, then that single dwelling, whether or not inscribed as such in the Cadastre, shall not be eligible to be inscribed in the Housing Register and; if any of those dwellings are inscribed in the Housing Register, the Authority shall delete the inscriptions relating to them from the Register.

Dwellings which are divided.

35. Where a single dwelling inscribed in the Housing Register is, whether by alteration or otherwise, used or made usable as two or more dwellings-

- (a) that single dwelling, whether or not inscribed as such in the Cadastre, shall, subject to section 37, cease to be eligible to be inscribed in the

Housing Register and the Authority shall delete the inscription relating to it from the Register;

- (b) the Authority may, upon application being made to it in that behalf, inscribe in the Housing Register one only of the dwellings created by the alteration or otherwise of that single dwelling.

Dwellings which are otherwise altered.

36.(1) Where any works, whether of alteration or otherwise, are carried out in relation to a dwelling inscribed in the Housing Register the effect of which is the enlargement of that dwelling by the incorporation within it or annexation to it of any accommodation comprised in another dwelling, that accommodation may, subject to the provisions of section 34, be inscribed in the Housing Register as part of the first-mentioned dwelling if and only if-

- (a) the owner of the first-mentioned dwelling has complied with the provisions of subsection (4); and
- (b) where the other dwelling is not a dwelling inscribed in the Housing Register, the Authority has given its prior written consent to the carrying out of the works in question.

(2) For the purposes of subsection (1)(b) the Authority shall give its consent to the carrying out of the works in question if and only if satisfied that-

- (a) the gain of accommodation in relation to the dwelling inscribed in the Housing Register and the loss of accommodation in relation to the dwelling which is not so inscribed resulting from the works would not be significant; and
- (b) the works are to be carried out solely for the purpose of the rationalisation by way of better arrangement of the accommodation comprised in the dwellings in question;

and in deciding whether or not to give its consent the Authority may take into account any previous such works affecting any of the dwellings in question.

(3) Where any works, whether by alteration or otherwise, are carried out in relation to a dwelling inscribed in the Housing Register the effect of which is the enlargement of another dwelling by the incorporation within it or annexation to it of any accommodation comprised in the first-mentioned dwelling-

- (a) that accommodation shall cease to be inscribed in the Housing Register as part of the first-mentioned dwelling, but the remaining parts of that dwelling may, subject to the provisions of section 35, and provided that the owner thereof has complied with the provisions of subsection (4), continue

to be inscribed in the Housing Register; and

- (b) the other dwelling, if not inscribed in the Housing Register, shall not, as so enlarged, be eligible to be so inscribed.

(4) Where the owner of a dwelling inscribed in the Housing Register intends to effect any works described in this section, whether by way of enlargement, incorporation, annexation, alteration or otherwise, he shall, not less than 14 days before the day on which the works commence (or within such other period as the Authority may, in its absolute discretion, determine), inform the Authority by notice in writing of the fact, nature and extent of the proposed works.

(5) Upon receipt of an application for consent under subsection (1)(b) or a notice under subsection (4) and at any time thereafter, the Authority may require the owner for the time being of any of the dwellings in question to supply such additional information and documents as the Authority may require.

(6) A person who without reasonable excuse, proof whereof shall lie on him, fails to comply with subsection (4) or any requirement under subsection (5) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

(7) The provisions of this section are without prejudice to any other requirement of law relating to the carrying out of the works in question.

Dwellings to which section 35 does not apply.

37. Notwithstanding the provisions of section 35, where a hotel inscribed in Part B of the Housing Register is, whether by alteration or otherwise, used or made usable as two or more dwellings, such of the two or more dwellings as are used-

- (a) for the accommodation of persons employed at the hotel for the purposes of the operation of its boarding permit shall continue to be included in the inscription in Part B of the Register relating to the hotel;
- (b) as self-catering units for the business of providing accommodation for reward to tourists shall cease to be included in the said inscription.

Transfers from Part A to Part B.

38. Where a dwelling inscribed in Part A of the Housing Register is a hotel, the Authority shall delete the inscription relating to the dwelling from Part A of the Register and inscribe the dwelling in Part B thereof.

Transfers from Part B.

39. Where a dwelling inscribed in Part B of the Housing Register ceases to be a hotel, the Authority shall delete the inscription relating to the dwelling

from Part B of the Register, and-

(a) if the dwelling-

- (i) was, on the 31st October, 1982, inscribed in the Register of 1975; or
- (ii) was, immediately prior to its inscription in Part B of the Housing Register, inscribed in Part A thereof;

and is not one to which paragraph (b) or (c) applies, the Authority shall inscribe the dwelling in Part A of the Housing Register;

- (b) if the dwelling is registered as a residential home or nursing home under the Nursing Homes Law, the Authority shall inscribe the dwelling in Part C of the Housing Register;
- (c) if the dwelling is, in the opinion of the Authority, being used as a lodging house, the Authority shall, subject to section 42(2) and (3), inscribe the dwelling in Part D of the Housing Register.

Transfers from Part A to Part C.

40. Where a dwelling inscribed in Part A of the Housing Register is registered as a residential home or nursing home under the Nursing Homes Law, the Authority

shall delete the inscription relating to the dwelling from Part A of the Register and inscribe the dwelling in Part C thereof.

Transfers from Part C.

41. Where a dwelling inscribed in Part C of the Housing Register ceases to be registered as a residential home or nursing home under the Nursing Homes Law, the Authority shall delete the inscription relating to the dwelling from Part C of the Register, and-

(a) if the dwelling-

(i) was, on the 31st October, 1982, inscribed in the Register of 1975; or

(ii) was, immediately prior to its inscription in Part C of the Housing Register, inscribed in Part A thereof;

and is not one to which paragraph (b) or (c) applies, the Authority shall inscribe the dwelling in Part A of the Housing Register;

(b) if the dwelling is a hotel, the Authority shall inscribe the dwelling in Part B of the Housing Register;

(c) if the dwelling is, in the opinion of the Authority, being used as a lodging house, the Authority shall, subject to

section 42(2) and (3), inscribe the dwelling in Part D of the Housing Register.

Transfers from Part A to Part D.

42.(1) Where a dwelling inscribed in Part A of the Housing Register is, in the opinion of the Authority, being used as a lodging house, the Authority shall delete the inscription relating to the dwelling from Part A of the Register and shall, subject to subsections (2) and (3), inscribe the dwelling in Part D thereof.

(2) The Authority shall, before inscribing a dwelling in Part D of the Housing Register under subsection (1) or under section 39(c) or 41(c), serve on the owner thereof notice of its intention to do so; and the notice shall give the owner particulars of his right of appeal to the Royal Court under section 43.

(3) The Authority shall not inscribe a dwelling in Part D of the Housing Register under subsection (1) or under section 39(c) or 41(c)-

- (a) until the expiration of 28 days immediately following the date of the notice required to be served by subsection (2); or
- (b) where an appeal is instituted under section 43, until the appeal is finally determined or withdrawn.

(4) For the purposes of subsection (3) an appeal shall be deemed not to have been finally determined until the expiration of the time allowed for the institution of an appeal to the Court of Appeal under section 43(4) or until the determination of any such appeal instituted within that time.

(5) Notwithstanding the provisions of section 67, a notice to be served on the owner of a dwelling under subsection (2) shall, if sent by post, be sent by registered post or by recorded delivery service.

Appeals in relation to inscription in Part D.

43.(1) A person aggrieved by a decision of the Authority to inscribe a dwelling in Part D of the Housing Register under section 39(c), 41(c) or 42(1) may appeal to the Ordinary Court on the ground that the Authority was wrong to decide that the dwelling was being used as a lodging house.

(2) An 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 within a period of 14 days immediately following the date of the notice referred to in section 42(2).

(3) On an appeal under this section the appellant shall have the burden of proof and the final right of reply.

(4) An appeal on a question of law shall lie to the Court of Appeal from a decision of the Ordinary Court under this section within such period and in such

manner as may be prescribed by Order of the Royal Court.

Transfers from Part D.

44. Where a dwelling inscribed in Part D of the Housing Register ceases in the opinion of the Authority to be used as a lodging house, the Authority shall delete the inscription relating to the dwelling from Part D of the Register, and-

(a) if the dwelling-

(i) was, on the 31st October, 1982, inscribed in the Register of 1975; or

(ii) was, immediately prior to its inscription in Part D of the Housing Register, inscribed in Part A thereof;

and is not one to which paragraph (b) or (c) applies, the Authority shall inscribe the dwelling in Part A of the Housing Register;

(b) if the dwelling is a hotel, the Authority shall inscribe the dwelling in Part B of the Housing Register;

(c) if the dwelling is registered as a residential home or nursing home under the Nursing Homes Law, the Authority shall inscribe the dwelling in Part C of the Housing Register.

Transfers subject to provisions as to deletion.

45. The provisions of sections 38 to 44 in respect of the inscription of dwellings in particular Parts of the Housing Register are subject to the provisions of sections 32 to 36.

Declarations of registration.

46.(1) The owner of a dwelling inscribed in the Housing Register or a person authorised by him in writing in that behalf may apply to the Authority in such form and manner and giving such information as the Authority may require for a declaration ("a declaration of registration") that the dwelling concerned is validly and properly inscribed in Part A, B, C or D of the Housing Register, as the case may be.

(2) Upon receipt of an application under subsection (1) and at any time thereafter, the Authority may require the applicant to supply such additional information as the Authority may require.

Issue of declarations of registration.

47.(1) The Authority shall, upon receipt of an application under section 46, if satisfied that the dwelling concerned is validly and properly inscribed in Part A, B, C or D of the Housing Register, issue to the applicant a declaration of registration, signed by a person authorised in that behalf by the Authority and in such form as the Authority may determine, stating its decision that, on the date specified in the declaration, the dwelling was validly and properly so inscribed.

(2) If the Authority is not satisfied that the dwelling concerned is validly and properly inscribed in Part A, B, C or D of the Housing Register, it shall serve notice on the applicant stating its decision and the reasons therefor.

(3) In proceedings for a contravention of this Law, a declaration of registration stating that, on the date specified in the declaration, a dwelling was validly and properly inscribed in Part A, B, C or D of the Housing Register shall, subject to subsection (4), be evidence of that fact.

(4) Where a person is convicted of an offence under section 58(a) in connection with an application for a declaration of registration, any such declaration issued in consequence of that application shall thereupon be deemed to be void ab initio and shall not be evidence of any fact stated therein.

Appeal against decision on declaration of registration.

48.(1) A person aggrieved by a decision of the Authority stated in a declaration of registration issued under section 47(1) may appeal therefrom to the Ordinary Court on the ground that the decision was wrong.

(2) A person aggrieved by a decision of the Authority stated in a notice served under section 47(2) may appeal therefrom to the Ordinary Court on the ground that the Authority ought to have issued a declaration of registration.

(3) An 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 within a period of 2 months immediately following the date of the declaration or, as the case may be, of the notice.

(4) On an appeal under this section the appellant shall have the burden of proof and the final right of reply.

(5) An appeal on a question of law shall lie to the Court of Appeal from a decision of the Ordinary Court under this section within such period and in such manner as may be prescribed by Order of the Royal Court.

Additional premises to dwellings.

49.(1) Where within the enclos, curtilage or precincts of a hotel inscribed in Part B of the Housing Register there are built, converted or otherwise created any premises, other than a self-catering unit, for the accommodation of tourists or persons fully employed at the hotel for the purposes of the operation of the boarding permit, the States may by Ordinance provide that those premises shall be included within the inscription in the Register relating to the hotel.

(2) Any premises included within the inscription relating to a hotel under subsection (1) shall cease to be so included if the premises cease to be used for the accommodation of tourists or persons employed as aforesaid.

Certain dwellings may be retained on Register.

50. Where a person ("the purchaser") purchases a dwelling which is, on the day on which the conveyance relating to the purchase is registered at the Greffe, inscribed in the Housing Register but which is not on that day eligible to be so inscribed by reason of being used or having been made usable as two or more dwellings, the Authority may retain the inscription relating to that dwelling in the Housing Register if the purchaser-

- (a) satisfies the Authority that, on the day on which he gave his consent to the conveyance, he was unaware that the dwelling was not on that day eligible to be inscribed in the Housing Register; and
- (b) within a period of 30 days immediately following the date of the conveyance or such longer period as the Authority may allow, causes the said two or more dwellings to be combined to the satisfaction of the Authority, whether by alteration or otherwise, so as to be used or usable as a single dwelling.

Provision for Register by Ordinance.

51. Subject to the succeeding provisions of this Law, the States may by Ordinance make such provision as they consider to be necessary or expedient for the maintenance by the Authority of the Housing Register; and, without prejudice to the generality of the foregoing, they may in particular make provision for all or any of the following matters-

- (a) the form of the Housing Register and the matters to be inscribed therein;
- (b) the manner in which an application by an owner of a dwelling wishing to have that dwelling inscribed in the Housing Register shall be made;
- (c) the information which shall accompany such an application, whether to be supplied by the owner or occupier of the dwelling concerned or by both;
- (d) the giving of prior notice to the Authority by the owner of a dwelling inscribed in the Housing Register if the owner intends to effect any alteration, whether structural or by way of change of use, to the dwelling;
- (e) the furnishing of information at any time by the owner or occupier of a dwelling inscribed in the Housing Register or by both;
- (f) the times during which, and the places at which, the Housing Register shall be available for public inspection;
- (g) the entry into, and inspection of, any premises for any purpose connected with the exercise of any power conferred by any such Ordinance;

- (h) such incidental and supplementary matters as the States consider it necessary or expedient to provide.

Alterations to Register by Ordinance.

52.(1) The States may by Ordinance permit the Authority to inscribe any dwelling in Part A or B of the Housing Register.

(2) Where an Ordinance under subsection (1) is made the Authority shall, subject to the provisions of this Law and of any Ordinance made under it, upon application being made to it in accordance with the provisions of any such Ordinance by the owner of the dwelling within a period of 3 months immediately following the date of commencement of the Ordinance, inscribe the dwelling-

- (a) in Part A of the Housing Register, unless paragraph (b) applies;
- (b) in Part B thereof in cases where, on the date on which the application is made, the dwelling is, in the opinion of the Authority, a hotel.

PART V

RESTRICTIONS ON OCCUPATION BY CERTAIN PERSONS

Restrictions on non-qualified residents.

53. A person other than a qualified resident who at any time, whether before or after the commencement of this Law, occupies a dwelling-

- (a) as the sole or joint owner thereof; or

- (b) where the dwelling is owned by a body corporate, as a person with a controlling interest therein;

at a time when the dwelling is inscribed in the Housing Register shall not, otherwise than under and in accordance with the conditions of a housing licence, occupy as a member of the household of a person or otherwise any other dwelling in Guernsey except a dwelling inscribed in the Housing Register.

Restrictions on certain qualified residents.

54.(1) A qualified resident-

- (a) who was the sole or joint owner of a dwelling on the 23rd December, 1968, which he caused to be inscribed in the Register of 1969 or the Register of 1975 and which he or some other qualified resident was occupying on that date; or
- (b) who was the sole or joint owner of a dwelling which he caused to be inscribed in the Register of 1969 or the Register of 1975 and which he was occupying on the date on which it was so inscribed,

shall not (or, after his death, his spouse if living with him on the date on which it was so inscribed shall not) occupy any other dwelling in Guernsey except a dwelling inscribed in the Housing Register or the dwelling he was occupying under or by virtue of the

provisions of the Law of 1975 on the 31st October, 1982.

(2) Where the Authority, whether under the provisions of this Law or the Law of 1982, inscribes a dwelling in Part A of the Housing Register, a person-

(a) who is a qualified resident; and

(b) who, on the date when the dwelling was so inscribed, was the sole or joint owner thereof,

shall not (or, after his death, his spouse if living with him at the date of his death shall not) occupy any other dwelling in Guernsey except a dwelling inscribed in the Housing Register, the dwelling he was occupying under or by virtue of the provisions of the Law of 1982 immediately prior to the date of commencement of this Law or the dwelling he was occupying on the date of inscription.

(3) Where the Authority, whether under the provisions of this Law or the Law of 1982, inscribes a dwelling in Part B of the Housing Register, a person-

(a) who is a qualified resident; and

(b) who, on the date when the dwelling was so inscribed, was the sole or joint owner thereof,

shall not (or, after his death, his spouse if living with him at the date of his death shall not) occupy any other dwelling in Guernsey except a dwelling inscribed

in the Housing Register, the dwelling he was occupying under or by virtue of the provisions of the Law of 1982 immediately prior to the date of commencement of this Law or the dwelling he was occupying on the date of inscription.

(4) Where a body corporate -

- (a) at any time prior to the 1st November, 1982 was the sole or joint owner of a dwelling on the date when the dwelling was inscribed in the Register of 1969 or the Register of 1975; or
- (b) was the sole or joint owner of a dwelling on the date when the dwelling was inscribed in the Housing Register under the provisions of this Law or the Law of 1982,

a person-

- (c) who is a qualified resident, and
- (d) who was occupying that dwelling on the date when it was so inscribed,

shall not (or, after his death, his spouse if living with him at the date of his death shall not) occupy any other dwelling in Guernsey except a dwelling inscribed in the Housing Register or the dwelling he was occupying under or by virtue of the provisions of the Law of 1982 immediately prior to the date of commencement of this Law unless he satisfies the Authority that he did not at any time during which he

occupied the first mentioned dwelling hold any shares in or possess any voting power in or in relation to the body corporate and that, in the event of the body corporate being wound up, he would not have been, in his own right or as a beneficiary under a trust, entitled to participate in the net assets thereof, whether by way of distribution of capital, repayment of loan account or otherwise.

(5) The spouse of any person to whom subsection (1), (2), (3) or (4) applies who-

(a) is a qualified resident, and

(b) was living with that person on the date when the dwelling in question was inscribed in the Register of 1969, the Register of 1975, or the Housing Register but who on that date was not the owner jointly with that person of that dwelling,

shall not at any time while living with that person occupy jointly with that person any other dwelling in Guernsey except a dwelling inscribed in the Housing Register, the dwelling he was occupying under or by virtue of the provisions of the Law of 1982 immediately prior to the date of commencement of this Law or the dwelling he was occupying on the date of inscription.

(6) Notwithstanding the provisions of subsections (1) to (5), a person to whom any of those provisions applies (or, after his death, his spouse if living with him at the date of his death) may occupy any dwelling in Guernsey-

- (a) if the inscription relating to a dwelling inscribed in Part A of the Housing Register of which he or his spouse, as the case may be, is the sole or joint owner is deleted from the Register under section 35(a); or
- (b) if he or his spouse, as the case may be, pursuant to section 33, causes to be deleted from Part A of the Register the inscription relating to a dwelling of which he or his spouse, as the case may be, is the sole or joint owner.

(7) Notwithstanding the provisions of subsections (1) to (5), the Authority may, in its absolute discretion, grant written permission, subject to such conditions as the Authority may consider necessary or expedient, to a person who is a qualified resident to occupy a dwelling in Guernsey which he would otherwise be precluded from occupying by those provisions.

Certain qualified residents as members of household.

55. A person who-

- (a) is a qualified resident; and
- (b) is a person to whom section 54(1), (2), (3), (4) or (5) applies,

shall not, without the written permission of the Authority, which may be granted subject to such conditions as the Authority may consider necessary or

expedient, occupy as a member of the household of a person or otherwise any other dwelling in Guernsey except a dwelling inscribed in the Housing Register or the dwelling he was occupying under or by virtue of the provisions of the Law of 1982 immediately prior to the date of commencement of this Law or the dwelling he was occupying on the date of inscription.

PART VI

APPEALS, OFFENCES AND LEGAL PROCEEDINGS

Appeals.

56.(1) Subject to the provisions of sections 13, 16, 43 and 48, a person aggrieved by any decision of the Authority under any provision of this Law may appeal therefrom to the Royal Court on the grounds that the decision was ultra vires or was an unreasonable exercise of the Authority's powers.

(2) An 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 within a period of two months immediately following the date of the notice giving the decision of the Authority.

(3) On an appeal under this section the appellant shall have the burden of proof and the final right of reply.

(4) An appeal on a question of law shall lie to the Court of Appeal from any decision of the Royal Court under this section within such period and in such

manner as may be prescribed by Order of the Royal Court.

Offences.

57. A person who occupies or causes or permits another person to occupy a dwelling in Guernsey in contravention of any provision of this Law or who contravenes any condition of a housing licence shall be guilty of an offence and liable-

- (a) on conviction on indictment, to a fine, to imprisonment for a term not exceeding six months or to both;
- (b) on summary conviction, to a fine not exceeding level 5 on the uniform scale or (on a second or subsequent conviction, and whether or not the prior convictions were summary convictions) to a fine not exceeding twice level 5 on the uniform scale, to imprisonment for a term not exceeding three months or to both.

False statements.

58. A person who-

- (a) in connection with an application for a housing licence, for a status declaration, for a declaration of lawful residence, for a declaration of registration or for the inscription of a dwelling in the Housing Register or for the consent of the Authority under section 36(1)(b), or in compliance or

purported compliance with section 36(4)
or any requirement of the Authority or
of any Ordinance under this Law-

- (i) makes a statement which he knows
or has reasonable cause to
believe to be false, deceptive
or misleading in a material
particular;
 - (ii) recklessly makes a statement,
dishonestly or otherwise, which
is false, deceptive or misleading
in a material particular;
 - (iii) produces or furnishes or causes
or permits to be produced or
furnished any information or
document which he knows or has
reasonable cause to believe to be
false, deceptive or misleading in
a material particular; or
 - (iv) recklessly produces or furnishes
or recklessly causes or permits
to be produced or furnished,
dishonestly or otherwise, any
information or document which is
false, deceptive or misleading in
a material particular;
- (b) 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 under it;

is guilty of an offence and liable-

- (c) on conviction on indictment, to a fine, to imprisonment for a term not exceeding six months or to both;
- (d) on summary conviction, to a fine not exceeding level 5 on the uniform scale or (on a second or subsequent conviction, and whether or not the prior convictions were summary convictions) to a fine not exceeding twice level 5 on the uniform scale, to imprisonment for a term not exceeding three months or to both.

Certain penalties to be prescribed by Ordinance.

59. Save as otherwise expressly provided in sections 57 and 58, the States may by Ordinance prescribe the penalties to be incurred by any person guilty of an offence under any Ordinance made under this Law; and different penalties may be prescribed for different such offences.

Offences by bodies corporate.

60.(1) Where an offence under this Law or any Ordinance made under it is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such

capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

Possession of dwelling may be vested in Authority.

61.(1) If a person occupies a dwelling in contravention of section 1 or contravenes any condition of a housing licence, the Authority may apply to the Ordinary Court for an order vesting the possession of the dwelling concerned, or a part thereof, in the Authority, for such period, in consideration of such rent and subject to such other terms and conditions having regard to all the circumstances of the case as the Ordinary Court may determine.

(2) Upon the making of an order under this section, possession of the dwelling or 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 apply for an eviction order against any person in occupation thereof and to sublet 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.

(3) An order of the Ordinary Court under this section may be varied, renewed, extended or rescinded by a subsequent order of the Ordinary Court hereunder.

(4) Notice of the day and time of an application to the Ordinary Court for an order under this section shall be served by the Authority on the occupier concerned and shall require him to be present at the hearing of the application.

(5) Where an occupier upon whom a notice is served under subsection (4) is not the owner of the dwelling concerned, a copy of the notice shall be served by the Authority on the owner who may be present at the hearing of the application and make representations thereon.

(6) Upon an application by the Authority pursuant to subsection (2) for an eviction order, the Ordinary Court shall not be bound to take into account any of the matters referred to in section 3 of the Law giving the Court increased power to stay execution in actions for eviction registered on the 31st August, 1946(b).

Legal proceedings against landlords.

62.(1) Upon the making of an order under section 61 vesting the possession of a dwelling or any part thereof in the Authority, any tenant of the dwelling in occupation thereof on the date of the order may, within a period of 3 months immediately following the date of the order, action his landlord before the Ordinary Court for an order terminating his tenancy and for the reimbursement of the legal charges and disbursements incurred by him in the acquisition of his interest.

(b) Ordres en Conseil Vol. XII, p.262.

(2) The Ordinary Court, upon hearing an action under subsection (1), if it is satisfied that, at the time of the execution of the tenancy agreement, neither the tenant nor any servant or agent of his was aware of the need to procure a housing licence in order that he should be entitled to occupy the dwelling or part thereof concerned, may make such an order as is described in subsection (1) subject to such directions and conditions as appear to the Ordinary Court to be just.

PART VII

GENERAL PROVISIONS

Entry on premises.

63.(1) If the Bailiff is satisfied by information on oath that there are reasonable grounds for suspecting-

- (a) that any person is contravening or has contravened any provision of this Law or any Ordinance made under it or any condition of a housing licence;
- (b) that any two or more dwellings are used or usable in the manner described in section 34;
- (c) that any single dwelling is used or usable in the manner described in section 35;

- (d) that any dwelling inscribed in the Housing Register is being used wholly for purposes other than human habitation or as a lodging house;

he may grant a warrant authorising any person named therein, at any time or times within a period of one month beginning on the date of the warrant, to enter, if need be by force, the dwelling named in the warrant for the purpose of ascertaining whether there is or has been any such contravention or whether any dwellings are so used or usable.

(2) A person who, without reasonable excuse, proof whereof shall lie on him, obstructs or fails to give all reasonable assistance to a person acting or purporting to act under the authority of a warrant under this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the uniform scale.

Delegation of functions.

64.(1) The Authority may resolve that any of its functions under this Law may be performed in its name by-

- (a) a subcommittee comprising not less than two members of the Authority; or
- (b) any individual member or officer of the Authority.

(2) A function performed in pursuance of a resolution under subsection (1) shall be considered for all purposes to have been performed by the Authority;

and any decision taken or other thing done pursuant to the resolution shall have effect as if taken or done at a quorate meeting of the Authority.

(3) The Authority may by resolution vary or revoke a resolution under subsection (1), but without prejudice to anything previously done pursuant thereto.

(4) Nothing contained in this section or in a resolution under subsection (1)-

(a) prevents the carrying out of a function by the Authority;

(b) affects the operation in relation to the Authority of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991(c).

States dwellings exempted from Law.

65.(1) No provision of this Law applies to the occupation of a dwelling in the possession or ownership of the States.

(2) The States may by Ordinance suspend, indefinitely or for a specified period, subsection (1).

(3) Notwithstanding the provisions of any Ordinance under subsection (2), but without prejudice to the generality of the powers conferred by section 66, a person who, immediately prior to the date of commencement of the Ordinance, was occupying a dwelling in the possession or ownership of the States in

(c) Order in Council No.XXI of 1991.

accordance with the provisions of this Law then in force shall, if he has continuously so occupied that dwelling in the same circumstances since that date, be governed in respect of such occupation by the provisions of this Law as amended from time to time in the same way as if the Ordinance had not been enacted.

(4) An Ordinance under subsection (2) may, without prejudice to the generality of the powers conferred by section 66(2), make different provision in respect of dwellings in the possession or ownership of different committees of the States.

General provisions as to Ordinances.

66.(1) An Ordinance under this Law-

- (a) may be amended or repealed by a subsequent Ordinance hereunder;
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to the States to be necessary or expedient.

(2) Any power conferred upon the States by this Law to make an Ordinance 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) Any power conferred by this Law to make an Ordinance may be exercised at any time after the registration of and before the date of commencement of this Law; provided that no Ordinance so made shall come into force until the said date of commencement.

Service of notices.

67.(1) Any notice or document other than a summons to be served for the purposes of this Law or any Ordinance made under it may be served-

(a) on an individual, by being delivered to him, or by being left at, or sent by post to, his usual or last known place of abode;

- (b) on a body corporate with a registered office in Guernsey, by being left at, or sent by post to, the registered office;
- (c) on a body corporate without a registered office in Guernsey, by being left at, or sent by post to, the body's principal or last known principal place of business in Guernsey;
- (d) on an unincorporated body, by being served on any partner, manager or other similar officer thereof in accordance with paragraph (a), or by being left at, or sent by post to, the body's principal or last known principal place of business in Guernsey;
- (e) on the Authority, by being left at, or sent by post to, the Authority's offices.

(2) If service of a notice or document cannot, after reasonable enquiry, be effected in accordance with subsection (1), the notice or document may be served by being-

- (a) delivered to some responsible person in the dwelling (if any) to which the notice or document relates or, if there is no such person, by being affixed to a conspicuous part of the dwelling; or

(b) published on two occasions in La Gazette Officielle.

(3) If a person upon whom a notice or document is to be served is an infant or person under guardianship, the notice or document shall be served on his guardian; and if there is no guardian, the Authority may apply to the Ordinary Court for the appointment of a person to act as guardian for the purposes of this Law.

(4) Subsections (1), (2) and (3) are without prejudice to any other lawful method of service.

(5) A notice or document sent by post shall be deemed for the purposes of this Law, unless the contrary is proved, to have been received on the third day after the day of posting, excluding any non-business day within the meaning of section 1(1) of the Bills of Exchange (Guernsey) Law, 1958(d).

(6) Notwithstanding the preceding provisions of this section, no notice or document to be served upon the Authority for the purposes of this Law or any Ordinance made under it shall be deemed to have been served until it is received by the Authority.

Savings for Ordinances.

68. An Ordinance made or having effect as if made under the Law of 1982 and in force immediately prior to the commencement of this Law shall, subject to the provisions of section 73, have effect as if it were

(d) Ordres en Conseil Vol.XVII, p.384; and Vol.XXIV, p.84.

an Ordinance made under this Law.

Savings for licences and declarations.

69. A housing licence, status declaration, declaration of lawful residence or declaration of registration granted or having effect as if granted under the Law of 1982 and valid immediately prior to the commencement of this Law shall have effect as if granted under this Law and as if any conditions imposed in respect thereof were conditions imposed under this Law.

Savings for existing rights of occupation, etc.

70. A person who, immediately prior to the date of commencement of this Law, was occupying a dwelling in Guernsey in accordance with the provisions of the Law of 1982 but in circumstances which would have constituted a contravention of the provisions of this Law shall not, if he has continuously so occupied that dwelling in the same circumstances since that date, require a housing licence to occupy that dwelling under the provisions of this Law; and the provisions of this Law shall apply to him accordingly.

Interpretation.

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

"adopted child" includes a child who is adopted-

(a) under the provisions of the Adoption (Guernsey) Law, 1960(e);

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

(b) in pursuance of an order made in the United Kingdom, the Isle of Man or the Island of Jersey;

(c) by virtue of an overseas adoption within the meaning of section 5(3) of the Adoption (Guernsey) Law, 1970(f);

"the Authority" means the States Housing authority;

"boarding permit" means a boarding permit granted under the Tourist Law, 1948(g);

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

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

"contravention" includes failure to comply and cognate expressions shall be construed accordingly;

(f) Ordres en Conseil Vol. XXII, p.380.

(g) Ordres en Conseil Vol.XIII, p.329; Vol.XXI, p.104; Recueil d'Ordonnances Tome XVIII, p.20; and Vol.XXVIII, p.275.

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

"controlling interest" means, in relation to a body corporate, the power of a person-

(a) to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the Articles of Association or any other document regulating that or any other body corporate or otherwise, that the affairs of the first mentioned body corporate are conducted in accordance with his wishes;

(b) who is a loan creditor of a body corporate and who, in the opinion of the Authority, is able to secure that the affairs thereof are conducted in accordance with his wishes;

"the Court of Appeal" means the Court of Appeal established under the provisions of the Court of Appeal (Guernsey) Law, 1961(i);

"dwelling" means 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 in force a boarding permit;

(i) Ordres en Conseil Vol. XVIII, p.315.

"Guernsey" means the Island of Guernsey;

"hotel" means a dwelling, other than a self-catering unit, in respect of which there is in force a boarding permit and which, in the opinion of the Authority, is being used for the business of providing sleeping accommodation for reward to tourists in accordance with the provisions of that permit;

"householder", in relation to a dwelling, excludes any person who is a minor or who is not principally resident in that dwelling;

"housing licence" means a licence granted under section 3(1), and includes a short-term housing licence;

"the Housing Register" has the meaning given by section 29(1);

"the Law of 1948" means the Housing Control (Emergency Provisions) (Guernsey) Law, 1948(j);

"the Law of 1967" means the Housing Control (Guernsey) Law, 1967(k);

"the Law of 1969" means the Housing Control (Guernsey) Law, 1969(l);

(j) Ordres en Conseil Vol.XII, p.262.

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

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

"the Law of 1975" means the Housing (Control of Occupation) (Guernsey) Law, 1975(m);

"the Law of 1982" means the Housing (Control of Occupation) (Guernsey) Law, 1982(n);

"lodging house" includes any dwelling in which one or more rooms are occupied by a person other than the owner or principal tenant thereof under a tenancy, contract of lodgement or other similar arrangement, but does not include a hotel;

"member", in relation to the Authority, includes the President and Vice-President thereof;

"a member of the household" of any person has the following meaning, that is to say, the spouse, father, mother, child, grandchild, father-in-law and mother-in-law of that person or such other meaning as the States may by Ordinance specify;

"minor" means a person who has not attained the age of 18 years:

(m) Ordres en Conseil Vol. XXV, p.332.

(n) Ordres en Conseil Vol.XXVII, p.448; No.V of 1988; and No.VIII of 1990.

"the Nursing Homes Law" means the Nursing Homes and Residential Homes (Guernsey) Law, 1976(o);

"the Ordinary Court" means the Royal Court sitting as an Ordinary Court;

"to occupy", in relation to any dwelling, includes to live in that dwelling, and cognate expressions shall be construed accordingly;

"owner", in relation to a dwelling, and subject to subsections (5) and (6), means-

(a) where the dwelling is the subject of saisie proceedings which have resulted in the making of an interim vesting order, the person in whose favour that order has been made;

(b) where the dwelling is not the subject of such saisie proceedings-

(i) if the dwelling is held in trust, the trustees and any person entitled to a beneficial interest under the trust;

(ii) otherwise, the person in whom there is vested, solely or jointly, an estate of inheritance

in the dwelling;

and references to ownership, howsoever expressed, shall be construed accordingly:

"the Policy Planning Report" means the Policy Planning, Economic and Financial Report prepared by the States Advisory and Finance Committee and approved by the States, or any report or other document superseding it and specified as such by Resolution of the States;

"principal tenant", in relation to a dwelling inscribed in the Housing Register, means the person who is the principal tenant of the whole of that dwelling;

"qualified resident" has the meaning given by section 10(2);

"rateable value" means the rateable value inscribed in the Cadastre;

"the Register of 1969" means the Housing Control Register established and maintained under the provisions of the Law of 1969 before the commencement of the Law of 1975;

"the Register of 1975" means the Housing Control Register established and maintained under the provisions of the Law of 1975 before the commencement of the Law of 1982;

"the Right to Work Law" means the Right to Work (Limitation and Proof) (Guernsey) Law, 1990(p);

"self-catering unit" means any premises in respect of which there is in force such a description of boarding permit as is granted in respect of self-catering units;

"short-term housing licence" has the meaning given by section 4(1);

"step-child" means a person who, when he became a step-child and when he first occupied a dwelling in Guernsey, was a minor;

"Strategic and Corporate Plan" means the plan prepared and approved in accordance with the provisions of section 2 of the Island Development (Amendment) (Guernsey) Law, 1990(q);

"tourist" means a person who is present in Guernsey-

(a) for the purposes of a holiday; or

(b) for an aggregate of not more than 10 days in any 30 day period for the purposes of his employment;

but does not include a person who has been

(p) Order in Council No.V of 1990; amended by Ordinances XXI of 1990 and XV of 1992.

(q) Order in Council No.I of 1990.

physically present in Guernsey for an aggregate of more than 90 days in any 12 month period.

(2) A child who was not born in Guernsey but who was adopted before he attained the age of 5 years by persons ordinarily resident in Guernsey at the time of the adoption shall be deemed, for the purposes of Part II of this Law, to have been born in Guernsey.

(3) A person shall, for the purposes of this Law, be treated as being ordinarily resident in Guernsey during any period if and only if-

(a) he was living in Guernsey, and his home was in Guernsey, throughout that period;

(b) he did not have a home elsewhere than in Guernsey at any time during that period; and

(c) he did not at any time during that period (except as a minor and as a member of the household of his parents or either of them) occupy a dwelling in Guernsey in contravention of any provision of the Law of 1948, the Law of 1967, the Law of 1969, the Law of 1975, the Law of 1982 or this Law.

(4) Notwithstanding the provisions of subsection (3), for the purposes of this Law-

(a) the spouse of a person who is described in section 10(2)(d), (e) or (f) or

deemed to be described in section 10(2)(d) or (e) by virtue of section 10(2)(m) and who is serving in the armed forces of the Crown shall be deemed to be ordinarily resident in Guernsey during any period throughout the whole of which she cohabits with that person as his spouse while he is so serving if the spouse and that person become ordinarily resident in Guernsey within a period of six months immediately following the date on which that person resigns or retires from service in the said armed forces;

- (b) the child of a person who is described in section 10(2)(d), (e) or (f) or deemed to be described in section 10(2)(d) or (e) by virtue of section 10(2)(m) and who is serving in the armed forces of the Crown shall be deemed to be ordinarily resident in Guernsey during any period throughout the whole of which he is a member of the household of that person while he is so serving if the child becomes ordinarily resident in Guernsey as a member of the household of that person within a period of six months immediately following the date on which that person resigns or retires from service in the said armed forces.

(5) Where, in relation to a dwelling inscribed in Part B, C or D of the Housing Register, more than four persons would (but for this subsection) be treated as being the owners thereof by virtue of the definition of the expression "owner" set out in subsection (1), none of those persons shall be deemed to be the owner of the dwelling for the purposes of Part III of this Law.

(6) Where, in relation to a dwelling inscribed in Part B of the Housing Register, more than four persons would (but for this subsection) be treated as being the principal tenants thereof, none of those persons shall be deemed to be the principal tenant of the dwelling for the purposes of Part III of this Law.

(7) Except where the context requires otherwise, any reference in this Law to another enactment is a reference thereto as repealed and re-enacted, amended, extended or applied.

Amendment of Right to Work Law.

72. In the Right to Work Law-

- (a) in section 2(2)(e)(ii) for "shorter" substitute "other";
- (b) section 15(1)(b) is repealed;
- (c) after section 15(1) insert the following subsections-
 - "(1A) The Authority may by regulation amend the list of industries set out in section 3(1) of this Law.

(1B) Regulations under subsection (1A) 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.";

(d) in section 15(2) after "Ordinance", wherever appearing, insert "or regulations".

Repeals.

73. The enactments set out in the Schedule are repealed.

Proof of documents.

74. In any legal proceedings a document purporting to be a document issued by or on behalf of the Authority and to be signed by a member or officer thereof shall be received in evidence and shall, unless the contrary is proved, be deemed to be the document which it purports to be and to have been signed by the person by whom it purports to have been signed, without proof of his identity, signature or official capacity and shall be evidence of the matters stated therein.

Citation.

75. This Law may be cited as the Housing (Control of Occupation) (Guernsey) Law, 1994.

Commencement.

76. This Law shall come into force on the date appointed by Ordinance of the States.

Duration.

77.(1) Subject to subsection (2), this Law shall remain in force for a period of 10 years commencing on the date of commencement of this Law.

(2) The States may by Ordinance or by successive Ordinances extend the period for which this Law shall remain in force; provided that any one such extension shall not exceed a period of 5 years.

SCHEDULE

Section 73

REPEALS

Laws.

The Housing (Control of Occupation) (Guernsey) Law, 1982(**r**).

The Housing (Control of Occupation) (Amendment) (Guernsey) Law, 1988(**s**).

The Housing (Control of Occupation) (Amendment) (Guernsey) Law, 1990(**t**).

Ordinances.

The Housing (Control of Occupation) (Guernsey) Law, 1982 (Commencement) Ordinance, 1982(**u**).

The Housing (Control of Occupation) (Extension) (Guernsey) Law, 1981 (Cessation) Ordinance, 1982(**v**).

The Housing (Control of Occupation) (Variation of Schedules) Ordinance, 1983(**w**).

The Housing (Control of Occupation) (Variation of Schedules) (No.2) Ordinance, 1983(**x**).

The Housing (Control of Occupation) (Variation of Schedule) Ordinance, 1984(**y**).

(**r**) Ordres en Conseil Vol.XXVII, p.448.

(**s**) No.V of 1988.

(**t**) No. VIII of 1990.

(**u**) Recueil d'Ordonnances Tome XXII, p.368.

(**v**) Recueil d'Ordonnances Tome XXII, p.368.

(**w**) Recueil d'Ordonnances Tome XXII, p.470.

(**x**) Recueil d'Ordonnances Tome XXII, p.548.

(**y**) Recueil d'Ordonnances Tome XXIII, p.33.

The Housing (Control of Occupation) (Variation of Schedule) Ordinance, 1985(z).

The Housing (Control of Occupation) (Addition of Annexes) Ordinance, 1985(aa).

The Housing (Control of Occupation) (Addition of Dwellings and Annexes) Ordinance, 1986(ab).

The Housing (Control of Occupation) (Variation of Schedules) Ordinance, 1987(ac).

The Housing (Control of Occupation) (Variation of Schedules) Ordinance, 1988(ad).

The Housing (Control of Occupation) (Addition of another Dwelling) Ordinance, 1989(ae).

The Housing (Control of Occupation) (Restoration of Dwelling) Ordinance, 1990(af).

The Housing (Control of Occupation) (Variation of Schedules) Ordinance, 1992(ag).

(z) Recueil d'Ordonnances Tome XXIII, p.255.

(aa) Recueil d'Ordonnances Tome XXIII, p.256.

(ab) Recueil d'Ordonnances Tome XXIII, p.438.

(ac) Recueil d'Ordonnances Tome XXIV, p.104.

(ad) Recueil d'Ordonnances Tome XXIV, p.498.

(ae) No.XXIII of 1989.

(af) No.VIII of 1990.

(ag) No.VI of 1992.