

**THE SUPPLEMENTARY BENEFIT (RESIDENCE CONDITIONS) ORDINANCE, 2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Supplementary Benefit (Residence Conditions) Ordinance, 2017", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

**EXPLANATORY MEMORANDUM**

The Ordinance is made under powers contained in the Supplementary Benefit (Guernsey) Law, 1971.

Section 1(1) provides that a relevant person, who satisfies the usual conditions for eligibility for a supplementary benefit, will not be eligible for that benefit unless he or she has also at any time resided in Guernsey or Alderney for a continuous period of 5 years. Section 1(2) makes clear, for the avoidance of doubt, that the continuous period of residence in Guernsey or Alderney may comprise a period or periods of residence in Guernsey and a period or periods of residence in Alderney. Section 1(3) enables the Administrator to direct that the residence condition under 1(1) shall not apply where he or she is of the view that there are exceptional circumstances that apply in relation to the relevant person concerned. Where the Administrator makes a direction under section 1(3), section 1(4) enables the Administrator to award a supplementary benefit of such amount and for such period as is, in the opinion of the Administrator, reasonable having regard to all the circumstances of the case.

A "relevant person" is defined in section 2(1) as a person whose resources are insufficient to meet his or her means and who occupies, or is otherwise resident in, a property inscribed in Part D of the Housing Register.

The Ordinance comes into force on the same day as Part 1 of the Open Market Housing Register (Guernsey) Law, 2016 comes into force.



## **The Supplementary Benefit (Residence Conditions) Ordinance, 2017**

**THE STATES**, in pursuance of their Resolution of the 3<sup>rd</sup> November, 2016<sup>a</sup>, and in exercise of the powers conferred on them by sections 1(1)(a)(iv) and 15 of the Supplementary Benefit (Guernsey) Law, 1971<sup>b</sup> as amended and all other powers enabling them in that behalf, hereby order:-

### **Residence condition relating to persons occupying Part D properties.**

1. (1) A relevant person is not eligible for a supplementary benefit under and in accordance with the Law, unless he or she –

- (a) satisfies the conditions for eligibility relating to his or her circumstances under the Law, and
- (b) subject to subsection (3), has at any time resided in Guernsey or Alderney for a continuous period of five years.

(2) For the avoidance of doubt, the continuous period of residence in Guernsey or Alderney referred to in subsection (1)(b) may comprise a period or periods of residence in Guernsey and a period or periods of residence in Alderney.

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<sup>a</sup> Article 4 of Billet d'État No. XXVII of 2016.

<sup>b</sup> Ordres en Conseil Vol. XXIII, p. 26; Vol. XXVI, p. 292; Vol. XXXI, p. 278 and Vol. XXXIX, p. 107; Order in Council No. XIII of 2014; has effect in Alderney by Recueil d'Ordonnances Tome XVII, p. 168; Tome XXIV, p. 468 and Tome XXVI, pp. 177 and 317 and as varied by Tome XXXIII, p. 649; Ordinance No. VII of 2010; No. XLIX of 2014 and No. IX of 2016.

(3) The Administrator may direct that subsection (1)(b) shall not apply where he or she is of the view that there are exceptional circumstances that apply in relation to the relevant person concerned.

(4) Where the Administrator makes a direction under subsection (3), he or she may award a supplementary benefit of such amount and for such period as is, in the opinion of the Administrator, reasonable having regard to all the circumstances of the case.

**Interpretation.**

2. (1) In this Ordinance -

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**Housing Register**" means the register of dwellings –

- (a) established under section 22(1) of the Housing (Control of Occupation) (Guernsey) Law, 1982<sup>c</sup>,
- (b) maintained by the States Committee for Home Affairs under the Housing (Control of Occupation) (Guernsey)

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<sup>c</sup> Ordres en Conseil Vol. XXVII, p. 448; as amended by Vol. XXXI, p. 30; Vol. XXXII, p. 88; Recueil d'Ordonnances Tome XXII, pp. 369, 470 and 548; Tome XXIII, pp. 33, 255, 256 and 438; Tome XXIV, pp. 104 and 498; Tome XXV, pp. 30, 74 and 135; and Tome VI, p. 10 and 291.

Law, 1994<sup>d</sup>, and

- (c) to be known as the Open Market Housing Register and maintained by the States Committee for the Environment & Infrastructure under the Open Market Housing Register (Guernsey) Law, 2016,

"**the Law**" means the Supplementary Benefit (Guernsey) Law, 1971,

"**relevant person**" means a person –

- (a) whose resources are insufficient to meet his or her requirements, and
- (b) who -
  - (i) occupies, or
  - (ii) is otherwise resident in,

a property inscribed in Part D of the Housing Register,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any

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<sup>d</sup> Ordres en Conseil Vol. XXXV(1), p.75; as amended by Vol. XXXVIII, p. 193; Vol. XLII(1), p. 34; Order in Council No. VIII of 2007; No. I of 2009; Ordinance No. XXXIII of 2003; No. XVII of 2008; and No. VII of 2010.

statutory, customary or inherent power and having legislative effect, but does not include an Ordinance.

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

**Extent.**

3. This Ordinance has effect in the islands of Guernsey, Herm and Jethou.

**Citation.**

4. This Ordinance may be cited as the Supplementary Benefit (Residence Conditions) Ordinance, 2017.

**Commencement.**

5. This Ordinance shall come into force on the same day as Part 1 of the Open Market Housing Register (Guernsey) Law, 2016 comes into force.