

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**PROJET DE LOI**

Entitled

**THE HOUSING (STANDARDS AND REGULATION) (ENABLING PROVISIONS)  
(GUERNSEY) LAW, 2021**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Housing (Standards and Regulation) (Enabling Provisions) (Guernsey) Law, 2021", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

**EXPLANATORY MEMORANDUM**

This Law is an enabling Law, empowering the States to make Ordinances in respect of certain specified matters, but otherwise making no substantive provision itself.

Section 1(1) contains the basic power to make Ordinances for the purpose of improving the quality of, and regulating the provision of, housing, and section 1(2) sets out examples of the sort of provision that may be made thereunder.

Section 1(3) makes further provision in relation to Ordinances under specified paragraphs of section 1(2). Sections 1(4) and 1(5) make provision in respect of consequential and supplementary provision that may be made in Ordinances under the Law, including providing that such provision may include the creation, and punishment of, offences. Section 1(6) contains limitations on the power to create offences, and section 1(7) contains further general provision, including a limitation of liability.

Sections 2 to 4 deal with interpretation, citation and commencement.



# PROJET DE LOI

ENTITLED

## **The Housing (Standards and Regulation) (Enabling Provisions) (Guernsey) Law, 2021**

**THE STATES**, in pursuance of their Resolution of the 3<sup>rd</sup> July, 2020<sup>a</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

### **Power to make Ordinances in respect of housing.**

1. (1) The States may by Ordinance make such provision as they think fit for the purpose of improving the quality of, and regulating the provision of, housing.

(2) Without prejudice to the generality of subsection (1), an Ordinance under this section may make provision in respect of –

(a) the assessment by specified persons of the quality of housing, and its fitness for human habitation,

(b) the specification, publication and enforcement of

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<sup>a</sup> Article VI of Billet d'État No. XIII of 2020.

minimum standards for rental housing,

- (c) the licensing by the Committee of landlords of HMO housing,
- (d) the establishment and maintenance by the Committee of a register of landlords of rental housing,
- (e) the establishment and operation of a deposit protection scheme in respect of rental housing,
- (f) the obligations, and rights, of landlords and tenants, and
- (g) the protection of the public from threats to public health resulting from poor quality housing, including (but not limited to) the making of orders by the Committee mandating the demolition and clearance of dwellings where necessary for that purpose.

(3) For the avoidance of doubt, an Ordinance making provision of the type referred to in paragraphs (c) to (e) of subsection (2) may impose a requirement on landlords, or landlords of HMO housing, to be licensed, to be registered, or to place rental deposits in a deposit protection scheme (as the case may be).

(4) Without prejudice to the generality of subsections (1) to (3), an Ordinance under this Law may contain such consequential, incidental, supplementary, transitional, savings and other ancillary provisions as may appear

necessary or expedient, including (without limitation) –

- (a) in an Ordinance making provision of the type referred to in subsection (2)(g), provision in relation to –
  - (i) the purchase of dwellings, and
  - (ii) the making and service of, and appeals against, orders of the type,  
  
referred to therein,
- (b) provision for its enforcement, including (without limitation) provision as to –
  - (i) the creation and punishment of offences in respect of contraventions of, or other non-compliance with, provisions of the Ordinance (subject to subsection (6)), and
  - (ii) the creation of new duties, obligations, liabilities, remedies, penalties, sanctions and other consequences, including (but not limited to) private warnings, public statements and discretionary financial penalties, and
- (c) provision repealing, replacing, amending, extending, adapting, modifying or disapplying any rule of customary or common law.

(5) An Ordinance under this Law may contain provision making consequential amendments to any enactment, and in particular and without limitation, may amend or repeal any enactment making provision in respect of housing.

(6) The power conferred by subsection (4) to make provision as to the creation and punishment of offences does not include power -

- (a) to provide for offences to be triable only on indictment,
- (b) to authorise the imposition, on summary conviction of an offence, of a term of imprisonment or a fine exceeding the limits of jurisdiction for the time being imposed on the Magistrate's Court by section 9 of the Magistrate's Court (Guernsey) Law, 2008<sup>b</sup>, or
- (c) to authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years.

(7) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law -

- (a) may empower any committee of the States of Guernsey and any other body (including, without limitation, the

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<sup>b</sup> Order in Council No. XVIII of 2009; amended by Ordinance No. XXII of 2009; No. IX of 2016 and No. XXI of 2016.

Royal Court), to make or issue orders, rules, regulations, codes or guidance, for the purposes of this Law or any Ordinance or regulations made under it, and

- (b) may provide that no liability shall be incurred by any specified person or body in respect of anything done or omitted to be done in the discharge or purported discharge of any of their functions under the Ordinance unless the thing is done or omitted to be done in bad faith (but may not prevent an award of damages in respect of an act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000<sup>c</sup>).

**Interpretation.**

2. (1) In this Law -

**"Committee"** means the States Committee for the Environment & Infrastructure,

**"deposit protection scheme"** means a scheme or arrangement which protects rental deposits paid by tenants to landlords, and **"deposit"** shall be construed accordingly,

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<sup>c</sup> Order in Council No. XIV of 2000; amended by Order in Council No. I of 2005; Ordinance No. XXXVII of 2001; No. XXXIII of 2003; No. XX of 2015; No. IX of 2016; No. XXVI of 2018; and G.S.I. No. 27 of 2006.

"**dwelling**" means any premises or any part of any premises or any vessel used or usable for the purposes of human habitation,

"**HMO housing**" means rental housing that is occupied by more than one household,

"**housing**" includes any dwelling and, for the avoidance of doubt, includes States residential property within the meaning of the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004<sup>d</sup>,

"**landlord**" means a person who grants a lease or tenancy of housing to another person, or who otherwise grants another person a licence to occupy housing,

"**rental housing**" means housing that is occupied under a lease, tenancy or licence to occupy, and

"**tenant**" means a person granted a lease or tenancy of housing, or otherwise granted a licence to occupy housing; and see subsection (2).

(2) For the avoidance of doubt, any reference in this Law to a tenant includes all individuals who are joint tenants in respect of the dwelling to which the tenancy relates.

**Citation.**

3. This Law may be cited as the Housing (Standards and Regulation)

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<sup>d</sup> No. IV of 2005; amended by Ordinance No. IX of 2016.



(Enabling Provisions) (Guernsey) Law, 2021.

**Commencement.**

4. This Law shall come into force on the day appointed by Ordinance of the States; and different dates may be appointed for different provisions and for different purposes.