



Jersey

SOCIAL HOUSING (TRANSFER) (JERSEY) LAW 2013

Arrangement

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SOCIAL HOUSING (TRANSFER) (JERSEY) LAW 2013

A LAW to transfer the States of Jersey housing stock and other assets to a company and related purposes.

Adopted by the States

17th July 2013

Sanctioned by Order of Her Majesty in Council

9th October 2013

Registered by the Royal Court

18th October 2013

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

In this Law –

“assets” means any interest in immovable property or movable property of any description, and includes capital, securities, choses in action and documents;

“liabilities” means any liabilities, debts or obligations (whether present or future and whether vested or contingent);

“representative body” includes a trade union and any other association of employees formed for the purpose of representing those employees in their relationship with their employers;

“rights” means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent);

“transfer date” means the day prescribed by Regulations under Article 3;

“company” means the company prescribed under Article 2;

“transferor” means the States or a person acting on behalf of the States.

2 Nature of company

- (1) The States may by Regulations prescribe a company to which such assets, rights and liabilities of the States or of the public as are referred to in Article 4 shall be transferred.
- (2) The prescribed company must be a private company, incorporated under the Companies (Jersey) Law 1991¹, that is limited by guarantee and whose sole guarantor member is the States.
- (3) Subject to paragraphs (5) and (6), the Minister for Treasury and Resources may exercise the powers of the States in their capacity as sole guarantor member and, in exercising those powers, shall act in the interest of the States.
- (4) The Minister for Treasury and Resources may from time to time nominate one or more persons to act on behalf of the States, in their capacity as sole guarantor member, on such terms and in such manner as the States direct.
- (5) The power to vote on a resolution to wind up the company may only be exercised by the States.
- (6) The States may prescribe in Regulations any other power that may only be exercised, in relation to the company, by the States.

3 Transfer date

- (1) The States shall by Regulations prescribe the transfer date or dates for the purposes of the provisions of this Law.
- (2) The date prescribed under this Article shall not be a day earlier than the day on which the Regulations prescribing the day come into force.

4 Transfer of assets rights and liabilities

- (1) On the transfer date, the assets, rights and liabilities of the States or of the public that are specified in Regulations shall be transferred to the company in accordance with those Regulations.
- (2) Such a transfer may be made on such terms and conditions as are prescribed by the Regulations and may (as prescribed in the Regulations) consist of the transfer of a liability, or transfer of an interest in an asset or right, that is less than the entire liability, or entire interest in the asset or right, of the States or of the public.
- (3) If it appears to the States expedient so to do for the purpose of removing any difficulties or uncertainties arising out of the operation of this Article, they may, by Regulations, direct that such assets, rights, or liabilities, of the States as may be specified in the Regulations –
 - (a) are not transferred under this Article or shall be taken not to have been so transferred; or
 - (b) are transferred under this Article or shall be taken to have been so transferred.

- (4) The States may, by Regulations, prescribe any asset, right or liability not subject to transfer, and an asset, right or liability that is so prescribed is not transferred under this Article, but this does not prevent its transfer otherwise than under this Article.

5 Vesting in company

- (1) When any assets, rights or liabilities are transferred under this Law or in Regulations made under this Law, the following provisions have effect –
- (a) except to the extent provided in Article 6(3), the assets of the transferor vest in the company by virtue of this Article and without the need for any further conveyance, transfer, assignment or assurance;
 - (b) the rights or liabilities of the transferor become by virtue of this Article the rights or liabilities of the company;
 - (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the company;
 - (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the transferor or a predecessor of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the company;
 - (e) a reference in any enactment, in any instrument made under any enactment or in any document of any kind to the transferor or a predecessor of the transferor is (to the extent to which it relates to those assets, rights or liabilities) taken to include a reference to the company.
- (2) The operation of this Article or of Article 4 or 6 (or of any Regulations made under any of those Articles) is not to be regarded –
- (a) as a breach of contract or confidence or otherwise as a civil wrong;
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities;
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, obligation or relationship, because of a change in the beneficial or legal ownership of any asset, right or liability; or
 - (d) as an event of default under any contract or other instrument.
- (3) No compensation is payable to any person or body in connection with a transfer to which Article 4 or 6 applies except to the extent (if any) to which the Regulations made under that Article so provide.

6 Evidence, registration and treatment of transfer

- (1) The production of a copy of any Regulations made under Article 4 and signed by the Greffier of the States shall, for all purposes, be conclusive evidence of the transfer to and vesting in, the company of any assets, rights or liabilities to which those Regulations apply.
- (2) Nothing in paragraph (1) affects the value of any other evidence of a transfer that may be adduced.
- (3) Regulations made under Article 4 that specify any interest in immovable property situated in Jersey and are signed by the Greffier of the States shall be registered in the Public Registry of Contracts and that registration shall have the like effect as a contract passed before the Royal Court and the title to any interest in such immovable property specified in those Regulations shall vest in, belong to and be held by the company on and after the day of that registration.
- (4) The States may, by Regulations, make provision with respect to the values to be assigned in accounts to the assets, rights and liabilities of the States, and the treatment of any transfer of them under this Law.
- (5) The States may, by Regulations, make provision for the purposes of the values to be assigned to the assets, rights and liabilities of the States, and the treatment of any transfer of them under this Law, as far as they are relevant to any matter under the Companies (Jersey) Law 1991².

7 Stamp duty

Stamp duty is not chargeable for or in respect of –

- (a) a transfer that is effected under this Law or, if otherwise effected, that is prescribed for the purposes of this Article by Regulations made by the States; or
- (b) anything prescribed by Regulations made by the States as something done in consequence of such a transfer.

8 Transfer of staff

- (1) Subject to paragraph (3) an employee of the States whose ordinary and normal place of work immediately before the transfer date is the Housing Department of the States of Jersey shall, on the transfer date, be transferred to the company and on and from that date –
 - (a) the person shall be an employee of the company;
 - (b) the person's contract of employment with the States shall have effect as if it had originally been made between the person and the company at the date when it was actually made;
 - (c) all rights, powers, duties and liabilities under or in connection with the contract of employment shall be enforceable or exercisable as if the contract had been originally made between the employee and the company;
 - (d) any collective agreement made by the States (or otherwise on behalf of the States) with a representative body recognized by or

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- on behalf of the States, being an agreement that has effect in respect of the employee immediately before the transfer, shall continue to have effect in respect of the employee as if it had been originally made by or on behalf of the company with that representative body;
- (e) any collective agreement made by or on behalf of the States with a representative body recognized by or on behalf of the States, being an agreement that is expressed to have effect in respect of the employment of persons by the company who were not immediately before the transfer date employees of the States shall have effect from the transfer date as if it had been originally made by or on behalf of the company with that representative body; and
 - (f) anything done before the transfer date by or in relation to the States (or otherwise on behalf of the States) under or in respect of the contract of employment or the agreement or in respect of the employee shall be taken to have been done by or in relation to the company at the time when it was actually done.
- (2) A reference in paragraph (1)(c) to a liability includes any liability that relates to –
 - (a) the employment of a person by the States at any time before the person becomes an employee of the company by virtue of this Law; and
 - (b) the person's membership of a scheme under the Public Employees (Retirement) (Jersey) Law 1967³.
 - (3) No employee may be transferred to the company until the company has been admitted to the scheme referred to in Regulation 9 of the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989⁴ and paid to the pension fund of that scheme such amount as the Actuary determines as being reasonably attributable to the company in respect of the capitalized value from time to time of the debt transferred to the scheme when the scheme was amended with effect from 1st January 1988.

9 Saving of rights under retirement schemes

If a person was, immediately before becoming an employee of the company by virtue of this Law, a member of any scheme made under the Public Employees (Retirement) (Jersey) Law 1967⁵ then, on so becoming such an employee –

- (a) except to the extent provided in sub-paragraph (b), the terms of the person's membership of the scheme, and the rights and liabilities under that scheme, are unaffected by the person becoming such an employee; and
- (b) notwithstanding anything in that Law or any other enactment or in any other document or under any arrangement, the company shall, by the operation of this Article, become the person's employer for the purposes of the scheme made under the Public Employees (Retirement) (Jersey) Law 1967⁶.

10 Amendment of medium term financial plan approved under Public Finances (Jersey) Law 2005

Despite Article 9(2) of the Public Finances (Jersey) Law 2005⁷, the Council of Ministers may lodge a proposition for a purpose described in Article 9(1) of that Law, in consequence of –

- (a) the transfers effected by the coming into force of this Law, or of Regulations made under this Law; or
- (b) an increase in the rents payable by tenants of social housing pursuant to a decision of the States to adopt P.33/2013.

11 Regulations

Regulations under this Law may contain such transitional, consequential, incidental, ancillary or supplementary provisions as appear to the States to be necessary or expedient for the purposes of the Regulations.

12 Citation and commencement

This Law may be cited as the Social Housing (Transfer) (Jersey) Law 2013 and shall come into force on such day or days as the States may by Act appoint.

M.N. DE LA HAYE

Greffier of the States

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- 1 *chapter 13.125*
 - 2 *chapter 13.125*
 - 3 *chapter 16.650*
 - 4 *chapter 16.650.36*
 - 5 *chapter 16.650*
 - 6 *chapter 16.650*
 - 7 *chapter 24.900*