

Jersey Law 23/1950

BUILDING LOANS (JERSEY) LAW, 1950

A LAW to authorize the lending of money for enabling persons to acquire, construct, convert or repair dwelling-houses, sanctioned by Order of His Majesty in Council of the

21st day of DECEMBER, 1950

(Registered on the 20th day of January, 1951)

STATES OF JERSEY

The 9th day of August, 1950

THE STATES, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law: -

ARTICLE 1

DEFINITIONS

In this Law, unless the context otherwise requires –

“the Committee” means the Housing Committee;

“the Fund” has the meaning assigned thereto by Article 2 of this Law;

“house” means a building used or to be used wholly or principally for human habitation and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith;

“loan” means a loan made in pursuance of this Law.

ARTICLE 2

ESTABLISHMENT OF DWELLING-HOUSES LOAN FUND

(1) For the purposes of this Law, there shall be established a fund, to be called “the Dwelling-Houses Loan Fund” (in this Law referred to as “the Fund”), into which the States may pay, and from which the States may withdraw, such sums as they shall from time to time determine.

(2) All monies lent in pursuance of this Law and all expenses incurred in carrying this Law into effect shall be paid out of the Fund, and all monies received in respect of the repayment of the principal of loans and of the interest thereon, and all other monies receivable in pursuance of this Law, shall be paid into the Fund.

(3) The Committee shall, not later than the first day of March in each year, present to the States a report showing the financial position of the Fund at the end of the preceding year.

ARTICLE 3

POWER OF COMMITTEE TO MAKE LOANS FOR PURPOSES OF HOUSING¹

Subject to the provisions of this Law, the Committee may lend money to any person for the purpose of –

- (a) acquiring a house together with any land * * * *² appertaining thereto;
- (b) acquiring land * * * *² and constructing a house thereon;
- (c) constructing a house;

¹ See also Agriculture (Loans and Guarantees) (Jersey) Law, 1974 – Article 4 (Volume 1973–1974, page 200).

² Words repealed by Building Loans (Amendment No. 4) (Jersey) Law, 1960 (Volume 1957–1960, page 581).

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- (d) acquiring a building and converting it into a house;
- (e) converting a building into a house;
- (f) reconstructing, altering, enlarging, repairing or improving a house.

ARTICLE 4

PERSONS TO WHOM LOANS MAY NOT BE MADE

[(1) No loan shall be made to any person who is not a national of a Member State of the European Economic Community.]³

(2) No loan shall be made to a married woman *non sui juris*.

ARTICLE 5

LOAN TO BE SECURED BY HYPOTHEC, TO BEAR INTEREST AND TO BE REPAID BY INSTALMENTS

(1) Every loan shall be secured by a simple conventional hypothec charged on the property in relation to which the loan is made and shall bear interest at the prescribed rate calculated annually on the amount of the principal of the loan for the time being remaining unpaid on the first day of January.

[(2) For the purposes of paragraph (1) of this Article, the prescribed rate of interest shall be five per centum per annum or such higher or lower rate as, at the date of the contract of creation of the simple conventional hypothec to secure the loan, shall have been fixed by the States by regulations made under Article 15 of this Law.]⁴

³ Paragraph substituted by European Communities (Jersey) Law, 1973 (Volume 1973–1974, page 104).

⁴ Paragraph substituted by Building Loans (Amendment No. 6) (Jersey) Law, 1963 (Volume 1963–1965, page 37).

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(3) The principal of the loan shall be repaid, together with the interest thereon [by weekly, monthly or quarterly instalments of such amounts]⁵ that the whole shall be repaid within such period, not exceeding [forty]⁶ years from the date of the contract of creation of the simple conventional hypothec to secure the loan, as may be agreed upon:

Provided that the whole of the outstanding principal of the loan, or any part thereof, may at any time be repaid without notice.

[(4) Regulations made under Article 15 of this Law may empower the Committee, notwithstanding the foregoing provisions of this Article, to reduce the rate of interest on any loan for any year by reference to such circumstances as may be prescribed by the regulations, and, in the case of any such reduction, the periodical instalments payable in that year in respect of the loan shall be reduced accordingly.]⁷

ARTICLE 6

MISCELLANEOUS PROVISIONS RELATING TO CONTRACTS FOR SECURING LOANS

(1) Every contract of creation of a simple conventional hypothec to secure a loan shall state that the loan is made subject to such of the conditions mentioned in Article 12 of this Law as are applicable but it shall not be necessary to set out such conditions in the contract.

(2) Every authority given by the Committee to pass a contract of creation of a simple conventional hypothec to secure a loan shall be deemed to include an authority to pass a contract of extinction of the hypothec on the repayment of the principal of the loan, together with the interest thereon.

⁵ Words substituted by Building Loans (Amendment No. 7) (Jersey) Law, 1964 (Volume 1963–1965, page 175).

⁶ Word substituted by Building Loans (Amendment No. 4) (Jersey) Law, 1960 (Volume 1957–1960, page 582).

⁷ Paragraph inserted by Building Loans (Amendment No. 3) (Jersey) Law, 1956 (Volume 1954–1956, page 557).

(3) * * * * *

ARTICLE 7

PROPERTY TO BE OWNED IN PERPETUITY AND TO BE FREE FROM CHARGES

[Save as may otherwise be provided by regulations made under Article 15 of this Law]⁹ no loan shall be made where the property on which the loan is to be secured is not in the sole ownership in perpetuity of the person to whom the loan is to be made, or where any rentes or hypothecs, whether legal, judicial or conventional (excluding the eventual right of dower of the wife, if any, of that person) are charged on the property * * * * *¹⁰.

ARTICLE 8

LIMITATION ON AMOUNT OF LOAN

The amount of the principal of any loan shall not exceed –

- (a) where the loan is required for the purpose specified in subparagraph (a) of Article 3 of this Law, * * * *¹¹ the amount which, in the opinion of the Committee, is the value of the property on which the loan is to be secured, * * * * *¹²;
- (b) where the loan is required for a purpose specified in subparagraph (b), (c) or (d) of that Article, * * * *¹¹ the amount which, in the opinion of the Committee, will be the value of the said property when the works of construction or conversion have been carried out, * * * * *¹²;

⁸ Paragraph repealed by Building Loans (Amendment No. 4) (Jersey) Law, 1960 (Volume 1957–1960, page 582).

⁹ Words inserted by Building Loans (Amendment No. 4) (Jersey) Law, 1960 (Volume 1957–1960, page 582).

¹⁰ Words and proviso repealed by Building Loans (Amendment No. 7) (Jersey) Law, 1964 (Volume 1963–1965, page 176).

¹¹ Words repealed by Building Loans (Amendment No. 7) (Jersey) Law, 1976 (Volume 1963–1965, page 176).

¹² Words repealed by Building Loans (Amendment No. 4) (Jersey) Law, 1960 (Volume 1957–1960, page 582).

- (c) where the loan is required for the purpose specified in sub-paragraph (e) of that Article, seventy-five per centum of the amount which, in the opinion of the Committee, will be the value of the said property when the works of conversion have been carried out, * * * * *
- (d) where the loan is required for any of the purposes specified in sub-paragraph (f) of that Article, sixty-five per centum of the amount which, in the opinion of the Committee, will be the value of the said property when the works of reconstruction, alteration, enlargement, repair or improvement have been carried out, * * * * *

ARTICLE 9

COMMITTEE TO BE SATISFIED THAT HOUSE WILL BE FIT FOR HUMAN HABITATION

Before lending money for the purpose specified in sub-paragraph (a) of Article 3 of this Law, the Committee shall satisfy itself that the house to be acquired is, or will be made, in all respects fit for human habitation, and, before lending money for any other purpose specified in that Article, the Committee shall satisfy itself that the house to be constructed, reconstructed, altered, enlarged, repaired or improved or into which the building is to be converted, as the case may be, will, when the works of construction, reconstruction, alteration, enlargement, repair, improvement or conversion have been completed, be in all respects so fit.

ARTICLE 10

POWER TO ADVANCE LOANS BY INSTALMENTS

Any loan may be advanced by instalments from time to time as the works of construction, conversion, reconstruction, alteration, enlargement, repair or improvement, as the case may be, progress.

ARTICLE 11

PROPERTY TO BE KEPT INSURED AGAINST FIRE

Until such time as the principal of a loan, together with the interest thereon, has been repaid, the property on which the loan is secured shall be kept insured against fire by the Committee in the names of the States, as holders of the hypothec, and the owner, and the premiums payable in respect of the insurance shall be refunded by the owner on demand therefor being made by or on behalf of the Committee.

ARTICLE 12

CONDITIONS TO BE OBSERVED UNTIL LOAN REPAID

(1) Until such time as the principal of a loan, together with the interest thereon, has been repaid, the following conditions shall be observed with respect to the property on which the loan is secured, namely –

- (a) the property shall not be sold or otherwise disposed of *inter vivos* except with the consent in writing of the Committee:

Provided that no such consent shall be given for the sale or disposal of the property to a person to whom, by virtue of the provisions of Article 4 of this Law [or of any regulations made under Article 15 of this Law],¹³ a loan may not be made;

- [(b) the owner shall not, by any act or omission on his part, except with the consent in writing of the Committee and subject to any conditions attached to such consent, suffer any rente or hypothec, other than a legal hypothec, to become charged on the property;]¹⁴

¹³ Words inserted by Building Loans (Amendment No. 4) (Jersey) Law, 1960 (Volume 1957–1960, page 583).

¹⁴ Sub-paragraph substituted by Building Loans (Amendment No. 8) (Jersey) Law, 1976 (Volume 1975–19—, page 197).

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- (c) every sum due in respect of principal and interest of the loan and the insurance of the property shall be punctually paid;
- (d) except where the loan was made for a purpose specified in sub-paragraph (e) or (f) of Article 3 of this Law, the owner shall both occupy and reside in the house and shall not let or otherwise part with the possession of the property to any other person except with the consent in writing of the Committee;
- (e) where the property is let * * *¹⁵ the rental shall not exceed such amount as may be determined by the Committee, and no fine, premium or other like sum shall be demanded or taken in addition to the rental;
- (f) all reasonable steps shall be taken to secure the maintenance of the house so as to be in all respects fit for human habitation;
- (g) the house shall not be used for purposes other than those of a private dwelling-house except with the consent in writing of the Committee and then only for such further purposes and to such extent as may be specified in that consent;
- (h) a lessee or tenant shall not assign, sub-let or otherwise part with the possession of the property except to the owner;
- [(i) where the area of the land on which the loan is secured exceeds one vergée, the land shall be kept clean and in a good state of cultivation and fertility, and in good condition, and all reasonable steps shall be taken to secure the maintenance of the buildings thereon to the extent necessary for the proper cultivation and working of the land;]¹⁶

¹⁵ Words repealed by Building Loans (Amendment No. 2) (Jersey) Law, 1954 (Volume 1954–1956, page 102).

¹⁶ Sub-paragraph inserted by Building Loans (Amendment No. 4) (Jersey) Law, 1960 (Volume 1957–1960, page 583).

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- (j) the Committee, and its agents or servants, shall be permitted to enter the property at all reasonable times for the purpose of ascertaining whether the foregoing conditions are being complied with;
- (k) the owner shall not suffer a lessee or tenant to commit a breach of any of the conditions mentioned in [sub-paragraphs (g), (h), (i) or (j) of this paragraph]¹⁷, and the said conditions shall, so long as they are required to be observed, be deemed to be part of the terms of any lease, agreement for a lease or tenancy of the house and shall be enforceable accordingly.

(2) Where any property on which a loan is secured is let and the maximum rental has been determined by the Committee under sub-paragraph (e) of paragraph (1) of this Article, the provisions of the Dwelling-Houses (Rent Control) (Jersey) Law, 1946,¹⁸ shall not apply to the property.

ARTICLE 13

POWERS OF COMMITTEE IN EVENT OF BREACH OF CONDITIONS

(1) In the event of a breach of any of the conditions mentioned in Article 12 of this Law, the Committee may apply to the Inferior Number of the Royal Court for an order vesting in the public the ownership of the property in respect of which the breach has been committed:

Provided that the Court shall not make such an order unless the Committee has served on the owner of the property a notice requiring him to remedy the breach and he has, within one month after the delivery of the notice, failed to comply therewith.

¹⁷ Words substituted by Building Loans (Amendment No. 4) (Jersey) Law, 1960 (Volume 1957–1960, page 583).

¹⁸ Page 345 of this Tome.

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(2) An order made under paragraph (1) of this Article shall include an order for the registration thereof in the Public Registry of Contracts and an order so registered shall have like effect to a contract passed before the Royal Court and shall constitute a valid title to the property to which it relates and to the rights appertaining thereto, and such title shall bear the date of the order of the Court.

(3) Where any property is vested in the public by virtue of an order made under paragraph (1) of this Article, it shall be so vested free of all rentes and hypothecs, other than legal hypothecs, bearing a date subsequent to that of the contract of creation of the simple conventional hypothec securing the loan.

(4) An order registered in pursuance of paragraph (2) of this Article shall not be renounced for want of insertion in the register of a “décret” if it bears a date prior to that of the insertion on which a “tenant” is confirmed in the tenure of the real estate “en décret”.

[(5) Where any property is vested in the public by virtue of an order made under paragraph (1) of this Article, the Committee shall, in its discretion, cause it either –

- (a) to be sold to a person who has made an application for a loan; or
- (b) to be put up for sale by public auction;

and shall, out of the proceeds of the sale, retain any sums due on account of the principal and interest of the loan, and all costs, charges and expenses properly incurred in connexion with the vesting of the property as aforesaid and the sale thereof, and shall pay the balance to the Viscount for the benefit of the former owner:

Provided that where the owner is unable to sell the property for a sum sufficient to pay, out of the proceeds of the sale, the principal and interest of the loan then due, and the costs, charges and expenses properly incurred in connexion with the vesting of the property and the sale thereof, the Committee may retain the property under its own

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management and shall not be liable to pay any sum to the former owner.]¹⁹

(6) Where any money is paid to the Viscount in accordance with the provisions of paragraph (5) of this Article, he shall immediately cause a notice to be published in two newspapers circulating in the Island, one being a publication in French and the other a publication in English,²⁰ stating that he holds the money on behalf of the former owner (naming him) and that any person having a claim against the former owner should take proceedings for the protection of his interests within the period of six weeks from the date of the first publication of the notice, and if, within that period no such proceedings have been instituted, or there has not been lodged with the Viscount notice of an intention to institute such proceedings, supported by an affidavit, the Viscount shall pay the money to the former owner.

[(7) Any notice under the proviso to paragraph (1) of this Article may be served either –

- (a) by delivering it to the person on whom it is to be served; or
- (b) by leaving it at the usual place of abode of that person; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual place of abode; or
- (d) if it is not practicable after reasonable enquiry to ascertain the usual place of abode of that person, by delivering it to some person on the property to which the notice relates or, if there is no person on the property to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the property.]²¹

¹⁹ Paragraph substituted by Building Loans (Amendment No. 5) (Jersey) Law, 1963 (Volume 1963–1965, page 27).

²⁰ See Official Publications (Jersey) Law, 1960 (Volume 1957–1960, page 572).

²¹ Paragraph inserted by Building Loans (Amendment No. 3) (Jersey) Law, 1956 (Volume 1954–1956, page 558).

ARTICLE 14

FALSE STATEMENTS AND INFORMATION

If any person, for any of the purposes of this Law, knowingly makes any statement or furnishes any information which is false in a material particular, he shall be liable to a fine not exceeding one hundred pounds sterling or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment, and, [where a loan, or a reduction in the rate of interest on a loan, has been obtained by means of such false statement or false information],²² the provisions of Article 13 of this Law (with the exception of the proviso to paragraph (1) thereof) shall have effect in relation to the property on which the loan is secured as if a breach of a condition mentioned in Article 12 of this Law had been committed.

[ARTICLE 15]

REGULATIONS

The States may make regulations for any purpose for which regulations may be made under this Law, for restricting the powers conferred on the Committee by this Law or regulating the exercise of such powers, for prescribing the forms of contract to be passed for the purposes of this Law, for providing that in such cases as may be prescribed by the regulations the costs incurred in connexion with the passing of contracts of creation of a simple conventional hypothec to secure a loan shall be paid out of the Fund and generally for the purpose of carrying this Law into effect.²³

²² Words inserted by Building Loans (Amendment No. 3) (Jersey) Law, 1956 (Volume 1954–1956, page 558).

²³ Article substituted by Building Loans (Amendment No. 4) (Jersey) Law, 1960 (Volume 1957–1960, page 584).

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ARTICLE 16

SHORT TITLE

This Law may be cited as the Building Loans (Jersey) Law,
1950.

To be printed, published and posted.

F. DE L. BOIS,

Greffier of the States.