



Jersey

HOUSING (JERSEY) LAW 1949

Revised Edition

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HOUSING (JERSEY) LAW 1949

Arrangement

Article

PART 1	5
<hr/>	
GENERAL	5
1 General definitions.....	5
2 Powers and duties of Minister.....	5
PART 2	6
<hr/>	
POWER TO ACQUIRE LAND BY COMPULSORY PURCHASE FOR HOUSING PURPOSES	6
3 Responsible Minister	6
4 Power to acquire land by compulsory purchase	6
PART 3	6
<hr/>	
LAND HELD BEFORE COMMENCEMENT OR ACQUIRED AFTER DEGREVEMENT ETC.	6
5 Condition on occupation of dwellings on land acquired after a <i>dégrévement</i> or by a company by inheritance.....	6
6 Acquisition of certain leasehold interests	7
7 Corporate land held prior to commencement.....	7
8 Duration	7
PART 4	7
<hr/>	
CONTROL OF SALES AND LEASES OF LAND	7
9 Definitions.....	7
10 Transactions to which this Part applies.....	8
11 Prohibition on transactions without consent of Minister	8
12 Invalidation of transactions	8
13 Applications for consents and variations of consents	9
14 Grant or refusal of consent.....	9

15	Grant or variation of consent in certain cases of tourist and dwelling accommodation owned or leased by same person	10
16	Variation of consents	11
17	Power to revoke consents	11
18	Appeals	12
19	Power to obtain information in relation to offences	12
20	Offences	13
21	Regulations	14
22	Duration	14

PART 5 **14**

CITATION	14
23 Citation	14

Supporting Documents

ENDNOTES	15
Table of Legislation History	15
Table of Renumbered Provisions	16
Table of Endnote References	17



Jersey

HOUSING (JERSEY) LAW 1949¹

A LAW to provide for the administration of matters relating to the housing of the population, to empower the States to acquire land by compulsory purchase for the purposes of housing, and to control acquisitions and sales and leases of land in order to prevent further aggravation of the housing shortage²

Commencement [[see endnotes](#)]

PART 1 GENERAL

1 General definitions

In this Law –

“land” means any corporeal hereditament, including a building, and land covered with water, and, in relation to the acquisition of land under Article 4, includes any interest in land or water and servitudes or rights in, on or over land or water;³

“Minister” means the Minister for Housing.

2 Powers and duties of Minister

The Minister shall exercise the powers and duties imposed on the Minister by this Law, and generally for the purposes of discharging such other functions relating to the housing of the population as may from time to time be deemed expedient.

PART 2**POWER TO ACQUIRE LAND BY COMPULSORY PURCHASE FOR HOUSING PURPOSES****3 Responsible Minister**

The Minister shall be charged with the administration of this Part.

4 Power to acquire land by compulsory purchase

- (1) Where it appears to the States that any land should be acquired to provide for the housing of the inhabitants of Jersey, it shall be lawful for the States to acquire such land by compulsory purchase on behalf of the public in accordance with the provisions of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961.⁴
- (2) The power to acquire land by compulsory purchase conferred by paragraph (1) shall include the power to –
 - (a) acquire a servitude or other right over land by the creation of a new servitude or right; and
 - (b) extinguish or modify a servitude or other right over land.⁵
- (3) In the exercise of their powers under this Article, the States shall have regard to the suitability of the land for agricultural purposes.

PART 3⁶**LAND HELD BEFORE COMMENCEMENT OR ACQUIRED AFTER DEGREVEMENT ETC.****5 Condition on occupation of dwellings on land acquired after a *dégrévement* or by a company by inheritance⁷**

Where, after 9 June 1993⁸ any land is acquired –

- (a) as a result of a *dégrévement*;
- (b) by subrogation from a tenant *après dégrévement*; or
- (c) by a body corporate, by inheritance,

the land shall be deemed to have been acquired subject to the condition that any unit of dwelling accommodation on the land at the time of its acquisition, or which is created on the land thereafter, shall not without the consent of the Minister be occupied other than by a person who falls within any class specified by the States in Regulations made under Article 21, being a class to which this condition is specifically stated to refer by those Regulations.

6 Acquisition of certain leasehold interests⁹

The reference in Article 5 to land shall be deemed to include an incorporeal hereditament within the meaning of the Loi (1996) sur l'hypothèque des biens-fonds incorporels¹⁰ acquired as a result of a *dégrévement* or otherwise in accordance with the provisions of that Law.

7 Corporate land held prior to commencement¹¹

- (1) Subject to paragraph (2), a unit of dwelling accommodation on, or constructed on, land which was acquired by a body corporate before the commencement of this Law shall not, without the consent of the Minister, be occupied other than by a person who falls within a class specified in Regulations made under Articles 14 and 21, being a class to which the restriction imposed by this Article is specifically stated to refer by those Regulations.
- (2) Paragraph (1) shall not apply to a unit of dwelling accommodation which –
 - (a) was in existence on 28th July 1998;
 - (b) was lawfully being constructed on 28th July 1998; or
 - (c) has been, or shall be, lawfully constructed after 28th July 1998 in accordance in every respect with permission granted before 28th July 1998 by the Planning and Environment Committee.

8 Duration¹²

This Part of this Law shall remain in force for so long as Part 4 remains in force.

PART 4**CONTROL OF SALES AND LEASES OF LAND****9 Definitions**

In this Part, unless the context otherwise requires –

“Court” means the Inferior Number of the Royal Court;

“lease” means a lease, underlease or other tenancy, assignment operating as a lease or underlease, or an agreement for such lease, underlease, tenancy or assignment, and the expressions “lessor” and “lessee” shall be construed accordingly;

“registered contract” means a contract passed before the Royal Court and registered in the Public Registry of Contracts;

“transaction to which this Part applies” has the meaning assigned thereto by Article 10.

10 Transactions to which this Part applies

- (1) Subject to the provisions of this Article, this Part shall apply to every transaction being –
 - (a) a registered contract for the sale or transfer of any land in perpetuity, or for a term expiring on the happening of a specified event, or for the unexpired portion of any such term as aforesaid; or
 - (b) a lease of any land, whether parol or in writing, including a registered contract of lease.
- (2) Nothing in this Part shall apply to –
 - (a) any transaction entered into before 2nd April 1949;
 - (b) any contract of partition of inherited or devised real estate;
 - (c) any contract for the sale or transfer or any lease, of any land to or by Her Majesty;¹³
 - (d) any lease, not being a registered contract of lease, where the land demised by the lease does not comprise a dwelling-house or any part of a dwelling-house.¹⁴
- (3) Regulations made under this Part may exempt, either unconditionally or subject to such conditions as may be prescribed in such Regulations, any class of transaction from the provisions of this Part.¹⁵

11 Prohibition on transactions without consent of Minister

- (1) No person shall, whether as vendor, purchaser, lessor, lessee or other party, and whether as principal or agent, enter into any transaction to which this Part applies, without the consent of the Minister previously obtained.
- (2) No person shall procure or induce any other person to enter into any transaction in contravention of this Part.

12 Invalidation of transactions

- (1) Where it is proved to the satisfaction of the Court that a transaction to which this Part applies has been entered into without the consent of the Minister, the Court may declare the transaction to be void.¹⁶
- (2) Where it is proved to the satisfaction of the Court in relation to any transaction to which this Part applies (other than a registered contract for the sale or transfer of any land in perpetuity) –
 - (a) that any condition imposed by the Minister on the grant of his or her consent to the transaction has not been complied with;
 - (b) that any false or misleading statement has been made in connection with the application for consent to the transaction; or
 - (c) that all the material facts in connection with the transaction were not submitted to the Minister on the making of the application for consent thereto,

the Court may declare the transaction to be void, and, if satisfied that the act or omission was that of one of the parties to the transaction and that the other party was innocent of such act or omission, may award damages to the innocent party against the other party in respect of any loss suffered by the innocent party as a direct result of the transaction being declared void.¹⁷

- (3) Where the Court, in pursuance of this Article, declares a registered contract to be void, the Court shall order a record to be made in the Public Registry of Contracts to the effect that the contract is void as aforesaid.

13 Applications for consents and variations of consents¹⁸

- (1) Every application for –
 - (a) the consent of the Minister under this Part; or
 - (b) a variation under Article 16 of a consent granted by the Minister under this Part,shall contain or be accompanied by the particulars, information and documents that the Minister requires.
- (2) An application shall be accompanied by the fee, if any, specified in an Order made by the Minister.
- (3) The Minister may require that a person who has made an application to the Minister provide to the Minister evidence, of a kind specified by the Minister, that purports to verify the application.

14 Grant or refusal of consent¹⁹

- (1) The Minister shall grant consent, either unconditionally or subject to such conditions as the Minister thinks fit, to the sale, transfer or lease of any land of a class for the time being specified by the States by Regulations made under this Part and shall refuse consent to any sale or transfer or lease not so specified.²⁰
- (2) Without prejudice to the generality of the foregoing provisions of this Article, every consent granted by the Minister to the sale, transfer or lease, whether by a registered contract or not, of any land to a body corporate shall be subject to the following condition –

“Any unit of dwelling accommodation on the land at the time of the grant of this consent, or created on the land thereafter, shall not without the consent of the Minister be occupied other than by a person who falls within any class specified by the States by Regulations made under Part 4 of the Housing (Jersey) Law 1949,²¹ being a class to which this condition is specifically stated to refer by those Regulations.”,

and any consent granted by the Housing Committee to the sale, transfer or lease of any land to a body corporate before the 6th day of

February 1973 shall be deemed, notwithstanding any other provision of the consent, to have attached to it a condition in the terms aforesaid:

Provided that the condition so attached shall not apply to a person occupying before the said date a unit of dwelling accommodation on the land in respect of which the consent was granted.²²

- (3) Without prejudice to the generality of the foregoing provisions of this Article, the Minister may attach to the grant of consent to the sale, transfer or lease of any land, conditions relating to –
- (a) the persons by whom the land may be occupied;
 - (b) the use of the land;
 - (c) the maximum price at which the land is to be sold or leased:

Provided that the Minister shall not impose such a condition unless the States have, by Regulations made under this Part, specified the method by which the Minister is to assess the said maximum price and for this purpose the Regulations may specify different methods for different classes of land.²³

15 Grant or variation of consent in certain cases of tourist and dwelling accommodation owned or leased by same person²⁴

- (1) Notwithstanding any other provision of this Law or any Regulations made thereunder, where –
- (a) an applicant for consent under Article 14 to purchase or lease a unit of dwelling accommodation; or
 - (b) the owner or lessee of a unit of dwelling accommodation,
- has applied to the Minister for consent to that accommodation becoming tourist premises, the Minister shall grant such consent if the Minister is satisfied of the matters set out in paragraph (2).
- (2) The matters referred to in paragraph (1) are that –
- (a) the applicant is the owner or lessee of tourist premises which –
 - (i) form part of,
 - (ii) have a common boundary with, or
 - (iii) are adjacent to,
 the property which is the subject of the application;
 - (b) over the 3 years prior to the application or such other period as the Minister considers appropriate –
 - (i) there has been a net reduction in the number of tourist premises, and
 - (ii) the number of tourist premises which have become units of dwelling accommodation, the occupation of which is restricted by virtue of Regulations made under this Law, is greater than the number of units of such accommodation which have or, if the application were granted, would, become tourist premises under this Article; and
 - (c) consent can, in the best interests of the community, be justified.

- (3) In this Article “tourist premises” means premises registered under the Tourism (Jersey) Law 1948.²⁵

16 Variation of consents²⁶

- (1) A person who is a party to a transaction to which a consent granted by the Minister under this Part relates may apply to the Minister for a variation of the consent.
- (2) The Minister shall, on receipt of an application, vary, or refuse to vary, the consent to which the application relates.
- (3) The Minister may, of his or her own motion, with the agreement of a person who is a party to a transaction to which a consent granted by the Minister under this Part relates, vary the consent.
- (4) The variation of a consent under this Article may include, but is not limited to including, a variation of the following –
- (a) the names of persons specified in the consent;
 - (b) a reference to land specified in the consent;
 - (c) a monetary value specified in the consent;
 - (d) the period specified in the consent as either the duration of the lease (not being a registered contract of lease), or the occupation, to which the consent relates;
 - (e) a condition attached to the consent.
- (5) Nothing in this Article permits the Minister –
- (a) to vary a condition attached under Article 14(2) to a consent; or
 - (b) to vary a consent so as to have the effect of granting consent to enter into a transaction to which consent shall, in accordance with Article 14, be refused.
- (6) The Minister shall give notice of a decision under this Article in relation to a consent to the person who applied under paragraph (1) for, or who agreed under paragraph (3) to, the variation of the consent.

17 Power to revoke consents

- (1) The Minister may call upon any person to whom consent has been granted under this Part, at any time before the completion of the transaction to which the consent relates, to show cause why that consent should not be revoked on the ground –
- (a) that a false or misleading statement has been made in connection with the application for consent; or
 - (b) that all the material facts in connection with the transaction were not submitted to the Minister.
- (2) Where the Minister calls upon any person to show cause under this Article, that person shall forthwith surrender to the Minister the evidence of the consent delivered to that person by the Minister and shall not

proceed with the transaction to which the consent relates until the Minister has determined whether or not the consent shall be revoked.

- (3) Unless cause is shown to the Minister why the consent should not be revoked, the Minister may revoke the consent, which shall thereupon be deemed not to have been obtained.

18 Appeals

- (1) Any person aggrieved by a decision of the Minister under this Part to –
- (a) refuse to grant a consent;
 - (b) attach a condition to a consent;
 - (c) vary or refuse to vary a consent; or
 - (d) revoke a consent,
- may appeal to the Court against the decision.²⁷
- (2) An appeal shall be lodged by a person with the Court not later than one month after the date on which notice of the decision to which the appeal relates was given to the person by the Minister.²⁸
- (3) The Court may, on the application of a person, extend the period in which an appeal may be lodged by the person.²⁹
- (4) On any such appeal, the Court may either dismiss the appeal or may give to the Minister such directions in the matter as it considers proper, and the Minister shall comply with any such direction.
- (5) Any appeal under this Article may be heard and determined either in term or in vacation.
- (6) The costs of any appeal under this Article shall be paid in such manner and by such parties as the Court may direct.

19 Power to obtain information in relation to offences

- (1) If the Bailiff is satisfied by information on oath that there is reasonable ground to believe that an offence against this Part has been committed by any person, the Bailiff may, in the Bailiff's discretion, grant a warrant authorizing any person named in the warrant, for the purpose of obtaining any information or evidence in relation to the commission of any such offence, to do from time to time all or any of the following things –
- (a) inspect and examine any books, accounts, vouchers, records or documents;
 - (b) require any person to produce any books, accounts, vouchers, records or documents in the person's possession, or under the person's control, and to allow copies of or extracts from any such books, accounts, vouchers, records or documents to be made;
 - (c) require any person to furnish any information or particulars that may be required of the person, not being information or particulars tending to incriminate the person;
 - (d) enter upon and inspect any land.

- (2) Any person who –
- (a) wilfully resists, obstructs, hinders, deceives or attempts to deceive, any person who is exercising any power or function under this Article;
 - (b) wilfully makes any false or misleading statement or any material omission in any information or particulars furnished under this Article;
 - (c) fails to comply in any respect with any requirement under this Article; or
 - (d) aids, abets, counsels or procures, or is in any way knowingly concerned with, the commission of any such offence as aforesaid,
- shall be liable to a fine not exceeding level 3 on the standard scale.³⁰

20 Offences

- (1) Any person who –
- (a) without lawful excuse acts in contravention of or fails to comply with any provisions of Part 3 or this Part or with any condition made or imposed under Part 3 or this Part;
 - (b) with intent to deceive makes any false or misleading statement or any material omission in any application to the Minister, or in any communication (whether in writing or otherwise) to the Minister or any person, for the purposes of Part 3 or this Part;
 - (c) whether as principal or agent and whether by the person or the person's agent, enters into, or offers to enter into, or procures or induces or attempts to procure or induce any other person to enter into, any transaction or arrangement that is or is intended to be inconsistent with an application made or to be made, or consent given or to be given, under Part 3 or this Part;
 - (d) whether as principal or agent and whether by the person or the person's agent, and whether as vendor, purchaser, lessor, lessee or other party, or otherwise howsoever, is party to any device, plan or scheme for any transaction or arrangement that is or is intended to be in contravention of Part 3 or this Part or is inconsistent with any application made or to be made, or consent given or to be given, under Part 3 or this Part,

shall be liable to a fine, and in the case of a continuing offence to a further fine not exceeding level 2 on the standard scale for each day on which the offence so continues.³¹

- (2) Where an offence against this Part has been committed by a body corporate and it 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 similar officer of that body corporate or any person purporting to act in any such capacity, he or she, as well as the body corporate shall be guilty of the offence and liable to be proceeded against accordingly.³²

- (3) Where the affairs of a body corporate are managed by its members paragraph (2) of this Article shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.³³
- (4) In any proceedings for an offence against this Part, the burden of proving that the consent of the Minister has been granted to any transaction, or that this Part did not apply to any transaction, shall be on the person charged with the offence.

21 Regulations

The States may make Regulations for giving full effect to the provisions of Part 3 and this Part and for the due administration thereof, and any such Regulations may be amended by subsequent Regulations and shall remain in force until repealed.³⁴

22 Duration

This Part shall remain in force until the States determine that its continuance in force is no longer necessary or expedient and by Act resolve that it shall cease to have effect.³⁵

PART 5

CITATION

23 Citation

This Law may be cited as the Housing (Jersey) Law 1949.

ENDNOTES**Table of Legislation History**

Legislation	Number and year	Commencement
Housing (Jersey) Law 1949	L.2/1949	4 April 1949
Housing (Amendment) (Jersey) Law 1949	L.18/1949	17 October 1949
Housing (Amendment No. 2) (Jersey) Law 1950	L.14/1950	19 August 1950
Housing (Amendment No. 3) (Jersey) Law 1966	L.12/1966	28 October 1966
Housing (Extension of Powers) (Jersey) Law 1969	L.6/1969	18 November 1970 (in force 28 March 1969 for the purpose of making Regulations)
Housing (Amendment No. 4) (Jersey) Law 1974	L.6/1974	Article 2(b) in force 6 February 1973; remainder in force 20 May 1974
Housing (Amendment No. 5) (Jersey) Law 1988	L.2/1989	10 February 1989
Housing (Amendment No. 6) (Jersey) Law 1991	L.20/1991	1 January 1992 (R&O.8300)
Loi (1991) sur la copropriété des immeubles bâtis	L.31/1991	relevant provision not in force
Housing (Amendment No. 7) (Jersey) Law 1993	L.10/1993	9 June 1993 (R&O.8548)
Housing (Amendment No. 8) (Jersey) Law 1996	L.1/1996	1 May 1996 (R&O.8918)
Loi (1996) sur l'hypothèque des biens-fonds incorporels	L.34/1996	6 December 1996
Criminal Procedure (Prescription of Offences) (Jersey) Law 1999	L.23/1999	23 July 1999
Housing (Amendment No. 9) (Jersey) Law 1999	L.32/1999	5 November 1999
Housing (Amendment No. 10) (Jersey) Law 2002	L.46/2002	13 December 2002
Housing (Amendment No. 11) (Jersey) Law 2004	L.15/2004	23 July 2004
States of Jersey (Amendments and Construction Provisions No. 9) (Jersey) Regulations 2005	R&O.49/2005	9 December 2005

Table of Renumbered Provisions

Original	Current
PART I	Part 1
2 (2)	spent, omitted from this revised edition
PART II	PART 2
4(2)	4(3)
PART IIA	PART 3
4A	5
4AA	6
4AB	7
4B	8
PART III	PART 4
5	9
6	10
(2)	sub-paragraph (e) repealed by L.6/1974
7	11
8	12
9	13
10	14
10A	15
10B	16
11	17
12 (1A)	18(2)
(1B)	(3)
(2)	(4)
(3)	(5)
(4)	(6)
13	19
14	20
(1A)	(2)
(1B)	(3)
(2)	(4)
(3), (4)	inserted by L.12/1966, repealed by L.23/1999
15	21
16	22
PART IV	PART 5
17	spent, omitted from this revised edition
18	23

Table of Endnote References

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- ¹ This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 9) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government
- ² Long title amended by L.10/1993
- ³ Article 1 amended by implication by L.6/1969, in which the power of control was extended to include power to control sales and leases “in order to ensure that sufficient land is available for the inhabitants of the Island”
- ⁴ definition of “land” substituted by L.20/1991
- ⁴ chapter 18.135
- Article 4(1) this reference was, in this revised edition and in exercise of the powers conferred upon the Law Revision Board, substituted for the reference to the Compulsory Purchase of Land (Procedure) (Jersey) Law 1948
- ⁵ Article 4(2) inserted by L.20/1991
- ⁶ Part 3 inserted by L.10/1993, heading amended by L.46/2002
- ⁷ Article 5 inserted by L.10/1993
- ⁸ this date is the commencement date of L.10/1993
- ⁹ Article 6 inserted by L.34/1996
- ¹⁰ chapter 18.360
- ¹¹ Article 7 inserted by L.46/2002
- ¹² Article 8 inserted by L.10/1993
- ¹³ Article 10(2) sub-paragraph (c) substituted by L.1/1996, former sub-paragraph amended by L.6/1974
- ¹⁴ Article 10(2) subparagraph (d) amended by L.6/1974
- ¹⁵ Article 10(3) inserted by L.6/1974
- ¹⁶ Article 12(1) amended by L.14/1950
- ¹⁷ Article 12(2) substituted by L.18/1949
- ¹⁸ Article 13 substituted by L.15/2004
- ¹⁹ Article 14 substituted by L.6/1969
- ²⁰ Article 14(1) amended by L.6/1974
- ²¹ chapter 18.315
- ²² Article 14(2) substituted by L.6/1974
- ²³ Article 14(3) amended by L.6/1974
- ²⁴ Article 15 inserted by L.32/1999
- ²⁵ chapter 05.850
- ²⁶ Article 16 inserted by L.15/2004
- ²⁷ Article 18(1) substituted by L.15/2004
- ²⁸ Article 18(2) inserted by L.15/2004
- ²⁹ Article 18(3) inserted by L.15/2004
- ³⁰ Article 19(2) amended by L.1/1996
- ³¹ Article 20(1) amended by L.18/1949, L.6/1974, L.2/1989, L.10/1993, L.1/1996
- ³² Article 20(2) inserted by L.10/1993
- ³³ Article 20(3) inserted by L.10/1993
- ³⁴ Article 21 amended by L.10/1993
- ³⁵ Article 22 amended by L.10/1993