

# The Residential Tenancy (Jersey) Law 2011

The Residential Tenancy (Jersey) Law 2011 ("the Law") which came into force on 1 May 2013 made important changes to the law governing residential tenancies in Jersey.

## Which agreements are affected?

The Law applies to any tenancy of a self-contained dwelling under agreements ("Agreements") which are for value and have a term of less than nine years, or no specified term, made on or after 1 May 2013. Any amendments or renewals of earlier Agreements will also be subject to the same requirements.

The distinction between a tenant and a licensee or lodger is maintained, so licences will be unaffected. However it remains important to remember that the Court will look to the substance of an agreement, rather than its label, when determining whether any particular agreement is a lease or a licence.

## What must standard agreements contain?

All Agreements must be in writing, signed by or on behalf of the parties, and the tenant must be given at least one working day to read the Agreement before having to sign it. A copy of the document must also be provided to the tenant as soon as possible after execution.

The Law provides that certain details, terms and provisions must be included in every agreement, and every variation and renewal thereof, and certain terms will be implied in to Agreements where they are omitted.

Schedule 1 of the Law provides that the details to be included are:

1. A description sufficient to identify the unit.
2. The commencement date and termination date. If there is no fixed termination date, this must be made clear.
3. The name of the landlord and business address of the landlord or managing agent.
4. The rent and frequency of payment.
5. The name of the person receiving the rent.
6. Details of any deposit or guarantee.
7. Rent review dates and terms (if any).
8. An inventory of the landlord's contents.

All Agreements must also include provision to the effect that:

1. The tenant can remove anything he has affixed to the unit, but subject to his making good any damage caused by such removal.
2. Where the landlord's consent is required under the Agreement, such consent must not be unreasonably delayed or withheld.
3. The tenant is not required to purchase any fixtures, fittings or movable property in the unit.
4. The tenant is not required to pay any premium or key money in respect of the unit.

These provisions will be deemed to form part of the Agreement even if not included, and they cannot be excluded. Any contractual provisions that are inconsistent with any provision will be void and it is an offence to attempt to defeat, evade or prevent the operation of the Law.

The Court has a discretion to vary or terminate an Agreement that is not in writing or does not contain the details required by Schedule 1. This discretion may also be exercised where the tenant was not given one working day to read the agreement.

The Law allows the Housing Minister to pass Orders on a variety of procedural details, including the use of a standard form of Agreement.

## What else did the Law cover?

The Law provided for procedures around receipts for deposits, the tenant's opportunity to review the agreement before signing, suspension of rent where the property is uninhabitable, and landlords will be liable for an offence if they prevent the tenant peacefully enjoying any part of the dwelling.

Where deposits are paid, landlords must provide receipts as soon as possible after payment is received. Although this is significantly less pro-tenant than the terms which had been sought by campaigners for tenants' rights, provision has been made for subordinate legislation to be passed to regulate deposit holding procedures more closely. The implementation of the Residential Tenancy (Deposit Scheme) (Jersey) Regulations 2014 establishing a framework for a compulsory system of

holding deposits is presently omitted.

### **Will landlords still be able to terminate agreements or evict difficult tenants?**

The Law replaced existing rules relating to termination of periodic leases. Landlords have to give not less than three months' written notice of termination and Tenants must give not less than one months' written notice. If both parties agree to end the tenancy there is no need to serve notice, but the decision is probably best covered in writing.

Termination on the basis of the tenant's breach can be ordered by the Court, but the landlord must serve notice of the breach on the tenant and give an opportunity to remedy that breach. The Court may not order termination if the breach is not sufficiently serious.

The Law also provides that the Court must consider certain points when considering a stay of eviction:

1. Whether any rent is outstanding.
2. Whether any party has breached the tenancy agreement.
3. Whether the party who committed the breach continued or repeated it, or took reasonable steps to remedy it.
4. Where the balance of hardship would lie as between the landlord and the tenant if a stay of eviction were ordered.

The Court may also look at the history of the tenancy, the availability of other accommodation to the tenant and any other factors it considers appropriate.

The Petty Debts Court has jurisdiction to deal with all disputes in relation to residential tenancy agreements, and may adjust the rights of the parties to an Agreement, terminate or otherwise vary an Agreement or associated contract.

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