

Island of



Guernsey

Ordinance of the States

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Made26th April, 2006

Coming into Operation26th April, 2006

The Real Property (Housing Schemes and Miscellaneous Provisions) (Guernsey) Ordinance, 2006

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THE STATES, in pursuance of their Resolutions of the 26th September, 2003^a and the 24th November, 2004^b, and in exercise of the powers conferred on them by sections 1 and 4 of the Real Property (Housing Schemes, Leaseholds and Miscellaneous Provisions) (Guernsey) Law, 2004^c and all other powers enabling them in that behalf, hereby order:-

Application of this Ordinance to partial ownership arrangements.

1. (1) The provisions of this Ordinance apply in relation to a partial ownership arrangement whereby a qualifying individual and a housing provider own real property made available under a housing scheme jointly in undivided shares.

(2) References in this Ordinance to "**the qualifying individual**", "**the housing provider**", "**the real property**" and "**the housing scheme**" are references to (respectively) the qualifying individual, housing provider, real property and housing scheme mentioned in subsection (1).

(3) In this Ordinance "**the original conveyance**" means a conveyance by a housing provider to a qualifying individual of an undivided share in real property for the purposes of a housing scheme.

Exclusion of "licitation".

2. If the original conveyance so provides, the right of licitation may not

^a Article XXI of Billet d'État No. XXI of 2003.

^b Article IV of Billet d'État No. XX of 2004.

^c Order in Council No. X of 2005.

be exercised in respect of the real property -

- (a) by the qualifying individual or the housing provider,
or
- (b) by any successor in title of the qualifying individual or
the housing provider.

Rules of housing scheme, etc, to run with the land.

3. If the original conveyance so provides -

- (a) the rules of the housing scheme are enforceable by the housing provider and its successors in title against any successor in title of the qualifying individual, and
- (b) any right of pre-emption and call option conferred on the housing provider in respect of the undivided share held by the qualifying individual, and any other covenant entered into by, or binding on, the qualifying individual in respect of that undivided share, is enforceable by the housing provider and its successors in title against any successor in title of the qualifying individual.

Restrictions on sale of share.

4. The undivided share held by the qualifying individual may not be conveyed or otherwise transferred, and may not at any time be held, except in accordance with the rules of the housing scheme.

Survival of power of attorney.

5. A power of attorney entered into by the qualifying individual which is expressed to appoint, irrevocably, the housing provider as his attorney for the purposes of the housing scheme is not terminated by his legal incapacity.

Specific performance of obligations.

6. (1) The Royal Court may, on the application of the housing provider or any successor in title thereof, grant an order of specific performance -

- (a) to enforce any rule of the housing scheme,
- (b) to enforce, against the qualifying individual or his successors in title -
 - (i) any right of pre-emption and any call option conferred on the housing provider, and
 - (ii) any other covenant entered into by, or binding on, the qualifying individual,

in respect of the undivided share held by the qualifying individual,

- (c) where the undivided share held by the qualifying individual is conveyed or otherwise transferred, or is at any time held, otherwise than in accordance with the rules of the housing scheme, to provide for the transfer of that undivided share to the housing provider or to any other person or body in accordance with those rules.

(2) Subsection (1)(a) and (b) has effect in respect of successors in title only if the original conveyance makes provision as mentioned in paragraph (a) or, as the case may be, paragraph (b) of section 3.

(3) Where the Royal Court makes an order of specific performance under subsection (1), it may also (whether at the same time or at any other time) -

- (a) make such ancillary orders as it thinks fit including, without limitation, orders as to the vesting of any interest in the real property, and
- (b) make the order, and any ancillary order, subject to such terms and conditions as it thinks fit.

(4) For the purpose of giving effect to an order of specific performance under subsection (1), and without prejudice to the generality of its powers under this section, the Royal Court may appoint Her Majesty's Sheriff as judicial attorney of the person subject to the order for the purpose of doing, by such attorney, anything that that person could do, including (without limitation) appearing before and giving any assent to the Conveyancing Court.

Power to share information.

7. The housing provider and any mortgagee of the qualifying individual's undivided share in the real property may, notwithstanding any statutory provision or rule of law to the contrary, provide the other with such information relating to the qualifying individual's affairs as may be specified in any agreement made between the individual and the housing provider or, as the case may be, the mortgagee.

Partial disapplication of Stay of Eviction Law.

8. For the purposes of the Stay of Eviction Laws, the qualifying individual shall, in respect of the real property occupied by him, and notwithstanding the payment of any monies in respect of the occupation by him of the undivided share in the real property which continues to be vested in the housing provider, be considered to be an occupier of that real property, and not a tenant or sub-tenant, and accordingly is not entitled to a stay of execution of any order for his eviction from the real property for a period exceeding 6 months.

Interpretation.

9. In this Ordinance -

"**housing provider**" includes the States and any other person or body approved by the States Housing Department (including, without limitation, the Guernsey Housing Association LBG) to provide or facilitate the provision of affordable housing for qualifying individuals for the purposes of a housing scheme,

"**housing scheme**" means a scheme the rules of which are laid down by a housing provider and approved by the States Housing Department, being a scheme whereby -

- (a) housing providers make available or otherwise facilitate the provision of affordable housing in Guernsey for qualifying individuals,
- (b) qualifying individuals may acquire that housing, whether by taking an estate of inheritance or a leasehold interest or otherwise, and whether by way of partial ownership, assisted purchase or otherwise,

(c) that housing may (but need not) be retained in a pool reserved by housing providers for qualifying individuals,

"mortgagee" means a person whose interest in the real property in question is secured by an entry in the Livre des Hypothèques, Actes de Cour et Obligations,

"original conveyance" : see section 1(3),

"partial ownership" means an arrangement whereby a qualifying individual and a housing provider own a property made available under a housing scheme jointly (whether in undivided shares or otherwise) or in any other way,

"qualifying individuals" means individuals of a class or description specified in the rules of a housing scheme,

"real property" includes immovable property,

"Royal Court" means the Royal Court sitting as an Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats,

"Stay of Eviction Laws" means the Law entitled "Law giving the Court increased power to stay execution in actions for eviction" of 1946^d and the Stay of Evictions (Amendment) Law, 1954^e,

^d Ordres en Conseil Vol. XII, p. 262.

^e Ordres en Conseil Vol. XVI, p. 41.

"**successor in title**", in relation to an owner of real property, means any person deriving title directly or indirectly from him, including (without limitation) any creditor who has acquired the interest of the owner, or of any successor in title of the owner, by virtue of an interim or final vesting order made in saisie proceedings.

(2) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

10. This Ordinance may be cited as the Real Property (Housing Schemes and Miscellaneous Provisions) (Guernsey) Ordinance, 2006.

Commencement.

11. This Ordinance shall come into force on the 26th April, 2006.