

ORDINANCE

OF THE STATES OF DELIBERATION

ENTITLED

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

[CONSOLIDATED TEXT]

NOTE

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* No. XIII of 2006 (Recueil d'Ordonnances Tome XXXI, p. 312); as amended by the: Real Property (Housing Schemes and Miscellaneous Provisions) (Guernsey) (Amendment) Ordinance, 2006 (No. XLV of 2006, Recueil d'Ordonnances Tome XXXI, p. 639); Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); Machinery of Government (Transfer of Functions) Ordinance, 2025 (No. ** of 2025).

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Provisions) (Guernsey) Ordinance, 2006**

ARRANGEMENT OF SECTIONS

1. Application of this Ordinance to partial ownership arrangements.
2. Exclusion of "licitation".
3. Rules of housing scheme, etc, to run with the land.
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(Made on the 26th April, 2006.)

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

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.

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.

Exclusion of "licitation".

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

[Application of Ordinance to leasehold arrangements.]

8A. (1) Sections 3 to 8 apply in relation to a leasehold arrangement as they apply in relation to a partial ownership arrangement described in section 1(1).

(2) A leasehold arrangement is one whereby –

- (a) a housing provider makes real property available for letting under a housing scheme,
- (b) pursuant to the scheme, a leasehold interest granted by the housing provider is held by a qualifying individual, and
- (c) the reversion immediately expectant on the term of that interest is vested in the housing provider or its successor in title.

(3) For the purposes of a leasehold arrangement, references in sections 3 to 8 –

- (a) to the qualifying individual, the housing provider, the real property and the housing scheme, are references to (respectively) the qualifying individual, the housing provider, the real property and the housing scheme mentioned in subsection (2),

- (b) to the original conveyance, are references to a leasehold interest granted by a housing provider to a qualifying individual for the purposes of a housing scheme,
- (c) to successors in title of the qualifying individual, are references to his assignees,
- (d) to the undivided share held by the housing provider or the qualifying individual, are references to their respective interests as reversioner and lessee,
- (e) to a mortgagee, include references to any person who has lent money to the qualifying individual to enable him to acquire the leasehold interest and which is secured in accordance with the terms of the housing scheme.

(4) In this section a "**leasehold interest**" means any interest in or in respect of real property which confers or vests rights of possession or enjoyment for a fixed term of 60 years or more and which, apart from the provisions of an Ordinance under section 2(b) of the Real Property (Housing Schemes, Leaseholds and Miscellaneous Provisions) (Guernsey) Law, 2004^{ca}, is treated by law as or is deemed to be personal or movable property.

For the avoidance of doubt, a "**leasehold interest**" does not include a periodic tenancy.]

NOTE

^{ca} Order in Council No. X of 2005.

Section 8A was inserted by the Real Property (Housing Schemes and Miscellaneous Provisions) (Guernsey) (Amendment) Ordinance, 2006, section 1, with effect from 25th October, 2006.

Interpretation.

9. In this Ordinance –

"housing provider" includes the States and any other person or body approved by the States [Committee for Housing] (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 [Committee for Housing], 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,

"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.

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

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

(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.

NOTE

In section 9, the words "Committee for Housing" in square brackets, wherever occurring, were substituted by the Machinery of Government (Transfer of Functions) Ordinance, 2025, section 2, with effect from 15th July, 2025.¹

The functions, rights and liabilities of the Committee for Employment & Social Security arising under this Ordinance were transferred to and vested in the Committee for Housing by the Machinery of Government (Transfer of Functions) Ordinance, 2025, section 1, Schedule 1, paragraph 5, with effect from 15th July, 2025, subject to the savings and transitional provisions in section 4 of the 2025 Ordinance.²

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.

¹ These words were previously substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 7(a), with effect from 1st May, 2016.

² The functions, rights and liabilities of the Committee for Employment & Social Security and its President or Vice-President arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Housing Department and its Minister or Deputy Minister by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 7(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.