

GUERNSEY STATUTORY INSTRUMENT

2018 No. 25

**The States Housing (Rent and Rebate Scheme)
(Guernsey) (Amendment) Regulations, 2018**

<i>Made</i>	12 th June, 2018
<i>Coming into operation</i>	6 th July, 2018
<i>Laid before the States</i>	, 2018

THE COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY, in exercise of the powers conferred on it by sections 3 and 5 of the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Amendment of the 2005 Regulations.

1. The States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005^b are amended as follows.

2. For regulation 3 (applications for rent rebate) substitute the following regulation –

^a Order in Council No. IV of 2005 as amended by Ordinance No. IX of 2016.

^b G.S.I. No. 7 of 2005 as amended by Order in Council No. IV of 2014; Ordinance No. VII of 2009; No. IX of 2016; G.S.I. No. 14 of 2006; No. X of 2007; No. 93 of 2008; No. 74 of 2009; No. 115 of 2010; No. 51 of 2011; No. 83 of 2013; No. 81 of 2014; No. 104 of 2015 and No. 58 of 2016.

"Pre-conditions for determination of applications.

3. (1) An application for rent rebate may only be determined by the Chief Officer under these regulations if it -

- (a) was made by or on behalf of a qualifying tenant to the Chief Officer in respect of the tenant's occupation of a qualifying property,
- (b) was received by the Chief Officer on or before 5th July, 2018, and
- (c) is not finally determined as at 6th July, 2018.

(2) For the avoidance of doubt, an application is not finally determined for the purposes of this regulation, where a decision or determination in relation to an application for rent rebate is quashed and remitted to the Chief Officer on an appeal under the States Housing (Tribunal and Appeals) (Guernsey) Regulations, 2005."

3. In regulation 4 (determination of applications) for paragraph (2) substitute the following paragraph -

"(2) The Chief Officer shall be under no obligation to consider an application for a rent rebate unless –

- (a) the application was made in a form approved by the Chief Officer for the purpose under these regulations as in force at the date the application was received and fully completed by or on behalf of the qualifying tenant, and

- (b) there is supplied with the application, or produced to the Chief Officer on request following receipt of the application, such information and evidence of the means and expenditure of the tenant and any other person, as may reasonably be required by the Chief Officer to determine the application."

4. For regulations 5 (eligibility for rebate) and 6 (amount of rebate) substitute the following regulations –

"Eligibility for rent rebate.

5. (1) A qualifying tenant is eligible for rent rebate if –

- (a) the tenant was eligible for rent rebate under these regulations as in force immediately before 6th July, 2018 or an application, which the Chief Officer may determine under regulation 3(1), has been received in respect of the tenant,
- (b) the requirements in paragraph (2) are met, and
- (c) the tenant is a disadvantaged person,

but subject to the provisos in paragraph (3).

(2) The requirements referred to in paragraph (1)(b) are –

- (a) that the tenant is eligible for and is paid income support so that -

- (i) the qualifying tenant, and
- (ii) any other person with whom the tenant's requirements are aggregated in accordance with paragraph 2(1) of the First Schedule to the Income Support Ordinance,

are persons, exempt from, acting or deemed to be acting in accordance with all work requirements relating to them for the purposes of section 1(1)(b) or (c) of the Income Support (Guernsey) Law, 1971, or

- (b) where the tenant is not eligible for and paid income support or is so eligible but not claiming it, the Chief Officer has determined that-

- (i) the qualifying tenant, and
- (ii) any other person with whom the tenant's requirements would be aggregated, in accordance with paragraph 2(1) of the First Schedule to the Income Support Ordinance,

would be persons exempt from, acting or deemed to be acting in accordance with all work requirements relating to them for the

purposes of section 1(1)(b) or (c) of the Income Support (Guernsey) Law, 1971, if the tenant were so eligible or claiming income support.

(3) The provisos referred to in paragraph (1) are that –

(a) the amount of rent rebate to which an eligible tenant is entitled is subject to a phased reduction in accordance with element D of the rent rebate formula set out in Part I or II of Schedule 3, and

(b) no tenant is eligible for rent rebate after 1st July, 2021.

(4) For the avoidance of doubt, a determination under paragraph (2)(b) is a determination of the Chief Officer relating to a rent and rebate scheme as referred to in subparagraph (a) of the definition of "relevant decision" in regulation 16 of the States Housing (Tribunal and Appeals) (Guernsey) Regulations, 2005.

Amount of rent rebate.

6. Subject to regulations 6A, 7 and 8, the amount of a rent rebate to which an eligible tenant is entitled shall be of such amount, determined by the Chief Officer, by which the tenant's Previous Benefits exceed the tenant's Current Benefits determined in accordance with the rent rebate formula set out in Part I of Schedule 3.

Review of amount of rent rebate.

6A. (1) The Chief Officer shall review the amount of rent rebate to which an eligible tenant is entitled, as determined under regulation 6 or paragraph (2), on each occasion that any of the following occur –

- (a) the eligible tenant or their partner –
- (i) starts remunerative work which is, or is deemed to be, full-time remunerative work for the purposes of section 1(1)(b) or (c) of the Income Support (Guernsey) Law, 1971 ("1971 Law"), or
 - (ii) starts remunerative work which is, or is deemed to be, in compliance with all work requirements relating to them for the purposes of section 1(1)(b) or (c) of the 1971 Law,

and "**full-time remunerative work**" has the meaning given by regulations under section 1 of the 1971 Law,

- (b) the eligible tenant ceases to reside in the qualifying property in respect of which rent rebate is paid and has moved into another qualifying property ("**subsequent property**") following the grant of a qualifying States tenancy in respect of the subsequent property,
- (c) another person, who is the partner of the eligible tenant, becomes a member of the same household in relation to the qualifying property in respect of which rent rebate is paid, and

(d) there is a change to the limit of weekly income, for the purposes of paragraph 3(1) of the First Schedule to the Income Support Ordinance, which affects the sum of income support payable to the eligible tenant in any week in accordance with that paragraph.

(2) The Chief Officer may review the amount of rent rebate to which an eligible tenant is entitled, as determined under regulation 6 or paragraph (3), if the Committee considers that any other significant change has occurred in the eligible tenant's circumstances such that it would be just and equitable to review the amount of rent rebate payable.

(3) Subject to regulations 7 and 8, the amount of a rent rebate to which an eligible tenant is entitled, following a review, shall be of such amount, determined by the Chief Officer, by which the tenant's Previous Benefits exceed the tenant's Current Benefits determined in accordance with the rent rebate formula set out in Part II of Schedule 3.

(4) For the avoidance of doubt, the amount of rent rebate to which an eligible tenant is entitled may increase or decrease on a determination under this section.

(5) For the purposes of this regulation, a partner of the eligible tenant is a member of the same household if –

(a) where the tenant is eligible for and paid income support, the partner is a member of the same household with whom the tenant's requirements are aggregated in accordance

with paragraph 2(1) of the First Schedule to the Income Support Ordinance, or

- (b) where the tenant is not eligible for and paid income support or the tenant is so eligible but is not claiming it, the Administrator has determined that the partner would be a member of the same household with whom the tenant's requirements would be aggregated in accordance with paragraph 2(1) of the First Schedule to the Income Support Ordinance if the tenant were so eligible or claiming income support."

5. In Regulations 7 (entitlement to rebate for one qualifying property only), 8 (suspension of entitlement to and reduction in amount of rebate) and 9 (payment of rebate) –

- (a) omit the phrases ", or a qualifying tenant treated as such," ", or a qualified tenant treated as such," and ", or of a qualifying tenant treated as such," wherever occurring, and
- (b) for each reference to "regulation 6" substitute "regulation 6 or 6A".

6. In Regulation 10(1)(b) (special rebate payment), after "such period" insert "on or before 1st July, 2021".

7. In Regulation 18 (interpretation) –

- (a) insert the following definitions in the appropriate places –

""**Current Benefits**" means income support under the Income Support Ordinance,"

""**disadvantaged person**" means a person whose Previous Benefits would exceed their Current Benefits by more than £10 per week when applied to their circumstances as at 6th July, 2018,"

""**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,"

""**Income Support Ordinance**" means the Income Support (Implementation) Ordinance, 1971,"

""**Previous Benefits**" means–

- (a) supplementary benefit under the Supplementary Benefit (Implementation) Ordinance, 1971, and

- (b) rent rebate under these Regulations,

as in force immediately before 6th July, 2018,

""subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,".

(b) the definitions of "benefit", "child", "child care allowance", "the child of a tenant", "couple", "dependent child allowance", "net weekly assessed income", "relevant tariff" and "weekly assessed rent" are revoked, and

(c) after paragraph (1) add the following paragraph –

"(1A) In these Regulations references to "eligible for income support" are construed in accordance with section 1 of the Income Support (Guernsey) Law, 1971 and "work requirements" has the meaning in section 1(3) of that Law.".

8. The titles to the First Schedule and Second Schedule are substituted as follows –

(a) for the "FIRST SCHEDULE" substitute "SCHEDULE 1", and

(b) for the "SECOND SCHEDULE" substitute "SCHEDULE 2",

and for each reference to "the First Schedule" and "the Second Schedule", wherever occurring in the Regulations, substitute "Schedule 1" and "Schedule 2" respectively.

9. In the renumbered Schedule 1 (States rental formula), for the reference to "Regulation 1(2)(a)" adjacent to the heading to the Schedule, substitute "Regulation 1(1)".

10. In paragraph 6 of the renumbered Schedule 2 (disregarded periods of non-residence), before "for such period" insert "and".

11. For the Third Schedule (weekly assessed rent), including the Appendix to the Third Schedule, substitute the Schedule 3 set out in the Schedule to this Ordinance.

Interpretation.

12. (1) In these Regulations, unless the context requires otherwise –

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation, and

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance.

(2) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of these Regulations.

^c Ordres en Conseil Vol. XIII, p. 355.

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

Citation and commencement.

13. These Regulations may be cited as the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018 and shall come into force on the 6th July, 2018.

Dated this 12th day of June, 2018

A handwritten signature in black ink, appearing to read 'M. K. Le Clerc', with a long horizontal stroke extending to the right.

M. K. Le Clerc

President of the States Committee for Employment & Social Security
For and on behalf of the Committee

SCHEDULE

Regulation 11

"SCHEDULE 3

Regulations 6 and 6A

RENT REBATE FORMULA

PART I

RENT REBATE FORMULA FOR PURPOSES OF A DETERMINATION UNDER
REGULATION 6

The rent rebate of a qualifying tenant per week shall be determined under regulation 6 by means of the application of the following formula to the tenant's circumstances as at 6th July, 2018 –

$$R = ((A + B) - C) - D$$

Where –

"A" is the amount of supplementary benefit to which the qualifying tenant was entitled per week under the Supplementary Benefit (Implementation) Ordinance, 1971 as in force immediately before 6th July, 2018,

"B" is the amount of rent rebate to which the qualifying tenant was entitled per week under these Regulations as in force immediately before 6th July, 2018,

"C" is the amount of income support to which the qualifying tenant is entitled per week on 6th July, 2018 under the Income Support Ordinance,

"D" is –

- (a) £10 per week on and from 6th July, 2018 until the 3rd January, 2019,
- (b) £20 per week on and from 4th January, 2019 until the 4th July, 2019,
- (c) £30 per week on and from 5th July, 2019 until the 2nd January, 2020,

- (d) £40 per week on and from 3rd January, 2020 until the 2nd July, 2020,
- (e) £50 per week on and from 3rd July, 2020 until the 31st December, 2020, and
- (f) £60 per week on and from 1st January, 2021 until the 1st July, 2021, and

"R" is the amount of the rent rebate to which the qualifying tenant is entitled per week.

PART II

RENT REBATE FORMULA FOR PURPOSES OF A DETERMINATION FOLLOWING A REVIEW UNDER REGULATION 6A

The rent rebate of a qualifying tenant per week shall be determined under regulation 6A(3) by means of the application of the following formula to the tenant's circumstances as at the relevant date –

$$R = ((A + B) - C) - D$$

Where –

"A" is the amount of supplementary benefit to which the qualifying tenant would have been entitled per week under the Supplementary Benefit (Implementation) Ordinance, 1971 as in force immediately before 6th July, 2018,

"B" is the amount of rent rebate to which the qualifying tenant would have been entitled per week under these Regulations as in force immediately before 6th July, 2018,

"C" is the amount of income support to which the qualifying tenant is entitled per week, under the Income Support Ordinance,

"D" is –

- (a) £10 per week on and from 6th July, 2018 until the 3rd January, 2019,
- (b) £20 per week on and from 4th January, 2019 until the 4th July, 2019,
- (c) £30 per week on and from 5th July, 2019 until the 2nd January, 2020,
- (d) £40 per week on and from 3rd January, 2020 until the 2nd July, 2020,
- (e) £50 per week on and from 3rd July, 2020 until the 31st December, 2020, and
- (f) £60 per week on and from 1st January, 2021 until the 1st July, 2021, and

"R" is the amount of the rent rebate to which the qualifying tenant is entitled per week.

In this Part, "**the relevant date**" means, in the case of a review under –

- (a) regulation 6A(1)(a), the date the eligible tenant or their partner starts the remunerative work,
- (b) regulation 6A(1)(b), the date of the commencement of the qualifying States tenancy in respect of the subsequent property,
- (c) regulation 6A(1)(c), the date –

- (i) where the eligible tenant is eligible for and paid income support, on which the tenant's requirements are first aggregated with those of the partner in accordance with paragraph 2(1) of the First Schedule to the Income Support Ordinance, or
- (ii) where the eligible tenant is not eligible for and paid income support or the tenant is so eligible but is not claiming it, of the determination of the Administrator that the partner would be a member of the same household with whom the tenant's requirements would be aggregated in accordance with paragraph 2(1) of the First Schedule to the Income Support Ordinance if the tenant were so eligible or claiming income support,
- (d) regulation 6A(1)(d), the date of the change to the limit of weekly income for the purposes of paragraph 3(1) of the First Schedule to the Income Support Ordinance, and
- (e) regulation 6A(2), the date the relevant significant change first occurs,

and the terms and expressions used in items (a) to (e) shall be construed in accordance with regulation 6A."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005 ("2005 Regulations") to provide for a new rent rebate scheme. The new scheme is a transitional one providing for payments of rent rebate to those States Housing tenants most detrimentally affected by the phasing out of rent rebate, for a maximum of 3 years up to 1st July 2021, with interim phased reductions of rebate.

Regulations 2 to 4 largely substitute the current provisions relating to applications for rent rebate, eligibility for the same and the amount of rebate to which a tenant is entitled.

As rent rebate is being phased out, there is no provision for new applications for rebate so that the application provisions apply only to those applications for rent rebate which have been made (but not finally determined) when these Regulations come into force (see the provisions inserted by regulations 2 and 3). However, tenants who have not applied for rent rebate by that date may make a claim for income support (former supplementary benefit).

Conditions for eligibility for rent rebate are changed so that only those States Housing tenants who will receive less income support than the previous supplementary benefit and rent rebate (the benefit changes) may be eligible for rent rebate. In addition, the tenant and any partner living in their household must meet work requirements under Income Support legislation to be eligible irrespective of whether or not the tenant is claiming income support (see new regulation 5 inserted by regulation 4).

The amount of weekly rent rebate to which a tenant is entitled is based on the amount by which the tenant is detrimentally affected by the benefit changes, applied to their circumstances when these Regulations come into force on 6th July, 2018 and determined in accordance with the rent rebate formula set out in the new Schedule 3 (see the new Regulation 6 inserted by regulation 4 and Part I of the Schedule to these Regulations).

There is a duty to review the amount of rent rebate to which a tenant is entitled if any of the events set out in new inserted regulation 6A(1) occur; these events are significant changes which may affect financial and other relevant circumstances. There is also a power for the amount of rent rebate to be reviewed in specified circumstances (inserted regulation 6A(2)). The amount of weekly rent rebate to which a tenant is entitled on a review is determined on the same basis as the original determination or a previous review except that it is based on the tenant's circumstances as at the date of the relevant change of circumstances to which the review relates (see inserted regulation 6A(3) and Part II of the Schedule to these Regulations).

These Regulations also make consequential and minor amendments to other parts of the 2005 Regulations (see regulations 5 to 11).

These Regulations come into force on the 6th day of July, 2018.