

GUERNSEY STATUTORY INSTRUMENT

ENTITLED

The States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005 *

[CONSOLIDATED TEXT]

NOTE

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* G.S.I. No. 7 of 2005; as amended by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013 (No. IV of 2014); the Income Support (Guernsey) Law, 2017 (No. IV of 2018); the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009 (No. VII of 2009, Recueil d'Ordonnances Tome XXXIII, p. 472); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018 (No. XXVII of 2018); the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2006 (G.S.I. No. 14 of 2006); the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2007 (G.S.I. No. 10 of 2007); the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2008 (G.S.I. No. 93 of 2008); the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2009 (G.S.I. No. 74 of 2009); the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2010 (G.S.I. No. 115 of 2010); the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2011 (G.S.I. No. 51 of 2011); the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2013 (G.S.I. No. 83 of 2013); the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2014 (G.S.I. No. 81 of 2014); the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2015 (G.S.I. No. 104 of 2015); the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2016 (G.S.I. No. 58 of 2016); the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018 (G.S.I. No. 25 of 2018). See also the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010). These Regulations have been revoked by the States Housing (Statutory Tenancies) (Guernsey) (Amendment) Regulations, 2021 (G.S.I. No. 154 of 2021).

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The States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005

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(Made on 3rd May, 2005.)

The States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005

THE HOUSING DEPARTMENT, in exercise of the powers conferred on it by section 3(1) 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: –

PART I

RENTS FOR QUALIFYING STATES TENANCIES

Method of determination of standard weekly rent for qualifying States tenancy.

1. (1) The standard weekly rent payable in respect of the occupation of a property under the terms and conditions of a qualifying States tenancy shall be determined by the [Committee], with reference to and, in accordance with the States Rental Formula set out in [Schedule 1].

(2) The [Committee] shall publish at least once in each year, in such manner as it thinks fit, a statement containing details of the variable elements of the States Rental Formula.

NOTES

In regulation 1,

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016;

^a Order in Council No. IV of 2005.

the word and figure in the second pair of square brackets in paragraph (1) were substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 8, with effect from 6th July, 2018.

Obligation to review.

2. The [Committee] shall, at least once during each successive period of 5 years (the first of such periods commencing upon the coming into force of these regulations) –

- (a) review the operation of –
 - (i) the States Rental Formula, and
 - (ii) such other aspects of the rent and rebate scheme established under these regulations as it thinks fit, and
- (b) report its findings to the States, together with any recommendations the [Committee] thinks fit.

NOTE

In regulation 2, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

PART II
REBATES

Applications for rebate

[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.]

NOTE

Regulation 3 was substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 2, with effect from 6th July, 2018.

Determination of applications.

4. (1) An application for a rent rebate shall be considered and

determined by the Chief Officer in accordance with the provisions of these regulations.

[(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.]

(3) For the avoidance of doubt and without limiting the power of the Chief Officer under paragraph (2)(b), evidence of means and expenditure includes documents such as bank statements, wage slips and returns and assessments submitted to or issued by the [Director of the Revenue Service] referred to in section 205 of the Income Tax (Guernsey) Law, 1975^b.

NOTES

In regulation 4,

paragraph (2) was substituted by the States Housing (Rent and

^b Ordres en Conseil Vol. XXV, p. 124.

Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 3, with effect from 6th July, 2018;

the words in square brackets in paragraph (3) were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹

Eligibility for, amount and payment of rebate

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.]

NOTE

Regulation 5 was substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 4, with effect from 6th July, 2018.

[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.]

NOTE

Regulation 6 was substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 4, with effect from 6th July, 2018.

[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.]

NOTE

Regulation 6A was inserted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 4, with effect from 6th July, 2018.

Entitlement to rebate for one qualifying property only.

7. (1) The entitlement of an eligible tenant[...] under [regulation 6 or 6A] is limited to his occupation as the tenant of one qualifying property only.

(2) Where the entitlement of an eligible tenant[...] under [regulation 6 or 6A], save for the provisions of paragraph (1) of this regulation, would arise in relation to more than one qualifying property, the [Committee] may determine the qualifying property in respect of which entitlement shall arise.

NOTES

In regulation 7,

first, the words omitted in the first pairs of square brackets in paragraph (a) and paragraph (2) were revoked and, second, the words "regulation 6 or 6A" in square brackets, wherever occurring, were substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 5, respectively paragraph (a) and paragraph (b), with effect from 6th July, 2018;

the word in the third pair of square brackets in paragraph (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Suspension of entitlement to and reduction in amount of rebate.

8. (1) The Chief Officer may –
- (a) suspend or revoke the entitlement of an eligible tenant[...] under [regulation 6 or 6A], or
 - (b) reduce the amount of rent rebate to which such a person is entitled for such period as he may think fit,

in any of the circumstances indicated in paragraphs (3)(a) to (e).

(2) The Chief Officer may revoke a suspension or reduction under paragraph (1) at any time and with retroactive effect.

(3) The circumstances for the purposes of paragraph (1) are –

- (a) where the tenant is in material breach of any of the terms and conditions of the statutory tenancy or tenancy agreement relating to the occupation of the qualifying property,
- (b) where the tenant unreasonably refuses an offer, made by the [Committee] or an approved landlord, of the grant of a tenancy in respect of a qualifying property (other than that in which he resides) which is adequate for the tenant's circumstances,
- (c) where, in the case of a tenant under a qualifying States tenancy, the tenant fails to deliver to the [Committee], a housing needs declaration, within such period as the

Chief Officer may reasonably require,

- (d) where the tenant ceases to reside in the qualifying property, in respect of which entitlement to a rent rebate arises, otherwise than in the circumstances and for the periods of time described in [Schedule 2], and
- (e) where the tenant has, or appears to the Chief Officer to have, obtained the benefit of a rent rebate by fraudulent means.

NOTES

In regulation 8,

the words omitted in the first and the words in the second pairs of square brackets in paragraph (1)(a) were, respectively, revoked and substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 5, paragraph (a) and paragraph (b), with effect from 6th July, 2018;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016;

the word and figure in the second pair of square brackets in paragraph (1) were substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 8, with effect from 6th July, 2018.

Payment of rebate.

9. A rent rebate to which an eligible tenant[...] is entitled under [regulation 6 or 6A], may be paid or applied as the Chief Officer thinks fit, including, without limiting the power of the officer, in the following ways –

- (a) in the case of a tenant under a qualifying States

tenancy, by setting off the payment against the amount of rent due from the tenant, or

- (b) by payment to the landlord of the tenant, on the basis that the payment is applied by the landlord against the amount of rent due from the tenant.

NOTE

In regulation 9, the words omitted in the first and the words in the second pairs of square brackets were, respectively, revoked and substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 5, paragraph (a) and paragraph (b), with effect from 6th July, 2018.

Special rebate payment.

10. (1) Irrespective of the other provisions of Parts I and II, where the Chief Officer is satisfied that exceptional circumstances exist in relation to any qualifying tenant, he may determine that a special rebate payment is paid –

- (a) in such manner,
- (b) for, or in respect of, such period [on or before 1st July, 2021] (commencing no more than 12 months prior to the date upon which the Chief Officer has satisfied himself that such exceptional circumstances do exist), and
- (c) subject to such conditions,

as he thinks fit.

(2) The Chief Officer may vary or revoke a determination under paragraph (1) at any time.

NOTE

In regulation 10, the words in square brackets were substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 6, with effect from 6th July, 2018.

**PART III
OFFENCES**

Failure to notify change in circumstances.

11. (1) An eligible tenant who, without reasonable excuse, fails to inform the Chief Officer or any other member of the [Committee] of any change in the tenant's circumstances which would effect –

- (a) his eligibility for a rent rebate, or
- (b) the amount of any rebate to which he is entitled,

within 7 days of the occurrence of the change, is guilty of an offence.

(2) A person who is guilty of an offence under paragraph (1) is liable –

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

NOTE

In regulation 11, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Making a false statement.

12. (1) A person who, for the purpose of obtaining a rent rebate under any provision of these regulations, whether for himself or some other person, or for any other purpose connected with these regulations –

- (a) knowingly makes a false statement or false representation, or
- (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

is guilty of an offence.

(2) A person who is guilty of an offence under paragraph (1) is liable –

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(3) Nothing in this regulation shall prevent the [Committee] from

recovering by civil proceedings any sums due to the States.

NOTE

In regulation 12, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

PART IV
MISCELLANEOUS

Recovery of overpayments.

13. Any rent rebate paid or applied by the [Committee] under these regulations to or on behalf of a tenant in circumstances where the tenant has no entitlement to that rebate, may be recovered from the tenant by the [Committee] as a civil debt due to the States from the tenant.

NOTE

In regulation 13, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Delegation of functions.

14. (1) The [Committee] or the Chief Officer may, by an instrument in writing, either generally or otherwise as specified in the instrument, arrange for any of its or his functions under these regulations to be carried out in its or his name by any person named or described in the instrument.

(2) A function carried out by a delegate pursuant to an arrangement made under this paragraph is for all purposes carried out by the [Committee] or the Chief Officer as the case may be; and every decision taken or

other thing done by a delegate pursuant to such an arrangement has the same effect as if taken or done by the [Committee] or the Chief Officer.

(3) An arrangement made under this paragraph for the carrying out of a function by a delegate –

- (a) may be varied or terminated at any time by the [Committee] or Chief Officer, as the case may be, but without prejudice to anything done pursuant to the arrangement or to the making of a new arrangement, and
- (b) does not prevent the carrying out of the function by the [Committee] or the Chief Officer while the arrangement subsists.

NOTE

In regulation 14, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Decisions etc. to be recorded in writing.

15. A decision or determination relating to a qualifying tenant made by the [Committee], or the Chief Officer, under these regulations and the reasons for that decision or determination –

- (a) shall be recorded in writing, and
- (b) as soon as reasonably practicable thereafter, a notice of the written decision or determination and reasons, shall

be served upon the tenant.

NOTE

In regulation 15, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Service of documents.

16. (1) A notice under regulation 15(b) shall be validly served, or deemed to be validly served, for the purposes of these regulations, if the document constituting the notice –

- (a) is handed to the tenant,
- (b) is handed to an adult member of the tenant's household,
- (c) is handed to a reliable adult who undertakes to bring the notice to the attention of the tenant, or
- (d) is sent by post or transmitted to the tenant's usual or last known place of abode.

(2) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of these regulations to have been received on the third day after the day of posting any non-business day within the meaning of section 1(1) of the Bills of Exchange (Guernsey) Law, 1958, as amended^c.

(3) Service of any document sent by post shall be proved by

^c Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84; No. XI of 1993; and No. XIV of 1994.

showing the date of posting, the address thereon and the fact of prepayment.

- (4) For the purposes of this regulation, the expressions –
- (a) **"by post"** means by registered post, recorded delivery service or ordinary letter post, and
 - (b) **"transmitted"** means transmitted by electronic communication, facsimile transmission or other similar means which produce a document containing the text of the communication: in which event the document shall be regarded as served when it is received.

PART V
INTERPRETATION & GENERAL PROVISIONS

References to tenant.

17. For the avoidance of doubt, and unless the context requires otherwise, any reference in these regulations to a tenant includes all individuals who are joint tenants in respect of the property to which the tenancy relates.

Interpretation.

18. (1) In these regulations, unless the context requires otherwise –

"approved landlord" means a landlord approved by the [Committee],

[...]

"Chief Officer" means the Chief Officer of the [Committee],

[...]

[...]

[...]

"co-habitee" means a person who is living with a person to whom he is not married, in a relationship which is, or is deemed by the Chief Officer to be, equivalent to the relationship of husband and wife and irrespective of whether or not the person is of the same or the opposite sex,

[...]

"[Committee]" means the [Committee for Employment & Social Security],

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

[...]

"determined" means as determined by the Chief Officer,

[**"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,]

"document" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production, however expressed, include references to the production of a copy of the information in legible form,

"eligible tenant" means a qualifying tenant who is eligible for a rent rebate under regulation 5,

[**"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,]

"housing needs declaration" means a declaration of the financial resources of a tenant, the composition of his household and the financial resources of the members of his household in such form as the Chief Officer may determine,

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

"Law" means the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004,

[...]

"partner" means a husband, wife or co-habitee,

[**"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,]

"qualifying property" means a property in respect of which there

exists a qualifying States tenancy and any other property or class thereof prescribed in writing by the [Committee],

"qualifying States tenancy" means a statutory tenancy and any States housing tenancy or class thereof prescribed in writing by the [Committee],

"qualifying tenant" means a tenant under a qualifying States tenancy and any other tenant or class thereof prescribed in writing by the [Committee] and includes a person who is likely to become such a tenant,

"reinstatement value" in relation to a property means the amount, as determined by the Chief Officer, needed to reinstate the property to its original dimensions and design in the event of its total destruction, using the most suitable up to date materials and methods of construction,

[...]

"rent rebate" means a rent rebate payable under these regulations,

"standard weekly rent" means, the weekly rent payable in respect of a qualifying States tenancy in accordance with the provisions of regulation 1,

"States housing tenancy" means any tenancy agreement existing between a tenant and the States (acting by and through the [Committee]) which relates to the occupation of States residential property and, for the avoidance of doubt, excludes a statutory tenancy,

"States Rental Formula" means the formula described in regulation 1 and [Schedule 1],

"States residential property" means any residential property an

estate of inheritance of which is vested in the States (or in which the States has any other form of property right enabling it to grant or create a States housing tenancy or a statutory tenancy),

"statutory tenancy" means a tenancy which exists in respect of a property by virtue of section 2(2) of the Law where a person is permitted by the States (acting by and through the [Committee]) to occupy any States residential property on terms and conditions prescribed by regulations of the [Committee] under section 2(1)(a) of the Law,

"statutory tenant" means a person who occupies a States residential property under a statutory tenancy and who is the statutory tenant by virtue of regulations under section 2 of the Law,

[**"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,]

"surcharged rent" means a rent payable in respect of a States Housing Tenancy on or before 6th May, 2005 and the amount of which is, or was, established specifically by reference to the earnings of the tenant, such that it exceeded that which would ordinarily be payable if the tenant had no earnings,

[...]

"weekly rent" means –

- (a) in the case of a qualifying States tenancy, the standard weekly rent payable, and

- (b) in the case of any other tenancy or class thereof, the weekly rent payable, as approved by the [Committee].

[(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.]

(2) Any reference in these regulations to an enactment is a reference thereto as from time to time amended, replaced or re-enacted (in either case, with or without modification), extended or applied.

(3) The provisions of the Interpretation (Guernsey) Law, 1948^d apply to the interpretation of these regulations as they apply to the interpretation of a Guernsey enactment.

NOTES

In regulation 18,

the words in, first, the first and, second, the second pairs of square brackets in the definition of the expression "Committee" and, third, the word "Committee" in square brackets, wherever else occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 4, section 2, Schedule 1, paragraph 7(a) and section 4, and section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016;

first, the words omitted in square brackets, wherever occurring in paragraph (1), were revoked, second, the definitions of the expressions "Current Benefits", "disadvantaged person", "enactment", "Income Support Ordinance", "Previous Benefits" and "subordinate legislation" in paragraph (1) were inserted and, third, paragraph (1A) was inserted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 7, respectively paragraph (b), paragraph (a) and paragraph (c), with effect from 6th July, 2018;

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

the word and figure in the definition of the expression "States Rental Formula" in paragraph (1) were substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 8, with effect from 6th July, 2018.

The functions, rights and liabilities of the Housing Department and of its Minister or Deputy Minister arising under or by virtue of these Regulations were transferred to and vested in, respectively, the Committee for Employment & Social Security and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 7(a) and section 4, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Citation.

19. These regulations may be cited as the States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005.

Commencement.

20. These regulations shall come into force on the 7th May, 2005.

STATES RENTAL FORMULA

The formula for determining the standard weekly rent payable in respect of the occupation of a property under the terms and conditions of a qualifying States tenancy is –

$$\text{SWR} = \frac{(\text{A} + \text{B} + \text{C} + \text{D}) \times [103.70\%]}{52}$$

52

Where –

"SWR" (subject to the proviso indicated below) is the standard weekly rent payable,

"A" is an amount equivalent to [one sixtieth] of the reinstatement value of the property which is the subject of the tenancy,

"B" is such amount as the [Committee] may determine as representing an appropriate share of the estimated annual costs of administration of all properties in respect of which a qualifying States tenancy is in existence, or could be granted, during the year in question (adjusted, if necessary, in order to take into account any actual costs incurred during any prior period),

"C" is such amount as the [Committee] may determine as representing an appropriate share of the estimated annual costs of [...] repairs carried out or likely to be carried out on all properties in respect of which a qualifying States tenancy is in existence, or could be granted, during the year in question (adjusted, if necessary, in order to take into account any actual costs incurred during any prior period), and

["D" is an amount equivalent to 1% of the reinstatement value of the property which is the subject of this tenancy (this element of the formula being designed to represent a nominal cost to the [Committee] of modernising the property).]

PROVIDED ALWAYS THAT where the person responsible in law for payment of the standard weekly rent in respect of the relevant property is, at the time in question, the person who was responsible for payment of the weekly rent payable in respect of that property, or another States residential property, on 6th May, 2005, the standard weekly rent shall be –

- (a) in respect of the period from 7th May, 2005 to [5th May], 2006, the lesser of –
 - (i) the amount resulting from the application of the above formula, or
 - (ii) the amount of weekly rent (and, for the avoidance of doubt, "**weekly rent**" in this context includes a surcharged rent) payable in respect of the property on 6th May, 2005 plus £20,
- (b) in respect of the period from [6th May], 2006 to [4th May], 2007, the lesser of –
 - (i) the amount resulting from the application of the above formula, or
 - (ii) the amount of weekly rent (and, for the avoidance of doubt, "**weekly rent**" in this

context includes a surcharged rent) payable in respect of the property on 6th May, 2005, adjusted in such manner as the [Committee] thinks fit, in order to take account of any increase in the amount of rent that would have been payable had these Regulations never been made, plus £40, and

- (c) from [5th May], 2007 and thereafter, the amount resulting from the application of the above formula.

NOTES

In Schedule 1,

the word and figure "Schedule 1" and the reference to "Regulation 1(1) "were substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, respectively regulation 8 and regulation 9, with effect from 6th July, 2018;

the figures in square brackets in the States Rental Formula were substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2016, regulation 1(a), with effect from 31st December, 2016;²

the words in square brackets in the definition of the expression "A" were substituted, the word omitted in square brackets in the definition of the expression "C" was revoked and the definition of the expression "D" was substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2009, regulation 1(a)(ii), regulation 1(a)(iii) and regulation 1(a)(iv), with effect from 2nd January, 2010;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016;

the words and figures in square brackets in paragraph (a), paragraph (b) and paragraph (c) of the proviso to the States Rental Formula were substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2006, respectively regulation 1(b)(i), regulation 1(b)(ii) and regulation 1(b)(iii), with effect from 6th May, 2006.

REPEALED

DISREGARDED PERIODS OF NON-RESIDENCE

Holidays.

1. Non-residence for an aggregate duration of less than 6 weeks in any period of 12 months for the purposes of holidays taken outside Guernsey.

Hospital treatment.

2. Non-residence for such period as the [Committee] may determine, for the purpose of obtaining treatment for illness at a hospital or similar institution, where the [Committee] is satisfied that the obtaining of the treatment is reasonably necessary in the circumstances.

Visiting or accompanying partner etc. for treatment.

3. Non-residence for such period as the [Committee] may determine, for the purpose of visiting or accompanying a partner, parent, son, daughter or other close relative who is obtaining treatment for illness at a hospital or similar institution, where the [Committee] is satisfied that the obtaining of the treatment is reasonably necessary in the circumstances.

Caring for partner etc.

4. Non-residence for such period as the [Committee] may determine, for the purpose of caring for a partner, parent, son, daughter or other close relative, where the [Committee] is satisfied that the undertaking of such care is reasonably necessary in the circumstances.

Serving of sentence of imprisonment.

5. Non-residence for such period as the [Committee] may determine, for the purpose of serving any term of imprisonment.

Other absences at the discretion of the Chief Officer.

6. Non-residence for such purposes, other than those described in paragraphs 1 to 5, [and] for such period as the Chief Officer may determine as reasonable in the circumstances of the particular case.

NOTES

In Schedule 2,

the word and figure "Schedule 2" and the word in square brackets in paragraph 6 were, respectively, substituted and inserted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 8 and regulation 10, with effect from 6th July, 2018;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 1, with effect from 4th January, 2010, the references in this Schedule to "parent" shall mean, in relation to a child and subject to the conditions in paragraph (a) and (b) of subsection (1) and the exceptions in paragraph (a) and (b) of subsection (2) of that section, a father or mother who has parental responsibility in respect of the child.

[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 31st January, 2020 until the 2nd July, 2020,
- (e) £50 per week on and from 31st 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.]

NOTE

Schedule 3 was substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, regulation 11, with effect from 6th July, 2018.³

REPEALED

EXPLANATORY NOTE

*(This note is not part of the Regulations)***

These regulations make practical provision for the implementation of a rent and rent rebate scheme in respect of qualifying States tenancies and qualifying tenants under the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004.

Part I of the regulations contains 2 regulations relating to rents for qualifying states tenancies. Regulation 1 prescribes the method for determination of the standard weekly rent for a qualifying States tenancy, by reference to a formula known as the "States Rental Formula", which is set out in the First Schedule to the regulations. Regulation 2 places an obligation upon the Housing Department to review, at least once in every 5 years, the operation of the States Rental Formula, and such other aspects of the rent and rebate scheme established under the regulations as it thinks fit, and report its findings to the States.

Part II contains provisions concerning the rebate scheme, including applications for rent rebate (regulation 3), determination of applications by the Chief Officer of the Housing Department (regulation 4), eligibility for rebate (regulation 5) and the amount of rebate to which an eligible tenant is entitled (regulation 6). Other regulations under this Part provide that entitlement to rebate is limited to occupation by an eligible tenant of one qualifying property only (regulation 7), prescribe the circumstances in which entitlement to rebate may be suspended, revoked or reduced (regulation 8), deal with the payment of rebate (regulation 9) and provide for discretionary payment of special rebate payments.

Part III deals with offences such as, for example, the making of a fraudulent statement for the purposes of claiming a rebate (regulation 12).

Part IV consists of miscellaneous matters, including the recovery of overpayments (regulation 13), the delegation of functions, under the regulations, exercisable by the Department or the Chief Officer (regulation 14), the requirement for decisions of the Department, or the Chief Officer, under the regulations to be recorded in writing and a notice of the decision served upon the tenant (regulation 15) and the service of documents (regulation 16).

Part V comprises the interpretation and general provisions. Under regulation 20, the regulations come into force on 7 May 2005.

¹ These words were previously substituted by the Administrator of Income Tax

** The text of this Explanatory Note is as it was when the Statutory Instrument was first made – that is to say that the Explanatory Note has not been updated to take account of any changes made by subsequent amending Statutory Instruments with their own Explanatory Notes.

(Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

² These figures were previously substituted by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2006, regulation 1(a), with effect from 6th May, 2006; the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2009, regulation 1(a)(i), with effect from 2nd January, 2010; the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2010, regulation 1(a), with effect from 1st January, 2011; the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2011, regulation 1(a), with effect from 31st December, 2011; the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2013, regulation 1(a), with effect from 28th December, 2013; the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2014, regulation 1(a), with effect from 27th December, 2014; the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2015, regulation 1(a), with effect from 26th December, 2015.

³ Prior to this substitution, Schedule 3 (then the "Third Schedule") was amended by the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2006, regulation 1, with effect from 6th May, 2006; the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance; the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, respectively section 3(a)(i) and section 1(2), First Schedule, paragraph 1, with effect from 1st May, 2014; the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2(1), Schedule 1, paragraph 13 and section 4, with effect from 1st May, 2016; the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 5 and section 4, with effect from 1st May, 2016; the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016; and the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2016, regulation 1, with effect from 31st December, 2016. The functions, rights and liabilities of the Social Security Department and of its Minister or Deputy Minister arising under or by virtue of these Regulations were transferred to and vested in, respectively, the Committee for Employment & Social Security and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 13 and section 4, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance; and the functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of these Regulations were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5 and section 4, with

effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

REPEALED