

STATES OF JERSEY



COMPOSITION OF RENT TRIBUNAL (P.89/2022): AMENDMENT

Lodged au Greffe on 6th September 2022
by the Council of Ministers
Earliest date for debate: 13th September 2022

STATES GREFFE

COMPOSITION OF RENT TRIBUNAL (P.89/2022): AMENDMENT

1 PAGE 2 –

For the words “as amended” substitute the words “as part of a wider modernisation of the Law”.

2 PAGE 2, PARAGRAPH (b)

For the words “who represents landlords” substitute the words “who is a landlord”.

3 PAGE 2, PARAGRAPH (c)

For the words “who represents tenants” substitute the words “who is a tenant”.

4 PAGE 2, PARAGRAPH (d) -

Delete paragraph (d), re-designate paragraph (e) accordingly and insert the following new paragraph –

“(e) Additional members as necessary to maintain a balanced and expert Tribunal able to make informed judgements”.

COUNCIL OF MINISTERS

Note: After this amendment, the proposition would read as follows –

THE STATES are asked to decide whether they are of opinion –

to request the Minister for Housing and Communities to amend Article 3 of the Dwelling Houses (Rent Control) (Jersey) Law 1946, **as part of a wider modernisation of the Law**, to appoint a Rent Control Tribunal which is constituted as follows –

- (a) 1 member to act as Chair of the Tribunal
- (b) **1 member who is a landlord;**
- (c) **1 member who is a tenant;**
- (d) 1 member from the charitable sector with an understanding of homeless/consumer issues; and
- (e) **Additional members as necessary to maintain a balanced and expert Tribunal able to make informed judgements.**

REPORT

I fully endorse the views of my predecessor as set out in his Fair Rents Plan, earlier this year. The plan included the following explanation:

Fair Rents plan

3D - Protection from excessive rent rises

The Minister of Housing and Communities will appoint a Rent Control Tribunal in 2022, comprised of a new group of appropriately qualified Tribunal members. The Tribunal is already established in primary legislation and offers a statutory facility for a private sector residential tenant to appeal to an independent body if they believe their rent is excessive. The Tribunal can maintain or reduce the rent as it considers reasonable. The Tribunal will be supported by a new dedicated post which has funding approved through the Government Plan process.

The Law, as currently constituted, prevents the Tribunal from considering rents that are set under a standard tenancy agreement. The Final Report of the Housing Policy Development Board found that standard tenancy agreements in Jersey already provide a form of rent stabilisation, containing a clause for annual rent increases in line with Jersey's Retail Price Index (RPI)². However, not all landlords use standard tenancy agreements, and the Tribunal can still make an important contribution by considering cases from across the private rental sector.

*As well as considering individual cases, **the Minister will ask the Tribunal members to undertake a thorough review of their powers under the current law and consider how these can be adapted to provide more comprehensive protection for private sector tenants in respect of rent levels.***

*The Minister is aware that the Tribunal has been unappointed for over ten years, and that its lack of use has been cited as evidence that it is not needed. **Tribunal members will therefore also be asked to gauge demand for its services and to recommend how the Tribunal should continue to operate after an initial trial phase.***

The powers of the Tribunal under the current law are limited. The Tribunal has no jurisdiction over a tenancy which uses the standard tenancy agreement. Where this has not been used, the Tribunal has the power to

“approve the rent payable under the contract or reduce or increase it to such a sum as the tribunal may, in all the circumstances think reasonable.”

Where the Tribunal does set a rent under these powers the rent is then fixed for the following three years at that rate. The Tribunal's role is to set a fixed 3 year rent that is reasonable by the standard of the current market. The law contains no mechanism for appeal against a Tribunal decision.

The law was established over 75 years ago and will need significant change to provide for a modern law to oversee effective and appropriate interventions in the private rental

market. A key role of the Tribunal in the next 12 months will be to support the Minister by reviewing the current law and the composition and activities of the Tribunal.

The process to identify a chairman and three members of the Tribunal was completed before my appointment as Minister. I fully support the nomination of these four individuals but I am also taking the opportunity to seek a fifth member for the Tribunal as provided for under the current Law. The current Law does not allow Tribunal members to be paid for their duties but it does provide for travelling and other allowances. The recruitment campaign for the fifth member will draw attention to the availability of allowances to cover expenses such as childcare costs, to encourage additional applicants from as wide a background as possible.

My amendment makes minor but important changes to Deputy Southern's proposition.

It acknowledges that a review of the overall law is underway and the composition of the Tribunal will be an important part of that overall project. While I accept the need for a Chair and for the Tribunal to include landlord, tenant, and charitable sector representatives, Deputy Southern provides no justification for the inclusion of Andium on this body which will be dealing with private sector rentals. It is also important that the Tribunal has the necessary expertise to be able to make informed judgements as to the market value of a property. As such, I have allowed for the possibility of additional members to provide that expertise.

I am keen to make progress in this area and hope that Reform Jersey will assist me in this work. Both the original proposition and my amendment require primary legislation to be amended. I hope that we can move forward as quickly as we can to develop a meaningful modern law to support tenants subject to unfair rent levels.

Financial and manpower implications

There are no additional considerations in respect of the amendment.