

STATES OF JERSEY



AGE DISCRIMINATION AND THE DISPOSAL OF PREMISES: CONSULTATION PAPER

Presented to the States on 6th April 2021
by the Minister for Social Security

STATES GREFFE

REPORT

Introduction

The Discrimination (Jersey) Law 2013 (“the Law”) protects people from discrimination on various grounds, including age. The Discrimination Law covers the buying and renting (“disposal”) of property.

At present, the law does not include age discrimination in relation to the disposal or management of premises (Article 24 of the Law).

This means, as the Law currently stands, a prospective or existing tenant of residential property can be discriminated against by a landlord or the manager of a premises by the fact they have a child or children living with them.

In October 2020, the Social Security Minister (“the Minister”) undertook, as part of the Government Plan, to bring forward legislation to remove this exception. The effect of removing it would include prohibiting discrimination against potential or existing residential tenants, who have a child or children.

Members of the States Assembly have previously given support to a backbench Proposition for a change in the Law in this respect:

(<https://statesassembly.gov.je/assemblypropositions/2018/p.31-2018.pdf>)

Draft Regulations have been prepared (see below) and the Minister is now issuing them as the basis of this consultation exercise.

Consultation exercise

The Minister invites comments from interested parties on the draft Regulations, to ensure that the Government introduces appropriate protection in this area. The Minister invites representations on the policy issues identified below. The Minister will consider any comments received before finalising the draft Regulations and lodging them with a Proposition for the States Assembly to consider.

The consultation exercise will last from **6 – 30 April 2021**.

CONSULTATION EXERCISE

1. The Discrimination (Jersey) Law 2013 (“the Law”) currently prohibits discrimination in the disposal (e.g. renting or purchasing) of property. However, the protection of the Law in this area does not extend to discrimination on the basis of age. This means, among other things, that would-be residential tenants who have children under the age of 18 can be refused the possibility of renting a residential property because they have children; as the Law currently stands, this would not be an act of discrimination.
2. The Social Security Minister has prepared draft Regulations to amend the Law to prohibit such discrimination on the grounds of age. Before the draft Regulations are formally lodged with the States Assembly for approval, the Minister wishes to carry

out a technical consultation exercise to receive feedback from persons and groups who have an interest in this area.

3. The draft Regulations form the basis of the consultation exercise. The Minister would be grateful if interested parties would respond, taking into account the following issues, which amending the Law seeks to address:
 - In the amendments to the Law, in most cases discrimination against a person on the grounds of age in the disposal of property will be prohibited. This would include existing tenants and prospective residential tenants who have responsibility for a child or children under the age of 18, who would be living with them some, or all, of the time.
 - Some types of property will be excluded from the prohibition. Age will still be able to be taken into account when undertaking a transaction relating to accommodation, for example, reserved for people of a particular age, those in residential care homes or registered providers of holiday accommodation.
 - The person or organisation selling or renting residential premises will be able to take account of health and safety issues for example when considering if it is reasonable for the property to be provided to someone who has children living with them.
 - The opportunity has also been taken to extend the Law to cover residential property marketing activities as well as the disposal of premises themselves. This will apply across all forms of discrimination, including age.

Ways to respond to the consultation

You can respond to the consultation until **30 April 2021** in the following ways:

See the consultation document online at:

<https://www.gov.je/government/consultations/Pages/default.aspx>

and **Email:** n.turner@gov.je with your response, or

Write to: Nic Turner
Senior Policy Officer
Strategic Policy Team
Ground Floor
19-21 Broad Street
St Helier
JE2 3RR

If you would like to make representations in person, please contact the Senior Policy Officer at n.turner@gov.je, who will be happy to make arrangements.



Jersey

DRAFT DISCRIMINATION (AMENDMENT OF LAW) (JERSEY) REGULATIONS 202-

Contents

Regulation

1	Amendment of Discrimination (Jersey) Law 2013	5
2	Article 24 amended	5
3	Schedule 2 amended	5
4	Citation and commencement	6



Jersey

DRAFT DISCRIMINATION (AMENDMENT OF LAW) (JERSEY) REGULATIONS 202-

Made *[date to be inserted]*
Coming into force *[date to be inserted]*

THE STATES make these Regulations under Articles 5 and 47 of the Discrimination (Jersey) Law 2013 –

1 Amendment of Discrimination (Jersey) Law 2013

These Regulations amend the Discrimination (Jersey) Law 2013.

2 Article 24 (disposal or management of premises) amended

In Article 24 –

(a) after paragraph (4) there is inserted –

“(4A) A person promoting the disposal of premises must not discriminate against the subject in marketing the premises or negotiating in relation to them, including in providing any marketing or promotional material or in its content.”;

(b) in paragraph (5) for “paragraph 13” there is substituted “paragraph 41”.

3 Schedule 2 Part 4 (exception to prohibited acts: age) amended

For paragraph 41 of Schedule 2 there is substituted –

“41 Age: premises

(1) An act of discrimination is not prohibited by Article 23 or Article 24 in relation to the protected characteristic of age.

(2) However, in relation to Article 24, sub-paragraph (1) does not apply to permit a person to discriminate against a person who intends to live, or who is interested in living, in premises with a child under the age of 18, whether or not that child lives part of the time elsewhere.

(3) Sub-paragraph (2) does not apply in respect of premises –

(a) registered under Article 5 of the Tourism (Jersey) Law 1948;

- (b) used as part of a care home service (within the meaning of paragraph 1 of Schedule 1 to the Regulation of Care (Jersey) Law 2014); or
 - (c) reserved or intended for particular categories of people, including on grounds of age.
- (4) It is a defence to a complaint in respect of an act prohibited by Article 24 and falling within sub-paragraph (2) of this paragraph, for the person alleged to have done the act to show that not doing so would create a hazard within the meaning of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018.”.

4 Citation and commencement

These Regulations may be cited as the Discrimination (Amendment of Law) (Jersey) Regulations 202- and come into force 7 days after they are made.

Re-issue Note

The report has been re-issued to correct the formatting of the Draft Regulations.
