

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE LENDING, CREDIT AND FINANCE (EQUITY RELEASE MORTGAGES) (GUERNSEY)
ORDINANCE, 2026**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Lending, Credit and Finance (Equity Release Mortgages) (Guernsey) Ordinance, 2026" and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

The Ordinance is made pursuant to the States Resolutions of the 8th November, 2019 (a budget resolution which directed the preparation of legislation amending the customary law to enable equity release mortgages to be offered in Guernsey) and the 2nd February, 2021 (which authorised the drafting of the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022, under which the Ordinance is made).

The Ordinance provides as follows –

- (a) in clause 1, that the Ordinance applies to that class of equity release finance defined in the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 ("the LCF Law") as "lifetime mortgages", when secured against real property situated in Guernsey and used for residential purposes. A lifetime mortgage is one under which full repayment of the capital is not due until a "lifetime event" such as the customer's death, or the customer selling the property or acquiring another property as their main residence, or leaving the property to live elsewhere with no reasonable prospect of returning (eg, when taking up permanent residence in a care home),
- (b) in clause 2, that the Ordinance has effect in respect of lifetime mortgages notwithstanding any enactment or rule of law applicable in Guernsey, but does not affect the law applicable to other classes of mortgage,
- (c) in clause 3, that in the case of a lifetime mortgage, it is unnecessary for the borrower to acknowledge the debt or make a payment of interest in order to interrupt the running of time against the lender for the purposes of prescription, if the lender gives a statement of account in accordance with clause 4,
- (d) in clause 4, for the form and content of the statement of account required to be given by a lender under clause 3,

- (e) in clause 5, that in the case of Saisie proceedings in respect of real property against which a lifetime mortgage is secured, the lender may claim the amount of interest due and is not subject to the statutory restriction that interest can only be claimed for the preceding 730 days,
- (f) in clause 6, that a registered bond by virtue of which a lifetime mortgage is secured which specifies the amount of the capital debt does not need to state the total amount secured (including interest and other liabilities of the borrower to the lender) which can be claimed in priority to subsequent creditors,
- (g) in clause 7, that in the case of a lifetime mortgage, time starts to run for the purposes of prescription on the date of registration of the bond,
- (h) in clause 8, that in the case of a lifetime mortgage, any rule of Guernsey law -
 - (i) that the borrower's personal property must be pursued before the lender (as creditor) can enforce the debt against the real property, or
 - (ii) that the lender, before enforcing the debt against the real property, must attempt to enforce the debt against any person other than the borrower,does not apply,
- (i) in clause 9, that –
 - (i) the Royal Court may, on the application of the lender under a lifetime mortgage, grant a vesting order if satisfied that a specified life event has occurred (eg, the borrower has died or taken up permanent residence in a care home), full repayment of the capital and interest is due, and repayment has not been made,
 - (ii) the respondent to an application for a vesting order must be the borrower or, if they are deceased or without legal capacity, their guardian, personal representative or attorney (and if there is no such person, a person appointed by the Royal Court as their representative),
 - (iii) the vesting order has effect as a judgment and preliminary vesting order, thus enabling Saisie proceedings to be undertaken,
- (j) in clause 10, that the Saisie Procedure Order 1952 (which governs the conduct of Saisie proceedings in the Royal Court) and the listed Victorian-era Laws, which contain provisions which might conflict with the principles of equity

release and lifetime mortgages and act as hindrances to lenders, are amended to bring them into conformity with the provisions of the Ordinance,

- (k) in clause 11, that the Ordinance has effect in respect of lifetime mortgage irrespective of the purposes for which the money was borrowed,
- (l) in clauses 12, 13, 14 and 15, for the interpretation, territorial extent, citation and commencement (on the 1st May, 2026) of the Ordinance.

**The Lending, Credit and Finance
(Equity Release Mortgages)
(Guernsey) Ordinance, 2026**

ARRANGEMENT OF SECTIONS

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The Lending, Credit and Finance (Equity Release Mortgages) (Guernsey) Ordinance, 2026

THE STATES, in pursuance of their Resolutions of the 8th November, 2019^a and the 2nd February, 2021^b, and in exercise of the powers conferred on them by section 84(1)(c) of the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022^c and all other powers enabling them in that behalf, hereby order:-

Application and effect of Ordinance

Application of Ordinance.

1. The provisions of this Ordinance apply to that class of equity release finance within the meaning of section 90(1) of the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 ("the LCF Law") as is defined in that Law and referred to in this Ordinance as "**lifetime mortgages**"^d, when secured against real property situated in Guernsey and used for residential purposes.

Effect on customary law and practice.

2. The provisions of this Ordinance -

^a Billet d'État No. XXI of 2019; proposition I.28.

^b Article VI of Billet d'État No. IV of 2021.

^c Order in Council No. XIX of 2022; the Law has been amended.

^d The definitions of "equity release finance" and "lifetime mortgage" were added to the LCF Law by the Lending, Credit and Finance (Equity Release) (Amendment) Regulations, 2025.

- (a) have effect in respect of lifetime mortgages notwithstanding any enactment or rule of customary or common law, prescription, practice or procedure applicable in Guernsey, and
- (b) are without prejudice to any enactment or rule of customary or common law, prescription, practice or procedure applicable in Guernsey in respect of other classes or descriptions of mortgage, security, lending, credit or finance.

Modifications to customary law, etc, in respect of lifetime mortgages

Acknowledgement of debt, etc, unnecessary.

3. In the case of a lifetime mortgage, it is unnecessary, for the purposes of prescription, for the borrower -

- (a) to acknowledge the debt, or
- (b) to make a payment of interest as referred to in article 3 of the Loi relative aux Prescriptions, 1889^e,

in order to interrupt the running of time against the lender, if the lender gives a statement (a "**statement of account**") in accordance with the provisions of section 4 to the borrower-

- (i) at least once in every calendar year during the

^e Ordres en Conseil Vol. II, p. 326; the Law has been amended.

currency of the mortgage and at intervals of not more than 15 months, or

- (ii) at such other times and intervals as may be -
 - (A) agreed between the borrower and the lender and set out in the mortgage agreement or other written instrument, or
 - (B) specified by regulations of the Policy and Resources Committee (the "**Committee**").

Statement of account.

4. (1) The statement of account referred to in section 3 -

- (a) shall be given to the borrower -
 - (i) by being delivered to the borrower, or by being left at, or sent by post to, the borrower's usual or last known place of abode, or
 - (ii) by being left at, or sent by post to, or by being transmitted to, any other address (including an electronic address) agreed in writing between the lender and the borrower (or, where subsection (4) applies, between the lender and the borrower's guardian, personal representative or attorney), and
- (b) shall state the following information and particulars,

which shall be current at the date of the statement or at a specified prior date which is as close to the date of the statement as is reasonably practicable -

- (i) the name and address of the borrower and lender,
- (ii) the real property secured,
- (iii) the amount of the capital debt,
- (iv) the amount of interest accrued thereon,
- (v) any other costs, charges, expenses and other liabilities of the borrower to the lender secured by the bond, and
- (vi) any other information or particulars specified by regulations of the Committee.

(2) Subsection (1)(a) is in addition to and not in derogation from the application (except where inconsistent or irrelevant) of section 80 of the LCF Law.

(3) The giving by the lender to the borrower of the statement of account has the same effect for the purposes of the law of prescription as -

- (a) an acknowledgement of debt by the borrower, or
- (b) the making of a payment of interest by the borrower as referred to in article 3 of the Loi relative aux Prescriptions,

1889^f.

(4) The preceding provisions of this section and section 3 continue to have effect notwithstanding the incapacity or death of the borrower provided that, if the lender has notice of the incapacity or death, the lender thereafter gives the statement of account to the borrower's guardian, personal representative or attorney, as the case may be.

(5) If there is no guardian, personal representative or attorney, the lender may apply to the Royal Court for an order appointing a person to act in the place of a guardian, personal representative or attorney for the purposes of this section and with the same powers and duties as a guardian, personal representative or attorney to deal with, and with all matters relating to, the lifetime mortgage and the real property secured.

(6) An order of the Royal Court under subsection (5) -

(a) may be made on such terms and conditions, and may contain such ancillary, incidental, consequential and supplementary provision, as the Royal Court thinks proper, and

(b) shall cease to have effect upon the appointment of a guardian by the Royal Court or, as the case may be, the grant of letters of administration or probate by the Ecclesiastical Court, subject to the provisions of -

^f Ordres en Conseil Vol. II, p. 326; the Law has been amended.

- (i) the order under subsection (5), or
- (ii) the appointment of the guardian or grant of letters of administration or probate.

Maximum amount of interest.

5. In the case of Saisie proceedings in respect of real property against which a lifetime mortgage is secured by way of a bond registered in the Livre des Hypothèques, a lender in whose favour the registration of the bond was made may claim the amount of interest due and is not subject to any restriction or limitation under Article 4 of the Law entitled "Loi qui limite dans les Saisies l'Exigibilité des Intérêts et des Arrérages de Rentes, 1860"⁸.

Specifying the amount secured.

6. A bond registered in the Livre des Hypothèques by virtue of which a lifetime mortgage is secured and which specifies the amount of the capital debt does not need to state the total amount secured (inclusive of interest accrued thereon and any other costs, fees, charges, expenses and other liabilities of the borrower to the lender secured by the bond) which can be claimed in priority to subsequent creditors.

When time starts to run.

7. (1) In the case of a lifetime mortgage, time starts to run for the purposes of prescription on the date of registration of the bond.

(2) Subsection (1) is subject to the provisions of this Ordinance and

⁸ Ordres en Conseil Vol. I, p. 336; Article 4 provides that "Dans les cas sus-dits, les intérêts d'argent ne seront pas exigibles pour au-delà de Sept Cents Trente jours."

the rules of law concerning prescription.

Rules requiring resort to personal estate, etc.

8. In a case where a lifetime mortgage is secured by way of a bond registered in the Livre des Hypothèques against real property situated in Guernsey and used for residential purposes, any rule of Guernsey law -

- (a) that the personal or moveable property (*les meubles*) of the borrower (as debtor) are the seat of the debts, and must be pursued before the lender (as creditor) may seek to enforce the debt against the real property which is subject to the lender's hypothèque,
- (b) that the lender (as creditor), before enforcing the debt against the real property which is subject to the lender's hypothèque, must attempt to enforce the debt against any person other than the borrower, and, if applicable, any droit de discussion vested in the borrower thereby,

does not apply.

Vesting orders

Commencement of Saisie proceedings – vesting orders.

9. (1) The Royal Court may, on the application of the lender under a lifetime mortgage secured against real property by registration in the Livre des Hypothèques, grant an order (a "**vesting order**") under this section if satisfied that -

- (a) a specified life event within the meaning of the LCF Law

has occurred in respect of the borrower and the lifetime mortgage,

- (b) full repayment of the capital and of any outstanding interest thereon is due, and
- (c) repayment has not been made.

(2) The respondent to an application for a vesting order under this section shall be -

- (a) the borrower, or
- (b) if the borrower is deceased or does not have legal capacity, the borrower's guardian, personal representative or attorney, as the case may be, in their representative capacity, or
- (c) if the borrower has no guardian, personal representative or attorney or the borrower's guardian, personal representative or attorney is unknown or not within the jurisdiction, a person appointed by the Royal Court to represent the borrower or the borrower's estate for the purposes of -
 - (i) the proceedings, and
 - (ii) any subsequent proceedings under the Saisie Procedure (Simplification) (Bailiwick) Order,

1952^h (the "Saisie Procedure Order").

(3) Subsection (2)(c) is without prejudice to any other power of the Royal Court, whether under rule 34 of the Royal Court Civil Rules, 2007ⁱ (representation of interested persons who cannot be ascertained) or otherwise.

(4) For the avoidance of doubt the Royal Court may make a vesting order under this section and any subsequent order in Saisie proceedings notwithstanding that the person who is the owner of the real property against which the lifetime mortgage is secured is not a party to the proceedings.

(5) On the grant of a vesting order under this section -

(a) the vesting order shall have effect in law as a judgment constituting a preliminary vesting order within the meaning of the Saisie Procedure Order,

(b) the applicant shall be considered to be the "creditor", and the respondent shall be considered to be the "debtor", for the purposes of the Saisie Procedure Order, and

(c) the Saisie Procedure Order shall have effect accordingly.

(6) A vesting order -

(a) may be made on such terms and conditions, and may

^h Order of the Royal Court No. III of 1952 (O.R.C Vol. I p. 49).

ⁱ Order of the Royal Court No. IV of 2007.

contain such ancillary, incidental, consequential and supplementary provision, as the Royal Court thinks proper,

- (b) without prejudice to paragraph (a), if the person who is the owner of the real property against which the lifetime mortgage is secured is not a party to the proceedings, may make such provision as to the notification of the proceedings and the vesting order to that person as the Royal Court thinks proper, and
- (c) may be amended by subsequent order of the Royal Court.

Amendments

Amendment of Saisie Procedure Order and other enactments.

10. (1) In the Saisie Procedure (Simplification) (Bailiwick) Order, 1952^j as it has effect in Guernsey, after paragraph 1 insert the following paragraph -

"Effect of Equity Release Mortgages Ordinance, 2026.

1A. The provisions of this Order are subject to the provisions of the Lending, Credit and Finance (Equity Release Mortgages) (Guernsey) Ordinance, 2026."

(2) In the Law entitled "Loi sur les Successions", 1840^k, after Article 25 insert the following Article -

^j Order of the Royal Court No. III of 1952 (O.R.C Vol. I p. 49).

^k Ordres en Conseil Vol. I, p. 51; the Law has been amended.

"Effet de l'Ordonnance de 2026.

25A. Les Articles de cette Loi sont sujet aux dispositions de l'Ordonnance intitulée "the Lending, Credit and Finance (Equity Release Mortgages) (Guernsey) Ordinance, 2026."

(3) In the Law entitled "Loi par rapport à la Garantie", 1847^l, after the second paragraph (which begins "Ne sera cette Loi en force") insert the following paragraph -

"Les dispositions de cette Loi sont sujet aux dispositions de l'Ordonnance intitulée "the Lending, Credit and Finance (Equity Release Mortgages) (Guernsey) Ordinance, 2026."

(4) In the Law entitled "Loi portant modification à la Procédure en Plaids d'Héritage", 1858^m, after Article 6 insert the following Article -

"Effet de l'Ordonnance de 2026.

6A. Les Articles de cette Loi sont sujet aux dispositions de l'Ordonnance intitulée "the Lending, Credit and Finance (Equity Release Mortgages) (Guernsey) Ordinance, 2026."

(5) In the Law entitled "Loi qui limite dans les Saisies l'Exigibilité des Intérêts et des Arrérages de Rentes", 1860ⁿ, after Article 4 insert the following Article -

^l Ordres en Conseil Vol. I, p. 167.

^m Ordres en Conseil Vol. I, p. 317; the Law has been amended.

ⁿ Ordres en Conseil Vol. I, p. 336.

"Effet de l'Ordonnance de 2026.

4A. Les Articles de cette Loi sont sujet aux dispositions de l'Ordonnance intitulée "the Lending, Credit and Finance (Equity Release Mortgages) (Guernsey) Ordinance, 2026."

(6) In the Law entitled "Loi relative aux Prescriptions", 1889^o as it has effect in Guernsey, after Article 3 insert the following Article -

"Effet de l'Ordonnance de 2026.

3A. Les Articles de cette Loi sont sujet aux dispositions de l'Ordonnance intitulée "the Lending, Credit and Finance (Equity Release Mortgages) (Guernsey) Ordinance, 2026."

General provisions

Purposes of loan irrelevant.

11. The provisions of this Ordinance have effect in respect of a lifetime mortgage irrespective of the purposes for which the money was borrowed.

Interpretation.

12. In this Ordinance -

"attorney" means the holder of a valid lasting power of attorney under the Capacity (Lasting Powers of Attorney) (Bailiwick of Guernsey) Ordinance, 2022^P,

^o Ordres en Conseil Vol. II, p. 326; the Law has been amended.

^P Ordinance No. IX of 2022; the Ordinance has been amended.

"**borrower**" means a borrower under a lifetime mortgage who is a customer of, and who has entered into a regulated agreement with, a lender, within the meaning of the LCF Law,

"**Committee**" means the States of Guernsey Policy and Resources Committee,

"**Guernsey**" includes Herm and Jethou,

"**LCF Law**" means the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022,

"**lender**" means a lender under a lifetime mortgage,

"**lifetime mortgage**" : see section 90(1) of the LCF Law,

"**Livre des Hypothèques**" means the Livre des Hypothèques, Actes de Cour et Obligations,

"**Royal Court**" means the Royal Court sitting as an Ordinary Court,

"**rules**" includes principles and other provisions,

"**statement of account**" : see section 4.

Extent.

13. This Ordinance has effect in Guernsey.

Citation.

14. This Ordinance may be cited as the Lending, Credit and Finance (Equity Release Mortgages) (Guernsey) Ordinance, 2026.

Commencement.

15. This Ordinance shall come into force on the 1st May, 2026.