

STATES OF JERSEY

r

DRAFT HIGH HEDGES (JERSEY) LAW 200

Lodged au Greffe on 13th April 2007
by the Minister for Planning and Environment

STATES GREFFE



Jersey

DRAFT HIGH HEDGES (JERSEY) LAW 200

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Planning and Environment has made the following statement –

In the view of the Minister for Planning and Environment the provisions of the Draft High Hedges (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator F.E. Cohen**

REPORT

Introduction

Where problem high hedges exist they can seriously affect people's lives. They can deprive people's homes of sunlight and daylight and make gardens dank and miserable if they are not properly managed. At present there is little that those affected by high hedges can do if their neighbour is unwilling to address the situation.

The Minister for Planning and Environment believes that this is wrong and is of the view that government should support the introduction of a new Law which will enable this problem to be tackled.

A new draft Law, the subject of this report, has been prepared which strikes a balance between encouraging people to act responsibly in managing high hedges and the need for government to intervene. The draft Law attempts to provide a framework within which serious problems can be addressed together with powers to require their resolution.

Need for legislation

Just as the right hedge can be an ideal garden boundary, the wrong hedge may bring problems. Hedges that are not suitable for their location or that are not properly maintained can cause difficulties for neighbouring property. Problems can arise because people do not realise just how high and how quickly various hedging plants can grow and what they might have to do to maintain them properly. A well-maintained hedge can also become neglected and overgrown when ownership changes. The commonest concern about high hedges is the perceived reduction in daylight and sunlight to neighbours' homes and gardens.

Where neighbours do not co-operate, there is little that a person affected by a high hedge can do to obtain relief. There are some legal obligations on landowners in Jersey to maintain hedges – such as trimming branches which grow over the land of a neighbour – but there is no specific Law that can deal with the issue of hedges that are considered to be too high. There is a legal provision, dating back to 1771, which might be used to control fully grown trees in certain limited circumstances but which would not generally apply to the control of high hedges.

Legal powers have been introduced in England and Wales to allow people to take a complaint about a neighbour's evergreen hedge to their local authority. The role of the local authority is to see if the hedge is unreasonably affecting someone's property. If it is, they can set out what the hedge owner has to do to remedy the problem.

This is an issue that does affect people in Jersey and there has been growing support for the introduction of legal provisions to enable the matter to be addressed. Work has been undertaken to identify the most appropriate legal vehicle to enable this to happen and the preparation of the draft Law is the outcome of this.

The scale of the problem is not considered to be hugely significant in an Island context – the Planning and Environment Department has been contacted by about 100 people in the course of this work being undertaken who are believed to be affected by this issue – but where it does exist, it can seriously harm people's quality of life for which there is no legal redress presently. The Minister for Planning and Environment is proposing that a new Law be introduced to enable this problem to be tackled in the Island.

Overview of the draft Law

The draft Law creates a new procedure for dealing with complaints about high hedges, to be administered by the Planning and Environment Department on behalf of the Minister.

Complaining to the department about a high hedge would be a last resort. People should have tried to solve their hedge problems by negotiation with their neighbours before approaching the Planning and Environment Department. If they haven't, their complaint could be rejected.

What complaints can be considered?

If someone could not settle their hedge dispute amicably, they would be able to take their complaint to the Planning and Environment Department provided that –

- the hedge in question was formed wholly or predominantly by a line of two or more evergreen or semi-evergreen trees or shrubs;
- it was over two metres high;
- the hedge acted, to some degree, as a barrier to light; and

- because of its height, it was adversely affecting the complainant's reasonable enjoyment of their home or garden.

How would complaints be dealt with?

The Planning and Environment Department would be able to charge a fee, to be paid by the person bringing the complaint.

In each case, the Minister for Planning and Environment would decide, in the first place, whether the height of the hedge was adversely affecting the complainant's reasonable enjoyment of their property by virtue of its affect on light. If so, the Minister would then consider what, if any, action should be taken to the hedge in order to remedy the adverse effect and to prevent it happening again.

In reaching a decision, the Minister for Planning and Environment would take into account all relevant factors, including the comments of the hedge-owner and the contribution of the hedge to the wider amenity of the area.

The Minister for Planning and Environment will publish and employ guidelines, based on the research undertaken by the Building Research Establishment on behalf of the UK Government^[1], to set out how the impact of a high hedge upon a property will be determined.

Remedies

If the Minister decided that action should be taken to resolve the complaint, the Planning and Environment Department would issue a formal notice setting out what must be done and by when. This could well include long-term maintenance of the hedge at a lower height, but could not involve reducing the height of the hedge below two metres, or the hedge's removal.

This would be known as a 'remedial notice'. It would be binding not only on whoever was the owner or occupier of the land where the hedge was situated at the time the notice was issued but also on anyone who subsequently bought or lived in the property.

Appeals

Both the hedge-owners and complainants would have rights of appeal against the Minister for Planning and Environment's decision. Appeals would have to be made to the Royal Court within 28 days of finding out the Minister's decision.

Enforcement

Failure to comply with a remedial notice will be an offence that, on conviction, carries a fine. If the offender subsequently fails to carry out the required work, which could be within a set period of time, they could be convicted of another offence.

The Minister for Planning and Environment would also have powers to authorise the work to be undertaken by someone else and to recover costs from the hedge owner. The Minister would be able to use these powers whether or not the criminal offence was pursued.

Consultation and amendment

Comments on the draft Law were invited between November 2005 and January 2006. The greatest weight of comment received concerned the need for legislation to be introduced from those adversely affected by high hedges.

The justification for the levying of a fee for the submission of an application to the Planning and Environment Department and the potential fee level was also challenged in the consultation response: this is examined as part of the regulatory impact (below).

The view has been expressed that the occupants of new dwellings adjacent to a high hedge should not be able to submit a complaint on the grounds that the hedge has been there longer than they or their property. The history of the hedge or a dwelling house is not, however, relevant to the question that the Minister has to decide – which is about the impact of the hedge on the complainant's reasonable enjoyment of their property. In making a decision the Minister has to have regard for the privacy of hedge-owners and the contribution of any hedge to the amenity of the area: the Minister has indicated that the privacy of hedge-owners will be given due weight in his consideration of applications.

Earlier drafts of the Law exempted Crown land from some of the provisions of the draft Law. This was

anomalous when considered in relation to the new Planning and Building (Jersey) Law 2002 and the legislation relating to high hedges in England and Wales: on this basis, the draft Law has been amended to extend all of the provisions of the draft Law to the Crown, with the exception of criminal liability.

Regulatory impact

The effect of the draft Law on business is expected to be minimal. The main costs of introducing new legislation would fall on the Planning and Environment Department, which would administer the complaints system, and the Royal Court, which would administer the appeals process. The level of work will be related to the number of problematic high hedges which cannot be resolved through negotiation. It is expected that there will be an initial backlog of existing problem cases to deal with and that, thereafter, the case load should fall to a relatively low level.

The Law allows for the costs of dealing with the complaints system for high hedges to be met predominantly through fees paid by complainants. The justification for charging a fee is that the States do not presently provide this service and, therefore, there is a need to pay for it. Some comment received from consultation on the draft Law also suggested that it was unfair for the applicant – the ‘victim’ of the high hedge – to be required to pay the fee. There are, however, several reasons for requiring the applicant to pay a fee, as follows –

- it is common practice for the States to charge a fee for a service which is likely to benefit an individual (in this instance, the complainant) rather than the community in general;
- payment of a fee will encourage people to resolve disputes amicably, making sure that the involvement of the government is a last resort;
- a fee helps to deter frivolous or vexatious complaints.

The draft Law enables the Minister to prescribe the level of fees by Order. Fees would be used to fund the provision of the service as the Planning and Environment Department will not receive any other additional resources to undertake this work. The level of fee would need to be sufficient to cover the cost of dealing with applications (in England, the average level of fee is £345; the highest is £650 and seven local authorities have chosen not to charge any fees. It is important to note, however, that the UK Government will have taken a view on what portion of the costs to local authorities of administering the legislation should be provided through additional revenue support grants to UK councils).

The cost of dealing with applications will involve a survey of the high hedge and its physical relationship with affected property, including the height and length of the hedge; the area of any garden; orientation; distance from boundary; impact of any change in levels; distance from windows; and height of windows^[2]. It is proposed that the Planning and Environment Department would engage the services of a qualified surveying practice to provide this information. Once this detailed information is available, the application would then require assessment by a planner with the necessary skills for assessing the impact of the hedge on the amenity of neighbours and the value of trees and hedges for the amenity of an area. All of the survey information and planning assessment would then form the basis of a report to the Minister to enable the application to be determined.

The Minister will need to set the level of fee to recover as much of the cost of this work as is deemed appropriate and reasonable. The draft Law also confers powers upon the Minister to waive fees where he considers it appropriate to do so.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 9th November 2006 the Minister for Planning and Environment made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Planning and Environment the provisions of the Draft High Hedges (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

This Law will enable the Minister for Planning and Environment to take action in respect of a complaint made to him or her by an owner or occupier of domestic or residential property that alleges that the reasonable enjoyment of the property for domestic or residential purposes is being adversely affected by a high hedge situated on land owned or occupied by another person.

Article 1 provides special meanings for certain terms used in the Law.

Article 2 defines “domestic property”.

Article 3 defines “residential property”.

Article 4 defines “high hedge”.

Article 5 defines “complaints”.

Article 6 sets out what the Minister must do on receipt of a complaint.

Article 7 sets out what the Minister must do if the Minister determines that the allegation in the complaint is justified. In particular it requires the Minister to issue a remedial notice specifying what must be done to the hedge.

Article 8 allows a person authorized by the Minister to enter land to check a complaint or to check if required work has been carried out.

Article 9 allows the Minister to withdraw a remedial notice and, if appropriate, to issue an amended one.

Article 10 makes it an offence not to comply with the requirements of a remedial notice.

Article 11 allows the Minister to undertake what is required to be done by virtue of a remedial notice if the person upon whose land the hedge is growing fails to do so. The Minister’s costs of doing so can be recovered from that person.

Article 12 provides for appeals against a determination by the Minister that a hedge is not causing problems. The appeal is to the Royal Court.

Article 13 provides, in the same way, for appeals against a determination by the Minister that a hedge is causing problems.

Article 14 will allow a person to be represented at an appeal before the Royal Court by a person who need not be legally qualified.

Article 15 provides that where the action required to be taken by a remedial notice would require permission under another Law that permission is to be taken to have been granted so long as the conditions of the notice are complied with.

Article 16 requires the Minister to keep a register of remedial notices that are in force so that a subsequent owner of land on which a hedge is growing may know if he or she has any responsibility in respect of the hedge by virtue of a remedial notice.

Article 17 places conditions on the entry to land in accordance with the Law.

Article 18 sets out the responsibility of directors and others where a company is guilty of an offence under the Law.

Article 19 requires complaints and other documents mentioned in the Law to be in writing and provides how their contents may be made known to the people affected by them.

Article 20 allows the States, by Regulations, to amend the scope of the Law.

Article 21 applies the Law to the Crown and to Crown land so that a complaint may be made by or against the Crown in respect of a hedge. However, as is usual, nothing in the Law renders the Crown liable to prosecution for an offence under the Law.

Article 22 provides how the Law may be cited and for its commencement.



Jersey

DRAFT HIGH HEDGES (JERSEY) LAW 200

Arrangement

Article

<u>1</u>	<u>Interpretation</u>
<u>2</u>	<u>Domestic property</u>
<u>3</u>	<u>Residential property</u>
<u>4</u>	<u>High hedges</u>
<u>5</u>	<u>Complaints to which this Law applies</u>
<u>6</u>	<u>Complaints</u>
<u>7</u>	<u>Remedial action required to be taken</u>
<u>8</u>	<u>Powers of entry in respect of complaints</u>
<u>9</u>	<u>Minister may withdraw a remedial notice</u>
<u>10</u>	<u>Penalty for failure to comply with remedial notice</u>
<u>11</u>	<u>Minister may undertake work</u>
<u>12</u>	<u>Appeal against determination of Minister in respect of complaint</u>
<u>13</u>	<u>Appeal against determination of Minister in respect of remedial notice</u>
<u>14</u>	<u>Hearings</u>
<u>15</u>	<u>Other permissions</u>
<u>16</u>	<u>Minister to maintain Register of Remedial Notices</u>
<u>17</u>	<u>Conditions on entry of land</u>
<u>18</u>	<u>Responsibility</u>
<u>19</u>	<u>Documents</u>
<u>20</u>	<u>Power to amend certain Articles by Regulations</u>
<u>21</u>	<u>Law to apply to Crown and Crown land</u>
<u>22</u>	<u>Short title and commencement</u>



Jersey

DRAFT HIGH HEDGES (JERSEY) LAW 200-

A LAW relating to high hedges.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

(1) In this Law, unless the context otherwise requires –

“complaint” means a complaint to which this Law applies by virtue of Article 5;

“complainant” means –

(a) a person by whom the complaint is made; or

(b) if every person who made the complaint ceases to be an owner of the domestic or residential property specified in the complaint, any other person who is for the time being an owner of the property,

and references to the complainant include references to one or more of the complainants;

“domestic property” has the meaning assigned to that expression by Article 2;

“high hedge” has the meaning assigned to that expression by Article 4;

“Minister” means the Minister for Planning and Environment;

“neighbouring land”, in respect of a complaint, means the land on which the hedge specified in the complaint is growing;

“owner”, in respect of domestic or residential property, includes any tenant of the whole or of a substantial part of the property;

“remedial notice” has the meaning given to that expression by Article 7(1)(b);

“residential property” has the meaning assigned to that expression by Article 3;

“residential purposes” has the meaning assigned to that expression by Article 3.

2 Domestic property

(1) In this Law “domestic property” means –

(a) a dwelling; or

- (b) a garden or yard that is used and enjoyed wholly or mainly in connection with a dwelling.
- (2) In paragraph (1) “dwelling” means a building or part of a building occupied, or intended to be occupied, as a separate dwelling.
- (3) A reference in this Law to a person’s reasonable enjoyment of domestic property includes a reference to his or her reasonable enjoyment of a part of the property.

3 Residential property

- (1) In this Law “residential property” means –
 - (a) a property, not being a domestic property, that is otherwise used for a residential purpose; or
 - (b) a garden or yard that is used and enjoyed wholly or mainly in connection with the residential use of such a property.
- (2) In paragraph (1) “property” includes a building, a part of a building and an area of land, in each case, occupied, or intended to be occupied, for a residential purpose.
- (3) In paragraph (1) “residential purpose” includes both short and long term occupation for a residential purpose and includes holiday occupation.
- (4) In paragraph (3) “holiday occupation” includes occupation by way of the use of a tent or caravan or other moveable structure on the property.
- (5) A reference in this Law to a person’s reasonable use of residential property for a residential purpose includes a reference to his or her reasonable use of a part of the property for that purpose.

4 High hedges

- (1) In this Law “high hedge” means so much of a barrier to light as –
 - (a) is formed wholly or predominantly by a line of 2 or more evergreens; and
 - (b) rises to a height of more than 2 metres above ground level.
- (2) For the purposes of paragraph (1) a line of evergreens is not taken to be regarded as forming a barrier to light if the existence of gaps significantly affects its overall effect at heights of more than 2 metres above ground level.
- (3) In this Article “evergreen” means an evergreen tree or shrub or a semi-evergreen tree or shrub.

5 Complaints to which this Law applies

- (1) This Law applies to a complaint that –
 - (a) is made by the owner of domestic property; and
 - (b) alleges that the reasonable enjoyment of all or any part of the property for domestic purposes is being adversely affected by the height of a high hedge situated on land owned or occupied by another person.
- (2) This Law also applies to a complaint that –
 - (a) is made by the owner of residential property; and
 - (b) alleges that the reasonable use of all or any part of the property for residential purposes is being adversely affected by the height of a high hedge situated on land owned or occupied by another person.
- (3) This Law also applies to a complaint that –
 - (a) is made by the owner of a domestic property that is for the time being unoccupied; and
 - (b) alleges that the reasonable enjoyment of the property by a prospective occupier of the property

for domestic purposes would be adversely affected by the height of a high hedge situated on land owned or occupied by another person.

- (4) This Law also applies to a complaint that –
 - (a) is made by the owner of a residential property that is for the time being unused; and
 - (b) alleges that the reasonable use of the property by a prospective owner of the property for residential purposes would be adversely affected by the height of a high hedge situated on land owned or occupied by another person.
- (5) This Law does not apply to complaints about the effect of the roots of a high hedge.
- (6) In relation to a complaint falling within paragraph (3), references in Article 6 and 7 to the effect of the height of a high hedge on the complainant's reasonable enjoyment of a domestic property shall be read as references to the effect that it would have on the reasonable enjoyment of the property by a prospective occupier of the property.
- (7) In relation to a complaint falling within paragraph (4), references in Article 6 and 7 to the effect of the height of a high hedge on the complainant's reasonable use of residential property shall be read as references to the effect that it would have on the reasonable use of the property for residential purposes by a prospective owner of the property.

6 Complaints

- (1) This Article has effect where a complaint –
 - (a) is made to the Minister; and
 - (b) is accompanied by any fee prescribed by the Minister by Order.
- (2) If the Minister considers –
 - (a) that the complainant has not taken all reasonable steps to resolve the matters complained of without proceeding by way of such a complaint to the Minister; or
 - (b) that the complaint is frivolous or vexatious,the Minister may decide that the complaint should not be proceeded with.
- (3) If the Minister does not so decide the Minister must determine if the allegation made in the complaint is justified.
- (4) In doing so the Minister must take into account every relevant consideration, including any extent to which the hedge –
 - (a) provides privacy to the occupier of the neighbouring land; or
 - (b) contributes to the amenity of the neighbourhood,and, in either case, how far it could continue to do so if the hedge were to be reduced in height.
- (5) The Minister must also take into account any legal obligation relating to the hedge, whether the obligation is imposed by virtue of an enactment or otherwise.
- (6) If the Minister determines that the allegation made in a complaint is not justified the Minister must notify the complainant accordingly.
- (7) The notification must specify the right the complainant has under this Law to appeal against the determination of the Minister.
- (8) An order made for the purpose of paragraph (1)(b) may provide that a fee payable under that paragraph may be refunded by the Minister in such circumstances and to such extent as the Minister may determine.

7 Remedial action required to be taken

- (1) If the Minister determines that the allegation contained in a complaint is justified the Minister must –
 - (a) decide what needs to be done to the hedge to remedy the adverse effect it is having and to prevent the recurrence of that effect; and
 - (b) issue a notice (in this Law called a remedial notice).
- (2) A copy of the remedial notice must be sent –
 - (a) to the complainant; and
 - (b) to each person who is the owner or occupier of the neighbouring land.
- (3) The remedial notice must specify –
 - (a) what must be done to the high hedge by the owner or occupier of the neighbouring land and any conditions subject to which it must be done;
 - (b) the period during which it must be done and any part of that period during which it must not be done;
 - (c) anything that must be done after that period to prevent any recurrence of the adverse effect and any conditions subject to which it must be done;
 - (d) the consequences of not taking action to remedy the adverse effect during that period or, after that period, any action mentioned in paragraph (c); and
 - (e) the rights an owner or occupier of the neighbouring land has under this Law to appeal against the determination of the Minister or any requirement or condition specified in the remedial notice.
- (4) The Minister may not, by a remedial notice, require –
 - (a) a hedge to be removed or to be reduced to a height of less than 2 metres above ground level; or
 - (b) require anything to be done by a date that is sooner than 28 days after a copy of the notice has been sent to each person who is the owner or occupier of the neighbouring land.
- (5) While a remedial notice has effect it shall be binding on any person who is for the time being the owner or occupier of the neighbouring land.

8 Powers of entry in respect of complaints

- (1) Where a complaint has been made or a remedial notice has been issued, a person authorized by the Minister may enter the neighbouring land to obtain information required by the Minister –
 - (a) to determine if the allegation made in the complaint is justified;
 - (b) where the Minister determines that it is, to decide what needs to be done to the hedge to remedy the adverse effect it is having and to prevent the recurrence of that effect;
 - (c) to determine whether to withdraw a remedial notice and if the Minister decides to do so, whether to issue an amended one; or
 - (d) to ascertain if a requirement of a remedial notice has been complied with.
- (2) A person may not enter land in the exercise of a power conferred by paragraph (1) unless at least 24 hours' notice of the intended entry has been given to every occupier of the land.
- (3) A person who enters land in the exercise of a power conferred by paragraph (1) may –
 - (a) take with him or her other persons as may be necessary;
 - (b) take with him or her equipment and materials needed to obtain any required information; and
 - (c) take samples of any trees or shrubs that appear to him or her to form part of a high hedge.

9 Minister may withdraw a remedial notice

- (1) The Minister may at any time –

- (a) withdraw a remedial notice; or
 - (b) withdraw a remedial notice and issue an amended one.
- (2) The Minister must send notice of the exercise of a power under paragraph (1)(a) to each person who was sent a copy of the remedial notice.
 - (3) A notice sent under paragraph (2) shall have effect as if it were notification in accordance with Article 6(6).
 - (4) The exercise of a power under paragraph (1)(b) shall have effect as if it were the issue of a new remedial notice on a complaint made to the Minister.

10 Penalty for failure to comply with remedial notice

- (1) A person who –
 - (a) fails to comply with a requirement of a remedial notice that binds the person; or
 - (b) when complying with a requirement of a remedial notice, fails to comply with a term or condition of the notice,shall be guilty of an offence and liable to a fine of level 3 on the standard scale.
- (2) An offence under paragraph (1) may be charged by reference to a day or any longer period of time and a person may be convicted of a second offence or subsequent offences under paragraph (1) by reference to any period of time following the preceding conviction for such an offence.
- (3) If –
 - (a) a person charged with an offence under paragraph (1) has not been sent a copy of the remedial notice in accordance with Article 7(2)(b); and
 - (b) details of the notice are not contained in the Register of Remedial Notices maintained in accordance with Article 16,it shall be a defence to show that the person was not aware of the existence of the notice.

11 Minister may undertake work

- (1) If a person fails to comply with a requirement of a remedial notice that binds the person the Minister may –
 - (a) authorize a person to enter the neighbouring land and undertake what is required to be done; and
 - (b) recover any expenses reasonably incurred by that person in doing so from any person who is the owner or an occupier of the land as a debt due from the owner or occupier to the Minister.
- (2) If the expenses are recoverable from 2 or more persons, they shall be jointly and severally liable for them.
- (3) A person may not enter land in the exercise of a power conferred by paragraph (1) unless the Minister has given every occupier of the land at least 7 days' notice of the intended entry.
- (4) A person who enters land in the exercise of a power conferred by paragraph (1) may –
 - (a) use a vehicle to enter the land;
 - (b) take with him or her other persons as may be necessary;
 - (c) take with him or her equipment and materials needed to undertake the work required to be done.
- (5) For the purpose of paragraph (1)(a), a person who carries out work under this Article must provide details of the work carried out if asked to do so by the owner or occupier of the land.

12 Appeal against determination of Minister in respect of complaint

- (1) A complainant may appeal to the Royal Court against a determination by the Minister that the allegation made in the complaint by the complainant is not justified.
- (2) The appeal must be made within 28 days of the complainant being notified by the Minister of the determination or within such further period as the Royal Court may consider justice requires.
- (3) On the appeal the Royal Court may –
 - (a) confirm the determination of the Minister; or
 - (b) order the Minister to issue a remedial notice that specifies, in particular, what must be done to the high hedge by the owner or occupier of the neighbouring land as determined by the Court.
- (4) The Minister must comply with an order made under paragraph (3)(b).

13 Appeal against determination of Minister in respect of remedial notice

- (1) The owner or occupier of the neighbouring land may appeal to the Royal Court against –
 - (a) a determination by the Minister that the allegation made in a complaint is justified; or
 - (b) any requirement or condition specified in a remedial notice.
- (2) The appeal must be made within 28 days of the owner or occupier being sent a copy of the remedial notice or within such further period as the Royal Court may consider justice requires.
- (3) Where an appeal is made in pursuance of paragraph (1), the remedial notice shall be of no effect pending the final determination or withdrawal of the appeal.
- (4) On the appeal the Royal Court may –
 - (a) confirm the determination of the Minister;
 - (b) order the Minister to withdraw the remedial notice; or
 - (c) order the Minister to amend the remedial notice in such manner as the Court directs.
- (5) The Minister must comply with an order made under paragraph (4)(b) or (c).

14 Hearings

A person appearing at a hearing by the Royal Court of an appeal under Article 12 or Article 13 may appear and be heard, either in person or by a representative, who shall be an advocate of the Royal Court or such other person as the Royal Court may by rules prescribe.

15 Other permissions

In so far as any permission is required under any other Law that permission shall be taken to have been granted to undertake work in compliance with the terms and conditions of a remedial notice.

16 Minister to maintain Register of Remedial Notices

- (1) The Minister shall maintain a register, called the Register of Remedial Notices, containing details of each remedial notice that the Minister has issued and is still in force.
- (2) The Minister shall make the register available for inspection by the public at all reasonable hours.

17 Conditions on entry of land

- (1) A person authorized under Article 8 or Article 11 to enter land –
 - (a) must, if so required, produce evidence of his or her authority to do so before entering; and
 - (b) must produce that evidence if required to do so at any time while on the land.
- (2) If, in the exercise of a power conferred by Article 8 or Article 11, a person enters land that is unoccupied or from which all of the persons occupying the land are temporarily absent, the person must on departure leave it as effectively secured against unauthorized entry as he or she found it.
- (3) A person who intentionally obstructs or hinders a person acting in the exercise of a power under Article 8 or Article 11 is guilty of an offence and shall be liable to a fine of level 4 on the standard scale.

18 Responsibility

- (1) If an offence under this Law that has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
 - (a) a director, manager, secretary or other similar officer of the body corporate; or
 - (b) a person who was purporting to act in any such capacity,that person, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with her or his functions of management as if the person were a director of the body corporate.
- (3) A person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

19 Documents

- (1) This Article applies to a complaint, notice or notification authorized or required to be made, issued, sent or given by virtue of this Law.
- (2) It must be in writing.
- (3) If it is to be sent to a body corporate it may be sent to the secretary or clerk of the body corporate.
- (4) It may be sent to a person –
 - (a) by delivering it to the person;
 - (b) by leaving it at the person's proper address;
 - (c) by posting it to the person.
- (5) For the purposes of this Article and of Article 7 of the Interpretation (Jersey) Law 1954 in its application to this Article, the proper address of a person is –
 - (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of the body corporate; and
 - (b) in any other case –
 - (i) the usual or last-known place of abode of the person, but
 - (ii) if the person has given the Minister an address for service, that address.
- (6) If the Minister is unable to ascertain after reasonable enquiry the name or address of the owner, lessee or occupier of land to whom anything to which this Article applies is to be sent, it may be sent –
 - (a) by addressing it to the person to whom it is to be sent by the description of "owner", "lessee" or "occupier" of the land (describing it) to which it relates; and

- (b) by delivering it to some responsible person resident or appearing to be resident on the land, or, if there is no such person, by affixing it, or a copy of it, to a conspicuous part of the land.

20 Power to amend certain Articles by Regulations

- (1) The States may by Regulations –
 - (a) amend Article 4 to amend the definition of “high hedge”; and
 - (b) amend Article 5 to extend the scope of complaints relating to high hedges to which this Law applies.
- (2) Regulations made under paragraph (1) may also make such consequential amendments of this Law as the States consider appropriate.

21 Law to apply to Crown and Crown land

- (1) This Law applies to the Crown and to Crown land.
- (2) Nothing in this Law renders the Crown liable to prosecution for an offence under this Law.

22 Short title and commencement

- (1) This Law may be cited as the High Hedges (Jersey) Law 200-.
- (2) It shall come into force on the seventh day following its registration.

^[1] *Office of the Deputy Prime Minister (March 2004) Hedge height and light loss.*
See <http://www.communities.gov.uk/index.asp?id=1127869>

^[2] *See Annex 3: spreadsheet to calculate action hedge height in 'Hedge height and light loss', previously cited.*