

STATES OF JERSEY



DRAFT PLANNING AND BUILDING (AMENDMENT No. 6) (JERSEY) LAW 2014 (APPOINTED DAY) ACT 201-

**Lodged au Greffe on 16th January 2015
by the Minister for Planning and Environment**

STATES GREFFE



Jersey

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REPORT

Overview

The Planning and Building (Amendment No. 6) (Jersey) Law 2014 (“the Law”) was adopted by the States on 2nd July 2014, sanctioned by Order of Her Majesty in Council on 8th October 2014 and registered in the Royal Court on 17th October 2014. Article 10 of the Law allows for the Law to be brought into force on such day or days as the States may by Act appoint. The Draft Planning and Building (Amendment No. 6) (Jersey) Law 2014 (Appointed Day) Act 201- proposes to bring the Law into force on 10th March 2015.

Background

The Law will put into place a new process for the consideration of appeals against decisions made or actions taken under the Planning and Building (Jersey) Law 2002 (“the 2002 Law”).

Parties who are aggrieved at decisions taken under the 2002 Law can request an independent inspector to consider the merits of their case. The Judicial Greffe would administer the process, and appeals would be considered either by written submissions or by the interested parties appearing at a hearing chaired by the inspector. The inspector would then make a recommendation to the Minister, and the Minister would make a decision in light of the inspector’s recommendation. The Minister would not be bound by any recommendation, but would have to explain any variation from it. The process largely requires the withdrawal of the Minister from the initial consideration of applications or actions which could be the subject of an appeal, but to make decisions relating to policies and guidance including the Island Plan. A Planning Applications Committee would be chosen by the Assembly to consider applications for planning permission and related issues.

The following decisions will be subject to the revised appeal process –

1. The refusal to grant planning permission.
2. The refusal to approve or amend an application for planning permission for development which has already taken place.
3. The refusal to vary a previously approved application for planning permission.

4. The refusal to grant a certificate of completion (confirming a development has taken place in accordance with a previously approved planning permission).
5. The refusal to grant Building Bye-Laws approval.
6. The refusal to grant permission to undertake particular activities on/in/under a site of special interest.
7. The refusal to grant permission for the importation or use of a caravan in Jersey.
8. The imposition of a condition on any permission previously granted.
9. The revocation or modification of a planning permission.
10. The service of notices requiring actions.
11. The inclusion of buildings/places/trees on relevant lists for their protection.
12. The granting of planning permission – appeal by a third party.

Applicants who have received a refusal of planning permission determined by officers can ask the Planning Applications Committee to review the decision.

Applications which have been the subject of a Public Inquiry will remain to be determined by the Minister, given either the Island-wide significance of the proposal or that it would represent a significant departure from the Island Plan. The Chief Officer of the Department will become a first-tier decision-maker in their own right, with a right of appeal to the Minister over any decision. The Planning Applications Committee will make decisions relating to applications for planning permission and similar issues. Matters to be referred for decisions by the Committee will be agreed between the Committee and the Chief Officer. For applications which have not been the subject of a Public Inquiry, only the Committee can make a decision to grant planning permission for a development which would be inconsistent with the Island Plan.

Financial and manpower implications

The following resource implications were included in the Projet for the Draft Planning and Building (Amendment No. 6) (Jersey) Law 201- ([P.94/2014](#)). No additional financial or manpower implications have been identified since that date. The Department of the Environment would meet the demands from the new process from within existing resources.

“The financial implications of the new appeals process are difficult to gauge as it is not clear what the take-up rate for appeals will be. However, using the Isle of Man as a template (who also have first and third party rights of appeal over applications for planning permission), and on the basis of 200 appeals each year, the Proposition identified the requirement of £148,000 to cover Inspectors’ fees and expenses. Added to this are the requirements of the Judicial Greffe to administer the process, estimated at £44,200 – 0.5 FTE administrative post, 0.2 FTE of a managerial oversight, and a contribution to the rental paid for the premises where the Tribunals currently sit.

A fee is proposed to make an appeal, but as indicated above, this structure has not yet been settled upon. There will be a fee income to offset the costs, but it will not be full cost recovery, probably 25% at this stage. This may change in the future depending on the level of take-up of appeals.

As such, the currently predicted cost of the process will be £192,000 minus fee income (25%).

The Minister for Treasury and Resources supported this resource when the Proposition was debated and confirmed the estimated associated costs. The Minister confirmed that funding would be allocated from Central Contingency for 2015 if required and as appropriate.

Funding beyond 2015 has been included as a potential growth bid in the emerging Medium Term Financial Plan (MTFP).”

Explanatory Note

The Planning and Building (Amendment No. 6) (Jersey) Law 2014 is brought into force by this Act on 10th March 2015.



Jersey

**DRAFT PLANNING AND BUILDING
(AMENDMENT No. 6) (JERSEY) LAW 2014
(APPOINTED DAY) ACT 201-**

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

THE STATES, in pursuance of Article 10 of the Planning and Building (Amendment No. 6) (Jersey) Law 2014¹, have made the following Act –

1 Commencement of Law

The Planning and Building (Amendment No. 6) (Jersey) Law 2014² shall come into force on 10th March 2015.

2 Citation

This Act may be cited as the Planning and Building (Amendment No. 6) (Jersey) Law 2014 (Appointed Day) Act 201-.

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- ¹ *L.34/2014*
² *L.34/2014*