

DRAFT ISLAND PLANNING (EXEMPT OPERATIONS) (JERSEY) REGULATIONS 200-

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by the Planning and Environment Committee**



STATES OF JERSEY

STATES GREFFE

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REPORT

The main purpose of these new Regulations is to increase the threshold of exemption from the need to obtain development permission. The Regulations replace the Island Planning (Exempted Development) Regulations 1965, as amended.

In its report on the draft Planning and Building (Jersey) Law 200- (P.50/2001), the Committee indicated its intention of lessening controls in certain circumstances, thus reducing the burden of regulation. Whilst it intended that this should be done under the new Law, delays in its implementation require changing the Regulations under the existing Law.

Resource constraints on the department of Planning and Building Services have necessitated a review of its workload, and members are aware that the Committee has had to withdraw certain non-statutory services previously enjoyed by its customers.

The most significant relaxation allows the construction of extensions to homes of up to 20 square metres without the need to obtain permission. Alterations to this and other exemption parameters will cumulatively reduce minor applications by 400 to 425 per annum.

Manpower and Resource Implications

Adoption of these new Regulations will significantly reduce the workload of the Department, allowing the existing professional resources to concentrate on dealing with the increased number of larger and more complex applications.

Explanatory Note

The purpose of these Regulations is to provide that certain operations on land shall not be deemed for the purposes of the Island Planning (Jersey) Law 1964 to involve development.

The result is that any work specified in the Schedule to the Regulations may be carried out without the approval of the Planning and Environment Committee subject to compliance with any conditions specified in respect of the work.

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Island Planning (Jersey) Law 1965

ISLAND PLANNING (EXEMPT OPERATIONS) (JERSEY) REGULATIONS 200-

(Promulgated on the _____ day of _____ 200-)

STATES OF JERSEY

The _____ day of _____ 200-

THE STATES, in pursuance of Article 5(2)(iv) of the Island Planning (Jersey) Law 1964,^[1] as amended, have made the following Regulations -

Interpretation

1.-(1) In these Regulations, unless the context otherwise requires

“building” does not include plant or machinery or a structure or erection in the nature of plant or machinery but does include any other structure or erection and a part of a building as so defined;

“dwelling-house” does not include a building containing one or more flats, or a flat contained within such a building;

“flat” means a separate and self-contained set of premises that -

- (a) was constructed for use for as a dwelling; and
- (b) forms part of a building from some other part of which it is divided horizontally;

“ground level”, in respect of a building -

- (a) means the level of the surface of the ground immediately adjacent to it; but
- (b) if the level of the surface of the ground on which it is situated or is to be situated is not uniform, means the level of the lowest part of the surface of the ground adjacent to the building;

“habitable accommodation” means a room in a dwelling used for living, sleeping or dining, a kitchen, a study, a W.C., a bath or shower-room, or a room used for any other purpose incidental to use as a dwelling;

“height”, in respect of a building, means the height of the building above ground-level;

“highway authority”, in the case of a road repairable at the expense of the States or a Parish, means, in relation to-

- (a) a main road, the Public Services Committee; or
- (b) a by-road, the Roads Committee of the Parish in which the road is situated;

“Law” means the Island Planning (Jersey) 1964;^[2]

“principal elevation”, in respect of a building, means any elevation of the building that faces a road;

“road” has the same meaning as in the Roads Administration (Jersey) Law 1960^[3] but also includes an access way by which visitors may gain vehicular access to premises.

(2) A reference in these Regulations to an enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.

Work on land deemed not to involve development

2. The carrying out of work specified in the Schedule to these Regulations on land shall not be deemed for the purposes of the Law to involve the development of the land if any condition specified in respect of the work is complied with.

Savings

3.-(1) Nothing in these Regulations permits work to be carried out on land contrary to any condition imposed by the Committee on any grant of permission to develop the land.

(2) Nothing in these Regulations exempts a person when carrying out work on land from compliance with any other enactment.

(3) Nothing in these Regulations permits work to be carried out on land if the work involved in constructing a building on the land was unlawful or if the existing use of the land is unlawful.

Repeals

4. The Island Planning (Exempted Development) (Jersey) Regulations 1965^[4] are repealed.

Citation and commencement

5. These Regulations may be cited as the Island Planning (Exempt Operations) Regulations 200-, and shall come into force 7 days after they are made.

SCHEDULE

(Article 2)

Exempt work on land

PART 1

WORK CARRIED OUT WITHIN THE CURTILAGE OF A DWELLING-HOUSE

CLASS A

Exempt work **A. The installation of a bathroom or water closet within the curtilage of a dwelling-house.**

Work not exempted A.1 Work is not exempted by Class A if the dwelling-house is or is part of a site of special interest.

CLASS B

Exempt work **B. The erection, construction or placing and the maintenance, improvement or other alteration within the curtilage of a dwelling-house of -**

(a) a structure required for a purpose (other than habitation) incidental to the enjoyment of the dwelling-house as such; or

(b) a building or enclosure required for the keeping of domestic animals for the personal enjoyment of the occupants of the dwelling-house only.

Work not exempted B.1 Work is not exempted by Class B if-

(a) the dwelling-house is or is part of a Site of Special Interest;

(b) with the exception of flagpoles, any part of the structure, building or enclosure is in front of the building line of a principal elevation of the dwelling-house;

(c) with the exception of flagpoles, any part of the structure, building or enclosure exceeds the maximum height as calculated in accordance with the diagram in Appendix 1 to this Schedule;

(d) the total external area of any structure, building or enclosure erected under this Class and Class C of this Part of this Schedule since the commencement of these Regulations exceeds 20 square metres;

(e) the work involves the formation, laying out or material widening of a means of access to a road;

(f) the work creates an obstruction to the view of a person using a road at or near a bend, corner, junction or intersection so as to be likely to cause a danger to such a person.

Condition B.1 The structure, building or enclosure must not be

used for a commercial purpose or for human habitation.

CLASS C

Exempt works

- C. The erection, construction or placing and the maintenance, improvement or other alteration within the curtilage of a dwelling-house of -**
- (a) a conservatory or an extension to the house;**
 - (b) the replacement of a window with a door;**
 - (c) the replacement of a door with a window;**
 - (d) the creation of new window and door openings.**

Work not exempted

- C.1 Work is not permitted by Class C if-**
- (a) the dwelling-house is or is part of a Site of Special Interest;
 - (b) any part of the conservatory or extension is in front of the building line of a principal elevation of the dwelling-house;
 - (c) the interior of a conservatory or extension is not accessible from the interior of the dwelling-house;
 - (d) with the exception of flagpoles, any part of the conservatory or extension exceeds the maximum height as calculated in accordance with the diagram in Appendix 2 to this Schedule;
 - (e) the total external area of any buildings under this Class and Class B of this Part of this Schedule since the commencement of these Regulations exceeds 20 square metres;
 - (f) the work involves the formation, laying out or material widening of a means of access to a road;
 - (g) the work creates an obstruction to the view of a person using a road at or near a bend, corner, junction or intersection so as to be likely to cause a danger to such a person;
 - (h) in the case of the replacement of windows and doors, and the creation of new window or door openings -
 - (i) the alteration results in a material change in the appearance of the building, or
 - (ii) the alteration occurs above the ground floor.

Conditions

- C.1 The conservatory or extension must not be used for a commercial purpose or as a separate unit of accommodation.**

CLASS D

Exempt work **D. The erection, construction, maintenance, improvement or other alteration within the curtilage of a dwelling-house of a gate, fence, wall or other means of enclosure.**

Work not exempted **D.1** Work is not permitted by Class D if-

- (a) the site of the gate, fence wall or other means of enclosure is or is part of a Site of Special Interest;
- (b) in the case of the erection, construction or alteration of a gate, fence, wall or other means of enclosure -
 - (i) abutting on, and within 2 metres of a road, track or driveway serving any other property but not within the curtilage of that other property - its highest point will be more than 900 millimetres above the level of the road, track or driveway, or
 - (ii) in any other case - its highest point will be more than 2 metres above ground level on either side;
- (c) the work involves the formation, laying out or material widening of a means of access to a road;
- (d) the work creates an obstruction to the view of a person using a road at or near a bend, corner, junction or intersection so as to be likely to cause a danger to such a person.

CLASS E

Exempt work **E. The excavation, levelling or metalling within the curtilage of a dwelling-house of a driveway, turning area or car park, or the creation of a patio, pathway, decked area or other hardstanding.**

Work not exempted **E.1** Work is not permitted by Class E if -

- (a) the site of the works is or is part of a Site of Special Interest;
- (b) it exceeds 25 centimetres in height above existing ground level;
- (c) the work involves the formation, laying out or material widening of a means of access to a road;
- (d) the work creates an obstruction to the view of a person using a road at or near a bend, corner, junction or intersection so as to be likely to cause a danger to such a person;
- (e) the work would discharge surface water onto a road adjoining the property and the approval of any highway authority to the discharge has not been obtained.

CLASS F

Exempt work	F. The erection, construction or placing, maintenance, improvement or other alteration within the curtilage of a dwelling-house of a tank for the storage of liquid or gaseous fuel for use for the domestic purposes of the dwelling-house.
Work not exempted	F.1 Development is not permitted by Class F if - <ul style="list-style-type: none">(a) the site of the tank is or is part of a Site of Special Interest;(b) any part of the development is in front of the building line of the principal elevation of the dwelling-house;(c) the capacity of the tank exceeds 3,500 litres;(d) the height of the tank exceeds 2.25 metres above ground level;(e) the work involves the formation, laying out or material widening of a means of access to a road;(f) the work creates an obstruction to the view of a person using a road at or near a bend, corner, junction or intersection so as to be likely to cause a danger to such a person.

PART 2

REPAIRS, MAINTENANCE AND TEMPORARY OR MINOR WORKS

CLASS A

Exempt work	A. The painting of the exterior, or any part of the exterior of a building or other structure.
Work not exempted	A.1 An operation is not permitted by Class A if the building or structure is, or is part of, a Site of Special Interest.
Interpretation of Class A	A.2 For the purpose of Class A “painting” includes any application of, or material change of, colour.

CLASS B

Exempt work	B. The erection, construction or placing and the maintenance, improvement or other alteration of television, radio or other antennae.
Work not exempted	B.1 Development is not permitted by Class B if- <ul style="list-style-type: none">(a) the site is or is part of a Site of Special Interest;(b) in the case of satellite antennae, the diameter exceeds 600 millimetres;(c) the antenna is visible from a road repairable at the expense of the States or a Parish.

CLASS C

- Exempt work** **C. The provision on land of a building, moveable structure, work, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or adjoining land.**
- Work not exempted C.1 Work is not permitted by Class C if-
- (a) permission is required for the operations that are to be carried out but has not been granted by the Committee;
 - (b) the work involves the formation, laying out or material widening of a means of access to a road;
 - (c) the work creates an obstruction to the view of a person using a road at or near a bend, corner, junction or intersection so as to be likely to cause a danger to such a person.
- Conditions C.2 If the building or moveable structure is to be used for habitation or is to contain sanitation facilities permission must have been obtained under the Building Bye-laws.
- C.3 When the operations have been carried out -
- (a) any building, moveable structure, work, plant or machinery permitted by Class C is removed;
 - (b) any adjoining land on which work permitted by Class C has been carried out must, as soon as reasonably practicable, be reinstated to its condition before that work was carried out.

CLASS D

- Exempt work** **D. Work carried out on industrial land for the purpose of an industrial process consisting of -**
- (a) the installation of additional or replacement plant or machinery; or**
 - (b) the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus.**
- Work not exempted D.1 Work is not permitted by Class D if-
- (a) it would materially affect the external appearance of the premises of the undertaking concerned;
 - (b) it would result in an increase of noise, smells, dust or other pollution;
 - (c) any additional or replacement plant or machinery would exceed the height of existing plant or machinery or anything it replaced;
 - (d) the land is or is part of a Site of Special Interest;

- (e) the work involves the formation, laying out or material widening of a means of access to a road;
- (f) the work creates an obstruction to the view of a person using a road at or near a bend, corner, junction or intersection so as to be likely to cause a danger to such a person.

Interpretation of Class D D.2 For the purposes of Class D -

“industrial land” means land used to carry out an industrial process;

“industrial process” means any process that is necessary or incidental -

- (a) to make an article or part of an article;
- (b) to alter, repair, ornament, finish, clean, wash, pack or can, or to adapt for sale or to demolish an article.

CLASS E

Exempt work E. The carrying out of work required for the maintenance of a private way.

Work not exempted E.1 Work is not permitted by Class E if -

- (a) the land is or is part of a Site of Special Interest;
- (b) the work or any part of the work is outside the boundaries of the way.

Interpretation of Class E E.2 For the purposes of Class E “private way” means a road or footpath that is not repairable at the expense of the States or any Parish.

CLASS F

Exempt work F. The creation of a new means of access or the widening of an existing means of access to a road from agricultural land.

Work not exempted F.1 Work is not permitted by Class F-

- (a) if it would create an obstruction to the view of a person using a road at or near a bend, corner, junction or intersection so as to be likely to cause danger to such a person;
- (b) unless the access is to be used solely or mainly for agricultural purposes.

Condition F.2 The approval of any highway authority must have been obtained before the means of access is made or widened.

CLASS G

Exempt work G. The carrying out of work for the maintenance or repair of a building.

Work not exempted G.1 Work is not permitted by Class G, except in an

emergency, if -

- (a) the building is or is part of a Site of Special Interest;
- (b) the work would materially affect the external appearance of the building.

PART 3

DEVELOPMENT BY PROVIDERS OF PUBLIC SERVICES AND UTILITIES

CLASS A

- Exempt work**
- A. The erection or construction, or the maintenance, improvement or other alteration by a public or parochial authority of -**
- (a) temporary works and equipment on land belonging to or maintained by the authority required for the purposes of a function exercised by the authority on that land; or
 - (b) lamp columns and luminaires, public seats, fire alarms, cycle racks, closed circuit television cameras, public drinking fountains, refuse bins or baskets, bollards, barriers for the control of people and vehicles, and similar structures or works required in connection with the operation of a public service administered by them.
- Work not exempted
- A.1 Work is not permitted by Class A if-
- (a) it involves the formation, laying out or material widening of a means of access to a road; or
 - (b) in the case of an item referred to in paragraph (b) of the Class, it is not of a type previously approved for the purpose by the Committee.
- Interpretation of Class A
- A.2 For the purposes of Class A -
- “public authority” includes a statutory corporation established for a public purpose and a Committee of the States.

CLASS B

- Exempt work**
- B. The carrying out by a highway authority of work required for the maintenance or improvement of a road repairable at the expense of the highway authority.**
- Work not exempted
- B.1 Work is not permitted by Class B if the work or any part of it is outside the existing boundaries of the road.

CLASS C

- Exempt work**
- C. The carrying out by a provider of sewerage, gas, water, electricity or telecommunications to the**

public of work necessary to lay, place, inspect, repair or renew a sewer, main, pipe, line or cable or other apparatus for the provision of a service to the public or any portion of the public.

- Work not exempted
- C.1 Work is not permitted by Class C if-
- (a) in the case of the placing of new work, any of the work would on its completion be above ground level;
 - (b) the work or any part of the work is to be carried out on a Site of Special Interest.
- Condition
- C.2 On completion of any work carried out underground the surface of the site is returned to its former condition.

CLASS D

- Exempt work
- D. The installation within the area of a harbour administered by the Harbours and Airport Committee of technical equipment necessary for the operation of the harbour.**

CLASS E

- Exempt work
- E. The excavation and construction of runways and aprons within the boundaries of the airport and the installation within those boundaries of equipment necessary for the operation of the technical services of the airport.**

PART 4

DEMOLITION

CLASS A

- Exempt work
- A. The demolition of -**
- (a) a wall, fence, gate, or boundary enclosure;
 - (b) a building of an impermanent nature (for example, a timber shed);
 - (c) a domestic garage or a similar minor permanent structure;
 - (d) a structure the construction of which would be exempt work by virtue of Part 1 of this Schedule (a structure within the curtilage of a dwelling-house);
 - (e) a building used for an agricultural purpose, including the storage of machinery or produce, and the housing of livestock;
 - (f) a domestic or commercial glasshouse;
 - (g) a temporary unit of staff accommodation.

- Work not exempted
- A.1 Work is not permitted by Class A if-

- (a) the work would create a vehicular access to premises;
- (b) the building or structure to be demolished is or is part of a Site of Special Interest;
- (c) in the case of a wall, fence, gate, or boundary enclosure to be demolished, it is a field boundary or adjoins a road;
- (d) the building to be demolished is a permanent dwelling.

Conditions

- A2 If the work is the partial demolition of a building or structure, that any exposed structures are made good and decorated to match the remains of the building or structure;
- A3 If the work requires the disconnection of a mains service, that the demolition is not started until the Building Control Surveyor of the Planning and Environment Committee has been consulted.

PART 5

CHANGES OF USE

CLASS A

Exempt work

- A. **Work that consists of a change of use of a building from use as a shop for the sale of hot food to a use within Class A (shops) as specified in the Island Planning (Use Classes) (Jersey) Regulations 1965.**

CLASS B

Exempt work

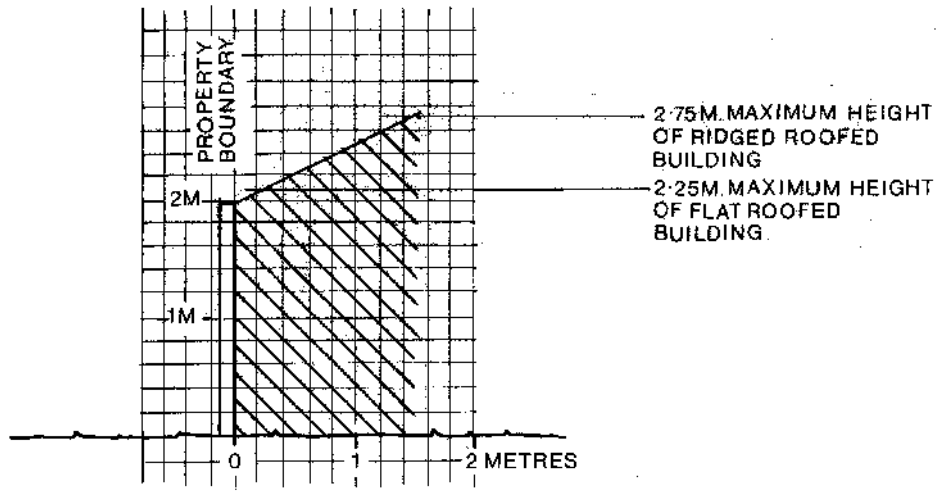
- B. **Work that consists of a change of the use of land within the curtilage of a dwelling-house from a use incidental to the enjoyment of the dwelling-house to another use incidental to that enjoyment.**

Work not exempted

- B.1 Work is not permitted by Class B if the dwelling-house is or is part of a Site of Special Interest.

APPENDIX 1

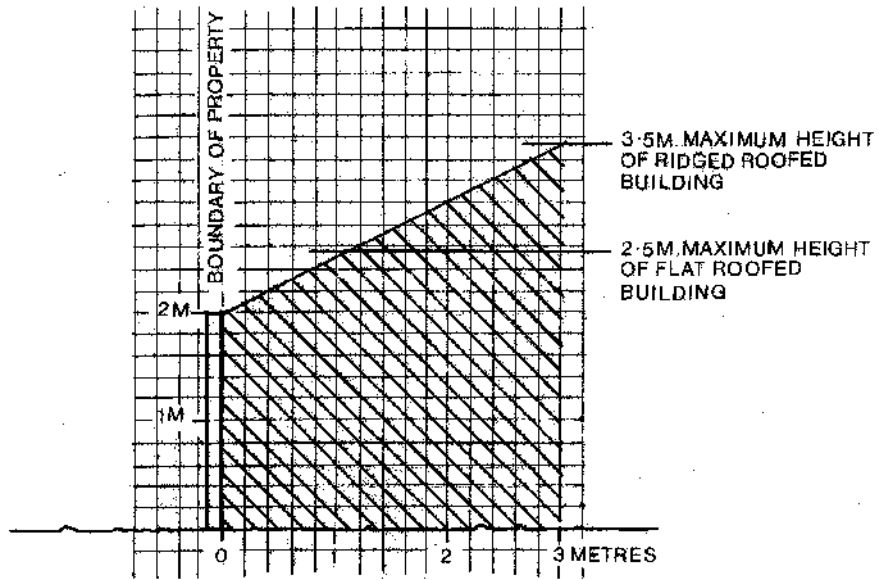
NON-HABITABLE ACCOMMODATION AND OTHER STRUCTURES



Vertical cross section

APPENDIX 2

HABITABLE ACCOMMODATION



Vertical cross section

[1] Recueil des Lois, Volume 1963-1965, page 354.

[2] Recueil des Lois, Volume 1963-1965, page 349, Volume 1979-1981, pages 89 and 319, Volume 1982-1983, page 245, Volume 1990-1991, page 847, Volume 1992-1993, page 105, Volume 1996-1997, page 33, and Volume 2002, page 309.

[3] Recueil des Lois, Tome VIII, page 876.

[4] No. 4652.