

STATES OF JERSEY



Jersey

DRAFT COVID-19 (ISLAND PLAN) (JERSEY) REGULATIONS 202-

Lodged au Greffe on 22nd December 2020
by the Minister for the Environment

STATES GREFFE

REPORT

Introduction

The draft Covid-19 (Island Plan) (Jersey) Regulations 202- would, if made, allow the Minister to make changes to the way in which the Island Plan is progressed to approval by the States Assembly. These changes are proposed in response to the challenges and uncertainty created by the Covid-19 pandemic and its anticipated aftermath. They are intended to be temporary and will enable the progression of a bridging Island Plan 2022-2024. They are also finite and require the resumption of the usual cycle and approach, where the Island Plan is reviewed for periods of up to 10 years, at the end of the period covered by the bridging plan.

Legislation

The Island Plan is of utmost strategic significance to Jersey: it sets out how key community aspirations and needs are to be met and shapes how future development will contribute positively to the sustainable wellbeing of the Island. Because of its significance, the process by which a draft Island Plan is consulted upon; independently examined; amended and debated, before being approved by the States, is set out in primary and secondary legislation.

These Regulations, if made, allow temporary changes to the primary law that establishes the processes for the lodging of a draft Island Plan and how amendments to it may be proposed by States Members. They would also determine when this takes place relative to the 12-week public consultation that will be undertaken in relation to the draft plan, in the usual way.

The Regulations also set out the proposed parameters by which it is expected that a new longer-term Island Plan will be prepared.

Order-making powers, which already exist in the primary law, are also proposed to be extended by these Regulations. This will allow for public representations and States Members' amendments to be heard by a planning inspector at an examination in public. These changes will be made by Order and will be brought forward by the Minister if these Regulations are made.

Key changes

The key changes that would be brought about by these Regulations can be summarised as follows:

Twin-tracking: consultation and lodging

Under the normal process of reviewing the Island Plan, an initial draft Island Plan is published for public consultation before the Minister lodges a revised draft Island Plan *au Greffe*; and it is the revised draft Island Plan that States Members consider and propose amendments to, where they are minded to do so.

This process involves an examination in public that is held by a planning inspector to consider representations made by the public in relation to the initial draft Island Plan. A second smaller examination in public can also be held to consider those amendments lodged in relation to the revised draft Island Plan by States Members, just before the debate. This linear process is outlined in figure 1.

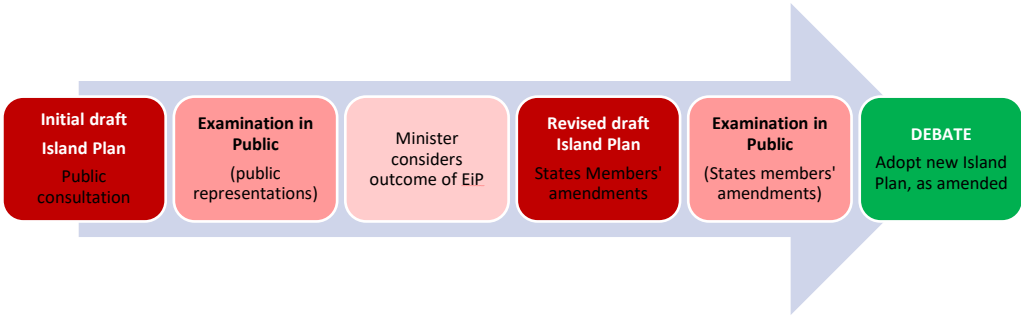


Figure 1: current linear Island Plan process

Because of the pandemic, there is insufficient time to run with this linear process and it has necessitated these proposed changes to the process whereby a draft Island Plan is both lodged *au Greffe* and issued for public consultation **at the same time**: instead of the process being linear, where lodging would follow public consultation, these events are proposed to be twin-tracked, as outlined in figure 2.

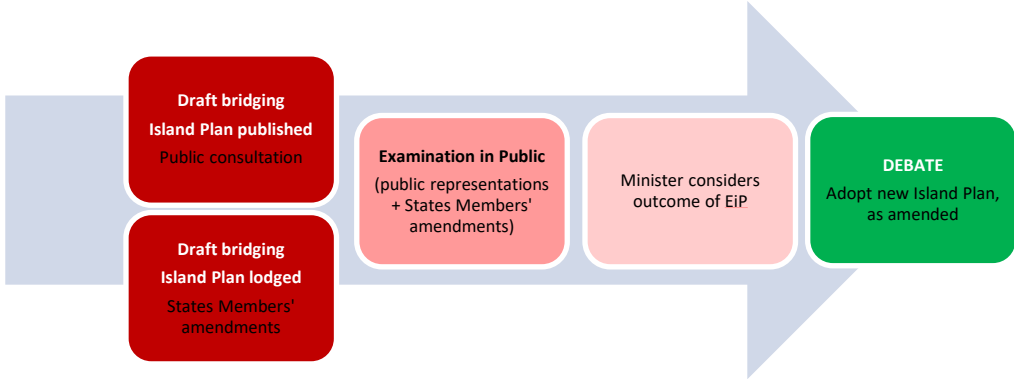


Figure 2: proposed twin-tracked Island Plan process

Public consultation

Public consultation on the draft Island Plan remains unaffected by the changes proposed by these Regulations. Members of the public will still have a 12-week period to consider and comment on any aspect of the draft Island Plan.

Any representation that they make will still be heard by a planning inspector, at an examination in public, and the points raised considered in the inspector’s report, which is issued to the Minister and published before the States debate the plan.

States Members’ amendments

Both the timing and opportunity for States Members to propose amendments to the draft Island Plan are altered by these Regulations, if made. The proposed changes provide States Members with more time to make amendments; and more opportunities to do so.

States Members will have 12 weeks to propose amendments to the draft plan from the beginning of the period when it is lodged. Amendments to amendments can also be made during this time.

These Regulations will also create a further opportunity for States Members to refine or further amend their substantive amendments. This short window will open after the Minister publishes the planning inspector’s report, following the examination in public

(during which the content of proposed amendments will have been considered). Amendments to amendments can also be made at this stage.

It is also proposed that the Minister for the Environment is able to bring his own amendments to the draft plan, once the planning inspector has considered public representations and States Members' amendments at the examination in public.

Finally, these Regulations will make an extended provision for any States Member to lodge amendments during the States Assembly debate itself. These amendments may be on any aspect of the Island Plan but may only be brought where the States Assembly agrees. This provision exists currently but is reserved for the Minister for the Environment.

These opportunities for amendments are outlined in figure 3.

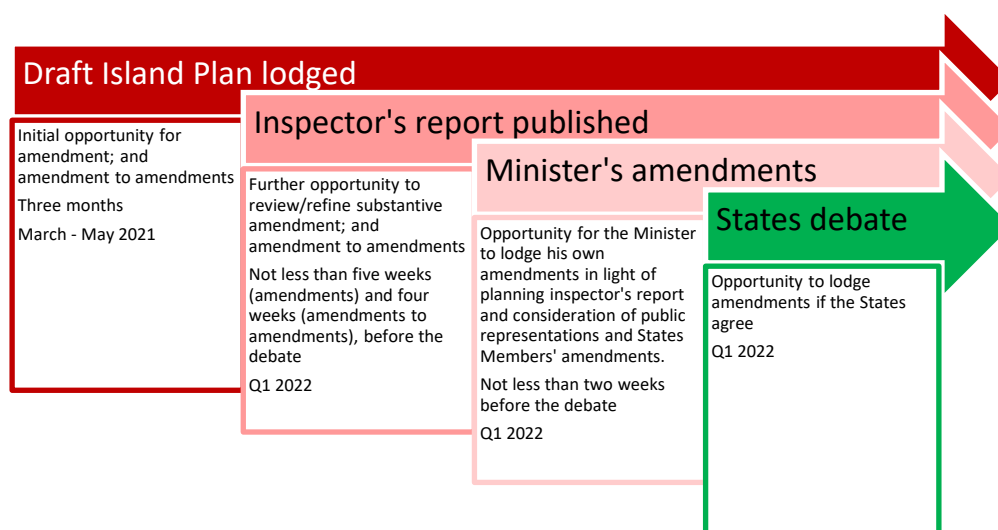


Figure 3: Opportunities for States Members' (incl. the Minister's) amendments

Plan period

The decision to bring forward a bridging Island Plan 2022-24 has been made as a direct response to the current uncertainty brought about by the pandemic where it is considered not possible, or right, to bring forward a longer-term 10-year plan at this time. The bridging Island Plan does, however, afford an opportunity to address some key planning challenges where there is more certainty over the near-term, and to bring the current Island Plan up to date.

The Regulations, if made, would set a requirement for the development of a longer-term Island Plan to be prepared in order that it could be brought forward, within a reasonable time of the end of the period covered by the bridging Island Plan, and ensure the cycle of longer-term Island Plans is re-established.

Financial and manpower implications

There are no financial or resource implications for the States arising from the adoption of these draft Regulations.

EXPLANATORY NOTE

These draft Regulations would, if made, amend Part 2 of the of the Planning and Building (Jersey) Law 2002 (the “Law”), to make changes to the process by which the Minister for the Environment lodges policy proposals in respect of the development and use of land in Jersey in the near future. These changes reflect the current uncertainties caused by the Covid-19 pandemic, and are intended to be temporary and finite.

By *Regulation 2* these draft Regulations would enable the lodging of a short-term draft Island Plan (a “bridging plan”) as a response to that pandemic and its aftermath. During the period covered by the bridging plan, proposals as to the longer-term development and use of land would continue to be developed to ensure that the usual cycle, whereby the Island Plan is reviewed at intervals of up to 10 years, could resume (*Regulation 2(2)*), substituting Article 3(2) of the Law).

New provisions, to be inserted as Article 3(2A) and (2B) of the Law, would make it clear that there is to be no rigid time limit for presentation of a fresh draft Island Plan - though a draft Island Plan must be presented to the States so that it can be approved within a reasonable time of the end of the period covered by an existing Island Plan – and also make explicit that an existing Island Plan remains in effect until a fresh one is approved.

The Minister’s proposals in the form of a bridging Island Plan will still be the subject of public consultation. The intention is for the draft bridging Island Plan to be lodged at the same time as the consultation begins, and (under new provision to be inserted as Article 3(3A) of the Law), this consultation would last for 12 weeks, during which States Members may lodge amendments to the Minister’s proposals, in addition to any representations which may be made during that period by members of the public.

Order-making powers under Article 3 would be extended to enable new a new Order to be drafted, similar to the Planning and Building (Island Plan) (Jersey) Order 2009, so as to enable detailed provision to be made for the procedures by which both representations from the public as to the draft bridging plan, and States Members’ proposed amendments to that plan, are to be heard in public by an inspector. The Minister would (under new Article 3(6) of the Law) consider those representations and amendments in making any amendments to the draft bridging Island Plan.

Amendments would also be made (by *Regulation 2(3)*) to Article 4A of the Law to provide for new additional and separate lodging periods in respect of amendments to the draft bridging plan, amendments to such amendments, and amendments by the Minister to the proposals in that plan. New provision to be inserted in Article 4A(4) would enable the States to agree that such lodging periods may be truncated.

Regulation 1 is an interpretation provision. *Regulation 3* gives the title by which these Regulations may be cited, and provides for them to come into force on the day after they are made.



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DRAFT COVID-19 (ISLAND PLAN) (JERSEY) REGULATIONS 202-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES make these Regulations under Article 2 of the Covid-19 (Enabling Provisions) (Jersey) Law 2020¹ –

1 Interpretation

These Regulations amend the Planning and Building (Jersey) Law 2002², and unless otherwise indicated, a reference in these Regulations to an Article is a reference to the Article of the same number in that Law.

2 Amendment of Law

(1) In Article 1(1) (interpretation) after the definition “breach of development controls” there is inserted –

“ “bridging plan” is to be construed in accordance with Article 3(2)(a);”.

(2) In Article 3 (Minister to prepare a draft Island Plan) for paragraphs (2) to (6) there is substituted –

“(2) A draft Island Plan must set out the Minister’s proposed policies in respect of the development and use of land –

- (a) in the case of a draft Island Plan formulated during the outbreak of Covid-19 or its aftermath (the “bridging plan”), for a period of up to 3 years beginning with the approval of such a plan by the States; or
- (b) in the case of a draft Island Plan other than the draft bridging plan, for a period of no more than 10 years following any period for which a previous Island Plan was approved by the States.

(2A) A draft Island Plan must be presented to the States in such time that the States may approve it, with or without amendment –

- (a) in the case of the draft bridging plan, within 3 years of the approval of that plan by the States or within a reasonable time after the end of that period; or

- (b) in the case of a draft Island Plan other than the draft bridging plan, within 10 years of such approval or within a reasonable time after the end of that period.
- (2B) But if the end of the period for which an Island Plan (an “existing Plan”) was approved by the States occurs before a subsequent Island Plan is so approved, the existing Plan remains in effect until the date of approval of a subsequent Island Plan.
- (2C) A draft Island Plan must be lodged in accordance with paragraph (3A) (in the case of the draft bridging plan), Article 4A and such further provision as may be made by Order.
- (3) In preparing a draft Island Plan, the Minister must publicise the Minister’s proposals and invite representations on those proposals from the public.
- (3A) In the case of the draft bridging plan, the draft bridging plan itself must be lodged for a period of not less than 12 weeks, and during that period –
- (a) the draft bridging plan must be publicised;
 - (b) representations on the Minister’s proposals in the draft bridging plan may be made to the Minister by the public; and
 - (c) amendments to the draft bridging plan may be proposed and lodged by Members of the States Assembly.
- (4) The Minister must by Order prescribe the manner in which –
- (a) the Minister’s proposals, in the form of a draft Island Plan other than a draft bridging plan or in the form of the drafting bridging plan itself, are to be publicised; and
 - (b) representations on those proposals from the public are to be made.
- (5) Orders may also prescribe the procedures by which representations by the public, and amendments to the draft bridging plan lodged by Members of the States Assembly, are to be heard in public.
- (6) In preparing, for approval by the States, a draft Island Plan or amendments to be proposed by the Minister to the draft bridging plan, the Minister must consider –
- (a) any representations from the public which the Minister has received; and
 - (b) in the case of the draft bridging plan, any amendments lodged by Members of the States Assembly.
- (7) In this Part, “lodged” means lodged *au Greffe*.”
- (3) In Article 4A (procedure for and following lodging of draft Island Plan) for paragraphs (2) to (7) there is substituted –
- “(2) An amendment to a draft Island Plan cannot be debated by the States –
- (a) in the case of an amendment to the draft bridging plan, unless it has been lodged during –
 - (i) the period of 12 weeks mentioned in Article 3(3A), or

- (ii) such further period, ending not less than 5 weeks before the debate, as may be prescribed by Order; or
 - (b) in the case of an amendment to a draft Island Plan other than the draft bridging plan, unless it has been lodged for a minimum period of 8 weeks.
- (3) An amendment to an amendment to a draft Island Plan cannot be debated by the States –
 - (a) in the case of an amendment to an amendment to the draft bridging plan, unless it has been lodged during –
 - (i) the period of 12 weeks mentioned in Article 3(3A), or
 - (ii) such further period, ending not less than 4 weeks before the debate, as may be prescribed by Order;
 - (b) in the case of an amendment to an amendment to a draft Island Plan other than the draft bridging plan, unless it has been lodged for a minimum period of 6 weeks.
- (3A) An amendment by the Minister to the Minister’s proposals in the draft bridging plan cannot be debated by the States unless it has been –
 - (a) made in accordance with such further provision on the procedure for the draft bridging plan as may be made by Order; and
 - (b) lodged for a minimum period of 2 weeks.
- (4) But paragraph (2), (3) or (3A), as the case may be, does not apply if the States agree that an amendment may be debated forthwith or on a day or at a time approved by the States.”.

3 Citation and commencement

These Regulations may be cited as the Covid-19 (Island Plan) (Jersey) Regulations 202- and come into force on the day after the day on which they are made.

ENDNOTES

Table of Endnote References

1	<i>L.2/2020</i>
2	<i>chapter 22.550</i>