

# STATES OF JERSEY

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## **DRAFT ADMINISTRATIVE DECISIONS (REVIEW) (AMENDMENT No. 2)(JERSEY) LAW 2006 (APPOINTED DAY) ACT 200**

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Lodged au Greffe on 20th October 2006  
by the Privileges and Procedures Committee

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STATES GREFFE





Jersey

## **DRAFT ADMINISTRATIVE DECISIONS (REVIEW) (AMENDMENT No. 2)(JERSEY) LAW 2006 (APPOINTED DAY) ACT 200**

### **REPORT**

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On 4th May 2004, the Privileges and Procedures Committee presented to the States for consultation its 'Administrative Appeals System: proposals for improvement – consultation report' (RC.20/2004), in which suggestions for improvement were made. The amendments to the scheme were approved by the States on 14th February 2006 and registered in the Royal Court on 23rd June 2006.

The Administrative Appeals Panel (to be re-named the Complaints Panel), as required under Article 5(2) of the Law, has prepared Rules of Practice and Procedure which encompass the new requirements of the amended Law. This will be made available to the public in the form of a leaflet entitled 'Complaints – How to complain to the States of Jersey Complaints Board', *reproduced below*, and which will in future be distributed in a convenient sized leaflet.

The Panel wishes ensure that the findings of meetings are more widely available to the public. For this reason it wishes to see copies of the findings of hearings being made available at the Customer Services Contact Centre at Cyril Le Marquand House, Parish Secretaries, the States of Jersey Library, Broad Street and Central Market Post Offices and the Citizen's Advice Bureau, and held in the States' Bookshop. The Panel's rules of practice and procedure will be available at the same locations.

# COMPLAINTS



## How to complain to the States of Jersey Complaints Board

The States of Jersey Complaints Board is established under the Administrative Decisions (Review) (Jersey) Law 1982, as amended, to look into complaints by members of the public into any matter of administration by any Minister or department of the States, or by any person acting on their behalf.

The Panel of persons who are appointed by the States to become the Chairman, Deputy Chairmen or members of the Panel (from which Boards are constituted) are not States members, and are all completely independent, and give their services on a voluntary basis. If the Chairman, Deputy Chairmen or members of the Panel find that they have a conflict of interest, they will not participate in a Board. In this way, the public can be sure that all Board members are completely unbiased and impartial.

This booklet explains the procedure for submitting a complaint to the Board, and gives an outline of how the complaint will be handled. A copy of the Law may be obtained from the States' Bookshop, Morier House, Halkett Place, St. Helier, JE1 1DD or viewed on the Jersey Legal Information Board website.

### **How to complain – what you need to do**

**Send in a letter explaining the problem.** This will concern a decision, an act, or an omission by any Minister or department of the States, or by any person acting on their behalf. It should have happened no more than 12 months ago, unless there are special circumstances, in which case you are asked to explain the reasons why you have not taken action within the 12 month period.

The address to send the complaint to is Mr. M.N. de la Haye, Greffier of the States,

States' Greffe, Morier House, Halkett Place, St. Helier, JE1 1DD.

**Attach any relevant papers, and if you know of any cases that you think are similar, point them out now.** It is important that you provide any papers relating to the complaint early on, including any photographs or location maps, technical reports etc, before the Chairman considers whether or not to hold a hearing. You will not be able to add any more papers or details of other similar cases later on, or at the hearing.

**Advise the Greffier who will represent you,** such as a States' member or other person. You may represent yourself if you wish. If you think you will require a technical adviser at the hearing, such as an architect, then you should say so as soon as possible.

**Advise the Greffier of the States of any dates** in the next 3 months that you are not available.

**NOTE – Before sending in a complaint,** you should have endeavoured to go through the department's internal appeal procedures to try and resolve the problem. You should feel you have taken all action possible to reach a satisfactory conclusion. The only exception is when the decision/act/omission happened nearly 12 months ago, and there is a risk that if you don't complain now, it will be too late because of the 12 month rule.

### **What happens when a complaint is received?**

**The Greffier will acknowledge receipt of the complaint and check the papers** supporting it, to check that everything seems to be there. He may ask for more papers from you, if he thinks something relevant is missing.

**The Greffier will forward the papers to the Minister and department concerned and ask for a brief response to the complaint** which is sufficient for the Chairman to decide whether or not a complaint should be considered by the Board. This response will be treated as confidential. The Minister/department must provide this response within 2 weeks. The Greffier will also ask the department to confirm for information that the department has dealt with the complaint as far as it can under its own complaints procedure.

**The Chairman or Deputy Chairman will review the papers** sent in by you and the response or appeal report submitted by the Minister/department. On the basis of these, she/he will decide whether the circumstances justify a review by the Board.

**If the Chairman or Deputy Chairman considers that the circumstances justify a Board, before holding a hearing, she/he may first attempt informal resolution of the complaint.** This could involve telephone calls or letters being sent in the first instance. It is possible that some complaints can be resolved more quickly and simply in this way.

**If informal resolution is not appropriate or has failed, the Chairman will refer the matter to a Board and a hearing date will normally be set for 6 weeks later.** The Greffier will be instructed to seek a full report in response to the complaint from the Minister/department, which shall be submitted within 4 weeks in accordance with the Law. If there are any relevant drawings or photographs, they should be included at this stage. The report will contain an adequate policy explanation, that is, a description of the policies under which the decision was made. If no report is presented within 4 weeks, then the hearing will proceed without a report. It will not be possible to circulate papers later, or table papers at the hearing.

**The Chairman may ask you to produce further papers** within 2 weeks, and the

Minister/department will be directed to file a response to those papers, if necessary. After this time, no further papers can be presented, or reference made to cases or premises not already notified.

**Any hearing should normally be held within 14 weeks** of the receipt of the complaint.

**The decision by the Chairman ‘that the circumstances justify a review by the Board’ does not indicate what the outcome of the hearing might be.** It only means that there is merit in holding a hearing.

**The Chairman may decide that the circumstances of the case do not justify a hearing if there is no reasonable prospect of success.**

### **What can I do if my application for a review has been turned down?**

**If your application is refused, the Greffier will advise you of the reasons why it has been refused.**

**You may appeal this decision within one month,** and ask for the decision to be reviewed.

**If the Chairman refused the application, then both of the Deputy Chairmen will consider the appeal.** If one of the Deputy Chairmen refused the application, then the other Deputy Chairman and the Chairman will review the decision.

**If the two Chairmen reviewing the appeal do not agree with the original decision,** then the process will move first to informal resolution if appropriate, and if not resolved in this way, then to a hearing, as above.

**NOTE: If any complaint is made about the Greffier of the States or the States Greffe,** then such a complaint will be immediately referred to the Chairman without enquiring into the facts of the matter, for direction.

### **Arrangements for the hearing**

**You should notify the Greffier** at least 2 weeks before the hearing of the name of the person(s) who will be attending on your behalf and who will be speaking at the hearing, and any special needs requirements, such as disabled access.

**The papers are sent out to the appointed members of the Board, complainants, representatives, Minister and department officers** 10 days before the hearing. These papers will contain all of the papers submitted by you, including any further papers requested by the Chairman, and the report prepared by the Minister/department, and any appendices.

**The hearing is often held at a Parish Hall.** A room is set out with 3 Board members at a table, facing another table with you and your representative at one side, and the Minister and officer(s) at the other side. There are chairs set out for the public and the media to attend (an example layout is shown at the end of this paper). There may be a notice board for plans etc if required. (Please advise the Greffier if you need this.)

**Who can I bring with me?** If you and another person, such as a spouse or co-habitee, are joint complainants, then you may both attend, and also the representative and a technical adviser, if required, whose names you have given to the Greffier. A technical

adviser may not present new information, but may answer questions of a technical nature on the documents that were circulated as part of the complaint. It is important, therefore, that if there are technical reports which are important, they should be submitted with the initial complaint. Any unavoidable changes should be notified as soon as possible.

**The Minister may bring an officer and a technical adviser**, if required, whose names have been notified to the Greffier two weeks in advance of the hearing. (also see previous paragraph) Any unavoidable changes should be notified as soon as possible.

**The Board may ask for specific persons to attend** to answer questions.

**No other person will be allowed to speak** or to sit at the table with you or with the Minister, but may attend as a member of the public.

### **What will happen during the hearing?**

**All hearings should be open to the public.** For personal matters, in borderline cases, members of the media will be asked not to mention names or identifying material in their media reports. At the Chairman's discretion, a hearing may be held in private. The report of any hearing held in private will have any names deleted. Any concerns relating to whether a hearing should be held in private should be raised when the complaint is submitted.

**At the beginning the Chairman will declare the meeting open.**

**All of the papers will be taken as read.** None of the papers should be read out during the hearing.

**The purpose of the hearing is to reiterate points made in the complaint, and in the report presented in response to the complaint by the Minister/department**, and for the Board to ask questions of both parties to help them reach their conclusions about the complaint.

**You or your representative will explain to the Board the most important points of your complaint.** You may refer to the papers, drawings, photographs etc that have already been circulated. No new papers may be tabled.

**The Minister or officer of the department will explain the salient points of the position of the Minister** and may also refer only to documents that have already been circulated.

**There will be a question and answer period** during which members of the Board will ask questions on the papers which have been taken as read, and any other questions the members of the Board wish to ask. With the permission of the Chairman, you may ask a question of the Minister/officer concerned and vice versa. However, there will not be a general debate, and the Chairman will draw such discussion to a close when the Board is satisfied that it has heard all it needs to hear. If there has been a failure to present a report at the appropriate time in the procedure, it will not be possible to present all of the information it would have contained orally.

**The hearing will then close, and the Board will consider its findings in private.**

### **What happens where a site visit is necessary?**

**For matters relating to property, there will generally be a site visit.** After the

Chairman has declared the meeting open, there will follow brief introductions and possibly a very brief statement giving information that will be useful on the visit. The meeting will then be adjourned to make the site visit. The Board, Minister and Complainant will travel to the site which is the centre of the complaint.

**The Board members will decide when sufficient time has been allowed to view the site.**

**You may briefly explain at the site the problem you have**, but no new papers may be presented at the site, and no other cases for comparison may be offered either at the site or en route to/from the site. This is to ensure everyone has had sight of all the relevant papers, and has had time to prepare thoroughly for the hearing.

**The Minister/department may briefly describe the position of the Minister.**

**The parties will return to the Parish Hall/venue for the hearing.** The hearing will be re-convened and continue as above.

### **What happens after the hearing?**

**The Board considers its findings.** The findings are typed, and the Board may have a business meeting to discuss the draft findings before they are signed and issued.

**The findings will be sent to you, your representative, the Minister, the department and the Privileges and Procedures Committee.** A copy of the findings is also sent to the media, who may publish extracts in the press.

**Grounds for upholding a complaint:** if the Boards finds that the decision, act or omission which was the subject matter of the complaint –

- “(a) was contrary to law;
- (b) was unjust, oppressive or improperly discriminatory, or was in accordance with a provision of any enactment or practice which is or might be unjust, oppressive or improperly discriminatory;
- (c) was based wholly or partly on a mistake of law or fact;
- (d) could not have been made by a reasonable body of persons after proper consideration of all the facts; or
- (e) was contrary to the generally accepted principles of natural justice, the Board, in reporting its findings thereon to the Minister, Department or person concerned, shall request that Minister, Department or person to reconsider the matter.”

**Where a Board requests that a decision be reconsidered**, it shall also request the Minister, Department or person concerned to inform it within a specified time of the steps which have been taken to reconsider the matter and the result of that reconsideration. The Board will receive copies of the Minister’s reconsideration.

**Where a Board requested reconsideration of any matter, the Board may**, if it considers that its findings have been insufficiently considered or implemented, **prepare a further report on the matter**, and this will also contain the Board’s original findings and the response of the Minister Department or person concerned, **which it will first forward to the Minister**, Department or person concerned **for information. The Board must send this comprehensive report to the Privileges and Procedures Committee, which must then** present a copy of this report to the States, which means it will be published, and copies will also be sent to all States members. It is a matter for the Committee or any individual member to bring a proposition to the States in relation to

the decision, act or omission that was the subject of the complaint.

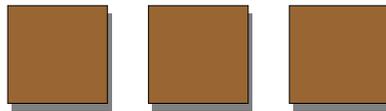
**Copies of the Board's findings** will also be forwarded to the Customer Services Contact Centre at Cyril Le Marquand House, Parish Secretaries, the States of Jersey Library, Broad Street and Central Market Post Offices and the Citizen's Advice Bureau, and held in the States' Bookshop, Morier House, Halkett Place, St. Helier, JE1 1DD. Any report presented to the States will be available on [www.statesassembly.gov.je](http://www.statesassembly.gov.je).

**What if I am not satisfied with the outcome?**

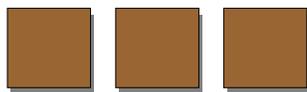
**You may, within one month of the information being provided, request the Board to consider reconvening.** If requested, the same Board may reconvene, either of its own accord, or following a request from you, if it considers that this is justified. If so, it can require further papers or hear any person.

**Once the Board has completed its findings,** and if you are not satisfied, you may approach a States member or a legal representative to pursue alternative remedies.

**Typical layout of a hearing**  
(example given – Parish Hall)



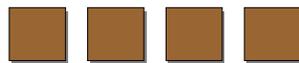
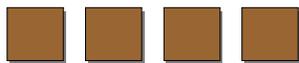
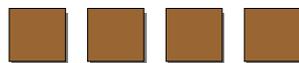
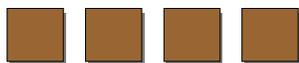
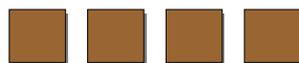
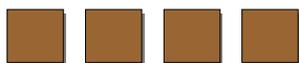
SOJ Complaints Board



Complainant(s) and representative



Minister, Department or person concerned



Public and media

## **Explanatory Note**

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This Act, if adopted, will bring into force on 1st December 2006 a set of amendments to the procedure under the Administrative Decisions (Review) (Jersey) Law 1982.

The amendments are contained in the Administrative Decisions (Review) (Amendment No. 2) (Jersey) Law 2006 (P.195/2005) adopted by the States on 14th February 2006.





Jersey

## **DRAFT ADMINISTRATIVE DECISIONS (REVIEW) (AMENDMENT No. 2)(JERSEY) LAW 2006 (APPOINTED DAY) ACT 200**

*Made*

*[date to be inserted]*

*Coming into force*

*[date to be inserted]*

**THE STATES**, in pursuance of Article 12(2) of the Administrative Decisions (Review) (Amendment No. 2) (Jersey) Law 2006<sup>[1]</sup>, have made the following Act –

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### **1 Commencement of amendments**

The Administrative Decisions (Review) (Amendment No. 2) (Jersey) Law 2006<sup>[2]</sup> shall come into force on 1st December 2006.

### **2 Citation**

This Act may be cited as the Administrative Decisions (Review) (Amendment No. 2) (Jersey) Law 2006 (Appointed Day) Act 200-.

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[1]

L.16/2006

[2]

L.16/2006