

STATES OF JERSEY ORDER PAPER

Tuesday 27th June 2006

SECOND SUPPLEMENTARY

B. TABLING OF SUBORDINATE ENACTMENTS

Misuse of Drugs (Amendment) (Jersey) Order 2006. <i>Minister for Health and Social Services.</i>	R&O 56/2006.
Misuse of Drugs (General Provisions) (Amendment No. 9) (Jersey) Order 2006. <i>Minister for Health and Social Services.</i>	R&O 57/2006.
Health Care (Registration) (Prescribed Qualifications) (Amendment No.2) (Jersey) Order 2006. <i>Minister for Health and Social Services.</i>	R&O 58/2006.
Royal Court (Remuneration of Commissioners) (Jersey) Order 2006. <i>Minister for Treasury and Resources.</i>	R&O 59/2006.
Court of Appeal (Remuneration of Ordinary Judges) (Jersey) Order 2006. <i>Minister for Treasury and Resources.</i>	R&O 60/2006.
Bankruptcy (Désastre) Rules 2006. <i>Superior Number of the Royal Court.</i>	R&O 61/2006.
Mental Health (Amendment No. 2) Rules 2006. <i>Superior Number of the Royal Court.</i>	R&O 62/2006.
Royal Court (Amendment No. 3) Rules 2006. <i>Superior Number of the Royal Court.</i>	R&O 63/2006.

D. NOTIFICATION OF LODGED PROPOSITIONS

Draft Electronic Communications (Amendment) (Jersey) Law 200-. Lodged: 27th June 2006. <i>Minister for Economic Development.</i>	P.79/2006.
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I. QUESTIONS

(b) – Oral Questions

In accordance with the provisions of Standing Order 15 relating to Urgent Oral Questions, the Bailiff has approved the following question to the Chief Minister by the Deputy of St. Ouen –

- a) When was the Chief Minister first made aware of the revised financial forecast that was circulated to members late on Tuesday 20th June 2006?
- b) When was the Council of Ministers first made aware of the revised forecast?
- c) Why was the revised forecast not released to all members prior to the start of the debate on the Strategic Plan?

K. STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

The Minister for Social Security will make a statement regarding membership of the Jersey Employment Tribunal.

L. PUBLIC BUSINESS

Strategic Plan 2006 to 2011, (*as amended*). P.40/2006.
Lodged: 10th April 2006.
Council of Ministers.
(*debate adjourned on 22nd June 2006*)

Solid Waste Strategy: locations for proposed facilities. P.45/2006.
Lodged: 11th April 2006.
Minister for Transport and Technical Services.

Solid Waste Strategy: locations for proposed facilities (P.45/2006) – P.45/2006.
amendments. Amd.
Lodged: 1st June 2006.
Deputy R.C. Duhamel of St. Saviour.

Solid Waste Strategy: locations for proposed facilities (P.45/2006) – P.45/2006.
amendments (P.45/2006 Amd.) – comments. Amd. Com.
Presented: 20th June 2006.
Minister for Transport and Technical Services.

Draft Non-Commercial Movement of Pet Animals (Jersey) Regulations P.49/2006.
200-.
Lodged: 2nd May 2006.
Minister for Planning and Environment.

Jersey Financial Services Commission: appointment of Commissioner. P.66/2006.
Lodged: 1st June 2006.
Minister for Economic Development.
(*consideration in camera*)

M. ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

4th July 2006

Island Plan 2002, Policy H2: Fields 848, 851, 853, and 854. P.48/2006.
Lodged: 20th April 2006.
Connétable of St. Lawrence.

Island Plan 2002, Policy H2: Fields 848, 851, 853, and 854 P.48/2006.
(P.48/2006) – comments. Com.
Presented: 8th May 2006.
Minister for Planning and Environment.

Island Plan 2002, Policy H2: Fields 848, 851, 853, and 854 P.48/2006.
(P.48/2006) – comments – addendum. Com.Add.
Presented: 12th May 2006.
Minister for Planning and Environment.

<p>Island Plan 2002, Policy H2: Fields 848, 851, 853, and 854 (P.48/2006) – comments. Presented: 1st June 2006. <i>Minister for Treasury and Resources.</i></p>	<p>P.48/2006. Com.(2)</p>
<p>Draft Customs and Excise (Amendment No. 3) (Jersey) Law 200. Lodged: 11th May 2006. <i>Minister for Treasury and Resources.</i></p>	<p>P.52/2006.</p>
<p>Draft Act declaring that part of a taxation draft known as the Customs and Excise (Amendment No. 3) (Jersey) Law 200 shall have immediate effect. Lodged: 1st June 2006. <i>Minister for Treasury and Resources.</i></p>	<p>P.67/2006.</p>
<p>Draft Employers' Liability (Compulsory Insurance) (Amendment No. 3) (Jersey) Law 200-. Lodged: 11th May 2006. <i>Minister for Social Security.</i></p>	<p>P.53/2006.</p>
<p>Draft Health and Safety (Work Experience) (Jersey) Regulations 200-. Lodged: 11th May 2006. <i>Minister for Social Security.</i></p>	<p>P.54/2006.</p>
<p>Tevielka, La Rue de la Haye du Puits, Grouville: deed of arrangement. Lodged: 12th May 2006. <i>Minister for Treasury and Resources.</i></p>	<p>P.56/2006.</p>
<p>Draft Employment Relations (Amendment No. 2) (Jersey) Law 200. Lodged: 15th May 2006. <i>Minister for Social Security.</i></p>	<p>P.57/2006.</p>
<p>Income Tax: allowances, reliefs and exemption thresholds ("20 means 20). Lodged: 19th May 2006. <i>Minister for Treasury and Resources.</i></p>	<p>P.58/2006.</p>
<p>Aquasplash Swimming Pool Complex, Waterfront, St. Helier: public use at weekends. Lodged: 22nd May 2006. <i>Connétable of St. Helier.</i></p>	<p>P.59/2006.</p>
<p>Aquasplash Swimming Pool Complex, Waterfront, St. Helier: public use at weekends (P.59/2006) – comments. Presented: 15th June 2006. <i>Minister for Education, Sport and Culture.</i></p>	<p>P.59/2006. Com.</p>
<p>Provision of pedestrian crossings. Lodged: 23rd May 2006. <i>Connétable of St. Helier.</i></p>	<p>P.60/2006.</p>
<p>Provision of Pedestrian Crossings (P.60/2006): comments. Presented: 20th June 2006. <i>Minister for Transport and Technical Services.</i></p>	<p>P.60/2006. Com.</p>

Draft Jersey College for Girls (Removal of Covenants from Former Site) (Jersey) Law 200-. Lodged: 23rd May 2006. <i>Minister for Treasury and Resources.</i>	P.62/2006. (re-issue)
Draft Sexual Offences (Jersey) Law 200-. Lodged: 23rd May 2006. <i>Minister for Home Affairs.</i>	P.63/2006.
Draft Sexual Offences (Jersey) Law 200- (P.63/2006): comments. Presented: 12th June 2006. <i>Minister for Education, Sport and Culture.</i>	P.63/2006. Com.
Draft Sexual Offences (Jersey) Law 200- (P.63/2006): comments. Presented: 20th June 2006. <i>Minister for Health and Social Services.</i>	P.63/2006. Com.(2)
Draft Sexual Offences (Jersey) Law 200- (P.63/2006): amendments. Lodged: 20th June 2006. <i>Deputy of St. Ouen.</i>	P.63/2006. Amd. (re-issue)
<u>18th July 2006</u>	
Island Plan 2002, Policy H2: Field 91, St. Clement. Lodged: 6th June 2006. <i>Deputy I.J. Gorst of St. Clement.</i>	P.70/2006.
Social Affairs Scrutiny Panel: division to create a fifth scrutiny panel. Lodged 26th May 2006. <i>Chairmen's Committee.</i>	P.64/2006.
Social Affairs Scrutiny Panel: division to create a fifth scrutiny panel (P.64/2006) – comments. Presented: 6th June 2006. <i>Privileges and Procedures Committee.</i>	P.64/2006. Com.
Draft Teachers' Superannuation (Amendment No. 2) (Jersey) Law 200. Lodged: 5th June 2006. <i>Minister for Education, Sport and Culture.</i>	P.69/2006.
Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment) (Jersey) Regulations 200-. Lodged: 6th June 2006. <i>Minister for Planning and Environment.</i>	P.71/2006.
Draft Bankruptcy (Désastre) (Amendment No. 5) (Jersey) Law 2006 (Appointed Day) Act 200-. Lodged: 13th June 2006. <i>Minister for Economic Development.</i>	P.74/2006.
Composting facilities at La Collette, St. Helier: cessation. Lodged: 15th June 2006. <i>Deputy G.C.L. Baudains of St. Clement.</i>	P.76/2006.

12th September 2006

Fur products: petition. P.72/2006.
Lodged: 6th June 2006, *and referred to the Ministers for Economic
Development and Home Affairs.*
Senator S. Syvret.

Draft Treaty on Open Skies (Privileges and Immunities) (Amendment) P.73/2006.
(Jersey) Law 200-.
Lodged: 8th June 2006.
Chief Minister.

Fields 190 and 192, Rue de la Sergente, St. Brelade: petition P.75/2006.
Lodged: 13th June 2006, *and referred to the Minister for Planning and
Environment.*
Deputy S. Power of St. Brelade.

Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment No. 2) P.78/2006.
(Jersey) Regulations 200-.
Lodged: 20th June 2006.
Minister for Planning and Environment.

26th September 2006

Ministerial Government: review of first 12 months. P.77/2006.
Lodged: 20th June 2006.
Senator B.E. Shenton.

10th October 2006

Draft Howard Davis Farm (Removal of Covenant) (Jersey) Law 200-. P.65/2006.
Lodged 30th May 2006.
Minister for Treasury and Resources.

24th October 2006

7th November 2006

21st November 2006

Howard Davis Farm, Trinity: part of Fields 562, 827 and 828 – sale of P.68/2006.
land.
Lodged: 5th June 2006, *and referred to the Public Accounts Committee.*
Minister for Treasury and Resources.

M.N. DE LA HAYE
Greffier of the States

29th June 2006

Explanatory Note regarding subordinate legislation tabled at this meeting.

(See Item B)

R&O.56/2006

The effect of this Order is to classify Ketamine as a Class C controlled drug under the Misuse of Drugs (Jersey) Law 1978 so that the provisions of that Law that govern a Class C controlled drug will apply to Ketamine.

Article 1 amends Schedule 2 (Controlled Drugs) of the 1978 Law by inserting Ketamine into Part 3 (Class C Drugs) of that Schedule.

Article 2 provides the title of the Order and that it comes into force 4 weeks after it is made.

The Order was made on 16th June 2006, and comes into force on 14th July 2006.

R&O.57/2006

The effect of this Order is to apply some of the provisions of the Misuse of Drugs (General Provisions) (Jersey) Order 1989 to Ketamine, a Class C controlled drug under the Misuse of Drugs (Jersey) Law 1978.

Article 1 inserts Ketamine into Schedule 4 of the Misuse of Drugs (General Provisions) (Jersey) Order 1989. A controlled drug in that Schedule is subject to the requirements of the following Articles of the 1989 Order : Article 20 (Record keeping requirements in respect of drugs in Schedules 3 and 4); Article 22 (Preservation of registers, books and other documents); Article 24 (Furnishing of information with respect to controlled drugs) and Article 26 (Destruction of controlled drugs). Schedule 4 controlled drugs are not excepted from the prohibition on importation and exportation in Article 4 of the Misuse of Drugs (Jersey) Law 1978. Schedule 4 controlled drug are not excepted from the prohibition on possession when the controlled drug is in the form of a medicinal product.

Article 2 provides the title of the Order and that it will come into force on the same day as the Misuse of Drugs (Amendment) (Jersey) Order 2006 comes into force.

The Order was made on 16th June 2006, and comes into force on 14th July 2006.

R&O.58/2006

The Order prescribes for the purposes of the Health Care (Registration) (Jersey) Law 1995 qualifications (consisting of the appropriate registration in the United Kingdom), in relation to midwives and nurses.

The Order was made on 16th June 2006, and came into force on 23rd June 2006.

R&O.59/2006

The effect of this Order is to increase the daily sitting remuneration of a Commissioner of the Royal Court –

(a) to £713, from 1st April 2006, and

(b) to £736, from 1st November 2006.

The Order was made on 19th June 2006, and came into force forthwith.

R&O.60/2006

The effect of this Order is to increase the daily sitting remuneration of an ordinary judge of the Court of Appeal –

- (a) to £713, from 1st April 2006, and
- (b) to £736, from 1st November 2006.

The Order was made on 19th June 2006, and came into force forthwith.

R&O.61/2006

The purpose of these Rules is to prescribe the procedures to be followed in respect of applications to the Royal Court for declarations under the Bankruptcy (Désastre) (Jersey) Law 1990 and the procedure to be followed after such a declaration.

The Rules were made on 22nd June 2006, and come into force when Article 2 of the Bankruptcy (Désastre) (Amendment No. 5) (Jersey) Law 2006 comes into force.

R&O.62/2006

At its sitting on 23rd March 2006, the Full Court considered a suggestion of the Solicitor General that Rules of Court be prepared under Article 51 of the Mental Health (Jersey) Law 1969 to enable curatorship hearings to take place in the absence of the medical practitioner concerned. The Court agreed with the suggestion and asked for draft Rules to be prepared.

Now attached are the draft Mental Health (Amendment No. 2) Rules 200-. They would amend the Mental Health Rules 1971 (“the principal Rules”), Rule 6 of which governs the procedure leading up to the appointment of a curator.

Rule 1 would merely define the principal Rules.

Rule 2 would add new *paragraphs (4) and (5)* to Rule 6 of the principal Rules.

Paragraph (4) would empower the Court to accept a report in writing of a registered medical practitioner as sufficient evidence of the need to appoint a curator provided that the report satisfied the requirements of *paragraph (5)*. The report would have to be in the prescribed form (*Form 4A*) set out in the *Schedule* to the draft Rules.

Paragraph (5) would require that the report state the full name and qualifications of the registered medical practitioner making the report. It would require the report to give the date on which the registered medical practitioner last interviewed and assessed the person concerned, being a date not more than 30 days before the report was made.

At the heart of the report would be a statement by the medical practitioner whether or not, in his or her opinion, the person concerned was capable of managing his or her property and affairs and, if not so capable –

- (i) in what respects and by reason of what condition of mind or other circumstance the person was incapable; and
- (ii) whether or not the person was likely to recover.

The report would have to be signed and dated by the medical practitioner and be signed by a second medical practitioner who attested the signature of the first.

Rule 3 and the *Schedule* would insert the new Form 4A (referred to above) in the *Schedule* to the principal Rules.

Rule 4 is the customary citation and commencement provision. The Rules, as drafted, would come into force 7 days after having been made.

The Rules were made on 22nd June 2006, and come into force on 29th June 2006.

R&O.63/2006

These Rules would amend further the Royal Court Rules 2004 (“the principal Rules”) insofar as they relate to the

procedure on appeals under the Planning and Building (Jersey) Law 2002 (when it comes into force).

The draft consists of 5 *Rules* and 1 *Schedule*.

Rule 1 would merely define the principal Rules.

Rule 2 would make several amendments of Part 15 of the principal Rules which relates to appeals from administrative decisions.

The amendments would govern planning appeals under the Planning and Building (Jersey) Law 2002, Article 107 of which will (when it comes into force) provide that –

“At the hearing by the Royal Court of an appeal . . . each person interested in the appeal 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.”

Under the new procedure, a planning appeal would, to begin with, be brought - like any other administrative appeal - by serving a notice of appeal (see *Rule 15/2(1)* of the principal Rules as amended by the draft *Rule 2(2)*). *Schedule 4A* would set out the form of such a notice in the case of a planning appeal.

Within 28 days of receiving the notice of appeal, the Minister, as at present, would be required to lodge an affidavit giving a statement of the relevant decision and the facts material to the decision and the reasons for it, together with documentary evidence (see *Rule 15/3(1)* of the principal Rules).

At this point, however, unlike in other administrative appeals, the Judicial Greffier would be required under the inserted *Rule 15/3A(1)* to consider the notice of appeal and the Minister’s affidavit and accompanying documents. The Greffier would have to do this within 5 days and would have to assess, on the basis of the complexity of the case and any legal issues and whether any public interest matter arose, whether the appeal should –

- (i) proceed in the conventional way under what the Rules term the ‘ordinary procedure’; or
- (ii) proceed under what the Rules term the ‘modified procedure’ (see the draft *Rule 2(1)*).

If the Greffier were to decide that the appeal proceed under the ordinary procedure, the appeal would be heard by the Court in the same way as any other administrative appeal under Part 15 of the principal Rules.

If, however, the Greffier determined that the modified procedure was appropriate, he would under *Rule 15/3B(1)* have to give directions with a view to bringing the appeal on for hearing at the earliest opportunity. Whatever directions the Greffier were to give, the appellant would have to file a written statement of submissions at least 14 days before the hearing (*Rule 15/3B(2)*). In turn, the Minister would have to file a written statement of submissions at least 7 days before the hearing (*Rule 15/3B(3)*).

Under the modified procedure, an appellant would be able to be represented by someone other than an advocate. Such a representative could be an *écrivain* or an architect or chartered surveyor or a member of the Royal Town Planning Institute or, otherwise, a person approved by the Greffier or by the Bailiff as a person appropriate to represent the appellant (*Rule 15/3B(4)*). The Minister would be able to be represented by a senior officer of the Planning and Environment Department authorized for that purpose by the Minister (*Rule 15/3B(5)*).

Apart from the above, there would be yet a third possibility for a planning appeal to be heard ‘on the papers’ under *Rule 15/3C*. When considering the notice of appeal and the Minister’s affidavit and accompanying documents at the opening stages of the appeal process, it would be open to the Greffier to decide to consider and determine the appeal himself on the basis of the documents filed with the Court and without oral arguments by the parties. However, this would only be able to happen if the appellant had stated in the notice of appeal that he or she did not require an oral hearing.

Rule 3 would amend *Schedule 1* to the principal Rules so that the Judicial Greffier (as well as the Court itself or the Bailiff) would be able to make orders in cases in which the appellant or the respondent was dilatory in pursuing an administrative appeal (whether or not the appeal was a planning appeal).

Rule 4 would insert *Schedule 4A* into the principal Rules setting out the form of a notice of appeal under the Planning and Building (Jersey) Law 2002 divided into Part A and Part B.

Part A would include a statement by the appellant as to whether he or she did or did not require an oral hearing of the appeal.

Part B would be completed only if the appellant required an oral hearing and wished to appoint a representative (other than an advocate).

Rule 5 is the usual citation provision and would provide for the *Rules* to come into force on the same day as Article 107 of the Planning and Building (Jersey) Law 2002.

The Rules were made on 22nd June 2006, and come into force on 1st July 2006.