

DRAFT PLANNING AND BUILDING (JERSEY) LAW 200-

**Lodged au Greffe on 27th March 2001
by the Planning and Environment Committee**



STATES OF JERSEY

STATES GREFFE

180

2001

P.50

Price code: G

European Convention on Human Rights

The President of the Planning and Environment Committee has made the following statement -

In the view of the Planning and Environment Committee the provisions of the Draft Planning and Building (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator N.L. Querée**

REPORT

1. Introduction

The Planning and Environment Committee, in lodging this Proposition, is pleased to present the draft of the new Planning and Building Law for Jersey. The existing Island Planning Law came into being in 1964, and while it has served the Island well in the intervening 37 years, it is no longer appropriate to deal with the expectations of modern society in Jersey.

Since the Island Planning Law came into being, the States has adopted a number of strategic policies, and has become a signatory to a number of international conventions, which place obligations on the planning system in the Island. In addition, the expectations of the public of Jersey for the planning process in the Island necessitate wholesale change in certain areas. More recently, the adoption by the States of the Freedom of Information Code of Practice and the Human Rights Law has implications for the way in which the planning process will operate in future.

The experience of operating the Law by successive Island Development and Planning and Environment Committees has highlighted the shortcomings of certain provisions of the existing Law and the absence of others, and thus it is timely to review the entire planning and building legislation in the Island, as they assume an ever-greater importance in its day-to-day life.

The process of reviewing the Law was instigated by the Committee, with the publication in 1997 of a proposed law drafting brief. This was made available to members of the public and those organisations most closely associated with the planning process, and helped in the finalisation of the law drafting brief. The Committee was granted law drafting time for a new Planning Law and subordinate regulation in the programme for 1998. The first draft of the new Law was received by the Committee in October 1998, and following a period of refinement between the Committee and the Law Draftsman, a draft Law was published in November 1999, followed by a period of consultation which included a public meeting in February 2000.

Within the same time frame, the Committee's Service Review has been conducted and published.

Since that time, the Committee has reviewed the well-considered representations that were made, and has instructed changes in several areas, the most significant of which are in the transparency of the planning process and the system of appeals.

The proposed Planning and Building Law replaces the Public Health (Control of Buildings) Jersey Law 1956 and the Island Planning (Jersey) Law 1964. The integration of legislation for these two areas reflects the long-standing practice of managing the Planning and Building Control services alongside each other, and enables the standardisation of the administrative procedures which support both Laws. The proposed Law better reflects the "one-stop shop" nature of the way these services are operated.

In addition, the proposed Law absorbs the draft legislation on dangerous structures which has been in the course of preparation for several years.

Of necessity, the adoption of a new Law will require the re-enactment of subordinate legislation, including building bye-laws, exempted development, use classes, advertisements and moveable structures provisions.

An understanding of the exempted development provisions in particular is important in considering the proposed Law, and while the new provisions have yet to be finalised, Appendix 1 at the end of this report explains the changes that the Committee proposes to introduce. They provide for the lessening of controls in certain circumstances, which will remove the burden of regulation from certain types of development, although in certain other areas, in particular for Sites of Special Interest, the exemption threshold is reduced. In addition, the proposed Law brings the demolition of buildings within the definition of development and the Appendix indicates those works of demolition that the Committee considers should be exempt from planning control.

Although the Law has been totally redrafted, many of the provisions, if not identically worded, are nevertheless the same as the existing Laws. To assist members in directing their attention to the areas where changes are made, Appendix 2 lists all the Articles in the new Law, but highlights those in bold type which are entirely new provisions.

2. Existing provisions retained

The Committee has reviewed all provisions of the two Laws which are superseded by this proposed legislation and has sought to simplify the provisions wherever possible. By bringing the two Laws together, the Committee has standardised the administrative and enforcement provisions.

The following areas of the proposed Law are the same. While the drafting style has changed for the following items, there is no change in the substance of the provisions.

Part IV	building control (exception: Article 31);
Part VI	control of advertisements, control of moveable structures, control of land condition, control of caravans, control on the dumping of rubbish;
Part VIII	compulsory purchase provisions;
Part VIII	fees, entry to land;
Part XI	repeal, saving and transitional provisions.

3. New provisions

Article 2: Purposes of the Law

This Article re-phrases but incorporates the existing purposes of the existing Island Planning and Control of Buildings Laws. Attention is drawn to three new items contained within the purposes of the Law.

First, the Law is extended to conserve, protect and improve the natural resources and the physical and natural environment of the Island in Article 2(1). Article 2(2)(a) refers to the Island Plan and contains a presumption that land should not be developed except in accordance with that Plan. It further requires that the Plan should provide for the sustainable development of land, required by the States' Strategic Policies. Thirdly, it provides for the orderly management of transport and travel on, from and to the Island. It is important to stress that in this respect it deals only with those issues of transport and travel which fall within the purview of a land use plan, and does not intend to overlap the responsibilities of the highways authorities in the Island, the Jersey Transport Authority or the Harbours and Airport Committee.

Article 3: Preparation of an Island Plan

This Article requires the Committee to prepare and present to the States for approval an Island Plan, and that the Plan should be reviewed within ten years of approval. At the present time the Committee is not required to present a Plan, but the presumption in favour of the Plan contained in Article 2 necessitates that this process should be mandatory. The advantage of such a provision is that there is always an up-to-date Plan for the Island in place, and the obligation to follow the Plan will create greater certainty regarding development for the public at large. The monitoring and review processes involved in maintaining an up-to-date plan will necessitate additional planning resources.

Article 3 also requires the Committee to make an Order to prescribe the measures that it will adopt to seek the views of the public in the formulation of that Plan. This could take the form of a public inquiry or examination in public into any representations made on the draft Plan published by the Committee, the results of which would be furnished to the States together with the draft Plan, amended to reflect the conclusions of this process.

Article 5: Definition of development

The definition of development is extended to incorporate certain operations which the Law currently exempts from the need to obtain permission. (It is important to point out that subordinate legislation, as it does now, will provide for exemptions in each of the categories below.) These are -

- *Demolition*
This will prevent the removal of buildings or parts of buildings, even though they may not be listed as Sites of Special Interest, which would have an impact which is contrary to the purposes of the Law.
- *Removal of a hedgerow or banque or other physical feature defining a boundary of land*
This will, in appropriate circumstances, prevent the removal of boundaries which would, cumulatively, have an adverse impact on the quality of Jersey's landscape.
- *Use of an existing dwelling for short-term holiday occupation either through letting or through time-share*
This is principally for clarification, but reflects the fact that the characteristics of occupation by holiday-makers is different from that of permanent residents of the Island.

Article 6: Publication of guidelines

This Article gives a statutory basis to the Committee's existing practice of preparing, in consultation with other Committees

or statutory authorities, and publishing guidelines and policies in respect of classes of development or particular areas of land. It also affirms the statutory significance of these guidelines in the assessment of applications.

Article 8: Development Orders

This Article gives the Committee power to grant permission by Order for certain classes of development that would otherwise require an application to be made for permission. The Orders may be general and apply to classes of development across the Island, or they may be special and relate to particular areas of land. The Article embraces the existing provisions for exempted development and use classes.

Through the making of special development Orders, the Committee can relax or increase controls as appropriate in particular areas of the Island. Article 8(8) gives the Committee the power, when granting permission through the applications process to remove exempted development rights in appropriate circumstances. This might include, for example, restricting the right to erect garden structures where planning permission is given to incorporate adjoining agricultural land into a domestic curtilage, thus allowing the use of the land to change without it having an adverse impact on the appearance of the countryside.

Article 11: Publicity for applications

This Article allows the Committee to make an Order prescribing the manner in which an application for permission is publicised. This will lead to a requirement for an applicant to place a notice in a prominent position on the site informing the public that an application has been made and that the plans can be viewed at the Planning Department. This will enable those with an interest in the application to be aware that it has been made, even if they did not see the notice in the Jersey Evening Post, and addresses one of the major criticisms of the existing process that arose out of the public consultation exercise. There is currently no legal requirement to publicise applications at all.

Article 12: Public inquiries

This Article arises in response to representations made on the draft Law and applies to applications which have a significant impact on the Island, or for developments which would constitute a substantial departure from the Island Plan. It is intended that this process will be invoked only in exceptional cases, and relates to large-scale developments such as a new reclamation site or an extension of the Airport runway.

Article 13: Environmental impact assessment

This Article arises from our international obligations and requires applicants to submit an Environmental Impact Statement for certain classes of development which have the potential for significant effect on the environment of the Island. The Committee will make an Order prescribing the classes of development to which this provision will apply. This provision already exists as a policy, but it is considered essential that it becomes a statutory requirement in appropriate cases.

Article 18: Open Committee Meetings

When applications are being considered, this Article requires the Committee to open its meetings to the general public. While the Committee is mindful of the decision of the States in 1999 not to support open meetings for all Committees of the States, it firmly believes that the measure is necessary to improve the transparency of the planning process. Planning applications invariably have supporters and objectors, and it is important that Committee deliberations are public, so that those interested parties are able to see that full weight is given to their representations.

Article 19: Outline planning permission

Provision is made for a statutory permission in outline so that the principle of a proposed development can be tested before detailed plans are prepared. Such a system has operated informally for many years, but by providing a legal framework for this practice, applicants will have greater certainty and will have statutory appeal rights.

Article 20: Retrospective applications

The carrying out of development without permission is an offence under the Planning Law. While the Committee does not condone developers acting in this way, it is necessary for the Law to make provision for such development to be regularised. If permission is not granted or not granted in the form in which the development has been undertaken, the Committee can serve an enforcement notice under Article 40 of the proposed Law. Failure to comply with such a notice is also an offence and thus perpetrators of unauthorised developments could face prosecution and a requirement to remove the unauthorised

works.

Article 21: Variation of conditions

This Article allows for an application to be made to vary the conditions of an existing permission in a formal manner. Such applications would be advertised, and if approved by the Committee would lead to the granting of a modified permit. If refused, there would be a right of appeal which currently does not exist.

Article 25: Planning obligations

Many people are surprised how limited are the powers of the Committee under the present Law. This Article introduces the concept of “planning gain” by enabling the Committee to enter into an agreement requiring a developer to undertake certain works or activities in situations where this cannot legally be secured as a condition of a permission. For example, funding of works necessary as a result of a development, but not undertaken on the site of the application, such as off-site improvements to public roads to serve the development, would be covered by an enforceable agreement. Agreements can also be used to replace corpus fundi conditions, which prevent areas of land being sub-divided.

Article 26: Termination of planning permission

This provision enables the Committee to withdraw a permission in cases where it appears to it that a development, which has begun, will not be completed. Although it would not require the removal of works already undertaken under that permission it would invalidate the occupation or use of the premises under the original permission. It is intended as an incentive for the timely completion of developments already begun but which are unlikely to be finished without intervention.

Article 28: Certificates of completion

This provision enables a person to apply to the Committee for certification that a development has been undertaken in accordance with the requirements of a permission. It is considered that it will be a particularly useful provision for the prospective purchasers of property.

Article 31: Procedures and requirements for demolition of buildings

This Article enables the Committee to make Bye-Laws dealing with the manner in which buildings are demolished, in the interest of health, safety and welfare and to minimise disturbance.

Article 41: Requirement for replacement building

As demolition is now defined as development, this provision is introduced to enable the Committee to require the replacement of a building or part of a building that has been demolished without permission.

Article 45: Stop notices

This Article enables the Committee to serve a notice requiring an activity, either of construction or a use, which is a breach of development controls to cease. It is an emergency provision requiring the immediate cessation of such activity and shall cease to have effect within a period of seven days if the Committee has not served an enforcement notice under Article 40 of the Law.

Article 48: Injunctions

This Article allows the Committee to apply to the Royal Court for an injunction to restrain an actual or apprehended breach of development controls.

Article 51: List of Sites of Special Interest

The provisions under the existing Law for the designation of Sites of Special Interest are cumbersome. The need to make an Order designating a site is procedurally long-winded and imposes a burden on the Law Draftsman. It is intended to replace this method by the Committee maintaining a Statutory List of Sites of Special Interest. This will be available for inspection at all reasonable times, and contain relevant details about a site that is listed, the reason for its listing, the boundary (in map form) to which the listing applies, and the works and activities that it is possible to undertake on the site without the permission of the Committee. This method will enable the Committee to complete the process of listing more quickly, thus providing greater certainty for the owners of such sites. The provisions do not in any way affect the rights of the owner of

such a site to be notified of the Committee's intentions, to make representations, or to appeal.

Article 53: Provisional listing

This is an emergency provision and enables the Committee to list a site on a provisional basis in order to restrain an actual or apprehended operation, which may or may not amount to development, which would adversely affect the special interest of the place or building, where it is not already listed.

Article 56: Funding for Sites of Special Interest

This provision enables the Committee to make grants or loans for the protection of buildings in the public interest.

Article 58: List of protected trees

The provisions for the protection of trees are almost identical to the protection of Sites of Special Interest, and replace the existing method of protection by designation through Order. In the same way, the procedure is simplified without in any way affecting the rights of an interested person to appeal or make representation. The proposed provisions for the protection of trees and of Sites of Special Interest obviate the need to involve the Law Draftsman in producing Orders, and enable the use of maps rather than words to describe the position of a tree or the boundaries of a property with greater clarity.

Article 62: Provision for the planting and preservation of trees

This new provision enables the Committee to protect trees which are planted as part of a planning permission. In appropriate circumstances it allows the Committee to list such trees under the provisions of Article 59.

Article 63: Committee may plant trees

This provision allows the Committee to enter into an agreement with the owner of land to plant trees to preserve or enhance the amenity of land.

Article 64: Funding the planting of trees

This Article enables the Committee, by way of grant or loan, to make funds available to an owner or occupier of land towards the cost of planting or managing trees on that land.

Articles 65 to 74: Dangerous buildings

This is an entirely new provision not covered in the existing Island Planning or Control of Building Laws. It is introduced to enable the Committee to act in situations where a building has become dangerous, or is carrying loadings which could make it dangerous, and allows the Committee to serve a notice requiring certain work to be undertaken to render it safe. This section complements, but does not interfere with, the existing powers of the Parish Connétables under Article 45 of the Loi sur la Voirie of 1914. In practice it enables the Connétables and the Planning and Environment Committee to act in concert to remedy situations which endanger the public.

Articles 106 to 117: Appeals

The provisions in the proposed Law for appeals are a significant departure from those contained in the existing Laws. The Committee has found that the system of appeal against a planning decision to the Royal Court is invariably a slow and expensive process which effectively denies a right of appeal to those of limited means, or makes an appeal unworthwhile where the cost of the works to be undertaken are significantly less than the exposure to costs in an appeal to the Royal Court.

Accordingly, the Committee proposes the setting up of a Planning Appeals Commission. This will be a panel of expert Commissioners, one of whom will be appointed by a Chief Commissioner, to conduct an appeal into a Planning and Environment Committee decision, either through the method of written representations or by public hearing. It is felt that this system will allow swift access to an independent tribunal, which will be able to assess the merits of a case, taking such expert advice as is necessary, and adjudicate. Appellants would not necessarily be required to appoint professional representatives and could expect a final and binding decision within three or four months depending on the way in which the appeal is heard. The Commission will be able to determine appeals on the merits of the case.

An appeal to the Commission would be available against refusals of permission, against conditions subject to which planning permission has been granted, against the revocation or modification of permission, against the service or terms of certain

notices and against certain listings.

The Commission would be required to take into account the purposes of the Law and the policies contained in the Island Plan but it would have the power to find differently to the Committee on the planning merits of the case. It will have full jurisdiction under the Law and its decisions would be binding on the Committee.

The provisions do not alter the right to appeal under the Administrative Decisions (Review) (Jersey) Law 1982, or to seek judicial review by the Royal Court.

Third parties

The provisions for appeals in the proposed Law do not allow for an appeal by a third party. The Committee received oral and written representations that third party appeals should be introduced into the planning system in the Island, but the Committee has weighed carefully the arguments for and against such a provision.

Prior to the coming into force of the Island Planning Law in 1964, owners of land or property were able, more or less, to do as they wished with their property. The Law was introduced to constrain the activities of property owners where they were not in the best interests of the community. The Committee's responsibilities under the Law must be exercised judiciously, and the Law is not in place to protect the interests of individuals, or to confer on those individuals rights in respect of other persons' properties.

There is a natural tendency for objectors to feel that their representation has been ignored when planning permission is granted. What is often difficult to convey is that their views were taken into account but that the content was not such as to modify or reject the reasonable expectations of the applicants for their own property (usually because general amenities were not unreasonably affected or because the objection was of a non-planning nature).

It is the Committee's view that by making the applications process more transparent, in particular by opening Committee meetings to the public, both applicants and objectors will be able to experience first-hand how their representations are taken into account by the Committee when it makes its decision.

Moreover, for a third-party appeal system there would need to be a deferred period before a "provisional" Committee decision became effective as permission. This period would allow objectors to an application to be notified of the Committee's decision and allow sufficient time, probably a month, for objectors to lodge an appeal. In practice, therefore, if there were no appeal it would add six weeks to the time it takes to obtain permission. If an appeal is made it could take three or four months in addition to that six-week period before the permission becomes effective. Clearly this would have the effect of delaying applicants in carrying out their work and would increase costs. It is important for members to bear in mind that this situation is just as likely to occur when one neighbour objects to another's proposal for a small extension, for example, as it will for more substantial developments.

The experience of appeal systems elsewhere is that a considerable number of third party appeals are vexatious and are lodged merely to delay the application process or the development itself. The Republic of Ireland's experience is that about one-third of appeals are from third parties. This would represent an increase of 50 per cent in appeals workload if repeated in Jersey. However, making allowance for the proposals to make the appeals process more accessible, the appeals workload could not be handled by the Committee within existing manpower and budget constraints.

It is the Committee's view, supported by legal opinion, that the applicant, as opposed to the objector, has a greater entitlement to an appeal given the fundamental basis of the Law which limits, in the community interest, the previously-enjoyed rights to do what one wished with one's own property. The property owning system in Jersey gives no rights to neighbours over another's property save through registered legal covenants. The Planning Law is restricted to the protection of amenities in the community or general interest, terms which, although incapable of specific definition, are clearly not intended to confer rights in property in lieu of legal rights. It is for these reasons that the Committee does not propose to introduce a third party appeals system into local law.

Third parties retain the right to appeal under the Administrative Decisions (Review) (Jersey) Law 1982, and to seek judicial review of a Committee decision in the Royal Court.

Article 125: The Crown and Crown land

This Article clarifies the applicability of the Law to the Crown and Crown land.

4. Costs of compliance

The changes proposed extend the provisions of the law, the Committee believes, in the public interest. However, they will incur financial and manpower costs in excess of the Committee's existing budget. A significant element of these additional costs arise from making the whole planning process more transparent and securing human rights law compliance. In particular, the cost of a Planning and Building Appeals Commission, which in the Committee's estimation might be in the order of £250,000 per annum, will be offset by significant on-going savings in the Royal Court and the Law Officers' Department.

It is difficult to predict accurately the workload generated by the new processes introduced by the Law. The Committee anticipates more appeals as the process is made less expensive and more accessible to appellants, but it will fluctuate year-on-year and it is not possible to be precise. The Committee estimates in the order of 250 appeals per annum, most of which will be against application decisions.

The following paragraphs summarise where additional costs will arise.

- Article 2: Purposes. Includes "sustainable development" which impacts on transport and travel within the Island. There will be a requirement for advice and assessments to be sought. Costs will fall mainly on the applicant, but will also impact on the highway authorities of the Island, i.e. Public Services and Parishes.
- Article 3 The Island Plan will in future be updated every ten years but will require continual monitoring and review. It is prudent to include financial and manpower provision for ensuring this is done.
- Article 5 Includes hedgerows and banques. This will require the provision of arboricultural advice.
- Article 6 There will be a requirement for additional preparation and printing costs.
- Article 11: The new arrangements for display of mandatory site notices may have a cost in enforcement.
- Article 12 The cost of holding any public inquiry is significant. However, the process will only be involved exceptionally for applications relating to large scale developments.
- Article 13 The requirement for Environmental Impact Assessments will fall on the applicant to bear the cost, but additional advice will be needed by the Committee.
- Article 18 The requirement for open Committee meetings will require facilities sufficient for the public to hear, and perhaps participate, in the discussions, have access to papers, and review drawings. This will require suitable premises to be rented.

Open Committee meetings will lead to greater demands upon Planning Officers for a more transparent process. To ensure that reasonable performance continues, provision needs to be made for two additional Planning Officers.

Article 25 Planning agreements will be an important tool enabling the Committee to require the provision of off-site infrastructure or developments of public benefit, which cannot be made a condition of granting permission.

This can be expected to have financial benefit for individual projects either of a capital nature or, if the agreement involves regular maintenance or a payment in lieu of on-site car-parking provision by the developer, a revenue benefit.

Article 45 The introduction of stop notices has no extra cost, but does expose the Committee to legal claims for compensation if the power is not responsibly used. There are adequate safeguards in the new Law to guard against this possibility.

Articles 51 and 59: The simplification of procedures for designating Sites of Special Interest and Protected Trees will reduce administrative and legal costs significantly.

Articles 56 and 64: This provision provides a statutory base for the existing States-approved grants scheme.

Articles 64 to 74: Dangerous buildings and control of demolition. This new function will in part require the addition of a full-time building surveyor to the building control team, together with a modest increase in administrative costs.

Articles 106-117: The setting up of an independent Planning and Building Appeals Commission, to hear planning appeals instead of the Royal Court, will incur extra costs.

It will require the appointment of Commissioners, a part-time registrar, a part-time secretary, and the services of professionally qualified advisers from time to time. It can be expected that approximately 200 minor cases will arise each year, each taking a day to deal with; 50 modest cases taking up to three days each and ten major cases requiring the services of an off-Island Planning Inspector.

However, additional costs in this area will be offset by a reduction in Royal Court and Crown Officer costs (these costs are presently wholly absorbed within the Finance and Economics Committee's budget).

General Issues: It is anticipated that the new Law, as a whole, will require some extra resources, in addition to the manpower implications arising from specific Articles indicated above.

Specifically, the Committee believes that there is a need for a specialist planning lawyer based in the Attorney General's office, who will be able to advise the Committee in its open committee meetings, prepare agreements under Article 25, and act for Committee in Planning Appeals Commission and Royal Court work.

In addition, the Committee considers that its responsibility to protect the Island's archaeological heritage in accordance with States Strategic Policy, but in particular because of its obligations under the Law, necessitates the employment of an archaeologist.

Appendix 3 shows, in chart form, the additional costs and savings.

No assumptions have been made as to how the additional costs will be funded.

However, the Committee wishes to make it absolutely clear to States members that it will not be able to introduce the Law unless the additional resources are found.

5. European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 22nd March 2001 the Planning and Environment Committee made the following statement before Second Reading of this projet in the States Assembly -

In the view of the Planning and Environment Committee the provisions of the Draft Planning and Building (Jersey) Law 200- are compatible with the Convention Rights.

APPENDICES -

- 1 Summary of exempted development provisions.
- 2 Arrangement by Parts/Articles, indicating which are new provisions.
- 3 Manpower and financial costs of compliance.

- Notes:**
1. The Human Resources Committee notes the manpower implications identified in the report and proposition. If the States agree the proposals, any additional staffing requirements that may be identified would only be considered in the light of the States policy on manpower and would not normally be approved unless compensatory savings are made elsewhere.
 2. The comments of the Finance and Economics Committee are to follow.

SUMMARY OF EXEMPTED DEVELOPMENT PROPOSALS

Class 1: Works within the curtilage of a dwelling-house

New exemptions from the need for planning permission (certain conditions apply) -

- pergola;
- open-air swimming pool;
- garage for the storage of private vehicles;
- conservatory or small extension for habitable purposes;
- satellite antenna (not visible from road);
- LPG tank;
- all size parameters increased.

Class 4: Temporary buildings

New exemptions from the need for planning permission (certain conditions apply) -

- on building sites can be used by workers as accommodation.

Class 7: Development by public or statutory authorities

Clarify to include “corporatised” public utilities, e.g., Telecoms.

New exemption to street furniture (sub-class (ii))- add closed-circuit television cameras.

New condition (sub-class (ii))- provided they are of a type previously agreed by the Planning and Environment Committee.

Add Class 10: Demolitions

Exemptions

Within a domestic curtilage

- walls, fences, gates and boundary enclosures other than those adjoining a road;
- buildings of temporary construction such as garden sheds;
- garages and minor permanent structures, excluding the dwelling itself.

All other works permitted/exempted by the Regulations

Standard conditions

- (1) that the works do not involve the construction of a vehicular access;
- (2) that the property is not a Site of Special Interest;
- (3) where the works are a partial demolition, the making good and decoration of exposed walls to match the remaining building.

PLANNING AND BUILDING (JERSEY) LAW 200-

ARRANGEMENT OF PROVISIONS

ARTICLE 1 (New provisions are highlighted in bold type)

PART 1

PRELIMINARY

1. Interpretation
2. **Purposes of Law**

PART 2

THE ISLAND PLAN

3. **Committee to prepare an Island Plan**
4. Form of Island Plan

PART 3

PLANNING CONTROL

Chapter 1 - Develop defined

5. **Meaning of “develop”**

Chapter 2 - Guidelines

6. **Committee may publish guidelines, etc.**

Chapter 3 - Application of planning controls

7. Land not to be developed without permission
8. **Development Orders**
9. Applications for planning permission not granted by a Development Order
10. False information, etc. in application for planning permission
11. **Committee shall prescribe manner in which application for planning permission is to be publicized**
12. **Public inquiries**
13. **Environmental impact of proposed development**
14. Development of concern to highway authority
15. Development of concern to the Harbours and Airport Committee
16. Development of concern to the Public Services Committee
17. Development of concern to other Committees, etc.
18. **Public may attend Committee meeting when application for planning permission being considered**
19. **Grant of planning permission**
20. **Application for planning permission for development already undertaken**
21. **Committee may vary, etc. conditions subject to which planning permission was granted**
22. Committee to give reasons for certain decisions
23. Conditions attached to the grant of planning permission
24. Planning permission attaches to land
25. **Planning obligations**
26. **Committee may terminate planning permission by reference to time limit**
27. Revocation and modification of planning permission
28. **Committee may provide certificate of completion**
29. Committee to keep register of applications for planning permission

PART 4

BUILDING CONTROLS

Chapter 1 - Building Bye-laws

- 30. Committee to make Building Bye-laws
- 31. Purposes of Building Bye-laws**
- 32. Committee may publish technical guidance documents in respect of Building Bye-laws

Chapter 2 - Enforcement of the Building Bye-laws

- 33. Prescribed building work not to be undertaken without building permission
- 34. Applications for building permission
- 35. Grant of building permission
- 36. Committee to give reasons for refusal to grant building permission
- 37. Conditions attached to the grant of building permission
- 38. Committee to keep register of applications for building permission

PART 5

ENFORCEMENT OF DEVELOPMENT CONTROLS

- 39. Interpretation - breach of development controls
- 40. Committee may serve an enforcement notice in respect of breach of development controls
- 41. Enforcement notice may require replacement building**
- 42. Committee may vary or withdraw an enforcement notice
- 43. Committee may execute work required by an enforcement notice
- 44. Offence when enforcement notice is not complied with
- 45. Stop notices**
- 46. Penalty for contravention of stop notice
- 47. Enforcement of development conditions
- 48. Injunctions restraining breaches of development controls**
- 49. Committee to maintain Register of Development Notices

PART 6

ADDITIONAL CONTROLS

Chapter 1 - Sites of special interest

- 50. Interpretation - sites of special interest
- 51. Committee to maintain a List of Sites of Special Interest**
- 52. Listing of building or place on the List of Sites of Special Interest
- 53. Provisional listing**
- 54. Control of certain operations, etc. not amounting to development
- 55. Certain activities restricted on sites of special interest
- 56. Committee may make funds available in respect of sites of special interest, etc.**

Chapter 2 - Protection of trees

- 57. Interpretation - protected trees
- 58. Committee to protect trees by maintaining a List of Protected Trees**
- 59. Listing of tree on the List of Protected Trees
- 60. Provisional listing of trees
- 61. Protected tree not to be felled, etc. without permission
- 62. Committee to provide for the planting and preservation of trees where appropriate**
- 63. Committee may plant trees, etc.**
- 64. Committee may make funds available for the planting and protection of trees, etc.**

Chapter 3 - Dangerous buildings

- 65. Interpretation - dangerous buildings
- 66. Committee may serve a dangerous building notice in respect of building in a dangerous condition
- 67. Dangerous building notice - restoration work
- 68. Committee may vary or withdraw a dangerous building notice
- 69. Committee may execute work required by dangerous building notice
- 70. Offence when dangerous building notice is not complied with
- 71. Committee may take immediate action to ensure safety
- 72. No compensation payable
- 73. Planning permission and building permission
- 74. Committee to maintain Register of Dangerous Building Notices

Chapter 4 - Control of advertisements

- 75. Interpretation - advertisements
- 76. Committee may make Orders to control advertisements
- 77. Order may apply to existing advertisements
- 78. Penalty for contravention of Order
- 79. Committee may remove or obliterate advertisement

Chapter 5 - Control of Moveable structures

- 80. Moveable structures defined
- 81. Committee may make Orders in respect of moveable structures
- 82. Penalty for contravening an Order

Chapter 6 - Control of land condition

- 83. Interpretation - land condition
- 84. Committee may require repair or removal of ruinous or dilapidated buildings.
- 85. Committee may require action to be taken in respect of drainage nuisance
- 86. Power of Committee to require proper maintenance of land, etc.
- 87. Committee may require removal of caravans
- 88. Committee may require action to be taken in respect of dumps
- 89. Committee may take action in respect of disused vehicles
- 90. Committee may require vegetation to be replaced or removed
- 91. Contents of land condition notice
- 92. Committee may vary or withdraw a land condition notice
- 93. Penalty for failure to comply with land condition notice
- 94. Committee may undertake work, etc.
- 95. No compensation payable
- 96. Planning permission and building permission
- 97. Committee to maintain Register of Land Condition Notices

Chapter 7 - Control of caravans

- 98. Definitions in respect of caravans
- 99. Committee may control importation and use of caravans
- 100. Offence of importing, etc. caravan without permission of Committee
- 101. Conditions on importation and use of caravan
- 102. Committee may require caravan to be exported
- 103. Caravan may be forfeited to Committee
- 104. Committee may seize and retain caravan

Chapter 8 - Control of rubbish

- 105. Person shall not deposit rubbish

PART 7

APPEALS

Chapter 1 - The Planning and Building Appeals Commission

- 106. Interpretation - “persons interested in the appeal” defined**
- 107. Planning and Building Appeals Commission**
- 108. Appeals**
- 109. Procedure on receipt of an appeal**
- 110. Hearings**
- 111. Commissioner may carry out inspection**
- 112. Determination of appeal**

Chapter 2 - Appeals

- 113. Applicants may appeal against certain refusals**
- 114. Appeal against condition subject to which planning permission, etc. granted**
- 115. Appeal against revocation or modification of planning permission**
- 116. Appeal against service or terms of certain notices, etc.**
- 117. Appeals against certain listings**

PART 8

POWER OF STATES TO ACQUIRE LAND BY COMPULSORY PURCHASE

- 118. Power of States to acquire land

PART 9

ADMINISTRATIVE PROVISIONS

- 119. Committee may prescribe fees
- 120. Service of notices
- 121. Power of entry
- 122. Offences by bodies corporate
- 123. Orders and Building Bye-laws

PART 10

APPLICATION TO THE CROWN AND TO CROWN LAND

- 124. Interpretation - the Crown and Crown land**
- 125. Application of Law to the Crown and to Crown land**

PART 11

REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

- 126. Interpretation - Repeals, etc.
- 127. Repeals
- 128. Savings
- 129. Transitional provisions
- 130. Short title and commencement

Schedule - Contents of Building Bye-laws

Explanatory Note

This Law will repeal and replace the Public Health (Control of Buildings) (Jersey) Law 1956 and the Island Planning (Jersey) Law 1964. It contains revised and additional provisions to take account of changed circumstances and requirements, including human rights legislation.

The Committee's first major obligation under the Law will be to prepare an Island Plan for the States' approval. This is required to be in the form of a document, augmented by plans and maps, that sets out the States' policies for the development of the Island's land taking into account the purpose of the Law.

The Law then provides that, in general, the Committee must not grant permission to develop land unless the development is consistent with the Island Plan.

The Law will also require the Committee to make Bye-laws that prescribe the functional requirements of buildings on the Island.

The Law then provides that certain building operations must not be carried out without building approval which will usually only be given if the Committee is satisfied that the resulting building will possess the functional requirements prescribed by the Building Bye-laws.

In addition the Law contains a number of other measures designed to preserve and improve the Island's general amenities.

The Law includes a number of important changes.

"Development", for which planning permission is required, is now clearly defined to include the demolition of the whole or any part of a building.

Another important change is that in many instances under the Law the Court will in future be required when determining the penalty for an offence to take into account any financial benefit the person committing the offence was able or likely to obtain, or could have obtained by the commission of the offence.

Further, provision is made whereby a person who has been convicted of an offence under the Law and who continues to commit that offence may be convicted of committing the offence a second or subsequent time.

The Law also provides that in respect of certain applications for planning permission a public inquiry must be held and that the Committee is to take representations made at the inquiry into account when determining the application. An inquiry will in future be necessary where the Committee is satisfied that were the development to be carried out it would have a significant effect on the interest of the whole or a substantial part of the population of the Island or would be a significant departure from the Island Plan.

The Law will also provide that a meeting of the Committee must be open to the public when an application for planning permission is being considered by the Committee.

Further the Law provides that appeals against certain decisions and actions by the Committee will be considered by a Planning and Building Appeals Commission instead of by the Royal Court, as at present. The persons hearing an appeal will be drawn from a panel of experts appointed by the States. Their decision will be final and binding on the Committee which must implement the decision.

Where a penalty is expressed in the proposed Law as a fine not exceeding a specified level "on the standard scale", this is a reference to the scale set out in the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993.

The maximum penalties for each level in that scale are, currently -

Level 1	£50
Level 2	£500
Level 3	£2,000
Level 4	£5,000.

Where no maximum fine is prescribed by the Law the level of the fine is left to the court to set having regard to any guidance given by the Law. This arrangement is necessary to make it unprofitable for anybody to deliberately contravene the Law.

The following are the details of the provisions of the law -

PART 1 - PRELIMINARY

Article 1 defines certain terms used in the Law or indicates where a definition may be found.

Article 2 sets out the purposes of the Law.

PART 2 - THE ISLAND PLAN

Article 3 requires the Committee to prepare an Island Plan for approval by the States. It also requires the Committee to prepare a revision of the Plan for the States' approval at intervals of not less than 10 years.

Article 4 specifies the form the Island Plan must take.

PART 3 - PLANNING CONTROL

Chapter 1 - Develop defined

Article 5 defines what is meant by "develop" or "development" when either of those terms is used in the Law.

In general "develop", in respect of land, means to undertake a building, engineering, mining or other operation in, on, over or under the land, or to make a material change in the use of the land or a building on the land.

A building operation is defined to include the demolition of the whole or any part of a building, while a building is defined as meaning any structure constructed of any material.

For the sake of clarity the Article gives specific instances of what constitutes development where there may be some doubt.

Chapter 2 - Guidelines

Article 6 allows the Committee to publish guidelines and other documents to guide people who are considering carrying out development.

Chapter 3 - Application of planning controls

Article 7 makes it an offence to carry out development without planning permission or without complying with any condition of any planning permission.

Article 8 provides that planning permission (generally in respect of smaller building operations or certain changes of use of land) may be granted by the Committee by a Development Order.

Article 9 specifies how, where permission for development has not been granted by a Development Order, an application to the Committee for planning permission is to be made.

Article 10 gives the Committee certain powers if false information is provided in respect of an application to it for planning permission.

Article 11 requires the Committee to make Orders prescribing the manner in which applications to it for planning permission must be publicized.

Article 12 requires that before certain applications for planning permission are considered by the Committee a public inquiry is to be held.

Article 13 allows the Committee to require that an environmental impact statement must be provided in respect of certain types of proposed development.

Article 14 requires the Committee to consult the highway authority in respect of certain types of proposed development.

Article 15 requires the Committee to consult the Harbours and Airport Committee in respect of certain types of proposed development.

Article 16 requires the Committee to consult the Public Services Committee in respect of certain types of proposed development.

Article 17 requires the Committee to consult other Committees and statutory bodies in respect of certain types of proposed development.

Article 18 provides that the Committee must allow the public to attend a meeting of the Committee when it is considering an application for planning permission.

Article 19 specifies how the Committee may grant planning permission for development and specifies that generally permission must not be given by the Committee unless the proposed development is in accordance with the Island Plan.

Article 20 allows the Committee to grant planning permission for development that has already been undertaken - it may also refuse it.

Article 21 allows the Committee to vary or cancel any condition subject to which it has granted planning permission.

Article 22 requires the Committee to give reasons for doing so if it refuses to grant planning permission or imposes conditions on any planning permission it grants or grants planning permission for development that is inconsistent with the Island Plan.

Article 23 specifies the type of conditions that may be attached to the grant of planning permission.

Article 24 provides that generally planning permission is a benefit that attaches to land and so can be enjoyed by each subsequent owner of the land. It also provides that where the permission was granted subject to conditions, generally those conditions can be enforced against each subsequent owner of the land.

Article 25 allows the Committee to enter into planning obligations with owners of land relating to how that land may be used. A planning obligation usually binds each subsequent owner of the land.

Article 26 allows the Committee to terminate planning permission if the proposed development authorized by the permission although started has not been completed within a specified time.

Article 27 specifies how and when the Committee may revoke or modify planning permission it has granted and the compensation that it must pay for doing so.

Article 28 allows the Committee to provide a certificate of completion as evidence that development has been carried out in accordance with the planning permission it granted for the development.

Article 29 requires the Committee to keep a public register of applications for planning permission showing how each application was dealt with.

PART 4 - BUILDING CONTROLS

Chapter 1 - Building Bye-laws

Article 30 requires the Committee to make Building Bye-laws.

Article 31 specifies the purposes of Building Bye-laws.

Article 32 allows the Committee to publish technical guidance documents in respect of Building Bye-laws.

Chapter 2 - Enforcement of the Building Bye-laws

Article 33 provides that none of the building operations specified in the Building Bye-laws is to be undertaken except in accordance with building permission granted by the Committee.

Article 34 specifies how building permission is to be applied for.

Article 35 provides for the grant of building permission.

Article 36 requires the Committee to give reasons if it refuses to grant building permission.

Article 37 specifies the type of conditions that the Committee may attach to its grant of building permission.

Article 38 requires the Committee to keep a public register of applications for building permission showing how each application was dealt with.

PART 5 - ENFORCEMENT OF DEVELOPMENT CONTROLS

Article 39 defines when there has been a breach of development controls.

Article 40 allows the Committee to serve a enforcement notice if it believes that there has been a breach of development controls.

Article 41 allows the Committee to require a replacement building to be erected where one has been demolished in contravention of the Law.

Article 42 allows the Committee to vary or withdraw an enforcement notice.

Article 43 provides that if work required to be undertaken by an enforcement notice is not carried out the Committee may execute the work itself and recover the cost of doing so from the then owner of the land.

Article 44 provides for it to be an offence not to comply with an enforcement notice.

Article 45 allows the Committee to serve a stop notice if it considers that an operation that requires planning or building permission is being carried out without that permission.

Article 46 provides for it to be an offence not to comply with a stop notice.

Article 47 specifies how conditions attached to planning or building permission may be enforced.

Article 48 allows the Committee to apply to the Royal Court for an injunction to restrain a breach of development controls.

Article 49 requires the Committee to maintain a public Register of Development Notices so that the public can find out what notices (if any) apply to any particular area of land.

PART 6 - ADDITIONAL CONTROLS

Chapter 1 - Sites of special interest

Article 50 defines certain terms used in this Chapter.

Article 51 requires the Committee to maintain a List of Sites of Special Interest.

Article 52 specifies the procedure to be followed before the Committee may put a building or place on the List of Sites of Special Interest.

Article 53 provides that a building or place may receive provisional listing to give it immediate protection.

Article 54 provides for the control of certain operations not amounting to development on sites of special interest.

Article 55 restricts certain activities on sites of special interest.

Article 56 allows the Committee to make funds available in respect of sites of special interest and other sites and buildings of interest to the public.

Chapter 2 - Protection of trees

Article 57 defines certain terms used in this Chapter.

Article 58 requires the Committee to maintain a List of Protected Trees.

Article 59 specifies the procedure to be followed before the Committee may put a tree on the List of Protected Trees.

Article 60 provides that a tree may receive provisional listing to give it immediate protection.

Article 61 provides that a protected tree must not be felled or otherwise dealt with without the Committee's permission.

Article 62 allows the Committee to require trees to be planted or preserved.

Article 63 allows the Committee to plant trees and do other related things.

Article 64 allows the Committee to make funds available for the planting and protection of trees and for similar activities to preserve or improve the appearance of land.

Chapter 3 - Dangerous buildings

Article 65 defines a term used in this Chapter.

Article 66 allows the Committee to serve a dangerous building notice in respect of a building in a dangerous condition.

Article 67 provides that a dangerous building notice may require restoration work to be undertaken.

Article 68 allows the Committee to vary or withdraw a dangerous building notice.

Article 69 provides that if work required to be undertaken by a dangerous building notice is not carried out the Committee may execute the work and recover the cost of doing so from the then owner of the land.

Article 70 provides for it to be an offence not to comply with a dangerous building notice.

Article 71 allows the Committee to take immediate action in respect of a dangerous building to ensure safety.

Article 72 provides that action taken under the Chapter does not give rise to a claim for compensation.

Article 73 provides that work undertaken in compliance with a dangerous building notice must be undertaken in accordance with any statutory requirements except that planning permission and building permission is to be taken to have been granted for the work.

Article 74 requires the Committee to maintain a public Register of Dangerous Building Notices.

Chapter 4 - Control of advertisements

Article 75 defines "advertisement".

Article 76 allows the Committee to make Orders to control advertisements.

Article 77 provides that subject to certain limitations an Order may apply to existing advertisements.

Article 78 provides for it to be an offence not to comply with an Order.

Article 79 allows the Committee to remove or obliterate an advertisement that is being displayed in contravention of an Order.

Chapter 5 - Moveable structures

Article 80 defines "moveable structures".

Article 81 allows the Committee to make Orders to control moveable structures.

Article 82 provides for it to be an offence not to comply with an Order.

Chapter 6 - Control of land condition

Article 83 defines certain terms used in this Chapter.

Article 84 gives the Committee the power to require the repair or removal of ruinous or dilapidated buildings.

Article 85 gives the Committee the power to require action to be taken in respect of a drainage nuisance in respect of a building.

Article 86 gives the Committee the power to require the proper maintenance or use of land where its condition is causing damage to the amenities of any part of the Island.

Article 87 gives the Committee the power to require the removal of a caravan for amenity reasons.

Article 88 gives the Committee the power to require action to be taken in respect of dumps for amenity reasons.

Article 89 gives the Committee the power to take action in respect of disused vehicles.

Article 90 gives the Committee the power to take action where vegetation is being removed or destroyed, or is a nuisance to other land.

Article 91 specifies what a land condition notice must contain.

Article 92 allows the Committee to vary or withdraw a land condition notice.

Article 93 provides for it to be an offence not to comply with a land condition notice.

Article 94 provides that if work required to be undertaken by a land condition notice is not carried out the Committee may execute the work and recover the cost of doing so from the person required to undertake the work.

Article 95 provides that action taken under the Chapter does not give rise to a claim for compensation.

Article 96 provides that work undertaken in compliance with a land condition notice must be undertaken in accordance with any statutory requirements except that planning permission and building permission is to be taken to have been granted for the work.

Article 97 requires the Committee to maintain a public Register of Land Condition Notices.

Chapter 7 - Control of caravans

Article 98 defines “caravan”.

Article 99 allows the Committee to control the importation and use of caravans.

Article 100 makes it an offence to import or use a caravan without the permission of the Committee.

Article 101 allows the Committee to attach conditions on the importation and use of caravans.

Article 102 allows the Committee to require a caravan imported without its permission to be exported.

Article 103 provides that a caravan not exported as directed by the Committee is forfeited to the Committee.

Article 104 allows the Committee to seize and retain a caravan if the Committee is satisfied that it has been imported without its permission or is being used in contravention of any condition subject to which the caravan was permitted to be imported.

Chapter 8 - Control of rubbish

Article 105 makes it an offence to deposit rubbish, refuse or waste material on land without lawful authority.

PART 7 - APPEALS

Chapter 1 - The Planning and Building Appeals Commission

Article 106 defines who may participate in an appeal.

Article 107 establishes the Commission and provides for Commissioners to be appointed by the States.

Article 108 provides how and when an appeal may be made to the Commission.

Article 109 provides for the procedure to be followed on an appeal. It provides for a Commissioner to be appointed to determine the appeal on behalf of the Commission. The Commissioner may do so either by holding a hearing or, unless the parties object, on written evidence.

Article 110 provides the procedure to be followed if a hearing is held to determine an appeal.

Article 111 allows the Commissioner appointed to determine an appeal to carry out an inspection of land.

Article 112 provides what is to happen on the determination of an appeal.

Chapter 2 - Appeals

Article 113 gives an applicant for a permission under the Law the right to appeal to the Commission against a refusal by the Committee to grant the permission.

Article 114 gives an applicant for a permission under the Law the right to appeal to the Commission against any condition subject to which the permission was granted by the Committee.

Article 115 gives a person whose planning permission has been revoked or modified the right to appeal to the Commission against the revocation or modification.

Article 116 gives a person who has been served with a notice in accordance with the Law the right to appeal to the Commission against the service of the notice or a term of the notice. It also gives a person the right to appeal against an entry made onto land in respect of a dangerous building.

Article 117 gives certain persons the right to appeal to the Commission against the inclusion of a building or place on the List of Sites of Special Interest or the inclusion of a tree on the List of Protected Trees.

PART 8 - POWER OF STATES TO ACQUIRE LAND BY COMPULSORY PURCHASE

Article 118 gives the States the power to acquire by compulsory purchase land required for a purpose of the Law.

PART 9 - ADMINISTRATIVE PROVISIONS

Article 119 allows the Committee to make Orders prescribing fees for the purposes of the Law.

Article 120 specifies how a notice required to be served under the Law may be served.

Article 121 gives the Committee the power to enter on land in certain circumstances and to take certain actions.

Article 122 provides what is to happen when an offence under the Law is committed by a body corporate.

Article 123 allows the Committee to make Orders and Building Bye-laws for the purposes of the Law.

PART 10 - APPLICATION TO THE CROWN AND TO CROWN LAND

Article 124 defines certain terms for the purposes of Part 9.

Article 125 applies the Law to Crown land but makes special provisions in respect of development and building operations carried out by the Crown on Crown land.

PART 11 - REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

Article 126 defines certain terms for the purposes of Part 10.

Article 127 repeals the Public Health (Control of Buildings) (Jersey) Law 1956 and the Island Planning (Jersey) Law 1964 and Laws that have amended those Laws.

Article 128 contains provisions saving certain actions taken under the repealed Laws.

Article 129 contains transitional provisions in respect of existing sites of special interest and protected trees, and the Island Plans and Building Bye laws made under the repealed Laws.

Article 130 provides for the Short title of the law and its commencement.

Schedule sets out details of the provisions that Building Bye-laws made under the Law may contain.

PLANNING AND BUILDING (JERSEY) LAW 200-

ARRANGEMENT OF PROVISIONS

PART 1

PRELIMINARY

1. Interpretation
2. Purposes of Law

PART 2

THE ISLAND PLAN

3. Committee to prepare an Island Plan
4. Form of Island Plan

PART 3

PLANNING CONTROL

Chapter 1 - Develop defined

5. Meaning of “develop”

Chapter 2 - Guidelines

6. Committee may publish guidelines, etc.

Chapter 3 - Application of planning controls

7. Land not to be developed without permission
8. Development Orders
9. Applications for planning permission not granted by a Development Order
10. False information, etc. in application for planning permission
11. Committee shall prescribe manner in which application for planning permission is to be publicized
12. Public inquiries
13. Environmental impact of proposed development
14. Development of concern to highway authority
15. Development of concern to the Harbours and Airport Committee
16. Development of concern to the Public Services Committee
17. Development of concern to other Committees, etc.
18. Public may attend Committee meeting when application for planning permission being considered
19. Grant of planning permission
20. Application for planning permission for development already undertaken
21. Committee may vary, etc. conditions subject to which planning permission was granted
22. Committee to give reasons for certain decisions
23. Conditions attached to the grant of planning permission
24. Planning permission attaches to land
25. Planning obligations
26. Committee may terminate planning permission by reference to time limit
27. Revocation and modification of planning permission
28. Committee may provide certificate of completion
29. Committee to keep register of applications for planning permission

PART 4

BUILDING CONTROLS

Chapter 1 - Building Bye-laws

30. Committee to make Building Bye-laws
31. Purposes of Building Bye-laws
32. Committee may publish technical guidance documents in respect of Building Bye-laws

Chapter 2 - Enforcement of the Building Bye-laws

33. Prescribed building work not to be undertaken without building permission
34. Applications for building permission
35. Grant of building permission
36. Committee to give reasons for refusal to grant building permission
37. Conditions attached to the grant of building permission
38. Committee to keep register of applications for building permission

PART 5

ENFORCEMENT OF DEVELOPMENT CONTROLS

39. Interpretation - breach of development controls
40. Committee may serve an enforcement notice in respect of breach of development controls
41. Enforcement notice may require replacement building
42. Committee may vary or withdraw an enforcement notice
43. Committee may execute work required by an enforcement notice
44. Offence when enforcement notice is not complied with
45. Stop notices
46. Penalty for contravention of stop notice
47. Enforcement of development conditions
48. Injunctions restraining breaches of development controls
49. Committee to maintain Register of Development Notices

PART 6

ADDITIONAL CONTROLS

Chapter 1 - Sites of special interest

50. Interpretation - sites of special interest
51. Committee to maintain a List of Sites of Special Interest
52. Listing of building or place on the List of Sites of Special Interest
53. Provisional listing
54. Control of certain operations, etc. not amounting to development
55. Certain activities restricted on sites of special interest
56. Committee may make funds available in respect of sites of special interest, etc.

Chapter 2 - Protection of trees

57. Interpretation - protected trees
58. Committee to protect trees by maintaining a List of Protected Trees
59. Listing of tree on the List of Protected Trees
60. Provisional listing of trees
61. Protected tree not to be felled, etc. without permission
62. Committee to provide for the planting and preservation of trees where appropriate
63. Committee may plant trees, etc.
64. Committee may make funds available for the planting and protection of trees, etc.

Chapter 3 - Dangerous buildings

65. Interpretation - dangerous buildings

66. Committee may serve a dangerous building notice in respect of building in a dangerous condition
67. Dangerous building notice - restoration work
68. Committee may vary or withdraw a dangerous building notice
69. Committee may execute work required by dangerous building notice
70. Offence when dangerous building notice is not complied with
71. Committee may take immediate action to ensure safety
72. No compensation payable
73. Planning permission and building permission
74. Committee to maintain Register of Dangerous Building Notices

Chapter 4 - Control of advertisements

75. Interpretation - advertisements
76. Committee may make Orders to control advertisements
77. Order may apply to existing advertisements
78. Penalty for contravention of Order
79. Committee may remove or obliterate advertisement

Chapter 5 - Control of Moveable structures

80. Moveable structures defined
81. Committee may make Orders in respect of moveable structures
82. Penalty for contravening an Order

Chapter 6 - Control of land condition

83. Interpretation - land condition
84. Committee may require repair or removal of ruinous or dilapidated buildings
85. Committee may require action to be taken in respect of drainage nuisance
86. Power of Committee to require proper maintenance of land, etc.
87. Committee may require removal of caravans
88. Committee may require action to be taken in respect of dumps
89. Committee may take action in respect of disused vehicles
90. Committee may require vegetation to be replaced or removed
91. Contents of land condition notice
92. Committee may vary or withdraw a land condition notice
93. Penalty for failure to comply with land condition notice
94. Committee may undertake work, etc.
95. No compensation payable
96. Planning permission and building permission
97. Committee to maintain Register of Land Condition Notices

Chapter 7 - Control of caravans

98. Definitions in respect of caravans
99. Committee may control importation and use of caravans
100. Offence of importing, etc. caravan without permission of Committee
101. Conditions on importation and use of caravan
102. Committee may require caravan to be exported
103. Caravan may be forfeited to Committee
104. Committee may seize and retain caravan

Chapter 8 - Control of rubbish

105. Person shall not deposit rubbish

PART 7

APPEALS

Chapter 1 - The Planning and Building Appeals Commission

- 106. Interpretation - "persons interested in the appeal" defined
- 107. Planning and Building Appeals Commission
- 108. Appeals
- 109. Procedure on receipt of an appeal
- 110. Hearings
- 111. Commissioner may carry out inspection
- 112. Determination of appeal

Chapter 2 - Appeals

- 113. Applicants may appeal against certain refusals
- 114. Appeal against condition subject to which planning permission, etc. granted
- 115. Appeal against revocation or modification of planning permission
- 116. Appeal against service or terms of certain notices, etc.
- 117. Appeals against certain listings

PART 8

POWER OF STATES TO ACQUIRE LAND BY COMPULSORY PURCHASE

- 118. Power of States to acquire land

PART 9

ADMINISTRATIVE PROVISIONS

- 119. Committee may prescribe fees
- 120. Service of notices
- 121. Power of entry
- 122. Offences by bodies corporate
- 123. Orders and Building Bye-laws

PART 10

APPLICATION TO THE CROWN AND TO CROWN LAND

- 124. Interpretation - the Crown and Crown land
- 125. Application of Law to the Crown and to Crown land

PART 11

REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

- 126. Interpretation - Repeals, etc.
- 127. Repeals
- 128. Savings
- 129. Transitional provisions
- 130. Short title and commencement

Schedule - Contents of Building Bye-laws

PLANNING AND BUILDING (JERSEY) LAW 200-

A LAW to provide the means to establish a plan for the sustainable development of land and to control development in accordance with that plan, to prescribe the functional requirements of buildings and to provide the means to enforce those requirements, to provide the means to protect, enhance, conserve and to use wisely the natural beauties, natural resources and biodiversity of the Island and to preserve and improve the Island's general amenities, to confer powers to acquire land for the purposes of the Law, and to make other provisions in similar respects; sanctioned by Order of Her Majesty in Council of the

(Registered on the _____ day of _____ 200-)

STATES OF JERSEY

The _____ day of _____ 200-

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following
Law -

PART I

PRELIMINARY

Interpretation

(1) In this Law, unless the context otherwise requires -

“advertisement” has the meaning given to that expression by Article 75(1);

“breach of development controls” has the meaning given to that expression by Article 39;

“building” includes -

(a) a structure or erection of any material and constructed in any manner;

(b) a part of a building; and

(c) the inside of a building including its internal services;

“Building Bye-laws” means Building Bye-laws made by the Committee in accordance with Article 30;

“building operation” includes -

(a) a rebuilding operation;

(b) a structural alteration of a building including its services;

(c) a structural addition to a building including an addition to its services;

(d) an operation similar to an operation referred to in sub-paragraph (a), (b) or (c); and

(e) the demolition or removal of the whole or any part of a building including its services;

“building permission” means permission to undertake prescribed building work;

“building work” means work the carrying out of which amounts to development or a change of use that amounts to development;

“caravan” has the meaning given to that expression by Article 98;

“Commission” means the Planning and Building Appeals Commission established by Article 107(1);

“Committee” means the Planning and Environment Committee;

“completion notice” means a notice served in accordance with Article 26(2);

“condition” includes a limitation, restriction or requirement;

“condition notice” means a notice served in accordance with Article 47;

“contravention”, in relation to a condition, limitation, restriction or requirement, includes -

- (a) to fail to comply with the condition, limitation, restriction or requirement; and
- (b) to cause or permit another person to contravene or to fail to comply with the condition, limitation, restriction or requirement;

“dangerous building notice” means a notice served by the Committee in accordance with Article 66(2);

“develop” has the meaning given to that expression by Article 5 and “development” shall be construed accordingly;

“Development Order” means an Order made by the Committee under Article 8(1);

“enforcement notice” means a notice served in accordance with Article 40(2) and where the notice has been amended in accordance with Article 42 means the notice as so amended;

“Island Plan” means the Island Plan approved for the time being by the States in accordance with Article 3;

“land” means a corporeal hereditament, and includes -

- (a) a building;
- (b) land covered with water including sea water within the outermost limits of the territorial sea of the Island; and
- (c) in relation to the acquisition of land by the States under Article 118, an interest in land or water and a servitude or right in, on or over land or water;

“land condition notice” has the meaning given to that expression by Article 83(1);

“list”, in respect of a list to be maintained by the Committee by virtue of this Law, means a list kept in any form determined by the Committee so long as the contents of the list may be easily retrieved in legible form;

“List of Sites of Special Interest” has the meaning given to that expression by Article 50;

“List of Sites of Protected Trees” has the meaning given to that expression by Article 57;

“means of access” includes any means of access, whether private or public, for vehicles or animals, or for pedestrians;

“notice” means written notice;

“owner” includes -

- (a) a usufructuary;
- (b) the husband of a “feme covert”;
- (c) the guardian of an infant;
- (d) the curator of a person under interdiction; and
- (e) any other legal personal representative of a person;

“planning obligation” means an obligation entered into in accordance with Article 25;

“planning permission” means permission to develop land granted -

- (a) by the Committee by a Development Order or on an application made to the Committee in accordance with Article 9;
- (b) under the Island Planning (Jersey) Law 1964;^[1] or
- (c) under a Law repealed by that Law;

“prescribed building work” means building work for which permission is required under the Building Bye-laws;

“register”, in respect of a register to be maintained by the Committee by virtue of this Law, means a register kept in any form determined by the Committee so long as the contents of the register may be easily retrieved in legible form;

“Register of Building Applications” means the register maintained by the Committee in accordance with Article 38(1);

“Register of Dangerous Building Notices” means the register maintained by the Committee in accordance with Article 74(1);

“Register of Development Notices” means the register maintained by the Committee in accordance with Article 49(1);

“Register of Land Condition Notices” means the register maintained by the Committee in accordance with Article 97(1);

“Register of Planning Applications” means the register maintained by the Committee in accordance with Article 29(1);

“Register of Planning Obligations” means the register maintained by the Committee in accordance with Article 25(13);

“road” means a -

- (a) road;
- (b) bridge;
- (c) viaduct; or
- (d) subway,

and includes its carriageway, footpath and any other part of it;

“site notice” means a notice displayed by the Committee in accordance with Article 45(9);

“stop notice” means a notice served in accordance with Article 45(2);

“tree” has the meaning given to that expression by Article 57.

(2) A reference in this Law to a person being guilty of an offence includes a person who aids, abets, counsels or procures the commission of the offence and such a person shall be liable to be dealt with, tried and punished as a principal offender.

(3) A reference in this Law to a Part, Chapter, Article or Schedule by number only and without further identification is a reference to the Part, Chapter, Article or Schedule of that number in this Law.

(4) A reference in an Article or other division of this Law to a paragraph, sub-paragraph or clause by number or letter only and without further identification is a reference to the paragraph, sub-paragraph or clause of that number or letter in the Article or other division of this Law.

(5) Unless the context otherwise requires, a reference in this Law to an enactment is a reference to that enactment as amended from time to time and includes a reference to that enactment as extended or applied under another enactment, including another provision of this Law.

ARTICLE 2

Purposes of Law

(1) The purpose of this Law is to conserve, protect and improve the Island’s natural beauty, natural resources and general amenities, its character, and its physical and natural environments.

(2) Accordingly it is the intention of this Law -

- (a) to ensure that when land is developed the development is in accordance with a development plan that provides for the orderly, comprehensive and sustainable development of land in a manner that best serves the interests of the community;
- (b) to protect sites, buildings, structures, trees and places that have a special importance or value to the Island;
- (c) to provide for the orderly management of transport and travel, both on, and from and to the Island;
- (d) to ensure that the coast of the Island is kept in its natural state;
- (e) to control advertisements on the Island; and
- (f) to impose other necessary controls on the development and use of land on the Island.

(3) In paragraph (1) the reference to -

- (a) the natural resources of the Islands includes its biodiversity; and
- (b) the natural environment of the Island includes the natural environment around the Island.

(4) It is also the purpose of this Law to secure the health, safety and welfare of people in or about buildings by establishing functional requirements in respect of buildings and ensuring that buildings comply with those requirements.

PART 2

THE ISLAND PLAN

ARTICLE 3

Committee to prepare an Island Plan

(1) The Committee shall prepare and present to the States for approval an Island Plan.

(2) Thereafter the Committee shall present a revision of that plan to the States for approval within 10 years of the

approval of the Plan by the States or of the previous approval by the States of a revision of that Plan.

(3) In preparing the Island Plan or a revision of it the Committee shall publicize its proposals and seek representations from the public.

(4) The Committee shall by Order prescribe the manner in which -

(a) its proposals in respect of the Island Plan shall be publicized; and

(b) representations may be provided by members of the public.

(5) The Order must prescribe the manner in which representations may be heard in public.

(6) The Committee shall consider representation it has received when preparing the Island Plan or any revision of it for approval by the States.

ARTICLE 4

Form of Island Plan

(1) The Island Plan shall be in 2 Parts.

(2) Part 1 shall be a written statement of the Committee's policies in respect of the development and use of land together with a reasoned justification of each of those policies.

(3) Those policies must -

(a) further the purpose referred to in Article 2(1) and the intention referred to in Article 2(2); and

(b) in so doing, designate land for particular development or use.

(4) That designation may include designating land to be used to provide residential accommodation, whether it be accommodation for renting or accommodation for purchase, for persons who would otherwise have financial difficulties renting or acquiring residential accommodation in the general market for residential accommodation prevailing in Jersey.

(5) Part 2 of the Island Plan shall consist of -

(a) a map or maps that illustrate the Committee's proposals for the development or use of land on a geographical basis; and

(b) such additional diagrams, illustrations and other descriptive explanatory matter as the Committee considers necessary to explain and illustrate its proposals.

PART 3

PLANNING CONTROL

Chapter 1 - Develop defined

ARTICLE 5

Meaning of "develop"

(1) In this Law "develop", in respect of land, means -

(a) to undertake a building, engineering, mining or other operation in, on, over or under the land;

(b) to make a material change in the use of the land or a building on the land.

(2) Without prejudice to the generality of paragraph (1), "develop", in respect of land, includes -

- (a) to demolish or remove the whole or any part of a building on the land;
- (b) to create a new means of access to the land from a road;
- (c) to enlarge an existing means of access to the land from a road;
- (d) to remove a hedgerow or banque or other physical feature defining a boundary of the land or of any part of it;
- (e) to use a building on the land previously used as a single dwelling-house as 2 or more separate dwelling-houses;
- (f) to use 2 or more premises on the land (whether they are in separate buildings or are parts of the same building) previously used as separate dwelling-houses as a single dwelling-house;
- (g) to use a building or part of a building on the land previously used as a dwelling-house for short term holiday lettings;
- (h) to create a time sharing scheme in respect of a building on the land, being a scheme whereby a person is granted a right entitling the person to occupy the building or a part of it for a specified period each year while the right subsists;
- (i) to display an advertisement on a part of a building on the land not normally used for that purpose;
- (j) to deposit refuse or waste material on the land except to the extent set out in paragraph (3).

(3) Unless paragraph (4) applies, the deposit of refuse or waste material on land already lawfully used for that purpose is not development of that land unless the deposit of that refuse or waste material means that -

- (a) the height of the refuse or waste material on the land exceeds the level of the adjoining land; or
- (b) the superficial area of the land covered by the refuse or waste material deposited on it is extended.

(4) The deposit of refuse or waste material on land lawfully used for that purpose becomes development of that land if the Committee serves notice on the owner of the land declaring that any further use of the land for the deposit of refuse or waste material will constitute development of the land for the purposes of this Law.

Chapter 2 - Guidelines

ARTICLE 6

Committee may publish guidelines, etc.

- (1) The Committee may publish guidelines and policies in respect of -
 - (a) development generally;
 - (b) any class of development;
 - (c) the development of any area of land; or
 - (d) the development of a specified site.

(2) Before doing so the Committee shall consult any other Committee or statutory authority with an interest in the development.

(3) The Committee shall take into account when considering an application for permission to develop land the extent to which the proposed development complies with any relevant guidelines and other policies it has published.

Chapter 3 - Application of planning controls

ARTICLE 7

Land not to be developed without permission

(1) A person who develops land except with, and in accordance with, planning permission shall be guilty of an offence and liable to a fine or imprisonment, or both.

(2) A person shall be guilty of an offence under paragraph (1) if when undertaking development the person contravenes any condition subject to which planning permission for the development was granted.

(3) In determining the amount of any fine to be imposed on a person convicted of an offence under this Article, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue or could have accrued to the person in consequence of the offence.

(4) A person may be convicted of an offence under this Article despite the fact that -

- (a) an enforcement notice or a condition notice has been served in respect of the breach of development controls; and
- (b) every step required by the notice to be taken has been taken.

ARTICLE 8

Development Orders

(1) The Committee may by Order (a "Development Order") grant planning permission in respect of a class or classes of development specified in the Order.

(2) A Development Order shall not be used to grant planning permission for development that would be inconsistent with the Island Plan.

(3) A Development Order may be made either -

- (a) as a General Development Order applicable to all land in the Island, except so far as the Order otherwise provides; or
- (b) as a Special Development Order applicable only to such land or description of land as is specified in the Order.

(4) Planning permission granted by a Development Order may be granted unconditionally or subject to conditions specified in the Order.

(5) If planning permission is granted by a Development Order to erect, extend or alter a class of buildings specified in the Order the Order may require that the approval of the Committee shall first be obtained with respect to the design or external appearance of those buildings.

(6) A Development Order may enable the Committee to direct that planning permission for a class of development specified in the Order shall not apply -

- (a) in a particular area of the Island;
- (b) in respect of a specified class of building or land; or
- (c) to a specified development site.

(7) A Development Order may make different provisions with respect to different descriptions of land or different areas of the Island.

(8) If part of the development of land is approved by a Development Order and part on an application made to the Committee, the Committee may on granting the latter consent cancel or modify the planning permission granted by the Development Order.

ARTICLE 9

Applications for planning permission not granted by a Development Order

- (1) A person who requires planning permission not granted by a Development Order must apply to the Committee for it.
- (2) The application shall -
 - (a) be in the form required by the Committee;
 - (b) contain or be accompanied by particulars the Committee reasonably requires to determine the application; and
 - (c) be accompanied by the prescribed fee.
- (3) Before making a decision in respect of an application the Committee may require the applicant to provide it with any necessary further details.
- (4) If the applicant fails to provide those details within a reasonable time the Committee may refuse the application.
- (5) If it does so the Committee is under no obligation to refund the prescribed fee.

ARTICLE 10

False information, etc. in application for planning permission

- (1) If when making an application for planning permission a person knowingly or recklessly makes a false or misleading statement or representation or a statement or representation with a material omission the person shall be guilty of an offence and liable to a fine or imprisonment, or both.
- (2) If a person has made such a statement or representation and the planning permission has been granted, the Committee may -
 - (a) revoke or modify the permission; and
 - (b) if the development has been started or undertaken, serve a notice on the owner of the land to which the permission relates.
- (3) The notice may require the owner of the land, within a period specified in the notice -
 - (a) to undertake work specified in the notice to restore the land to its condition before the development was undertaken; or
 - (b) to modify the development to the extent specified in the notice.
- (4) The work to be undertaken may include -
 - (a) the demolition or alteration of the whole or any part of a building; or
 - (b) the discontinuance of a use of land.
- (5) The Committee may act in accordance with paragraph (2) whether or not proceedings have been taken in respect of the offence under paragraph (1).
- (6) A person who -
 - (a) fails to comply with a notice served on the person in accordance with paragraph (2)(b); or
 - (b) uses land in contravention of the notice,

shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.^[2]

(7) If at the end of the period for compliance specified in a notice under paragraph (2)(b), work required by the notice to be undertaken has not been undertaken, the Committee may enter the land and undertake the work.

(8) The expenses reasonably incurred by the Committee in undertaking work in accordance with paragraph (7) shall be recoverable as a debt due to the Committee from the person in default.

(9) The Committee may undertake work in accordance with paragraph (7) whether or not proceedings have been taken under paragraph (6).

(10) Action taken by the Committee under this Article does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of the action.

ARTICLE 11

Committee shall prescribe manner in which application for planning permission is to be publicized

(1) The Committee shall by Order prescribe the manner in which an application for planning permission shall be publicized or otherwise notified.

(2) For the purpose of paragraph (1) an application for planning permission shall be taken to include any environmental impact statement relating to the application prepared and provided in accordance with Article 13.

(3) The Committee shall not make a decision on an application for planning permission until it is satisfied that the application has been publicized or notified in the manner prescribed in accordance with paragraph (1).

(4) The Committee may require an applicant for planning permission to produce evidence to the Committee showing that the application has been publicized or notified in the prescribed manner.

(5) The copyright in anything forming part of an application for planning permission is not infringed if the Committee provides a person with a copy of it for consideration and comment.

ARTICLE 12

Public inquiries

(1) This Article applies in respect of an application for planning permission where the Committee is satisfied that if the proposed development were to be carried out -

(a) the development would be likely to have a significant effect on the interests of the whole or a substantial part of the population of the Island; or

(b) the development would be a departure (other than an insubstantial one) from the Island Plan.

(2) Where this Article applies the Committee shall not determine the application until a public inquiry has been held.

(3) The Committee shall take into account in determining the application representations made at the public inquiry.

(4) The Committee shall by Order prescribe the manner in which a public inquiry shall be held.

(5) The Order shall, in particular, prescribe -

(a) the manner in which notice of the inquiry shall be given;

(b) the procedure to be followed at an inquiry; and

(c) the persons who may appear and be heard at an inquiry.

ARTICLE 13

Environmental impact of proposed development

- (1) This Article applies in respect of an application for planning permission -
 - (a) to carry out development that falls within a class of development prescribed for the purpose of this sub-paragraph; or
 - (b) where the Committee is satisfied that if the proposed development were to be carried out it would be likely to have a significant effect on the environment of the Island or elsewhere.
- (2) Where this Article applies the Committee shall not consider the application until the applicant has provided the Committee with an environmental impact statement.
- (3) The Committee shall take the statement into account in determining the application.
- (4) The Committee shall by Order prescribe for the purpose of paragraph (1)(a) classes of development in respect of which an environmental impact statement is required.
- (5) The Order shall also prescribe -
 - (a) the particulars an environmental impact statement must contain;
 - (b) the qualifications of the people by whom those particulars are to be provided;
 - (c) the form an environmental impact statement is to take; and
 - (d) such other matters as the Committee consider relevant to the preparation and provision of an environmental impact statement.

ARTICLE 14

Development of concern to highway authority

- (1) This Article applies in respect of an application for planning permission -
 - (a) where the proposed development involves the creation of a new means of access or the enlargement of an existing means of access to a road; or
 - (b) where it appears to the Committee that if the development were to be undertaken it might create a problem specified in paragraph (2).
- (2) Those problems are that the development of the land might -
 - (a) be a source or cause of danger to people using or entering a road bordering the land;
 - (b) have a significant effect on the volume or type of traffic using the roads leading to and from or in the vicinity of the development;
 - (c) involve an increase in the cost of undertaking any improvement of a road bordering the land; or
 - (d) hinder the improvement of a road bordering the land which the highway authority has notified the Committee it intends to improve.
- (3) Where this Article applies the Committee shall refer the application to the highway authority (if any) in respect of the road.
- (4) The Committee shall take into account in determining the application any comment made by that authority.

(5) The Committee shall not grant planning permission for development that creates a new means of access or the enlargement of an existing means of access to a road unless it is satisfied that any loss to the Island's amenities caused by any resulting damage to a tree, hedge, wall, railing or other roadside boundary will be insubstantial.

(6) In this Article -

“highway authority” means -

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

“improve” in relation to a road, includes -

- (c) to widen the road;
- (d) to adjust the boundaries of the road;
- (e) to level the road; and
- (f) to do other work in respect of the road,

but does not include -

- (g) to undertake repairs essential to place the road in a proper state of repair;
- (h) to plant, lay out, maintain or protect trees, shrubs, flowers or grass margins in or besides the road; or
- (i) to place on or near the road a notice, milestone or signpost.

ARTICLE 15

Development of concern to the Harbours and Airport Committee

(1) This Article applies in respect of an application for planning permission to develop land within an area shown on a map provided to the Committee by the Harbours and Airport Committee for the purpose of this Article.

(2) Where this Article applies the Committee shall refer the application to the Harbours and Airport Committee for comment.

(3) The Committee shall take into account in determining the application any comment made by that Committee in respect of the possible effect the proposed development could have on the operation of a harbour or the airport.

ARTICLE 16

Development of concern to the Public Services Committee

(1) This Article applies in respect of an application for planning permission for development that falls within an area of responsibility or concern of the Public Services Committee.

(2) Where this Article applies the Committee shall refer the application to the Public Services Committee for comment.

(3) The Committee shall in determining the application take into account any comment made by that Committee in respect of the matters specified in paragraph (4).

(4) Those matters are -

- (a) the sufficiency of any sewerage or drainage system, flood defence work or water course that may be affected by the development, the prevention of damage to it, and any hindrance to its repair or maintenance;

- (b) the limitation of damage by surface water that could be caused by the development;
- (c) the effect of the development on water quality (including sea water quality).

ARTICLE 17

Development of concern to other Committees, etc.

(1) This Article applies in respect of an application for planning permission that falls within the area of responsibility or concern of -

- (a) a Committee (other than the Harbours and Airport Committee or the Public Service Committee) or a body or person created by statute; or
- (b) a body or person created by statute that has informed the Committee that it has responsibility or concern in respect of a specified class of development or development within a specified area of the Island.

(2) Where this Article applies the Committee shall refer the application to the relevant Committee, or body or person for comment.

(3) The Committee shall in determining the application take into account any comment made by that Committee, or body or person in respect of the proposed development.

ARTICLE 18

Public may attend Committee meeting when application for planning permission being considered

(1) The Committee shall permit members of the public to attend a meeting of the Committee when the Committee is considering an application for planning permission.

(2) The presiding member of the Committee at a meeting of the Committee when it is open to members of the public may request a member of the public to leave the meeting if the presiding member is satisfied that the person is behaving in a manner that is interfering with the Committee's deliberations.

(3) A person who fails to comply with a request made in accordance with paragraph (2) shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.^[3]

(4) The Committee shall give at least 3 days notice in the Jersey Gazette of any of its meetings that will be open to the public.

(5) The notice shall state the date, time and place of the meeting and indicate the applications for planning permission the Committee intends to consider at the meeting.

ARTICLE 19

Grant of planning permission

(1) The Committee in determining an application for planning permission shall take into account all material considerations.

(2) In general the Committee shall grant planning permission if the proposed development is in accordance with the Island Plan.

(3) The Committee may grant planning permission that is inconsistent with the Island Plan but shall not do so unless it has satisfied itself that there is sufficient justification for doing so.

(4) The Committee may grant planning permission in detail or in outline only, reserving specified matters to be subsequently approved by the Committee.

(5) The Committee may grant planning permission unconditionally or subject to conditions.

(6) It may also refuse to grant planning permission.

(7) Action taken by the Committee under this Article does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

ARTICLE 20

Application for planning permission for development already undertaken

(1) This Article applies where development has been undertaken -

(a) without planning permission; or

(b) without complying with a condition subject to which planning permission was granted.

(2) Where this Article applies a person may apply to the Committee for planning permission or for an amendment to the permission already granted.

(3) The Committee may grant the planning permission sought or amend the planning permission already granted, otherwise it shall refuse the application.

(4) Planning permission granted or amended in accordance with paragraph (3) shall have effect from the date the development was undertaken.

(5) Action taken by the Committee under this Article does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

ARTICLE 21

Committee may vary, etc. conditions subject to which planning permission was granted

(1) This Article applies where a person would like a condition of planning permission removed or varied.

(2) Where this Article applies a person may apply to the Committee for the permission to be amended accordingly.

(3) On an application under paragraph (2) the Committee shall only consider the question of the conditions to which the planning permission should be subject.

(4) If it decides that the condition should be varied or removed it shall amend the permission accordingly, otherwise it shall refuse the application.

(5) Action taken by the Committee under this Article does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

ARTICLE 22

Committee to give reasons for certain decisions

(1) This Article applies where the Committee decides -

(a) to refuse to grant planning permission;

(b) to grant planning permission subject to conditions (other than by virtue of a Development Order); or

(c) to grant planning permission for development that is inconsistent with the Island Plan.

(2) Where this Article applies the Committee shall explain the reasons for its decision.

ARTICLE 23

Conditions attached to the grant of planning permission

(1) A condition the Committee attaches to the grant of planning permission (including permission given by a Development Order) shall fairly and reasonably relate to the proposed development.

(2) In respect of the land to be developed a condition may, in particular, relate to -

- (a) the number or disposition of buildings on the land;
- (b) the manner in which the land shall be laid out for the purpose of the development;
- (c) the use of the land;
- (d) the occupation and use of any building on the land in so far as it serves a planning purpose, including, in particular, the use of any building for a purpose referred to in Article 4(4) (affordable residential accommodation);
- (e) the undertaking, at the applicant's cost, of archaeological or other investigations on the land;
- (f) the preservation and planting of vegetation on the land;
- (g) the salvaging of materials from the land;
- (h) the removal from the land and disposal of spoils arising from the development;
- (i) the restoration of the land and of any vegetation on it after the development has been carried out.

(3) A condition may also relate to -

- (a) the dimensions, design, structure or external appearance of a building on the land, or the materials to be used in its construction;
- (b) the period within which the development shall be begun;
- (c) in respect of the grant of planning permission in outline only, the period within which an application must be made to the Committee for its approval in respect of any reserved matter.

(4) The Committee may impose a condition on the grant of planning permission -

- (a) to regulate the development or use of land under the control of the developer (whether or not it is land on which the development is to be undertaken); or
- (b) to require work to be undertaken on any such land,

in so far as it appears to the Committee to be expedient for the purpose of or in connection with the development authorized by the permission.

(5) Action taken by the Committee under this Article does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

(6) If the Committee grants planning permission that permits the erecting of a building, the permission may specify the purpose for which the building may be used but if no purpose is specified the permission shall be construed as including permission to use the building for the purpose for which it is designed.

ARTICLE 24

Planning permission attaches to land

(1) The grant of planning permission enures (except insofar as the permission otherwise provides) for the benefit of the land to which it relates and of each person for the time being having an estate or interest in that land.

(2) A condition attached by the Committee to the grant of planning permission binds and is enforceable by the Committee against a person for the time being having an estate or interest in the land subject to the condition.

ARTICLE 25

Planning obligations

(1) The owner of an interest in land may by agreement with the Committee enter into an obligation (“a planning obligation”).

(2) A planning obligation may -

- (a) restrict the development or use of the land in a specified way;
- (b) require a specified operation or activity to be undertaken in, on, under or over the land; or
- (c) require the land to be used in a specified way.

(3) The agreement need not be limited to land on which development is to be undertaken or to land in respect of which an application for planning permission has been made.

(4) The agreement may provide that a sum or sums of money be paid to the Treasurer of the States on a specified date or dates or periodically.

(5) The agreement shall -

- (a) state that the agreement is an agreement imposing a planning obligation in accordance with this Article;
- (b) identify the person entering into the obligation;
- (c) identify the land that is the subject of the obligation; and
- (d) state the nature of the interest the person owns in that land.

(6) A planning obligation may -

- (a) be unconditional or subject to conditions;
- (b) impose a restriction or requirement mentioned in paragraphs (2) either indefinitely or for a specified period or periods;
- (c) if it requires a sum or sums to be paid, require the payment of a specified amount determined as specified in the agreement;
- (d) if it requires the payment of periodical sums, require them to be paid indefinitely or for a specified period.

(7) Except as provided by paragraph (8), a planning obligation in respect of land is enforceable by the Committee against the person who entered into the obligation and any person who derives title to the land from that person.

(8) The agreement with the Committee may provide that a person is not to be bound by the planning obligation when the person no longer has an interest in the land that is the subject of the obligation.

(9) A restriction or requirement under a planning obligation is enforceable by injunction.

(10) Without prejudice to paragraph (9), if there is a breach of a requirement in a planning obligation to undertake an operation in, on, under or over the land to which the obligation relates, the Committee may -

- (a) enter the land and undertake the operation; and
- (b) recover the expenses reasonably incurred by the Committee in so doing as a debt due to the Committee from the person or persons against whom the obligation is enforceable.

(11) The Committee shall give not less than 28 days' notice to the person against whom the planning obligation is enforceable before exercising its powers under paragraph (10)(a).

(12) A planning obligation may be modified or discharged by agreement between the Committee and the person or persons against whom the obligation is enforceable.

(13) The Committee shall maintain a register called the Register of Planning Obligations containing details of each planning obligation.

(14) The Committee shall make the register and any agreement imposing a planning obligation (and any agreement modifying or discharging the obligation) available for public inspection at all reasonable times.

(15) As soon as practicable after a planning obligation has been entered into the Committee shall apply to the Royal Court for an order that the obligation be registered in the Public Registry of Contracts.

(16) As soon as practicable after an agreement modifying or discharging a planning obligation has been entered into the Committee shall apply to the Royal Court for an order that the agreement be registered in the Public Registry of Contracts.

ARTICLE 26

Committee may terminate planning permission by reference to time limit

(1) This Article applies where -

(a) planning permission has been granted subject to a condition that the development to which the permission relates shall be begun before the expiration of a specified period; and

(b) the development was begun within that period but the period has elapsed without the development having been completed.

(2) If the Committee is of the opinion that the development will not be completed it may serve a notice stating that the planning permission shall cease to have effect at the expiration of a further period specified in the notice.

(3) The period specified shall not be less than 12 months after the date when the notice is served.

(4) The notice shall be served on -

(a) the owner of the land;

(b) the occupier of the land (if different); and

(c) any other person who in the opinion of the Committee will be affected by the notice.

(5) The Committee may withdraw the notice at any time before the end of the period specified in it.

(6) If the Committee does so it shall immediately serve notice of the withdrawal on each person who was served with the notice in accordance with paragraph (4).

(7) The planning permission referred to in the notice shall become invalid at the expiration of the period specified in the notice except to the extent that it relates to development undertaken under the permission before the expiration of that period.

(8) Action taken by the Committee under this Article does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

ARTICLE 27

Revocation and modification of planning permission

(1) The Committee may revoke or modify planning permission to undertake a building or other operation on land at any time before the building or operation has been completed.

(2) The Committee may revoke or modify planning permission to change the use of land at any time before the change of use has been completed.

(3) The Committee shall serve notice of any revocation or modification of planning permission in respect of land on the owner of the land and (if different) the occupier of the land.

(4) The revocation or modification of planning permission shall not affect that permission insofar as it relates to development undertaken under it before the revocation or modification.

(5) If the Committee revokes or modifies planning permission it shall pay compensation to a person to whom paragraph (6) applies.

(6) Compensation is payable to a person with an interest in the land who -

(a) has incurred expenditure in undertaking work that is rendered abortive by the revocation or modification; or

(b) has otherwise sustained loss or damage that is directly attributable to the revocation or modification.

(7) The amount of compensation shall be an agreed amount or, failing agreement, an amount determined by arbitration.

(8) Except as provided by paragraph (9), compensation is not be payable in respect of -

(a) work undertaken before the grant of the planning permission; or

(b) loss or damage arising out of anything done or omitted to be done before the grant of that permission.

(9) Expenditure incurred to prepare plans for the purposes of the work referred to in paragraph (6) or on other similar work preparatory to the development shall be taken to be included in the expenditure incurred in undertaking the work referred to in that paragraph.

(10) Except as provided by paragraph (5), action taken by the Committee under this Article does not give any other person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

ARTICLE 28

Committee may provide certificate of completion

(1) The Committee may issue a certificate stating that a development of land specified in the certificate has been undertaken with and in accordance with planning permission granted by the Committee.

(2) The certificate shall be conclusive evidence that the development of land specified in it was undertaken with and in accordance with planning permission granted by the Committee.

(3) An application for a certificate may be made by any person on payment of any prescribed fee.

ARTICLE 29

Committee to keep register of applications for planning permission

(1) The Committee shall maintain a register, called the Register of Planning Applications, containing details of each application for planning permission it receives and the manner in which it was dealt with.

(2) The Committee shall make the register available for public inspection at all reasonable hours.

PART 4

BUILDING CONTROLS

Chapter 1 - Building Bye-laws

ARTICLE 30

Committee to make Building Bye-laws

- (1) The Committee shall make Building Bye-laws.
- (2) In preparing the Building Bye-laws or a revision of them the Committee shall publicize its proposals and seek comments and input from the public.
- (3) The Committee shall by Order prescribe -
 - (a) the manner in which its proposals in respect of the Building Bye-laws shall be publicized;
 - (b) the manner in which the Committee shall seek representations in respect of those proposals and the manner in which it shall consider them; and
 - (c) the manner in which representations may be made by members of the public in respect of the Committee's proposals.

ARTICLE 31

Purposes of Building Bye-laws

- (1) Building Bye-laws shall prescribe procedures and the functional requirements of buildings necessary to achieve the results set out in paragraph (2).
- (2) Those results are -
 - (a) to secure the health, safety and welfare of people in or about buildings;
 - (b) to secure access to buildings and the convenient use of buildings by people with disabilities;
 - (c) to prevent the waste, undue consumption or misuse of fuel and energy in or about buildings;
 - (d) to prevent the waste, undue consumption, misuse and contamination of water in or about buildings;
 - (e) to secure the safe and efficient use of public services provided to buildings;
 - (f) to promote sustainable development generally.
- (3) The Building Bye-laws shall prescribe procedures and requirements for the construction, alteration, demolition or removal of buildings necessary -
 - (a) to secure the health, safety and welfare of people; and
 - (b) to minimise the disturbance of and nuisance to people,in or about buildings during their construction, alteration, demolition or removal.
- (4) The Schedule shall apply in respect of Building Bye-laws.

ARTICLE 32

Committee may publish technical guidance documents in respect of Building Bye-laws

- (1) The Committee may publish a technical guidance document on any requirement of the Building Bye-laws.
- (2) The document may be prepared by the Committee or may be a document prepared by another person that has

the approval of the Committee.

(3) If it is a document prepared by another person it may be published with amendments and additions made by the Committee.

(4) Before publication the Committee may consult any person with an interest or concern in respect of the relevant requirement of the Building Bye-laws.

(5) Proof that a person has failed to comply with a technical guidance document published in respect of a requirement of the Building Bye-laws is not proof that the person has failed to comply with that requirement.

(6) However in proceedings where it is alleged that a person has failed to comply with a requirement of the Building Bye-laws -

- (a) proof of a failure to comply with a technical guidance document published by the Committee in respect of the requirement may be relied upon as tending to establish non-compliance with that requirement; and
- (b) proof of compliance with the document may be relied upon as tending to establish compliance with the requirement.

Chapter 2 - Enforcement of the Building Bye-laws

ARTICLE 33

Prescribed building work not to be undertaken without building permission

(1) A person who undertakes prescribed building work except with, and in accordance with, permission to do so granted by the Committee in accordance with the Building Bye-laws shall be guilty of an offence and liable to a fine or imprisonment, or both.

(2) A person shall be guilty of an offence under paragraph (1) if when undertaking prescribed building work the person contravenes -

- (a) a condition subject to which building permission to undertake that building work was granted; or
- (b) an applicable provision of the Building Bye-laws.

(3) In determining the amount of any fine to be imposed on a person convicted of an offence under this Article, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue or could have accrued to the person in consequence of the offence.

(4) A person may be convicted of an offence under this Article despite the fact that -

- (a) an enforcement notice or condition notice has been served by the Committee in respect of the breach of development controls; and
- (b) every step required by the notice to be taken has been taken.

ARTICLE 34

Applications for building permission

(1) A person who requires building permission must apply to the Committee for it.

(2) The application shall -

- (a) be in the form required by the Committee;
- (b) contain or be accompanied by particulars the Committee reasonably requires to determine the application; and

(c) be accompanied by the prescribed fee.

(3) The Committee may require the applicant to provide it with any necessary further details before making a decision in respect of the application.

(4) If the applicant fails to provide those details within a reasonable time the Committee may refuse the application.

(5) If it does so the Committee is under no obligation to refund the prescribed fee.

ARTICLE 35

Grant of building permission

(1) The Committee in determining an application for building permission shall take into account the provisions of the Building Bye-laws.

(2) The Committee may grant building permission that is inconsistent with the Building Bye-laws if it is satisfied that there is sufficient justification for doing so.

(3) The Committee may grant building permission unconditionally or subject to conditions.

(4) It may also refuse to grant building permission.

(5) Action taken by the Committee under this Article does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

ARTICLE 36

Committee to give reasons for refusal to grant building permission

If the Committee refuses to grant building permission it shall explain its reason for doing so.

ARTICLE 37

Conditions attached to the grant of building permission

(1) A condition the Committee attaches to the grant of building permission shall fairly and reasonably relate to the proposed prescribed building work.

(2) A condition may, in particular, relate to -

(a) the manner in which the building work is to be undertaken;

(b) the material, equipment, fittings and accessories to be used in undertaking the building work; and

(c) any requirement of the Building Bye-laws applicable to the building work.

ARTICLE 38

Committee to keep register of applications for building permission

(1) The Committee shall maintain a register, called the Register of Building Applications, containing details of each application it receives for building permission and the decision made in respect of it.

(2) The Committee shall make the register available for public inspection at all reasonable hours.

PART 5

ENFORCEMENT OF DEVELOPMENT CONTROLS

ARTICLE 39

Interpretation - breach of development controls

- (1) For the purposes of this Part there has been a breach of development controls if there has been -
 - (a) a breach of planning controls; or
 - (b) a breach of building controls.
- (2) There has been a breach of planning controls if -
 - (a) land has been developed without planning permission; or
 - (b) land has been developed with planning permission but there has been a contravention of a condition of that permission.
- (3) Land is to be taken to have been developed without planning permission if it is developed otherwise than in accordance with plans of the development approved for the purpose of granting planning permission for the development.
- (4) There has been a breach of building controls if -
 - (a) prescribed building work has been undertaken without building permission; or
 - (b) prescribed building work has been undertaken with building permission but there has been a contravention of a condition of that permission or any applicable provision of the Building Bye-laws.
- (5) Prescribed building work is to be taken to have been undertaken without building permission if it is undertaken otherwise than in accordance with plans approved for the purpose of granting the building permission.

ARTICLE 40

Committee may serve an enforcement notice in respect of breach of development controls

- (1) This Article applies where it appears to the Committee that there has been a breach of development controls and that it is expedient that action should be taken to remedy the breach.
- (2) Where this Article applies the Committee may serve an enforcement notice on -
 - (a) the owner of the land;
 - (b) the occupier of the land (if different); and
 - (c) any other person who appears to the Committee to be causing or responsible for the breach.
- (3) The notice shall specify -
 - (a) the matter that appears to the Committee to constitute the breach of development control;
 - (b) the steps the Committee requires to be taken or the activity the Committee requires to cease to remedy the breach or to make good any injury to amenity caused by the breach; and
 - (c) the period within which those steps are required to have been taken or that activity is required to have ceased.
- (4) Where there has been a breach of development controls action taken by the Committee under this Article in respect of that breach does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

ARTICLE 41

Enforcement notice may require replacement building

(1) This Article applies to an enforcement notice served in respect of a breach of development control consisting of the demolition or removal of the whole or any part of a building.

(2) Where this Article applies the notice may require the construction of a building or part of a building that is as similar as possible to the demolished building or that part of the building.

(3) A building or part of a building built in compliance with the notice -

(a) shall be built in compliance with any requirement imposed by or under this or any other enactment applicable to the construction and functional requirements of buildings; and

(b) may differ from the demolished building or the part of the building demolished in any respect which, if the demolished building or that part of the building had been altered in that respect, would not have required the Committee's permission on an application made to it in accordance with Article 9.

(4) Any necessary planning or building permission shall be taken to have been granted to undertake work in compliance with the notice.

ARTICLE 42

Committee may vary or withdraw an enforcement notice

(1) The Committee may withdraw an enforcement notice or waive or relax a requirement of an enforcement notice.

(2) In particular the Committee may extend the period specified in the notice as the period within which specified steps are required to have been taken or an activity is required to have ceased.

(3) If the Committee exercises a power under paragraph (2) it shall immediately serve notice on each person who was served with the enforcement notice.

(4) The withdrawal of an enforcement notice shall not affect the power of the Committee to serve another one.

ARTICLE 43

Committee may execute work required by an enforcement notice

(1) If a step required by an enforcement notice to be taken has not been taken by the end of the period for compliance specified in the notice the Committee may enter the land and take that step.

(2) The Committee may recover the expenses reasonably incurred by the Committee in doing so as a debt due to the Committee from the person who is then the owner of the land.

ARTICLE 44

Offence when enforcement notice is not complied with

(1) The owner of land to which an enforcement notice relates who -

(a) fails to take a step within the period specified in the notice to take that step; or

(b) carries on an activity after the period specified in the notice to cease the activity,

shall be guilty of an offence and liable to a fine.

(2) It shall be a defence to show that all reasonable measures were taken to secure compliance with the notice.

(3) A person -

(a) who has control of or an interest in the land to which an enforcement notice relates (being a person other than

the owner of the land); and

- (b) who carries on on that land an activity that is required by the notice to cease at any time after the period specified in the notice for compliance with the notice,

shall be guilty of an offence and liable to a fine.

(4) A person upon whom an enforcement notice has been served as a person appearing to the Committee to be the person causing or having responsibility for the breach of development controls who, at any time after the period specified in the notice for compliance with the notice, carries on an activity that is required by the notice to cease shall be guilty of an offence and liable to a fine.

(5) An offence under paragraph (1), (3) or (4) may be charged by reference to a day or any longer period of time and a person may be convicted of a second offence or subsequent offences under paragraph (1), (3) or (4) by reference to any period of time following the preceding conviction for such an offence.

(6) If -

- (a) a person charged with an offence under this Article has not been served with a copy of the enforcement notice; and
- (b) the notice is not contained in the Register of Development Notices,

it shall be a defence to show that the person was unaware of the existence of the notice.

(7) In determining the amount of any fine to be imposed on a person convicted of an offence under this Article, the court shall in particular have regard to any financial benefit that has accrued or appears likely to accrue or could have accrued to the person in consequence of the offence.

ARTICLE 45

Stop notices

(1) This Article applies where it appears to the Committee that there has been a breach of development controls and that it is expedient that an activity constituting or forming part of that breach should cease -

- (a) before an enforcement notice can be prepared and served; or
- (b) before the expiry of the period for compliance with an enforcement notice already served in respect of the breach of development controls.

(2) Where this Article applies the Committee may serve a notice requiring the activity specified in the notice to cease immediately.

(3) A stop notice may be served by the Committee on any person who appears to the Committee -

- (a) to be the owner or occupier of the land on which the activity is being carried on; or
- (b) to be engaged in the activity.

(4) The Committee may at any time withdraw a stop notice by notice to that effect served on each person served with the stop notice.

(5) The withdrawal of a stop notice does not prejudice the Committee's power to serve another one.

(6) If a stop notice is not sooner withdrawn it ceases to have effect 7 days after its service if -

- (a) at the time of its service an enforcement notice had not been served in respect of the breach of development controls; and
- (b) an enforcement notice is not served within those 7 days.

(7) A stop notice also ceases to have effect if at the time that it was served an enforcement notice had already been served in respect of the breach of development controls and it is withdrawn or the period for compliance specified in it expires.

(8) A stop notice also ceases to have effect if within 7 days after its service an enforcement notice is served in respect of the breach of development controls and it is withdrawn or the period for compliance specified in it expires.

(9) The Committee shall display on land affected by a stop notice a notice stating that a stop notice has been served in respect of the land and that a person contravening it may be prosecuted.

(10) The notice shall specify the date when the stop notice took effect and indicate its requirements.

(11) A person who removes or defaces a site notice without lawful authority shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.^[4]

(12) Where there has been a breach of development controls action taken by the Committee under this Article in respect of that breach does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

ARTICLE 46

Penalty for contravention of stop notice

(1) A person who fails to comply with a stop notice after -

(a) the notice has been served on the person; or

(b) a site notice has been displayed,

shall be guilty of an offence and liable to a fine or imprisonment, or both.

(2) An offence under paragraph (1) may be charged by reference to a day or any longer period of time and a person may be convicted of a second offence or subsequent offences under paragraph (1) by reference to any period of time following the preceding conviction for such an offence.

(3) In determining the amount of any fine to be imposed on a person convicted of an offence under paragraph (1), the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue or could have accrued to the person in consequence of the offence.

(4) It shall be a defence for a person accused of an offence under this Article to prove -

(a) that the stop notice was not served on the person; and

(b) that the person did not know and could not reasonably have been expected to know of its existence.

ARTICLE 47

Enforcement of development conditions

(1) This Article applies where the Committee is of the opinion that a condition subject to which it granted planning or building permission is not being or has not been complied with.

(2) Where this Article applies the Committee may serve a notice on -

(a) a person who is undertaking or who undertook the development; or

(b) a person having control of the land to which the permission relates,

requiring the person to secure compliance with the condition.

- (3) The notice shall specify -
 - (a) the condition to be complied with; and
 - (b) the steps which the Committee requires to be taken or the activities the Committee requires to cease, to secure compliance with the condition.
- (4) The notice shall also specify the period allowed for compliance with the notice.
- (5) The Committee may withdraw a condition notice served on a person by notice served on that person.
- (6) The withdrawal of a condition notice shall not affect the power of the Committee to serve another one in respect of either the condition specified in the earlier notice or any other condition.
- (7) A person who fails to comply with the requirements of a condition notice served on the person shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.^[5]
- (8) An offence under paragraph (7) may be charged by reference to a day or any longer period of time and a person may be convicted of a second offence or subsequent offences under paragraph (7) by reference to any period of time following the preceding conviction for such an offence.
- (9) It shall be a defence for a person charged with an offence under paragraph (7) to prove -
 - (a) that the person took all reasonable measures to secure compliance with the requirements of the condition notice; or
 - (b) if the notice was served on the person by virtue of paragraph (2)(b), that the person no longer has control of the land.

ARTICLE 48

Injunctions restraining breaches of development controls

- (1) The Committee may apply to the Royal Court for an injunction if it considers it necessary or expedient for an actual or apprehended breach of development controls to be restrained by injunction.
- (2) Paragraph (1) has effect whether or not the Committee has exercised or is proposing to exercise any of its other powers under this Part.
- (3) The Royal Court may grant any injunction it considers appropriate to restrain the breach.

ARTICLE 49

Committee to maintain Register of Development Notices

- (1) The Committee shall maintain a register, called the Register of Development Notices, containing details of each -
 - (a) enforcement notice;
 - (b) stop notice; and
 - (c) condition notice,it serves.
- (2) The Committee shall make the register available for inspection by the public at all reasonable hours.

PART 6

ADDITIONAL CONTROLS

Chapter 1 - Sites of special interest

ARTICLE 50

Interpretation - sites of special interest

In this Chapter -

“List of Sites of Special Interest” or “List” means the List maintained by the Committee in accordance with Article 51(1);

“site of special interest” means a building or place included in the List of Sites of Special Interest;

“special interest”, in respect of a site of special interest, means the special characteristics of the site that justified its inclusion on the List of Sites of Special Interest.

ARTICLE 51

Committee to maintain a List of Sites of Special Interest

- (1) The Committee shall maintain a list, called the List of Sites of Special Interest.
- (2) The Committee shall include on the List each building or place that the Committee is satisfied has public importance by reason of -
 - (a) its special zoological, ecological, botanical or geological interest; or
 - (b) the special archaeological, architectural, artistic, historical, scientific or traditional interest that attaches to the building or place.
- (3) On the List the Committee shall, in respect of each site of special interest -
 - (a) specify the site’s special interest;
 - (b) describe the site either in words or by reference to a plan, or both, with sufficient particularity to enable it to be easily identified;
 - (c) if the site relates to the habitat of a wild creature or a plant, specify the type of habitat; and
 - (d) specify any activity referred to in Article 55(1) which may be undertaken on the site without the Committee’s permission.
- (4) The Committee shall make the List available for inspection by the public at all reasonable hours.
- (5) The Committee shall remove a building or place from the List if it is satisfied that its special interest has ceased to exist.
 - (6) At least 28 days before doing so the Committee shall serve a notice of its intention to do so.
 - (7) The notice shall be served -
 - (a) on the owner of the building; or
 - (b) by displaying it in a conspicuous place in or near the building or place.

ARTICLE 52

Listing of building or place on the List of Sites of Special Interest

- (1) Except as provided by Article 53, the Committee shall not include a building or place on the List of Sites of

Special Interest unless at least 28 days previously it has served a notice of its intention to do so.

(2) The notice shall be served -

(a) on the owner of the building or place; or

(b) by displaying it in a conspicuous place on or near the building or place.

(3) A person with an interest in the building or place referred to in the notice may make written representations to the Committee in respect of the proposed inclusion of the building or place on the List of Sites of Special Interest.

(4) In determining whether to include a building or place on the List the Committee -

(a) shall take into account any representations made under paragraph (3) to the extent that they relate to the special interest of the proposed site of special interest; and

(b) may consult any person it considers has a special knowledge of or interest in the building or place.

(5) The Committee shall serve notice of its decision on whether to include a building or place on the List on the owner and (if different) any occupier of the building or place as soon practicable after it has made the decision.

(6) A person who removes or defaces a notice referred to in paragraph (2)(b) without lawful authority shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.^[6]

ARTICLE 53

Provisional listing

(1) This Article applies where the Committee considers it necessary or expedient to restrain an actual or apprehended -

(a) operation in, on, over or under a building or place it believes is suitable to be added to the List of Sites of Special Interest; or

(b) change (either permanent or temporary) in the use of such a building or place,

which, whether or not it amounts to development, the Committee is satisfied would adversely affect the special interest of the building or place were it a site of special interest.

(2) Where this Article applies the Committee may serve a notice declaring the building or place to have been provisionally included in the List of Sites of Special Interest.

(3) The notice shall be served -

(a) on the owner of the building or place; or

(b) by displaying it in a conspicuous place on or near the building or place.

(4) On service of the notice the Committee shall enter details of the building or place on the List of Sites of Special Interest.

(5) The Committee shall remove details of the building or place from the List 3 months after the service of the notice unless by then the Committee has determined in accordance with Article 52 that the building or place should remain on the List.

(6) The Committee shall also remove details of the building or place from the list if it serves a notice, in accordance with Article 52(5); of its decision not to include the building or place on the List.

(7) A person who removes or defaces a notice referred to in paragraph (3)(b) without lawful authority shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.^[7]

ARTICLE 54

Control of certain operations, etc. not amounting to development

(1) This Article applies to -

- (a) an operation in, on, over or under a site of special interest; or
- (b) a change (either permanent or temporary) in the use of a site of special interest,

which, while not amounting to development, adversely affects the special interest of the site.

(2) A person who -

- (a) undertakes an operation or makes a change of use to which this Article applies without the Committee's permission; or
- (b) when undertaking the operation or making the change contravenes any condition subject to which permission to do so was granted,

shall be guilty of an offence and liable to a fine or imprisonment, or both.

(3) In determining the amount of any fine to be imposed on a person convicted of an offence under paragraph (1), the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue or could have accrued to the person in consequence of the offence.

(4) The provisions of the Part 5 (development controls) and of Part 7 (appeals) apply in respect of an operation or change of use to which this Article applies as if -

- (a) that operation or change of use amounted to development; and
- (b) the undertaking of the operation or the change of use except with and in accordance with planning permission were a breach of development controls.

(5) A person may be convicted of an offence under paragraph (2) despite the fact that-

- (a) by virtue of paragraph (4), an enforcement notice or condition notice has been issued by the Committee in respect of the undertaking of the operation or change of use; and
- (b) every step required by the notice to be taken has been taken.

(6) A condition the Committee may attach to the grant of permission to undertake an operation or make a change of use to which this Article applies shall fairly and reasonably relate to the protection of the special interest of the site.

(7) If the person convicted of an offence under paragraph (2) is the owner of the site of special interest the Committee may serve on that person a notice requiring the person to make good, within the period for compliance specified in the notice, any injury caused to the site as a result of the action taken that constituted the offence.

(8) A person who fails to comply with the notice shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.^[8]

(9) If -

- (a) the person convicted of the offence under paragraph (2) is not the owner of the site of special interest; or
- (b) the owner of the site fails to comply with a notice served in accordance with paragraph (7),

the Committee may enter on the site and undertake the work necessary to make good the injury caused to the site as a result of the action taken that constituted the offence.

(10) The Committee may recover from the person convicted of the offence under paragraph (2) or the owner, as the case may be, the expenses reasonably incurred in undertaking the work referred in paragraph (9).

(11) Despite the fact that -

- (a) the Committee has made good injury to a site of special interest in accordance with paragraph (9); and
- (b) the cost of undertaking that work has been recovered by the Committee,

the owner of the site may still be convicted of an offence under paragraph (8).

ARTICLE 55

Certain activities restricted on sites of special interest

(1) This Article applies to the carrying on on a site of special interest of any of the following activities -

- (a) to use or operate a device designed or adapted to detect or locate metal or minerals in the ground;
- (b) to carry on an activity which might injure or deface the site or a part of the site; or
- (c) where the special interest in respect of the site of special interest is a zoological, ecological, botanical or geological interest, to carry on any of the activities specified in paragraph (2).

(2) Those activities are -

- (a) to disturb, ill-treat or injure, or kill or attempt to kill, or take a wild creature;
- (b) to pick, uproot, damage or destroy a plant;
- (c) to insert a probe into the surface of the site;
- (d) to dig a hole or make an excavation;
- (e) to remove sand, stone, gravel, earth or rock; or
- (f) to tip earth, rock or waste material.

(3) A person may undertake an activity to which this Article applies -

- (a) with the Committee's permission; or
- (b) if the activity is specified as a permitted activity in the entry on the List of Sites of Special Interests relating to the site.

(4) A person who -

- (a) carries on an activity to which this Article applies without the permission referred to in paragraph (3); or
- (b) when carrying on the activity with that permission contravenes any condition subject to which the permission was granted,

shall be guilty of an offence and liable to a fine or imprisonment, or both.

(5) An application to carry on an activity to which this Article applies shall -

- (a) be in a form required by the Committee;
- (b) contain or be accompanied by particulars the Committee reasonably requires to determine the application; and

(c) be accompanied by any prescribed fee.

(6) The conditions the Committee may attach to the grant of permission shall fairly and reasonably relate to the protection of the special interest of the site.

(7) The Committee may give permission for the purpose of paragraph (4)(a) by means of a notice displayed on or near to the site of special interest.

(8) A person who removes or defaces a notice displayed in accordance with paragraph (7) without lawful authority shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.^[9]

(9) If the person convicted of an offence under paragraph (4) is the owner of the site of special interest the Committee may serve on that person a notice requiring the person to make good, within the period for compliance specified in the notice, any injury caused to the site as a result of the action taken that constituted the offence.

(10) A person who fails to comply with the notice shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale.⁹

(11) If -

(a) the person convicted of the offence under paragraph (4) is not the owner of the site of special interest; or

(b) the owner of the site fails to comply with a notice served in accordance with paragraph (9),

the Committee may enter on the site and undertake the work necessary to make good the injury caused to the site as a result of the action taken that constituted the offence.

(12) The Committee may recover from the person convicted of the offence under paragraph (4) or the owner, as the case may be, the expenses reasonably incurred in undertaking the work referred in paragraph (11).

(13) Despite the fact that -

(a) the Committee has made good injury to a site of special interest in accordance with paragraph (11); and

(b) the cost of undertaking that work has been recovered by the Committee,

the owner of the site may still be convicted of an offence under paragraph (10).

ARTICLE 56

Committee may make funds available in respect of sites of special interest, etc.

(1) The Committee may by way of grant or loan make funds available to the owner or occupier of a site of special interest or any other site or building the Committee is satisfied it is in the public interest to preserve towards any cost necessary to protect, repair or restore the site or building.

(2) The Committee may make funds available on such terms as the Committee determines.

Chapter 2 - Protection of trees

ARTICLE 57

Interpretation - protected trees

In this Chapter -

“List of Protected Trees” or “List” means the List maintained by the Committee in accordance with Article 58(1);

“protected tree” means a tree included on the List of Protected Trees;

“tree” includes -

- (a) a single tree of whatever age, genus, species, cultivar or variety;
- (b) a group of trees;
- (c) a shrub;
- (d) a bush;
- (e) a hedge.

ARTICLE 58

Committee to protect trees by maintaining a List of Protected Trees

- (1) The Committee shall maintain a list, called the List of Protected Trees.
- (2) The Committee shall include on the List trees which the Committee is satisfied, in the interests of the amenity of the Island, should not be cut down, lopped or otherwise altered, harmed or interfered with without the Committee's permission.
- (3) The List shall, in relation to each tree (or group of trees or hedge) contain -
 - (a) details of the tree; and
 - (b) a description, either in words or by reference to a plan, or both, of its position sufficient to identify it.
- (4) The Committee shall make the List available for inspection by the public at all reasonable hours.
- (5) The Committee shall remove a tree from the List if the tree ceases to exist or the Committee is satisfied that it is no longer in the interests of the amenity of the Island that it should be protected.
- (6) At least 28 days before doing so the Committee shall serve a notice of its intention to do so.
- (7) The notice shall be served -
 - (a) on the owner of the land on which the tree is or was growing; or
 - (b) by displaying it in a conspicuous place on or near the tree or place where the tree is or was growing.

ARTICLE 59

Listing of tree on the List of Protected Trees

- (1) Except as provided by Article 60, the Committee shall not include a tree on the List of Protected Trees unless at least 28 days previously it has served a notice of its intention to do so.
- (2) The notice shall be served -
 - (a) on the owner of the land on which the tree is growing; or
 - (b) by displaying it in a conspicuous place on or near the tree.
- (3) Any person may make written representations to the Committee in respect of the proposed inclusion of the tree on the List.
- (4) When considering whether to include the tree on the List the Committee -
 - (a) shall take into account any representations made under paragraph (3) in so far as they relate specifically to the proposed inclusion of the tree on the List; and

(b) may consult any person it considers has expert relevant knowledge.

(5) The Committee shall serve notice of its decision on whether to include a tree on the List on the owner and (if different) any occupier of the land on which the tree is growing as soon practicable after it has made the decision.

(6) A person who removes or defaces a notice referred to in paragraph (2)(b) without lawful authority shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.^[10]

ARTICLE 60

Provisional listing of trees

(1) This Article applies where the Committee considers it necessary or expedient to restrain an apprehended removal or damage to a tree which the Committee believes should be on the List of Protected Trees.

(2) Where this Article applies the Committee may serve a notice declaring the tree to have been provisionally included in the List of Protected Trees.

(3) The notice shall be served -

(a) on the owner of land on which the tree is growing; or

(b) by displaying it in a conspicuous place on or near the tree.

(4) On service of the notice the Committee shall enter details of the tree on the List of Protected Trees.

(5) The Committee shall remove details of the tree from the List 3 months after the service of the notice unless by then the Committee has determined in accordance with Article 59 that the tree should remain on the List.

(6) The Committee shall also remove details of the tree from the list if it serves a notice, in accordance with Article 59(5) of its decision not to include the tree on the List.

(7) A person who removes or defaces a notice referred to in paragraph (3)(b) without lawful authority shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.^[11]

ARTICLE 61

Protected tree not to be felled, etc. without permission

(1) A person who -

(a) cuts down, tops, lops, uproots, wilfully damages or wilfully destroys or otherwise alters, harms or interferes with a protected tree without the Committee's permission; or

(b) when undertaking any of those activities with the Committee's permission contravenes any condition subject to which that permission was granted,

shall be guilty of an offence and liable to a fine or imprisonment, or both.

(2) If a person convicted of an offence under paragraph (1) is the owner of the land on which the tree is or was growing the court that convicts the person may, in addition to any other penalty it imposes, order the person to plant a suitable tree in a specified place on that land.

(3) A condition the Committee may attach to the grant of permission for the purpose of paragraph (1)(b) shall fairly and reasonably relate to the protection of the tree and to the safety of the public.

(4) However it may be made a condition of the permission that a tree or replacement tree of a species specified by the Committee shall be planted in a specified place during a specified period.

(5) In determining the amount of any fine to be imposed on a person convicted of an offence under paragraph

(1), the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue or could have accrued to the person in consequence of the offence.

(6) An offence under paragraph (1) may be charged by reference to a day or any longer period of time and a person may be convicted of a second offence or subsequent offences under paragraph (1) by reference to any period of time following the preceding conviction for such an offence.

(7) It shall be a defence for a person charged with an offence under paragraph (1) to prove -

- (a) that the tree was dead or dying; or
- (b) that the tree had become dangerous.

ARTICLE 62

Committee to provide for the planting and preservation of trees where appropriate

(1) The Committee shall, when granting planning permission to develop land ensure, whenever appropriate, that adequate provision is made for the preservation and planting of trees by the imposition of a condition.

(2) Also when granting planning permission the Committee shall provide for the listing in accordance with Article 59 of any tree as appears to the Committee to be necessary in connection with the grant of the permission, whether to give effect to the condition referred to in paragraph (1) or otherwise.

ARTICLE 63

Committee may plant trees, etc.

(1) The Committee may plant trees and undertake work or do other things it considers necessary to preserve or enhance the amenity of land or to restore or improve the appearance of land it considers to be unsightly.

(2) It shall not do so without the consent of the owner and (if different) the occupier of the land.

(3) The Committee may enter into an agreement for the work to be undertaken by a person other than the Committee.

ARTICLE 64

Committee may make funds available for the planting and protection of trees, etc.

(1) The Committee may by way of grant or loan make funds available to the owner or occupier of land towards the cost of planting or managing trees on that land or for otherwise preserving or improving the appearance of the land.

(2) The Committee may make funds available on such terms as the Committee determines.

Chapter 3 - Dangerous buildings

ARTICLE 65

Interpretation - dangerous buildings

In this Chapter “work to be undertaken” includes steps to be taken.

ARTICLE 66

Committee may serve a dangerous building notice in respect of building in a dangerous condition

(1) This Article applies where it appears to the Committee that a building is in a dangerous condition, or is being used to carry a load or in a manner that makes it dangerous.

(2) Where this Article applies the Committee may serve a notice requiring work to be undertaken to render the

building safe.

- (3) The notice shall be served on the owner of the building and (if different) its occupier.
- (4) The notice shall specify -
 - (a) the matter which appears to the Committee to make the building dangerous;
 - (b) the work to be undertaken; and
 - (c) the period within which that work must be undertaken.

ARTICLE 67

Dangerous building notice - restoration work

- (1) This Article applies in respect of a dangerous building notice that requires restoration work to be undertaken on a part of a building.
- (2) Unless the notice specifies otherwise it shall be taken to contain a requirement that the work to be undertaken shall be as similar as possible to the original work on that part of the building.

ARTICLE 68

Committee may vary or withdraw a dangerous building notice

- (1) The Committee may withdraw a dangerous building notice or waive or relax a requirement of it.
- (2) In particular the Committee may extend the period specified in the notice as the period within which specified work is required to have been undertaken.
- (3) The Committee shall as soon as practicable serve notice of any exercise of a power in accordance with paragraph (1) on each person who was served with the dangerous building notice.
- (4) The withdrawal of a dangerous building notice shall not affect the power of the Committee to serve another one.

ARTICLE 69

Committee may execute work required by dangerous building notice

- (1) The Committee may enter land and undertake work required to be undertaken by a dangerous building notice if the work has not been undertaken by the end of the period for compliance specified in the notice.
- (2) The Committee may recover the expenses reasonably incurred by the Committee in doing so as a debt due to the Committee from the person who is then the owner of the building.

ARTICLE 70

Offence when dangerous building notice is not complied with

- (1) The owner of a building to which a dangerous building notice relates who during the period specified in the notice fails to undertake any specified work shall be guilty of an offence and liable to a fine or imprisonment, or both.
- (2) In proceedings against a person for the offence it shall be a defence to show that the person took all reasonable measures to secure compliance with the notice.
- (3) An offence under paragraph (1) may be charged by reference to a day or any longer period of time and a person may be convicted of a second offence or subsequent offences under paragraph (1) by reference to any period of time following the preceding conviction for such an offence.

- (4) If -
- (a) a person charged with an offence under paragraph (1) has not been served with a copy of the dangerous building notice; and
 - (b) the notice is not contained in the Register of Dangerous Building Notices,

it shall be a defence to show that the person was not aware of the existence of the notice.

(5) In determining the amount of any fine to be imposed on a person convicted of an offence under this Article, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue or could have accrued to the person in consequence of the offence.

ARTICLE 71

Committee may take immediate action to ensure safety

- (1) This Article applies where it appears to the Committee -
- (a) that a building is in a dangerous condition or is being used to carry such a load or in a manner so as to be dangerous; and
 - (b) that immediate action is necessary to remove or reduce the danger.

(2) Where this Article applies the Committee may, as soon as practicable and whether or not it serves a dangerous building notice, enter the building and undertake work necessary to reduce or remove the danger.

(3) If the Committee decides to act in accordance with paragraph (2) it shall serve notice of its decision on the owner of the building and (if different) its occupier but it is not a requirement that the notice be served before the building is entered and the work undertaken.

(4) The Committee may recover the costs reasonably incurred in taking action under paragraph (2) from the owner of the building as a debt due to the Committee.

ARTICLE 72

No compensation payable

Action taken by the Committee under this Chapter does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

ARTICLE 73

Planning permission and building permission

(1) Work undertaken in compliance with a dangerous building notice shall be undertaken in compliance with any requirement imposed by or under this or any other enactment applicable to the construction and functional requirements of buildings.

(2) In so far as it is required, planning and building permission shall be taken to have been granted to undertake work in compliance with a dangerous building notice.

ARTICLE 74

Committee to maintain Register of Dangerous Building Notices

(1) The Committee shall maintain a register, called the Register of Dangerous Building Notices, containing details of each dangerous building notice it serves.

- (2) The Committee shall make the register available for inspection by the public at all reasonable hours.

Chapter 4 - Control of advertisements

ARTICLE 75

Interpretation - advertisements

(1) In this Chapter “advertisement” means a word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purpose of -

- (a) advertisement;
- (b) announcement; or
- (c) direction.

(2) In this Chapter “Order” means an Order made in accordance with this Chapter.

ARTICLE 76

Committee may make Orders to control advertisements

(1) The Committee may by Order restrict or regulate the display of advertisements to ensure that the Island’s amenities are not spoilt.

(2) In particular an Order may -

- (a) regulate the dimensions, appearance and position of advertisements, the sites on which they may be displayed, and the manner in which they may be affixed to land;
- (b) require the permission of the Committee to be obtained for the display of advertisements, or of advertisements of a specified class, or of advertisements in a particular area or in a specified type of area;
- (c) make different provision with respect to different areas of the Island;
- (d) make special provision with respect to advertisements or prohibit their display in areas of the Island that appear to the Committee to require special protection on grounds of amenity.

ARTICLE 77

Order may apply to existing advertisements

(1) An Order may be made to apply -

- (a) to advertisements that are being displayed on the date on which the Order comes into force; and
- (b) to the use for the display of an advertisement of a site that was being used for that purpose on that date.

(2) An Order to which paragraph (1) applies shall allow sufficient time for compliance with the Order and shall provide for the payment by the Committee of compensation in appropriate cases.

ARTICLE 78

Penalty for contravention of Order

(1) A person who displays an advertisement contrary to the provisions of an Order shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.^[12]

(2) A person who fails to comply with a notice served by the Committee requiring the person -

- (a) to remove an advertisement displayed by the person in contravention of an Order; or

- (b) to discontinue the use by the person of a site to display an advertisement in contravention of an Order,

before the date specified in the notice for compliance, shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.¹²

(3) An offence under paragraph (1) or (2) may be charged by reference to a day or any longer period of time and a person may be convicted of a second offence or subsequent offences under paragraph (1) or (2) by reference to any period of time following the preceding conviction for such an offence.

(4) Without prejudice to the generality of paragraph (1), a person shall be taken to display an advertisement if the advertisement -

- (a) is displayed on land the person owns or occupies;
- (b) gives publicity to the person's goods, trade, business or other concerns; or
- (c) gives publicity to the person's candidature for election to a public or parochial office.

(5) It shall be a defence for a person charged with an offence under paragraph (1) to prove that the advertisement was displayed without the person's knowledge or consent.

ARTICLE 79

Committee may remove or obliterate advertisement

(1) The Committee may remove or obliterate an advertisement that in its opinion is displayed in contravention of an Order and recover, as a debt due to the Committee, the cost of doing so from the person displaying the advertisement.

(2) Action taken by the Committee under paragraph (1) does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

Chapter 5 - Control of moveable structures

ARTICLE 80

Moveable structures defined

(1) In this Chapter the term "moveable structure" means a structure the placing of which in, on, over or under land does not constitute development of the land.

(2) It includes, for example, a marquee, tent, caravan or other conveyance, with or without wheels, a flagpole, or radio or television mast temporarily placed upon land.

(3) In this Chapter "Order" means an Order made in accordance with this Chapter.

ARTICLE 81

Committee may make Orders in respect of moveable structures

(1) The Committee may by Order regulate or restrict the erection, stationing and use of moveable structures -

- (a) to ensure that the Island's amenities are not spoilt; and
- (b) to secure the health, safety and welfare of people in or about moveable structures.

(2) The Order may, in particular -

- (a) require the permission of the Committee to be obtained for the erection, stationing and use of moveable structures; and

- (b) include provisions to prevent nuisances that may arise from moveable structures.
- (3) The Order may be made to apply to all moveable structures or to moveable structures specified in the Order.

ARTICLE 82

Penalty for contravening an Order

(1) A person who contravenes an Order shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale. ^[13]

- (2) A person who fails to comply with a notice served by the Committee requiring the person -
 - (a) to remove a mobile structure placed on land in contravention of an Order; or
 - (b) to discontinue the use by the person of land for the placement of a mobile structure in contravention of an Order,

before the date specified in the notice for compliance, shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale. ^[14]

(3) An offence under paragraph (1) or (2) may be charged by reference to a day or any longer period of time and a person may be convicted of a second offence or subsequent offences under paragraph (1) or (2) by reference to any period of time following the preceding conviction for such an offence.

Chapter 6 - Control of land condition

ARTICLE 83

Interpretation - land condition

(1) In this Chapter -

“land condition notice” means a notice served by the Committee in accordance with an Article of this Chapter;

“work to be undertaken” includes steps to be taken.

(2) Where in accordance with this Chapter a notice is not served on a person but is instead displayed it shall be taken to have been served on -

- (a) the owner of the land on which it is displayed and (if different) the occupier of the land; and
- (b) any owner, as the case may be, of the building, caravan, vegetation or disused vehicle on or in respect of which the notice is displayed.

ARTICLE 84

Committee may require repair or removal of ruinous or dilapidated buildings.

(1) If it appears to the Committee that a building is in a ruinous or dilapidated condition it may serve a notice requiring that the building or a specified part of it be demolished, repaired, decorated or otherwise improved and that any resulting rubbish be removed.

(2) The notice shall be served -

- (a) on the owner of the land on which the building is situated; or
- (b) by displaying it in a conspicuous place on or near the building.

ARTICLE 85

Committee may require action to be taken in respect of drainage nuisance

- (1) If it appears to the Committee that the drainage or lack of drainage of a building is a danger to health or a nuisance it may serve a notice requiring that measures specified in the notice be taken to eliminate the danger or nuisance.
- (2) The notice shall be served -
 - (a) on the owner of the land on which the building is situated and (if different) its occupier; or
 - (b) by displaying it in a conspicuous place on or near the building.
- (3) In this Article “drainage”, in respect of a building, includes a cesspool, private sewer, septic tank, drain, soil pipe, rainwater pipe and other necessary drainage facilities in respect of the building.

ARTICLE 86

Power of Committee to require proper maintenance of land, etc.

- (1) If it appears to the Committee that the amenities of a part of the Island are being adversely affected by the condition or use of any land, the Committee may serve a notice requiring the work specified in the notice be undertaken to abate the injury.
- (2) The notice shall be served -
 - (a) on the owner of the land and (if different) its occupier; or
 - (b) by displaying it in a conspicuous place on the land.

ARTICLE 87

Committee may require removal of caravans

- (1) If it appears to the Committee that for amenity reasons a caravan should not be on a particular area of land it may serve a notice requiring the removal of the caravan to outside the area specified in the notice.
- (2) The notice shall be served -
 - (a) on the owner or other person for the time being in control of the caravan, or the owner and (if different) the occupier of the land on which the caravan is situated; or
 - (b) by displaying it in a conspicuous place on or near the caravan.

ARTICLE 88

Committee may require action to be taken in respect of dumps

- (1) If it appears to the Committee that for amenity reasons action should be taken in respect of a dump it may serve a notice requiring the dump to be dealt with in the manner specified in the notice.
- (2) The notice shall be served -
 - (a) on the owner of the land on which the dump is situated and (if different) the occupier of the land; or
 - (b) by displaying it in a conspicuous place on or near the dump.

ARTICLE 89

Committee may take action in respect of disused vehicles

- (1) If it appears to the Committee that for amenity reasons a disused vehicle should be moved or otherwise

disposed of it may serve a notice requiring the vehicle to be dealt with in the manner specified in the notice.

- (2) The notice shall be served -
 - (a) on the owner of the land on which the vehicle is situated or (if different) the occupier;
 - (b) the owner of the vehicle; or
 - (c) by displaying it in a conspicuous place on or near the vehicle.

(3) In this Article “disused vehicle” means anything constructed for use as a vehicle or as part of a vehicle (including wheeled or tracked equipment) which is not normally being so used and whether or not it is capable of being so used.

ARTICLE 90

Committee may require vegetation to be replaced or removed

(1) If it appears to the Committee that the amenities of a part of the Island are being adversely affected by the removal or destruction of vegetation it may serve a notice requiring -

- (a) the removal or destruction to stop; and
- (b) that other vegetation of a type and species be planted in a place on that land specified in the notice.

(2) If it appears to the Committee that the amenities of an area of land on the Island are being or are likely to be adversely affected by the presence of vegetation on adjoining land owned by some other person it may serve a notice requiring -

- (a) the removal of the vegetation or any part of it; or
- (b) that other action specified in the notice be taken in respect of the vegetation.

(3) The notice shall be served -

- (a) on the owner of the land on which the vegetation is growing or (if different) the occupier of the land; or
- (b) by displaying it in a conspicuous place on or near the vegetation.

ARTICLE 91

Contents of land condition notice

(1) A land condition notice shall specify in sufficient detail the work to be undertaken and the period within which that work is to be undertaken.

(2) The period shall be a period that is reasonable having regard to what is required.

(3) A person who removes or defaces a land condition notice displayed in accordance with this Chapter without lawful authority shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale. [\[15\]](#)

ARTICLE 92

Committee may vary or withdraw a land condition notice

(1) The Committee may withdraw a land condition notice or waive or relax a requirement of a land condition notice.

(2) In particular the Committee may extend the period specified in the notice as the period within which specified work is required to have been undertaken.

(3) The Committee shall as soon as practicable serve notice of the exercise of a power under paragraph (1) on each person who was served with the land condition notice except that, despite Article 83(2), if the notice was merely displayed the Committee need only display an amended land condition notice at the same place.

(4) The withdrawal of a land condition notice shall not affect the power of the Committee to serve another one.

ARTICLE 93

Penalty for failure to comply with land condition notice

(1) A person who fails to undertake the work specified in a land condition notice served on the person in accordance with this Chapter before the end of the period for compliance specified in the notice shall be guilty of an offence and liable to a fine.

(2) In proceedings against a person for an offence under paragraph (1) it shall be a defence for the person to show that all reasonable measures to secure compliance with the notice were taken.

(3) An offence under paragraph (1) may be charged by reference to a day or any longer period of time and a person may be convicted of a second offence or subsequent offences under paragraph (1) by reference to any period of time following the preceding conviction for such an offence.

(4) If -

(a) a person charged with an offence under paragraph (1) has not been served with a copy of the land condition notice; and

(b) the notice is not contained in the Register of Land Condition Notices,

it shall be a defence to show that the person was not aware of the existence of the notice.

(5) In determining the amount of any fine to be imposed on a person convicted of an offence under this Article, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue or could have accrued to the person in consequence of the offence.

ARTICLE 94

Committee may undertake work, etc.

If a person fails to undertake the work specified in a land condition notice before the end of the period of compliance specified in the notice then, whether or not the person is convicted of an offence under Article 93, the Committee may -

(a) undertake the work; and

(b) recover from that person, as a debt due to the Committee, the expenses reasonably incurred by the Committee in doing so.

ARTICLE 95

No compensation payable

Action taken by the Committee under this Chapter does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action.

ARTICLE 96

Planning permission and building permission

(1) Work undertaken in compliance with a land condition notice shall be undertaken in compliance with any requirement imposed by or under this or any other enactment applicable to the construction and functional requirements of buildings.

(2) In so far as it is required, planning and building permission shall be taken to have been granted to undertake work in compliance with a land condition notice.

ARTICLE 97

Committee to maintain Register of Land Condition Notices

(1) The Committee shall maintain a register, called the Register of Land Condition Notices, containing details of each land condition notice it serves.

(2) The Committee shall make the register available for inspection by the public at all reasonable hours.

Chapter 7 - Controls on caravans

ARTICLE 98

Definitions in respect of caravans

In this Chapter “caravan” means -

- (a) a structure designed or adapted for human habitation which is capable of being moved from place to place (whether by being towed, or by being transported on a motor vehicle or trailer); and
- (b) a motor vehicle designed or adapted for human habitation,

but does not include a tent.

ARTICLE 99

Committee may control importation and use of caravans

- (1) A person shall not -
 - (a) import a caravan into the Island; or
 - (b) use a caravan on the Island,

except with and in accordance with permission to do so granted by the Committee.

- (2) An application for permission shall -
 - (a) be in a form required by the Committee;
 - (b) contain or be accompanied by particulars the Committee reasonably requires to determine the application; and
 - (c) be accompanied by any prescribed fee.

ARTICLE 100

Offence of importing, etc. caravan without permission of Committee

(1) A person who contravenes Article 99 shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.^[16]

(2) A person shall be guilty of an offence under paragraph (1) if, when importing a caravan or using a caravan on the Island, the person contravenes any condition subject to which the permission to do so was granted.

(3) An offence under paragraph (1) may be charged by reference to a day or any longer period of time and a person may be convicted of a second offence or subsequent offences under paragraph (1) by reference to any period of time

following the preceding conviction for such an offence.

ARTICLE 101

Conditions on importation and use of caravan

- (1) The Committee may attach conditions to the grant of permission to import a caravan or to use a caravan on the Island.
- (2) Conditions imposed under paragraph (1) shall fairly and reasonably relate to the importation of the caravan or the use of the caravan on the Island.
- (3) A condition attached by the Committee to the grant of its permission to import a caravan or to use one on the Island binds any person for the time being having the control of or an interest in the caravan and is enforceable by the Committee against such a person.

ARTICLE 102

Committee may require caravan to be exported

If a person is convicted of an offence under Article 100 in respect of a caravan the Committee may, by notice served on its owner or the person for the time being having charge of it, require the caravan to be exported from the Island within the period for compliance specified in the notice.

ARTICLE 103

Caravan may be forfeited to Committee

- (1) If a caravan is not exported from the Island within the period for compliance specified in a notice under Article 102 the caravan is forfeited to the Committee on the termination of that period and becomes the property of the Committee which may retain it or dispose of it as it thinks fit.
- (2) A notice served in accordance with Article 102 shall draw the attention of the person upon whom it is served to the provisions of paragraph (1).
- (3) If a caravan that has been forfeited to the Committee in accordance with paragraph (1) is seized by the Committee otherwise than from or in the presence of its owner or the owner's agent, the Committee shall serve on the owner or the owner's agent notice of the seizure specifying the grounds for the seizure.

ARTICLE 104

Committee may seize and retain caravan

- (1) This Article applies where the Committee is satisfied that -
 - (a) a caravan has been imported into the Island without the Committee's permission; or
 - (b) has been imported or is being used in the Island without compliance with a condition subject to which the Committee's permission to import or use the caravan was granted.
- (2) Where this Article applies the Committee may seize and retain possession of the caravan.
- (3) The Committee may retain possession of the caravan for 2 months unless during that period the owner or person having possession of the caravan at the time of the seizure -
 - (a) exports the caravan from the Island; or
 - (b) if the owner or person having possession of the caravan at the time of the seizure is charged with an offence under Article 100, that charge is determined.
- (4) If in respect of the charge referred to in paragraph (3)(b) a person is found guilty of an offence under Article

100, the Committee may retain possession of the caravan until it is exported from the Island in accordance with a notice served in accordance with Article 102.

Chapter 8 - Control of rubbish

ARTICLE 105

Person shall not deposit rubbish

- (1) A person shall not without lawful authority place rubbish on land - whether private land, land used by the public or land covered by water.
- (2) A person who contravenes paragraph (1) shall be guilty of an offence and liable to a fine.
- (3) In determining the amount of any fine the court shall, in particular, have regard to -
 - (a) any financial benefit which has accrued or appears likely to accrue or could have accrued to the person in consequence of the offence;
 - (b) the type of rubbish placed on the land;
 - (c) the amount of the rubbish placed on the land;
 - (d) any damage the rubbish caused or was capable of causing to the environment; and
 - (e) the cost of clearing the rubbish and making good any damage caused by it.
- (4) In this Article rubbish includes refuse and waste material, and whether in solid or liquid form.

PART 7

APPEALS

Chapter 1 - The Planning and Building Appeals Commission

ARTICLE 106

Interpretation - “persons interested in the appeal” defined

- (1) In this Part “persons interested in the appeal”, in respect of an appeal under this Part, means -
 - (a) the Committee;
 - (b) the appellant; and
 - (c) any other person who made a submission to the Committee in respect of the matter the subject of the appeal prior to the Committee making its decision in respect of that matter.
- (2) For the purpose of paragraph (1)(c), any highway authority, Committee, or a body or person created by statute that commented on an application as a result of the Committee’s compliance with Article 14, 15, 16 or 17 shall be taken to have made a submission to which that paragraph applies.

ARTICLE 107

Planning and Building Appeals Commission

- (1) There is established a Planning and Building Appeals Commission.
- (2) The Commission shall consist of at least 5 but not more than 8 Commissioners appointed by the States by Act.

(3) Whenever there are less than 8 Commissioners the Committee may recommend to the States a person to be a Commissioner.

(4) The States shall not appoint a person to be a Commissioner unless the States are satisfied that the person has the experience and professional qualifications necessary to enable the person to carry out the duties of a Commissioner in a professional and impartial manner.

(5) A Commissioner may resign from office by written notice given to the Committee.

(6) If, in the opinion of the Committee, a Commissioner is guilty of any malpractice or is incapable of the proper performance of his functions as a Commissioner or is otherwise unsuitable to continue in office, the Committee shall report the facts to the States and the States, after deliberating thereon in camera, may remove the Commissioner from office.

(7) A Commissioner ceases to hold office on attaining the age of 70 years.

(8) The States shall appoint one Commissioner to be the Chief Commissioner.

(9) The Committee shall appoint a Registrar of the Commission.

(10) Commissioners shall receive allowances and expenses agreed with the Committee, which shall be paid by the Committee.

(11) Commissioners need not receive the same allowances and expenses.

(12) A vacancy in the minimum number of Commissioners does not affect a determination made on behalf of the Commission.

ARTICLE 108

Appeals

(1) An appeal cannot be made to the Commission except in accordance with Chapter 2 (which provides for appeals from certain decisions and actions of the Committee).

(2) In particular, no appeal lies to the Commission against a decision of the Committee to grant planning permission or building permission.

(3) An appeal to the Commission shall be made by sending to its Registrar a notice of appeal on a form provided or approved for the purpose by the Registrar.

(4) The notice shall specify the grounds of the appeal, which need only be set out in general terms.

ARTICLE 109

Procedure on receipt of an appeal

(1) The Registrar shall, within 7 days of receiving notice of an appeal, inform each person interested in the appeal that they may submit written submissions to the Commission in respect of the appeal within such period as the Registrar may determine as appropriate having regard to the circumstances, being a period of not less than 28 days.

(2) The Registrar shall, within 7 days of the end of that period, send a copy of each submission received from a person interested in the appeal to every other person interested in the appeal and inform them that they may make written comments to the Commission in respect of the submission within such period as the Registrar may determine as appropriate having regard to the circumstances, being a period of not less than 28 days.

(3) The Registrar shall, within 7 days of the end of that period, send to the Chief Commissioner the notice of appeal and any submissions and comments received under paragraphs (1) and (2).

(4) The Chief Commissioner shall, within 14 days of the receipt of the notice of appeal, and of any submissions and comments -

- (a) appoint a Commissioner to determine the appeal on behalf of the Commission; or
 - (b) on behalf of the Commission, dismiss the appeal on the grounds that it is without foundation or frivolous.
- (5) A Commissioner appointed to determine an appeal may do so by holding a hearing or, unless a person interested in the appeal objects, solely by considering the written submissions and any comments on them.
- (6) A Commissioner appointed to determine an appeal may obtain expert or legal advice.
- (7) Any Bank or Public holiday shall not be included when calculating the period specified in paragraph (1), (2) or (3).

ARTICLE 110

Hearings

- (1) If a hearing is to be held the Commissioner holding the hearing shall settle the date, time and place for the hearing with the Registrar.
- (2) The Registrar shall give at least 7 days written notice of the date, time and place for the hearing to each person interested in the appeal.
- (3) At the hearing -
- (a) each person interested in the appeal may appear and be heard, either in person or by a representative, who need not be legally qualified; and
 - (b) the Commissioner may examine witnesses and may be assisted by any person the Commissioner determines and without limiting the Commissioner's discretion, may take into account anything that the Committee ought to have considered,

but the Commissioner shall otherwise determine the procedure to be followed at the hearing.

ARTICLE 111

Commissioner may carry out inspection

- (1) A Commissioner appointed to determine an appeal may enter any land the Commissioner consider it necessary to inspect to make the determination.
- (2) The right conferred by paragraph (1) is not limited to the land the subject of the appeal.
- (3) Except with the approval of its owner and any occupier, the Commissioner shall not enter land unless the Commissioner -
- (a) has given at least 48 hours written notice of an intention to do so; and
 - (b) does so at a reasonable time having regard to the use of the land.
- (4) A person who obstructs a Commissioner from entering land in accordance with this Article is guilty of an offence and is liable to a fine not exceeding level 3 on the standard scale. [\[17\]](#)

ARTICLE 112

Determination of appeal

- (1) A Commissioner appointed to determine an appeal must give notice of the determination in respect of the appeal to the Registrar.
- (2) The Commissioner shall give reasons for the decision.

(3) The Registrar must furnish a copy of the determination and reasons to the Chief Commissioner and to each person interested in the appeal.

(4) If the Chief Commissioner dismisses an appeal on the grounds that it is without foundation or frivolous the Registrar must inform each person interested in the appeal.

(5) A Commissioner appointed to determine an appeal on behalf of the Commission has full jurisdiction to determine any matter of fact or law relating to the appeal, and the determination of the Commissioner (including a dismissal of an appeal by the Chief Commissioner) is final.

Chapter 2 - Appeals

ARTICLE 113

Applicants may appeal against certain refusals

(1) This Article applies to a refusal by the Committee -

- (a) to grant planning permission on an application made to it in accordance with Article 9(1);
- (b) to grant planning permission or to amend planning permission already granted on an application made to it in accordance with Article 20(2);
- (c) to amend planning permission on an application made to it in accordance with Article 21(2);
- (d) to issue a certificate of completion on an application made to it in accordance with Article 28(3);
- (e) to grant building permission on an application made to it in accordance with Article 34(1);
- (f) to grant permission to undertake on a site of special interest an activity referred to in Article 55(1) on an application made to it in accordance with Article 55(5);
- (g) to grant permission to import or use a caravan on the Island on an application made to it in accordance with Article 99(2).

(2) A person aggrieved by a refusal to which this Article applies may within 28 days of being notified of the refusal appeal to the Commission against the refusal.

(3) On the appeal the Commission may -

- (a) confirm the decision of the Committee; or
- (b) order the Committee to grant the permission, amendment or certificate sought subject to such conditions as the Commission may specify.

(4) The Committee shall comply with an order made under paragraph (3)(b).

ARTICLE 114

Appeal against condition subject to which planning permission, etc. granted

(1) This Article applies to a person aggrieved by -

- (a) a condition subject to which planning permission was granted;
- (b) a condition subject to which building permission was granted;
- (c) a condition subject to which permission to undertake on a site of special interest an activity referred to in Article 55(1) was granted; or
- (d) a condition subject to which permission to import or use a caravan was granted.

(2) In paragraph (1) a reference to a person be aggrieved by a condition subject to which any permission was granted includes being aggrieved by a requirement or term of any such condition.

(3) A person to whom this Article applies may within 28 days of being notified of the imposition of the condition appeal to the Commission.

(4) On the appeal the Commission may -

(a) confirm the imposition of the condition; or

(b) order the Committee to remove the condition from its permission or to vary the requirement or term of the condition in such manner as the Commission considers appropriate.

(5) The Committee shall comply with an order made under paragraph (4)(b).

ARTICLE 115

Appeal against revocation or modification of planning permission

(1) This Article applies to a decision made by the Committee in accordance with Article 10(2)(a), or 27(1) or (2) to revoke or modify planning permission.

(2) A person aggrieved by a decision to which this Article applies may within 28 days of being notified of the decision appeal to the Commission against the decision.

(3) On the appeal the Commission may -

(a) confirm the Committee's decision; or

(b) order the Committee to cancel its decision; or

(c) order the Committee to cancel its decision but to modify the permission to which it relates or any condition subject to which that permission was granted as the Commission considers appropriate.

(4) The Committee shall comply with an order made under paragraph (3)(b) or (c).

(5) Until the Commission makes a decision in accordance with paragraph (3) the decision of the Committee to revoke or modify the permission to develop the land shall remain in effect.

ARTICLE 116

Appeal against service or terms of certain notices, etc.

(1) This Article applies to the following notices -

(a) a notice served in accordance with Article 10(2)(b) requiring the person upon whom it is served to undertake certain work or to modify development that has been undertaken;

(b) a completion notice served in accordance with Article 26(2) specifying a period at the end of which planning permission shall cease to have effect;

(c) an enforcement notice served in accordance with Article 40(2);

(d) a stop notice served in accordance with Article 45(2);

(e) a condition notice served in accordance with Article 47(2);

(f) a notice served in accordance with Article 54(7) requiring the person upon whom it is served to make good injury to a site of special interest;

- (g) a dangerous building notice served in accordance with Article 66(2);
- (h) a land condition notice served in accordance with Article 84(1), 85(1), 86(1), 87(1), 88(1), 89(1), or 90(1) or (2).

(2) This Article also applies to an entry to a building made in accordance with Article 71(2) (in respect of a dangerous building) and the undertaking of work necessary to reduce or remove a danger.

(3) This Article applies to a person aggrieved by -

- (a) the service on the person of a notice to which this Article applies, a requirement of the notice or a time limit imposed by the notice; or
- (b) an entry to a building to which this Article applies, any work undertaken as a result of that entry, or both.

(4) A person to whom this Article applies may appeal to the Commission within 28 days of the service of the notice or the entry onto the land.

(5) On the appeal the Commission may -

- (a) confirm the decision of the Committee to serve the notice or to enter onto the land and to undertake the work undertaken;
- (b) in the case of the service of a notice to which this Article applies, confirm the decision of the Committee to serve the notice but order the Committee to vary a requirement of the notice or the period specified in the notice as the period in which the requirement specified in the notice must be complied with, or order the Committee to withdraw the service of the notice; or
- (c) in the case of an entry to building and the undertaking of work to which this Article applies, determine that the Committee was not justified in taking all or any of the actions it took.

(6) The Committee shall comply with an order made under paragraph (5)(b).

(7) If the Commission determines in the case of an entry to a building and the undertaking of work to which this Article applies that the Committee was not justified in taking all or any of the actions it took the Committee shall not be entitled to recover its costs in accordance with Article 71(4).

(8) On an appeal made in accordance with paragraph (4) any notice to which the appeal relates shall cease to have effect until -

- (a) the Commission makes a decision in accordance with paragraph (5); or
- (b) the appeal is withdrawn.

(9) If -

- (a) the Commission confirms the service of a notice, with or without amendment; or
- (b) an appeal in respect of a notice is withdrawn,

the notice or the amended notice shall have effect as if it had been served on the date of the Commission's decision or the day of the withdrawal of the appeal.

ARTICLE 117

Appeals against certain listings

(1) This Article applies in respect of -

- (a) the inclusion in accordance with Article 51(2) of a building or place on the List of Sites of Special Interest;

- (b) the inclusion in accordance with Article 58(2) of a tree on the List of Protected Trees.
- (2) A person aggrieved by an inclusion to which this Article applies may within 28 days of being notified of the inclusion, appeal to the Commission.
- (3) On the appeal the Commission may -
 - (a) confirm the inclusion; or
 - (b) order the Committee to remove the building, place or tree from the relevant list.
- (4) The Committee shall comply with an order made in accordance with paragraph (3)(b).
- (5) Until the Commission makes an order in accordance with paragraph (3)(b) an inclusion to which this Article applies shall continue to have effect.

PART 8

POWER OF STATES TO ACQUIRE LAND BY COMPULSORY PURCHASE

ARTICLE 118

Power of States to acquire land

- (1) The States may acquire land by compulsory purchase in accordance with the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961^[18] if the States are satisfied that the land should be acquired for a purpose of this Law specified in Article 2.
- (2) The Committee shall be the acquiring authority within the meaning of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961¹⁸ in respect of land purchased in accordance with paragraph (1).
- (3) The power to acquire land conferred by paragraph (1) includes the power -
 - (a) to acquire a servitude or other right over land by the creation of a new servitude or right; and
 - (b) to extinguish or modify a servitude or other right over land.
- (4) The Board of Arbitrators in assessing the amount of compensation to be paid to a person in respect of land compulsorily purchased under this Article shall set off against the value of that land -
 - (a) any increase in its value which the Board is satisfied is attributable to the expenditure or proposed expenditure of public money; and
 - (b) any increase in the value of other land owned by that person which the Board is satisfied is attributable to the use to which the land compulsorily acquired is to be put.
- (5) The Board of Arbitrators shall otherwise act in accordance with the rules laid down in Article 9 of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961.^[19]

PART 9

ADMINISTRATIVE PROVISIONS

ARTICLE 119

Committee may prescribe fees

- (1) The Committee may by Order prescribe fees payable under this Law.
- (2) An Order under this Article may provide for -

- (a) specific fees;
- (b) maximum fees, minimum fees or both;
- (c) the payment of fees generally, under specified conditions or in specified circumstances;
- (d) the reduction, waiver or refund of fees, in whole or in part.

ARTICLE 120

Service of notices

(1) A notice to be served under this Law on a body corporate may be served on the secretary or clerk of the body corporate.

(2) Unless otherwise specifically provided by this Law, a notice to be served under this Law on a person may be served on that person -

- (a) by delivering it to the person;
- (b) by leaving it at the person's proper address;
- (c) by registered post; or
- (d) by the recorded delivery service.

(3) For the purposes of this Article, and of Article 12 of the Interpretation (Jersey) Law 1954,^[20] in its application to this Article, the proper address of a person is -

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of the body corporate; and
- (b) in any other case -
 - (i) the usual or last-known place of abode of the person, or
 - (ii) if the person has given the Committee an address for service, that address.

(4) If the Committee is unable to ascertain after reasonable enquiry the name or address of the owner, lessee or occupier of land upon whom a notice under this Law is to be served, the notice may be served -

- (a) by addressing it to the person upon whom it is to be served by the description of "owner", "lessee" or "occupier" of the land (describing it) to which the notice relates; and
- (b) by delivering it to some responsible person resident or appearing to be resident on the land, or, if there is no such person, by affixing it, or a copy of it, to a conspicuous part of the land.

ARTICLE 121

Power of entry

(1) A person authorized to do so by the Committee may for a purpose of this Law enter land or a building to inspect it, to survey it or to record information in respect of it.

(2) A person authorized to do so by the Committee may enter land or a building to undertake on behalf of the Committee any work the Committee is authorized to undertake under this Law.

(3) A person referred to in paragraph (1) or (2) shall not enter land unless, if requested by a person apparently in control of the land or building, the person produces authorization from the Committee to do so.

(4) A person referred to in paragraph (1) or (2) shall not enter land except at a reasonable time.

(5) A person who obstructs or impedes a person referred to in paragraph (1) or (2) in the execution of the person's duties shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale.^[21]

ARTICLE 122

Offences by bodies corporate

(1) If an offence under this Law committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of -

(a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or

(b) a person purporting to act in any such capacity,

the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

ARTICLE 123

Orders and Building Bye-laws

(1) The Committee may by Order or, as the case may be, Building Bye-laws prescribe anything which may be prescribed under this Law.

(2) The Subordinate Legislation (Jersey) Law 1960^[22] applies to Orders (including Development Orders) and Building Bye-laws made under this Law.

PART 10

APPLICATION OF THE LAW TO THE CROWN AND TO CROWN LAND

ARTICLE 124

Interpretation - the Crown and Crown land

In this Part -

“Crown land” means land in which there is a Crown interest;

“Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a department of the government of the United Kingdom or held in trust for Her Majesty for the purpose of a department of the government of the United Kingdom;

“department of the government of the United Kingdom” includes any Minister of the Crown.

ARTICLE 125

Application of Law to the Crown and to Crown land

(1) Except as otherwise provided by this Article, this Law applies to the Crown and to Crown land.

(2) The Island Plan may include proposals relating to the use of Crown land.

- (3) Nothing in this Law renders the Crown liable to prosecution for an offence under this Law.
- (4) Planning permission and any required building permission shall be taken to have been granted to the Crown in respect of development carried out by or on behalf of the Crown on Crown land.
- (5) Nothing in paragraph (4) shall be taken as prohibiting the Crown from applying for planning permission or building permission.
- (6) The Committee shall not have power under Article 118 to acquire by compulsory purchase a Crown interest in land.
- (7) A restriction or requirement under a planning obligation shall not be enforceable in respect of the Crown by injunction.

PART 11

REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

ARTICLE 126

Interpretation - Repeals, etc.

In this Part -

“1956 Law” means the Public Health (Control of Buildings) (Jersey) Law 1956;^[23]

“1964 Law” means the Island Planning (Jersey) Law 1964.^[24]

ARTICLE 127

Repeals

- (1) The 1956 Law^[25] and the 1964 Law^[26] are repealed.
- (2) The following Laws are also repealed -
 - (a) the Public Health (Control of Building) (Amendment) (Jersey) Law 1980;^[27]
 - (b) the Public Health (Control of Building) (Amendment No. 2) (Jersey) Law 1994;^[28]
 - (c) the Public Health (Control of Building) (Amendment No. 3) (Jersey) Law 1996;^[29]
 - (d) the Island Planning (Amendment) (Jersey) Law 1979;^[30]
 - (e) the Island Planning (Amendment No. 2) (Jersey) Law 1980;^[31]
 - (f) the Island Planning (Amendment No. 3) (Jersey) Law 1983;^[32]
 - (g) the Island Planning (Amendment No. 4) (Jersey) Law 1991;^[33]
 - (h) the Island Planning (Amendment No. 5) (Jersey) Law 1993;^[34]
 - (i) the Island Planning (Amendment No. 6) (Jersey) Law 1996;^[35]
 - (j) the Building Bye-laws (Validation) (Jersey) Law 1997;^[36]

- (k) the Island Planning (Fees) (Validation) Law 1997.^[37]

ARTICLE 128

Savings

- (1) Anything done under the 1956 Law or the 1964 Law that could have been done under this Law, was not invalidated on the repeal of the 1956 Law and the 1964 Law but continues to have effect as if done under this Law.
- (2) Proceedings in respect of anything done under the 1956 Law or the 1964 Law which could have been taken under that Law if it had not been repealed by this Law may be taken under this Law.
- (3) Proceedings pending under the 1956 Law or the 1964 Law immediately before the commencement of this Law may be continued under this Law.
- (4) An application made under the 1956 Law or the 1964 Law before the repeal of that Law and outstanding on that repeal shall have effect as if it were an application made under this law and shall be dealt with accordingly.
- (5) Nothing in this Article prejudices the general application of Article 19 of the Interpretation (Jersey) Law 1954^[38] (which relates to the effect of repeals).

ARTICLE 129

Transitional provisions

- (1) An Order made under Article 9(1) of the 1964 Law^[39] (preservation of site of special interest) and in force immediately before the commencement of Chapter 1 of Part 6 of this Law shall be taken to have had effect on that commencement as if the site of special interest to which the Order related were listed, as from the date the Order was made, on the List of Sites of Special Interest, and the Committee shall add it to that list accordingly.
- (2) An Order made under Article 16(1) of the 1964 Law^[40] (preservation of tree) and in force immediately before the commencement of Chapter 2 of Part 6 of this Law shall be taken to have had effect on that commencement as if the tree to which the Order related were listed, as from the date the Order was made, on the List of Protected Trees, and the Committee shall add it to that list accordingly.
- (3) Until an Island Plan for the Island has been approved by the States in accordance with this Law any development plan (as that term was defined by Article 3 of the 1964 Law^[41]) in respect of a part of the Island, which had been approved by the States under the 1964 Law and was in force immediately before the commencement of Part 2 of this Law shall be taken as the Island Plan for that part of the Island.
- (4) Until Building Bye-laws have been approved by the States in accordance with this Law Building Bye-laws made under the 1956 Law and in force immediately before the commencement of Part 4 of this Law shall be taken as Building Bye-laws made under this Law (except to any extent to which they may be inconsistent with this Law).

ARTICLE 130

Short title and commencement

- (1) This Law may be cited as the Planning and Building (Jersey) Law 200-.
- (2) This Law shall come into force on such day or days as the States may by Act appoint and different days may be appointed for different purposes or different provisions of this Law.

SCHEDULE

(Article 31(4))

Contents of Building Bye-laws

(1) Building Bye-laws may specify the functional requirements of buildings in respect of -

- (a) the design and construction of buildings;
- (b) the alteration of buildings; and
- (c) the provision of services, fittings, appliances, equipment and accessories in or in connection with buildings.

(2) In particular, and without prejudice to the generality of paragraph (1), Building Bye-laws may specify functional requirements in respect of -

- (a) the preparation of sites for buildings;
- (b) the suitability, durability and use of materials and components (including surface finishes) used in buildings;
- (c) structural strength and stability of buildings;
- (d) fire safety in buildings;
- (e) resistance of buildings to moisture and decay;
- (f) measures in buildings affecting the transmission of heat;
- (g) measures in buildings affecting the transmission of sound;
- (h) measures in buildings to prevent infestation;
- (i) measures in buildings affecting the emission of smoke, gases, fumes or dust or other noxious or offensive substances;
- (j) drainage in respect of buildings;
- (k) the storage, treatment, collection and removal of waste arising in buildings;
- (l) installations in buildings and standards for heating, ventilation, air-conditioning, other services;
- (m) installations in buildings that use solid fuel, oil, gas, electricity or any other fuel or power including any associated storage tanks, heat exchangers, ducts and fans;
- (n) facilities in and in respect of buildings for the supply and storage of water including associated fittings and fixed equipment;
- (o) sanitary equipment in buildings;
- (p) lifts, escalators, hoists conveyors and moving footways in buildings.

(3) Building Bye-laws may also be made with respect to -

- (a) the height of buildings including the height of chimneys, ducts or outlets above the roof of buildings of which they form part or of any adjacent building;
- (b) open spaces about buildings and the natural lighting and ventilation of buildings;
- (c) accommodation for specific purposes in or in connection with buildings including the dimension of rooms and other spaces within buildings;

- (d) the means of access to and egress from buildings, and movement within buildings;
- (e) the prevention of danger and obstruction to people in or about buildings.

(4) Building Bye-laws may specify functional requirements in respect of buildings designed to ensure that people with disabilities are able to -

- (a) gain access to and egress from buildings;
- (b) move within buildings; and
- (c) use the facilities of buildings.

(5) Building Bye-laws may relate to -

- (a) new, altered or extended services, fittings and equipment in or in connection with buildings; and
- (b) any change of use of all or any part of a building.

(6) Building Bye-laws may prescribe -

- (a) the method by which; and
- (b) the standard to which,

building work specified in the Building Bye-laws is to be undertaken.

(7) Building Bye-laws may prescribe -

- (a) the procedure to be followed and the documents and particulars to be supplied to apply for any permission required under the Building Bye-laws;
- (b) the manner in which that permission may be granted; and
- (c) procedures to be followed after the grant of permission.

(8) Building Bye-laws may provide for the grant of permission in respect of building work that has been undertaken -

- (a) without building permission or permission required under Building Bye-laws; or
- (b) without compliance with a condition subject to which permission was granted.

(9) Building Bye-laws may provide for -

- (a) the issue by the Committee on payment of any prescribed fee of a certificate stating that building work specified in the certificate was undertaken in compliance with permission granted by the Committee; and
- (b) the extent to which such a certificate shall be admitted in evidence.

(10) Building Bye-laws may provide that permission required by the Bye-laws is valid for a specified period or is subject to revocation in specified circumstances.

(11) Building Bye-laws may provide that the Committee may determine that permission that would otherwise be required by the Bye-laws in respect of a building or works or a class of building or works is not required either absolutely or to any extent determined by the Committee and either subject to compliance with conditions determined by the Committee or unconditionally.

(12) In this Schedule -

“drainage in respect of buildings” includes -

- (a) waste disposal units, drains, sewers and communications between drains and sewers and between sewers;
- (b) cesspools, septic tanks and other means for the reception, treatment and disposal of foul matter;

“fire safety in buildings” includes -

- (a) structural measures to resist the outbreak and spread of fire and to mitigate its effects;
- (b) services, fittings and equipment designed to mitigate the effects of fire, to facilitate fire fighting or to detect fire, smoke, and associated warning systems;
- (c) means of escape from buildings in case of fire and means to secure that those means of escape can be safely and effectively used at all material times;

“sanitary equipment in buildings” includes -

- (a) closets and urinals;
- (b) washing and laundry facilities;
- (c) fittings and fixed equipment associated with sanitary equipment;

“structural strength and stability of buildings” includes -

- (a) precautions against overloading, impact and explosion;
- (b) measures to safeguard adjacent buildings and services;
- (c) underpinning of buildings.

[1] 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 and Volume 1996-1997, page 33.

[2] Volume 1992-1993, page 437.

[3] Volume 1992-1993, page 437.

[4] Volume 1992-1993, page 437.

[5] Volume 1992-1993, page 437.

[6] Volume 1992-1993, page 437.

[7] Volume 1992-1993, page 437.

[8] Volume 1992-1993, page 437.

[9] Volume 1992-1993, page 437.

[10] Volume 1992-1993, page 437.

[11] Volume 1992-1993, page 437.

[12] Volume 1992-1993, page 437.

[13] Volume 1992-1993, page 437.

[14] Volume 1992-1993, page 437.

[15] Volume 1992-1993, page 437.

[16] Volume 1992-1993, page 437.

- [17] Volume 1992-1993, page 437.
- [18] Volume 1961-1962, page 391, Volume 1963-1965, page 171, Volume 1970-1972, page 179, Volume 1979-1981, page 373, Volume 1990-1991, page 851 and Volume 1994-1995, pages 69 and 379.
- [19] Volume 1961-1962, page 396, Volume 1970-1972, page 179, Volume 1979-1981, page 374 and Volume 1990-1991, page 852.
- [20] Tome VIII, page 381.
- [21] Volume 1992-1993, page 437.
- [22] Tome VIII, page 849 and Volume 2001, page 3.
- [23] Tome VIII, page 507, Volume 1994-1995, page 7, Volume 1996-1997, page 39 and Volume 2001, page 7.
- [24] 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 and Volume 1996-1997, page 33.
- [25] Tome VIII, page 507.
- [26] Volume 1963-1965, page 349.
- [27] Volume 1979-1981, page 321.
- [28] Volume 1994-1995, page 7.
- [29] Volume 1996-1997, page 39.
- [30] Volume 1979-1981, page 89.
- [31] Volume 1979-1981, page 319.
- [32] Volume 1982-1983, page 245.
- [33] Volume 1990-1991, page 847.
- [34] Volume 1992-1993, page 105.
- [35] Volume 1996-1997, page 33.
- [36] Volume 1996-1997, page 669.
- [37] Volume 1996-1997, page 671.
- [38] Tome VIII, page 384.
- [39] Volume 1963-1965, page 361, Volume 1982-1983, page 247 and Volume 1992-1993, page 105.
- [40] Volume 1963-1965, page 367 and Volume 1996-1997, page 37.
- [41] Volume 1963-1965, page 352.