

DRAFT ISLAND PLANNING (AMENDMENT No. 7) (JERSEY) LAW 200

**Lodged au Greffe on 30th October 2001
by the Planning and Environment Committee**



STATES OF JERSEY

STATES GREFFE

180

2001

P.165

Price code: B

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 Island Planning (Amendment No. 7) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator N.L. Querée**

REPORT

The existing Island Planning (Jersey) Law has, since 1964, empowered the Committee to exercise control over development. Development presently includes demolition of buildings in circumstances which are implicit in the development of land.

The States have already declared their intention of ensuring these powers are adequate, both to ensure the protection of Jersey's architectural heritage, which is a requirement of the Granada Convention to which the Island has acceded, and to ensure effective processes in controlling development in the Island. This has been approved by the States in the draft Planning and Building (Jersey) Law 200-, which the States earlier this year approved in second reading (P.50/2001, page 61). Article 5(2) of the draft Law now gives specific examples of what constitutes development. However, it is unlikely that this Law will take legal effect before 2003.

In a recent decision of the Court of Appeal, the court decided that on the facts of that case the demolition of the building did not constitute development for the purposes of the Planning Law. It is understood that the Attorney General is awaiting a sight of the judgement of the Court of Appeal with a view to ascertaining whether grounds exist for an application to be made for leave to appeal to the Judicial Committee of the Privy Council. The Committee considers that there is, notwithstanding any possible appeal, a need to ensure there is explicit control over all forms of demolition of property and this is reflected by this Amendment.

If the Amendment is approved, it will be the Committee's intention to prepare subordinate legislation which will provide for exemption in certain circumstances. The Amendment will not be retrospective and has no financial or manpower implications for the States.

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 29th October 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 Island Planning (Amendment No. 7) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

This Law will amend the Island Planning (Jersey) Law 1964 to include demolition in the definition of development.

ISLAND PLANNING (AMENDMENT No. 7) (JERSEY) LAW 200

A LAW to amend further the Island Planning (Jersey) Law 1964, 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 -

ARTICLE 1

Article 5(2)(a) of the Island Planning (Jersey) Law 1964^[1] is amended by inserting after the words “other operations” the words “including demolition”.

ARTICLE 2

This Law may be cited as the Island Planning (Amendment No. 7) (Jersey) Law 200 and shall come into force on the seventh day following its registration.

^[1] Volume 1963-1965, page 353.