

STATES OF JERSEY



DRAFT AMENDMENT (No. 27) OF THE STANDING ORDERS OF THE STATES OF JERSEY

Lodged au Greffe on 13th January 2015
by the Minister for Planning and Environment

STATES GREFFE



Jersey

DRAFT AMENDMENT (No. 27) OF THE STANDING ORDERS OF THE STATES OF JERSEY

REPORT

These amendments to the Standing Orders of the States of Jersey are brought so as to enable the constitution of a Planning Applications Committee to consider applications for planning permission and similar issues.

The [Planning and Building \(Amendment No. 6\) \(Jersey\) Law 2014](#) (“the amending Law”)¹ introduces an independent merits-based appeals process for decisions and actions taken under the [Planning and Building \(Jersey\) Law 2002](#) (“the principal Law”). Appeals will be considered on their merits by an independent inspector in a process administered by the Judicial Greffe. The inspector will consider the merits of a case and then make a recommendation to the Minister for Planning and Environment, who will then make the appeal decision. So as to ensure the independence of the decision-maker for the appeal, the Minister for Planning and Environment has to withdraw from any participation in the first tier of decision-making, including the formation of the Planning Applications Committee.

The involvement of Members of the States in considering issues such as applications for planning permission is a fundamental pillar of the planning process. Members are in a position to weigh matters of land use planning policy against the aspirations of applicants and the potential concerns of the public. Previously, the Planning Applications Panel was nominated by the Minister, but this would be inconsistent with the independence of the Minister from the first tier of decision-making. The process of appointing the Members of the Planning Applications Committee follows the same appointment process as for the Scrutiny Panels.

Article 9A of the principal Law (as it will be substituted by the amending Law) sets out the functions of a Planning Applications Committee to undertake this role. Article 9A(1) indicates that the Committee will be “established in accordance with standing orders under Article 48(1) of the States of Jersey Law 2005”. The amendments to standing orders presented here facilitate the establishment of the Planning Applications Committee.

I am grateful to my colleague, the Connétable of St. Clement, in his capacity as the Chairman of the Privileges and Procedures Committee (PPC), in agreeing that I should present these amendments to Standing Orders to the States.

¹ The amending Law is to be brought into force by an Appointed Day Act, which is yet to be lodged *au Greffe*.

Financial and manpower implications

The Planning Applications Committee will replace the role of the currently constituted Planning Applications Panel, and the resources for servicing the Panel will transfer to the Committee. There are therefore no additional financial or manpower implications for the States arising from the adoption of these amendments to Standing Orders.

Explanatory Note

These amendments to the Standing Orders of the States of Jersey establish a Planning Applications Committee (the “Committee”). The power and requirement to do so is imposed by Article 48(3A) of the States of Jersey Law 2005, as amended by the Planning and Building (Amendment No. 6) (Jersey) Law 2014. Article 48(3A) says –

“(3A) Standing orders made under paragraph (1) shall –

- (a) establish a Planning Applications Committee;
- (b) require the States to appoint an elected member, who is not a Minister, to be its chairman; and
- (c) require the States to appoint to be members of that Panel at least 3 and no more than 9 elected members who are not Ministers.”.

Amendment 1 provides for the construction of references to standing orders.

Amendment 2 defines the Committee in standing orders.

Amendment 3 specifies when a new Committee is appointed following the appointment of a new Council of Ministers. The chairman of the Committee will be appointed after the chairmen of the scrutiny panels have been appointed. The members of the Committee will be appointed after the members of the scrutiny panel have been appointed.

Amendment 4 provides that, if there is a vacancy in the office of chairman of the Committee, the vacancy will be filled at the meeting during which the present officeholder resigns or the presiding officer informs the States of such a resignation, or at the following meeting.

Amendment 5 sets out the process for appointment of the chairman of the Committee. In summary, the process is the same as the process for appointment of the chairman of a scrutiny panel.

Amendment 6 sets out the process for appointment of the members of the Committee. Again, the process is the same as the process for appointment of the members of a scrutiny panel.

Amendment 7 establishes the Committee and provides for its constitution, subject to the restrictions imposed by Article 48(3A) of the States of Jersey Law 2005. Amendment 7 further provides for the term of office of members of the Committee and how they may resign. As before, the rules are broadly the same as those for a scrutiny panel, save that a person may not be the chairman or a member of the Committee if he or she is a member of the environment scrutiny panel or an Assistant Minister to the Minister for Planning and Environment.

Amendment 8 provides that the Greffier of the States may, but is not required to, provide an officer to take minutes for the Committee.

Amendment 9 provides for the citation and commencement of these Amendments.



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Jersey

DRAFT AMENDMENT (No. 27) OF THE STANDING ORDERS OF THE STATES OF JERSEY

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Article 48 of the States of Jersey Law 2005¹, have made the following Amendments to the Standing Orders of the States of Jersey² –

1 Interpretation

In these Amendments, a reference to a standing order by number only is a reference to the standing order of that number in the Standing Orders of the States of Jersey.

2 Standing order 1 amended

In standing order 1(1), after the definition “PAC” there shall be inserted the following definition –

“ ‘Planning Applications Committee’ means the committee of that name established by standing orders;”.

3 Standing Order 112 amended

In the table following standing order 112(1) –

(a) after item 5, opposite the entry for the 2nd meeting, there shall be inserted the following item –

“5AA. appointment of chairman of Planning Applications Committee”;

(b) after item 9, opposite the entry for the 3rd meeting, there shall be added the following item –

“9A. appointment of members of Planning Applications Committee”.

4 Standing order 114 amended

In standing order 114(1), after sub-paragraph (e) there shall be added the following sub-paragraph –

“(f) chairman of the Planning Applications Committee.”.

5 Standing order 120AA inserted

After standing order 120 there shall be inserted the following standing order –

“120AA Chairman of Planning Applications Committee: appointment process

- (1) The presiding officer shall invite elected members to make nominations for the office of chairman of the Planning Applications Committee.
- (2) If only one person is nominated that person is appointed as chairman of the Planning Applications Committee.
- (3) If more than one person is nominated, the presiding officer shall then, according to the order in which the candidates were nominated, invite each candidate to speak for up to 10 minutes.
- (4) After a candidate has spoken, the presiding officer shall allow up to 20 minutes for elected members to question the candidate.
- (5) While a candidate is speaking, or being questioned, other candidates must withdraw from the Chamber to a place where they cannot hear the proceedings in it.
- (6) When the speeches and questions are concluded, a recorded vote shall be taken.
- (7) The candidate who receives more than half of the votes cast is appointed as chairman of the Planning Applications Committee.
- (8) If no candidate receives more than half of the votes cast, the candidate with the lowest number of votes shall withdraw from the contest and a further recorded vote shall be taken.
- (9) If, in the circumstances described in paragraph (8), there are 2 or more candidates who receive the same number of votes as each other, but fewer votes than all the other candidates, a recorded vote shall be taken to select which of them shall remain in the contest and the candidate who receives the fewest votes shall withdraw from it.
- (10) A candidate may withdraw his or her candidacy at any time.
- (11) In the event that, by reason of the withdrawal of a candidate, only one candidate remains, the remaining candidate is appointed as chairman of the Planning Applications Committee.”.

6 Standing order 125A inserted

After standing order 125 there shall be inserted the following standing order –

“125A Members of Planning Applications Committee: appointment process

- (1) The chairman of the Planning Applications Committee shall indicate the number of members (not less than 3 and not more than 9) that he or she wishes the committee to have and shall nominate elected members as candidates for appointment as those members.
- (2) The presiding officer shall invite elected members to nominate other candidates.
- (3) If no other candidates are nominated the persons nominated by the chairman of the Planning Applications Committee are appointed as members of that Committee.
- (4) If other candidates are nominated there shall be a secret ballot and the number of candidates equal to the number of members the committee is to have who receive the highest number of votes are appointed as members of the Planning Applications Committee.
- (5) In a ballot an elected member shall have the same number of votes as there are members to appoint, although a member need not use all of his or her votes.
- (6) In the event that 2 or more candidates receive the same number of votes in a ballot, being a number which, if received by one candidate, would be the lowest number of votes required for that candidate to be appointed as a member of the committee, there shall be a further secret ballot between those candidates and the candidate receiving the greater number of votes shall be appointed as a member of the Planning Applications Committee.
- (7) This process shall also apply, with the necessary modifications, whenever the chairman of the Planning Applications Committee wishes to appoint one or more members of the committee (provided that the membership does not exceed 9).”.

7 Standing order 141A inserted

After standing order 141 there shall be inserted the following standing orders –

“141A Planning Applications Committee: establishment and constitution

- (1) There shall be a Planning Applications Committee which shall consist of –
 - (a) a chairman, who must be an elected member who does not hold an office described in paragraph (2); and
 - (b) a number of members determined by the chairman of that Committee (but not less than 3 and not more than 9) who must be elected members none of whom holds an office described in paragraph (2).
- (2) An elected member cannot be the chairman or a member of the Planning Applications Committee if he or she is also –

- (a) a Minister;
 - (b) an Assistant Minister to the Minister who for the time being discharges the Ministerial functions relating to planning under the Planning and Building (Jersey) Law 2002³; or
 - (c) a member of the scrutiny panel described in standing order 135(1)(d).
- (3) The States shall appoint the chairman and members of the Planning Applications Committee.
 - (4) The Planning Applications Committee shall appoint one of its members as vice chairman.
 - (5) The vice chairman shall discharge the functions of the chairman during –
 - (a) the temporary absence or incapacity of the chairman; or
 - (b) a vacancy in the office of chairman.

141B Planning Applications Committee: term of office and resignation of chairman or member

- (1) Every member of the Planning Applications Committee shall hold office until the beginning of the 1st meeting following the next ordinary election unless he or she resigns or otherwise ceases to hold office earlier.
- (2) A member of the Planning Applications Committee may resign –
 - (a) during a meeting of the States, by personally informing the States; or
 - (b) by giving written notice to the Bailiff.
- (3) Where a member of the Planning Applications Committee gives written notice of his or her resignation to the Bailiff, the presiding officer shall inform the States of the resignation at the next meeting of the States.
- (4) The member vacates office when the States are informed of his or her resignation.
- (5) The chairman of the Planning Applications Committee shall cease to hold office upon any of the following events –
 - (a) ceasing to be an elected member;
 - (b) his or her appointment to an office described in standing order 141A(2); or
 - (c) the States deciding that they have no confidence in the chairman or in the Planning Applications Committee.
- (6) Any other member of the Planning Applications Committee shall cease to hold office upon any of the following events –
 - (a) ceasing to be an elected member;
 - (b) his or her appointment to an office described in standing order 141A(2);

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- (c) the States deciding that they have no confidence in the Planning Applications Committee; or
 - (d) the filling of a casual vacancy in the office of chairman of the Planning Applications Committee.”.

8 Standing order 151 amended

After standing order 151(4) there shall be inserted the following paragraph –

“(4A) The Greffier may make an officer available to keep minutes of the proceedings of the Planning Applications Committee.”.

9 Citation and commencement

These Amendments may be cited as Amendment (No. 27) of the Standing Orders of the States of Jersey and shall come into force on 10th March 2015.

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- ¹ *chapter 16.800*
² *chapter 16.800.15*
³ *chapter 22.550*