

STATES OF JERSEY



DRAFT PLANNING AND BUILDING (AMENDMENT OF LAW) (JERSEY) REGULATIONS 201- (P.2/2015): AMENDMENT

**Lodged au Greffe on 9th February 2015
by the Minister for Planning and Environment**

STATES GREFFE

1 PAGE 17, REGULATION 8 –

For Regulation 8 substitute –

“8 Article 12 amended

At the end of Article 12 there shall be added the following paragraphs –

- “(6) A person aggrieved by a determination by the Minister under this Article may appeal against the determination to the Royal Court only on a point of law (and for the avoidance of doubt, no appeal arises under Part 7).
- (7) An appeal under paragraph (6) must be made within the period of 28 days beginning with the date of the determination.
- (8) On hearing the appeal the Royal Court may –
 - (a) confirm the determination of the Minister wholly or in part;
 - (b) quash the determination of the Minister wholly or in part;
 - (c) remit the determination, wholly or in part, to the Minister to be retaken.
- (9) In paragraph (6), a “person aggrieved” means –
 - (a) where the Minister determines that planning permission should be granted, the applicant for planning permission and any third party;
 - (b) where the Minister determines –
 - (i) that conditions should be attached to a grant of planning permission, or
 - (ii) that planning permission should be refused,the applicant for planning permission,and for the purposes of sub-paragraph (a), “third party” has the same meaning as is given to that expression by Article 108(4).”.

2 PAGE 27, REGULATION 37 –

After Regulation 37 insert the following Regulation –

“37A Article 50 amended

In Article 50, in the definition “ “List of Sites of Special Interest” or “List” ” the words “by the Minister” shall be deleted.”.

3 PAGE 36, REGULATIONS 70 AND 71 –

After Regulation 69 insert the following Regulation –

“70A Article 116 amended

For paragraph (5) of Article 116 there shall be substituted the following paragraphs –

“(5) No further appeal shall lie from the Minister’s determination under this Article except to the Royal Court on a point of law.

(5A) An appeal under paragraph (5) must be made within the period of 28 days beginning with the date of the determination.

(5B) On hearing the appeal the Royal Court may –

(a) confirm the determination of the Minister wholly or in part;

(b) quash the determination of the Minister wholly or in part;

(c) remit the determination, wholly or in part, to the Minister to be retaken.

(6) The power to make rules of court under Article 13 of the Royal Court (Jersey) Law 1948 shall include the power to make rules regulating practice and procedure in relation to appeals under paragraph (5) of this Article.”.

MINISTER FOR PLANNING ENVIRONMENT

REPORT

On 2nd July 2014 the States approved P.94/2014 (Draft Planning and Building (Amendment No. 6) (Jersey) Law 201-) to allow the introduction of an independent merits-based appeals process for decisions and actions taken under the Planning and Building (Jersey) Law 2002. The Law was sanctioned by Her Majesty's Privy Council on 8th October 2014, and registered in the Royal Court on 17th October 2014, subsequently being published as [L.34/2014](#).

Appeals against decisions and actions taken under the Law are to be considered by an independent inspector, who will then report to the Minister for Planning and Environment, who will make the final appeal decision. This will involve the Minister being removed from most first-tier decision-making roles. Bringing the changes into force required consequential amendments to remove the Minister from first-tier decisions in the vast majority of decisions. These amendments are set out in P.2/2015 (Draft Planning and Building (Amendment of Law) (Jersey) Regulations 201-).

As well as making appeal decisions, the Minister will still determine applications for planning permission which have been subject to a public inquiry held for proposals which are likely to have a significant effect on the interests of Jersey, or which are substantial departures from the Island Plan. For both appeal decisions and decisions following a public inquiry, there is a right of appeal to the Royal Court on a point of law over the decision.

There was an intention to amend the Royal Court Rules to enable the appeals to the Court to proceed – as indicated by the amended Article 116(6) – but since lodging P.2/2014, there has been a realisation that the parameters of any appeal to the Royal Court will be best addressed through amending the Regulations as indicated below.

Article 12

There is an appeal to the Royal Court for applications determined by the Minister following a public inquiry. Amendments are proposed which clarify that any such appeal will be on a point of law, along with clarification of the period within which to bring an appeal, and what the Royal Court can do when asked to consider an issue. There is also clarification as to who can bring an appeal, reflecting the appeal procedures for an appeal arising from a decision on an application for planning permission not determined by the Minister.

Article 116

Amendments to the Regulations are proposed which set out the time limit within which an appeal against the Minister's decision on an appeal must be brought, and what the Royal Court can do with a case it is asked to consider.

It has also been noted that the original P.2/2015 had not identified a necessary consequential amendment in relation to the interpretation in Part 6 of the Law. In Article 50, the Minister had been retained as the person responsible for maintaining a List of Sites of Special Interest. This responsibility is to be transferred to the Chief Officer, and as such the following amendment is proposed.

Article 50

The Regulations elsewhere (in Article 51) make the responsibility of maintaining a List of Sites of Special interest that of the Chief Officer. The proposed amendment recognises the change in responsibility.

Financial and manpower implications

There are no implications expected for the financial or manpower resources of the States arising from the adoption of this amendment to the Draft Regulations.