

# STATES OF JERSEY



## **DRAFT HOWARD DAVIS FARM (ABROGATION OF COVENANT) (AMENDMENT OF LAW) (JERSEY) REGULATIONS 201-**

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**Lodged au Greffe on 28th May 2010  
by the Minister for Treasury and Resources**

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**STATES GREFFE**





Jersey

## **DRAFT HOWARD DAVIS FARM (ABROGATION OF COVENANT) (AMENDMENT OF LAW) (JERSEY) REGULATIONS 201-**

### **REPORT**

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#### **Purpose**

The purpose of this report is to propose a revision to the Howard Davis Farm Abrogation of Covenant (Jersey) Law 2008 to permit an extension to the period of tenure of the currently permitted use of animal incineration.

#### **Introduction**

Members will be aware of the generosity of Thomas Benjamin Frederick Davis and the many gifts he made to the Island. It is the view of the Minister that it continues to be essential to honour and recognise the importance of T.B. Davis as an extremely generous benefactor to the people of Jersey, and to retain the tributes to the memory of his son Howard who served with distinction and died in service for his country and the freedom of future generations.

Parkfield (later to be named Howard Davis Farm), amounting to the house, farm buildings and 40 vergées of land, was gifted to the Public of the Island by T.B. Davis and accepted by Act of the States on 17th December 1927. A covenant attached to the gifting imposed certain conditions as to the use of the land and buildings. It was one of 4 separate corpus-fundi transferred by Mr. Davis to the Public of the Island in perpetuity and gifted for:

*“the purpose of establishing there, under the administration of the Committee of Agriculture of the States, an experimental farm for developing the study of agriculture and for instructing in that science young people and other interested parties”.*

#### **Background**

In early 2007 the States agreed to vary the covenant referred to above to enable the dairy to build a new facility at Howard Davis Farm (P.170/2006). This was considered critical to the maintenance, protection and eventual enhancement of the Jersey dairy industry in the Island. Part of the process of changing the covenant was to identify the direct descendents of T.B. Davis, and to explain and obtain their support for the proposed changes.

A subsequent debate in July 2008 (P.95/2008) regularised the other activities that had developed over a period of time at Howard Davis Farm. This included the activities of the Jersey Employment Trust (JET) (through Acorn Enterprises Ltd.), the offices, laboratories and ancillary areas of the Environment Department, the temporary use by the Transport and Technical Services Department for the Island's animal incinerator, and various uses of glass houses, poly-tunnels and sheds.

Many of these uses did not comply with the original covenant, and by way of example, members may recall that in legal terms there is a distinction between horticulture and agriculture, with the former being in breach of the original covenant, and the latter being in compliance.

As part of that process, a Trust was created which receives various proportions of rents that arise on Howard Davis Farm. These monies are then applied either for the purposes of the original covenant, or for certain environmental purposes.

The direct descendants of T.B. Davis were involved as part of the process, and fully supported the various proposals. Three members of the family are presently Trustees on the new Trust.

It should be noted that as part of the 2007 debate, it was welcomed by a number of members that representatives of Jersey Property Holdings had worked with members of the T.B. Davis family. It is the intention that such communications continue to take place and that the links between Jersey and the family of T.B. Davis are strengthened.

One of the principles behind the 2008 amendment was that, whilst the uses of the site were regularised, a degree of flexibility in how those uses are permitted to operate in the future was built into the amendment. It was also ensured that any significant change away from the then envisaged uses would be required to be brought back to the States Assembly for further approval.

This has been achieved by restricting the defined uses mainly by area, but also by time.

This amendment is therefore brought to the States Assembly for consideration to amend one of the permitted uses. The reason for this is to encompass various changes that have been identified as matters have evolved since 2008.

At the time that the 2008 amendment was approved, it was the intention to restrict the use of the animal incinerator at Howard Davis Farm to a limited period of time. This restriction was principally due to concerns raised by Acorn Enterprises as a result of some initial operational issues. Since then the operation of the unit has been much improved; it has been far better screened, and there have been no further complaints as to how the unit now operates.

Over the last 2 years some significant issues have been identified in respect of the main buildings used by Acorn enterprises which have rendered some of them no longer fit for purpose. The part of the building which contains the administration office, workers' facilities and a technical workshop was converted from an original low grade agricultural shed. The original building has subsided, with significant structural cracking affecting the serviceability of the accommodation. The adjoining shed, which supports the work undertaken by Acorn Enterprises, is also showing signs of deterioration in respect of the external cladding. It would not be cost-effective to underpin and repair the administration building due to the extent of the damage, but rather, complete demolition is considered to be the only viable option.

An opportunity has been identified to use a significant proportion of the funds originally voted to relocate the animal incinerator, to provide Acorn Enterprises with new facilities. This can only be achieved by allowing the incinerator to remain in its present location for a longer period of time.

Accordingly, a change in the Law is required. If approved, this will provide much needed capital funds to JET at no additional cost to the tax payer. These proposals are fully supported by JET and Acorn Enterprises, and it is intended that Jersey Property Holdings will grant a 25 year lease to JET in order to provide greater security of tenure, this being consistent with the intentions approved under P.95/2008.

The JSPCA currently operates its pet cremator elsewhere on Howard Davis Farm. This amendment incorporates a provision to relocate this facility to a separate existing shed in closer proximity to the TTS animal incinerator. Whilst negotiations on this matter have yet to be concluded, it is felt prudent to allow for the potential move of the JSPCA cremator in bringing this overall amendment to the Law.

The proposed change to the Law would enable animal incineration at Howard Davis Farm for so long as JET remains on its present site. In accordance with the original expressed wishes that animal incineration should not be a permanently authorised use of the site, it has been accepted that, in the event that JET should cease to operate at Howard Davis Farm, the States would be obliged to remove all animal incineration from the property within a period of 2 years. This notice period has been suggested as being the realistic time period required to identify another site, obtain planning permission, and then to construct a new unit.

Funding has been identified from various existing sources which permit the various changes to be implemented. These are more fully laid out in the statement of financial and manpower implications below.

### **Financial and manpower implications**

There are no manpower implications for the States arising from this proposal to revise the Regulations.

In order to facilitate the continued operation of animal incineration at Howard Davis Farm, it is necessary to carry out alterations to, and the relocation of, buildings currently occupied by Acorn Enterprises. In addition, various separation/screening works are necessary to ensure that the 2 operations may co-exist on this site.

The required works include a significant element of betterment for Acorn Enterprises as well as the investment required to transform the temporary installation of the animal incinerator to that which is more permanent.

These works will be funded from the capital allocation previously voted by the States for moving the animal incinerator to an alternative location, together with funds provided by the Social Security Department which were set aside to support an operation such as JET.

The total budget for the new buildings and site alterations is £1,147,000, however it is again emphasized that this comes from existing capital funds.

## Explanatory Note

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These Regulations amend the Schedule to the Howard Davis Farm (Abrogation of Covenant) (Jersey) Law 2008 (the “Law”). The Schedule sets out the conditions on which Howard Davis Farm, or any part of it, may be let. When the Law was enacted in 2008, it permitted the letting of up to 6,000 ft<sup>2</sup> of land for use as one incinerator for animal carcasses, for up to 2 years.

The effect of these amending Regulations is to remove the 2 year limit on the letting, to allow more than one such incinerator on the land and to increase the limit on the area of land that may be used for the purpose from 6,000 ft<sup>2</sup> to 7,000 ft<sup>2</sup>. However, although the 2 year limit on letting is removed, the permitted use as incinerators will end in the event that the Jersey Employment Trust (the “JET”) vacates the adjoining part of the site.

*Article 1* amends the Schedule to the Law.

*Paragraph (a)* adds to the principal permitted uses of the land use as one or more incinerators for the disposal of animal carcasses.

*Paragraph (b)* substitutes the existing provision that allowed letting for up to 2 years for use as such an incinerator, on up to 6,000 ft<sup>2</sup> of land. The replacement provision permits up to 7,000 ft<sup>2</sup> of land to be used for that purpose. The current 2 year restriction on use is removed. Instead, the permitted use as incinerators will end only if the JET (trading as Acorn Enterprises) vacates the adjoining part of the site, on the north of La Rue Asplet. The permitted use will not end immediately. Two years will be allowed for the incinerators to be relocated.

*Article 2* provides for the registration of the Regulations in the Public Registry of Contracts, given that they alter the conditions of use of land.

*Article 3* provides for the citation of the Regulations and for them to commence 7 days after they are made by the States.



Jersey

## **DRAFT HOWARD DAVIS FARM (ABROGATION OF COVENANT) (AMENDMENT OF LAW) (JERSEY) REGULATIONS 201-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Article 2(3) and (4) of the Howard Davis Farm (Abrogation of Covenant) (Jersey) Law 2008<sup>1</sup>, have made the following Regulations –

### **1 Schedule to the Howard Davis Farm (Abrogation of Covenant) (Jersey) Law 2008 amended**

In the Schedule to the Howard Davis Farm (Abrogation of Covenant) (Jersey) Law 2008<sup>2</sup> –

(a) in paragraph 2(1), after clause (f) there shall be added the following clause –

“(g) as one or more incinerators, to be used for the disposal of animal carcasses only.”;

(b) for paragraph 5 there shall be substituted the following paragraph –

#### **“5 Restriction on incinerators**

(1) The square footage of the incinerators permitted on the land by paragraph 2(1)(g) shall not exceed, in the aggregate, 7,000.

(2) If the Jersey Employment Trust (an association incorporated under the Loi (1862) sur les teneures en fidéicommiss et l’incorporation d’associations)<sup>3</sup> vacates the land lying to the north of La Rue Asplet, paragraph 2(1)(g) and this paragraph shall cease to have effect 2 years after the date of such vacation.”.

### **2 Registration of Regulations in Public Registry**

(1) The Greffier of the States shall sign a copy of these Regulations and transmit the signed copy to the Royal Court.

- (2) The Royal Court shall order the registration of the signed copy in the Public Registry of Contracts.
- (3) The registration of the signed copy shall have like effect as a contract passed before the Royal Court.
- (4) No fees shall be payable under the Stamp Duties and Fees (Jersey) Law 1998<sup>4</sup> in relation to the registration of the signed copy.

### **3 Citation and commencement**

These Regulations may be cited as the Howard Davis Farm (Abrogation of Covenant) (Amendment of Law) (Jersey) Regulations 201- and shall come into force 7 days after they are made.



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- <sup>1</sup> *chapter 18.320*  
<sup>2</sup> *chapter 18.320*  
<sup>3</sup> *chapter 04.120*  
<sup>4</sup> *chapter 24.960*