

STATES OF JERSEY



DRAFT PLANNING AND BUILDING (AMENDMENT No. 6) (JERSEY) LAW 201- (P.94/2014): SECOND AMENDMENT

**Lodged au Greffe on 17th June 2014
by the Minister for Planning and Environment**

STATES GREFFE

1 PAGE 19, ARTICLE 6 –

In Article 6, in the inserted Article 22A, for paragraph (5) substitute the following paragraph –

- “(5) The determination of the Planning Applications Panel shall be substituted for the initial decision and –
 - (a) Article 19(8) shall apply to the determination as it applies to a decision made under that Article; and
 - (b) an appeal shall lie under Part 7 against the determination –
 - (i) in the case of a refusal, or of a grant of planning permission subject to conditions, as though it were a decision under Article 19, or
 - (ii) in a case relating to a condition, as though the condition were attached or imposed under Article 23.”.

2 PAGES 20–30, ARTICLE 7 –

In Article 7, in paragraphs (3) and (5) of the substituted Article 114, for the word “determine” substitute the words “deal with”.

3 PAGE 30, ARTICLE 8 –

In Article 8, after paragraph (1) insert the following paragraph and renumber the remaining paragraph accordingly –

- “(2) Regulations under paragraph (1) may, in particular, amend the principal Law so as to provide that any function of the Minister under the principal Law (other than a function of making an Order or determining an appeal) is transferred to another person or description of persons.”.

4 PAGE 31, ARTICLE 10 –

In Article 10, for the words “7 days after being registered.” substitute the words “on such day or days as the States by Act appoint.”.

MINISTER FOR PLANNING AND ENVIRONMENT

REPORT

On 11th September 2013 the States Assembly approved [P.87/2013](#): 'Planning Appeals: revised system'. The Proposition set out a model for the consideration of appeals by independent inspectors who would then report to the Minister for Planning and Environment to make the final decision.

Following the lodging of [P.94/2014](#): 'Draft Planning and Building (Amendment No. 6) (Jersey) Law 201-', it has become apparent that there need to be some alterations to clarify the processes and procedures contained in the draft legislation.

Referring to the draft legislation attached to the main proposition:

At page 19, Article 6 refers to the inserted Article 22A, which formalises the current informal practice of requesting reconsideration of a decision by the Planning Applications Panel of a refusal of an application for planning permission taken by officers under delegated powers. The Article has been included to reflect the amendment ([P.87/2013 Amd.\(2\)](#)) brought by Deputy R.G. Le Hérisser of St. Saviour during the debate on P.87/2013.

The amendment clarifies that any decision made on review by the Planning Applications Panel (PAP) will be substituted for the initial decision made by the Department for the purposes of bringing an appeal to be considered via an Inspector. This will mean that the time period to bring an appeal will restart in all cases on the decision of PAP, and the ability to bring any relevant appeal will still be available for all those parties who are entitled to appeal the decision.

At pages 20–30, Article 7 substitutes Article 114 paragraphs (3) and (5) (page 27); it should be clarified that an inspector appointed to look at an appeal is considering the merits of the case and not determining the appeal. It is the Minister who will determine the appeal in light of a report prepared by the inspector on the merits of the case.

At page 30, Article 8, a paragraph should be inserted that allows for the Minister to transfer the function of making decisions to another person or persons by way of Regulations. This will enable the Minister to withdraw from all decisions or actions in the first instance to enable the Minister to be a proper appellate body when there is an appeal against a decision or action. This has been an important part of the model proposed, and it is felt it should be specified at this point rather than as a consequential amendment. For the purposes of these amendments, that person or persons will be within the Department of the Environment, as well as those functions that can be carried out by the Planning Applications Panel.

At page 31, Article 10 ensures that the Law will come into force at a day or days as the States by Act appoint.

Financial and manpower implications

There are no additional financial or manpower implications arising from the amendment beyond those already identified in P.94/2014.