

STATES OF JERSEY



DRAFT HIGH HEDGES (JERSEY) LAW 200- (P.51/2007): SECOND AMENDMENTS

**Lodged au Greffe on 11th September 2007
by the Minister for Planning and Environment**

STATES GREFFE

PAGE 16, ARTICLE 6 –

In Article 6, for paragraph (4) substitute the following paragraph –

- “(4) In doing so the Minister must first take into account every relevant consideration, including -
- (a) whether the hedge existed at the time the complainant acquired an interest in the domestic or residential property specified in the complaint and, if it did, the height of the hedge at that time; and
 - (b) any extent to which the hedge –
 - (i) adds to the privacy and enjoyment of the neighbouring land, or
 - (ii) contributes to the amenity of the neighbourhood,
- and then, having done so, must consider the height to which the hedge could be reduced that would still afford reasonable protection to the interests of the occupier of the neighbouring land.”

MINISTER FOR PLANNING AND ENVIRONMENT

REPORT

This amendment to the draft High Hedges (Jersey) Law 200- seeks to introduce a requirement for the Minister for Planning and Environment, when considering a complaint about a high hedge, to take into account the existence and height of a hedge at the time that the complainant acquired an interest in the property.

I think this is appropriate and I am grateful to Deputy Maclean and Baudains, whose own amendments have enabled me to review this issue and come forward with my own proposition to alter the draft law.

I understand and fully accept that people who have planted hedges to provide privacy from neighbouring properties might want some assurance that the new law is not a 'complainants-charter' that will automatically presume in favour of the 'hedge-victim'. The existing draft law goes some way to provide this assurance already: it requires me - at Article 6(4)(a) – to take into account the role of the hedge in providing privacy to the hedge owner.

The proposed amendment seeks to recognise, however, that the reasonable enjoyment of a dwelling and its garden is as much an important factor for hedge owners as for those affected by high hedges – particularly where that hedge is long-established and may have existed before the complainant's property. It seems to me to be fair that the Minister should, in such cases, have regard to the fact that the occupant of a property was fully aware of the situation that prevailed when they acquired an interest in the property, and that this should be a factor which the Minister has to consider. The proposed amendment to the draft law does exactly this.

This amendment does not give any more 'rights' to one or other party involved in a dispute about a high hedge – it simply requires the 'original' situation to be taken into account in any decision.

For example, if the complainant bought a new house next to a high hedge that, after five years of further growth and no maintenance, becomes problematic, the prospect of a successful complaint is likely to be favourable (if the circumstances of the case indicate that the complainant's reasonable enjoyment of their dwelling is harmed by the higher hedge). In the situation where the same hedge is regularly maintained at a similar level to that when the complainant bought the property, the original height of the hedge and its continued maintenance would be significant factors for the Ministers to take into account in his deliberations and decision.

The proposed amendment will require additional information to be provided and assessed – relating to the existence and height of the hedge at the time that a complainant acquired an interest in a property – which will make the management and administration of applications more onerous and difficult. There are no other financial and manpower implications arising from this amendment.