

**LANDSLIDES: REPORT**

---

**Presented to the States on 11th December 2001  
by Planning and Environment Committee**

---



**STATES OF JERSEY**

**STATES GREFFE**

120

2001

R.C.39

Price code: A

## **Landslides: report**

As a result of the extremely wet winter and spring this year, a great number of landslides occurred throughout the Island. Most were small and insignificant; others, fortunately few in number, gave cause for concerns about safety.

The Planning and Environment Committee, in consequence, gave consideration to whether it was desirable for the States to introduce legislation (believing there to be none at present) to require owners of property on which there was a likelihood of a landslide occurring, to take such action as was necessary to remedy concerns for safety.

The Committee sought legal advice, as it recognised that any new statutory law could impinge on the existing rights and obligations of landowners under customary law, and possibly any existing statutory law. It was also concerned that any law which gave the power to the States to intervene in such circumstances could bring with it considerable responsibilities and liabilities, and, given the number of landslides this year as an indicator, have considerable resource implications. Finally, the Committee recalled that it is States' policy to "roll back the frontiers of government control", and were adequate remedies to exist in customary law there was little, if any, reason to bring new law onto the statute.

In the event the Committee considered that there were no grounds for legislation to be introduced, and indeed good reasons why it should not be.

However, the legal advice contained several established principles, which the Committee considers it is useful to publish -

- where natural objects such as earth, rocks or trees fall from a property onto lower property as a result of natural causes, the owner of the upper property is not liable;
- where the fall is brought about by some action on the part of the owner of the upper property, that owner is liable;
- where the fall is a result of natural causes, but the owner of the upper property knew, or ought to have known, that there was a hazard but took no reasonable steps to avert it, that owner is liable ("reasonable steps" will be a matter for the Court to decide);
- where land is unstable and threatens to fall on a lower property in circumstances where the owner of that property would have a right of action against the owner of the upper property, it would be open to the owner of the lower-lying property to apply to the court for a mandatory injunction requiring the owner of the upper land to carry out specific actions to stabilise the land;
- where land falls onto a public road, the Constable has power under the Loi (1914) sur la Voirie to require the owner to remove it even though it may be entirely due to natural causes;
- the highway authority has the same rights as the owner of lower-lying land where land falls, or threatens to fall, onto a public road, but there is no statutory power to require the owner to stabilise it;
- neither the States nor a Parish has the any power to intervene between adjoining private property owners to prevent a fall or to remove fallen material.