



Jersey

## **PLANNING AND BUILDING (AMENDMENT No. 8) (JERSEY) LAW 2022**

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## PLANNING AND BUILDING (AMENDMENT No. 8) (JERSEY) LAW 2022

A LAW to amend further the [Planning and Building \(Jersey\) Law 2002](#).

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<i>Adopted by the States</i>	<i>25th April 2022</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>19th July 2022</i>
<i>Registered by the Royal Court</i>	<i>5th August 2022</i>
<i>Coming into force</i>	<i>in accordance with Article 24</i>

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

### 1 Interpretation

In this Law, a reference to an Article by number and without more is a reference to the Article of the same number in the [Planning and Building \(Jersey\) Law 2002](#).

### 2 Article 1 (interpretation) amended

In Article 1(1) –

- (a) for the definition “site notice” there is substituted –  
““site notice” means a notice or copy of a notice which is displayed, or is to be displayed, under any requirement of this Law, on the land affected by such development, listing, enforcement or other operation as is specified in the notice;”;
- (b) for the definition “tree” there is substituted –  
““tree” means a tall perennial plant having a permanent woody or fibrous trunk, a root system and a crown of foliage, or such plant of a similar nature as the Minister may by Order prescribe, and includes –
  - (a) a single tree of any age, genus, species, cultivar or variety;
  - (b) a group of trees;
  - (c) a hedgerow.”.

### 3 Article 2 (purposes of Law) amended

In Article 2(4) for “health, safety and welfare” there is substituted “health, safety, welfare and convenience”.

### 4 Article 5 (meaning of “develop”) amended

(1) For the heading to Article 5, there is substituted –

#### “Meaning of “develop”, commencement of development, etc.”.

(2) In Article 5(2) –

(a) in sub-paragraph (d) for “a hedgerow or banque” there is substituted “a tree or banque”;

(b) after sub-paragraph (j) there is inserted –

“(k) to carry out on the land an operation to or involving a tree, except such operations as the Minister may specify by Order.”.

(3) After Article 5(5) there is inserted –

“(6) In this Law, a reference to development being begun is a reference –

(a) if the development consists of the carrying out of an operation, to the time when any material operation comprised in the development begins to be carried out;

(b) if the development consists of a material change of use, to the time when the new use is instituted;

(c) if the development consists both of the carrying out of operations and of a change of use, to the earlier of the times mentioned in sub-paragraphs (a) and (b).

(7) For the purposes of paragraph (6)(a), in relation to a building operation, “material operation” includes –

(a) any work of construction in the course of the erection of a building;

(b) any work of demolition of a building;

(c) the digging of a trench which is to contain the foundations or part of the foundations of a building;

(d) the laying of an underground main or pipe to the foundations, or part of the foundations, of a building or to a trench such as mentioned in sub-paragraph (c); or

(e) any change in the use of land which constitutes material development, and for this purpose “material development” means any development other than –

(i) development for which planning permission is granted by a development order and which is carried out so as to comply with any condition or limitation subject to which the permission is granted, or

(ii) development of a class prescribed by the Minister by Order for the purposes of this provision.”.

**5 Article 11 (manner in which application is to be publicised) amended**

- (1) For Article 11(1)(b) there is substituted –  
“(b) representations in relation to the application may be provided.”.
- (2) For Article 11(3) there is substituted –  
“(3) An Order under this Article may further prescribe –
  - (a) the manner, including any limit of time, in which an application must be publicized or notified; and
  - (b) the manner, including any limit of time, in which evidence of publication or notification of the application must be provided by an applicant.
- (3A) Where there is a failure to provide evidence of publication or notification in the prescribed manner, the Minister or the Chief Officer may reject the application without determining it.
- (3B) No determination is to be made until after the expiry of the prescribed period for publication or notification of an application.”.
- (3) In Article 11(4) there is deleted “by members of the public”.

**6 Article 12 (public inquiries) amended**

- (1) For Article 12(2) there is substituted –  
“(2) Where this Article applies –
  - (a) a public inquiry must be held before the application is determined; and
  - (b) following the public inquiry the Minister alone may determine the application or, where the Minister considers that the nature of the application or the decision is of such significance for the public of Jersey that it is expedient to do so, the Minister may refer the matter to a panel (the “determining panel”) for determination.
- (2A) The determining panel must consist of the Minister and at least 2 other Members of the States Assembly, chosen by the Minister.”.
- (2) In Article 12(3), (6) and (8)(c) after “Minister” in each place there is inserted “or the determining panel”.
- (3) In Article 12(8), in each of sub-paragraphs (a) and (b) “of the Minister” is deleted.
- (4) In Article 12(9), in each of sub-paragraphs (a) and (b) for “the Minister determines” there is substituted “it is determined”.

**7 Article 19 (grant of planning permission) amended**

In Article 19(8) after “28 days” there is inserted “, or such extension of that period as may be granted under Article 112(5),”.

## **8 Article 23 (conditions attached to the grant of planning permission) amended**

- (1) In Article 23(2) after sub-paragraph (i) there is inserted –  
“ (j) the protection and improvement of biodiversity on the land.”.
- (2) In Article 23(3)(b) after “begun” there is inserted “, being no longer than the period ending 3 years after the date of the grant of planning permission”.

## **9 Article 31 (purposes of Building Bye-Laws) and Schedule (contents of Building Bye-Laws) amended**

- (1) In Article 31(2)(a) and (3)(a) for “health, safety and welfare” in each place there is substituted “health, safety, welfare and convenience”.
- (2) In the Schedule –
  - (a) after paragraph (2)(p) there is inserted –  
“ (q) installations in buildings of, and standards for, infrastructure and equipment relating to high speed data communication networks;  
 (r) installations in buildings of, and standards for, electric vehicle charging points.”;
  - (b) in paragraph (12) after the definition “sanitary equipment in buildings” there is inserted –  
“services, fittings, appliances, equipment and accessories in or in connection with buildings” includes –
    - (a) infrastructure relating to high speed data communication networks; and
    - (b) electric vehicle charging points;”.

## **10 Articles 53 (provisional listing) and 54 (control of operations on sites of special interest) amended**

- (1) In each of Articles 53(1) and 54(1), “adversely” is deleted.
- (2) In Article 54(6) for “shall fairly and reasonably relate to protection of the special interest of the site” there is substituted –  
“ –
  - (a) may relate to the period within which the operation or change of use must be begun, being no longer than the period ending 3 years after the date of the grant of permission; and
  - (b) must fairly and reasonably relate to protection of the special interest of the site.”.

## **11 Article 55 (certain activities restricted on sites of special interest) amended**

- (1) In Article 55(2)(c) after “probe” there is inserted “or similar implement”.

- (2) In Article 55(4) for “without the permission referred to in” there is substituted “, except as permitted by”.
- (3) In Article 55(6) for “shall fairly and reasonably relate to protection of the special interest of the site” there is substituted –
  - “–
  - (a) may relate to the period within which the activity must be begun, being no longer than the period ending 3 years after the date of the grant of permission; and
  - (b) must fairly and reasonably relate to protection of the special interest of the site.”.

## 12 New Article 55A (offence of false information) inserted

After Article 55 there is inserted –

### **“55A False information [in relation to application for permission]**

- (1) A person who, in making an application for permission under Article 54 or 55, knowingly or recklessly –
  - (a) makes a false or misleading statement or representation;
  - (b) makes a statement or representation with a material omission,is guilty of an offence and liable to imprisonment for a term of 2 years and a fine.
- (2) Paragraphs (2) to (10) of Article 10 apply in respect of a statement or representation to which this Article applies, as if a reference in those paragraphs –
  - (a) to development, refers to an operation or change of use under Article 54, or to use or operation of a device, or to an activity, under Article 55, as the case may be; and
  - (b) to planning permission, refers to permission under either of those Articles.”.

## 13 New Article 56A (conservation areas) inserted

After Article 56 (Minister may make funds available, etc.) there is inserted –

### *“Chapter 1A – Conservation Areas*

#### **56A Conservation areas**

- (1) The Minister may by Order designate, as a conservation area, any area of Jersey to which there attaches a special architectural or historical interest, for the purpose of protecting and improving the character or appearance of that area.
- (2) The States may by Regulations make such further provision as appears to them to be necessary or expedient in relation to the

management of conservation areas in general, and such Regulations may, in particular –

- (a) make provision as to the allocation of funds for the purpose mentioned in paragraph (1);
- (b) create sanctions and offences, including offences of breach of a provision of an Order under paragraph (3); and
- (c) impose penalties, but such provision may not include a penalty of imprisonment or of a fine exceeding level 2 on the standard scale.

(3) The Minister may by Order make all such further provision as is necessary for the purposes of this Article, whether in relation to a particular conservation area or to all such areas, including provision –

- (a) specifying any activity which may be undertaken within a conservation area without the Chief Officer’s permission;
- (b) specifying –
  - (i) any activity which, if carried out within a conservation area, may amount to commission of an offence, or
  - (ii) any prohibitions on or restrictions to activities carried out within a conservation area, breach of which may amount to commission of an offence,under Regulations made under paragraph (2);
- (c) as to the manner in which notice of prohibitions or restrictions is to be given or published, and to whom;
- (d) as to the manner in which applications for permission must be made, and in which permission may be granted, including the imposition of conditions; and
- (e) as to the creation and maintenance of a list or register.”.

#### **14 Article 57 (interpretation – protected trees) amended**

In Article 57 the definition “tree” is deleted.

#### **15 Article 76 (Orders to control advertisements) amended**

In Article 76(2) at the end there is inserted –

- “(e) make provision as to the period within which advertisements may be displayed, being no longer than the period ending 3 years after the date of the grant of permission.”.

#### **16 Article 81 (Orders in respect of moveable structures) amended**

In Article 81(2) at the end there is inserted –

- “(c) make provision as to the period during which any permission is to subsist, being no longer than the period ending 3 years after the date of the grant of permission.”.



**17 Chapter 7 (controls on caravans) of Part 6 (additional controls) amended**

- (1) At the end of Article 98 (definitions in respect of caravans) there is added –
  - “; and
  - “Order” means an Order under this Chapter.”.
- (2) In Article 99 (controls on caravans) –
  - (a) before paragraph (1) there is inserted –
    - “(A1) The Minister may by Order regulate or restrict –
      - (a) the importation of caravans into Jersey; and
      - (b) the stationing and use of caravans in Jersey.
    - (A2) An Order may further and in particular –
      - (a) require permission to be obtained for the importation, stationing or use of caravans; and
      - (b) include provision to prevent nuisances that may arise from caravans.
    - (A3) The Order may be made to apply to all caravans or to caravans or types of caravan specified in the Order.”;
  - (b) in paragraph (1) after “granted” there is inserted “by the Order or, where required under the Order,”;
  - (c) in paragraph (2) after “application” there is inserted “for permission”.

**18 Article 107 (appointment of inspectors) amended**

In Article 107(1) “as States employees” is deleted.

**19 Article 108 (right to appeal against certain decisions, etc.) amended**

- (1) In Article 108(2) after sub-paragraph (b) there is inserted –
  - “(ba) a decision under Article 19(6) to grant or to refuse permission in relation to matters reserved for further approval,”.
- (2) In Article 108(3) after sub-paragraph (a) there is inserted –
  - “(aa) for the purposes of an appeal against a decision to grant permission mentioned in paragraph (2)(ba), the applicant and any third party,”.
- (3) In Article 108(4) for “a person, other than an applicant,” there is substituted “a person, a Parish or a department of the government of Jersey, who is not the applicant and”.

**20 Article 112 (notice of appeal: proper form, etc.) amended**

After Article 112(4) there is inserted –

- “(5) Without prejudice to paragraph (3), the Greffier may grant an extension of the period in that paragraph, if –
  - (a) the Greffier considers it reasonable to do so; and

- (b) the request for an extension is received by the Greffier no later than the end of that period.
- (6) A person aggrieved by a decision of the Greffier under paragraph (5) may appeal against that decision to the Royal Court.
- (7) In paragraph (6) a “person aggrieved” means the person requesting the extension and, where that person is not the applicant for planning permission, the applicant.
- (8) An appeal under paragraph (6) must be made within 28 days beginning with the date of the refusal, and on hearing the appeal the Royal Court may –
  - (a) confirm or quash the decision of the Greffier; or
  - (b) remit the decision to the Greffier to be retaken.
- (9) The power to make rules of court under Article 13 of the [Royal Court \(Jersey\) Law 1948](#) includes power to make rules regulating practice and procedure in relation to appeals under paragraph (6).”.

## 21 Article 113 (registration of appeal, etc.) amended

- (1) In Article 113(1) –
  - (a) at the end of sub-paragraph (b), “and” is deleted; and
  - (b) after sub-paragraph (c) there is inserted –
    - “and
    - (d) nominate an inspector to conduct the appeal, from the list of persons appointed for that purpose under Article 107.”.
- (2) In Article 113(2), sub-paragraph (a) is deleted.

## 22 Article 114 (appeal procedures) amended

- (1) For Article 114(2) there is substituted –
  - “(2) An appeal of a kind mentioned in sub-paragraph (a) or (b) of paragraph (1) may be determined on the basis of written representations only in a case where either –
    - (a) no representations, except representations by statutory bodies in accordance with Articles 14 to 17, have been made in relation to the application which gave rise to the appeal; or
    - (b) the parties, and the inspector, have agreed to the determination of the appeal on that basis.”.
- (2) After Article 114(7) there is inserted –
  - “(8) For the purposes of this Article, “parties” means –
    - (a) the appellant;
    - (b) (where different) the applicant; and
    - (c) the decision-maker.”.

**23 Article 116 (Minister's decision on appeal, etc) amended**

After Article 116(7) there is inserted –

“(8) Following the Minister's determination of an appeal under this Article, a reference in this Law to a time period within which development or any operation must be begun is to be construed as though that time period commences –

- (a) where an appeal against the determination is made to the Royal Court under paragraph (5), on the date of the Royal Court's final decision on that appeal; or
- (b) in any other case, on the date of the Minister's determination of the appeal.”.

**24 Citation and commencement**

This Law may be cited as the Planning and Building (Amendment No. 8) (Jersey) Law 2022 and comes into force –

- (a) except as provided by paragraph (b), 7 days after the day on which it is registered;
- (b) in the case of Article 4(2), on a day to be specified by the States by Act.