



Jersey

ROYAL COURT (AMENDMENT No. 10) RULES 2010

Arrangement

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SCHEDULE

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ROYAL COURT (AMENDMENT No. 10) RULES 2010

*Made**28th June 2010**Coming into force**5th July 2010*

THE SUPERIOR NUMBER OF THE ROYAL COURT, in pursuance of Article 13 of the Royal Court (Jersey) Law 1948¹ and Article 14 of the High Hedges (Jersey) Law 2008², has made the following Rules –

1 Interpretation

In these Rules “principal Rules” means the Royal Court Rules 2004³.

2 Rule 15/1 amended

In Rule 15/1 of the principal Rules –

- (a) after the definition of “appeal” there shall be inserted the following definitions –
 - “ ‘High Hedges Law appeal’ means an appeal under Article 12 or 13 of the High Hedges Law and ‘appellant’ in relation to such an appeal shall be construed accordingly;
 - ‘High Hedges Law’ means the High Hedges (Jersey) Law 2008⁴;”;
- (b) in the definition of “modified procedure” after the words “Rule 15/3B” there shall be inserted the words “, and, in relation to a High Hedges Law appeal, means the procedure set out in paragraphs (2), (3) and (4) of Rule 15/3F”;
- (c) in the definition of “ordinary procedure” after the words “planning appeal” there shall be inserted the words “or a High Hedges Law appeal”.

3 Rule 15/2 amended

For paragraph (1) of the Rule 15/2 of the principal Rules there shall be substituted the following paragraph –

“(1) An appeal to the Court shall be brought by serving on the respondent a notice of appeal –

- (a) in the case of an appeal other than a planning appeal or a High Hedges Law appeal, in the form set out in Schedule 4;
- (b) in the case of a planning appeal, in the form set out in Schedule 4A; or
- (c) in the case of a High Hedges Law appeal, in the form set out in Schedule 4B,

and every such notice must specify the grounds of the appeal with sufficient particularity to make clear the nature of the appellant’s case.”.

4 Rule 15/3 amended

After paragraph (1A) of Rule 15/3 of the principal Rules there shall be inserted the following paragraph –

“(1B) When paragraph (1) has been complied with in relation to a High Hedges Law appeal, Rule 15/3E shall apply to the remaining procedural steps in the appeal.”.

5 Rules 15/3, 15/3F and 15/3G inserted

After Rule 15/3D of the principal Rules there shall be inserted the following Rules –

“15/3E High Hedges Law appeals

- (1) In this Rule –
 - (a) ‘Article 12 appeal’ means an appeal under Article 12 of the High Hedges Law;
 - (b) ‘Article 13 appeal’ means an appeal under Article 13 of the High Hedges Law;
 - (c) ‘respondent’s affidavit’ means the affidavit filed by the respondent in accordance with Rule 15/3(1).
- (2) The appellant shall, when the notice of appeal is served on the respondent in accordance with Rule 15/20, cause a copy of it to be served –
 - (a) in the case of an Article 12 appeal, on the owner or occupier of the neighbouring land;
 - (b) in the case of an Article 13 appeal, on the complainant.
- (3) The respondent shall, when the respondent’s affidavit is served on the appellant, cause a copy of it to be served on the owner or occupier, or on the complainant, as the case may be.
- (4) Within 14 days of receiving the copy of the respondent’s affidavit, the owner or occupier, or the complainant, as the case may be, if he or she wishes to be heard at the appeal –

- (a) must inform the Greffier in writing; and
 - (b) may lodge with the Greffier and cause to be served on the appellant and on the respondent an affidavit setting out anything relevant to the determination of the appeal not contained in the respondent's affidavit.
- (5) An owner or occupier, or a complainant, as the case may be, who informs the Greffier that he or she wishes to be heard at the appeal shall thereupon be joined as a party to the appeal and the Greffier shall inform the appellant and the respondent that the owner or occupier, or the complainant, as the case may be, has been so joined.
- (6) Within 5 days of the owner or occupier, or the complainant, as the case may be having lodged an affidavit under paragraph (4)(b), or the time within which to do so having expired, the Greffier shall consider the notice of appeal, the respondent's affidavit and, if lodged, that of the owner or occupier, or the complainant, as the case may be and any accompanying documents and, having regard to –
- (a) the nature and complexity of the issues raised;
 - (b) the questions of law (if any) involved;
 - (c) the extent to which any matter of public interest may arise in the proceedings; and
 - (d) any other circumstances of the appeal,
- shall, subject to Rule 15/3G, notify the parties in writing whether the Greffier is minded to treat the appeal as an appeal to be dealt with under the ordinary procedure or under the modified procedure and shall give the parties the opportunity to make written representations in that regard within such time as the Greffier may determine.
- (7) The Greffier shall consider any such representations and determine whether the appeal is to be dealt with under the ordinary procedure or under the modified procedure.
- (8) The appeal shall then proceed in accordance with that determination, but paragraph (2) does not affect the power of the Court at any stage of the proceedings of its own motion or on the application of any of the parties to order that the appeal be dealt with under whichever procedure the Court thinks fit.
- (9) Rule 15/4 shall be taken to empower the Court to allow the owner or occupier, or the complainant, as the case may be, who has lodged an affidavit under paragraph (4)(b), on terms as to costs or otherwise to file supplementary affidavits.

15/3F Modified procedure in High Hedges Law appeals

- (1) If the Greffier determines that a High Hedges Law appeal is to be dealt with under the modified procedure, the Greffier shall give

such directions as the Greffier thinks fit with a view to bringing the appeal on for hearing at the earliest opportunity.

- (2) Not less than 14 days before the hearing of the appeal, the appellant must furnish to the Court (and serve upon the other parties to the appeal) a written statement of the submissions that the appellant will make at the hearing concerning the issues in dispute in the appeal.
- (3) Not less than 7 days before the hearing of the appeal the respondent and, if he or she wishes to be heard, the owner or occupier, or the complainant, as the case may be must furnish to the Court (and serve upon the other parties to the appeal) a written statement of the submissions he or she will make at the hearing concerning the issues in dispute in the appeal.
- (4) An appellant and, if he or she wishes to be heard, the owner or occupier, or the complainant, as the case may be may, at the hearing of the appeal, appear and be heard by a representative who, if not an advocate, shall be –
 - (a) a solicitor (*écrivain*) of the Royal Court;
 - (b) an architect registered under the Architects (Registration) (Jersey) Law 1954⁵; a member of the Royal Institution of Chartered Surveyors, a chartered member of the Landscape Institute or a member of the Royal Town Planning Institute;
 - (c) a person approved by the Greffier or by the Bailiff as a person appropriate to represent the appellant.
- (5) The respondent may, at the hearing of the appeal, appear and be heard in the same manner as in a planning appeal under the modified procedure in Rule 15/3B.
- (6) Provision may be made by practice directions in respect of the mode and duration of hearings of, and awards of costs in, a High Hedges Law appeal under the modified procedure.

15/3G High Hedges Law appeals ‘on the papers’

- (1) When, in accordance with paragraph (6) of Rule 15/3E, the Greffier has considered the notice of appeal and the respondent’s affidavit and, if lodged, that of the owner or occupier, or the complainant, as the case may be and any accompanying documents and has had regard to the matters referred to in sub-paragraphs (a) to (d) of that paragraph, the Greffier may, if the requirements of paragraph (2) are met, consider and determine the appeal on the basis of the documents filed with the Court and without oral arguments by the parties.
- (2) The requirements are that –
 - (a) the appellant has in the notice of appeal stated that the appellant does not require an oral hearing of the appeal;
 - (b) the Greffier has notified the parties in writing that the Greffier is minded to consider and determine the appeal

under paragraph (1) and has given them the opportunity to make representations in that regard; and

- (c) the Greffier has considered any such representations.
- (3) If the Greffier decides to consider and determine the appeal under paragraph (1), the Greffier may give such directions to the parties as may be necessary for the filing of further written statements or submissions.
- (4) Provision may be made by practice directions in respect of awards of costs in relation to High Hedges Law appeals considered and determined in accordance with this Rule.”.

6 Schedules 4 and 4A amended

- (1) In Schedule 4 to the principal Rules, immediately underneath the words “**SCHEDULE 4**”, for the words “(Rule 15/2(1))” there shall be substituted the words “(Rule 15/2(1)(a))”.
- (2) In Schedule 4A to the principal Rules, immediately underneath the words “**SCHEDULE 4A**”, for the words “(Rule 15/2(1))” there shall be substituted the words “(Rule 15/2(1)(b))”.

7 Schedule 4B inserted

After Schedule 4A to the principal Rules there shall be inserted Schedule 4B set out in the Schedule to these Rules.

8 Citation and commencement

- (1) These Rules may be cited as the Royal Court (Amendment No. 10) Rules 2010.
- (2) These Rules shall come into force on the seventh day after they are made.

P. MATTHEWS

Deputy Judicial Greffier

SCHEDULE

(Rule 7)

“SCHEDULE 4B

(Rule 15/2(1)(c))

**FORM OF NOTICE OF APPEAL UNDER THE HIGH HEDGES
(JERSEY) LAW 2008**

In the Royal Court of Jersey

Between *(full name)* Appellant

And The Minister for Planning and Environment Respondent

PART A *(to be completed by all appellants)*

TAKE NOTICE that in exercise of the right of appeal conferred by Article [12] [13]¹ of the High Hedges (Jersey) Law 2008 I am appealing to the Royal Court against your decision on *(date of decision)* 20 to *(give details of, not reasons for, the decision)*

on the grounds that *(state grounds of appeal with sufficient particularity to make clear the nature of your case)*

AND FURTHER TAKE NOTICE that I shall apply to the Bailiff’s Secretary at [a.m.][p.m.] on 20 (which will be within 5 days of this notice having been served) to fix a time and place for the hearing on this appeal.

AND FURTHER TAKE NOTICE that I [do] [do not] require an oral hearing of this appeal.

(signed) **Date**
[Appellant] [Advocate/solicitor for the appellant]¹

To the above-named Respondent²

¹ Delete as appropriate

² **N.B.** a copy of this notice must also be served (a) in the case of an appeal under Article 12 of the Law, on the owner or occupier of the neighbouring land; or (b) in the case of an appeal under Article 13 of the Law, on the complainant

PART B *(complete this Part only if you require an oral hearing of the appeal at which you do not wish to represent yourself or to have an advocate represent you)*

I WISH TO APPOINT *(full name of intended representative)*

of *(address of intended representative)*

to represent me at the hearing of the appeal.

My intended representative is *(delete whichever does not apply)*

[a solicitor (*écrivain*) of the Royal Court] [an architect registered under the Architects (Jersey) Law 1954] [a member of the Royal Institution of Chartered Surveyors] [a chartered member of the Landscape Institute] [a Member of the Royal Town Planning Institute]

OR *(if the intended representative is none of the above)*

I APPLY for my intended representative to be approved as a person appropriate to represent me at the hearing of the appeal. My intended representative is –

(please specify the experience and qualifications of the intended representative in sufficient detail to enable the Court to determine whether he/she is a person appropriate to represent you at the appeal)

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(signed)
(Appellant)

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- 1 *chapter 07.770*
 - 2 *chapter 22.200*
 - 3 *chapter 07.770.72*
 - 4 *chapter 22.200*
 - 5 *chapter 05.025*