

**ORDINANCE**  
**OF THE STATES OF DELIBERATION**

ENTITLED

**The Land Planning and Development (Appeals) Ordinance,**  
**2007 \***

*[CONSOLIDATED TEXT]*

**NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* No. XXVII of 2007; as amended by the Land Planning and Development (Fees and Commencement) Ordinance, 2008 (No. XLI of 2008).

# ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

## **The Land Planning and Development (Appeals) Ordinance, 2007**

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*(Made on the 26<sup>th</sup> September, 2007.)*

## **The Land Planning and Development (Appeals) Ordinance, 2007**

**THE STATES**, in pursuance of their Resolutions of the 27<sup>th</sup> June 2002 and the 26<sup>th</sup> January 2005<sup>a</sup> and in exercise of the powers conferred on them by sections 16(6), 17(3), 29(4), 31(2)(c), 33(6), 35(2)(c), 68(7), 70(3)(a), 81, 86(10), 87(9), and 89 of the Land Planning and Development (Guernsey) Law, 2005<sup>b</sup>, and of all other powers enabling them in that behalf, hereby order: –

### **PART I**

#### **APPEALS TO THE PLANNING TRIBUNAL**

##### **Period for making an appeal against compliance notices or completion notices.**

**1.** (1) An appeal to the Planning Tribunal against a compliance notice under section 70(1) of the Law must be made within 28 days beginning with the date on which a copy of that notice was served on the appellant under section 48(3) of the Law.

(2) An appeal to the Planning Tribunal against a completion notice under section 70(2) of the Law must be made within 6 months beginning with the date on which a copy of that notice was served on the appellant under section 19(3) of the Law.

##### **Notice of appeal.**

**2.** (1) Any notice of appeal must be –

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<sup>a</sup> Billet d'État No. XI of 2002 and Article I of Billet d'État No. I of 2005.

<sup>b</sup> Order in Council No. XVI of 2005.

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- (a) made on a form obtained from the Department for the type of appeal in question, and
  - (b) accompanied by copies of the documents set out in subsection (3).
- (2) The Department must transmit to the Chairman of the Planning Panel –
  - (a) with the notice of appeal copies of the documents set out in subsection (3), and
  - (b) with the notice of appeal, or as soon as practicable thereafter, a list of the names and addresses of all the interested parties.
- (3) The documents which must accompany a notice of appeal are–
  - (a) in relation to an appeal made under section 68 of the Law, such of the following documents as are relevant to the appeal –
    - (i) the application made to the Department which has occasioned the appeal,
    - (ii) all plans, drawings and documents, including any Environmental Statement and any Compliance Document, sent to the Department

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in connection with the application,

- (iii) all correspondence with the Department relating to the application,
- (iv) the notification of the decision, if any, and
- (v) if the appeal relates to –
  - (A) an application for any consent or approval required by a condition imposed on a grant of planning permission, the application for that permission, the plans submitted with that application and the planning permission granted, or
  - (B) an application for the modification or discharge of a planning covenant, the instrument by which the planning covenant was entered into,
- (b) in relation to an appeal made under section 70 of the Law –
  - (i) the notice issued by the Department which has occasioned the appeal,
  - (ii) all correspondence with the Department relating to the notice,

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- (iii) in relation to a compliance notice, where that notice specifies that the terms of any planning permission have not been complied with, that planning permission, and
  - (iv) in relation to a completion notice, the planning permission to which that notice relates,
- (c) in relation to an appeal made in respect of an insertion or amendment of an entry on the protected monuments list or protected buildings list –
  - (i) the inserted or amended entry which has occasioned the appeal,
  - (ii) the notification by the Department to the appellant of the new or amended entry, and
  - (iii) all correspondence with the Department relating to the new or amended entry,
- (d) in relation to an appeal against a preservation notice –
  - (i) the notice issued by the Department which has occasioned the appeal, and
  - (ii) all correspondence with the Department relating to the notice, and

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- (e) in relation to an appeal against the confirmation of a tree protection order –
  - (i) the tree protection order which has occasioned the appeal,
  - (ii) any objections and representations duly made by the appellant to the Department in relation to the making of the order,
  - (iii) the notification by the Department to the appellant of the confirmation, and
  - (iv) all correspondence with the Department relating to the order.

**Conceding of appeal under section 68 of the Law—notice of revised decision.**

3. Where the Department concedes an appeal in whole or in part pursuant to section 68(7) of the Law –

- (a) it must, as soon as practicable, notify the parties and the Chairman of the Planning Panel of that decision, and
- (b) the notice of its revised decision in relation to the application which is the subject of that appeal, must be sent to the appellant within 14 days beginning with the date of the notification under paragraph (a).

**Appointment of the Planning Panel.**

4. The following persons may not be elected as members of the Planning Panel –

- (a) a Member of the States of Deliberation within the meaning of the Reform (Guernsey) Law 1948<sup>c</sup>,
- (b) an employee of the States who is employed by the States within the Department, a member of the Department or a person who carries out work for, or provides services to the Department in relation to any functions of the Department under the Law or the repealed enactments,
- (c) a member of the Strategic Land Planning Group,
- (d) a person who holds appointment to any judicial office in Guernsey,

or any person who has been such a person at any time within the period of two years ending on the date of the proposed election.

**Appointment of the Planning Tribunal.**

5. A member of the Planning Panel may not be appointed to be a member of the Planning Tribunal to hear and determine a particular appeal if he has

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<sup>c</sup> Ordres en Conseil Vol. XIII, p. 288 as amended by Vol. XIV, p. 407; Vol. XV, p. 279; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, pp. 84 and 140; Vol. XXII, p. 122; Vol. XXIII, p. 476; Vol. XXV, p. 326; Vol. XXVI, p. 255; Vol. XXIX, p. 56; Vol. XXX, p. 16; Vol. XXXI, pp. 164 and 278; Vol. XXXII, p. 41; No. V of 1993; No. II of 1996; No. III of 1998; No. X of 1998; No. XIII of 2003; No. III of 2004; and Ordinances XXXIII of 2003 and III of 2004.

any prior involvement, including any pecuniary interest, directly or indirectly with the appeal including any matter in respect of which the appeal is made.

**Determination of appeals by a single Planning Tribunal member.**

6. (1) Subject to subsection (2), the Chairman, or if he is unavailable, the Deputy Chairman of the Planning Panel may, with the written consent of the Policy Council, appoint single professional members of the Planning Panel to constitute the Planning Tribunal to –

- (a) hear and determine specified appeals or classes of appeal, or
- (b) determine such appeals or classes of appeal without a hearing on the basis of written representations,

subject to written consent being obtained, in relation to any such appeal arising, from the appellant and the Department.

(2) The Chairman or the Deputy Chairman of the Planning Panel may not appoint a single professional member to constitute the Planning Tribunal, in relation to an appeal or class of appeal, if the appeal is made in relation to –

- (a) an application which the Chairman, or if he is unavailable, the Deputy Chairman, of the Planning Panel considers to be a planning application of island wide significance, or
- (b) an EIA application, other than one in respect of which the Department has made a determination under

section 2(2) of the EIA Ordinance<sup>d</sup>.

[(2)] For the avoidance of doubt, where a single member of the Planning Panel is appointed under this section, section 87(2) and (5) of the Law shall not apply.

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**NOTE**

*The figure in square brackets shown, incorrectly, in the printed version of this section as "(2)" should read "(3)".*

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**Technical Adviser.**

7. (1) If it appears to the Chairman, or if he is unavailable, the Deputy Chairman of the Planning Panel, that evidence to be given in relation to a particular appeal is, or is likely to be, of such a specialist, technical or scientific nature that the Planning Tribunal is likely to need a technical adviser to assist it in relation to the assessment of that evidence, he may appoint an independent person as a technical adviser to the Planning Tribunal for the purpose of assisting with the assessment of that evidence.

(2) A person appointed under subsection (1) shall be a person appearing to the Chairman or Deputy Chairman of the Planning Panel who appointed him to have such qualifications and experience to enable him to carry out an expert assessment of the evidence in question.

**Determination by Planning Tribunal of appeals made under the Special Controls Ordinance.**

8. (1) On an appeal made in respect of an insertion or amendment of

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<sup>d</sup> Approved by resolution of the States on the 26<sup>th</sup> September, 2007.

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an entry on the protected monuments list or the protected buildings list, the Planning Tribunal must –

(a) if the appellant satisfies it of a ground mentioned in section –

(i) 18(1)(a) or (d),

(ii) 18(3)(a) or (d), or

(iii) 18(2)(b) or 18(4)(b),

of the Special Controls Ordinance<sup>e</sup>, delete the amendment or entry,

(b) if the appellant satisfies it of a ground mentioned in section 18(1)(b) or 18(3)(b) of the Special Controls Ordinance, amend the entry to show –

(i) in the case of a protected monument, the area of land it considers necessary for the support or preservation, or for the preservation of the setting, of that monument, or

(ii) in the case of a protected building, the extent of the land it considers necessary to be regarded as part of that building,

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<sup>e</sup> Approved by resolution of the States on the 26<sup>th</sup> September, 2007.

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under section 2 of the Special Controls Ordinance,

- (c) if the appellant satisfies it of a ground mentioned in section 18(1)(c) or 18(3)(c) of the Special Controls Ordinance, amend the entry so that it is in its opinion factually correct, and
- (d) otherwise, dismiss the appeal.

(2) On an appeal made against a preservation notice, the Planning Tribunal must –

- (a) if the appellant satisfies it of the ground mentioned in section 19(c) of the Special Controls Ordinance or satisfies it under the ground mentioned in section 19(a) of that Ordinance that none of the specified works are urgently necessary, quash the notice,
- (b) if the appellant satisfies it under the ground mentioned in section 19(a) of the Special Controls Ordinance that not all the works specified are urgently necessary or if the appellant satisfies it of the ground mentioned in section 19(b) of the Special Controls Ordinance, modify the notice to substitute such works as it regards being urgently necessary or, as the case may be, such period as appears to it to be reasonable, and
- (c) otherwise, uphold the notice.

(3) On an appeal against the confirmation of a tree protection

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order, the Planning Tribunal must –

- (a) if the appellant satisfies it of the ground mentioned in section 20(b) of the Special Controls Ordinance or satisfies it under the ground mentioned in section 20(a) of that Ordinance in relation to each tree to which the order relates, quash the order,
- (b) if the appellant satisfies it under the ground mentioned in section 20(a) of the Special Controls Ordinance in relation to one or more, but not all, of the trees to which that order relates, modify the order so that it only relates to those trees it considers should be protected in the interests of amenity, and
- (c) otherwise, dismiss the appeal.

(4) If a preservation notice or tree protection order is quashed under this section it ceases to be of any effect but this is without prejudice to the Department's power to issue another notice or make another order.

(5) If a preservation notice is upheld or modified under this section, it takes effect as if it were such a notice issued by the Department (in the revised form where appropriate) and as if it and any copies were served on the persons on whom they are required to be served, pursuant to the Special Controls Ordinance, on the date of the determination of the appeal.

(6) Sections 69(5) (appellant responsible for undue delay), 72(1) to (5), 73 and 74 of the Law (review of planning tribunal's decisions by the court) shall apply to an appeal under section 18, 19 or 20 of the Special Controls

Ordinance as they apply to an appeal under section 68 or 70 of the Law.

(7) For the avoidance of doubt, section 87(1) to (8) of the Law applies in relation to any appeal made under the Special Controls Ordinance to the Planning Tribunal.

PART II  
APPEALS TO AN ADJUDICATOR IN RELATION TO THE BUILDING  
REGULATIONS

**Interpretation of this Part.**

9. In this Part, unless the context otherwise requires –

"building", "building work", "full plans" and "plans" shall be construed in accordance with regulation 2 of the Building Regulations, 1992<sup>f</sup>, and

"controlled work" and "relevant building" shall be construed in accordance with regulation 12(8) of the Building Regulations, 1992.

**Right of appeal in relation to requirements of the building regulations.**

10. (1) Where the Department grants an application for planning permission and under section 17(2)(b)(ii) of the Law, when approving plans, imposes any further requirement for the purpose of securing compliance with building regulations, the applicant may appeal to an Adjudicator on the ground that –

(a) the further requirement so imposed is not reasonably

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<sup>f</sup> Guernsey S. I. No 27 of 1992, as amended by No. 39 of 2006.

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necessary for that purpose, or

- (b) the requirement of the building regulations in question does not apply to the operation.

(2) Where, pursuant to the building regulations, the Department –

- (a) rejects full plans, the person by whom or on whose behalf the plans were deposited may appeal, other than in relation to controlled work, to an Adjudicator on the ground that the plans, as deposited, were not defective and that the proposed works would not contravene the building regulations,

- (b) approves full plans with modifications or subject to conditions and grants a licence to execute works subject to those modifications or conditions, the person by whom or on whose behalf the plans were deposited may appeal to an Adjudicator on the ground that the modifications or conditions imposed were not reasonably necessary to ensure that –

- (i) the plans were not defective, and

- (ii) the proposed works or use to which the building is to be put would not contravene the building regulations,

- (c) gives notice that a licence to execute proposed works is no longer valid, the person to whom the licence was

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granted may appeal to an Adjudicator on the ground that the building works to which the licence relates –

- (i) had not ceased for a period of more than one year, or
- (ii) had recommenced, before the notice was issued.

(3) Where the Department, pursuant to the building regulations and in relation to work including or consisting of controlled work –

- (a) rejects plans or fixes, or refuses to extend, a period on the expiration of which a building or part of a building must be removed, then –
  - (i) where such decision is made in relation to the rejection or approval of plans, the person by whom or on whose behalf the plans were deposited, or
  - (ii) where such decision is made other than in relation to a rejection or approval of plans, the owner of the relevant building,

may appeal to an Adjudicator on the ground that the work cannot reasonably be regarded as controlled work or that the period fixed for the removal of the building, or part of it, is unreasonably short,

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(b) imposes or varies conditions with respect to the use of a building or part of a building or with respect to the controlled work –

(i) where such conditions are imposed in approving plans, the person by whom or on whose behalf the plans were deposited, or

(ii) where such conditions are imposed other than on an approval of plans, the owner of the relevant building,

may appeal to an Adjudicator on the ground that the work cannot reasonably be regarded as controlled work or that the condition imposed cannot reasonably be regarded as appropriate.

(4) Where the Department gives notice requiring a person who has carried out building work to cut into, lay open or pull down building work for the purpose of ascertaining whether or not the building regulations have been contravened, the person on whom the notice was served may appeal to an Adjudicator on the ground that such action is not reasonably necessary for that purpose or is disproportionate.

**Making of appeals in relation to the building regulations.**

**11.** (1) An appeal under section 10 must be made –

(a) in the case of an appeal under –

(i) section 10(1) or (2)(a) or (b), or

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- (ii) section 10(3)(a) or (b), in relation to the approval or rejection of plans,  
  
within 28 days beginning with the date on which the appellant was notified, under the building regulations, of the decision of the Department with regard to the plans,
- (b) in the case of an appeal under section 10(2)(c), within 28 days beginning with the date on which the notice that the licence is no longer valid was served on the appellant,
- (c) in the case of an appeal under section 10(3)(a) or (b), in relation to a decision made other than in relation to plans, within 28 days beginning with the date of service of the notice of such decision on the appellant, or
- (d) in the case of an appeal under section 10(4), within 28 days beginning with the date of service of the notice from the Department on the appellant.

(2) An appeal under section 10 must be made by notice served on the Minister of the Department stating the grounds and material facts on which the appellant relies and the Department shall immediately transmit the notice to the Policy Council to enable the Policy Council to appoint an Adjudicator.

(3) A notice of appeal under section 10 must be –

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- (a) made on a form obtained from the Department for the type of appeal in question, and
  - (b) accompanied by copies of the documents set out in subsection (5).
- (4) The Department must transmit to the Policy Council –
- (a) with the notice of appeal copies of the documents set out in subsection (5), and
  - (b) with the notice of appeal, or as soon as practicable thereafter, a list of the names and addresses of all the interested parties.
- (5) The documents which must accompany the notice of appeal are –
- (a) in relation to an appeal made under section 10(1) –
    - (i) the application for planning permission made to the Department,
    - (ii) the notification of the grant of planning permission,
    - (iii) the notification of the decision of the Department with regard to the plans under the building regulations,

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- (iv) the requirement of the building regulations in question,
  - (v) the further requirement in question imposed by the Department, and
  - (vi) all correspondence with the Department relating to the requirement of the building regulations in question and the further requirement imposed by the Department,
- (b) in relation to an appeal under section 10(2)(a) or (b) or 10(3)(a) or (b) with regard to plans –
- (i) the plans as deposited with the Department,
  - (ii) the notification of the decision of the Department with regard to the plans under the building regulations,
  - (iii) where plans were approved, the licence issued for the execution of the works, and
  - (iv) all correspondence with the Department relating to the deposit of the plans and their approval or rejection,
- (c) in relation to an appeal under section 10(3)(a) or (b) other than in relation to plans, 10(2)(c) or 10(4) –

- (i) the notice issued by the Department of the decision in question, and
- (ii) all correspondence with the Department relating to the notice.

**Determination of appeals by Adjudicators.**

- 12.** (1) On an appeal under section 10 the Adjudicator must –
- (a) if the appellant satisfies him of a ground mentioned in section 10(1), modify the decision of the Department with regard to the plans so as to remove or amend the further requirement in question,
  - (b) if the appellant satisfies him of the ground mentioned in section 10(2)(a), quash the decision of the Department with regard to the plans,
  - (c) if the appellant satisfies him of a ground mentioned in section 10(2)(b) or 10(3)(b), modify the decision, and any licence issued for the execution of works, to remove or amend the modifications or conditions,
  - (d) if the appellant satisfies him of a ground mentioned in section 10(2)(c), quash the notice,
  - (e) if the appellant satisfies him under section 10(3)(a) or (b), that the work cannot reasonably be regarded as controlled work, quash or modify the decision of the

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Department insofar as it purports to relate to such work,

- (f) if the appellant satisfies him under section 10(3)(a) or (b), that a period fixed for the removal of a building, or part of it, is unreasonably short, modify the decision of the Department to substitute such period as appears to him to be reasonable,
- (g) if the appellant satisfies him of a ground mentioned in section 10(4), quash the notice or modify it to substitute such action as he considers reasonably necessary and proportionate,

and otherwise uphold the decision or notice in question.

(2) If a decision or notice of the Department is quashed under this section it ceases to be of any effect but without prejudice to the Department's powers to make another decision or issue another notice.

(3) If a decision or notice is modified under this section, it takes effect as if it were such a notice or decision issued by the Department (in the modified form where appropriate) and as if served on the person on whom it was served under the building regulations on the date of the determination of the appeal.

(4) Section 69(5) (appellant responsible for undue delay), 72(1) to (5), 73 and 74 of the Law (review of planning tribunal's decision by the court) shall apply to an appeal under this section to an Adjudicator as they apply to an appeal under section 68 or 70 of the Law to the Planning Tribunal.

**Appointment and proceedings of Adjudicators.**

13. (1) When an appeal is instituted under section 10, the Policy Council shall, subject to subsections (2) and (3), appoint a person as an Adjudicator to hear and determine the appeal and may appoint him to determine an appeal without a hearing on the basis of written representations.

(2) The Adjudicator shall be a person with such qualifications and experience in matters relating to the building regulations and of such independence as in the opinion of the Policy Council is appropriate for the hearing and determination of the appeal.

(3) The Policy Council must not appoint as an Adjudicator any person –

(a) specified in section 4 or who is a member of the Planning Panel, or

(b) who has any prior involvement, including any pecuniary interest, directly or indirectly, with the appeal including any matter in respect of which the appeal is made.

(4) A hearing and every part of a hearing before an Adjudicator shall be held in public unless the Adjudicator directs otherwise.

(5) The Adjudicator may at any time exclude any person from a hearing or any part thereof.

PART III  
MATTERS APPLYING ON APPEALS TO PLANNING TRIBUNAL AND TO  
AN ADJUDICATOR

**Publication of notice of appeal.**

**14.** As soon as practicable after its appointment in relation to the appeal in question the Appellate Body must –

- (a) notify any interested party –
  - (i) that an appeal has been made, and
  - (ii) of the address to which and of a reasonable period within which interested parties may make representations to the Appellate Body, copied to the principal parties, concerning the appeal, and
- (b) in relation to an appeal made under section 68 of the Law, include in the notification made under paragraph (a), a clear statement that representations are only invited (insofar as they relate to materials, evidence and facts) on such matters that the Appellate Body may take into account in determining the appeal in accordance with section 69(1) of the Law and regulation 3 of the Appeals Regulations.

**Department's response to certain appeals.**

**15.** Where an appeal has been made under section 70 of the Law, section 18, 19 or 20 of the Special Controls Ordinance or section 10 of this Ordinance, the

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Department shall, within 28 days beginning with the date of the Minister's receipt of the notice of appeal and accompanying documents, send a summary of the Department's response to each of the grounds on which the appeal is brought to –

- (a) in the case of an appeal to the Planning Tribunal, the Chairman of the Planning Panel,
- (b) in the case of an appeal under section 10, the Adjudicator, and
- (c) the appellant and the interested parties.

**Consolidation of appeals.**

**16.** Where two or more appeals made to the Planning Tribunal or to an Adjudicator –

- (a) have been instituted in respect of the same decision,
- (b) raise the same or similar issues, or
- (c) relate to the same site,

then, in the case of an appeal to the Planning Tribunal, the Chairman, or if he is unavailable, the Deputy Chairman, of the Planning Panel or in the case of an appeal to an Adjudicator, the Policy Council, may, upon the request of the Department or the appellant or of his or its own motion, as the case may be, order the appeals or any particular issue or matter raised in the appeals to be consolidated or heard together.

**Stay of action and proceedings.**

17. (1) No proceedings may be instituted or continued –

- (a) under section 8 of the Special Controls Ordinance or action taken under section 50 of the Law, as applied by section 9 of the Special Controls Ordinance, if an appeal against a preservation notice under section 19 of that Ordinance is duly instituted, or
- (b) under chapter 3 of Part V of the Law (enforcement), in respect of a breach of the building regulations if an appeal is duly instituted under section 10 in relation to that breach of the building regulations.

(2) Subsection (1) continues to apply until the appeal is finally determined or withdrawn and it is not finally determined or withdrawn until any appeal or further appeal is determined or the time for appealing has expired without an appeal being instituted.

**Appointment of Secretary.**

18. (1) The Policy Council may –

- (a) appoint a secretary to –
  - (i) the Planning Panel, or
  - (ii) the Adjudicators,

on such terms and conditions and with such functions,  
and

- (b) provide such other officers and facilities to the Planning Panel or the Adjudicators,

as the Policy Council thinks fit.

**Procedure of Appellate Body.**

**19.** (1) The Department may by Regulations under this section make such provision as they think fit in relation to the determination of appeals including, without limitation, provision as to –

- (a) procedure, including –
  - (i) that which applies where the Appellate Body declines to determine an appeal,
  - (ii) the determination of appeals on the basis of written representations or by the holding of hearings,
  - (iii) the method of pleading,
  - (iv) the practice to be followed,
  - (v) the means by which particular facts may be proved,
  - (vi) the taking of evidence on oath,
  - (vii) the method by which evidence may be given,

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- (viii) the hearing or determination by written representations of specified classes or descriptions of appeals by the Planning Tribunal constituted by a single professional member,
  - (ix) that which applies where Environmental Impact Assessment is required to be carried out pursuant to section 10 of the EIA Ordinance as applied by section 12 of that Ordinance (appeal to the Planning Tribunal without an Environmental Statement), and
  - (x) the summoning of witnesses to give testimony or to produce documents,
- (b) the basis on which appeals are to be determined,
  - (c) costs (including the costs of a hearing), fees, expenses and allowances (including the expenses and allowances of the members of the Appellate Body) and the payment and recovery thereof, and
  - (d) ancillary matters.
- (2) Regulations under subsection (1) may, without limitation –
    - (a) regulate procedure in connection with matters preparatory to hearings (including the publication of

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notice of hearings) and subsequent to hearings, as well as in connection with the conduct of hearings, and

- (b) make provision as to the representation, and joining, of parties.

(3) The expression "**costs of a hearing**" shall (without prejudice to the generality of the expression) include –

- (a) any costs, fees and expenses reasonably incurred by any party in the preparation or presentation of his case, including witness costs,
- (b) any costs, fees and expenses of, or incidental or preliminary to, the holding or conduct of the hearing and the determination of the appeal, and
- (c) the costs, fees, expenses and allowances of the Appellate Body and the members thereof,

and, for the avoidance of doubt, includes any such costs arising where the appeal is determined on the basis of written representations.

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**NOTE**

*The following Regulations have been made under section 19:*

*Land Planning and Development (Appeals) Regulations, 2008.*

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**Offences in relation to hearings etc.**

20. A person who –

- (a) does anything before the Appellate Body which, if done before the Royal Court, would constitute a contempt of court, or
- (b) without reasonable excuse, obstructs or hinders the Appellate Body or, where relevant, any member of it in the exercise or purported exercise of their functions,

is guilty of an offence and is liable on conviction to a fine not exceeding level 5 on the uniform scale, imprisonment for a term not exceeding 3 months or both.

PART IV

MISCELLANEOUS

**Interpretation.**

21. (1) In this Ordinance, unless the context requires otherwise –

"**Adjudicator**" means a person appointed by the Policy Council under section 13 to hear and determine an appeal under section 10,

"**appeal**" means –

- (a) in Part I, an appeal made to the Planning Tribunal under section 68 or 70 of the Law or section 18, 19 or 20 of the Special Controls Ordinance,

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- (b) in Part II, an appeal made to an Adjudicator under section 10, and
- (c) in Part III, an appeal falling within paragraph (a) or (b),

**"Appeals Regulations"** means the Land Planning and Development (Appeals) Regulations, [2008]<sup>g</sup>,

**"Appellate Body"** means in relation to an appeal made under –

- (a) section 68 or 70 of the Law or section 18, 19 or 20 of the Special Controls Ordinance, the Planning Tribunal, and
- (b) section 10, an Adjudicator,

**"building regulations"** means regulations made by the Department under section 17 of the Law<sup>h</sup>,

**"Chairman of the Planning Panel"** means the person who is designated, from time to time, as the Chairman of the Planning Panel pursuant to section 86(3)(c) of the Law and related expressions shall be construed accordingly,

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<sup>g</sup> Made under section 19 of this Ordinance.

<sup>h</sup> By virtue of section 93(7) of the Law, the Building Regulations, 1992, as amended (Guernsey S.I. No. 27 of 1992, as amended by Guernsey S.I No. 39 of 2006), have effect as if made under section 17 of the Law.

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**"completion notice"** means a notice issued by the Department under section 19(1) of the Law stating that a planning permission will cease to have effect at the expiry of the period specified in the notice,

**"compliance document"** shall be construed in accordance with section 10(2) of the EIA Ordinance,

**"compliance notice"** shall be construed in accordance with the provisions of section 48(1) of the Law,

**"Department"** means the States of Guernsey Environment Department,

**"Deputy Chairman of the Planning Panel"** means the person who is designated, from time to time, as the Deputy Chairman of the Planning Panel pursuant to section 86(3)(d) of the Law and related expressions shall be construed accordingly,

**"EIA application"** shall have the meaning in section 13(1) of the EIA Ordinance,

**"EIA Ordinance"** means the Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007,

**"enactment"** includes a Law, an Ordinance and any subordinate legislation and any provision or portion of a Law, an Ordinance or any subordinate legislation,

**"Environmental Impact Assessment"** shall have the meaning in section 13(1) of the EIA Ordinance,

**"Environmental Statement"** shall have the meaning in section 13(1) of the EIA Ordinance,

**"interested party"** means –

- (a) in relation to an appeal made under section 68 of the Law, any person, other than the appellant, who is the owner or occupier of the land,
- (b) in relation to an appeal made under section 70 of the Law, any person, other than the appellant, on whom a copy of the relevant completion notice or compliance notice, as the case may be, was required to be served in accordance with the Law,
- (c) in relation to an appeal made in respect of the insertion or amendment of an entry on the protected monuments list or the protected buildings list –
  - (i) any person, other than the appellant, who the Department are required to notify of the inserted or amended entry under section 4 or 5 of the Special Controls Ordinance, and
  - (ii) any person or body who the Department consulted in relation to the inserted or amended entry under section 6 of the Special Controls Ordinance,

*Consolidated text*

- (d) in relation to an appeal against a preservation notice –
  - (i) any person other than the appellant on whom a copy of the notice is required to be served under section 7(1) of the Special Controls Ordinance, and
  - (ii) any person or body who the Department has consulted under section 6 of the Special Controls Ordinance,
- (e) in relation to an appeal against the confirmation of a tree protection order, any person other than the appellant who the Department are required to notify of the confirmation under section 16(a) or (b) of the Special Controls Ordinance, and
- (f) in relation to an appeal under section 10, any person, other than the appellant, who is –
  - (i) the owner of the building concerned or, in the case of a proposed building, the owner of the land concerned,
  - (ii) the occupier of that building or land, and
  - (iii) any other person appearing to the Department to have an interest in that building or land which is materially affected by the decision or notice of the Department to which the appeal

relates,

**"the Law"** means the Land Planning and Development (Guernsey) Law, 2005,

**"notice"** means notice in writing,

**"notice of appeal"** means –

- (a) in Part I, a notice of appeal made under –
  - (i) section 68(5) or 70(3)(b) of the Law, or
  - (ii) section 21 of the Special Controls Ordinance,
- (b) in Part II, a notice of appeal made under section 11, and
- (c) in Part III, a notice of appeal falling within paragraph (a) or (b),

**"notify"** means notify in writing,

**"parties"** means the Department, the appellant and any interested party,

**"planning covenant"** has the meaning given by section 23(1) of the Law,

**"Planning Panel"** means the Panel established under section 86 of

the Law,

**"planning permission"** means the permission which is required under section 14 of the Law for the carrying out of any development of land,

**"Planning Tribunal"** means the Tribunal the members of which are appointed under section 87 of the Law to hear and determine an appeal under the Law,

**"Policy Council"** means the States of Guernsey Policy Council,

**"preservation notice"** shall be construed in accordance with section 7(1) of the Special Controls Ordinance,

**"principal parties"** means the Department and the appellant,

**"professional members"** means the members of the Planning Panel designated as "professional members" in accordance with section 86(3)(b) of the Law,

**"protected building"** means a building, or any part of a building, which is of special historic, architectural, traditional or other interest and which is listed on the protected buildings list,

**"protected buildings list"** means the list of protected buildings prepared, maintained, and kept under review by the Department under section 33(1) of the Law,

**"protected monument"** means a monument, structure, artefact, cave, ruin or remains which are of archaeological, historic, traditional,

artistic or other special interest and which is listed on the protected monuments list,

**"protected monuments list"** means the list of protected monuments prepared, maintained and kept under review by the Department under section 29(1) of the Law,

**"repealed enactments"** means the enactments listed in Part I of Schedule 3 to the Law which are repealed by the Law,

**"Special Controls Ordinance"** means the Land Planning and Development (Special Controls) Ordinance, 2007,

**"Strategic Land Planning Group"** means the Group appointed under section 3(1) of the Law,

**"subordinate legislation"** means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect,

**"tree protection order"** means an order made under section 43(1) of the Law for the protection of any tree, group or area of trees or woodlands,

**"under the Law or the repealed enactments"** includes provisions made under the Law or the repealed enactments and related expressions shall be construed accordingly,

and other terms used in this Ordinance which are not defined in it but are defined in the Law shall have the same meaning as in the Law.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

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**NOTE**

*In section 21, the date in square brackets in the definition of the expression "Appeals Regulations" in subsection (1) was substituted by the Land Planning and Development (Fees and Commencement) Ordinance, 2008, section 14(2), with effect from 6th April, 2009.*

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**Amendment of the Law.**

**22.** (1) The Law shall be amended as follows.

(2) In section 19 (completion notices), after subsection (2) insert the following subsection –

" (2A) If an appeal is instituted under section 70 against a completion notice and the period specified in the notice (at the expiry of which the planning permission is to become invalid) expires before the date on which the appeal is finally determined or withdrawn, then, without prejudice to the provisions of section 71(5), that period shall be extended until that date."

(3) In section 86 (establishment of Planning Panel), after subsection (5) add the following subsections –

" (5A) The States may, on the recommendation of the Policy Council, at any time after the first members of the Planning Panel have been elected pursuant to this section, resolve to –

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- (a) increase the number of Panel members so it consists of a maximum of 9 persons in total, and
- (b) elect new members accordingly.

(5B) Where the States make a resolution pursuant to subsection (5A) –

- (a) subsection (1) shall have effect as if it referred to the Panel consisting of such number of persons as the States have so resolved,
- (b) subsection (2) shall apply to a recommendation under subsection (5A) as it applies to a recommendation under subsection (1), and
- (c) subsection (3)(a) and (b) shall have effect so that they require the proportion of members resident in the Channel Islands and of professional members to remain the same as is required in relation to a Panel of 6 insofar as is possible having regard to the new total number of Panel members."

[(2)] In section 87(9) (Ordinance making powers in relation to appeals) for the words "under sections 68 and 70" substitute "made to the Planning Tribunal under this Law".

[(3)] In Schedule 2 in the definition of "Planning Tribunal" for the

words "under section 68 or 70" substitute "under this Law".

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**NOTE**

*The figures in the first and second pairs of square brackets shown, incorrectly, in the printed version of this section as "(2)" and "(3)" should read, respectively, "(4)" and "(5)".*

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**Citation.**

**23.** This Ordinance may be cited as the Land Planning and Development (Appeals) Ordinance, 2007.

**Commencement.**

**24.** This Ordinance shall come into force on the same date as the Law.

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**NOTE**

*The Law was brought into force on 6th April, 2009 by the Land Planning and Development (Fees and Commencement) Ordinance, 2008, section 15.*

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