



BILLET D'ÉTAT

XXII
2001

WEDNESDAY, 28th NOVEMBER, 2001

1. Projet de Loi entitled "The Data Protection (Bailiwick of Guernsey) Law, 2001", p. 1477.
2. States Advisory and Finance Committee – Payments to States Members, p. 1478.
3. States Advisory and Finance Committee – Amendment to the European Communities (Bailiwick of Guernsey) Law, 1973, p. 1480.
4. States Board of Health – St. John Ambulance & Rescue Service – States Grant, p. 1482.
5. Island Development Committee – Programme for the Review of the Detailed Development Plans, p. 1493.
6. Island Development Committee – Review of the Island Development (Guernsey) Laws, 1966 and 1990, p. 1496.

Statutory Instruments laid before the States

The Health Service (Medical Appliances) (Amendment) (No.2) Regulations, 2001, p. 1578.

The Health Service (Pharmaceutical Benefit) (Restricted Substances) (Amendment) Regulations, 2001, p. 1578.

The Currency Offences (Designation of Euro) Order, 2001, p. 1578.

APPENDICES

- I. States Advisory and Finance Committee – Guernsey Retail Price Index as at 30th September, 2001, p. 1579.
- II. States Education Council – The Guernsey College of Further Education: Annual Report 2000 / 2001, p. 1581.
- III. States Civil Service Board – States of Guernsey Public Servants' Pension Scheme: 2002 Pensions Increase, p. 1597.

BILLET D'ÉTAT

**TO THE MEMBERS OF THE STATES OF
THE ISLAND OF GUERNSEY**

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE, on WEDNESDAY, the 28th NOVEMBER, 2001, at 10.00 a.m.**

PROJET DE LOI

ENTITLED

THE DATA PROTECTION (BAILIWICK OF GUERNSEY) LAW, 2001

The States are asked to decide:—

I.— Whether they are of opinion to approve the Projet de Loi entitled “The Data Protection (Bailiwick of Guernsey) Law, 2001”, and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal sanction thereto.

STATES ADVISORY AND FINANCE COMMITTEE

PAYMENTS TO STATES MEMBERS

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

4th October, 2001.

Dear Sir

PAYMENTS TO STATES MEMBERS

1. The present arrangements for payments to States Members have, in substance, remained unchanged since they were approved by the States in 1988.
2. The Advisory and Finance Committee intends to commission an independent review of the way in which States Members are remunerated. It would be illogical, however, for that review to proceed before the States have decided upon the form of government best suited for Guernsey. It is expected that any changes in the system of payments to States Members resulting from the independent review will be introduced with effect from the 1st May 2004.
3. There is one area, however, which the Committee believes should be addressed immediately. There are four categories of allowances:
 - (a) Compensation payment;
 - (b) Expense allowance;
 - (c) Presidential allowance;
 - (d) Attendance allowance.

The first three allowances are available to all members regardless of means but the Attendance Allowance is subject to means-testing.

4. The Attendance Allowance (currently £26.29 per half day) is payable only where the member's income from all sources does not exceed £43,810 in the case of married members or £26,286 for other members. In the case of married members the spouse's income is also taken into account.
5. The Committee considers that it is no longer acceptable for a member's remuneration to be controlled by reference to means or to spouse's income. It is also inequitable that a spouse's income is taken into account whereas the income of a partner (i.e. not a spouse) is not considered. All members should be treated equally regardless of means or marriage.

6. At present approximately 30 members claim Attendance Allowance. If all members were entitled to claim it is estimated that the annual additional cost would be in the region of £80,000.
7. The Committee is of the view that the Attendance Allowance should be payable to all States Members, regardless of means or marriage from 1st January 2002. This can be brought into effect by deleting one sub-paragraph of the Rules.
8. The States Advisory and Finance Committee recommends the States to agree that Rules for Payments to States Members, Former States Members and Non-States Members of States Committees approved by the States on 28th February, 1996 be amended to the extent that sub-paragraph 3(e) be rescinded.
9. I should be grateful if you would lay this matter before the States with appropriate propositions.

Yours faithfully,

L. C. MORGAN,

President,
States Advisory and Finance Committee.

The States are asked to decide:—

II.— Whether after consideration of the Report dated the 4th October, 2001, of the States Advisory and Finance Committee, they are of opinion:—

That the Rules for Payments to States Members, Former States Members and Non-States Members of States Committees approved by the States on the 28th February, 1996, shall be amended to the extent that sub-paragraph 3(e) be rescinded.

STATES ADVISORY AND FINANCE COMMITTEE**AMENDMENT TO THE EUROPEAN COMMUNITIES
(BAILIWICK OF GUERNSEY) LAW, 1973**

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

12th October, 2001.

Dear Sir

At their meeting on the 31 October, 2001 the States will be asked to approve the Ordinance entitled The European Communities (Bailiwick of Guernsey) (Amendment) Ordinance 2001 the purpose of which is to add the Treaty signed at Nice on the 26 February, 2001 to the list of treaties specified in the European Communities (Bailiwick of Guernsey) Law, 1973.

The Law Officers have advised the Committee that an amendment will also be required to the 1973 Law to enable the Treaty of Nice to be fully implemented in the Bailiwick.

Under the Treaty of Nice, the status of the Court of First Instance is being changed. When that Court was created it was described as being "attached" to the European Court of Justice. It is now to have a more independent status and judicial panels may be attached to it. For this reason the definition of "the European Court" in section 1 (1) of the 1973 Law will need to be changed so that the references to the various decisions, expressions of opinion and judgments or orders of "the European Court" in section 3 of the Law properly reflect the new institutional structure after the Treaty of Nice is brought into effect. If this change is not made, it will mean that the authority to rely on future decisions, etc. of the unattached Court of First Instance would be lost.

The Advisory and Finance Committee concurs with the Law Officers' views and recommends that the European Communities (Bailiwick of Guernsey) Law, 1973 be amended on the lines set out above.

The Authorities in Alderney and Sark raise no objection to the proposed legislation.

I should be grateful if you would lay this matter before the States with appropriate propositions including one directing the preparation of the necessary legislation.

Yours faithfully,

L. C. MORGAN,

President,
States Advisory and Finance Committee.

The States are asked to decide:—

III.—Whether, after consideration of the Report dated the 12th October, 2001, of the States Advisory and Finance Committee, they are of opinion:—

1. That the European Communities (Bailiwick of Guernsey) Law, 1973, shall be amended along the lines set out in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

STATES BOARD OF HEALTH**ST. JOHN AMBULANCE & RESCUE SERVICE – STATES GRANT**

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

23rd October, 2001.

Dear Sir

ST JOHN AMBULANCE & RESCUE SERVICE – STATES GRANT**1. EXECUTIVE SUMMARY**

- 1.1 Until 1993, the States' grant to the Ambulance Service was a deficiency grant, which made up any shortfall in the budget for the provision of the road ambulance by the service. In 1993, this was changed to a fixed grant to cover revenue and average capital costs, with changes in future years being in line with increases or decreases in revenue allocations made by the States to the Board of Health for the management of its own services. The policy letter which brought in this change (Billet d'État XXIV 1992) indicated that the calculation should exclude increases in the Board's budget which were one off allocations for new developments
- 1.2 In 1996, there was correspondence between the Board of Health, the St John Ambulance & Rescue Service and the Advisory and Finance Committee, the result of which was an agreement between the Board and the St John Ambulance & Rescue Service on the increases in the Board of Health's revenue allocations which should be excluded from the calculations of the grant. Similar exclusions were made in the following years and the St John Ambulance & Rescue Service was provided with the detail of these. However, the St John Ambulance & Rescue Service only accepted the arrangement reluctantly.
- 1.3 Last year, the St John Ambulance & Rescue Service notified the Board that the service was moving towards a deficit as its reserves were becoming depleted.
- 1.4 Further information on the needs of the Ambulance Service was requested and, in March this year, a request was received that the grant for 2001 be increased by £316,500, the amount of the predicted deficit for the year 2001, and that a further £454,000 be paid to the service to replenish the reserves which had been depleted. These sums were to be over and above the increase already provided for by the Board of Health in line with the 1996 agreement. The St John Ambulance & Rescue Service also proposed that the grant be increased in future by the same percentage rise as the Board of Health's allocation in future years, subject to a maximum of 50% in the difference between this rise and the relevant RPI at the time of setting the budget.

- 1.5 The Board of Health accepted that a £100,000 non-recurring increase in the level of grant should be paid in 2001 and 2002 in order to replenish the St John Ambulance & Rescue Service reserves and also agreed that, for future years, the annual grant should be increased by 50% of the difference between the Board of Health's growth in allocation and RPI, subject to a limit of a maximum of 3% above RPI in any one year. The Ambulance Service also clarified that some of the increase in budget in 2001 was attributable to the need to invest in essential control room equipment and training, both of which had been deferred for some years. However, the Board was not convinced that the recurring increase needed to be more than £150,000.
- 1.6 The Board also considered that it would be appropriate for the States' Internal Audit Department to be given a role in ensuring that the grant to the St John Ambulance & Rescue Service, which currently stands at £1,108,850 per annum, is achieving value for money, in the same way as the Internal Audit Department operates within the Board's own service areas and those of other States committees. Obviously, both parties would need to agree the terms of reference of the audit programme prior to the commencement of such a programme and the audit staff would need to be aware of and comply with the St John rules and regulations during the course of their audit work.
- 1.7 It is anticipated that the role of the Internal Audit Department would constitute the following:
- internal controls review
 - verifying that the Service Level Agreement (see 1.8) is being complied with, and;
 - providing a view that value for money is being provided to the States from the agreement with St John Ambulance & Rescue Service.
- 1.8 In order to have a firm basis upon which to measure the value for money in respect of the grant given to the St John Ambulance & Rescue Service, it is essential that a mutually acceptable Service Level Agreement be put in place as soon as practicable but, in any event, by no later than 1 January 2002. A great deal of preparatory work has already taken place between the two parties in this regard, so this should be achievable and implementable within the timescale stipulated.
- 1.9 The Board is, therefore, proposing that:
- the States' grant to the St John Ambulance & Rescue Service be increased by £150,000 recurring for 2001 and thereafter;
 - a non-recurring sum of £100,000 be allocated to the St John Ambulance & Rescue Service in 2001 and a further £100,000 in 2002 in order to replenish the service's reserves;
 - from 2002 onwards, the annual grant to the St John Ambulance & Rescue Service be increased at 50% of the difference between the Board's growth allocation and RPI, provided that such increase is limited to a maximum of 3% above RPI in any one year;
 - the Board be authorised, subject to permission from the Advisory and Finance Committee, to make the above mentioned non-recurring £100,000, or any lesser amount, a recurring payment to the St John Ambulance & Rescue Service, subject to verification that such an amount is necessary for the proper running of the St John Ambulance & Rescue Service;

- there be a regular review of the calculation of the grant every 3 years:
- the Board receive additional information on the St John Ambulance & Rescue Service's accounts and proposals for service developments. Similarly, the Board should keep the Ambulance Service aware of changes in internal practice which could have a bearing on the running of the Ambulance Service.
- the Service Level Agreement, once finalised and implemented, should be reviewed on a regular basis by both parties, probably on a biennial basis.

2. **BACKGROUND HISTORY**

- 2.1 Prior to 1993, the grant to the Ambulance Service was operated on a deficiency basis in that any losses against the Ambulance Service's budget for the provision of agreed services were made good by the Board of Health in the following year.
- 2.2 This system created problems for the Board of Health with the introduction of cash limited budgets, as the commitment was open ended.
- 2.3 In 1993 the States resolved (Billet d'État XXIV 1992) that the deficiency grant arrangements be replaced with a fixed grant arrangement.
- 2.4 The important recommendations contained within the policy letter were as follows:
- i That with effect from 1st January 1993, the St John Ambulance & Rescue Service would receive an annual fixed grant to cover revenue and average capital costs calculated in future years to increase (or decrease) annually in line with the revenue allocation made by the States to the Board of Health for the management of its services for the year in question.
 - ii To authorise the States Board of Health to make a further payment of £111,000 to the St John Ambulance & Rescue Service in respect of expenditure on the purchase of capital equipment required to be replaced in 1993, that payment to be exceptional to the arrangements for the provision of an annual fixed grant to the St John Ambulance & Rescue Service and without precedent to the calculations of the said grant for future years.
 - iii To note that after two full years of operation, if the States Board of Health or the St John Ambulance & Rescue Service concluded that the payment of a fixed annual grant to the St John Ambulance & Rescue Service to cover revenue and average capital costs was an unsatisfactory means of funding the provision of Ambulance Services, this should be reviewed by the States Board of Health and other options considered further including a directly managed service.
- 2.5 In the 1992 policy letter, it was stated that "one off allocations for new developments" would be excluded from the formula for calculating the Ambulance Service's grant.
- 2.6 As a result of this policy letter, a base line 1993 budget for the Ambulance Service was set at £980,000, although some £111,000 was in respect of the one off capital grant referred to above, thus the underlying revenue grant was set at £869,000.

- 2.7 Thereafter, the idea was that the grant to the St John Ambulance & Rescue Service would increase (or decrease) in line with the growth in the Board of Health's revenue allocation each year.
- 2.8 In the period 1993 to 2001, the Board of Health's allocation has increased by 60.88%. However, over the same period, the grant to the Ambulance Service only grew by 27.6%, ignoring the impact of the one off capital grant of £111,000 in 1993.
- 2.9 As a proportion of the Board's overall cash limit, the Ambulance Service accounted for 2.63% of the budget in 1993 but only accounts for 2.08% in the 2001 budget.
- 2.10 The reason for the apparent deterioration in the proportion of the grant given to the St John Ambulance & Rescue Service compared to the Board's overall budget is that the latter has increased significantly, particularly since 1996 but the increases in allocations to the Board were predominantly on services which were not regarded by the Board as having any significant impact on the Ambulance Service.
- 2.11 It should also be noted that, over the period in question, the Ambulance Service also introduced service developments, such as a paramedic service, without any specific funding being identified or provided for such developments.
- 2.12 This apparent deterioration in the level of grant paid to St John Ambulance & Rescue Service obviously caused the latter a level of difficulty which culminated in an exchange of correspondence in 1996 between the St John Ambulance & Rescue Service, the Board of Health and the Advisory & Finance Committee.
- 2.13 The result of this correspondence was a revised funding mechanism with the St John Ambulance & Rescue Service in 1996, which treated the St John Ambulance & Rescue Service in much the same way as it treated its own departments, with budget increases being applied using assumptions recommended by the States Treasury at the time of setting annual budgets for general revenue committees but by making various exclusions as agreed in 1996.
- 2.14 Correspondence was received from the St John Ambulance & Rescue Service seeking clarification of the makeup of the grant in 1997, 1998 and 1999. Such clarification was provided, including details of items which had been specifically excluded from the grant calculation. This information and the grant were accepted by the St John Ambulance & Rescue Service without any adverse comment.
- 2.15 In September 2000, the St John Ambulance & Rescue Service notified the Board of Health that the service was moving towards a deficit budget in that its reserves were becoming depleted and would, by the end of 2001, be exhausted, leaving the service in 2002 with a funding deficit.

3. NEED FOR REVIEW OF GRANT FUNDING

- 3.1 Various options for funding the Ambulance Service have been considered but a review of the grant funding arrangement, if a mutually acceptable agreement can be negotiated, is the preferred solution by both the Board of Health and the Ambulance Service, although there is no reason why it should not be accompanied by some increases in charges for services.

- 3.2 Such a review would need to have several features including:–
- i an agreed formula for calculating the grant with a maximum percentage increase applied and a built in three year review period;
 - ii such a formula would be based on an indexing arrangement equivalent to 50% of the difference between the increase in the Board of Health's budget allocation and Guernsey RPI at the time the Board is advised of its proposed budget allocation, normally in June each year, subject to a maximum of 3% above RPI;
 - iii agreement that the States Internal Audit Department undertakes appropriate audits to ensure that the States are obtaining value for money from the grant given.
 - iv the Service Level Agreement which is currently under negotiation between the two parties should be finalised and implemented as soon as practicable, so as to have a firm basis upon which to assess value for money.

4. **PROPOSALS FOR THE WAY FORWARD**

- 4.1 As mentioned above, in September 2000, the St John Ambulance & Rescue Service advised the Board of Health that the service was experiencing financial problems. In response, the Board asked for further information, which led to a series of meetings and the Chief Executive of the St John Ambulance & Rescue Service wrote on 21st March 2001 with a set of proposals for consideration by the Board which were:
- i that the annual grant for 2001 be increased by £316,500 over and above the increase already provided for by the Board of Health. In addition, that a further £454,000 be repaid as a one off lump sum, or if more acceptable, paid in instalments over a period of 5, 7 or 10 years to replenish the reserves which he stated had been depleted in order to fund core activities due to the shortfall in grant funding over the last 5 years;
 - ii that the grant be increased by the same percentage rise as the Board of Health's allocation subject to a maximum of 50% of the difference between this rise and the relevant RPI at the time of setting the budget.
- 4.2 These proposals were considered by the Board of Health and further meetings were held between representatives of the Board and the St John Ambulance & Rescue Service to discuss them.
- 4.3 The Board had no problem with the methodology proposed for indexing the annual grant, subject to the annual grant not increasing by more than 3% above RPI.
- 4.4 An analysis of the St John Ambulance & Rescue Service's 2001 budget would suggest that, although the budget showed an anticipated deficit of £316,500, the accumulated deficit for 2001, even allowing for a 14% increase in the level of expenditure during 2001, would only be £118,706. This level of deficit would, however, completely deplete the remaining core ambulance service reserves. Had the St John Ambulance & Rescue Service restricted the 2001 budget increase to an RPI increase only, then it would not have been operating a deficit budget in 2001 and would have retained some reserves. It is understood, however, that the 14% increase relates primarily to training costs and the refurbishment of the control room, both of which were items of expenditure which had been deferred for some time.

- 4.5 The St John Ambulance & Rescue Service requested £454,000 to replenish its reserves. Based on the “unrestricted” income and expenditure account for 2001, reserves of £454,000 would equate to holding a reserve of 24% of the core ambulance service operating expenses.
- 4.6 In the Board of Health’s view, uplifting the St John Ambulance & Rescue Service annual grant in 2001 by £150,000 would more than adequately cover the cumulative budget deficit in 2001. Indeed, it would give a small surplus of just over £31,000. If, in addition, the annual grant was increased non recurrently by an additional £100,000 in 2001 and 2002, then the reserves could be replenished by just over £231,000 over two years.
- 4.7 Taking all of the above into account, the Board agreed that, subject to the States approving an increase in the Board’s revenue budget of £250,000, the Board would be prepared to recommend that the annual grant to the St John Ambulance & Rescue Service be uplifted by £150,000 per annum, that an additional £100,000 per annum for a maximum of two years be paid to the St John Ambulance & Rescue Service as an exceptional payment to enable the replenishment of the service’s reserves and that the annual grant be increased at 50% of the difference between the Board’s growth in revenue allocation and RPI, provided that such an annual increase is limited to a maximum of 3% above RPI in any one year.
- 4.8 Subject to the St John Ambulance & Rescue Service agreeing to inclusion in the rolling programme of audits that the Internal Audit Department undertakes and that, as a result of these value for money studies, it can be demonstrated that the Ambulance Service’s annual budget should be uplifted by more than the £150,000 proposed, then the Board of Health would be prepared, subject to permission from the Advisory and Finance Committee, to make the £100,000 per annum, or an appropriate part thereof, recurrent to cover both the St John Ambulance & Rescue Service’s operating expenses and ongoing replenishment of the reserves.
- 4.9 This additional funding would be subject to an increase in the Board’s revenue budget of at least £250,000 in 2001 and 2002 and between £150,000 and £250,000 per annum (at 2001 prices) thereafter, dependent upon the outcome of value for money audits.
- 4.10 In agreeing to uplift the annual grant, both parties would be required to sign up to an agreed service specification that details the standard and level of services to be provided. This document is at an advanced stage of drafting between the parties and it is anticipated that it will be finalised and implemented as soon as practicable, but in any event by no later than 1 January 2002.
- 4.11 The Board has been advised that the St John Ambulance & Rescue Service Board finds these proposals acceptable.

5. **INVOLVEMENT OF THE STATES IN THE ST JOHN AMBULANCE & RESCUE SERVICE’S OPERATIONAL ACTIVITIES**

- 5.1 Prior to the publication of the Billet d’État in December 1992, the Board of Health had representation on the Management Board of the St John Ambulance & Rescue Service but this ceased, with agreement, with effect from the onset of the revised funding arrangements.
- 5.2 As a result, from 1993 onwards, the Board has had no direct involvement in the operational affairs of the St John Ambulance & Rescue Service but has received a set of audited accounts on an annual basis, which is all that was required under this arrangement.

- 5.3 Because of this arm's length involvement in the service, despite being the principal provider of funding for it, any service developments taking place were undertaken without the knowledge of the Board of Health. This accorded with the 1993 States Resolution which resolved that the Ambulance & Rescue Service's management would be free to act without interference or control by the Board.
- 5.4 This situation would have been satisfactory had the service been able to live within the agreed grant funding but some of these developments have undoubtedly contributed to the financial problems that the service currently faces and which the States are being asked to remedy by way of increased grant funding.
- 5.5 The St John Ambulance & Rescue Service has been willing to share information with the Board of Health but the Board has had little need to request it in the past. However, there is now a perceived need for this sharing of information to change to assist both parties. The information requirements in the future would be not just financial but also activity related, including emerging trends. The Board of Health has also offered the Board of the St John Ambulance & Rescue Service the opportunity to attend one of their meetings on a biannual basis to discuss items of mutual interest in respect of the running of the Ambulance Service.
- 5.6 It is accepted that the financial statements referred to above are subject to audit scrutiny by the service's external auditors, KPMG but their review would differ from that of internal audit, in that the former would only ensure that the financial statements for the year were a true and fair reflection of the financial activities of the organisation for the financial year in question, ie that the accounts had been properly prepared in accordance with the service's accounting policies and any local relevant legislation.
- 5.7 The Internal Audit Department, however, could provide a much more operationally focused review than that provided by the Ambulance Service's external auditors, KPMG, looking at the relevant financial activities of the service, eg staff costs, transport costs etc, in a greater level of detail and making recommendation to improve the efficiency and effectiveness of the organisation, in much the same way as happens with the Board's own service areas and those of other States Committees. The exact terms of reference for involving the Internal Audit Department would have to be agreed at the outset and be acceptable to both parties prior to proceeding but the role of the Internal Audit Department is likely to include the following:
- internal controls review
 - verifying that the Service Level Agreement is being complied with and;
 - providing a view that value for money is being provided to the States from the contract with St John Ambulance & Rescue Service.
- 5.8 It is proposed, therefore, that, at the States' expense, the St John Ambulance & Rescue Service becomes involved in the rolling programme of audits that the Internal Audit Department undertakes, so as to promote openness and probity, as well as ensuring that the States are getting value for money from the grant paid. The Director of Audit Services has confirmed that her department would be prepared to undertake the necessary audits.

6. CONCLUSIONS

- 6.1 The Board of Health accepts that the St John Ambulance & Rescue Service requires an increase in the annual grant to ensure the continuation of the high quality Ambulance Service provided. The Board has some difficulty, however, in understanding exactly how much the St John Ambulance & Rescue Service requires and therefore proposes an interim solution to the service's immediate financial deficit by increasing the grant on a recurrent basis by £150,000, plus, for two years, making a non recurrent addition to the grant of £100,000 to enable the service to replenish its depleted reserves.
- 6.2 The Board considers that, subject to the outcome of the value for money audits, the recurrent funding of £150,000 should continue or be adjusted in light of such findings up to a maximum of £250,000, subject to the approval of the Advisory and Finance Committee.
- 6.3 Although the St John Ambulance & Rescue Service believes that it will be necessary to make the full £250,000 a recurring payment, it accepts the Board's conclusions and supports the proposals.

7. RECOMMENDATIONS

The Board of Health recommends the States:

1. Subject to the St John Ambulance & Rescue Service agreeing to becoming involved in the rolling programme of audits that the Internal Audit Department undertakes on behalf of the States of Guernsey, and a Service Level Agreement being finalised and implemented by 1 January 2002;
 - i to increase the grant to the St John Ambulance & Rescue Service by £150,000 recurring for 2001 and thereafter;
 - ii to provide an additional non-recurring sum of £100,000 to the St John Ambulance & Rescue Service in 2001 and a further non-recurring sum of £100,000 in 2002 in order to replenish the service's reserves.
 - iii to authorise the Board of Health, subject to permission from the Advisory and Finance Committee, to make the above mentioned non-recurring sum of £100,000 or any lesser amount a recurring payment to the St John Ambulance & Rescue Service, subject to verification from value for money studies that such an amount is necessary for the proper running of the St John Ambulance & Rescue Service.
2. To increase, from 2002 onwards, the annual grant to the St John Ambulance & Rescue Service by 50% of the difference between the Board's growth in allocation and Guernsey RPI at the time of setting such a budget allocation, provided that such increase is limited to a maximum of 3% above RPI in any one year.
3. To increase the Board's revenue budget for 2001 and 2002 by £250,000 per annum and subject to the value for money review between £150,000 and £250,000 inflated to 2003 prices from 2003 onwards.

4. To authorise the level of the annual grant and method of indexation to be formally reviewed by the Board and the St John Ambulance & Rescue Service every three years. If, as a result, there is a requirement to adjust the Board's revenue budget, this will be addressed through the Policy and Resource Planning process.
5. To review the Service Level Agreement between the Board of Health and the St John Ambulance & Rescue Service on a regular basis, which shall be no less frequently than biennially.

I request that you will be good enough to lay this policy letter before the States, together with appropriate propositions.

Yours faithfully,

P. J. ROFFEY,

President,
States Board of Health.

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

24th October, 2001

Dear Sir,

I refer to the letter dated 23 October 2001 addressed to you by the President of the Board of Health on the subject of the States grant to the St John Ambulance and Rescue Service.

The Advisory and Finance Committee recognises the importance of the service that the St. John Ambulance and Rescue Service provides to the Island. The Committee supports the Board of Health's proposals.

The Committee is particularly pleased that the Service will be subject to regular review by the Internal Audit Department and believes that this will be of considerable benefit to both the Board and the management of the Ambulance Service.

The Committee also welcomes the preparation of a formal Service Level Agreement which will provide a firm basis to enable all the parties concerned to ensure that value for money is provided. The preparation of such an agreement is long overdue.

Although the Committee supports the Board's proposals, it does not believe that the existing basis for determining the annual grant to the Service by reference to the general increase in the Board's own revenue expenditure budget is appropriate in the long term. The Committee would therefore hope that a more appropriate method is determined, and agreed upon, in time for the next review of funding.

Yours faithfully,

L. C. MORGAN,

President,
States Advisory and Finance Committee.

The States are asked to decide:—

IV.— Whether, after consideration of the Report dated the 23rd October, 2001, of the States Board of Health, they are of opinion:—

1. That, subject to the St. John Ambulance & Rescue Service agreeing to become involved in the rolling programme of audits that the Internal Audit Department undertakes on behalf of the States of Guernsey, and a Service Level Agreement being finalised and implemented by the 1st January, 2002:
 - (a) to increase the grant to the St. John Ambulance & Rescue Service by £150,000 recurring for 2001 and thereafter;
 - (b) to provide an additional non-recurring sum of £100,000 to the St. John Ambulance & Rescue Service in 2001 and a further non-recurring sum of £100,000 in 2002 in order to replenish that Service's reserves;
 - (c) to authorise the States Board of Health, subject to permission from the States Advisory and Finance Committee, to make the above mentioned non-recurring sum of £100,000 or any lesser amount a recurring payment to the St. John Ambulance & Rescue Service, subject to verification from value for money studies that such an amount is necessary for the proper running of that Service.
2. To increase, from 2002 onwards, the annual grant to the St. John Ambulance & Rescue Service by 50% of the difference between the States Board of Health's growth in allocation and the Guernsey RPI at the time of setting such a budget allocation, provided that such increase is limited to a maximum of 3% above RPI in any one year.
3. To increase the States Board of Health's revenue budget for 2001 and 2002 by £250,000 per annum and subject to the value for money review between £150,000 and £250,000 inflated to 2003 prices from 2003 onwards.
4. To authorise the level of the annual grant and method of indexation to be formally reviewed by the States Board of Health and the St. John Ambulance & Rescue Service every three years, and if, as a result, there is a requirement to adjust that Board's revenue budget, that will be addressed through the Policy and Resource Planning process.
5. To review the Service Level Agreement between the States Board of Health and the St. John Ambulance & Rescue Service on a regular basis, which shall be no less frequently than biennially.

ISLAND DEVELOPMENT COMMITTEE**PROGRAMME FOR THE REVIEW OF THE DETAILED DEVELOPMENT PLANS**

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

16th October, 2001.

Dear Sir,

PROGRAMME FOR THE REVIEW OF THE DETAILED DEVELOPMENT PLANS**1. Background:**

- 1.1 In September 2000 (Billet d'État XX, 2000) the States agreed that the current Urban Area Plan and Rural Area Plan (Phase I) should continue to have effect until 31st December, 2001.
- 1.2 In its policy letter to the States the Committee undertook to keep the States informed of the progress that was being made with the Plans review. This report, therefore, provides an update on the review of the Urban Area Plan and the joint review of the Rural Area Plans.

2. The draft Urban Area Plan, review 1:

- 2.1 The Committee's draft proposals for the Urban Area were published on 18th September, 2001. The Advisory and Finance Committee has appointed an independent Inspector to hold a Planning Inquiry with hearings beginning on 27th November, 2001.
- 2.2 The Island Development (Guernsey) Law, 1966 lays down that the Inspector shall prepare a report with recommendations and submit it to the Committee. The Committee is then required to lay the Plan, the report and its own recommendations before the States for approval of the Plan, with or without modification.
- 2.3 It is difficult to predict with any certainty how long the process described above will take as it is dependent upon factors outside the control of the Committee. The period of adoption for the current Urban Area Plan was just under twelve months. However, the Committee anticipates that that timescale will be improved upon and is confident that the revised Urban Area Plan will be presented to the States by the summer of 2002.

3. The joint review of the Rural Area Plans:

- 3.1 In its earlier reports to the States (Billet d'État XXI, 1999 and Billet d'État XX, 2000) the Committee advised that work on the review of the Rural Area Plans would be prioritised after the publication of the draft proposals for the revised Urban Area Plan. Accordingly, the Committee's attention is now focused on the joint review of the Rural Area Plans.

- 3.2 The Committee has indicated to the States that its target date for the publication of the draft proposals for the joint review of the Rural Area Plans is July 2002 and this remains the Committee's anticipated date of publication. However, as previously noted in its reports to the States, progress will depend on the other demands placed on limited staff resources such as the workload arising from the Urban Area Plan Planning Inquiry, the proposals for the Leale's Yard redevelopment, the Waste to Energy Plant at Longue Hougue and the centre for e-commerce at La Villiaze.
- 3.3 Assuming that the Committee meets its target date for the publication of the joint review of the Rural Area Plan in July 2002, thereafter the Planning Inquiry process, as described in section 2 above for the Urban Area Plan, will commence. The Planning Inquiry timescale for the Rural Area is less predictable than for the Urban Area Plan. For the Rural Area Plan (Phase I) the process from publication of the draft proposals to presentation to the States took an unprecedented three years. In contrast, the same process for the Rural Area Plan (Phase 2) took approximately eighteen months. It is the Committee's objective to further improve on this period, insofar as it can influence the overall timescale.

4. Renewal of the existing Urban Area Plan and Rural Area Plans:

- 4.1 The validity of the current Urban Area Plan and Rural Area Plan (Phase I) expires in December this year. The Rural Area Plan (Phase 2) is valid until July 2002.
- 4.2 The Committee has tried to provide a realistic timetable for the review process. Although the Committee has already published its draft proposals for the Urban Area, it is clear that the process of Planning Inquiry, reporting by the Inspector and subsequent presentation to the States will not be finalised before the end of this year. With regard to the joint review of the Rural Area Plans, the Committee is aiming to meet the target date of July 2002, after which the Planning Inquiry process will commence.
- 4.3 Bearing in mind the high level of interest in ensuring that the Detailed Development Plans remain relevant and up to date, the Committee believes that it is of positive benefit to provide the States with a progress report at regular intervals. Accordingly, the Committee proposes that the validity of the Urban Area Plan, the Rural Area Plan (Phase I) and the Rural Area Plan (Phase 2) should be extended until 31st December, 2002 when a further update can be provided with regard to progress with the Rural Area Plan.

5. Recommendations:

- 5.1 The Committee recommends the States:

To agree the Urban Area Plan, the Rural Area Plan (Phase I) and the Rural Area Plan (Phase 2) shall continue to have effect until 31st December, 2002.

I should be grateful if you would lay this matter before the States with the appropriate propositions.

Yours faithfully,

JOHN E. LANGLOIS,

President,
Island Development Committee.

[N.B. The States Advisory and Finance Committee supports the proposals.]

The States are asked to decide:—

V.— Whether, after consideration of the Report dated the 16th October, 2001, of the Island Development Committee, they are of opinion:—

That the Urban Area Plan, the Rural Area Plan (Phase 1) and the Rural Area Plan (Phase 2) shall continue to have effect until the 31st December, 2002.

ISLAND DEVELOPMENT COMMITTEE

REVIEW OF THE ISLAND DEVELOPMENT (GUERNSEY) LAWS, 1966 AND 1990

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

16th October, 2001.

Dear Sir,

Review of The Island Development (Guernsey) Laws, 1966 and 1990**1. INTRODUCTION**

- 1.1** In 1998 the Island Development Committee (IDC), with the support of the Heritage Committee, presented to the States a draft of the proposed new Land, Planning and Development Law which will represent the upper tier of the new legislative regime intended to replace the Island Development (Guernsey) Laws, 1966 and 1990, the Building (Guernsey) Law, 1956 and the Ancient Monuments and Protected Buildings (Guernsey) Law, 1967. The 1998 Report ("the Report") and draft *Projet de Loi* are attached as appendices.
- 1.2** **This policy letter explains the main changes which the IDC, after consultation and further consideration, deems necessary to the draft Law which was proposed in 1998. It also establishes the approach to be taken in each of the Ordinances proposed at this time and seeks the approval of the States for the further detailed preparation of legislation relating to the proposed new Law and Ordinances detailed below.**
- 1.3** In 1998, the States resolved: *"to approve the IDC's proposal to undertake a programme of public consultation on the proposals set out in the Report with interested parties and individuals before proceeding with the preparation of detailed legislation for presentation to the States"*.
- 1.4** In Section 6.1 of the Report the IDC stated its intention to return to the States after the consultative process was complete with detailed propositions, including a substantial number of secondary Ordinances, all of which would need to come into force simultaneously with the new Law.

2. BACKGROUND

- 2.1** The consultation exercise proved invaluable to the IDC in making further progress and in testing the drafting of the proposed legislation, as will be evident when the proposed refinements of the Law and the proposed contents of the Ordinances are discussed in later sections of this policy letter.

- 2.2** As part of the exercise of testing the proposals, the IDC has been working with the Law Officers on the detailed work of drafting the Ordinances. In doing so it has taken into account the likely impact of the Human Rights (Bailiwick of Guernsey) Law, 2000 which will shortly come into effect. This is expected to have profound consequences for the planning system through increased challenges of the decisions of the IDC, which is a 'public authority' for the purposes of that Law. Similar consequences are anticipated with regard to the Heritage Committee's role as a 'public authority' in the listing of monuments and buildings (including other structures).
- 2.3** The IDC has also been fully mindful of the developments that are leading to more open and accountable practices in government and to which it has committed itself in implementing the Review of the IDC in 1999 by the District Audit Commission (the "Audit Report").
- 2.4** The Heritage Committee has been consulted about the proposals for the draft legislation. Whilst it is clear that when the new legislation is enacted the respective roles of the two Committees will change significantly, both Committees have agreed that these changes are necessary and consequently the Heritage Committee supports these proposals.
- 2.5** The IDC has taken into account the resource implications of the new legislation, in particular in its proposals for changes to the draft Law and in its selection of proposals for the first phase of Ordinances. The proposals in the Ordinances which are detailed in this policy letter are those which are considered to be essential to implement the new legislative regime or are essential to ensure compliance with the human rights legislation. Whilst some of these have implications for staff resources (e.g. enhanced publicity arrangements for planning applications and various enforcement notices), these implications are unavoidable and the IDC will endeavour to manage and monitor them within existing staff resources in the first instance. The IDC will seek further resources if this proves necessary. The IDC has deferred to a second phase proposals that create new duties and responsibilities which, whilst desirable, are not essential as additional staff will have to be provided prior to their implementation. These may include the registration of existing uses, the issuing of certificates and opinions relating to planning status, planning covenants, new 'special controls' and fees for planning applications.
- 2.6** The Ordinance-making powers of the draft *Projet de Loi* are as summarised in the Appendix to Billet d'État XXI of 1998. The IDC's proposals for the first phase of Ordinances are set out in Sections 4 to 11 of this policy letter.

3. THE NEW PLANNING LAW (PROJET DE LOI)

This section 3 details the principal alterations to the 1998 version of the draft Law which the IDC proposes to make as a result of the consultation exercise and the further work it has done in the course of the review. In this section the words "Part", "chapter" and "clause" refer to the Parts, chapters and clauses of the draft *Projet de Loi* respectively.

3.1 Part I: Preliminary:

As a result of consultation with the Heritage Committee, the IDC recommends the inclusion of a specific reference to archaeology in Clause 1(2)(b) of the Law to ensure that this important aspect of the protection of the Island's heritage is explicitly covered by the Law.

3.2 Part 2: Strategic and Development Planning:

The IDC recommends that a Clause should be included to provide for the enactment of Regulations relating to the rules of procedure for the conduct of Planning Inquiries.

3.3 Part 3: Control of Development:

3.3.1 As a result of consultations, the IDC considers that Clause 13, which deals with the meaning of 'development' should be changed so that, when taken together with the proposed Ordinances detailing general provisions about the control of development and exemptions from the requirement for planning permission, there is a clearly defined path to ascertain when a particular operation requires consent.

3.3.2 The IDC considers that the word 'materially' should be retained in Clause 13(2)(c) because it gives a clear indication that, within the general planning regime, a change in the appearance of buildings will need consent where it is of some significance, rather than in every case.

3.3.3 In order to meet the requirements of the Human Rights Law, the IDC now believes that Clause 17 and associated elements of Clauses 15, 16 and 21 should be deleted. In order to give proper effect to these requirements the grant or refusal of planning permission, which is an 'executive act' under the Law, must be determined by a 'public authority' under the Human Rights Law. As the States of Deliberation is explicitly excluded from the definition of 'public authority' in the Human Rights Law, it would, therefore, be wrong to confer upon the States as a legislature any powers of executive decision-making in respect of planning decisions. Accordingly, it is recommended that the power to make all planning decisions be vested in a single public authority, namely the IDC.

3.3.4 Clause 18(1) provides that Building Regulations can be made under the new Law. The IDC proposes that, in the first instance, the Guernsey Building Regulations 1992 will continue to be the regulations in force for the purpose of this Clause. In due course, a separate Ordinance will deal with matters relating to the application of the Regulations.

3.3.5 It is proposed to introduce a right of appeal against Completion Notices (Clause 20), together with provision for compensation, where such an appeal is allowed, all in accordance with the principles set out in the Human Rights Law.

3.3.6 The draft Law proposes the extension of the enforcement provisions to allow action to be taken against successors in title to a property. The current inability to do this is a serious deficiency in the existing Law. However, as was evident from responses to the IDC's consultation exercise, this does have consequences for the conveyance of property as prospective purchasers will wish to be assured that the property they wish to buy does not bring with it liability to enforcement action by the IDC. The IDC, therefore, proposes that a provision be added to Clause 23 to enable the States to make Ordinances to provide for a system of property searches, backed up by Enforcement Registers (see 3.5.1).

3.3.7 The IDC and the Heritage Committee have agreed that the IDC will be the Committee responsible for the administration of all applications for development and related matters, while the Heritage Committee will be the Committee responsible for the provisions set out in Chapters 1 and 2 of Part 4 (Monuments and Archaeological Sites and Buildings of Special Interest).

3.4 Part 4: Special Controls:

- 3.4.1** The IDC considers that the Advisory and Finance Committee should not be directly involved in the administration of grants and loans and therefore proposes that in Clauses 31(3), 36(1) and 38(3), the references to the States Advisory and Finance Committee should be amended to the IDC or the Heritage Committee as appropriate. The Advisory and Finance Committee will of course retain its function in decisions relating to budgetary provision.
- 3.4.2** It is proposed to add powers to enable the Heritage Committee to issue guidance as to the principles to be adopted in work to protected monuments and buildings.
- 3.4.3** The IDC recommends that Clauses 31 (2)(d) and 35(2)(d) should be changed to remove references to the States of Deliberation where it is proposed to purchase a protected monument or building which is seriously at risk, for the reasons set out in 3.3.3 above (relating to human rights). As a consequence challenges by landowners and arrangements for compensation will be more properly dealt with.
- 3.4.4** As a result of consultations, the IDC has concluded that Clause 33 should be changed to make it clear that a listing of a building will normally cover the whole of the building concerned.
- 3.4.5** In order to enhance the options open to the IDC, it recommends that Clause 43(1) should be changed to enable a tree protection order to be made in relation to an area covered by trees as well as to an individual tree or group of trees. The IDC recommends that provision for appeals against such orders should be made.

3.5 Part 5: Enforcement:

- 3.5.1** The IDC recommends the addition to Clause 67(5) of a general provision dealing with the service of notices and a provision for the keeping of Enforcement Registers.
- 3.5.2** In order to allow reasonable time for the institution of enforcement procedures, it is recommended that the period in Clause 48(4)(b) should be four years.
- 3.5.3** Modifications will have to be made to Clauses 47, 50, 62 and 74 to ensure that a person receives a fair trial.

3.6 Part 6: Appeals and Reviews:

- 3.6.1** Under Clause 68 the Advisory and Finance Committee is responsible for appointing a competent and independent person (called an 'Adjudicator') to determine appeals against decisions of the IDC. It is recommended that Clause 68(7)(a) should be changed so as to reinforce the independent nature of the Adjudicator's role.
- 3.6.2** In certain circumstances a decision of the Adjudicator is appealable to the Royal Court. The IDC proposes that the Law should provide for an appeal to the Court of Appeal on points of law against a decision of the Royal Court under Clauses 71 and 72.

3.7 Part 7: Development by the States:

- 3.7.1** The IDC believes that it is in the public interest that States projects be included within the Development Plan system which is subject to Public Inquiries and the subsequent approval by the States of Deliberation so that the IDC can assess proposals for development by the States in relation to adopted States policies and the planning principles set out in the Law. Having carefully reviewed the matter the IDC proposes to retain Clauses 75 and 76 as drafted.

3.7.2 The IDC has been advised by the Law Officers that it would be incompatible with the requirements of the Human Rights Law to confer decision-making powers on the States of Deliberation, and it recommends changes to the draft Law accordingly. The States will, however, retain their role in respect of strategic policy formulation and the ratification of the IDC's proposals for planning policy within the various statutory plans. The States will also be responsible for the review of the decisions of the IDC in respect of States' development as set out in Clause 76 of the draft Law.

3.8 Minor Amendments:

3.8.1 In addition to the changes proposed above, the IDC will make any necessary adjustments and corrections of inaccuracies and decide upon the final wording where square brackets in the text of the draft Law indicate alternatives. It has also become evident in working on the Ordinance proposals that some adjustment as between the provisions of the draft Law and Ordinances will be necessary.

4. DEVELOPMENT PLANS, SUBJECT PLANS AND PLANNING BRIEFS

4.1 This and the following sections set out the proposed provisions of the first phase of Ordinances, which form part of the package necessary to bring the Law into full effect.

4.2 An Ordinance regulating the procedures for preparing and adopting the various statutory Plans and Planning Briefs is essential to the implementation of the new Law. These set planning policy for the Island and all subsequent development control decisions of the IDC will be based upon them.

4.3 The proposed Ordinance will set out procedures whereby the Plans and Briefs are produced, published and tested through Public Inquiries and then adopted by the States, including the duration of the Plans, and will specify the necessary procedures for their amendment and review.

4.4 The provisions governing Public Inquiries will set out the procedure to ensure that Inquiries are conducted in an orderly and efficient manner and that all representors have the opportunity of a fair hearing before an independent Inspector.

4.5 In order to achieve these objectives it is proposed that the Ordinances will include provision for:–

- the policies in the Plans and Briefs to be supported by reasoned justification;
- the policies in the Plans and Briefs to cover matters specifically related to areas of special control (e.g. protected monuments and buildings, Conservation Areas, Sites of Special Significance and trees);
- the IDC to consult relevant States and other bodies and the public if it considers it desirable;
- how Plans should indicate and describe Conservation Areas;
- how Plans should indicate and describe a Site of Special Significance, in particular by specifying the nature of their special interest;
- how Plans and Briefs should be certified as consistent with the States Strategic Land Use Plan;
- how Plans and Briefs should be published and publicised;

- how representations and counter-representations to Plans and Briefs should be invited;
- how Inspectors should be appointed and what their qualifications and terms of reference will be;
- how Inspectors should conduct Inquiries, including seeking additional views, organising and disseminating information and directing pre-Inquiry discussions;
- the publication of the timetable for the Inquiries, including preliminary meetings of all parties, where appropriate;
- who is entitled to be heard and the procedure to be followed;
- how late representations and other new material will be handled;
- the conduct of site inspections;
- the proceedings of the Inquiry to be otherwise at the Inspector's discretion.
- the preparation and submission to the IDC of the Inspector's report;
- the submission of the report and the IDC's response to the States for adoption;
- how Amendments will be dealt with that necessitate the reopening of the Inquiry;
- how the various statutory Plans and Briefs may be reviewed, replaced or amended;
- the maximum duration of statutory Plans or Briefs to be ten years, subject to further extension by the States of five years;
- how each statutory Plan or Brief will take account of other Plans.

5. CONTROL OF DEVELOPMENT – GENERAL PROVISIONS

- 5.1** This Ordinance is essential to the implementation of the new Law because it puts in place the practical details which will enable planning applications to be submitted and considered by the IDC and sets out the parameters within which the IDC will take its decisions.
- 5.2** The Ordinance will supplement the basic definition of development so that an enhanced level of control is available for protected monuments and buildings, Conservation Areas, Sites of Special Significance and trees. It will provide for the submission of information to enable planning applications to be assessed and for appropriate publicity to be given and consultations to be carried out.
- 5.3** It will deal with the planning considerations to which the IDC must have regard and with the conditions and reservations that may be applied. It will provide for the giving of reasons for decisions and how they are communicated.
- 5.4** In order to achieve this it is proposed that the Ordinance will include provisions for:–
- the inclusion (or exclusion) of certain matters from the general definition of development;
 - all works to protected monuments to require consent;
 - all repairs and alterations affecting the special character of a protected building (both internally and externally) to require consent;

- additional works affecting the character of a Conservation Area to require consent;
- street furniture in the central parts of St. Peter Port and St. Sampson's Conservation Areas to require consent;
- alterations to land (e.g. excavation, clearance of vegetation) to require consent in Sites of Special Significance;
- the felling and pruning of trees and the cutting of the roots of trees to require consent where a tree protection order is in effect;
- a public register containing details of planning applications to be kept and available for inspection at all reasonable times;
- the IDC to be able to use various means of publicity for applications through press notices, site notices, neighbour notification and electronic posting in accordance with such policy as it may publish from time to time;
- the IDC to be able to consult other bodies as appropriate;
- applications to be submitted on standard application forms with appropriate plans, elevations and sections;
- applications to be submitted with the authority of the owner;
- the IDC to be able to require further information, especially in areas of special control and where required by a Plan or Brief. This may include Traffic Impact Assessments, archaeological assessments, landscape/townscape assessments, Planning and Design Statements, condition and structural surveys;
- the IDC to require such information for applications for outline permission, especially in areas of special control;
- requiring the IDC to take general planning considerations into account, in addition to the various statutory Plans and Briefs, in assessing applications including:–
 - the effects of development on various aspects of the natural and built environment, public health and safety, highway safety and traffic management and amenity;
 - appearance and design;
 - the effects of development on the various special characteristics of protected monuments and buildings, Conservation Areas and Sites of Special Significance and trees;
 - the cumulative effects of developments previously approved and proposed;
 - published guidance;
- enabling special conditions to be imposed on planning permissions which:–
 - reserve permission for detailed or other aspects of development to a later stage;
 - limit the duration of consent;
 - require completion of development in accordance with approved plans;
 - restrict the applicability of exemption and use class provisions;
 - relate to protected monuments and buildings, Conservation Areas, Sites of Special Significance and trees, including requirements for enhancements;

- planning decisions to be in writing;
- reasons for refusal or for the imposition of conditions to form part of decision notices;
- any special matters relating to States development;
- details of applications, planning decisions, reports and application related correspondence to be available to the public on application from a specified date;
- an appeal against the non-determination of an application to be available after a specified period;
- a system of property searches, to include:–
 - the provision of facilities for prospective vendors and purchasers of property to seek information relating to the various statutory registers by means of application forms;
 - provision for prospective vendors or purchasers of property to inspect details of plans and permissions, on application, over the ten year period prescribed by the Law;
 - provision for the IDC to deal with queries about the status of property and any consequent retrospective application;
 - provision for the IDC to make charges for property searches.

6. EXEMPTIONS

6.1 The existing Exemptions Ordinance is capable of being continued under the new Law. However, the IDC proposes that it should be updated and amended, both to take account of the proposed new definitions of development and to extend the present categories so as to increase the opportunities for householders to undertake minor development without the need to apply for planning permission.

6.2 The IDC believes that it would be appropriate to continue to exempt certain minor works undertaken by the States and public utility suppliers outside the areas of special control from the requirement for planning permission.

7. USE CLASSES

7.1 The IDC recommends a rationalisation and updating of the existing Use Classes Ordinance to take account of the changing pattern of development including:–

- the consolidation of the sheltered housing use class into the Ordinance;
- the inclusion of new Use Classes for tourist attractions and garden centres;
- amendments to take account of changes in office and industrial uses which, with the advent of new technologies, have made certain subdivisions of use inappropriate.

8. ENVIRONMENTAL IMPACT ASSESSMENT

8.1 This Ordinance will give a statutory basis to Environmental Impact Assessments (E.I.A.) as a tool for assessing proposals that are likely to have a major effect on the environment.

- 8.2** An E.I.A. is a detailed process of assessment, undertaken by a prospective developer, by which the effects of a proposed development on the quality of the environment, the use of natural resources and biological diversity can be identified and measured. It looks at ways of avoiding, minimising or compensating for any negative environmental impact. It may also assess the impact of a proposed development on the community and may include a study of social and economic factors.
- 8.3** Careful preparation of an E.I.A. saves time and resources by giving clear, early guidance against which the IDC can assess applications in order to decide whether a scheme should go ahead as proposed, be modified to meet environmental concerns or be refused.
- 8.4** The Ordinance will make provision for:–
- the purpose and scope of Environmental Impact Assessments;
 - the contents of an E.I.A.;
 - arrangements for an E.I.A. to be submitted with a planning application;
 - arrangements for an E.I.A. to be submitted in support of an alteration to the Development Plan;
 - procedures for the IDC to issue a formal opinion as to whether an E.I.A. is necessary in a particular case, together with an opinion on the scope of what should be covered;
 - procedures for undertaking an E.I.A.;
 - arrangements for renewal of planning permissions where an E.I.A. is required;
 - publicity and consultation arrangements;
 - verification of the contents of an Environmental Assessment;
 - responsibility for the various tasks involved.

9. SPECIAL CONTROLS

- 9.1** This Ordinance relates to protected monuments and buildings, Conservation Areas, Sites of Special Significance and protected trees. These areas of special control are those whose sensitivity is considered worthy of enhanced protection within the planning system.
- 9.2** Certain provisions of this Ordinance are essential to the implementation of the new Law. In relation to the protection of historic monuments and buildings, the enhanced planning regime depends on the identification of those monuments and buildings that are of special interest, their listing in a public register and further measures for their enhancement and protection.
- 9.3** The Ordinance will contain provisions for the selection of trees worthy of protection and the procedures to serve tree protection orders.
- 9.4** In the case of Conservation Areas and Sites of Special Significance, which are designated through the Plans system, the Ordinance will be to give effect to provisions of the draft Law relating to aspects of their protection and enhancement.

9.5 In order to achieve these objectives it is proposed that the Ordinance will make provision for:–

- public registers to be kept of all protected monuments and buildings, including location plans and identifying particulars;
- the notification of owners of such registration and other publicity arrangements;
- the inclusion of associated land forming the setting of the monument or building as part of the registration;
- the Heritage Committee to establish and publicise criteria for listing;
- the Heritage Committee to establish and publicise a grading system (i.e. of the relative quality of monuments and buildings);
- the Heritage Committee to publish survey descriptions of protected monuments and buildings for guidance and information purposes;
- the transfer of the existing register of Ancient Monuments and Protected Buildings to the new list;
- appeals to be made against the grading of the monuments and buildings transferred;
- the temporary listing of buildings;
- the suspension of unimplemented planning permissions while a fresh application is made following the registration of a monument or building and for compensation where such permission is refused;
- the service of Preservation Notices on seriously neglected monuments and buildings, their content, the recovery of costs, etc.;
- the compulsory purchase of highly graded protected monuments and buildings in the case of exceptional neglect;
- the exercise of rights of entry by the Heritage Committee in connection with the registration of monuments and buildings and related responsibilities;
- a public register to be kept of archaeological finds;
- the IDC giving priority to the protection of the special qualities for which Conservation Areas and Sites of Special Significance were designated in carrying out its duties under the Law;
- the temporary designation of Sites of Special Significance pending inclusion in a Plan or Brief;
- a public register of trees subject to tree protection orders;
- arrangements for the notification and service of tree protection orders on the owners of the trees;
- how the IDC will take account of objections to tree protection orders and the confirmation or otherwise of the orders;
- the use of management agreements relating to trees which are the subject of tree protection orders.

9.6 The draft Law will contain provisions for an enabling Ordinance to make grants and loans for protected monuments and buildings and Conservation Areas. The IDC and the Heritage Committee are aware that the principle of grant aid will be an important innovation of the Law, the details of which will have to be carefully considered. Further research will be undertaken into this matter by the Committee before returning to the States of Deliberation with any such proposals.

10. ENFORCEMENT

10.1 This Ordinance is essential to the operation of the planning system as without it there would be no means of achieving effective compliance with planning requirements.

10.2 The objective of the proposed Ordinance will be to set out detailed matters relating to Challenge Notices, Compliance Notices and Interim Compliance Notices to allow them to be fully effective.

10.3 In order to achieve this the Ordinance will make provision for:–

- the contents of Challenge Notices in terms of:–
 - the identification of the relevant land;
 - the information required by the IDC to enable it to assess whether a breach of planning law has occurred;
 - how Notices are to be complied with;
 - the result of failure to respond to Notices.
- the contents of Compliance Notices in terms of:–
 - specification of the breach to which they refer;
 - the steps which Notices may specify in order to comply with it;
 - additional steps which may be specified relating to protected monuments and buildings, Conservation Areas, Sites of Special Significance and protected trees.
- the restriction of activities (principally residential) which Interim Compliance Notices may prohibit;
- the posting of site notices giving information about the service or withdrawal of an Interim Compliance Notice;
- the cessation of Interim Compliance Notices;
- the general application of notices in relation to ancient monuments and buildings, Conservation Areas, Sites of Special Significance and protected trees;
- the keeping of Enforcement Registers and their status in any enforcement action.

11. APPEALS AND REVIEWS

11.1 Without proper provision for the review of Committee decisions the planning system would be neither fair nor compliant with the requirements of the Human Rights Law.

11.2 The proposed Ordinance will set out procedures for appeals to ensure a fair hearing of the cases of the appellant, the IDC and relevant third parties in an orderly and efficient matter.

11.3 In order to achieve this, the Ordinance will provide for:–

- procedures for the initiation of an appeal by notice served on the IDC;
- arrangements for the Advisory and Finance Committee to appoint an Adjudicator and provide appropriate support;

- procedures prior to an appeal whereby the Adjudicator may:–
 - require the appellant, the IDC and any third parties to submit preliminary statements;
 - offer the parties a choice of determination of the appeal by way of written representations or a public hearing;
 - publish notice of a public hearing and inform all parties;
 - provide arrangements for the exchange of the parties' cases;
 - initiate pre-Inquiry discussions where considered appropriate;
 - set time limits;
 - set the timetable for the hearing, including holding a pre-hearing meeting where considered appropriate;
- procedures at an Inquiry which will generally be determined by the Adjudicator, but the Ordinance will include provisions relating to:–
 - who is entitled to be heard at the hearing of the appeal and the procedures to be followed;
 - how questions are to be handled;
 - how any new material is to be handled;
 - the Adjudicator's power to control repetitious or vexatious evidence or representation, and to exclude disruptive persons;
 - the conduct of site inspections;
- procedures for the determination of appeals by submission of written representations to the Adjudicator, including:–
 - how the parties will be informed;
 - the exchange of the parties' cases;
 - the conduct of site inspections;
 - how further relevant information will be sought;
- in the case of all decisions, the content and form of the Adjudicator's decision;
- applications for costs to the Adjudicator;
- arrangements for instituting the review of decisions of the IDC (or the Heritage Committee in respect of decisions under Chapters 1 and 2 of Part 4 of the Law) by the Royal Court.

12. SUMMARY

When the original proposals were presented in 1998, the IDC explained that a number of essential Ordinances would need to be drafted before the primary legislation was enacted. The IDC is now in a position to ask the States to approve the further Ordinances which can be passed next year, once the primary legislation has received Royal Assent.

13. RECOMMENDATIONS

The IDC recommends the States to:–

1. approve the proposals set out in Section 3 of this policy letter concerning the changes to the draft Projet de Loi presented to the States in 1998;
2. approve the proposals set out in Sections 4 to 11 of this policy letter concerning the legislative provision to be made by Ordinance in relation to:–
 - (i) Plans.
 - (ii) Control of Development – General Provisions.
 - (iii) Control of Development – Exemptions.
 - (iv) Control of Development – Use Classes.
 - (v) Control of Development – Environmental Impact Assessments.
 - (vi) Special Controls.
 - (vii) Enforcement.
 - (viii) Appeals and Reviews.

I should be grateful if you would lay this matter before the States with the appropriate propositions, including one directing the preparation of the necessary legislation.

Yours faithfully,

JOHN E. LANGLOIS,

President,
Island Development Committee.

ISLAND DEVELOPMENT COMMITTEE**REVIEW OF THE ISLAND DEVELOPMENT (GUERNSEY) LAW, 1966**

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

30th July, 1998.

Sir,

REVIEW OF THE ISLAND DEVELOPMENT (GUERNSEY) LAW, 1966**1. INTRODUCTION AND BACKGROUND**

- 1.1** In July 1989 the States considered a major report upon the future functions and activities of the Island Development Committee [IDC]. Amongst other things it approved proposals to direct the IDC to carry out a review of the Island Development [Guernsey] Law, 1966.
- 1.2** The review of the Law has been a very major task and progress has been much slower than the Committee would wish but draft proposals for a comprehensive new Law have now been prepared. Although there is still much work to be done, the Committee considers it appropriate that it reports its current progress to the States and, subject to the States' agreement that it carries out a public consultation exercise on its proposals before proceeding with the preparation of more detailed legislation.
- 1.3** Some members of the States may recall that during the debate in 1989 the House rejected the proposal to transfer responsibility for administering the Building [Guernsey] Law, 1956 and the associated Building Regulations 1957 and the Ancient Monuments and Protected Buildings [Guernsey] Law, 1967 from the States Housing Authority and the Ancient Monuments Committee [now Heritage Committee] respectively to the IDC until such time as the IDC had reported to the States with detailed proposals relating both to the restructuring of the Committee and to new procedures for dealing with planning applications.
- 1.4** Over the last nine years, the IDC has implemented most of the other recommendations accepted by the States in 1989. In particular, the States resolved, in July 1992, to transfer the Building [Guernsey] Law, 1956 and related legislation from the States Housing Authority to the IDC.
- 1.5** More recently, the States approved the introduction of a new Exemptions Ordinance which released various forms of minor development from the control of the Planning Laws.
- 1.6** The IDC and the Heritage Committee have worked together to create a co-ordinated

system for determining applications affecting Protected Buildings which benefits individual applicants. The two Committees have also established a joint Conservation and Design Team of officers which provides specialist advice and technical support to both Committees.

- 1.7** The IDC and the Heritage Committee have long identified the need to update both the Island Development [Guernsey] Laws, 1966-90 and the Ancient Monuments and Protected Buildings [Guernsey] Law, 1967.
- 1.8** Both of these pieces of legislation have a shared objective which is to protect the environment. Indeed, the original intention, when the two Laws were introduced thirty years ago, was that they would form one piece of integrated legislation administered by a single Committee.
- 1.9** After much discussion the IDC and the Heritage Committee have concluded that they wish to recommend to the States that their legislation be redrafted in the form of a unified Law covering Planning, Heritage and Building Control functions.
- 1.10** The two Committees have agreed that the new Law should be drafted in such a manner that its various functions will be capable of administration by either Committee, as may be specified in the Law, or subsequent Ordinances. This will provide flexibility to the States to adapt the mandates of the Committees as circumstances change over time. It should be emphasised, however, that both Committees feel that they will each have a distinct and separate role to play in the administration of the new Law.
- 1.11** What follows in this report represents the core element of a new integrated Law which is intended to replace the Island Development [Guernsey] Law, 1966, the Building [Guernsey] Law, 1956 and the Ancient Monuments and Protected Buildings Law, 1967. Whilst the majority of the work completed thus far has concentrated upon the planning aspects of the Law, the Heritage Committee has endorsed the proposals, insofar as they relate to Conservation, Protected Buildings and Ancient Monuments and its letter of comment, supporting these proposals, is appended [Appendix A].

2. GENERAL APPROACH TO THE LEGISLATION

- 2.1** In the preparation of these draft proposals for a comprehensive new Law, the IDC has been advised and supported by the Law Officers and by Mrs. Margaret Leates, LL.M, MA, AKC, a lawyer with particular expertise in the drafting of this type of specialised legislation, whom the IDC was fortunate to be able to retain for this task.
- 2.2** The 1989 Resolution of the States directed the IDC to prepare detailed proposals for new legislation to including, inter alia:–
- (1) the deletion of all references to Outline Development Plan and to include where appropriate references to Detailed Development Plans in the form of Forward Plans, Subject Plans and Local Plans;
 - (2) a review of Clause 10 of the Island Development (Guernsey) Law, 1966, to improve Planning Inquiry procedures;
 - (3) to require the taking into account of the Strategic and Corporate Plan when reaching decisions under the provisions of the Law;

- (4) the strengthening of the powers of enforcement along the lines set out in the Consultants' report including:–
 - (a) the introduction of “Enforcement” and “Stop” notices; and
 - (b) the ability to place a charge on the affected land or building(s) until unauthorised work is rectified in order to ensure that planning infringements are not nullified by a change of ownership;
- (5) the preparation of appropriate legislation for the purpose of identifying and protecting Sites of Special Interest;
- (6) to make provision to enable the introduction, by Ordinance, at such time as the States may deem appropriate, of fees relating to:–
 - (a) applications for planning permission; and
 - (b) applications under the provisions of Building Control Regulations in force from time to time;
- (7) to make provisions to enable the Island Development Committee to delegate duties as necessary to sub-Committees constituted by a lesser number of members than required to constitute a quorum of the full Committee, and to co-opt appropriate persons as necessary to serve on the sub-Committee;
- (8) to make to make provision for the Island Development Committee, upon application made to it, to grant certification of established use in relation to buildings or land;
- (9) to make provision for the Island Development Committee, upon application made to it, to determine whether planning permission is required for the particular form of development proposed;
- (10) the strengthening of the powers of control relating to dumping and the indiscriminate tipping of waste material, the repair or demolition of dilapidated buildings and other structures, and the proper maintenance of land;
- (11) a review of those areas of the Island Development (Guernsey) Law, 1966, and the Island Development (Guernsey) (Exemptions) Ordinance, 1982, as are relevant to the preservation of trees in order to extend such powers of preservation throughout the Island irrespective of whether or not development permission has been granted on the land concerned;
- (12) the strengthening of the powers of control relating to signs and advertisements, whether permanent or temporary;

the production of detailed proposals for such other amendments as may be considered expedient or necessary.

2.3 In carrying out this task, the IDC has sought to put forward radical proposals for a new Law which fully meet the challenges of an increasingly complex world where the duty to protect and improve the environment for future generations must be balanced against the legitimate demand for development and change which are essential for the long term economic success of the Island.

2.4 In order to achieve maximum flexibility and adaptability in the new legislation the proposals have been structured as a two tier system. The new upper tier contains the

principles and primary aspects of the legislation which are expected to remain constant over time. Beneath this is a lower tier of more detailed legislation, more procedural and administrative in nature, which can and is likely to be reviewed and adapted from time to time. It is proposed that the second tier of the Law will be set out in the form of Ordinances.

2.5 This report is primarily concerned with the IDC's proposals for the upper tier of legislation, together with an illustrative list of the topics which it is intended will be covered by Ordinances. Whilst recognising the States cannot make decisions on incomplete proposals, the Committee considers that it is important that the States, and the community at large, are encouraged to comment on the draft Law at the earliest opportunity. The Committee believes that its subsequent detailed report on a new planning Law will benefit from and reflect this consultative process.

2.6 The other major innovation in the proposed new legislation is the manner in which it approaches the issue of co-ordination of Planning, Heritage and Building Control functions. After much thought, the Committees have concluded that the interests of the community would be best served by an integrated control process, with a common legal framework for administration and enforcement. The philosophy of the new Law is to adopt a more tolerant regime in less architecturally and environmentally sensitive areas but with a more effective and detailed system of control for areas of special significance and conservation areas. Protected Buildings and Monuments where the most detailed control of development is justified will be subject to the most stringent legislation.

3. STRUCTURE OF THE NEW LAW

3.1 Whilst the draft new Law represents the Committee's thinking it still requires extensive further work before it can be introduced. Most of the second tier of Ordinances have yet to be worked out in any detail.

3.2 The appended draft [Appendix B] does, however, set out a working draft of the proposed primary legislation and provides the States with the opportunity to assess the work undertaken by the Committee to date.

3.3 Appendix C lists the topics to be addressed in the Ordinances as discussed above. Much of this subsequent detail will also be of interest to States Members since it will address important administrative matters such as publicity for planning applications and the legal position of those making representations against development proposals. Detailed proposals for these subsidiary procedures will, of course, be brought before the States in due course.

4. PROGRESS REPORT:

4.1 Whilst States Members will no doubt wish to study the working draft in some detail, the following summary [Clause 5] highlights what the IDC considers to be the main aspects of the legislation.

4.2 The draft legislation needs to be seen as a working document which will require further refinement and amendment. In particular, it should be noted that Part 4 of the draft new Law is still in an early draft stage and will, therefore, be somewhat repetitious compared to other parts of the Law. Obviously, these are matters which can be addressed later.

Similarly States Members will note that throughout the text of the draft Law alternative wording has been indicated through the convention of including additional text within square brackets.

- 4.3** The Ordinances which will contain much of the detailed legal provisions have, as already indicated, yet to be addressed and many issues of procedure do not, therefore, appear in the present draft. Appendix C lists the various topics to be addressed in Ordinances, and it is particularly in this area that States Members' comments and representations will be most helpful.
- 4.4** This report is intended to inform the States of the general approach that is being taken by the IDC in drafting the new Law. It is the Committee's intention, after the States have received the report for information, to consult widely on its proposals as a next stage.
- 4.5** The IDC recognises, of course, that it is unusual for a Committee to bring matters to the States prior to a consultation exercise rather than to require a definite decision. The IDC believes, however, that the nature and complexity of its proposals warrants such a departure from established procedure in the form of what is, in effect, a report for information. This approach also ensures that States Members are given first opportunity to express their views on the draft legislation before it is submitted to other interested parties for consultation.

5 SUMMARY OF THE DRAFT LAW:

5.1. Part 1: Preliminary

- 5.1.1** The introduction of the current Island Development [Guernsey] Law in 1966 was a major step forward from the earlier Natural Beauty and Land Control Law, 1959. The overall emphasis remained, however, upon a general duty to protect the environment from unacceptable development and change, albeit through a more modern system of strategic land use plans.
- 5.1.2** Similarly the Ancient Monuments and Protected Buildings [Guernsey] Law, 1967 established a rudimentary system of designation and control, but it now provides an inadequate legal framework in relation to modern heritage and conservation practice.
- 5.1.3** In drafting the new Law the IDC was conscious of the system of strategic policy and guidance which has evolved in recent years and the need to shift the emphasis of the Law towards a more proactive concept of planning generally. On the other hand, the IDC felt that it was equally important to enshrine the underlying principles and objectives of land-use planning within the legislation, to give appropriate weight to the protection and enhancement of the environment.
- 5.1.4** The draft Law, therefore, includes a statement of the broad purpose of planning. This statement encapsulates the objectives which the Law seeks to achieve and promote. In essence, the statement of purpose serves as a reminder of the philosophy which underlies all subsequent planning, heritage and building law.

5.2 Part 2: Strategic and Development Planning

5.2.1 Chapter 1 – Strategic Land Use Planning:

- 5.2.1.1** The existing Law was amended in 1990 when, amongst other things, the concept of a Strategic and Corporate Plan was introduced into the legislation. The existing Law

requires the IDC to take account of the Strategic and Corporate Plan, when preparing Detailed Development Plans and in certain circumstances when determining individual planning applications.

- 5.2.1.2** The IDC believes that the introduction of the Strategic and Corporate Plan has been of major benefit to the planning system and the proposals for the new draft Law retain the same concept under the new title of a Strategic Land Use Plan. This change of name merely recognises that, over time, the Strategic and Corporate Plan has, in effect, evolved into two distinct parts – a first part dealing with general strategic policy and a second part, designed to provide specific Strategic Land Use Guidance Policy as required by the existing Island Development Law. It is hoped that this change of title will help to clarify the nature of this particular element of Strategic Policy.
- 5.2.1.3** Similarly, the formation of a Strategic Land Use Group, to be appointed by the States Advisory and Finance Committee, broadly replicates the current arrangement whereby a Strategic Working Party operates as a Sub-Committee of the Advisory and Finance Committee.
- 5.2.1.4** The detailed provisions, contained in Clause 5 of the draft Law, set out the responsibility of the Strategic Land Use Group to prepare a Strategic Land Use Plan and the procedures to be followed in doing so.

5.2.2. Chapter 2 – Development Planning

- 5.2.2.1** The existing Law places a duty upon the IDC to prepare and review Detailed Development Plans. Currently there are three Detailed Development Plans in force, the Urban Area Plan, the Rural Area Plan [Phase I] and the Rural Area Plan [Phase 2]. In addition, the IDC has prepared Outline Planning Briefs [such as those for the Gategny Mixed Use Redevelopment Area and the Bouet Mixed Use Redevelopment Area]. These Outline Planning Briefs develop the planning policy for a small area in greater detail within the terms set by the relevant Detailed Development Plans. However, because they have no status in the existing legislation they can only be adopted as a statutory planning document via an Amendment to the relevant Detailed Development Plan.
- 5.2.2.2** The draft new Law maintains the same basic approach to Strategic Land Use Plans but introduces three separate types:–
- Development Plans;
 - Subject Plans;
 - Local Planning Briefs.
- 5.2.2.3** Development Plans are intended to replace what are currently called Detailed Development Plans [such as the Urban Area Plan or Rural Area Plan]. Until the replacements are ready the existing Detailed Development Plans will remain in force under the new Law [Clause 7(1)].
- 5.2.2.4** Subject Plans are intended to deal with topics of an Island-wide nature [for example, waste disposal, water supply or quarrying]. They will provide an effective means of developing Strategic Policy when dealing with issues which are not site specific in terms of the considerations and choices to be explored at a Planning Inquiry.
- 5.2.2.5** Local Planning Briefs are intended to formalise the existing Outline Planning Briefs

as a separate entity within the Land Use Plan framework. As with Development Plans, it is intended that the Local Planning Briefs will be site specific documents dealing in detail with policies for particular locations within a Development Plan Area.

- 5.2.2.6** Clauses 8, 9 and 10 of the draft Law set out the circumstances in which the IDC will prepare Development Plans, Subject Plans and Local Planning Briefs and the legal parameters for their preparation.
- 5.2.2.7** Clause 11 marks the first reference to the 'two tier' structure of the new legislation. This Clause provides the States with wide powers to determine the nature and content of Development Plans, Subject Plans and Local Planning Briefs through the flexible mechanism of an Ordinance.
- 5.2.2.8** Similarly, Clause 12 provides the States with the means to specify, by Ordinance, the procedure to be followed by the IDC in achieving formal adoption of the Plans and Briefs. The IDC envisages, however, that the existing principle of holding a public Planning Inquiry under the independent scrutiny of a suitably qualified Inspector will be retained as part of any procedure to be adopted.

5.3 Part 3: Control over Development

- 5.3.1.** This part of the draft new Law sets out the procedure to be followed by the IDC in determining planning applications. Clause 13 sets out the definition of development but also indicates [in subsection (4)] the means by which the States can make an Ordinance to adapt and extend this definition in particular circumstances.
- 5.3.2.** Clause 16 of the draft Law will replace Section 11 of the existing Law and is important, in that it sets out [in subsection (6)] the matters which the IDC is required to take into account when determining applications for consent to carry out development. Here again, the States may, through Ordinance, make provision for additions and changes to the relevant factors to be considered by the IDC when determining applications.
- 5.3.3.** Clause 16[1] of the draft Law proposes to replace the existing forms of planning application [Preliminary Declaration, Permission in Principle and Planning Permit] with a simplified two stage system involving 'Outline Permission' [a partial consent with certain specified matters reserved for subsequent separate consent] and full 'Permission'. The concept of a Preliminary Declaration which the Committee and its advisers consider increasingly inappropriate in the context of its current land use policies, will be discontinued. The new system will replace the old 'sketch scheme' and 'detailed plans' stages with a more flexible approach which will enable the Committee to determine applications for aspects of development at appropriate stages as a particular proposal progresses.
- 5.3.4.** Clause 16[6] will, in effect, remove the Strategic and Corporate Plan [or Strategic Land Use Plan as it is now proposed to be called] from the list of matters to be considered when determining individual applications. The IDC considers that it is important that Strategic Land Use Plan should deal with matters of overall policy rather than being used as a basis to make decisions on specific planning applications.
- 5.3.5.** The Committee is, however, mindful that there may be occasions in future where the States will wish to adapt Strategic policy to respond to a major development proposal without the need to resort to the potentially lengthy process of amending strategic policy and subsequently holding a Planning Inquiry to amend the relevant Development Plans.

- 5.3.6.** It is proposed, therefore, that a new mechanism be introduced, in Clause 17 of the draft Law, to provide the means for the States themselves to determine a particular development application where the IDC and the Advisory and Finance Committee both agree that there is strong justification to override the relevant statutory plan in the wider community interest. Such situations are described in the draft new Law as 'Public Policy Cases'.
- 5.3.7.** Clause 18 of the draft Law replaces the current building regulation making powers of the existing building law as an integral part of the new Law.
- 5.3.8.** Clause 20 of the draft Law introduces the concept of a 'Completion Notice'. This is a procedure by which the IDC will be able to serve notice on a developer requiring him to complete the development or incur the sanction of planning permission being withdrawn. The IDC considers this provision will provide an effective means to deal with intransigent land owners and developers who have failed to complete satisfactorily the development for which they were granted permission.
- 5.3.9.** Clause 21 of the draft Law provides for the revocation of planning permission. It is hoped that this provision will rarely, if ever, be needed in practice, but it will create a useful safeguard in extreme circumstances. The Law provides that only the States may revoke a permission, once it has been granted by the IDC, and that appropriate compensation should be payable to any applicants suffering loss or damage as a direct consequence of the revocation.
- 5.3.10.** Clause 23 of the draft Law introduces another new facility whereby property owners will be able to verify the planning status of their property including whether potential development proposals require planning consent. The IDC considers this will be a most useful provision which will avoid much of the uncertainty that currently exists with regard to the legitimacy of existing activities and land uses.
- 5.3.11.** Clause 24 of the draft Law deals with one of the more significant innovations of the new legislation. It provides for the IDC to enter into legally enforceable agreements with applicants ['Planning Covenants'] whereby applicants will undertake to adhere to a specific agreement concerning their development proposals. Covenants may also be used to link the development of two physically separate sites. An example of this would be where the developer of, say, a new hotel undertook to construct the associated staff accommodation on a site elsewhere as part of the overall development scheme. The advantage of this type of device is that the agreement can be enforced as a formal contract between the developer and the IDC by a range of interested parties as well as the IDC itself.
- 5.3.12.** This type of Planning Covenant, or Planning Agreement, as it is described in UK legislation, has proved to be an effective device, though it has on occasions been criticised in the UK where planning authorities or developers have sought to extend its application to include matters not strictly consequent upon the development itself. This practice has led to some local authorities-being criticised for, in effect, 'selling' planning permissions. Clauses 24 to 27 of the draft Law set out detailed requirements for the use of Planning Covenants which restrict the use to matters which relate strictly to the consequence of the physical development concerned. It is hoped that this will ensure that the Guernsey Law avoids the problems experienced in the UK.
- 5.3.13.** Clause 28 of the draft Law provides for the making of Exemptions Ordinances. This facility will make it possible to incorporate the recently introduced Exemptions within the new Law.

5.4 Part 4: Special Controls

5.4.1 As already stated in [2.6] the draft new Law has adopted the approach of extending the definition of 'development' to encompass additional powers in particular circumstances, i.e.:–

- Protected Monuments and Buildings
- Conservation Areas
- Sites of Special Significance
- Trees

5.4.2 The principle behind this proposal is to enable the greatest protection to be given to those aspects of the environment which are particularly sensitive to change or to unsympathetic actions where such safeguards are in the interests of the community as a whole.

5.4.3 Chapter 1 – Monuments and Archaeological Sites:

5.4.3.1 Clause 29 of the draft Law establishes the States Heritage Committee's duty to prepare and maintain a list of Protected Monuments. Clause 29(3) provides for the States, by Ordinance, to determine procedure to be followed in the preparation of the list, whilst Clause 29(4) introduces a right of appeal against any proposed listing.

5.4.3.2 Clause 30 of the draft Law establishes a general duty by all States Committees to protect and preserve Monuments and Sites.

5.4.3.3 Clause 31 of the draft Law relates to the procedure and arrangements for the granting of permission to carry out any works or activities relating to a Protected Monument against the strong presumption in favour of preservation through the mechanism of an extended definition of development described in 5.4.1 above. Clause 31(3) introduces the principle of financial assistance for the investigation, recording and preservation of Protected Monuments.

5.4.3.4 Clause 32 of the draft Law establishes the general offence of damaging a Protected Monument or Site.

5.4.4 Chapter 2 – Buildings of Special Interest:

5.4.4.1 Clauses 33 to 37 make parallel provision for Protected Buildings to that concerning Protected Monuments outlined above in 5.4.3.

5.4.5 Chapter 3 – Conservation Areas:

5.4.5.1 Conservation Areas are, of course, already designated as part of the existing policies of the Detailed Development Plans. Clauses 16(2), 38 and 39 of the draft Law give formal status to these areas and empower the States to give, under Ordinance, additional controls and powers to the IDC to ensure such areas are carefully protected and enhanced and that any development in these areas is carried out in a manner which complements their special characteristics.

5.4.6 Chapter 4 – Sites of Special Interest:

5.4.6.1 Clauses 40 and 41 of the draft Law provide similar protections to sites identified as having special characteristics, whether they contain rare flora, fauna, geological formations, landscape features, archaeological remains or have other special qualities.

5.4.7 Chapter 5 – Trees:

5.4.7.1 Clauses 42-45 of the draft Law provide for the protection of trees as part of the planning process and provide for the making of tree protection orders. In particular, Clauses 44 and 45 extend the meaning of development to give additional powers to control works to trees and to require their proper care and management in particular circumstances.

5.4.8 Chapter 6 – Other Controls:

5.4.8.1 Clause 46 of the draft Law provides a related extension of the definition of development, again through the mechanism of an Ordinance by the States, whereby such matters as fly tipping, abandonment of vehicles and other activities which can be broadly described as being unsightly and undesirable can be brought under control and action taken to remedy the situation.

5.5. Part 5: Enforcement

5.5.1 Chapter 1 – Investigation and Challenge Procedure:

5.5.1.1 One of the major shortcomings of the existing Law has been its inability, in practice, to restrain individuals from abusing or ignoring the planning system in the knowledge that existing legal powers available to the IDC are ineffective. After much discussion the IDC concluded that planning enforcement powers must be completely revised to deal with illegal development quickly and effectively as the community expects.

5.5.1.2 Clause 47 of the draft Law introduces a simple ‘Challenge Procedure’ which the IDC can invoke, with the minimum of administrative or legal procedure, to require individuals to explain their activities so that the Committee can take any necessary corrective action.

5.5.2 Chapter 2 – Compliance Requirements

5.5.2.1 Clause 48 of the draft Law introduces ‘Compliance Notices’ which are a means whereby the IDC can seek to remedy a breach of the planning control in a more efficient manner than at present.

5.5.2.2 Under these proposals Compliance Notices may be served on the owners and occupiers of property or on anyone else having interests in any particular property or site irrespective of whether that person is personally responsible for the breach of planning law under consideration.

5.5.2.3 Clauses 49 and 50 of the draft Law detail the various effects and consequences of issuing a Compliance Notice. They empower the IDC to require the remedy of an illegal activity or development. In the case of non-compliance or default the new system would enable the IDC or its agents to enter onto land and take such measures as were necessary to rectify the breach of planning control and to charge the individual accordingly or, alternatively, place a legal charge upon the land [Clause 55].

5.5.2.4 Given the scope of these powers Clauses 51, 54 and 56 provide the necessary legal safeguards for the individual, whilst Clauses 52 and 53 contain further emergency enforcement powers.

5.5.3 Chapter 3 – Criminal Proceedings

Chapter 4 – Supplementary Provisions:

5.5.3.1 Both these Chapters deal with matters of law relating to the effective enforcement of planning control. Many of these proposals are relatively technical provisions and will need to be the subject of further refinement in discussion with the Law Officers of the Crown. For example, the indicated appropriate level of criminal fines should obviously be regarded as indicative only at this stage.

5.5.4 Chapter 5 – Special Controls:

5.5.4.1 This Chapter enables the enforcement provisions to be adapted, if necessary, for cases where Special Controls under Part 4 apply.

5.6 Part 6 – Appeals and Review

5.6.1 Under the existing Law there is no system of appeal for aggrieved applicants when planning permission is refused other than to take the matter to the Royal Court. The IDC believes that a simpler and more accessible appeal procedure should be introduced for the benefit of applicants and Clauses 67 and 68 of the draft new Law provide for this.

5.6.2 Clause 68 of the draft Law provides for the appointment, by the Advisory and Finance Committee, of an appropriately qualified and experienced Adjudicator who will, in effect, have powers to reconsider the planning merits of the application concerned.

5.6.3 Clause 68[6] allows for the States to direct the procedure to be followed by the Adjudicator, again through the mechanism of an Ordinance. It is presumed [Clause 68[7]], however, that the States will wish to make provision for the appointment of advisers to assist the Adjudicator on matters of particular local significance as and when appropriate. It is also envisaged by the IDC that the States will wish to provide for appeals to an Adjudicator to be heard in the form of written representations in suitable circumstances.

5.6.4 Clause 71 of the draft Law proposes to retain the facility of appeal to the Royal Court, but solely when it is claimed that the Committee has acted unlawfully in reaching a decision. In essence, therefore, the nett effect of these changes will be to retain the role of the Royal Court on matters of Law, whilst introducing a new system of review of the merits of any particular application by an independent Adjudicator on a more informal basis than is possible at present.

5.7 Part 7 – Development by the States or Public Utility Suppliers

5.7.1 Section 30 of the existing Law exempts the States from any provision of the Law when carrying out development, though following a Resolution of the States in August 1991 [Billet d'État XX, 1991], Committees of the States are required to consult the IDC upon their development proposals and to offer the opportunity for the IDC's comments to be presented to the States at the time such development proposals are being considered.

- 5.7.2** Given that many of the major development proposals on the Island are States sponsored, the IDC believes that it is in the interests of good government to bring States development within the scope of the new Law [Clause 75 of the draft Law]. This will have the effect of ensuring that all significant development by the States or the private sector is advertised and considered on exactly the same basis against the Statutory policies the States have endorsed.
- 5.7.3** The IDC recognises, however, that it would be inappropriate for States developments to follow the normal process of appeal should the IDC refuse a planning application by another States Committee. It is, therefore, proposed [Clause 76 of the draft Law] that any appeal by a Committee of the States should be direct to the States themselves.
- 5.7.4** Clause 77 of the draft Law provides for the States to make provision for the exemption from control of development carried out by public utility providers, be they Committees of the States or private companies. This Clause will make it possible for modifications and connections to the existing infrastructure of water, gas and electricity supply to be carried out without the need for individual planning applications.

5.8 Part 8 – Administrative, General and Miscellaneous Provisions

- 5.8.1** As indicated earlier in this report, a major aspect of the draft Law will be its unified approach to planning, conservation, heritage and building regulations matters. The IDC has agreed with the Heritage Committee that the new Law should be drafted in a form that provides a flexible and effective administrative process which can be administered by either of the Committees as appropriate without the need for major revision to legislation if mandates change over time.
- 5.8.2** Consequently Clause 78 of the draft Law provides for the States to transfer the administration of various Clauses of the Law between the IDC, the Heritage Committee or, indeed, any other Committee of the States.
- 5.8.3** Clause 79 of the draft Law similarly provides for delegation of the functions of the relevant Committees to Sub-Committees, officers of the Committee concerned or the relevant Parish Douzaines in the interests of the efficient and cost effective administration of their mandates.
- 5.8.4** Clause 80 of the draft Law enables the States to make Ordinances concerning the general administration of the Law, including such matters as the raising of fees from individual applicants. With regard to this particular issue, the IDC considers that it is appropriate that such provision should be included in the Law. However, it would not wish to recommend to the States to consider invoking such provision at least until the new Law has been fully enacted and has become fully operative.
- 5.8.5** Clause 81 of the draft Law provides for the IDC to issue guidance to assist applicants in the submission of applications for development permission. The IDC believes that greater importance and emphasis needs to be attached to such guidance material in future and this Clause of the Law would enable it to be given formal or even legal status in the planning process.
- 5.8.6** Clauses 82 to 84 of the draft Law relate to the granting of necessary legal powers to the IDC to carry out its mandate effectively on a day to day basis and in its dealings with individual property owners and developers.

- 5.8.7** Clauses 85 to 92 similarly deal with matters of legal detail. The subsidiary schedules referred to in these Clauses will be drafted later.

6 SUMMARY AND CONCLUSIONS

- 6.1** In conclusion, the IDC would emphasise again that this report relates to an incomplete draft new Planning Law and that many issues of detail, which will be of interest to States Members, are not included in the draft legislation at this stage. The IDC intends to return to the States after the consultative process has been completed, with a detailed proposition, including a substantial number of the secondary Ordinances, all of which will need to be endorsed before the new Law can be introduced. The Building Regulations is one major example of an area of the legislation which is proposed to integrate into the new Law.
- 6.2** The IDC, in consultation with the Heritage Committee, nevertheless believes that it has made very substantial progress in the creation of a comprehensive new Planning Law which will meet the needs of the Island well into the next century.

7. RECOMMENDATION:

The Island Development Committee recommends the States:—

To approve the Island Development Committee's proposal to undertake a programme of public consultation on the proposals set out in the Report and Appendices in the Billet d'État, with interested parties and individuals before proceeding with the preparation of detailed legislation for presentation to the States.

I have the honour to request that you be so good as to lay these matters before the States, together with the appropriate propositions.

I am, Sir,
Your obedient Servant,
W. M. BELL,
President,
Island Development Committee.

APPENDIX A

The President,
Island Development Committee,
Sir Charles Frossard House,
La Charroterie,
St. Peter Port,
Guernsey,
GY1 1FH.

5th August, 1998.

Dear Deputy Bell

**REVIEW OF THE ISLAND DEVELOPMENT (GUERNSEY) LAW 1966 AND THE
ANCIENT MONUMENTS AND PROTECTED BUILDINGS (GUERNSEY) LAW 1967**

The Heritage Committee welcomes the progress that has been made on the draft Land Planning and Development (Guernsey) Law.

As you know, the Heritage Committee is committed to the review of the Ancient Monuments and Protected Buildings (Guernsey) Law 1967 and supports its revised legislation forming part of a new integrated Law. This seems to the Committee to be a logical progression from the new working relationship which our two committees have set up. In particular the pooling of resources to provide a joint Conservation and Design team to advise both committees has been valuable.

The Committee is also supportive of the concept of a primary Law supported by Ordinances to cover matters of detail.

The Committee looks forward to commenting in detail on the work completed so far as part of the forthcoming consultation exercise and also to progressing, in partnership with the Island Development Committee, the next phase of drafting the appropriate Ordinances.

Yours sincerely,

DEPUTY F. X. PAUL,

President,
States Heritage Committee.

D R A F T

PROJET DE LOI

ENTITLED

The Land Planning and Development (Guernsey) Law, 199

ARRANGEMENT OF SECTIONS

Section

PART 1
PRELIMINARY

1. Purposes of this Law.
2. Application of this Law by reference to its purposes and intent.

PART 2
STRATEGIC AND DEVELOPMENT PLANNING

CHAPTER 1
STRATEGIC LAND-USE PLANNING

3. Appointment of Strategic Land Planning Group.
4. Transition from the Strategic and Corporate Plan to the Strategic Land Use Plan.
5. Preparation of Strategic Land Use Plan.

CHAPTER 2
DEVELOPMENT PLANNING

6. The Committee's general duties.
7. Transition from current plans to Development Plans, Subject Plans and Local Planning Briefs.
8. Preparation of draft Development Plans.
9. Preparation of draft Subject Plans.
10. Preparation of draft Local Planning Briefs.
11. Further provisions as to the contents of Development Plans, Subject Plans and Local Planning Briefs.
12. Procedure for examination, adoption and revision of Development Plans, Subject Plans and Local Planning Briefs

PART 3
CONTROL OVER DEVELOPMENT

"Development"

13. Meaning of "development".

Planning permission

14. Requirement for planning permission.
15. Grants of planning permission.
16. Applications for planning permission.

17. Applications for planning permission: public policy cases. [j22B]
18. Building regulations.
19. Effect of planning permission.
20. Completion notices.
21. Revocation and modification.
22. Register of applications for planning permission.

Planning status: use registration, certificates and opinions

23. Planning status: use registration, certificates and opinions .

Planning covenants

24. Planning covenants.
25. Enforcement of planning covenants.
26. Modification and discharge of planning covenants.
27. Modification of planning covenants: supplemental provisions.

Development Control Ordinances

28. Development Control Ordinances: supplementary provision.

PART 4
SPECIAL CONTROLS

CHAPTER 1
MONUMENTS AND ARCHAEOLOGICAL SITES

29. The protected monuments list.
30. General functions of authorities as respects protected monuments.
31. Further controls and powers as respects protected monuments.
32. Damage to protected monuments etc.

CHAPTER 2
BUILDINGS OF SPECIAL INTEREST

33. The protected buildings list.
34. General functions of authorities as respects protected buildings
35. Further controls and powers as respects protected buildings
36. Schemes, grants and loans
37. Damage to protected buildings

CHAPTER 3
CONSERVATION AREAS

38. General functions of authorities as respects conservation areas.
39. Further controls and powers in conservation areas.

CHAPTER 4
SITES OF SPECIAL SIGNIFICANCE

40. Control of development etc. on sites of special significance.
41. Further powers in relation to sites of special significance.

CHAPTER 5
TREES

42. General functions of authorities as respects trees
43. Tree protection orders.
44. Control of development etc. as respects protected trees
45. Further powers in relation to protected trees

CHAPTER 6
OTHER CONTROLS

46. Power to make provision corresponding to other Parts of this Law where special controls required.

PART 5
ENFORCEMENT

CHAPTER 1
INVESTIGATION AND CHALLENGE PROCEDURE

47. Challenge notices in cases of suspected contraventions.

CHAPTER 2
COMPLIANCE REQUIREMENTS

Compliance notice procedure

48. Issuer service and withdrawal of compliance notice.
49. Contents of compliance notice, etc.
50. Execution and cost of works required by compliance notice. [j65]
51. Stay of action and proceedings under this Part.

Injunctions

52. Restraint of planning control breaches by injunction.

Interim compliance notice procedure

53. Interim compliance notices.
54. Application to set aside interim compliance notice.

Charges over land

55. Enforcement notice land charges.
56. Vacation of charges under section 55.

CHAPTER 3
CRIMINAL PROCEEDINGS

57. Unlawful development.
58. Contravention of challenge notice.
59. Contravention of compliance notice.
60. Contravention of interim compliance notice.

CHAPTER 4
SUPPLEMENTARY PROVISIONS

61. Simultaneous proceedings.
62. Evidential presumptions.
63. Offences by bodies corporate.
64. Causing, permitting etc.
65. Criminal fines.

CHAPTER 5
SPECIAL CONTROLS

66. Power to make corresponding provision.

PART 6
APPEALS AND JUDICIAL REVIEW

Appeals

67. Right to appeal against planning decisions and failure to take such decisions.
68. Determination of appeals under section 67.
69. Right to appeal against compliance notices.
70. Determination of appeals under section 69.

Review of decisions and notices by the Court

71. Reviews of certain decisions about permission etc.
72. Reviews of enforcement notices.
73. Review proceedings: supplementary provisions.
74. Residual presumption of validity.

PART 7
DEVELOPMENT ETC. BY THE STATES OR PUBLIC UTILITIES SUPPLIERS

Development etc. by the States

75. General application of Law to States.
76. Review of decisions by States.

Public utilities suppliers

77. Public utilities suppliers

PART 8
ADMINISTRATIVE, GENERAL AND MISCELLANEOUS PROVISIONS

Transfer and delegation of the Committee's functions

78. Power to transfer functions to the States Heritage Committee.
79. Performance of functions by sub-committees, officers etc.

Administration

80. Administration: powers to make Ordinances.
81. Guidance.
82. Power to require information as to interests in land.

Rights of entry

83. Entry on land for authorised purposes.
84. Restrictions and manner of exercise of entry power.

General and miscellaneous provisions

85. Ordinances and Regulations.
86. Liability and compensation.
87. Interpretation and construction.
88. Repeals, amendments and general savings.
89. Particular saving and transitional provisions.
90. Extent.
91. Citation.
92. Commencement.

SCHEDULE 1
INTERPRETATION

SCHEDULE 2
REPEALED ENACTMENTS

SCHEDULE 3
TABLES OF DESTINATIONS AND ORIGINS

SCHEDULE 4
SAVINGS AND TRANSITIONALS

PART 1
PRELIMINARY

Purposes of this Law.

1. (1) The purposes of this Law are to protect, enhance and facilitate sustainable development of the physical environment of Guernsey.

(2) In this regard the Law will seek–

- (a) to protect and enhance the natural beauty and amenity of Guernsey’s coasts, cliffs, countryside and other open spaces;
- (b) to protect and enhance Guernsey’s heritage of buildings and monuments of historic and architectural importance;
- (c) to preserve and promote biological diversity;
- (d) to achieve quality in the design and implementation of development [so as to respect Guernsey’s architectural, archaeological and historic heritage and make a positive contribution to the built environment];
- (e) to maintain a balance between the competing demands of the community for the use of land;
- (f) to ensure that all development is carried out in a sustainable manner to achieve a safe and healthy living and working environment.

(3) With a view to achieving these purposes the Law will provide a framework within which development in Guernsey can be planned and regulated in accordance with the strategic policies of the States by–

- (a) the preparation and adoption of Strategic Land Use, Development and Subject Plans and Local Planning Briefs;
- (b) controlling the carrying on of building, engineering, mining and other operations and changes in the use of land or buildings in the light of such Plans and Briefs; and
- (c) applying special and additional controls in relation to areas, sites, buildings and operations of particular importance, interest, sensitivity or concern;
- (d) the preparation and adoption of building regulations.

Application of this Law by reference to its purposes and intent.

2. (1) It is the duty of any person exercising any function under this Law, to do so in the light of, and with a view to achieving, its purposes.

(2) In particular, but without prejudice to the generality of subsection (1), no power conferred by or under this Law to make any Ordinance or regulations, give any guidance or enter any agreement may be exercised otherwise than for the purposes of this Law.

PART 2
STRATEGIC AND DEVELOPMENT PLANNING

CHAPTER 1
STRATEGIC LAND-USE PLANNING

Appointment of Strategic Land Planning Group.

3. (1) The States Advisory and Finance Committee shall appoint a Strategic Land Planning Group, the members of which shall be nominated—

- (a) by the States Advisory and Finance Committee,
- (b) by the Island Development Committee, and
- (c) by any other States Committees which appear to the States Advisory and Finance Committee to have significant responsibility in relation to the environment.

(2) If it appears to the Group to be expedient to do so, it may co-opt further members.

Transition from the Strategic and Corporate Plan to the Strategic Land Use Plan.

4. The Part of the Strategic and Corporate Plan required to be prepared under section 2 of the Island Development (Amendment) (Guernsey) Law, 1990, which by virtue of the Resolution of the States dated 9th July 1992 is to be Part 2 of that Plan shall instead become the Strategic Land Use Plan.

Preparation of Strategic Land Use Plan.

5. (1) It is the duty of the Strategic Land Planning Group from time to time to consider—

- (a) the implications for land planning and use of the strategic, economic or social objectives for the time being set out in the Strategic and Corporate Plan for Guernsey, and
- (b) the general guidance and specific directions which should be given to the Committee concerning the exercise of any of its functions under this Law in any circumstances in which, in the opinion of the Strategic Land Planning Group, their exercise may affect the achievement of those objectives, and
- (c) whether any alteration to the Strategic Land Use Plan is necessary.

(2) If—

- (a) it appears to the Strategic Land Planning Group that such an alteration is necessary, or
- (b) it is directed to do so by the States Advisory and Finance Committee,

it must prepare a fresh draft Strategic Land Use Plan or draft amendments of that Plan (including such transitional provisions as appear to the Group to be appropriate) and submit the draft Plan or amendments to that Committee for the consideration of the States.

(3) The States Advisory and Finance Committee must—

- (a) consider the draft so submitted,
- (b) determine whether in its opinion it is consistent with the Strategic and Corporate Plan, and
- (c) lay the draft Plan or amendments before the States for their consideration, together with a statement of the Committee's opinion as to that consistency.

(4) The States may adopt any draft Plan or amendments laid before them under subsection (3), either without modification or subject to such modifications as they may approve, in accordance with any rules of procedure for the time being in force.

(5) When preparing any draft Strategic Land Use Plan, the Strategic Land Planning Group—

- (a) must consult the Committee in relation to any such guidance or directions as are mentioned in subsection (1)(b) and take its views into account, and
- (b) may consult any Committee of the States, individual, body or group.

CHAPTER 2 DEVELOPMENT PLANNING

The Committee's general duties.

6. For the purposes of this Part, it is the duty of the Committee—
- (a) to seek to achieve, so far as possible, both the purposes of this Law and the objectives set out in the Strategic and Corporate Plan for Guernsey;
 - (b) to take into account the general guidance and specific directions given to it in the Strategic Land Use Plan in exercising the functions to which that guidance or those directions relate;
 - (c) to keep under review the matters which may be expected to affect the planning of the development of Guernsey; and
 - (d) from time to time, as required or authorised by or under this Law, to prepare for the consideration of the States Development Plans, Subject Plans and Local Planning Briefs and amendments of them.

Transition from current plans to Development Plans, Subject Plans and Local Planning Briefs.

7. (1) The Detailed Development Plans prepared under section 6 of the Island Development (Guernsey) Law, 1966, as they have effect immediately before the commencement of this Law, shall, subject to the following provisions of this Law, continue to have effect and shall be known instead as Development Plans.

(2) The documents adopted by the States and listed in Schedule X to this Law shall, subject to the following provisions of this Law, continue to have effect and shall be known as Subject Plans.

(3) The outline planning briefs adopted by the States and listed in Schedule Y to this Law shall, subject to the following provisions of this Law, continue to have effect and shall be known as Local Planning Briefs.

Preparation of draft Development Plans.

8. (1) It is the duty of the Committee—
- (a) to secure that the whole of Guernsey is covered by a Development Plan or two or more such Plans taken together,
 - (b) to keep those Plans under review,
 - (c) from time to time to consider whether any alteration to any of those Plans is necessary, and
 - (d) if it appears that any such alteration is necessary, to prepare a fresh Development Plan or draft amendments of that Plan for the consideration of the States.

- (2) Each draft Development Plan must, in relation to the area covered by it, set out–
- (a) the Committee’s proposals for managing the physical environment with a view to facilitating the achievement of the objectives of the Strategic Land Use Plan, having regard to the implications for land planning of those objectives,
 - (b) the Committee’s proposals and general policies
 - (i) for controlling the development and use of land,
 - (ii) for protecting and enhancing the environment r and
 - (iii) where appropriate, for facilitating such development, use, protection or enhancement by the promotion of planning covenants, and
 - (c) any consequential or incidental amendments of any Subject Plan or Local Planning Brief which may be appropriate.

(3) A draft Development Plan must take into account all guidance and directions given to the Committee in the Strategic Land Use Plan.

(4) Each draft Development Plan must include at least one map of the area covered by it, sufficient to indicate where it is proposed that each of the proposals and policies set out in the Plan pursuant to subsection (2) will be implemented or applied.

Preparation of draft Subject Plans.

9. (1) The Committee–

- (a) may at any time prepare a draft Subject Plan to address an issue or proposal affecting the use of land generally in some particular respect, and
- (b) must do so if required by a direction in the Strategic Land Use Plan.

(2) A draft Subject Plan must set out–

- (a) the Committee’s assessment of the planning implications of the issue or proposal concerned,
- (b) the Committee’s opinion as to the way in which any planning questions relating to, or arising from, that issue or proposal can best be resolved so as to achieve the purposes of this Law and the objectives of the Strategic Land Use Plan,
- (c) the Committee’s policies with regard to questions concerning that issue or the implementation of that proposal, and
- (d) any consequential or incidental amendments of any Development Plan or Local Planning Brief or amendments of any other Subject Plan which may be appropriate.

(3) A draft Subject Plan must take into account all guidance and directions given to the Committee in the Strategic Land Use Plan.

Preparation of draft Local Planning Briefs.

10. (1) The Committee–

- (a) may at any time prepare a draft Local Planning Brief to address planning issues within a locality generally or where a particular form of development is proposed, and
- (b) must do so if so required by the Strategic Land Use Plan, a Development Plan or a Subject Plan.

(2) A draft Local Planning Brief must set out the Committee’s proposals and policies for the locality concerned, as respects its development, redevelopment or enhancement.

- (3) A draft Local Planning Brief must take into account
- (a) all guidance and directions given to the Committee in the Strategic Land Use Plan,
 - (b) must conform with the objectives of any Development Plan in respect of the locality and of any Subject Plan which is relevant to it, and
 - (c) in so far as they are relevant to the locality concerned and any neighbouring locality the Committee expects to be affected, the matters mentioned in section 6[(a) and (c)].

(4) A draft Local Planning Brief must include at least one map showing the locality covered by it.

Further provisions as to the contents of Development Plans, Subject Plans and Local Planning Briefs.

11. (1) The States may by an Ordinance made under this subsection make such provision as they consider appropriate as to—

- (a) the designation by a Development Plan [or Subject Plan] of any area as to which the Plan makes special provision, for the purpose of applying any provisions made by or under Part 3 or 4 of this Law [or otherwise], and
- (b) other matters concerning the content of Development Plans, Subject Plans and Local Planning Briefs.

(2) An Ordinance under subsection (1)(a) may, in particular, make provision—

- (a) for the designation of a “conservation area” in a Development Plan [or Subject Plan] which identifies an area which in the opinion of the Committee is of special architectural or historic interest and the character or appearance of which it is desirable to preserve or enhance by the application of the special provisions in Chapter 3 of Part 4,
- (b) for the designation of a “site of special significance” in a Development Plan [or Subject Plan] which identifies any place as having special significance (whether because of archaeological, botanical, geological, scientific, cultural, zoological or any other interest) and it is desirable to preserve or enhance by the application of the special provisions in Chapter 4 of Part 4.

(3) Subject to sections 8(4) and 10(4) and any provision made by or under this section, the form and presentation of a draft Development Plan, Subject Plan or Local Planning Brief (for examples whether it contains maps, diagrams, or illustrations in addition to written statements) are matters for the Committee.

Procedure for examination, adoption and revision of Development Plans, Subject Plans and Local Planning Briefs

12. (1) The States shall by an Ordinance made under this subsection make such provision as they consider appropriate in connection with the examination and adoption of Development Plans, Subject Plans and Local Planning Briefs and their duration and revision, and providing for a planning inquiry to be held in the case of each such Plan or Brief.

(2) An Ordinance under subsection (1) may, in particular, make provision for—

- (a) the submission of draft Plans or Briefs to the Strategic Land Planning Group and their certification as consistent with Part 1 of the Strategic and Corporate Plan or the Strategic Land Use Plan,
- (b) their publication,
- (c) the appointment of Inspectors,

- (d) the consideration of the draft Plans and Briefs and written representations about them by Inspectors, the manner in which planning inquiries are to be held by them, and the making of reports by them to the Committee,
- (e) the procedure for the laying of draft Plans and Briefs before the States,
- (f) the procedure for the consideration and adoption by the States of draft Plans and Briefs,
- (g) the procedure for the amendment of Plans and Briefs and the initiation of new Plans and Briefs, and
- (h) such consequential, transitional, incidental and supplementary matters as the States consider appropriate.

PART 3
CONTROL OVER DEVELOPMENT

“Development”

Meaning of “development”.

13. (1) Subject to the provisions of this section, “development” means–
- (a) the carrying out of building, engineering, mining or other operations, in, on, over or under land, and
 - (b) the making of any material change in the use of land.
- (2) The following operations are included within subsection (1)(a)–
- (a) the demolition of the whole or part of a building;
 - (b) rebuilding;
 - (c) alterations of or additions to buildings which [materially] affect their external appearance;
 - (d) other operations normally undertaken by a person carrying on business as a builder.
- (3) The following are material changes of use within subsection (1)(b) (if they would not otherwise be so)–
- (a) any use of land which was previously unused;
 - (b) the resumption on any land of a use which has been abandoned;
 - (c) any change in the use of land from a use specified in one use class to a use specified in a different use class;
 - (d) an increase or decrease in the number of dwellings within a single building.
- (4) The States may, by an Ordinance made under this subsection, make further provision as to the matters which are or, as the case may be, are not to constitute development for any of the purposes of this Law.
- (5) In particular, an Ordinance made under subsection (4) may, in relation to descriptions of activities or circumstances specified in the Ordinance, provide that they are or are not to constitute development–
- (a) in any circumstances,
 - (b) in such circumstances as are so specified, or
 - (c) subject to such conditions or exceptions as are so specified.

(6) The States may, by an Ordinance made under this subsection, identify use classes and specify the uses of land which fall into each such use class for the purposes of this Law, and of the descriptions used in the Strategic Plan and any Development Plan.

Planning permission

Requirement for planning permission

14. Subject to the following provisions of this Part, planning permission is required for the carrying out of any development of land.

Grants of planning permission.

15. Planning permission or outline permission may be granted—

- (a) by the Committee on an application duly made to it, or
- (b) by the States in accordance with section 17, or
- (c) by an Ordinance made under section 49(2) or otherwise, or
- (d) on an appeal under section 67 or on a reconsideration of a decision following a review under section 71.

Applications for planning permission.

16. (1) Where an application for planning permission is duly made to the Committee, the Committee may—

- (a) grant the application either unconditionally or subject to conditions (including conditions limiting the period for which the permission is effective),
- (b) grant outline permission (that is, planning permission subject to the reservation of particular matters for subsequent approval) either unconditionally or subject to conditions,
- (c) refuse the application,
- (d) in a case where subsection (2) applies, decline to consider the application, or
- (e) in a case where subsection (3) applies, request the Advisory and Finance Committee to submit a policy letter to the States in accordance with section 17;

but where the application is for outline permission [or for permission for a limited period], only such permission may be granted.

(2) This subsection applies where—

- (a) within the period of [??] ending with the date on which the application is received by the Committee, another application has been refused by the Committee [or an appeal against the refusal of another application has been dismissed], and
- (b) in the opinion of the Committee—
 - (i) that other application was in respect of land and development which are substantially the same as the land and development in respect of which the later application is made, and
 - (ii) there has been no significant change in any material circumstance since that refusal or dismissal.

(3) This subsection applies where after considering an application it appears to the Committee that by virtue of subsection (6) (b) or (c) of this section it must refuse the application, but that subsection (2) of section 17 applies.

- (4) The States may by an Ordinance made under this subsection make further provision—
- (a) as to the conditions and reservations which may be imposed under subsection (1),
 - (b) the effect of a grant of outline permission,
 - (c) the effect of a grant of permission subject to conditions.

(5) The grant or refusal of permission takes effect on the date of its issue.

(6) In determining an application for planning permission or outline permission, the Committee must have regard—

- (a) to the purposes of this Law;
- (b) to any relevant Development Plan, Subject Plan or Local Planning Brief; and
- (c) to such matters relating to the purposes of this Law as may be specified by an Ordinance made by the States under this paragraph.

(7) The States may by an Ordinance made under this subsection make such further provision as they consider desirable in connection with the making and determination of applications for planning permission or outline permission.

(8) An Ordinance under subsection (7) may, in particular, make provision about—

- (a) the publicity to be given to applications,
- (b) the circumstances in which the Committee may require that an application be accompanied by an assessment of the likely impact of the proposed development on any aspect of the environment, the manner in which such assessments should be made and any further requirements concerning them, and
- (c) the circumstances in which applications may be resubmitted for consideration.

Applications for planning permission: public policy cases

17. (1) Where the Committee request the Advisory and Finance Committee to submit a policy letter to the States under section 16(1) (e), that Committee shall also consider that application.

(2) If it appears to that Committee that the benefit to the community which is likely to result from granting the application (or, as the case may be, granting it subject to conditions or reservations) justifies disregarding the provision of the relevant Development Plan [Subject Plan or Local Planning Brief or, as the case may be, the provision specified in the Ordinance under section 16(6) (c), by virtue of which the request was made, they must submit a policy letter to the States.

(3) The States may [by Resolution] grant such an application (or, as the case may be, grant it subject to conditions or reservations) or refuse it.

(4) Subject to any modifications made by an Ordinance made by the States under this subsection, the provisions of this [Part] [Law] relating to applications for and grants of permission apply in the case of an application to which this section applies as they apply to other applications for permission

Building regulations.

18. (1) The Committee may make regulations (“building regulations”) imposing requirements as to—

- (a) the design, construction, reconstruction, structural alteration, repair and maintenance of buildings and roads;
- (b) the planning and development of sites for buildings; and
- (c) the alterations or additions to any building, which are desirable in connection with a change of its use.

(2) Planning permission and outline permission under this Law are subject to the condition—

- (a) that the development to which they relate and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of the building regulations as are applicable to them; and
- (b) that no operation to which such a requirement applies may be commenced or continued unless—
 - (i) plans relating to the operation have been approved by the Committee, and
 - (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Committee when approving those plans, for the purpose of securing that the building regulations are complied with.

(3) The States may by Ordinance under this section make provision as to—

- (a) the submission of such plans to the Committee;
- (b) the information to be given by applicants;
- (c) the consideration and approval or rejection of such plans;
- (d) the effect and duration of such approvals;
- (e) without prejudice to the generality of paragraph (d), the manner in which requirements imposed under building regulations and approvals of plans in respect of operations affected by those requirements have effect in any case where requirements are also imposed in respect of those operations under any other enactments;
- (f) appeals against and reviews of the Committee's decisions as respects the imposition of conditions under subsection (2)(b)(ii);
- (g) such incidental, consequential and transitional matters as they think fit.

Effect of planning permission.

19. (1) Planning permission ceases to have effect unless the development permitted by it is commenced within three years of the date it is granted (or such [shorter] [other] period as may be specified in the permission).

(2) Planning permission enures for the benefit of the land concerned and of every person for the time being having an interest in it.

(3) Any conditions subject to which planning permission is issued are enforceable against every such person.

(4) Planning permission for the erection of a building is only permission to use it for the purpose specified in the permission or, subject to any restriction so specified, for any other purpose for which it is designed.

[(5) Planning permission is only permission to carry out the development specified in it (subject to any conditions so specified), and does not imply the giving of any other approval or consent required under this Law or any other enactment.]

Completion notices.

20. (1) Where the development permitted by a planning permission is commenced within three years of the date it is granted (or such [shorter] [other] period as may be specified in the permission), but the Committee is of the opinion that the development will not be completed

within a reasonable period, they may issue a notice (“a completion notice”) stating that the permission will cease to have effect at the expiry of the period specified in the notice.

(2) That period must be at least 12 months from the date the notice [is issued] and at the expiry of that period the permission becomes invalid, so far as development which has not been carried out under it before the expiry of that period is concerned.

(3) A copy of a completion notice must be served within 28 days after its issue—

- (a) on the owner of the land concerned;
- (b) on the occupier of that land, if he is not its owner; and
- (c) on every other person appearing to the Committee to have an interest in that land which is materially affected by the notice.

Revocation and modification.

21. (1) If—

- (a) the Committee grant an application for planning permission, and
- (b) it later appears to the Committee that by reason of any change in any matter to which it was required to have regard in determining the application for the grant of that permission, it would no longer grant the application,

it may apply to the States to revoke or modify that permission. (2) On such an application to the States they may revoke or modify the permission concerned.

(3) A planning permission for a change of use may only be revoked or modified before the change has taken place.

(4) A planning permission for the carrying out of building or other operations may only be revoked or modified before those operations have been [completed].

(5) Revocation or modification of a planning permission does not affect the lawfulness of anything already done.

(6) Where permission is revoked or modified under this section, the Advisory and Finance Committee shall appoint a person appearing to it to be suitable, by reason of his qualifications or experience and independence from [the Committee and] from any person who may be entitled to compensation, to determine—

- (a) whether any person has suffered any loss or damage as a result of the revocation or modification, and
- (b) if so, the appropriate amount of compensation required fully to compensate him for that loss or damage.

(7) A determination under subsection (6) shall be final and the Committee shall pay any amount determined under paragraph (b) of that subsection to the appropriate person.

(8) The States may by Ordinance make further provision as to the appointment of persons under subsection (6) and their determinations.

Register of applications for planning permission.

22. (1) The Committee shall prepare and maintain a register—

- (a) of all applications for planning permission duly made to it, and
- (b) of all decisions made in relation to those applications by the Committee or any other body or person to whom functions in relation to those applications are given by or under this Law.

(2) The States may, by an Ordinance made under this subsection, make such provision concerning that register as they consider appropriate.

Planning status: use registration, certificates and opinions

Planning status: use registration, certificates and opinions

23. (1) The States may, by an Ordinance made under this subsection, make provision—
- (a) for the registration of the existing use of any land; and
 - (b) as to the effect of such registration for the purposes of this Law.
- (2) The States may, by an Ordinance made under this subsection, make provision—
- (a) for applications to be made to the Committee for it to give its opinion as to whether any proposed use of, or proposed building or other operations on, any land would constitute or involve development [or require planning permission];
 - (b) for applications to be made to the Committee for it to issue a certificate
 - (i) as to the [lawfulness] of any existing use or of any such operations which have been carried out [or of any such proposed use or operations], or
 - (ii) as to whether any action or omission is one in respect of which any action may be taken under Part 5 of this Law;
 - (c) as to the giving of such opinions and issuing of such certificates;
 - (d) as to the effect of such opinions and certificates for the purposes of this Law or any provision of it; and
 - (e) for such incidental, consequential and transitional matters as they consider appropriate.

Planning covenants

Planning covenants

24. (1) For the purposes of this Law, the owner of any land may, whether pursuant to an agreement made by the Committee under this Law or otherwise, enter into a covenant (“a planning covenant”)—

- (a) restricting the development or use of the land in any specified way;
 - (b) requiring specified operations or activities to be carried out in, on, under or over the land;
 - (c) requiring the land to be used, maintained or managed in any specified way.
- (2) A planning covenant may relate to land at more than one site and, in particular, restrictions relating to one site may relate to planning purposes connected with another site.
- (3) A planning covenant –
- (a) may be entered into unconditionally or subject to specified conditions;
 - (b) may impose any restriction or requirement either indefinitely or for such period as may be specified;
 - (c) may be entered into for the benefit of any person or description of person (including the general public or any section of the general public) expressed in the covenant to be within its contemplation; and
 - (d) may require a sum or sums to be paid to the States or any Committee of the States on a specified date or dates or periodically to meet –
 - (i) expenses incurred in undertaking public works which are required or desirable as a consequence of any development specified in the covenant, or
 - (ii) other public expenditure attributable to that development.

(4) A planning covenant may only be entered into by an instrument in writing registered at the Greffe in the Livre des Contrats which—

- (a) states that the covenant is a planning covenant for the purposes of this Law;
- (b) identifies the land which is subject to the covenant;
- (c) identifies the person entering into the covenant as the owner of that land;
- (d) identifies the person or description of persons for whose benefit the covenant is entered into and any organisation, body or other person by whom it is expressed to be enforceable; and
- (e) sets out the restrictions and requirements undertaken pursuant to the covenant.

(5) A planning covenant –

- (a) is not liable to assessment under the Document Duty (Guernsey) Law, 1973; and
- (b) may not be registered in the Livre des Hypothèques, Actes de Cour et Obligations, or noted in the index to it.

Enforcement of planning covenants

25. (1) Subject to subsection (4), a planning covenant is enforceable –

- (a) by the Committee,
- (b) by any person for whose benefit it is expressed to be entered into, or
- (c) by any organisation, body or other person expressed in it to be representative of the interests of the general public or any section of the general public.

(2) A planning covenant may only be enforced as a charged covenant under Part II of the Real Property (Reform) (Guernsey) Law, 1987 and is enforceable in the same manner as a covenant entered into by the owner of a servient tenement and expressed to have been made for the benefit of a dominant tenement owned by the person seeking to enforce it.

(3) The persons against whom a planning covenant is enforceable are –

- (a) the person entering into the covenant;
- (b) any person deriving title from that person in respect of his interest in any of the land subject to the covenant, and
- (c) any person deriving title under a person falling within paragraph (a) or (b), in respect of any lesser interest in that land;

and, in the case of a person falling within paragraph (b) or (c), the covenant is enforceable as if that person had also been an original covenanting party in respect of the interest for the time being held by him.

(4) A planning covenant may be expressed so as to cease to bind any person after he ceases to have an interest in the land.

Modification and discharge of planning covenants

26. (1) A planning covenant may not be modified or discharged except –

- (a) by agreement between the interested parties, or
- (b) in accordance with subsections (4) to (7) [and Part [6]].

(2) For the purposes of subsection (1)(a), the interested parties are—

- (a) the Committee;
- (b) every party to any agreement in pursuance of which the planning covenant is expressed to be entered into;

- (c) every relevant person for whose benefit the planning covenant is expressed to be entered into; and
 - (d) every person against whom the planning covenant is enforceable.
- (3) A person is a relevant person for the purposes of subsection (2)(c) if –
- (a) he is mentioned by name in the planning covenant, or
 - (b) he falls within a description of persons mentioned in it and is to be treated as an interested party for the purposes of subsection (1)(a), in accordance with an Ordinance made by the States under this subsection.

(4) A person against whom a planning covenant is enforceable may at any time after the expiry of the period of five years beginning with the date on which the covenant is entered into (or such earlier time as the Committee may allow) apply to the Committee for the covenant –

- (a) to have effect subject to such modifications as may be specified in the application; or
- (b) to be discharged.

(5) An application under subsection (4) for the modification of a planning covenant may not specify a modification imposing an obligation on any person against whom the covenant is enforceable (other than the applicant).

(6) Where an application is made to the Committee under subsection (4), the Committee may determine –

- (a) that the planning covenant shall continue to have effect without modification;
- (b) if the covenant no longer serves a useful purpose, that it shall be discharged; or
- (c) if the covenant continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.

(7) Before making a determination within subsection (6)(b) or (c) the Committee must take reasonable steps to consult –

- (a) all the parties to any agreement pursuant to which the planning covenant is expressed to be entered into (other than the applicant); and
- (b) every person for whose benefit the planning covenant is expressed to be entered into.

Modification of planning covenants: supplemental provisions

27. (1) Where –

- (a) the Committee determines that a planning covenant shall have effect subject to modifications specified in an application made under section 26, or
- (b) a modification is agreed in accordance with section 26,

the covenant as so modified shall be registered in the Livre des Contrats at the Greffe and, as respects any acts or omissions after the time when it is so registered, shall be enforceable in all respects in place of the original covenant in accordance with section 25(2).

(2) For the avoidance of doubt –

- (a) section 26 and this section shall apply in substitution for Part III of the Real Property (Reform) (Guernsey) Law, 1987 (the provisions of which Part shall not apply to planning covenants),

(b) a planning covenant may lawfully restrict or modify the application of section 26 and this section.

(3) The States may by an Ordinance made under this subsection make such provision as they consider desirable in connection with the making and determination of applications under section 26 [including provision for appeals].

Development Control Ordinances

Development Control Ordinances: supplementary provision

28. (1) The States may, by an Ordinance made under this subsection, specify descriptions of development which may, notwithstanding any other provision of this Law, be carried out without planning permission –

- (a) in any circumstances,
- (b) in such circumstances as are so specified, or
- (c) subject to such conditions or exceptions as are so specified.

(2) Without prejudice to the generality of subsection (1), an Ordinance under that subsection may provide that development may be carried out without planning permission if any aspect of the development specified in the Ordinance has been approved by any Committee of the States or any other person appearing to the States to be appropriate and so specified.

(3) The States may, by an Ordinance made under this subsection, make such provision as appears to them to be desirable in connection with the provisions of this Part of this Law and to supplement this Part.

PART 4 SPECIAL CONTROLS

CHAPTER 1 MONUMENTS AND ARCHAEOLOGICAL SITES

The protected monuments list.

29. (1) The States Heritage Committee shall prepare and maintain a list, to be known as “the protected monuments list”, of such monuments, structures, artefacts, caves, ruins or remains (whether on or below the surface of any land) as in its opinion it is a matter of public importance by reason of their archaeological, historic, traditional, artistic or other special interest to preserve [substantially] without alteration.

(2) The States Heritage Committee may amend or delete any entry on the list at any time if in its opinion it is appropriate to do so.

(3) The States may by Ordinance under this section make provision as to –

- (a) the manner and form in which the list is to be kept,
- (b) the information to be included in it and, in particular, the area to be regarded as part of the monument, structure, artefact, cave, ruins or remains for the purposes of this Chapter,
- (c) the publicity to be given to the listing of any monument, structure, artefact, cave, ruins or remains, or to any amendment or deletion of any entry on the list,
- (d) the effect of listing under this section as respects any permission, approval or consent previously granted under this Law and anything taking place by virtue of it, including the payment of compensation for consequential loss, and
- (e) such other matters relating to listing under this section as they consider appropriate.

(4) The States shall by Ordinance under this section make such provision as they consider appropriate for appeals to be brought against the listing of any monument, structure, artefact, cave, ruins or remains, including, in particular, provision as to –

- (a) the persons who may bring such appeals;
- (b) the procedure to be adopted for such appeals; and
- (c) such other matters corresponding to provision made under Part 6 of this Law as they consider appropriate.

(5) If it appears to the States that it is appropriate that this Chapter should apply to anything which could not otherwise be listed under this section, they may by Ordinance under this section modify subsection (1) so as to enable it to be so listed and make such other consequential amendments as they consider appropriate.

General functions of authorities as respects protected monuments

30. (1) It is the duty of any Committee of the States when exercising its functions under this Law –

- (a) to secure so far as possible that monuments, structures, artefacts, caves, ruins and remains listed on the protected monuments list (“protected monuments”) are protected and preserved without alteration, and
 - (b) in particular, in exercising their functions with respect to any buildings or other land in the vicinity of a protected monument, to pay special attention to the desirability of preserving the monument and its setting.
- (2) Subsection (1)(a) is not to be construed as preventing any alteration which –
- (a) is for a purpose connected with enabling or facilitating access to, or enhancing appreciation of, a protected monument by the public

Further controls and powers as respects protected monuments, etc.

31. (1) There is a strong presumption against planning permission being granted for any development affecting a protected monument.

- (2) The States may by Ordinance –
- (a) provide that the carrying out of any activity specified in the Ordinance which would not otherwise constitute development does so where it affects or may affect a protected monument;
 - (b) provide that the carrying out of any development specified in the Ordinance which would not otherwise require planning permission (including any activity which is only development by virtue of paragraph (a)), does so where it affects or may affect a protected monument;
 - (c) provide for the execution of works for the protection and preservation of protected monuments and the recovery of the costs of such works when executed by or on behalf of the States Heritage Committee;
 - (d) provide for the circumstances in which the States Heritage Committee may recommend to the States the compulsory acquisition of any protected monument which in its opinion is seriously at risk of damage or deterioration, and the basis of the compensation payable in the event of such an acquisition; and
 - (e) make provision for the reporting and recording of finds of archaeological or historic significance which are
 - (i) made at or in the vicinity of any protected monument, or
 - (ii) likely to be a material consideration in determining whether any monument, structure, artefact, cave, ruin or remains becomes a protected monument or any site is designated as a site of special significance.

(3) The States may by Ordinance under this section provide for the [States Advisory and Finance Committee] [acting on the recommendation of the States Heritage Committee] to make grants or loans to assist with expenditure which has made or will make a significant contribution towards –

- (a) the preservation or enhancement of a protected monument or its setting, or
- (b) the archaeological investigation or recording of a protected monument or land in the vicinity of such a monument.

(4) Subsection (2)(a) and (b) is without prejudice to sections 13(4) and (5) and 28.

Damage to protected monuments etc.

32. (1) It is an offence –

- (a) to destroy or damage the whole or any part of a protected monument;
- (b) to disturb the ground under a protected monument or within an area which is specified under section 29(3)(b);
- (c) to destroy or damage any item found under such a monument or within such an area or remove any such item from such an area.

(2) It is a defence in proceedings for an offence under subsection (1) to prove that the States Heritage Committee has consented in writing to the action which would otherwise constitute the offence.

(3) A person guilty of an offence under this section is liable –

- (a) on summary conviction, to a fine not exceeding 10 times the amount of level 5 on the uniform scale;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.

CHAPTER 2
BUILDINGS OF SPECIAL INTEREST

The protected buildings list.

33. (1) The States Heritage Committee shall prepare and maintain a list, to be known as “the protected buildings list”, of buildings with special historic, architectural, traditional or other interest, the preservation of whose character as such is in its opinion a matter of public importance.

(2) In considering whether or not to list any building, that Committee may take into account –

- (a) any way in which the exterior of the building contributes to the historic, architectural, traditional or other interest of any group of buildings of which it forms part;
- (b) the desirability of preserving any feature of the building, consisting of a man-made object or structure fixed to the building or forming part of the land in the vicinity of the building.

(3) The States Heritage Committee may amend or delete any entry on the list at any time if in its opinion it is appropriate to do so.

(4) The States may by Ordinance under this section make provision as to –

- (a) the manner and form in which the list is to be kept,
- (b) the information to be included in the list,
- (c) the publicity to be given to the listing of any building or to any amendment or deletion of any entry on the list,

(d) the effect of listing under this section as respects any permission, approval or consent previously granted under this Law and anything taking place by virtue of it, including the payment of compensation for consequential loss, and

(e) such other matters relating to listing under this section as they consider appropriate.

(5) Such an Ordinance may also make provision for the preservation with a protected building of objects not forming part of it.

(6) The States shall by Ordinance under this section make such provision as they consider appropriate for appeals to be brought against the listing of any building, including in particular, provision as to –

(a) the persons who may bring such appeals;

(b) the procedure to be adopted for such appeals; and

(c) such other matters corresponding to provision made under Part 6 of this Law as they consider appropriate.

[(7) If it appears to the States that it is appropriate that this Chapter should apply to anything which could not otherwise be listed under this section, they may by Ordinance under this section modify subsection (1) so as to enable it to be so listed and make such other consequential amendments as they consider appropriate.]

General functions of authorities as respects protected buildings

34. It is the duty of any Committee of the States when exercising its functions under this Law–

(a) to secure so far as possible that the special historic, architectural, traditional or other special characteristics of buildings listed on the protected buildings list (“protected buildings”) are preserved; and

(b) in particular, in exercising their functions with respect to a protected building or any other building or land in the vicinity of a protected building, to pay special attention to the desirability of preserving the protected building’s special characteristics and setting.

Further controls and powers as respects protected buildings

35. (1) There is a strong presumption against planning permission being granted for any development which –

(a) involves the demolition or destruction of or of any part of a protected building, or

(b) adversely affects its special character or features.

(2) The States may by Ordinance –

(a) provide that the carrying out of any work specified in the Ordinance which would not otherwise constitute development does so where it affects or may affect –

(i) a protected building,

(ii) the setting of a protected building,

or

(iii) any object as respects the preservation of which an Ordinance under section 33(5) has made provision;

(b) provide that the carrying out of any development specified in the Ordinance which would not otherwise require planning permission (including any work which is only development by virtue of paragraph (a)), does so where it affects or may affect a protected building;

- (c) make provision as to the execution of works for the protection and preservation of protected buildings and the recovery of the costs of such works when executed by or on behalf of the States Heritage Committee;
 - (d) provide for the circumstances in which the States Heritage Committee may recommend to the States the compulsory acquisition of any protected building which in its opinion is seriously at risk of damage or deterioration or the special character of which is seriously at risk, and the basis of the compensation payable in the event of such an acquisition;
 - (e) provide for the reporting and recording of finds of historic significance which are—
 - (i) made at or in the vicinity of any protected building, or
 - (ii) likely to be a material consideration in determining whether any building becomes a protected building.
- (3) Subsection (2)(a) and (b) is without prejudice to sections 13(4) and (5) and 28.

Schemes, grants and loans

36. (1) The States Heritage Committee may –

- (a) enter into such agreements, and
- (b) promote or participate in such schemes, as it considers appropriate for the purpose of assisting in the preservation and enhancement of protected buildings and their settings.

(2) Without prejudice to the generality of subsection (1), the States Advisory and Finance Committee [acting on the recommendation of the States Heritage Committee] may make grants or loans to assist with expenditure which has made or will make a significant contribution towards the preservation or enhancement of a protected building or its setting.

(3) Such grants and loans may be made on such terms as [the States Heritage Committee] [the States Advisory and Finance Committee] considers appropriate.

(4) The States may by Ordinance under this section may such further provision concerning such agreements, schemes, grants and loans as they consider appropriate.

Damage to protected buildings

37. (1) If any person–

- (a) does any act which causes or is likely to result in any damage to a protected building,
- (b) fails to take any action required for the prevention or avoidance of such damage, or
- (c) permits any such act to be done or such failure to take place,

he shall be guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) is liable–

- (a) on summary conviction, to a fine not exceeding 10 times the amount of level 5 on the uniform scale;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.

(3) Subsection (1) does not apply to any act which constitutes development authorised by planning permission or is necessarily incidental to such development.

CHAPTER 3
CONSERVATION AREAS

General functions of authorities as respects conservation areas

38. (1) In the exercise, with respect to any buildings or other land in a conservation area, of any powers under this Law [or any other enactment?], special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

- (2) The Committee may from time to time –
- (a) formulate and publish proposals for the preservation and enhancement of the character or appearance of the whole or part of any conservation area, and
 - (b) set up such schemes as it considers appropriate for encouraging such preservation or enhancement.
- (3) The States may by Ordinance under this section –
- (a) provide for the [States Advisory and Finance Committee] [acting on the recommendation of the Committee] to make grants or loans to assist with expenditure which has made or will make a significant contribution towards such preservation or enhancement, and
 - (b) make such other provision as they consider appropriate in connection with the exercise of functions as respects such areas.

Further controls and powers in conservation areas

39. (1) The States may by Ordinance –
- (a) provide that the carrying out of any work specified in the Ordinance which would not otherwise constitute development does so where it is carried out in a conservation area;
 - (b) provide that the carrying out of any development specified in the Ordinance which would not otherwise require planning permission (including any work which is only development by virtue of paragraph (a)), does so where it is carried out in a conservation area;
 - (c) make provision indicating the manner in which any discretionary power exercisable under this Law will usually be exercised in relation to such an area (for example, by providing that there is a presumption against any change taking place there);
 - (d) provide for the execution of works for the preservation of buildings or other structures in conservation areas and the recovery of the costs of such works.

[(2) The Committee may issue guidance as to the matters which will be taken into account by the Committee for the purposes of this section and the manner in which it proposes to exercise its functions under it.]

- (3) Subsection (1)(a) and (b) is without prejudice to sections 13(4) and (5) and 28.

CHAPTER 4
SITES OF SPECIAL SIGNIFICANCE

Control of development etc. on sites of special significance.

40. (1) Without prejudice to section 13(4) and (5), the States may by Ordinance provide that the carrying out of any activity specified in the Ordinance which would not otherwise constitute development does so where it is carried out on any site of special significance or on a site of special significance which is so designated by reason of any particular description of interest.

(2) Without prejudice to section 28, the States may by Ordinance provide that the carrying out of any development specified in the Ordinance which would not otherwise require planning permission (including any activity which is only development by virtue of subsection (1)), does so where it is carried out on such a site.

[(3) In considering an application for planning permission for development on a site of special significance or development which may affect such a site, the Committee must have regard to the desirability of requiring an assessment of the likely impact of the proposed development on any aspect of the environment, [unless it is satisfied that the development is of a minor nature and is incapable of having a significant adverse effect on the quality of the environment, the use of natural resources, or biological diversity.]

Further powers in relation to sites of special significance etc.

41. (1) [The States may by an Ordinance] [The Committee may by regulations] under this subsection –

- (a) prohibit any operations which appear to [them] [it] to be likely to involve a risk of damage to the interest of sites of special significance –
 - (i) generally, or in relation to all such sites so designated for any specified feature of interest, or in relation to a specified site of special significance, and
 - (ii) in all circumstances or in specified circumstances;
- (b) provide for the carrying out of any such operations to constitute an offence; and
- (c) make such consequential and incidental provision as [they] [it] consider appropriate.

(2) The States may by Ordinance make provision as to –

- (a) the circumstances in which the Committee may recommend to the States the compulsory acquisition of land which is designated (whether alone or together with other land) as a site of special scientific interest, and
- (b) the basis of the compensation payable in the event of such an acquisition.

(3) The States may by Ordinance make provision enabling the Committee in cases of urgency to take such steps as it considers are required for the purpose of protecting or preserving something of archaeological, botanical, geological, scientific, cultural, zoological or other special interest in any place, which is not designated as a site of special significance, but which it considers should so designated for that purpose.

CHAPTER 5 TREES

General functions of authorities as respects trees

42. It is the duty of [any Committee of the States] when exercising its functions under this Law–

- (a) to secure so far as possible that existing trees are protected and, where appropriate, that new trees are planted and protected, and
- (b) in particular, in exercising its functions with respect to any buildings or other land in the vicinity of a tree or land subject to an order under section 43, to pay special attention to the desirability of protecting that tree or land [and its setting].

Tree protection orders.

43. (1) If it appears to the Committee that [in the interests of amenity] it should provide for the protection of any tree, group of trees or woodlands, it may make an order (a “tree protection order”) under this section.

(2) A tree protection order –

(a) may be made in relation to a tree or group of trees which has not been planted when the order is made, [but which is required to be planted by a condition subject to which planning permission is granted, a requirement in a planning covenant or an obligation to replant arising under Part 5]; and

(b) must either specify the tree, group of trees to be protected under it or the land where the tree, group or woodlands is situated or is to be planted.

(3) A tree protection order takes effect at the time it is made.

(4) The Committee may at any time by order revoke a tree protection order from such date as may be specified in the order, which may be earlier than the date on which that order is made.

(5) The States may, by an Ordinance made under this subsection, make provision as to –

(a) the publicity to be given to the making of orders under this section,

(b) the making of objections to the making of a tree protection order.

Control of development etc. as respects protected trees

44. (1) Without prejudice to section 13(4) and (5), the States may by Ordinance provide that –

(a) the cutting down, topping, lopping, uprooting or destruction of any tree which–

(i) is specified in a tree protection order, or

(ii) is part of a group of trees or woodland which is so specified, or

(iii) is situated on land so specified; or

(b) the carrying out of any other activity specified in the Ordinance to, or in the vicinity of, such a tree or on such land,

constitutes development.

(2) Without prejudice to section 28, the States may by Ordinance provide that the carrying out of any development specified in the Ordinance which would not otherwise require planning permission (including any activity which is only development by virtue of subsection (1)), does so where it is carried out to, or in the vicinity of, such a tree or on such land.

[(3) In considering an application for planning permission for development in respect of trees or land subject to a tree protection order, or development which may affect such trees or land, the Committee must have regard to the desirability of requiring an assessment of the likely impact of the proposed development on the trees or land, [unless it is satisfied..?]]

Further powers in relation to protected trees

45. (1) [The States may by an Ordinance] [The Committee may by regulations] under this subsection –

(a) prohibit any activities or omissions which appear to [them] [it] to be likely to involve a risk of damage to trees or land subject to a tree protection order; and

(b) provide for those activities or omissions to constitute an offence.

(2) The States may by an Ordinance under this section make provision as to –

(a) the standard of care and management required in relation to trees or land subject to a tree protection order; and

(b) the steps to be taken to remedy any contravention of any requirements imposed under paragraph (a).

(3) An Ordinance [or regulations] under this section may make such consequential and incidental provision as the States [or, as the case may be, the Committee] consider appropriate.

CHAPTER 6
OTHER CONTROLS

Power to make provision where special or additional controls required

46. (1) Where it appears to the States that, in connection with the purposes of this Law, it is expedient that any use of land or any activity or omission in relation to land should be subject to control or to further control under this Law, they may, by an Ordinance made under this subsection, make provision for that control.

(2) An Ordinance made under subsection (1) may make such provision corresponding to the provision made by or under Parts 3, 5, 6, 7 and 8 or Chapter 1 to 5 of this Part as appears to the States to be appropriate as respects the use, activity or omission in question or may impose additional controls.

(3) In particular, but without prejudice to the generality of subsection (1), an Ordinance under that subsection may relate –

- (a) to the display of advertisements,
- (b) to matters connected with the impairment of amenity in any locality, [including –
 - (i) the disposal of rubbish,
 - (ii) the abandonment of any vehicle, substance or any other thing on any land,
 - (iii) the presence of any dilapidated or ruinous buildings.
 - (iv) [land in an unsightly condition] [the adverse effect to the amenity of any locality of the condition of any land,]
 - (v) the placing of caravans on land,
 - (vi) the removal of turf, topsoil or sand from any [agricultural] land,
 - (vii) the placing or removal of glasshouses on land and their use,
 - (viii) the protection and preservation of cliff paths],
- (c) to any case where, in the opinion of the States, the cumulative effect of a number of actions or omissions of a particular kind is of substantially more significance than single examples of them.

(4) An Ordinance under subsection (1) may make different provision as respects areas which are or are not subject to other special controls.

(5) Without prejudice to the provisions of Chapters 1 to 5 of this Part, the powers under this section may be used to make further provision supplementing those Chapters.

PART 5
ENFORCEMENT

CHAPTER 1
INVESTIGATION AND CHALLENGE PROCEDURE

Challenge notices in cases of suspected contraventions

47. (1) Where it appears to the Committee that there may have been a breach of planning control, it may serve a notice under this section (a “challenge notice”) on any person on whom a copy of a compliance notice in respect of the suspected breach would be required to be served under section 48, requiring him to give such information as to the suspected breach as may be specified in the notice.

(2) A challenge notice may contain a statement as to a time when and place where the Committee will consider –

- (a) any offer which the person on whom the notice is served may wish to make to apply for planning permission, to refrain from anything or to undertake remedial works, or
- (b) any representations he may wish to make about the notice;

and where such a statement is included the Committee shall give him an opportunity to make such an offer or representations in person at that time and place.

(3) No rule of law excusing any person from giving information which may be used in legal proceedings against him applies so as to excuse any person from complying with a challenge notice, and information given in compliance with such a notice may be adduced as evidence in any proceedings.

(4) The States may by Ordinance make provision as to the matters which must be specified in a challenge notice and as to such other matters connected with such notices as they consider appropriate.

CHAPTER 2 COMPLIANCE REQUIREMENTS

Compliance notice procedure

Issue, service and withdrawal of compliance notice

48. (1) The Committee may issue a notice under this section (a “compliance notice”) where it appears to it that there has been a breach of planning control which should be remedied.

- (2) For the purposes of this Part of this Law there has been a breach of planning control if—
 - (a) development has been carried out without planning permission required under this Law; or
 - (b) any condition subject to which planning permission has been granted has not been complied with.

(3) A copy of a compliance notice must be served within 28 days after its issue and not less than 28 days before the date specified in it as the date it takes effect –

- (a) on the owner of the land concerned;
- (b) on the occupier of that land if he is not its owner; and
- (c) on every other person appearing to the Committee to have an interest in that land which is materially affected by the notice.

(4) A compliance notice may be issued whether or not the owner of the land concerned was responsible for the alleged breach to which the notice relates, and whether or not he was its owner at the time of the alleged breach, but no compliance notice may be issued after the expiry –

- (a) of the period of 10 years beginning with the alleged breach to which it relates, or
- (b) of the period of 2 years beginning with the date on which the facts alleged to constitute that breach are first known by the Committee,

whichever is the sooner.

(5) The States may by Ordinance make provision modifying subsection (4) in such cases as it considers appropriate.

(6) The Committee may withdraw, waive or relax any requirement imposed by a compliance notice whether before or after the notice takes effect (but without prejudice to its powers to serve another); and in that event the Committee must immediately give notice that it has done so to every person on whom a copy of the compliance notice was served.

(7) Failure to serve a compliance notice on every person mentioned in subsection (4) does not invalidate the notice in relation to any person on whom it has been served.

Contents of compliance notice, etc

49. (1) A compliance notice must –

- (a) identify the land to which it relates (by means of a plan or otherwise);
- (b) specify the matters which appear to the Committee to constitute the breach of planning control;
- (c) specify the steps which the Committee requires to be taken or the activities it requires to cease for the purpose –
 - (i) of remedying the breach of planning control by making any development comply with the terms of any planning permission granted in respect of the land, by discontinuing any use of the land or by restoring it to its condition before the breach took place;
 - (ii) of remedying or alleviating any injury to amenity caused by the breach;
- (d) specify the period (in this Law referred to as “the compliance period” within which the Committee requires each of those measures to be taken (which may differ where more than one measure is required));
- (e) specify such additional matters as the States may by an Ordinance under this paragraph provide.

(2) Without prejudice to the generality of subsection (1)(c) and (e), the States may, by an Ordinance made under this subsection –

- (a) make provision about –
 - (i) the measures which may be required by compliance notices, and
 - (ii) the duration and continuing effect of such notices; and
- (b) provide for matters which would otherwise constitute a breach of this Law to be treated as the subject of a grant of planning permission or a licence or consent where a compliance notice has been served.

Execution and cost of works required by compliance notice.

50. (1) Where any measures required by a compliance notice to be taken (other than the discontinuance of a use) have not been taken within the compliance period, the Committee may –

- (a) enter the land concerned and take those measures; and
- (b) recover, as a civil debt due to the States from the owner of the land concerned, all expenses reasonably incurred by it in doing so.

(2) The powers conferred by paragraph (1)(a) do not empower the Committee –

- (a) to enter any building by force, or
- (b) to enter any building used wholly or mainly as a dwelling,

except under the authority of a warrant granted by the Bailiff under this subsection.

(3) If in the exercise of its powers under this section the Committee removes anything from any land, it may be disposed of by sale or in such other manner as the Committee thinks fit.

(4) The proceeds of any sale under subsection (3) may be applied towards the costs reasonably incurred by the Committee in taking any of the measures required by the compliance notice; and if those proceeds exceed those costs the Committee may pay the excess to any person who satisfies it that he was the owner of anything so removed at the time of its removal.

(5) No liability shall be incurred by the States or the Committee, or by any member, officers servant or agent of the States or the Committee, in respect of anything done in good faith in the exercise or purported exercise of the Committee’s powers under this section.

(6) Where a copy of a compliance notice has been served in respect of a breach of planning control –

- (a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and
- (b) any sums paid to the Committee by the owner of any land under subsection (1)(b) in respect of the expenses reasonably incurred in taking any measures specified in it,

are deemed to have been incurred or paid for the use and at the request of the person by whom the breach of planning control was committed.

Stay of action and proceedings under this Part.

51. (1) No action may be taken under section 50 and no proceedings may be instituted or continued under Chapter 3 if –

- (a) an appeal against or application for review of the compliance notice under section 69 or, as the case may be, section 72 is duly instituted, or
- (b) before the expiry of the period within which such an appeal or application could be made or the expiry of the compliance period if later, an application is duly made to the Committee for the grant or variation of such planning permission as would have rendered the alleged breach of planning control lawful if it had been granted before it occurred.

(2) The reference in subsection (1)(b) to the grant of planning permission includes the variation of such permission.

(3) Subsection (1) continues to apply until the appeal or application is finally determined or withdrawn; and it is not finally determined until any appeal, further appeal or review is determined, or the time for appealing or applying for a review has expired without an appeal or review proceedings being instituted .

(4) Subsection (1) does not prevent the Committee from applying for permission to create a charge under section 55.

Injunctions

Restraint of planning control breaches by injunction

52. (1) The Ordinary Court may, on the application of the Committee, grant an injunction restraining any actual or apprehended breach of planning control if it is satisfied that it is just and convenient to do so; and an interim injunction to that effect may be granted in accordance with and subject to Part 1 of the Law Reform (Miscellaneous Provisions) (Guernsey) Law, 1987 (whether or not the circumstances are exceptional), even though proceedings have not been and are not to be instituted before the Court.

(2) The right to apply for an injunction (including an interim injunction) under this section is without prejudice to the exercise by the Committee of any other power conferred on it by this Chapter, or to the effect of Chapter 3.

Interim compliance notice procedure

Interim compliance notices

53. (1) If when the Committee issues or has issued a compliance notice requiring any activity to cease, it considers it expedient that that activity or any activity carried out as part of or associated with that activity should cease before the expiry of the compliance period, then, subject to subsection (2), the Committee may issue a notice (an “interim compliance notice”) prohibiting the carrying out of that activity on the land to which the compliance notice relates or on any part of it specified in the interim compliance notice.

(2) The States may by an Ordinance made under this subsection restrict the activities which an interim compliance notice may prohibit.

(3) An interim compliance notice may be served on any person who appears to the Committee to have an interest in the land concerned or to be engaged in any activity prohibited by the notice.

(4) An interim compliance notice must refer to the compliance notice to which it relates and have a copy of that notice annexed to it.

(5) An interim compliance notice cannot be contravened until the time specified in it as the time when it takes effect, which must not be earlier than 24 hours, nor later than 28 days, after it is first served on any person.

(6) The Committee may at any time withdraw an interim compliance notice (without prejudice to its power to serve another) by serving notice to that effect on those served with the interim compliance notice.

(7) The States may by an Ordinance made under this subsection make provision –

(a) as to the time when an interim compliance notice ceases to have effect; and

(b) as to the publicity to be given to the issue and withdrawal of interim compliance notices.

Application to set aside interim compliance notice.

54. (1) Any person on whom an interim compliance notice has been served or who is interested in the land in respect of which such a notice has been issued may apply to the Bailiff for the notice to be set aside.

(2) Any such application may be dealt with summarily; but, unless the Bailiff otherwise directs in a case of extreme urgency, notice of it must be given to the Committee and it must be supported by evidence on oath (whether given orally or by affidavit).

(3) If on hearing such an application the Bailiff is satisfied

(a) that an appeal against or review proceedings relating to the compliance notice to which the interim compliance notice relates have been or are proposed to be instituted under section 69 or, as the case may be, section 72;

(b) that the appellant or, as the case may be, the applicant has an arguable case in relation to any ground of appeal under section 69(1)(a) or (b) or review under section 72;

[(c) that [the balance of convenience] is against requiring compliance with the interim compliance notice, either at all or in part;] and

(d) that, having regard to all the circumstances of the case, it would be reasonable for him to do so,

the Bailiff may grant the application and order that the interim compliance notice be set aside, either in whole or in part, and either without condition or on such terms as he considers appropriate.

Charges over land

Compliance notice land charges

55. (1) The Court may authorise the Committee to create a charge over any land, for the purpose of securing compliance with a compliance notice in relation to it, by registering the notice and the act of Court under this section in the Livres des Hypothèques, Actes de Cour et Obligations at the Greffe.

(2) An application for such authorisation is deemed for the purposes of section 6(2)(a) of the Royal Court of Guernsey (Miscellaneous Reform Provisions) Law, 1950 to be a matter of procedure.

(3) All expenses recoverable by the Committee under section 50(1)(b) –

- (a) a charge on the land in relation to which a compliance notice is registered under this section, and
- (b) recoverable by the Committee in priority to any amount secured by a rente, hypothèque, bond, judgment or other act of court registered on or after the date of registration of the compliance notice.

(4) Subsection (3) is without prejudice to section 10 of the Real Property (Reform) (Guernsey) Law, 1987.

Vacation of charges under section 55.

56. (1) Any charge over land created under section 55 must be vacated –

- (a) when the compliance notice concerned has been fully complied with (otherwise than by the Committee in accordance with section 50);
- (b) when the Committee has itself taken the measures required by the compliance notice and recovered all expenses recoverable by it under section 50(1)(b);
- (c) when the compliance notice is quashed on an appeal under section 69 or on a review under section 72;
- (d) when such an application as is mentioned in section 51(1)(b) is granted;
- (e) when the Ordinary Court so orders under subsection (2).

(2) The Ordinary Court must order the vacation of a charge created under section 55 if it is satisfied, on the application of any person –

- (a) that all the measures required by the compliance notice have been taken; and
- (b) that all expenses recoverable by the Committee under section 50(1)(b) have been recovered by it.

CHAPTER 3 CRIMINAL PROCEEDINGS

Offences

Unlawful development.

57. (1) It is an offence for any person to carry out development of land without planning permission or without complying with the terms of planning permission for the development, including any conditions on which it is granted, (whether he does so on his own behalf or as an agent).

(2) A person who is guilty of an offence under subsection (1) is liable–

- (a) on summary conviction, to a fine not exceeding twice the amount of level 5 on the uniform scale; and
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.

(3) It is a defence for a person charged with an offence under subsection (1) to prove –

- (a) that he carried out the development in question on behalf of another person, and
- (b) that he took all reasonable steps to investigate whether the development was lawful, and
- (c) that he was misled by that other person as to its lawfulness.

Contravention of challenge notice.

58. (1) If a person on whom a challenge notice has been served has not complied with any requirement of the notice before the end of the period of [21] days beginning with the date it was served, he is guilty of an offence.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that he had a reasonable excuse for failing to comply with the requirement.

(3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level [3] on the uniform scale.

Contravention of compliance notice.

59. (1) If any measure required to be taken by a compliance notice has not been taken within the compliance period, every person on whom the notice was served under section 48, and every person who is the owner of the land after the expiry of that period and whilst the failure to take any such measure continues, is guilty of an offence.

(2) Where by virtue of a compliance notice –

- (a) a use of land is required to be discontinued, or
- (b) any conditions or limitations are required to be complied with in respect of a use of land or the carrying out of operations on land,

if any person uses the land, or causes or permits it to be used, or carries out those operations, or causes or permits them to be carried out, in contravention of the notice, he is guilty of an offence.

(3) It is a defence for a person charged with an offence under this section to prove –

- (a) that he took all reasonable steps to secure compliance with the notice or, as the case may be, that the notice was not contravened, or
- (b) that no copy of the compliance notice was served on him and he did not know, and could not reasonably have been expected to know, of its requirements, or
- (c) that the notice was not issued within the period applicable under section 48(4).

(4) A person guilty of an offence under this section is liable –

- (a) on summary conviction, to a fine not exceeding 10 times the amount of level 5 on the uniform scale;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.

Contravention of interim compliance notice.

60. (1) A person who contravenes an interim compliance notice is guilty of an offence.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that no copy of the interim compliance notice was served on him and he did not know and could not reasonably have been expected to know of its existence.

(3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding 10 times the amount of level 5 on the uniform scale.

CHAPTER 4 SUPPLEMENTARY PROVISIONS

Simultaneous proceedings.

61. (1) The institution of criminal proceedings under Chapter 3 does not –

- (a) prevent the exercise of any power under Chapter 2, or
- (b) prejudice the continuation of any proceeding or taking of any measures under that Chapter.

- (2) If an appeal is instituted under section 69 or a review is instituted under section 72 –
- (a) no criminal proceedings shall be begun in respect of an alleged breach of the compliance notice in question, and
 - (b) if any such proceedings have already been begun, they shall be suspended until the appeal or review is finally determined or withdrawn.

Evidential presumptions

62. (1) In proceedings under this Law any document purporting to be issued by, and signed on behalf of, the Committee may be received in evidence and presumed to be the document which it purports to be, and to be signed on behalf of the Committee by the person by whom it purports to be signed, without proof of that person's identity, signature or capacity, unless the contrary is proved.

(2) If it is proved in any proceedings under this Law that an act requiring the permission of the Committee has been done, that act is to be presumed to have been done without that permission unless the contrary is proved.

(3) If the court is satisfied that any date is within the knowledge of a person charged with an offence under this Law or could with reasonable diligence be discovered by him, it may presume the date to be that alleged unless he proves the contrary.

(4) Without prejudice to subsection (3), except in the case of an appeal under section 59(3)(c), the date when a material change in the use of any land occurred need not be proved.

Offences by bodies corporate

63. (1) Where an offence under this Law is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

(3) This section is without prejudice to section 64.

Causing, permitting etc.

64. (1) A person who causes or permits any act or omission which constitutes an offence under this Law is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) The owner of any land on which an act or omission constituting an offence under section 57, 58, 59 or 60 occurs is deemed to have caused or permitted the act or omission (and therefore to have committed the offence) unless he proves that he took all reasonable steps –

- (a) to prevent the act or omission from occurring, and
- (b) to remedy it after it had occurred.

Criminal fines

65. (1) In determining the amount of any fine to be imposed on a person convicted of an offence under this Law the court must have regard to any financial benefit which appears to it to have accrued or to be likely to accrue to that person or to any person associated with him in consequence of the offence.

(2) Where a person is convicted of an offence under this Law, the court may order him, in addition to any other penalty which it imposes, to pay a further fine in respect of each day or part of a day during which the circumstances resulting from the offence continue to exist

- (a) after the date of the conviction, or
- (b) after such future date as the court may specify, not being later than one month after the date of the conviction.

(3) A fine imposed under subsection (2) is enforceable in the same manner as any other fine.

[CHAPTER 5
SPECIAL CONTROLS

Power to make corresponding provision.

66. (1) For the purposes of Part 4 the States may by Ordinance made under this section make such provision corresponding to that made by Chapters 1 to 3 of this Part as they think appropriate.

(2) An Ordinance under this section may, in particular, apply any provision made by or under those Chapters with such modifications as may be specified in it.]

PART 6
APPEALS AND REVIEW

Rights of appeal

Right to appeal against planning decisions and failure to take such decisions.

67. (1) Where the Committee –

- (a) refuse an application for planning permission or outline permission, grant it subject to conditions (other than a condition (“a building condition”) imposed under building regulations by virtue of section 18) or, in the case of an application for planning permission, grant outline permission;
- (b) refuse an application for any consent or approval of the Committee’s required by a condition imposed on the grant of such permission [(other than a building condition)] or grant it subject to conditions;
- (c) refuse an application for the modification or discharge of a planning covenant under section 26(4)(a); or
- (d) refuse an application for any approval of the Committee’s required under an Ordinance [(other than an approval required under section 18)] or grant it subject to conditions,

the applicant may appeal against that decision under this section on the merits.

(2) A person who has made such an application may also appeal under this section on the merits if the Committee have neither –

- (a) given him notice of its decision on the application, nor
- (b) in the case of an application for planning permission or outline permission, given him notice under section 16(1)(d) that they have declined to consider the application,

before the expiry of the period prescribed under section 28.

(3) An Ordinance under section 23(2) may make provision for an applicant for an opinion or a certificate under that section to appeal under this section on the ground that the Committee made a material error as to the facts of the case.

(4) An appeal under this section must be made before the expiry–

- (a) of the period of 6 months beginning with the date on which the Committee makes its decision or such other period as may be prescribed by an Ordinance made by the States under this subsection, or
- (b) in the case of an appeal under subsection (2), of such extended period as the applicant and the Committee may agree in writing.

(5) An appeal under this section must be made by notice served in such manner as may be so prescribed.

(6) For the purposes of the application of this section and sections 68 to 70, in relation to an appeal under subsection (2), it shall be assumed that the Committee refused the application in question on the last day of the period prescribed under section 28.

(7) Where any person appeals against a decision under this section, the Committee may concede the appeal in whole or in part; and where it does so it shall give the appellant notice of the revised decision within such period as may be so prescribed.

Determination of appeals under section 67.

68. (1) An appeal under section 67 shall be determined by an Adjudicator appointed by the States Advisory and Finance Committee for the purpose, being a person who appears to that Committee to be appropriate by reason of his qualifications or experience in planning matters and his independence.

(2) Where such an appeal is brought from a decision of the Committee, the Adjudicator may—

- (a) allow or dismiss the appeal, or
- (b) reverse or vary any part of the decision (whether the appeal relates to that part of it or not),

and may deal with the application as if he were the Committee dealing with it in the first instance.

(3) Subject to section 71, the decision of the Adjudicator on any appeal under this section shall be final.

(4) If, before or during the determination of such an appeal in respect of an application for planning permission or outline permission to develop land, the Adjudicator forms the opinion that, having regard to the provisions of section 16 or any other provision made by or under this Law, permission for that development –

- (a) could not have been granted by the Committee; or
- (b) could not have been granted by it otherwise than subject to the conditions imposed by it,

he may decline to determine the appeal or to proceed with the determination.

(5) If before or during the determination of such an appeal it appears to the Adjudicator that the appellant is responsible for undue delay in the progress of the appeal, he may –

- (a) give him notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are so specified for the expedition of the appeal, and
- (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.

(6) The States may by Ordinance make further provision as to the determination of appeals under section 67 (including appeals under that section as applied by or under any other provision of this Law).

(7) Without prejudice to the generality of subsection (6), an Ordinance under that subsection may make provision –

- (a) or the Adjudicator to be assisted by such other persons as the States Advisory and Finance Committee may appoint for the purpose of advising him as to local circumstances or any matters requiring special expertise (but without prejudice to his sole responsibility for any decision he makes),
- (b) for the appeal to be determined on the basis of written representations made by the appellant and such other persons as may be specified in the Ordinance, or for the holding of a hearing, and
- (c) for the award of costs.

Right to appeal against compliance notices.

69. (1) A person on whom a compliance notice has been served may appeal on the ground—
- (a) that the breach of planning control alleged in the notice has not taken place;
 - (b) that the notice was issued after the expiry of the period within which a compliance notice in respect of that alleged breach was required under section 48(4) to be issued;
 - (c) that the measures required by the notice to be taken exceed what is necessary for the purposes specified in section 49(1)(c);
 - (d) that the period specified in the notice for taking any such measure is unreasonably short.

(2) An appeal under this section must be made within such period as may be prescribed by an Ordinance made by the States under this subsection.

Determination of appeals under section 69.

70. (1) An appeal under section 69 shall be determined by an Adjudicator appointed by the States Advisory and Finance Committee for the purpose, being a person who appears to that Committee to be appropriate by reason of his qualifications or experience in planning matters and his independence.

- (2) On such an appeal, the Adjudicator must—
- (a) if the appellant satisfies him of a ground mentioned in section 69(1)(a) or (b), quash the compliance notice;
 - (b) if the appellant satisfies him of a ground mentioned in section 69(1)(c) or (d), modify the compliance notice so as to substitute such measures as appear to him to be necessary or, as the case may be, such period as appears to him to be reasonable; and
 - (c) otherwise, uphold the compliance notice.

(3) If a compliance notice is quashed under this section, it ceases to be of any effect and it is the Committee's duty forthwith to vacate any charge created under section 55 in connection with it (but without prejudice to the Committee's powers to issue another compliance notice and apply for permission to create a charge under section 55 in connection with that further notice).

(4) If a compliance notice is upheld or revised under this section, it takes effect as if it were a compliance notice issued by the Committee (in the revised form where appropriate) and as if served on every person mentioned in section 48(3) on the date of the determination of the appeal.

(5) Subject to section 72, the decision of the Adjudicator on any appeal under this section shall be final.

(6) Subsections (5) to (7) of section 68 apply to appeals under this section as they apply to appeals under that section.

Review of decisions and notices by the CourtReviews of certain decisions about permission etc.

71. (1) An applicant for planning permission or outline permission may apply to the Royal Court of Guernsey for a review of any decision by the Committee or the Adjudicator –

- (a) to grant the application subject to conditions (other than a building condition),
- (b) in a case where the application was for planning permission, to grant outline permission, or
- (c) to refuse the application,

or of any decision by the Adjudicator under section 68(4).

(2) An applicant for the modification or discharge of a planning covenant may apply to the Royal Court of Guernsey for a review of any decision by the Committee or the Adjudicator that the covenant should continue to have effect without modification.

(3) The Committee may apply to the Royal Court of Guernsey for a review of any decision by an Adjudicator under section 68.

(4) An application under this section may only be made on the ground that in reaching the decision in question the Committee or, as the case may be, the Adjudicator acted unlawfully (whether by virtue of exceeding their powers or making an error of law or otherwise).

(5) If the Court is satisfied that an applicant has established that ground, it must –

- (a) specify the respect in which the decision was unlawful, and
- (b) direct the Committee or, as the case may be, the Adjudicator to reconsider the decision in question.

(6) An Ordinance under section 23(2) may make provision –

- (a) enabling an applicant for an opinion or a certificate under that section to apply to the Royal Court of Guernsey for a review of the Committee's decision as to the issue of that opinion or certificate on the ground that it is wrong in law, and
- (b) for the powers of the Court in any case where it is satisfied that an applicant for such a review has established that ground.

Reviews of compliance notices.

72. (1) A person on whom a compliance notice has been served may apply to the Royal Court of Guernsey for a review of that notice (whether or not an appeal relating to the notice has been determined under section 70).

(2) Such an application may only be made on the ground –

- (a) that the matters alleged in the notice do not constitute a breach of planning control, or
- (b) that the issue of the notice or, in the case of a notice varied or upheld under section 70, the decision to vary or uphold it, was wrong in law for any other reason.

(3) The Committee may apply to the Royal Court of Guernsey for a review of any decision by an Adjudicator under section 70 on the ground that in reaching the decision the Adjudicator acted unlawfully (whether by virtue of exceeding his powers or making an error of law or otherwise).

(4) If the Court is satisfied –

- (a) that an applicant under subsection (1) has established one of the grounds mentioned in subsection (2), [or
- (b) that such an application as is mentioned in section 51(1)(b) has been granted],

it must quash the compliance notice.

(5) If the Court is satisfied that the Committee has established the ground mentioned in subsection (3), then [unless it is satisfied that such an application as is mentioned in section 51(1)(b) has been granted], it must uphold the compliance notice.

(6) The production by an applicant under subsection (1) of a valid opinion or certificate issued under section 23, evidencing the lawfulness of anything alleged in the compliance notice to be a breach of planning control, entitles the applicant to require that the compliance notice be quashed as respects that alleged breach.

(7) Subsections (3) and (4) of section 70 apply to this section as they apply to that section (taking the reference in subsection (4) to the date of determination as the date of the Court's order).

Review proceedings: supplementary provisions

73. The States may by an Ordinance made under this section make provision as to –
- (a) the manner in which an application under section 71 or 72 may be instituted;
 - (b) the conduct of proceedings on such applications; and
 - (c) such incidental and supplementary matters concerning such applications and proceedings as they consider appropriate.

Residual presumption of validity.

74. Except in so far as is specifically provided by this Law, the validity of –
- (a) the Strategic Land Use Plan,
 - (b) any Development Plan,
 - (c) any Subject Plan,
 - (d) any Planning Brief, or
 - (e) any order, direction, permission, condition, notice or agreement of the Committee or any other States Committee, which is or purports to be made, given or imposed under this Law,

is not open to question in any legal proceedings whatsoever.

PART 7

DEVELOPMENT ETC. BY THE STATES OR PUBLIC UTILITIES SUPPLIERS

Development etc. by the StatesGeneral application of Law to States.

75. (1) Subject to the following provisions of this section and sections 76 and 77, Parts 1 to 4 and 8 of this Law apply to the States, and to land owned or occupied by the States, as they apply to any other person and any other land.

(2) Part 5 of this Law (other than sections 55 and 56 (compliance notice land charges)) only applies to enforcement in respect of matters affecting land owned by the States against persons other than the States, States Committees, their officers, servants and agents.

(3) Part 6 of this Law only applies to reviews and appeals in respect of matters affecting land owned by the States when they are at the instance of persons other than the States, States Committees, their officers, servants and agents.

(4) The States may by Ordinance modify any provision made by or under this Law (other than any provision requiring planning permission or any other consent to be obtained) as it applies in relation to any development undertaken by the States [for any public purpose].

(5) In particular, but without prejudice to the generality of subsection (4), such an Ordinance may, notwithstanding section 19(2) and (3), enable conditions to be imposed where planning permission is granted on the application of a Committee of the States which restrict its effect as respects persons other than the States.

Review of decisions by States.

76. (1) If any Committee of the States –
- (a) is dissatisfied with a decision as to which section 75(3) prevents an appeal or review at their instance, or
 - (b) considers for any other reason that a decision on an application made by it to the Committee ought to be referred to the States,

it may request the States to direct the Committee to revoke or modify the decision.

- (2) Such a request may only be made in a report by the Committee concerned, which –
- (a) contains or has annexed to it the full text, including reasons, of the decision, and
 - (b) if the application concerns development or other work for which the Committee making the request is seeking States’ approval, forms part of the report on the basis of which that approval is sought.

(3) The Committee must comply with a direction under this section as soon as practicable.

(4) A revocation or modification of a decision in compliance with such a direction may not be appealed against or challenged in any legal proceedings whatsoever, notwithstanding that compliance with the direction involves the Committee acting in a manner inconsistent with the purposes of this Law.

(5) In giving a direction under this section, the States may consider any matter afresh and the restrictions applicable to reviews and appeals under Part 6 do not apply.

Public utilities suppliers

Public utilities suppliers

77. (1) Without prejudice to section 13(4) and (5), the States may by Ordinance make such provision as they consider appropriate –

- (a) for exempting from any requirements imposed by or under this Law the carrying out of any operations [or any change of use], which constitutes (or would apart from the Ordinance constitute) development, for the purposes of, or in connection with, providing the public with a public utility service; or
- (b) for modifying any provision made by or under this Law as it applies in relation to any such: operations [or change of use].

(2) Without prejudice to subsection (1)(b), an Ordinance under subsection (1) may, notwithstanding section 19(2) and (3), enable conditions to be imposed, where planning permission is granted on the application of a person the primary purpose of whose business is to provide the public with a public utility service, which restrict its effect as respects other persons.

(3) In this section “public utility service” means –

- (a) water, gas, electricity, telecommunications, transport or sewerage disposal services, or
- (b) any other service appearing to the States to be of similar utility.

PART 8

ADMINISTRATIVE, GENERAL AND MISCELLANEOUS PROVISIONS

Transfer and delegation of functions

Transfer of functions between Committees

78. If it appears to the States to be appropriate to do so, they may by Ordinance under this section provide that any function exercisable by any specific Committee of the States under Part 3, 4, 5 or 6 of this Law–

- (a) may only be exercised after consultation with, or subject to the consent of, another Committee;
- (b) may be exercised either by the specific Committee on which it is conferred or by another Committee;
- (c) instead of being exercisable by that specific Committee, shall be exercisable –
 - (i) by that Committee and another acting jointly; or
 - (ii) by another Committee acting alone.

Performance of functions by sub-committees, officers etc.

79. (1) The Committee may by resolution –

- (a) arrange for any of its functions under this Law (other than those under this section) to be performed in its name by a sub-committee composed of not less than two members of the Committee; or
- (b) arrange for any of its functions under this Law to be performed in its name by the douzaine of the parish in which the land in question falls.

(2) Notwithstanding any resolution of the States under the States Committees (Constitution and Amendment) (Guernsey) Law, 1991, a function which is so performed is for all purposes performed by the Committee and, in the case of a function requiring to be performed at a quorate meeting of the Committee, has the same effect as if performed at such a meeting.

(3) An arrangement under subsection (1) –

- (a) may be varied or terminated by a further resolution of the Committee (but without prejudice to anything previously done under it or to the making of a new arrangement);
- (b) [in the case of an arrangement under paragraph (a) of that subsection,] does not prevent the performance of the function by the Committee in quorate meeting whilst the arrangement subsists.

(4) This section is without prejudice to the Committee's right under section 4 of the Public Functions (Transfer and Performance) (Guernsey) Law, 1991, to arrange for any of its functions to be performed in its name by an officer responsible to it.

(5) The Committee must from time to time consider the advisability of making arrangements under subsection (1) and such arrangements as are mentioned in subsection (4) and review any such arrangements previously made by it.

(6) As respects any functions exercisable under this Law by the States Heritage Committee, this section applies to that Committee as it applies to the Committee.

Administration

Administration: powers to make Ordinances

80. (1) The States may by Ordinance under this subsection make such provision as they consider appropriate in connection with the administration of this Law.

(2) In particular, but without prejudice to the generality of subsection (1), an Ordinance under that subsection may make provision as to –

- (a) the fees to be paid on the making of any application or otherwise,
- (b) the procedure to be followed in the consideration of applications,
- (c) the manner in which the proceedings of meetings of the Committee must be recorded and in which they may be referred to in any review or appeal or in any civil or criminal proceedings,
- (d) the manner in which notification of the determination of any application must be given,
- (e) the procedure to be followed where any development or other work requires permission under more than one provision of this Law (including the modification of any relevant provisions in such a case),
- (f) the manner in which any notice or other document required or authorised by or under this Law to be served may be served, and
- (g) the circumstances in which any act or omission in connection with the making or consideration of any application is an offence and for the penalties on conviction of such an offence.

Guidance

81. (1) The Committee may issue such guidance as it considers appropriate in connection with the administration of this Law or any matter relating to it.

(2) In particular, but without prejudice to the generality of subsection (1), such guidance may give examples –

- (a) of matters which in the opinion of the Committee require planning permission or any other consent under this Law,
- (b) of the time when development is in the opinion of the Committee to be taken as occurring where two or more matters taken together constitute a change of use,
- (c) of the circumstances in which the Committee is or is not likely to grant any permission or consent,
- (d) of the conditions or limitations subject to which any permission or consent is likely to be granted in any particular circumstances,
- (e) of the measures which may be required by any compliance notice.

(3) Where any guidance issued by the Committee under this Law so indicates [and that guidance has been approved by a Resolution of the States] that guidance may be received in proceedings under this Law in evidence as to any matter and presumed to be correct, unless the contrary is proved.

(4) As respects matters relating to any functions exercisable under this Law by the States Heritage Committee, this section applies to that Committee as it applies to the Committee.

Power to require information as to interests in land.

82. (1) For the purpose of enabling the Committee or the States Heritage Committee to issue or serve any notice or other document which it is required or authorised by or under this Law to issue or serve, it may by notice require –

- (a) any person appearing to be carrying out any operations on any land,
- (b) the occupier of any land, or
- (c) any person who directly or indirectly receives rent in respect of any land,

to give it such written information as to the matters mentioned in subsection (2) as it may specify.

(2) Those matters are –

- (a) the nature of any operations appearing to have been carried out on the land;
- (b) the nature of the person's interest in the land;
- (c) the name and address of any other person known to him as having an interest in the land;
- (d) the purpose for which the land is being used;
- (e) the time when that use began;
- (f) the name and address of any person known to him as having used the land for that purpose.

(3) A requirement imposed by a notice under this section must be complied with within 21 days of its service unless a longer compliance time is specified in it.

(4) No rule of law excusing any person from giving information which may be used in legal proceedings against him applies so as to excuse any person from complying with a notice under this section and information given in compliance with such a notice may be adduced as evidence in any proceedings.

Rights of entry

Entry on land for authorised purposes

83. (1) A person authorised in writing by the Committee may, subject to section 84, enter any land at any reasonable time for the purpose of –

- (a) the preparation of a draft Development Plan, Subject Plan or Local Planning Brief;
- (b) considering –
 - (i) any application for any permission or approval under this Law,
 - (ii) an appeal or application for review under this Law;
- (c) deciding whether and in what manner any powers of the Committee under this Law ought to be exercised;
- (d) ascertaining whether any conditions attached to a permission or approval granted under this Law have been or are being complied with;
- (e) investigating any alleged offence under this Law;
- (f) ensuring that any obligations arising under a notice served, requirement imposed, or planning covenant entered into, under this Law have been or are being complied with.

(2) The Committee may only authorise –

- (a) an officer of the States,
- (b) a person specifically appointed by the Committee to advise it (whether for remuneration or not) in relation either to a particular matter or to a particular aspect of the Committee's functions,
- (c) an Inspector appointed under section 12(2), or
- (d) an Adjudicator appointed under 68 or 70.

(3) An authorisation may be given –

- (a) for all the purposes mentioned in subsection (1) or only for such of them as are specified in it, and
- (b) in all circumstances or only in relation to such matter, land, or occasion, as is so specified.

(4) The Committee (in the sense of some or all of its members) is not entitled to enter land without the consent of a person entitled to permit such entry, but if a request for it to do so is refused where the entry is for the purpose of considering an application, then –

- (a) the Committee may decline to consider that application, and inform the applicant accordingly; and
- (b) there is no right of appeal or review.

(5) Without prejudice to subsections (1), (2) and (5) of section 46 and to any other powers in this Law, an Ordinance under that section may apply this section and section 84 so as to confer on the States Heritage Committee powers corresponding to those exercisable under it by the Committee, for the purposes of assisting the States Heritage Committee in exercising its functions under this Law.

Restrictions and manner of exercise of entry power.

84. (1) A person authorised for the purposes of section 83 –

- (a) must, if so required, produce his written authorisation before entering any land,
- (b) is not entitled under that section to demand admission as of right to any building which is occupied unless he gave its occupier notice at least 24 hours before that he proposed to do so.

(2) Such a person must not seek to enter any building which is occupied solely as a dwelling, or any enclosed land forming part of the curtilage of an occupied dwelling, unless

- (a) a person appearing to be entitled to permit that entry –
 - (i) has consented to it, or
 - (ii) has been given notice in accordance with subsection (1)(b) and has not objected to the entry; or
- (b) he is acting in accordance with a warrant to do so obtained by him on his ex parte application to the Bailiff under this subsection and produces that warrant to anybody objecting to his entry.

(3) A person who has entered any land in accordance with an authorisation under section 83(2) (and, where necessary, with a warrant issued under subsection (2)) may–

- (a) make such examination, conduct such tests, and take such photographs or samples as appear to him to be desirable in connection with the purposes for which he has entered;
- (b) require any person to answer any questions or produce any documents appearing to him to be relevant to those purposes.

(4) The power to require a person to produce documents includes power –

- (a) to require him to reproduce in legible form any record maintained in another form;
- (b) to copy or require him to furnish a copy of any documents which are produced;
- (c) to require any person who has failed to produce a document to state to the best of his knowledge and belief where it is.

(5) An authorisation under section 83(2) does not entitle a person acting under it to damage or, subject to paragraph (3)(a) of this section, interfere with, land or anything on it.

(6) Any information of a personal, financial, or commercial nature which is obtained as a result of an entry authorised under section 83(2) is confidential to the Committee and may not be used or disclosed except to the extent that its use or disclosure is necessary for the purposes of this Law.

General and miscellaneous provisions

Ordinances and regulations

85. (1) Any Ordinance or Regulations made under any provision of this Law –

- (a) may be amended, or repealed or, as the case may be, revoked by a subsequent Ordinance or, as the case may be, regulations;
- (b) may include incidental, consequential, supplementary and transitional provisions;
- (c) may require the approval, licence or permission of any Committee of the States to be obtained in circumstances specified in it; and
- (d) may confer power on any person to issue guidance or refer to existing guidance issued by any person and, in the case of an Ordinance, may confer power on any Committee of the States to make regulations under it.

(2) Any power conferred by this Law to make an Ordinance or Regulations may be exercised –

- (a) in relation to all cases to which the power extends, in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases;

- (b) so as to make, as respects the cases in relation to which it is exercised –
 - (i) the full provision to which the power extends, or any less provision (by way of exception or otherwise);
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case but for different purposes;
 - (iii) any such provision either unconditionally or subject to specified conditions.
- (3) An Ordinance or regulations made under subsection (1)(a) must not –
 - (a) render unlawful anything which has already been done and which was lawful when it was done; or
 - (b) remove from any person a right exercisable by him [under this Law] before it comes into effect;

and any provision purporting to do so is void to that extent, but the Ordinance or regulations are otherwise valid and enforceable.

(4) The reference in subsection (3) to a right is to a right enforceable in law and does not include an expectation, however legitimate.

(5) Any regulations made under this Law must be laid as soon as practicable before a meeting of the States; and if, at that or their next meeting, the States resolve to annul the regulations they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

Liability and compensation.

86. (1) For the avoidance of doubt, neither the States, nor any body or person on whom any function is conferred by or under this Law shall incur any liability, and all such bodies and persons are immune from suit, in respect of anything done or omitted to be done in good faith in the performance or purported performance of any such function.

(2) Without prejudice to the generality of subsection (1), no compensation is payable [except where specifically provided for by this Law or by a planning agreement] in respect of any loss or damage alleged to have been suffered by any person by reason of the refusal, modification or revocation of any permission required by or under this Law or the imposition of conditions on it.

Interpretation and construction.

87. (1) This Law is to be construed as a whole, with a view to achieving its purposes both generally and in the light of the special objectives and considerations mentioned in it in particular contexts or in the [Strategic Land Use Plan], and as always speaking in the context of circumstances as they occur, so that effect may be given to it in accordance with its true spirit, intent and meaning.

(2) A reference in this Law to any other enactment is, unless the context otherwise requires, a reference to that enactment as from time to time amended, repealed or replaced, extended or applied, by or under any other enactment, including this Law.

(3) For the purposes of section 19 of the Interpretation (Guernsey) Law, 1948, this Law is to be regarded as an enactment which repeals and re-enacts (albeit with significant modifications and extensions) the enactments repealed by section 88(1) and Part 1 of Schedule [2].

- (4) Unless the context otherwise requires –
 - (a) a reference in this Law to a numbered Part, Chapter, section, subsection or paragraph by a number or combination of numbers or numbers and letters, is to the Part, Chapter, section, subsection or paragraph so identified; and
 - (b) a reference within a section of or Schedule to this Law to a subsection or paragraph or other subdivision by one or more numbers or letters is to the subdivision so identified in that section or Schedule.

(5) In this Law except where the context otherwise requires –

- (a) references to a person from whom title is derived by another person include references to any predecessor in title of that other person;
- (b) references to a person deriving title from another person include references to any successor in title of that other person;
- (c) references to deriving title are references to deriving title either directly or indirectly.

(6) In this Law, except where the context otherwise requires, a word or expression for which there is an entry in the first column of Schedule [1] has the meaning given in the second column of that entry, or is to be construed in accordance with directions given against it in that column; and related words and expressions are to be construed accordingly.

Repeals, amendments and general savings.

88. (1) The enactments listed in Part 1 of Schedule [2] are repealed.

(2) Part 2 of that Schedule has effect for the purpose of making minor and consequential amendments and repeals.

(3) The substitution of this Law for the repealed enactments does not affect the continuity of this Law with previous planning control.

(4) A reference in any other enactment to any of the repealed enactments is to be construed, unless the contrary intention appears, as including a reference to this Law.

(5) Any document which refers, expressly or by implication, to a provision of the repealed enactments is to be construed, so far as is necessary for preserving its effect, as referring, or as including a reference, to the corresponding provision of this Law.

(6) Any reference in an enactment or document to any provision of this Law is to be construed, so far as the context permits, as including, in relation to the times, circumstances and purposes at, in and for which a corresponding provision of a repealed enactment had effect, a reference to that corresponding provision.

(7) Anything done or having effect as if done under or for the purposes of a provision of the repealed enactments has effect, if and to the extent that it could have been done under or for the purposes of a corresponding provision of this Law, as if done under or for the purposes of that corresponding provision.

(8) Where any period of time specified in a provision of a repealed enactment is current at the commencement of a corresponding provision of this Law, this Law shall have effect for determining the date of the expiration of that period as if the corresponding provision of this Law had been in force when the period began to run.

[(9) The corresponding provisions of this Law and the repealed enactments are as set out in the tables of destinations and origins in Schedule [3].]

[(10) References in this section to this Law include provisions made under it.]

[Particular saving and transitional provisions.

89. Schedule [4] has effect for the purposes of preserving the effect of the repealed enactments for the purposes and to the extent specified in that Schedule, and providing for the application of certain provisions of this Law to circumstances existing at the commencement of those provisions.]

Extent.

90. This Law applies to the islands of Guernsey, Herm and Jethou, including, for the avoidance of doubt –

- (a) any land reclaimed from the sea, and
- (b) all islands, islets and rocks lying between or adjacent to any of those three islands, whether or not they are connected at any state of the tide to one of those islands.

Citation.

91. This Law may be cited as the Land Planning and Development (Guernsey) Law, 199 .

Commencement

92. (1) This Law shall come into force on such date as the States may by Ordinance appoint.

(2) Such an Ordinance may–

- (a) appoint different dates for different provisions of this Law and for different purposes; and
- (b) contain such saving and transitional provisions as the States think appropriate.

MATTERS TO BE COVERED BY ORDINANCES

The matters to be covered by Ordinance are grouped according to the position of the powers under which the Ordinances are to be made within the draft Law. This does not imply, however, that the Ordinances themselves would be divided up in this way.

PART 2 – PLANS

Clause 11(2) and (3)

General provisions about the contents of Development Plans, Subject Plans and Local Planning Briefs and, in particular, how areas are to be designated by a Plan which is indicating special treatment under Part 3 or 4, for example the relaxation or tightening of any control under Part 3 or the designation of a conservation area or a site of special significance.

Clause 12

The procedure for the examination, adoption, duration and revision of Development Plans, Subject Plans and Local Planning Briefs. In particular, the submission of draft Plans and Briefs to the Strategic Land Planning Group, certification of consistency with Strategic Plan, publication of drafts, appointment of inspectors, consideration of drafts, representations, planning inquiries procedures, site inspections, inspectors' reports and recommendations to the IDC, procedure for the laying of draft Plans and Briefs before the States, procedure for their consideration and adoption by the States, including references back to the IDC and the inspector, the duration of the Plans and Briefs current at the commencement of the Law and later ones, the procedure for their periodic review, amendment and replacement.

PART 3 – DEVELOPMENT

Clause 13(4) and (5)

The extension of the meaning of “development”, for all or just specified purposes of the Law. The exemption from that definition of specified things in some or all circumstances.

Clause 13(6)

The identification of use classes and specification of uses which fall into each class, and the relation of described uses to descriptions used in the Strategic Plan and Development Plans.

Clause 16(4)

Provision about the conditions and reservations which can be imposed on a grant of permission, effect of outline permission, or permission subject to conditions.

Clause 16(6)

The matters to which the IDC must have regard when deciding applications for planning permission or outline permission (including the priority to be given to provisions in Plans and Briefs, where there may be a conflict).

Clause 16(7) and (8)

General provisions about the making and determination of applications for planning permission or outline permission. (Time limits, form of applications, who may apply, publicity for applications, internal consultations, when environmental assessments are to be required, their conduct, contents, form etc., the circumstances in which reconsiderations may occur.)

Clause 17(4)

The modification for public policy interest cases of the usual rules applying to applications for and grants of permission. For example, different publicity or timing requirements might be applied.

Clause 18

Provision about the rules relating to plans in connection with building regulations requirements, the information to be given by applicants, the consideration and approval or rejection of the plans, the effect and duration of the approval of the plans, the interaction of the approvals with related legal requirements, appeals against and reviews of decisions to give conditional approval to the plans.

Clause 21(8)

The appointment of persons to assess compensation on the revocation or modification of planning permission, and their determinations.

Clause 23

The system for the registration of existing uses, and the effect of such registration for the Law (evidential presumptions etc.)

Clause 23(2)

The system for the IDC to give its opinion as to whether proposed uses or building operations constitute or involve development or require planning permission, the applications, the issue of certificates, the legal effect of opinions and certificates (evidential presumptions etc.), transitional matters for passing from the current system, appeals.

Clause 26(3)

Who the “interested persons” are for the purposes of being able to enter an agreement for the modification of planning covenants.

Clause 27(3)

The procedure for making and determining applications to modify or discharge planning covenants.

Clause 28

Development Control Ordinances. The descriptions of development which can be carried out without planning permission and, in particular, the cases where other permissions given by States Committees or other appropriate persons will suffice instead of planning permission. Sweeping up and supplemental provisions to make Part 3 work.

PART 4 – SPECIAL CONTROLS

Clause 29

Provisions about the keeping and contents of the protected monuments list, the publicity to be given to listing, the effect of listing on existing permissions etc., and the procedure etc. for appeals against listing.

Clause 31

The extension of “development” and the requirement for planning permission where protected monuments are affected, provision for preservation work to be done and the cost to be recovered, for the circumstances when protected monuments may be compulsorily acquired and the basis of the compensation payable on acquisition, for finds to be reported and recorded, and for grants and loans to be made.

Clause 33

Provisions about the keeping and contents of the protected buildings list, the publicity for listing, the effect of listing on existing permissions etc., the listing of objects with buildings, the procedure etc. for appeals against listing.

Clause 35(2)

The extension of “development” and the requirement for planning permission where protected buildings or objects are affected, provision for preservation work to be done and the cost to be recovered, for the circumstances when protected buildings may be compulsorily acquired, and the basis of the compensation payable on acquisition, and for finds to be reported and recorded.

Clause 36(4)

Provision about agreements, schemes, grants and loans for the preservation and enhancement of protected buildings.

Clause 38

Provision for grants and loans for the preservation and enhancement of conservation areas. Supplementary provisions about the exercise of functions in conservation areas.

Clause 39

The extension of “development” and the requirement for planning permission where conservation areas are affected, the way powers will usually be exercised there (for example, presumptions against change), provision for preservation work to be done and the cost to be recovered.

Clause 40

The extension of “development” and the requirement for planning permission where sites of special significance are affected.

Clause 41

The prohibition of potentially dangerous activities on sites of special significance, and the creation of offences. The compulsory acquisition of land in such sites and the basis of the compensation payable. Emergency protection and preservation before sites are designated.

Clause 43

The publicity to be given to the making of tree protection orders, and the procedure for objecting to them.

Clause 44

Provision making cutting down, uprooting, destruction etc. of protected trees or woods development, or otherwise extending development in relation to them.

Clause 45

The prohibition of activities or omissions potentially dangerous to protected trees and woods and the creation of offences. Requirements about the standard of care and management required for such trees and woods, and remedial work.

Clause 46(1) and (3)

Power to trigger special controls of uses and activities in relation to any activities but particularly the disposal of rubbish, the abandonment of vehicles, etc., the display of advertisements, the impairment of amenity through dilapidated or ruinous buildings, eyesores, caravans, the removal of turf, topsoil or sand, glasshouses, or damage to cliff paths, and cases where the cumulative effect of a number of occasions of any activity constitutes a problem.

Clause 46(2)

Power to apply or set out afresh provisions in Parts 3, 5, 6, 7 and 8 tailored to any special case for which provision is not otherwise made.

PART 5 – ENFORCEMENT

Clause 47(4)

The contents of and other things concerning challenge notices.

Clause 48(5)

Modifications of the persons who may be served and the time limits applicable to compliance notices.

Clause 49(1)

The contents of compliance notices, for example information about rights of appeal, the discharge of covenants, the effect of permissions, particularly provision about the measures which can be requested, including examples, and automatic permissions for measures specified.

Clause 53(2)

Restriction of activities which an interim compliance notice may prohibit.

Clause 53(9)

Supplementary provisions about interim compliance notices, including the time they cease to have effect, and the publicity required for their issue and withdrawal.

Clause 66

Application to special controls provisions of enforcement provisions.

PART 6 – APPEALS AND JUDICIAL REVIEW

Clause 67(3)

Provision enabling refusals of planning opinions and certificates to be appealed against on the merits.

Clause 67(4)

Time limits for appeals against planning decisions and failure to take decisions.

Clause 68(6) and (7)

General provision about determination of appeals under section 67, (including appeals under that section as applied by or under any other provision of this Law. This must cover procedure for hearing appeals, the appointment of Adjudicators and local assessors, publicity, representations and costs.

Clause 69(2)

Time limits for appeals against compliance notices.

Clause 70(6)

The same sort of provision as can be made under clause 68(6) and (7) but for appeals against compliance notices.

Clause 71(5)

Provision enabling an applicant for a planning opinion or certificate to apply to the Court for a review of the IDC's decision and about the powers of the Court in such cases.

Clause 73

Supplementary provisions about reviews, their institution and conduct.

PART 7 – DEVELOPMENT ETC. BY THE STATES

Clause 75(4) and (5)

General power to modify any provision made by or under the Law (except the requirement for planning permission), in its application to development by the States for a public purpose, especially the imposition of conditions confining permission to development by the States.

Clause 77

Exemption from or modification of requirements of or under the Law for development for the provision of public utilities, especially the imposition of conditions confining permission to development by public utility providers.

PART 8 – ADMINISTRATIVE, GENERAL AND MISCELLANEOUS PROVISIONS

Clause 78

Transfer of functions under the Law between various States Committees.

Clause 80

General provision for the administration of the Law, particularly (see (2)) fees for applications or otherwise, the procedure for consideration of applications, records of the IDC meetings, notification of determinations, procedure where controls overlap, service of notices etc., offences and penalties for things like mis-statements in applications or the obstruction of inspectors.

Clause 85

Incidental, consequential, supplementary and transitional provisions. Revocations and amendments of other Ordinances. Requirements for the IDC's approval, licence or permission in specified circumstances. The issue of general guidance by specified persons. The making of regulations by the IDC.

Clause 92

Provision for the Law to be brought into force on one or more appointed days, or on different days for different purposes, and for the previous law to be preserved if necessary for any purpose.

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

24th August, 1998.

Sir,

I have the honour to refer to the letter dated 30 July 1998 addressed to you by the President of the Island Development Committee on the subject of New Planning Legislation.

The Advisory and Finance Committee agrees with the Island Development Committee that a public consultation exercise on the draft Projet de Loi will be useful.

The Advisory and Finance Committee therefore recommends the States to approve the recommendation of the Island Development Committee as set out in the policy letter.

I am, Sir,
Your obedient Servant,
L. C. MORGAN,
President,
States Advisory and Finance Committee.

The States are asked to decide:—

XXVI.— Whether, after consideration of the Report dated the 30th July, 1998, of the Island Development Committee, they are of opinion:—

To approve the Island Development Committee's proposal to undertake a programme of public consultation on the proposals set out in that Report and Appendices with interested parties and individuals before proceeding with the preparation of detailed legislation for presentation to the States.

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

1st November, 2001

Dear Sir,

I refer to the letter dated 16th October 2001 addressed to you by the President of the Island Development Committee on the subject of Review of the Island Development (Guernsey) Laws, 1966 and 1990.

The Advisory and Finance Committee is pleased that the Island Development Committee has been able to make substantial progress in reviewing its legislation. Although the process has been protracted, the Committee recognises the scale and complexity of the work that has been involved in the preparation of the new law.

The Committee considers that the proposed Land Planning and Development (Guernsey) Law represents a very necessary updating of the Island's land use planning legislation to meet the challenges and opportunities of the new century.

In recent years there has been an increasing frustration in the community with the weaknesses of the existing law. The new legislation will provide the tools to enable the IDC to take a more positive and proactive approach in order to achieve sustainable development whilst also protecting and enhancing the physical environment.

The Advisory and Finance Committee has given careful consideration to Part 7 of the draft law which extends the scope of the land use planning system to include development carried out by the States.

In this regard, the policy letter:-

- a) explains that the States itself will, in effect, act as the appeal body in the event of dispute between the IDC and a States Committee wishing to carry out development; and
- b) sets out the wide-ranging powers that will be conferred on the States to revoke or modify a planning decision (Clause 76 of the draft law).

One view held by Members of the Committee is that by bringing States development within the ambit of the law it should be possible in future, to plan more effectively for all the development needs of the community whether these are to be met by the public or private sectors. It should also be easier to ensure that there is full integration between the Strategic Property Plan for States Committees and the Strategic Land Use Plan guiding the preparation of Development Plans. This is consistent with achieving a corporate approach to the management of resources as promoted in the Policy and Resource Planning Report 2001.

Nevertheless, the Committee is divided on this approach. The alternate view is that the present position has served the island well and should be maintained. At present, developments carried out by the States are exempt from the law, but by States Resolution committees are required to consult the IDC on development proposals and in the event of an objection being raised, refer the matter to the States for decision.

Given the divided views of the Committee on this matter, the Committee considers that States Members should come to their own view on which approach best serves the interests of good government.

To summarise, the Advisory and Finance Committee supports the Island Development Committee's proposals for new planning legislation subject to the above comments on States development, where members hold differing views.

Yours faithfully,

L. C. MORGAN,

President,
States Advisory and Finance Committee.

The States are asked to decide:—

VI.— Whether, after consideration of the Report dated the 16th October, 2001, of the Island Development Committee, they are of opinion:—

1. To approve the proposals set out in section 3 of that Report concerning the changes to the draft *Projet de Loi* presented to the States in 1998.
2. To approve the proposals set out in sections 4 to 11 of that Report concerning the legislative provision to be made by Ordinance in relation to:
 - (i) Plans.
 - (ii) Control of Development – General Provisions.
 - (iii) Control of Development – Exemptions.
 - (iv) Control of Development – Use Classes.
 - (v) Control of Development – Environmental Impact Assessments.
 - (vi) Special Controls.
 - (vii) Enforcement.
 - (viii) Appeals and Reviews.
3. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES**THE HEALTH SERVICE (MEDICAL APPLIANCES) (AMENDMENT) (No.2)
REGULATIONS, 2001****THE HEALTH SERVICE (PHARMACEUTICAL BENEFIT) (RESTRICTED
SUBSTANCES) (AMENDMENT) REGULATIONS, 2001**

In pursuance of the provisions of section 35 of the Health Service (Benefit) (Guernsey) Law, 1990, I lay before you herewith the following Regulations made by the Guernsey Social Security Authority on the 3rd October, 2001:—

**THE HEALTH SERVICE (MEDICAL APPLIANCES) (AMENDMENT) (NO.2)
REGULATIONS, 2001****EXPLANATORY NOTE**

These Regulations further amend the Health Service (Medical Appliances) Regulations, 1990, as amended, by increasing the charges payable to authorised appliance suppliers in Guernsey and Alderney by persons supplied with Part I, II or III medical appliances who are not exempt from such charges.

**THE HEALTH SERVICE (PHARMACEUTICAL BENEFIT) (RESTRICTED
SUBSTANCES) (AMENDMENT) REGULATIONS, 2001****EXPLANATORY NOTE**

These Regulations amend the previous Regulations so that there are restrictions on ordering influenza vaccine by medical practitioners so that they can only order it as part of an approved programme.

THE CURRENCY OFFENCES (DESIGNATION OF EURO) ORDER, 2001

In pursuance of the provisions of section 23(2)(c) of the Currency Offences (Guernsey) Law, 1950, as amended, I lay before you herewith the Currency Offences (Designation of Euro) Order, 2001, made by the States Advisory and Finance Committee on the 24th October, 2001:—

EXPLANATORY NOTE

This Order designates euro coins and euro banknotes as currency to which the Currency Offences (Guernsey) Law, 1950, as amended, shall apply, thus attracting the penalties under that Law (for example) counterfeiting and forgery.

DE V. G. CAREY
Bailiff and President of the States

The Royal Court House,
Guernsey.
The 9th November, 2001.

APPENDIX I



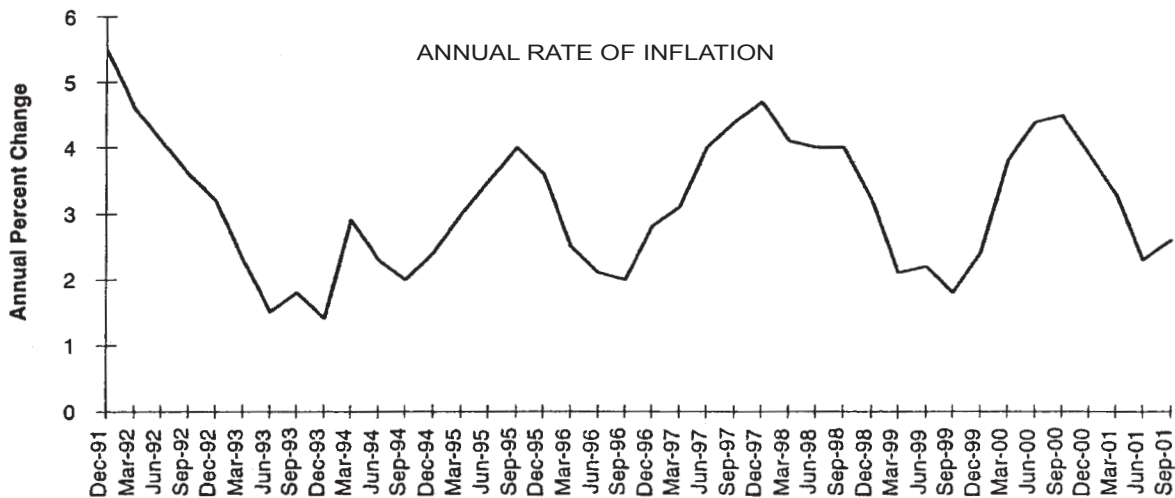
STATES OF GUERNSEY GUERNSEY RETAIL PRICES INDEX 2.6% annual change as at 30 September 2001

STATES OF GUERNSEY
**ADVISORY
& FINANCE
COMMITTEE**

At the end of September, Guernsey's annual rate of inflation, as measured by changes in the Index of Retail Prices, was 2.6% compared with 2.3% at the end of the previous quarter.

The Index Figures at the end of September 2001 were 106.0 (Dec 99 = 100), 125.9 (Mar 1994 = 100), 170.0 (Dec 1988 = 100), 227.3 (Dec 1983 = 100), 360.8 (Dec 1978 = 100)

Period	%	Period	%
3 Months	0.8	2 Years	7.2
6 Months	1.5	3 Years	9.1
9 Months	2.1	4 Years	13.5
12 Months	2.6	5 Years	18.5
18 Months	6.0	10 Years	35.1



Annual % Changes

Quarterly & Changes

	March	June	September	December		March	June	September	December
1990	10.2	9.7	10.4	9.8		3.1	1.6	3.3	1.4
1991	8.6	8.7	6.1	5.5		2.0	1.7	0.8	0.9
1992	4.6	4.1	3.6	3.2		1.1	1.2	0.3	0.5
1993	2.3	1.5	1.8	1.4		0.2	0.5	0.5	0.2
1994	2.9	2.3	2.0	2.4		1.7	0.0	0.2	0.5
1995	3.0	3.5	4.0	3.6		2.2	0.5	0.7	0.2
1996	2.5	2.1	2.0	2.8		1.1	0.1	0.5	0.9
1997	3.1	4.0	4.4	4.7		1.5	1.0	1.0	1.2
1998	4.1	4.0	4.0	3.2		0.9	0.9	1.0	0.4
1999	2.1	2.2	1.8	2.4		-0.2	1.0	0.5	1.1
2000	3.8	4.4	4.5	3.9		1.2	1.6	0.6	0.5
2001	3.3	2.3	2.6			0.6	0.6	0.8	

**PERCENTAGE CHANGES IN GROUP INFLATION
AND THEIR CONTRIBUTION TO OVERALL INFLATION**

GUERNSEY INFLATION RATE (+2.6%)

	Weight	Annual % change	Contribution %
FOOD	127	-0.4%	-0.1
ALCOHOLIC DRINK	52	+3.7%	0.2
TOBACCO	19	+7.9%	0.2
HOUSING	216	+2.0%	0.6
FUEL, LIGHT & POWER	41	-2.3%	-0.1
HOUSEHOLD GOODS	79	+3.4%	0.3
HOUSEHOLD SERVICES	33	+8.1%	0.3
CLOTHING & FOOTWEAR	56	+1.6%	0.1
PERSONAL GOODS	49	+4.0%	0.2
MOTORING EXPENDITURE	85	+3.8%	0.3
FARES/OTHER TRAVEL	33	+4.2%	0.1
LEISURE GOODS	63	+1.1%	0.1
LEISURE SERVICES	92	+5.1%	0.5
FOOD AWAY FROM HOME	55	+0.4%	0.0
OVERALL	1000		2.6

Weight is the proportion of the total index represented by each group. **Contribution** shows the effect of price changes in relation to the relative weight of the groups

Matters affecting the R.P.I. during the last year

1. The main contributors to inflation during the last year were increases in the price of housing, leisure services, household services, household goods and motoring. Smaller increases were also observed in the personal goods, alcohol and tobacco categories.
2. The housing group increased as a consequence of higher prices recorded for building work and other home improvements. Whilst mortgage interest rates have continued to fall, there has been a rise in the tax on rateable value and private rents.
3. Increases in the cost of household insurance, household repairs, and professional subscriptions have contributed to the rise in prices within the household services groups. Motoring expenditure has increased as a result of higher insurance costs and increased servicing charges.
4. Reductions in the food group largely reflect a one off reduction in the price of milk, and a decrease in the cost of fresh fruit and soft drinks. Reductions in the Fuel, Light and Power group were as a consequence of the falling price of oil, particularly for domestic heating.

Matters affecting the R.P.I. during the last three months

The main contributors to inflation over the last **three months** were increases in private rents, professional subscriptions, vehicle accessories and servicing, and fees for educational courses.

This release is also published on the States of Guernsey Web Site <http://www.gov.gg/esu> or you can contact them directly on (01481) 717012.

APPENDIX II

STATES EDUCATION COUNCIL

THE GUERNSEY COLLEGE OF FURTHER EDUCATION: ANNUAL REPORT 2000 / 2001

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

15th October, 2001.

Dear Sir,

The Guernsey College of Further Education : Annual Report 2000/2001

I enclose the Guernsey College of Further Education's Annual Report for the academic year 2000/2001. I should be grateful if you would arrange for this to be published as an Appendix in the November Billet d'État.

Yours faithfully,

J. PRITCHARD,

Vice President,
States Education Council.

GUERNSEY COLLEGE
OF FURTHER EDUCATION

Annual Report
2000/2001

Enrolments

During the Academic Year 2000 – 2001 the College enrolled 4083 students on a total of approximately 300 different courses. These courses include the Secondary School Link Courses, the apprenticeship courses, flexible learning and full time courses as well as day release and evening vocational courses. The figures do not include students enrolled through the adult education programme the night school courses or delegates attending short courses offered by the Business School.

Approximately 2,500 Island residents enrol on the Adult Education Programme and approximately 2,000 delegates attend the short courses in the Business School. Including these figures with the figures for the vocational courses indicates that the College enrolled approximately 8,500 students in total during the past academic year.

Retention rates overall for the 4,083 vocational enrolments were high at 94.5%. As in previous years further analysis of these figures shows that retention rates were higher for part-time students, but slightly lower for full-time students. Overall success rates for the 4,083 enrolled students were also high at 87%. For the purpose of this report a successful student is defined as one who has either passed a national examination or who has successfully completed the programme of study and is able to progress to the next level.

Full time students

There were 224 full time students enrolled at the start of the year. Thirty one withdrew during the year giving a retention rate of 86%. Of those who completed the year 180, (90%) achieved success, either gaining their GNVQ, NVQ or Diploma, or moving through into the next year of study. Details of the results are in Appendix 1. Eighteen full time students went on to higher education.

The year was dominated by the introduction of Curriculum 2000 for which a considerable amount of planning had gone on in the previous year. In order to introduce a broader curriculum choice, all full time students studying advanced courses were required to take up an additional subject. The range of subjects offered included AS Levels, English, Maths and French, GCSEs in Maths, English and Spanish as well as a range of vocational courses such as the European Computer Driving Licence and the Introduction to Book-Keeping.

It was agreed that these additional courses would be timetabled outside of the advanced courses and that the advanced course time would not be reduced. This obviously put a strain upon College resources, especially rooms. Consequently it was agreed that further Portacabins would need to be installed. These will be ready for the start of the Academic Year 2001 – 2002. Two Portacabins have been ordered each of which have two classrooms.

Throughout the year discussions took place with the Grammar School regarding the possibility of College of Further Education students accessing some of the Grammar School's AS programme. It is hoped that in September 2002 it will be possible for AVCE students at the College to be able to enrol on a range of AS level courses which will be taught at the Grammar School. Throughout the coming year these discussions will continue and College time-tables will be altered so that AVCE students are able to access the Grammar School time-table. Early indications are that in some subject areas this is going to be difficult.

Full time students at the College this year were offered a programme of recreational studies on Thursday afternoons. These ranged from meditation to drama, survival cookery to various sporting activities. The College was also able to establish a Students Union. Student Representatives held regular meetings attended by a Student Services Manager and the Vice Principal. Various events were organised by the SU and members also received discounts from local companies on a range of goods and services.

As in previous years the views of all full time students and some part time groups were collected by questionnaire or interview. This year a standardised questionnaire was used across the whole College. This was based on questionnaires devised by the Further Education Development Agency and enables us to benchmark our results against mainland Colleges. (Appendix 2)

Generally, students feel that College staff are approachable and helpful and that they are treated with respect. The main problems with students, especially the full time students, relate to the lack of common room facilities. However students were complimentary on the new menu in the Refectory and the music system that had been installed. Over the Summer holiday the Refectory has been redecorated in a colour scheme suggested by the students.

This year, for the first time, College staff organised a study visit to New York. Representatives from several different courses took part in this visit which was considered to be highly successful.

Three College students were nominated for the Lions Club of Guernsey Youth Award. One of those students won the award and a second student was the runner up.

Links programme

The Links programme with the Secondary Schools still continues with 471 enrolments. Year 10 students attend on Tuesdays with Year 11 on Wednesdays. These courses are increasingly popular and the College sometimes finds it difficult to satisfy the demand.

Various College programme areas have also been involved in several secondary schools' activities weeks. These include Catering, Hairdressing and Beauty Therapy.

For the first time this year the College offered the option of Horticulture as part of the links programme.

Key skills

There was some confusion amongst the awarding bodies regarding the application of Key Skills into Curriculum 2000. The College had evolved a Policy regarding Key Skills in the previous year and this was adhered to throughout the year. Consequently the College was one of the few institutions in the Country where students were able to successfully complete the Key Skills award.

As a result of changes to Key Skills announced by the Secretary of State for Education and Skills, the Policy has been slightly amended and it was agreed that from September 2001 the College would be offering a range of opportunities for students to develop their skills which would include Key Skills¹ but would also include GCSEs and AEB qualifications.

Over the Summer of 2001 alterations are taking place to the building to provide for a new communications workshop and a small skills development classroom. The Learning Support team of part-time tutors was busy throughout the year supporting students on full time courses as well as students who attended on a flexible basis.

Learning support

There seems to be an increasing number of students with learning difficulties attending the College. A particular problem is with students with dyslexia for which there is no specialist support. Currently the possibility of some College staff being trained as dyslexia specialists is being investigated. The College is also negotiating with the Guernsey Dyslexia Centre with a view to receiving assistance from their staff.

The College has organised a one day course, to take place in September of 2001, to be taken by a specialist lecturer from the UK who will outline the problems associated with hidden disabilities such as dyslexia, dyspraxia, Aspergers syndrome and attention deficit syndrome. This course will be open to all secondary teachers on the Island as well as the police and probation service.

Throughout the year discussions have been taking place with Oakvale School and Mont Varouf School with a view to establishing a full time course for students with special needs starting in September 2001. Again this raises problems in terms of resources and it has been agreed that the Committee Room will be converted into a classroom for these students.

In January of 2001 the College operated a project with Interwork whereby a group of their students came to the College for one week during which time they produced a newsletter. This was a highly successful project and it is hoped to be repeated in the coming year.

External verification

As in previous years external verifiers visiting the College have complimented staff on the high quality of the students work. However several of them have highlighted the need for the College to improve its internal verification procedure. A small working party of Tutors is currently re-writing those procedures which should be in place at the start of the September Term in 2001.

Staff development

A staff handbook was produced during the year which contained details of Policies relating to students and staff. The appraisal system which had been approved in the previous year was implemented and all teaching staff have gone through the first round of appraisals. Information from those appraisals has been used to inform the INSET procedure. Three INSET days took place for all staff and a programme of management training has been implemented for all College managers. This involved a further two days training last year and will continue throughout the coming year.

In the Summer Term staff were invited to complete a staff attitudes questionnaire which was produced by the Learning Skills Development Agency. Just over 80 staff returned the questionnaires which were then forwarded to the LSDA for analysis. The report should be sent to the College early in the Autumn Term.

MIS

The Management Information System continues to be implemented. Student records, registers and attendance modules are now all successfully installed and running. The Finance Module was installed during the year and is now operational.

In collaboration with the Guernsey Grid for Learning it has been agreed that the College will pilot a managed learning environment based on software known as Learnwise. This should be installed and implemented at the start of the Academic Year 2001 – 2002.

Community events

Throughout the year as always the College has taken part in different community events. The Catering Department had a very large presence at the Salon Culinaire. The Horticulture Department in conjunction with the building students entered the Floral Guernsey competition taking a silver award.

Several groups of students were also nominated for the Industry Link Award which was won by the Health & Social Care students in conjunction with the Entry Level students who carried out a project on behalf of the Grande Maison Road Medical Group.

Art and Design students, in conjunction with Business Study students, were involved in a project for the local Crime Stoppers group. This particular project has gained national recognition.

Lifelong Learning

Staff from the College are closely involved with the Lifelong Learning initiative. Various programme areas supported Learning is Working Week with staff visiting the Bouet Community Centre as well as groups coming in to the College.

Towards the end of the year the Principal and Vice Principal, with Alun Williams, gave a presentation to the Head Teachers Conference on the work of the Lifelong Learning group. (Appendix 3)

Marketing

In terms of publicising the work of the College it was decided that a new Directory should be created to replace the old part-time prospectus. Problems in the past had been encountered because different courses were outlined in different documents and it was confusing for potential students to know which Prospectus to use. It was decided to place all courses in one Directory which was distributed at the end of the academic year. In order to offset some of the costs, advertising space was sold.

In previous years the College had organised a series of Road Shows for potential full time students and their parents. These presentations had taken place in the individual Secondary Schools. This year it was decided to hold one presentation at Beau Sejour Theatre on the evening of the Careers Convention. This attracted an audience of approximately 300 potential students with their parents and it was decided to repeat the event in the future. The College also held an Open Day in February which attracted large numbers of potential students.

Business School

A Business Development Manager for the Business School was appointed in April. The Manager will be responsible for liaison with a wide group of clients and local institute committees as well as keeping in close contact with the Training Agency.

Several different initiatives have been introduced this year in the Business School. Breakfast Seminars have proved to be very popular with local Managers and Directors. The NEBSM Diploma was also launched and proved to be successful and at the end of the year the Business School was given accreditation to run courses on behalf of the Institute of Administrative Management.

The School was also preparing for a visit in August by the IFS and UMIST who were going to accredit the Business School for offering the Financial Studies Degree.

Apprenticeship scheme

During the year 315 apprentices attended courses at the College as part of the States Registered Apprenticeship Scheme. Once again, Building was the most popular area with 167 apprentices. Engineering had 70, hairdressing 43, catering 5 and horticulture 6. The retention rate for these are courses are 90% with a success rate of 90%.

At the start of the year all first year apprentices were tested for their basic skills and given extra support to improve their numeracy and their communication skills.

Modifications to the Apprenticeship Scheme continued throughout the year. The old contract has been replaced by three separate contracts. One between the employer and the apprentice, one between the employer and the Education Council and the third between the College and the Apprentice. These changes were explained to employers at the Annual General Meeting of Employers which was held at the Cotils.

It had been agreed to establish the Apprentice of the Year Award and this was presented for the first time at the Annual General Meeting of Employers. Twenty apprentices were nominated for the Award, and a short list of four were interviewed. All twenty apprentices were awarded a certificate celebrating their nomination and the four short-listed candidates were all presented with a trophy. The winner was presented with a special trophy. Sponsorship for this event was raised from NatWest, the GBTEA and the GMTA.

Prison Service

The contract with the Prison Service has continued through the year and the College has provided tuition for several courses, include English and Maths, Catering and Art. Staff also provide advice to prisoners undertaking Distance Learning.

During the year discussions have taken place with prison staff who are in the process of creating a new learning area. When this learning area is completed there is a possibility that more tuition will be needed with initial discussions indicating that the amount of time spent in the prison by College staff may need to double.

Summary of Programme Areas (Numerical summary in Appendix 4)

Art and Design

51 students enrolled in Art and Design courses – 30 of whom were full time. There was only one withdrawal giving a retention rate of 98%. All of the remaining students were successful and 8 of the full time students went on to Higher Education.

The International Artist in Residence Programme operated throughout the year with 3 artists visiting. The external verifier was highly complimentary about the quality of work achieved by students at Grange House.

During the year the Programme Area was accredited by EdExcel to offer a Higher National Certificate and Higher National Diploma in Art and Design. This will be introduced in September 2001.

Business Studies

42 students enrolled on Business Studies courses – 30 of whom were full time. There were 5 withdrawals, a retention rate of 85%. All of the remaining students were successful and 2 of the full time students went on to Higher Education.

During the year the full time students were involved in a project with Crime Stoppers. They conducted market research on behalf of Crime Stoppers and that market research was then used to create a brief for the Art and Design students who also carried out a project on behalf of this organisation.

The area also enrolled 43 Link students all of whom studied GCSE Business Studies.

The Higher National Certificate in Business Studies has been modularised and students were able to join the course at any time. This is proving popular and numbers are increasing. During the year, five HNC students completed the course, four of whom gained a Merit.

Building

260 students enrolled on building courses – all of them part time. There were 18 students on the BTEC National Certificate in Building and 41 students enrolled on computer assisted design courses. The rest were on apprenticeship courses.

The Higher National Certificate in Building was in its first year and attracted 10 students, seven of whom have gone onto the second year

There were 17 withdrawals, a retention rate of 93%. 236 of the remaining students completed the year successfully.

The area also enrolled 62 Link students who studied a range of crafts including painting & decorating, block laying and stonemasonry.

The building area also offered several short courses including painting and decorating techniques, gas installation and scaffolding. These courses are often run in conjunction with mainland companies who provide tutors and materials.

Apprentices studying electrical installation achieved 100% success in their examinations and the advanced craft joinery apprentices achieved 3 Distinctions and 7 Credits.

Various projects were undertaken throughout the year. These included the construction of a shelter for children at St Mary & St Michael School, the manufacture of a table and chair for a local church as well as the manufacture of wooden gates for St Matthew's Church.

External verifiers have been complimentary about the standards achieved in the courses and one of them in fact wrote a letter of praise regarding the assignments set in one particular course. These assignments are being used as exemplar material on the mainland.

City & Guilds once again have withdrawn some of their courses during the year. After consultation with local employers these courses have been replaced with the International City & Guilds certificate rather than with NVQs.

During the year it was decided to offer a full time-course in building leading to the Edexcel National Diploma. Marketing for this course went on throughout the year and it is expected that a small group of students will commence the course in September 2001.

Engineering

74 students enrolled in Engineering courses – only 3 of whom were full time. There were only 4 withdrawals giving a retention rate of 97% and nearly all of the remaining students completed the year successfully. 106 Link students also enrolled on Engineering courses, some of whom studied units of GNVQ Engineering.

Most apprentices in this area study motor vehicle engineering with numbers on the other courses relatively low. As in the previous year students on the final year of the Engineering Competency Courses were complimented by the external verifier on the high standard of their work. Apprentices in fabrication and welding all achieved either Distinctions or Merits.

Again, as in the previous year, the College worked in partnership with Highlands College in order to be able to deliver the City & Guilds Electronic Servicing Course. Although there were only 3 full time students in the second year of the course their work was of a high standard and two of them received distinctions from the external verifier. Both of those students are moving on to University.

Finance

886 students enrolled on Finance courses - all of them part time. There were 32 withdrawals, a retention rate of 96%. The overall pass rate for the area was 81%.

The most popular course is still the Certificate in Offshore Administration with 446 enrolments. This course was the subject of some debate during the year as some employers feel that students would be better advised studying for the ICSA Diploma or Certificate.

The Offshore Administration Certificate is not accredited by any National body and employers are concerned about this lack of accreditation. In spite of this it is still the most popular course and the College has invited a representative of the Institute of Financial Services to come to the Island to speak to employers about their concerns.

The ICSA Certificate attracted 48 students. The pass rate was 87%. There were only 7 students who studied for the ICSA Diploma.

The courses leading to qualifications for the Association of Accounting Technicians attracted 206 students with an overall success rate in their examinations of 92%. Once again a letter was received from the MT congratulating the College on its success rate in the June examinations, the local pass rate being significantly above the National average.

The Certificate in Financial Services Practice enrolled 52 students. 42 of them passed their examination giving a pass rate of 81%.

The Finance Programme Team has been preparing its submission for UMIST to be able to offer the Banking Degree. UMIST and IFS will visit the College in August to consider the submission.

Health & Social Care

62 students enrolled on Health & Social Care courses of whom 40 were full time. There were 3 withdrawals, a retention rate of 94%. 50 of the remaining students completed the year successfully. There were higher numbers in full time courses than in previous years and 4 of the completing students went on to Higher Education.

There were also 51 Link students on courses in this area including 29 who studied for the RSA initial award in Health & Social Care.

For the first time this year this programme area ran the Diploma in Nursery Nursing, a childcare course. This attracted 12 students all of whom completed the year successfully and will be going onto the second year.

Students from the AVCE in Health & Social Care were involved with students from the Entry Level Course on a project for the Grande Maison Road Medical Group This assignment won the students the Industry Link Award.

Hairdressing and Beauty Therapy

43 apprentices enrolled on hairdressing NVQs. During the year the students once again organised their hair show at Beau Sejour. There are also 26 students on Link courses studying hairdressing.

For the first time this year the College was able to offer a full time course in Beauty Therapy. This attracted 10 full time students, seven of whom completed the course successfully and have moved onto the second year.

There were also 24 links students on Beauty Therapy courses.

Several part time courses were offered including manicure, pedicure and sugaring. These attracted 36 students.

Hotel and Catering

109 students enrolled on Catering courses, the majority of them part time. There were only 13 full time enrolments and 5 apprentices. The part time students followed a range of courses including bar/cellar management and the WSET qualification.

There were also 121 link students studying catering including groups from the Grammar School, Mont Varouf and Oakvale.

A number of short courses were also offered during the year including bread making, fish, lamb and barbecue techniques.

The new menu in The Restaurant has proved to be popular both at lunch times and in the evenings.

Increasingly in demand are the evening events such as Ready Steady Cook which have been popular with social clubs and charity organisations.

Staff and students from this area were heavily involved in the Salon Culinaire, at which the College had a large presence.

Information Technology

319 students enrolled on IT courses of whom 42 were full time. There were 4 withdrawals, a retention rate of 97%. Over 300 of the remaining students completed the year successfully.

Full time students this year received a mixture of distinctions and merits – the highest grades ever achieved on these courses, and seven of the completing full time students have been offered university places.

The majority of the part time students, 173, studied for units of the RSA computer literacy and information technology at various levels. There is high demand for the European Computer Driving Licence, several individuals and companies expressing interest in this course. It is hoped that at the start of the next academic year the College will be able to offer online delivery and online testing for the ECOL.

Several short courses were offered, most of which were on the subject of the internet.

Leisure & Tourism

19 full time students enrolled on Leisure & Tourism courses. There were 5 withdrawals and all 14 remaining students were successful. These students were also able to study for the ABTAC Certificate and the Resort Rep certificate.

Leisure & Tourism students organised several events during the year including a St Georges Day dinner to which the Lieutenant Governor was invited.

There were also 29 link students on courses in this area, 13 of whom gained the GCSE in Leisure & Tourism.

Staff from this area were involved in training 30 staff at Condor in Customer Care NVQs.

Secretarial Studies

205 students enrolled on Secretarial courses of whom only 17 were full time. There were 20 withdrawals, a retention rate of 90%. The majority of the remaining students completed the year successfully. There were also 86 Link students in this area most of whom gained passes in the OCR Text Processing course. Others studied CLAIT or GCSE in Office Applications.

Full time students as always were active in fund raising and organised several events throughout the year in conjunction with the Students Union supporting Children in Need and other such events.

The Fresh Horizons Course designed for women returners has once again proved very popular with 2 groups through the year, eighteen students successfully completing the course.

Management Studies

The full range of Management Studies was offered this year with 54 students enrolling. This includes the Certificate in Management Studies, the NEBS Management Certificate and the CIPD Certificate in Personnel Practice.

For the first time this year the College was able to offer the NEBS Management Diploma. This is a Level 4/5 Course and attracted 10 students, 8 of whom were successful in gaining the Diploma.

As in the previous year the Management Studies Programme Area is working very closely with Le Riche Stores delivering the NEBS Management Certificate in Jersey as well as working with their staff in Guernsey.

Staff from the Management Programme area have been involved with Le Riches in implementing a series of assessment weekends for potential management staff for the new supermarket due to open in November.

Skills Development

This team provides tuition for skills development throughout the College. This includes the Maths Workshop, the English and Communication Workshop and the IT Workshop.

Over 50 students re-took their Maths GCSE with a pass rate of 78%. Few students took English and only 4 or 5 students gained a pass. However, Wendy Stuart, the new communications skills Manager will be implementing a new system of teaching GCSE English starting from September 2001 in a newly equipped communications workshop.

The IT workshop offers support on all courses throughout the College and is based in the IT drop in centre.

As mentioned previously, the Key Skills Policy was implemented to enable staff to conform with the requirements of Curriculum 2000.

During the year it was decided to amend the Policy which is now known as the Skills Development Policy which allows students access to a range of qualifications including the Key Skills Award, but also includes GCSEs and AEB qualifications.

The Skills Development Team also deals with offering individual support to students with learning problems. Many students come to College having left school at the age of 15, but not ready for work. Several of these students having spent time with the team are then able to enrol on full time courses.

The Entry Level course attracted 12 students, 9 of whom completed the course. As in the previous year it was found that the students had a range of learning difficulties as well as, in some cases, behavioural problems. Four of the students have moved on to other full time course whilst the rest have found employment.

Flexible Learning Centre

The Flexible Learning Centre enrolled 501 students during the year. 389 students completed their courses and 112 are continuing next year. The success rate is almost 100%.

Through the centre a link was made with Age Concern as a result of which the College was able to run an eight week course on Introduction to Computing. Ten senior citizens enrolled and the course was so successful that the College is now offering further courses.

Adult Education

The Adult Education day and evening class programme continues to serve a wide variety of individual and community needs. Approximately 200 courses were provided using over 100 part time tutors and attracting around 2500 enrolments. In addition to the classes outlined in the prospectus, the programme also runs the literacy scheme as well as providing support to the Castel Hospital Day Centre and occupational therapy unit.

Trevor Wakefield
September 2001

Appendix 1

The 2nd year, GNVQ results:

	Distinction	Merit	Pass	Total
Health & Social Care	4	7	1	12
ICT	4	8	0	12
Leisure & Tourism		2	1	3
Business		2	5	7
Art & Design	8	6	1	15
Engineering	2		1	3

(A Pass is considered to be the equivalent of 2 A-Levels, a Merit or Distinction scoring higher UCAS points.)

The AVCE has now completed its first year and students successfully completing are as follows:

Health & Social Care	10
ICT	14
Leisure & Tourism	5
Business	12
Art & Design	14

The Intermediate GNVQ completions were as follows:

Health & Social Care	11
ICT	11
Leisure & Tourism	4
Business	2

There are also full time courses leading to NVQ qualifications:

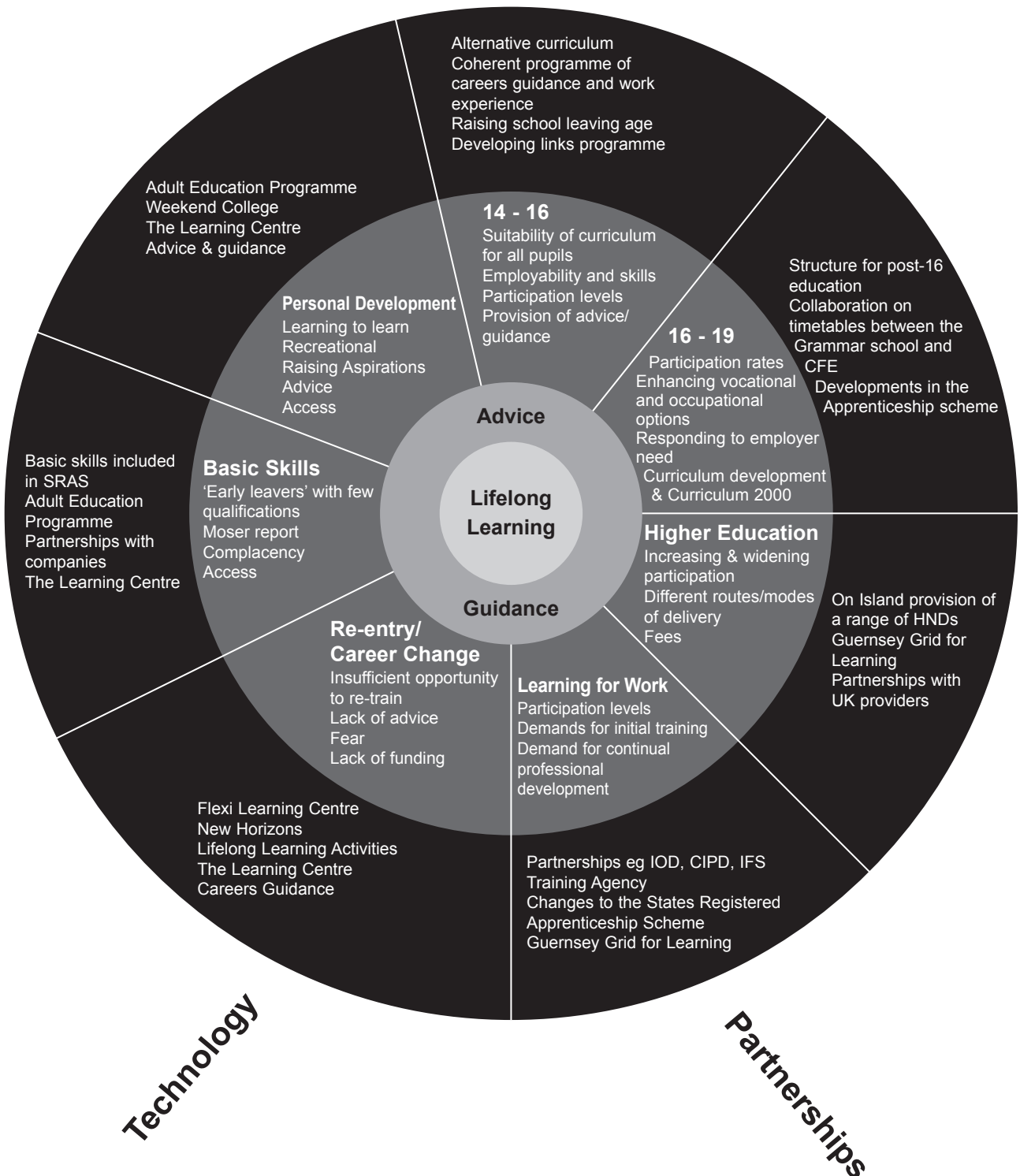
Secretarial subjects	16
Beauty Therapy	10
Childcare	12
Catering	6

Lifelong Learning

‘The revolution in lifelong learning and increases in participation will have a significant impact on the demand from individuals for information about learning opportunities and for advice and guidance about what is right for them.

The availability of good quality information, advice and guidance can also have a critical role in encouraging people, particularly the socially disadvantaged and disabled people, to become involved in learning and to improve their prospects in the labour market’

The learning age



Appendix 4

Summary of retention & achievement rates for the College of FE

		1998/99	1999/2000	2000/2001
All vocational courses	Enrolments	3199	3518	4083
	Retention %	92	92	94
	Achievement %	80	85	87
Full-time courses	Enrolments	197	211	224
	Retention %	80	87	88
	Achievement%	66	89	90
	Moving to Higher Ed	13	15	19
Link courses	Enrolments	481	523	471
States Registered Apprentices	Enrolments	296	305	315
	Retention %	85	88	91
	Achievement %	90	90	92

Summary of retention & achievement rates by programme area

		1998/99	1999/2000	2000/2001
Art & Design	Total Enrolments	50	56	51
	Full Time Enrolments	28	29	30
	Retention %	92	93	98
	Achievement %	92	93	100
Beauty Therapy	Total Enrolments			46
	Full Time Enrolments			10
	Retention %			100
	Achievement %			93
Business Studies	Total Enrolments	56	39	42
	Full Time Enrolments	52	34	30
	Retention %	71	81	85
	Achievement %	68	81	100
Building & Construction	Total Enrolments	198	251	260
	Full Time Enrolments	0	0	0
	Retention %	93	92	93
	Achievement %	91	88	95
Engineering	Total Enrolments	78	86	74
	Full Time Enrolments	0	5	3
	Retention %	95	97	97
	Achievement %	94	96	96
Finance Studies	Total Enrolments	988	952	886
	Full Time Enrolments	0	0	0
	Retention %	91	95	96
	Achievement %	83	81	81
Health & Social Care	Total Enrolments	58	67	62
	Full Time Enrolments	19	28	40
	Retention %	76	93	94
	Achievement %	70	89	85
Hotel & Catering/Travel & Tourism	Total Enrolments	185	143	128
	Full Time Enrolments	40	38	32
	Retention %	94	96	95
	Achievement %	71	87	90
Information Technology	Total Enrolments	238	276	319
	Full Time Enrolments	40	43	42
	Retention %	97	97	97
	Achievement %	83	85	95
Secretarial Studies	Total Enrolments	405	391	205
	Full Time Enrolments	29	21	17
	Retention %	96	96	90
	Achievement %	82	87	91
Management Studies	Total Enrolments	50	48	54
	Full Time Enrolments	0	0	0
	Retention %	80	98	98
	Achievement %	80	98	97
Flexi Learning Centre	Total Enrolments	256	290	501

APPENDIX III

STATES CIVIL SERVICE BOARD

STATES OF GUERNSEY PUBLIC SERVANTS' PENSION SCHEME: 2002 PENSIONS INCREASE

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

22nd October, 2001.

Dear Sir,

STATES OF GUERNSEY PUBLIC SERVANTS' PENSION SCHEME: **2002 PENSIONS INCREASE**

In accordance with the States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment No.2) Rules, 1997, approved by the States on the 29th October, 1997 (Article X of Billet d'État No. XIX of 1997), I have the honour to advise you that the States Civil Service Board, after consultation within the Pensions Consultative Committee, has resolved that pensions in payment and preserved pensions and other benefits not yet in payment be increased with effect from 1 January 2002 as follows:—

- (a) awarded prior to 1 January 2001 by **2.3%**
- (b) awarded in the period from
1 January 2001 to 31 December 2001 by **1/365th of 2.3% for each
day of entitlement.**

(ie. in line with the change in the Retail Price Index for the twelve months ending on 30 June 2001.)

In accordance with the above mentioned Rules, I should be grateful if you would arrange for this letter to be published as an Appendix to a Billet d'État,

I am, Sir,

Your obedient Servant,
A. SAUVARIN,
President,
States Civil Service Board.

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 28TH DAY OF NOVEMBER,
2001

The States resolved as follows concerning Billet d'Etat No. XXII
dated 9th November, 2001

PROJET DE LOI
entitled
THE DATA PROTECTION (BAILIWICK OF GUERNSEY) LAW, 2001

- I. To approve the Projet de Loi entitled "The Data Protection (Bailiwick of Guernsey Law, 2001", and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

STATES ADVISORY AND FINANCE COMMITTEE

PAYMENTS TO STATES MEMBERS

- II After consideration of the Report dated 4th October, 2001, of the States Advisory and Finance Committee:-

That the Rules for payments to States Members, Former States Members and Non-States Members of States Committees approved by the States on the 28th February, 1996, shall be amended to the extent that sub-paragraph 3(e) be rescinded.

STATES ADVISORY AND FINANCE COMMITTEE

AMENDMENT TO THE EUROPEAN COMMUNITIES
(BAILIWICK OF GUERNSEY) LAW, 1973

- III After consideration of the Report dated 12th October, 2001, of the States Advisory and Finance Committee:-

1. That the European Communities (Bailiwick of Guernsey) Law, 1973, shall be amended along the lines set out in the Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

STATES BOARD OF HEALTH

ST JOHN AMBULANCE & RESCUE SERVICE – STATES GRANT

- IV After consideration of the Report dated 23rd October, 2001, of the States Board of Health:-

1. That, subject to the St. John Ambulance & Rescue Service agreeing to become involved in the rolling programme of audits that the Internal Audit Department

undertakes on behalf of the States of Guernsey, and a Service Level Agreement being finalised and implemented by the 1st January, 2002.

- (a) to increase the grant to the St. John Ambulance & Rescue Service by £150,000 recurring for 2001 and thereafter;
 - (b) to provide an additional non-recurring sum of £100,000 to the St. John Ambulance & Rescue Service in 2001 and a further non-recurring sum of £100,000 in 2002 in order to replenish that Service's reserves;
 - (c) to authorise the States Board of Health, subject to permission from the States Advisory and Finance Committee, to make the above mentioned non-recurring sum of £100,000 or any lesser amount a recurring payment to the St. John Ambulance & Rescue Service, subject to verification from value for money studies that such an amount is necessary for the proper running of that Service.
2. To increase, from 2002 onwards, the annual grant to the St. John Ambulance & Rescue Service by 50% of the difference between the States Board of Health's growth in allocation and the Guernsey RPI at the time of setting such a budget allocation, provided that such increase is limited to a maximum of 3% above RPI in any one year.
 3. To increase that States Board of Health's revenue budget for 2001 and 2002 by £250,000 per annum and subject to the value for money review between £150,000 and £250,000 inflated to 2003 prices from 2003 onwards.
 4. To authorise the level of the annual grant and method of indexation to be formally reviewed by the States Board of Health and the St. John Ambulance & Rescue Service every three years, and if, as a result, there is a requirement to adjust that Board's revenue budget, that will be addressed through the Policy and Resource Planning process.
 5. To review the Service Level Agreement between the States Board of Health and the St. John Ambulance & Rescue Service on a regular basis, which shall be no less frequently than biennially.

ISLAND DEVELOPMENT COMMITTEE

PROGRAMME FOR THE REVIEW OF THE DETAILED DEVELOPMENT PLANS

V After consideration of the Report dated 16th October, 2001, of the Island Development Committee:-

That the Urban Area Plan, the Rural Area Plan (Phase 1) and the Rural Area Plan (Phase 2) shall continue to have effect until the 31st December, 2002.

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 29TH DAY OF NOVEMBER, 2001

The States resolved as follows concerning Billet d'Etat No.XXII
dated 9th November, 2001

(Meeting adjourned from 28th November, 2001)

ISLAND DEVELOPMENT COMMITTEE

REVIEW OF THE ISLAND DEVELOPMENT (GUERNSEY) LAWS, 1966 AND 1990

VI After consideration of the Report dated 16th October, 2001, of the Island
Development Committee:-

TO SURSIS the propositions and to direct the Island Development Committee to
consult with all interested parties on the current proposals as published, reporting back
to the States within six months including the results of the consultation as part of that
Report.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

**THE HEALTH SERVICE (MEDICAL APPLIANCES) (AMENDMENT) (No. 2)
REGULATIONS, 2001**

**THE HEALTH SERVICE (PHARMACEUTICAL BENEFIT) (RESTRICTED
SUBSTANCES) (AMENDMENT) REGULATIONS, 2001**

In pursuance of the provisions of section 35 of the Health Service (Benefit)
(Guernsey) Law, 1990, the above Regulations made by the Guernsey Social Security
Authority on the 3rd October, 2001, were laid before the States.

THE CURRENCY OFFENCES (DESIGNATION OF EURO) ORDER, 2001

In pursuance of the provisions of section 23(2) of the Currency Offences (Guernsey)
Law, 1950, as amended, the above Order made by the States Advisory and Finance
Committee on the 24th October, 2001, was laid before the States.

K. H. TOUGH
HER MAJESTY'S GREFFIER

