



Jersey

HIGH HEDGES (JERSEY) LAW 2008

Official Consolidated Version

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HIGH HEDGES (JERSEY) LAW 2008

Contents

Article

1	Interpretation	5
2	Domestic property	6
3	Residential property	6
4	High hedges.....	6
5	Complaints to which this Law applies.....	7
6	Complaints	7
7	Remedial action required to be taken	8
8	Powers of entry in respect of complaints.....	9
9	Minister may withdraw a remedial notice	10
10	Penalty for failure to comply with remedial notice.....	10
11	Minister may undertake work	11
12	Appeal against determination of Minister in respect of complaint	11
13	Appeal against determination of Minister in respect of remedial notice	11
14	Hearings	12
15	Other permissions.....	12
16	Minister to maintain Register of Remedial Notices.....	12
17	Conditions on entry of land	12
18	Responsibility	13
19	Documents	13
20	Power to amend certain Articles by Regulations.....	14
21	Law to apply to Crown and Crown land.....	14
22	Citation.....	14

ENDNOTES **15**

Table of Legislation History	15
Table of Renumbered Provisions	15
Table of Endnote References	15



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A LAW relating to high hedges.

Commencement [[see endnotes](#)]

1 Interpretation

(1) In this Law, unless the context otherwise requires –

“complaint” means a complaint to which this Law applies by virtue of Article 5;

“complainant” means –

(a) a person by whom the complaint is made; or

(b) if every person who made the complaint ceases to be an owner of the domestic or residential property specified in the complaint, any other person who is for the time being an owner of the property,

and references to the complainant include references to one or more of the complainants;

“domestic property” has the meaning assigned to that expression by Article 2;

“high hedge” has the meaning assigned to that expression by Article 4;

“Minister” means the Minister for the Environment;

“neighbouring land”, in respect of a complaint, means the land on which the hedge specified in the complaint is growing;

“owner”, in respect of domestic or residential property, includes any tenant of the whole or of a substantial part of the property;

“remedial notice” has the meaning given to that expression by Article 7(1)(b);

“residential property” has the meaning assigned to that expression by Article 3;

“residential purposes” has the meaning assigned to that expression by Article 3.¹

2 Domestic property

- (1) In this Law “domestic property” means –
 - (a) a dwelling; or
 - (b) a garden or yard that is used and enjoyed wholly or mainly in connection with a dwelling.
- (2) In paragraph (1) “dwelling” means a building or part of a building occupied, or intended to be occupied, as a separate dwelling.
- (3) A reference in this Law to a person’s reasonable enjoyment of domestic property includes a reference to his or her reasonable enjoyment of a part of the property.

3 Residential property

- (1) In this Law “residential property” means –
 - (a) a property, not being a domestic property, that is otherwise used for a residential purpose; or
 - (b) a garden or yard that is used and enjoyed wholly or mainly in connection with the residential use of such a property.
- (2) In paragraph (1) “property” includes a building, a part of a building and an area of land, in each case, occupied, or intended to be occupied, for a residential purpose.
- (3) In paragraph (1) “residential purpose” includes both short and long term occupation for a residential purpose and includes holiday occupation.
- (4) In paragraph (3) “holiday occupation” includes occupation by way of the use of a tent or caravan or other moveable structure on the property.
- (5) A reference in this Law to a person’s reasonable use of residential property for a residential purpose includes a reference to his or her reasonable use of a part of the property for that purpose.

4 High hedges

- (1) In this Law “high hedge” means so much of a barrier to light as –
 - (a) is formed wholly or predominantly by a line of 2 or more evergreens; and
 - (b) rises to a height of more than 2 metres above ground level.
- (2) For the purposes of paragraph (1) a line of evergreens is not taken to be regarded as forming a barrier to light if the existence of gaps significantly affects its overall effect at heights of more than 2 metres above ground level.
- (3) In this Article “evergreen” means an evergreen tree or shrub or a semi-evergreen tree or shrub.

5 Complaints to which this Law applies

- (1) This Law applies to a complaint that –
 - (a) is made by the owner of domestic property; and
 - (b) alleges that the reasonable enjoyment of all or any part of the property for domestic purposes is being adversely affected by the height of a high hedge situated on land owned or occupied by another person.
- (2) This Law also applies to a complaint that –
 - (a) is made by the owner of residential property; and
 - (b) alleges that the reasonable use of all or any part of the property for residential purposes is being adversely affected by the height of a high hedge situated on land owned or occupied by another person.
- (3) This Law also applies to a complaint that –
 - (a) is made by the owner of a domestic property that is for the time being unoccupied; and
 - (b) alleges that the reasonable enjoyment of the property by a prospective occupier of the property for domestic purposes would be adversely affected by the height of a high hedge situated on land owned or occupied by another person.
- (4) This Law also applies to a complaint that –
 - (a) is made by the owner of a residential property that is for the time being unused; and
 - (b) alleges that the reasonable use of the property by a prospective owner of the property for residential purposes would be adversely affected by the height of a high hedge situated on land owned or occupied by another person.
- (5) This Law does not apply to complaints about the effect of the roots of a high hedge.
- (6) In relation to a complaint falling within paragraph (3), references in Article 6 and 7 to the effect of the height of a high hedge on the complainant's reasonable enjoyment of a domestic property shall be read as references to the effect that it would have on the reasonable enjoyment of the property by a prospective occupier of the property.
- (7) In relation to a complaint falling within paragraph (4), references in Article 6 and 7 to the effect of the height of a high hedge on the complainant's reasonable use of residential property shall be read as references to the effect that it would have on the reasonable use of the property for residential purposes by a prospective owner of the property.

6 Complaints

- (1) This Article has effect where a complaint –
 - (a) is made to the Minister; and
 - (b) is accompanied by any fee prescribed by the Minister by Order.

- (2) If the Minister considers –
 - (a) that the complainant has not taken all reasonable steps to resolve the matters complained of without proceeding by way of such a complaint to the Minister; or
 - (b) that the complaint is frivolous or vexatious,the Minister may decide that the complaint should not be proceeded with.
- (3) If the Minister does not so decide the Minister must determine if the allegation made in the complaint is justified.
- (4) In doing so the Minister must first take into account every relevant consideration, including –
 - (a) whether the hedge existed at the time the complainant acquired an interest in the domestic or residential property specified in the complaint and, if it did, the height of the hedge at that time; and
 - (b) any extent to which the hedge –
 - (i) adds to the privacy and enjoyment of the neighbouring land, or
 - (ii) contributes to the amenity of the neighbourhood,and then, having done so, must consider the height to which the hedge could be reduced that would still afford reasonable protection to the interests of the occupier of the neighbouring land.
- (5) The Minister must also take into account any legal obligation relating to the hedge, whether the obligation is imposed by virtue of an enactment or otherwise.
- (6) If the Minister determines that the allegation made in a complaint is not justified the Minister must notify the complainant accordingly.
- (7) The notification must specify the right the complainant has under this Law to appeal against the determination of the Minister.
- (8) An order made for the purpose of paragraph (1)(b) may provide that a fee payable under that paragraph may be refunded by the Minister in such circumstances and to such extent as the Minister may determine.

7 Remedial action required to be taken

- (1) If the Minister determines that the allegation contained in a complaint is justified the Minister must –
 - (a) decide what needs to be done to the hedge to remedy the adverse effect it is having and to prevent the recurrence of that effect; and
 - (b) issue a notice (in this Law called a remedial notice).
- (2) A copy of the remedial notice must be sent –
 - (a) to the complainant; and
 - (b) to each person who is the owner or occupier of the neighbouring land.

- (3) The remedial notice must specify –
 - (a) what must be done to the high hedge by the owner or occupier of the neighbouring land and any conditions subject to which it must be done;
 - (b) the period during which it must be done and any part of that period during which it must not be done;
 - (c) anything that must be done after that period to prevent any recurrence of the adverse effect and any conditions subject to which it must be done;
 - (d) the consequences of not taking action to remedy the adverse effect during that period or, after that period, any action mentioned in paragraph (c); and
 - (e) the rights an owner or occupier of the neighbouring land has under this Law to appeal against the determination of the Minister or any requirement or condition specified in the remedial notice.
- (4) The Minister may not, by a remedial notice, require –
 - (a) a hedge to be removed or to be reduced to a height of less than 2 metres above ground level; or
 - (b) require anything to be done by a date that is sooner than 28 days after a copy of the notice has been sent to each person who is the owner or occupier of the neighbouring land.
- (5) While a remedial notice has effect it shall be binding on any person who is for the time being the owner or occupier of the neighbouring land.

8 Powers of entry in respect of complaints

- (1) Where a complaint has been made or a remedial notice has been issued, a person authorized by the Minister may enter the neighbouring land to obtain information required by the Minister –
 - (a) to determine if the allegation made in the complaint is justified;
 - (b) where the Minister determines that it is, to decide what needs to be done to the hedge to remedy the adverse effect it is having and to prevent the recurrence of that effect;
 - (c) to determine whether to withdraw a remedial notice and if the Minister decides to do so, whether to issue an amended one; or
 - (d) to ascertain if a requirement of a remedial notice has been complied with.
- (2) A person may not enter land in the exercise of a power conferred by paragraph (1) unless at least 24 hours' notice of the intended entry has been given to every occupier of the land.
- (3) A person who enters land in the exercise of a power conferred by paragraph (1) may –
 - (a) take with him or her other persons as may be necessary;

- (b) take with him or her equipment and materials needed to obtain any required information; and
- (c) take samples of any trees or shrubs that appear to him or her to form part of a high hedge.

9 Minister may withdraw a remedial notice

- (1) The Minister may at any time –
 - (a) withdraw a remedial notice; or
 - (b) withdraw a remedial notice and issue an amended one.
- (2) The Minister must send notice of the exercise of a power under paragraph (1)(a) to each person who was sent a copy of the remedial notice.
- (3) A notice sent under paragraph (2) shall have effect as if it were notification in accordance with Article 6(6).
- (4) The exercise of a power under paragraph (1)(b) shall have effect as if it were the issue of a new remedial notice on a complaint made to the Minister.

10 Penalty for failure to comply with remedial notice

- (1) A person who –
 - (a) fails to comply with a requirement of a remedial notice that binds the person; or
 - (b) when complying with a requirement of a remedial notice, fails to comply with a term or condition of the notice,shall be guilty of an offence and liable to a fine of level 3 on the standard scale.
- (2) An offence under paragraph (1) may be charged by reference to a day or any longer period of time and a person may be convicted of a second offence or subsequent offences under paragraph (1) by reference to any period of time following the preceding conviction for such an offence.
- (3) If –
 - (a) a person charged with an offence under paragraph (1) has not been sent a copy of the remedial notice in accordance with Article 7(2)(b); and
 - (b) details of the notice are not contained in the Register of Remedial Notices maintained in accordance with Article 16,it shall be a defence to show that the person was not aware of the existence of the notice.

11 Minister may undertake work

- (1) If a person fails to comply with a requirement of a remedial notice that binds the person the Minister may –
 - (a) authorize a person to enter the neighbouring land and undertake what is required to be done; and
 - (b) recover any expenses reasonably incurred by that person in doing so from any person who is the owner or an occupier of the land as a debt due from the owner or occupier to the Minister.
- (2) If the expenses are recoverable from 2 or more persons, they shall be jointly and severally liable for them.
- (3) A person may not enter land in the exercise of a power conferred by paragraph (1) unless the Minister has given every occupier of the land at least 7 days' notice of the intended entry.
- (4) A person who enters land in the exercise of a power conferred by paragraph (1) may –
 - (a) use a vehicle to enter the land;
 - (b) take with him or her other persons as may be necessary;
 - (c) take with him or her equipment and materials needed to undertake the work required to be done.
- (5) For the purpose of paragraph (1)(a), a person who carries out work under this Article must provide details of the work carried out if asked to do so by the owner or occupier of the land.

12 Appeal against determination of Minister in respect of complaint

- (1) A complainant may appeal to the Royal Court against a determination by the Minister that the allegation made in the complaint by the complainant is not justified.
- (2) The appeal must be made within 28 days of the complainant being notified by the Minister of the determination or within such further period as the Royal Court may consider justice requires.
- (3) On the appeal the Royal Court may –
 - (a) confirm the determination of the Minister; or
 - (b) order the Minister to issue a remedial notice that specifies, in particular, what must be done to the high hedge by the owner or occupier of the neighbouring land as determined by the Court.
- (4) The Minister must comply with an order made under paragraph (3)(b).

13 Appeal against determination of Minister in respect of remedial notice

- (1) The owner or occupier of the neighbouring land may appeal to the Royal Court against –
 - (a) a determination by the Minister that the allegation made in a complaint is justified; or

- (b) any requirement or condition specified in a remedial notice.
- (2) The appeal must be made within 28 days of the owner or occupier being sent a copy of the remedial notice or within such further period as the Royal Court may consider justice requires.
- (3) Where an appeal is made in pursuance of paragraph (1), the remedial notice shall be of no effect pending the final determination or withdrawal of the appeal.
- (4) On the appeal the Royal Court may –
 - (a) confirm the determination of the Minister;
 - (b) order the Minister to withdraw the remedial notice; or
 - (c) order the Minister to amend the remedial notice in such manner as the Court directs.
- (5) The Minister must comply with an order made under paragraph (4)(b) or (c).

14 Hearings

A person appearing at a hearing by the Royal Court of an appeal under Article 12 or Article 13 may appear and be heard, either in person or by a representative, who shall be an advocate of the Royal Court or such other person as the Royal Court may by rules prescribe.

15 Other permissions

In so far as any permission is required under any other Law that permission shall be taken to have been granted to undertake work in compliance with the terms and conditions of a remedial notice.

16 Minister to maintain Register of Remedial Notices

- (1) The Minister shall maintain a register, called the Register of Remedial Notices, containing details of each remedial notice that the Minister has issued and is still in force.
- (2) The Minister shall make the register available for inspection by the public at all reasonable hours.

17 Conditions on entry of land

- (1) A person authorized under Article 8 or Article 11 to enter land –
 - (a) must, if so required, produce evidence of his or her authority to do so before entering; and
 - (b) must produce that evidence if required to do so at any time while on the land.
- (2) If, in the exercise of a power conferred by Article 8 or Article 11, a person enters land that is unoccupied or from which all of the persons

occupying the land are temporarily absent, the person must on departure leave it as effectively secured against unauthorized entry as he or she found it.

- (3) A person who intentionally obstructs or hinders a person acting in the exercise of a power under Article 8 or Article 11 is guilty of an offence and shall be liable to a fine of level 3 on the standard scale.²

18 Responsibility

- (1) If an offence under this Law that has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
 - (a) a director, manager, secretary or other similar officer of the body corporate; or
 - (b) a person who was purporting to act in any such capacity,that person, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with her or his functions of management as if the person were a director of the body corporate.
- (3) A person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

19 Documents

- (1) This Article applies to a complaint, notice or notification authorized or required to be made, issued, sent or given by virtue of this Law.
- (2) It must be in writing.
- (3) If it is to be sent to a body corporate it may be sent to the secretary or clerk of the body corporate.
- (4) It may be sent to a person –
 - (a) by delivering it to the person;
 - (b) by leaving it at the person's proper address;
 - (c) by posting it to the person.
- (5) For the purposes of this Article and of Article 7 of the [Interpretation \(Jersey\) Law 1954](#) in its application to this Article, the proper address of a person is –
 - (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of the body corporate; and
 - (b) in any other case –
 - (i) the usual or last-known place of abode of the person, but

- (ii) if the person has given the Minister an address for service, that address.
- (6) If the Minister is unable to ascertain after reasonable enquiry the name or address of the owner, lessee or occupier of land to whom anything to which this Article applies is to be sent, it may be sent –
 - (a) by addressing it to the person to whom it is to be sent by the description of “owner”, “lessee” or “occupier” of the land (describing it) to which it relates; and
 - (b) by delivering it to some responsible person resident or appearing to be resident on the land, or, if there is no such person, by affixing it, or a copy of it, to a conspicuous part of the land.

20 Power to amend certain Articles by Regulations

- (1) The States may by Regulations –
 - (a) amend Article 4 to amend the definition of “high hedge”; and
 - (b) amend Article 5 to extend the scope of complaints relating to high hedges to which this Law applies.
- (2) Regulations made under paragraph (1) may also make such consequential amendments of this Law as the States consider appropriate.

21 Law to apply to Crown and Crown land

- (1) This Law applies to the Crown and to Crown land.
- (2) Nothing in this Law renders the Crown liable to prosecution for an offence under this Law.

22 Citation

This Law may be cited as the High Hedges (Jersey) Law 2008.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
High Hedges (Jersey) Law 2008	L.4/2008	11 January 2008
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	R&O.158/2015	1 January 2016
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	L.1/2016	20 September 2016 (R&O.98/2016)

Table of Renumbered Provisions

Original	Current
22(1)	22
22(2)	Spent, omitted

Table of Endnote References

¹ Article 1(1) *amended by R&O.158/2015*

² Article 17(3) *amended by L.1/2016*