



Jersey

EXTINGUISHMENT OF ROADS (JERSEY) LAW 1972

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EXTINGUISHMENT OF ROADS (JERSEY) LAW 1972

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Jersey

EXTINGUISHMENT OF ROADS (JERSEY) LAW 1972¹

A **LAW** to authorize the extinguishment of roads and to provide for matters incidental thereto

Commencement [[see endnotes](#)]

1 Interpretation

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

“apparatus” includes apparatus within the meaning of the [Telecommunications \(Jersey\) Law 2002](#);

“applicant authority”, in relation to any application or order under this Law, means the highway authority making the application or on whose application the order is made or where appropriate, in the case of an application under Article 2(2), the Minister;

“by-road” has the same meaning as “chemin vicinal” in the [Loi \(1914\) sur la Voirie](#);

“enactment” includes any enactment of the Parliament of the United Kingdom in so far as that enactment has effect in Jersey;

“highway authority” and “road” have the same meanings as in the [Roads Administration \(Jersey\) Law 1960](#);

“main road” has the same meaning as “grande route” in the [Loi \(1914\) sur la Voirie](#);

“Minister” means the Minister for Infrastructure;

“Royal Court” means the Superior Number of the Royal Court;

“statutory undertakers” means persons authorized by any enactment to carry on any undertaking for the supply of electricity, gas or water or a person running a public telecommunication system under a licence under the [Telecommunications \(Jersey\) Law 2002](#);²

(2) References in this Law to any other enactment shall be construed as references to that enactment as amended by any subsequent enactment.

2 Application to extinguish a road to be made to Royal Court

- (1) Where a highway authority considers that any road under its administration should be extinguished because –
 - (a) it is unnecessary; or
 - (b) it is in the public interest that it should be extinguished,the authority may apply to the Royal Court for an order authorizing the extinguishment of the road.
- (2) Where the Minister represents to a highway authority that the extinguishment of any road under the administration of the highway authority is necessary or desirable in connection with the proper development of any part of Jersey, the highway authority may make application to the Royal Court for the necessary order or may instead require the Minister to make the necessary application.
- (3) Before deciding to apply for an order authorizing the extinguishment of a main road, the applicant authority shall consult the Connétable of the parish in which the road is situated and, before deciding to apply for an order authorizing the extinguishment of a by-road, the applicant authority shall consult the Minister.³
- (4) For the avoidance of doubt, it is declared that an application made under this Article may relate to 2 or more roads which are connected with each other.

3 Consideration of applications and making of orders by Royal Court

- (1) On the hearing by the Royal Court of an application under this Law, the applicant authority, the highway authority in the case of an application made by the Minister, the Connétable of the parish in which the road is situated in the case of an application concerning a main road, the Minister in the case of an application concerning a by-road, any person on whom a notice is required to be served under Schedule 1, any person who normally uses the road and any other person, who would be aggrieved by the making of the order applied for, shall have a right to be heard.⁴
- (2) Subject to the following provisions of this Article, if the Royal Court is satisfied, after a view if necessary, that –
 - (a) the road which forms the subject of the application is unnecessary;
 - (b) it is in the public interest that the road should be extinguished; or
 - (c) it is necessary or desirable in connection with the proper development of any part of Jersey that the road should be extinguished,the Court shall order the road to be extinguished.
- (3) Where, by virtue of a licence granted under Article 4 of the [Highways \(Jersey\) Law 1956](#), anything is authorized to be placed below, on or above the road to which the application relates, the Royal Court may, on the application of the applicant authority and notwithstanding anything in the said Article 4, order the cancellation of the licence as from such date as the Court may determine.
- (4) An order made under this Article may contain such incidental or consequential provisions as appear to the Royal Court to be necessary, including in particular –

- (a) where the Court orders the cancellation of a licence granted under Article 4 of the [Highways \(Jersey\) Law 1956](#), provision for requiring the payment of reasonable compensation to the holder of the licence; and
 - (b) where the order relates to a by-road and the application for the order is made in circumstances to which Article 2(2) refers, provision for requiring the payment of, or the making of contributions towards, the cost of doing any work provided for by the order or of any increased expenditure to be incurred which is attributable to the doing of any such work.⁵
- (5) The Royal Court shall not make an order under this Article unless it is satisfied that the applicant authority has served the notices required by Schedule 1.

4 Apparatus of statutory undertakers

The provisions of Schedule 2 shall apply where, in pursuance of an order made by the Royal Court under Article 3, a road is extinguished and, immediately before the order is made, there is below, on or above the road any apparatus belonging to or used by any statutory undertakers for the purposes of their undertaking.

5 Ownership and sale of land formerly used as a road

- (1) Where by virtue of an order made under Article 3, a road is extinguished, the land which by reason of the extinguishment ceases to be a road shall –
- (a) in the case of a main road, be at the disposal of the States;
 - (b) in the case of a by-road, be at the disposal of the parish concerned.
- (2) It shall be lawful for the States or any parish to sell any land at their disposal by virtue of paragraph (1), or any part thereof, to such persons and for such considerations as they may think fit.

6 Service of notices

- (1) Any notice required or authorized by or under this Law to be served on a person being a corporation shall be duly served if it is served on the secretary or clerk of the corporation.⁶
- (2) Subject to the provisions of this Article, any notice required or authorized by or under this Law to be served on any person may be served either –
- (a) by delivering it to that person;
 - (b) by leaving it at that person's proper address;
 - (c) by registered post; or
 - (d) by the recorded delivery service.
- (3) 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 any person on whom such a notice as aforesaid is to be served shall, in the case of the secretary or clerk of a corporation, be that of the registered or principal office of the corporation, and, in any other case, be the usual or last-known place of abode of the person on whom the notice is to be served:

Provided that, where the person on whom such a notice as aforesaid is to be served has furnished an address for service in accordance with arrangements agreed to in that behalf, the person's proper address for the purposes aforesaid shall be the address furnished.⁷

- (4) If the name or the address of any owner, lessee or occupier of premises on whom any such notice as aforesaid is to be served cannot after reasonable enquiry be ascertained by the person seeking to serve the notice, the notice may be served by addressing it to the person on whom it is to be served by the description of "owner", "lessee" or "occupier" of the premises (describing them) to which the notice relates, and by delivering it to some responsible person resident or appearing to be resident on the premises, or, if there is no such person to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

7 Citation

This Law may be cited as the Extinguishment of Roads (Jersey) Law 1972.

SCHEDULE 1⁸

(Article 3)

NOTICES TO BE GIVEN BY APPLICANT FOR ORDER

1. At least 28 days before the day on which an application for an order under Article 3 is to be made in relation to a road, the applicant authority shall give notice of its intention to apply for the order, specifying the time and place at which the application is to be made, the terms of the order applied for (embodying a plan showing what will be the effect thereof) and its reasons for considering that the road in question is unnecessary or that it is in the public interest that it should be extinguished to –
 - (a) the Minister;
 - (b) the appropriate highway authority where the applicant authority is the Minister;
 - (c) the Connétable of the parish in which the road is situated where the application concerns a main road;
 - (d) the Minister where the application concerns a by-road;
 - (e) the owners and occupiers of all lands adjoining the road;
 - (f) any statutory undertakers having apparatus below, on or above the road;
 - (g) any person who is for the time being authorized to place anything below, on or above the road by virtue of a licence granted under the [Highways \(Jersey\) Law 1956](#).
2. The applicant authority shall also give notice of its intention to apply for an order –
 - (a) by posting, and keeping posted throughout the 14 days preceding the date on which the application is to be made, in prominent positions at each end of the road, placard notices containing similar information; and
 - (b) by publishing in the Jersey Gazette on at least 3 occasions in the 14 days preceding the day on which the application is to be made, a notice containing similar information (except that there may be substituted for the plan a statement of a place where the plan may be inspected free of charge at all reasonable hours).

SCHEDULE 2

(Article 4)

APPARATUS OF STATUTORY UNDERTAKERS

1. Where a road is extinguished in pursuance of an order made under Article 3, the statutory undertakers whose apparatus is below, on or above the road shall, subject to the provisions of this Schedule, have the same powers and rights in respect of that apparatus as if the order authorizing the road to be extinguished had not been made.
2. Where a road is extinguished in pursuance of an order made under Article 3, the statutory undertakers whose apparatus is below, on or above the road may, and if reasonably requested so to do by the applicant authority shall –
 - (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as they may reasonably determine and have power to place it; or
 - (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.

Any works executed under this paragraph (including the provision of apparatus thereunder) are hereafter in this Schedule referred to as “undertakers’ works”.

3. Subject to the following provisions of this Schedule, the applicant authority shall pay to the statutory undertakers an amount equal to the cost reasonably incurred by them in or in connection with –
 - (a) the execution of undertakers’ works required in consequence of the extinguishment of the road; and
 - (b) the doing of any other work or thing rendered necessary by the execution of undertakers’ works.
4. If in the course of the execution of undertakers’ works –
 - (a) apparatus of better type, of greater dimensions or of greater capacity is placed in substitution for existing apparatus of worse type, of smaller dimensions or of smaller capacity; or
 - (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was placed,

and the placing of apparatus of that type, dimensions or capacity or the placing of apparatus at that depth, as the case may be, is not agreed by the applicant authority, or in default of agreement is not determined by arbitration, to be necessary, then, if it involves cost in the execution of the undertakers’ works exceeding that which would have been involved if the apparatus placed had been of the existing type, dimensions or capacity, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the statutory undertakers by virtue of paragraph 3 shall be reduced by the amount of that excess.

5. For the purposes of paragraph 4 –

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus;
 - (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.
- 6. If the execution of any undertakers' works involves the placing of apparatus in substitution for apparatus placed more than 7½ years earlier and, as a result, a financial benefit is conferred on the statutory undertakers by reason of the deferment of the time at which the original apparatus would have been renewed in the ordinary course, the amount which, apart from this paragraph, would be payable to the statutory undertakers, shall be reduced by the amount which represents that benefit.
- 7. Any question arising under this Schedule shall, in default of agreement between the parties concerned, be determined by arbitration.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Extinguishment of Roads (Jersey) Law 1972	L.13/1972	26 May 1972
Telecommunications (Jersey) Law 1972	L.24/1972	1 January 1973 (R&O.5751)
Extinguishment of Roads (Amendment) (Jersey) Law 1974	L.15/1974	23 August 1974
Telecommunications (Jersey) Law 2002	L.1/2002	1 January 2003 (R&O.139/2002)
States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005	R&O.132/2005	9 December 2005
Public Finances (Consequential Amendments) (Jersey) Regulations 2005	R&O.126/2005	9 December 2005
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	R&O.158/2015	1 January 2016

Table of Renumbered Provisions

Original	Current
2(2A)	2(3)
2(3)	2(4)
5	repealed by L.24/1972
6	5
7	6
8	spent, omitted from this revised edition
9	7
FIRST SCHEDULE 1(bb)	SCHEDULE 1 1(c)
(bc)	(d)
(c)	(e)
(d)	(f)
(e)	(g)
SECOND SCHEDULE	SCHEDULE 2

Table of Endnote References

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- ¹ *This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- ² *Article 1(1)* *amended by L.24/1972, L.15/1974, L.1/2002, R&O.158/2015*
- ³ *Article 2(3)* *inserted by L.15/1974*
- ⁴ *Article 3(1)* *amended by L.15/1974*
- ⁵ *Article 3(4)* *amended by R&O.126/2005*
- ⁶ *Article 6(1)* *amended by L.24/1972*
- ⁷ *Article 6(3)* *amended by L.24/1972*
- ⁸ *Schedule 1* *amended by L.15/1974*