



Jersey

# **PLANNING AND BUILDING (ISLAND PLAN) (JERSEY) ORDER 2009**

## **Official Consolidated Version**

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Jersey

# PLANNING AND BUILDING (ISLAND PLAN) (JERSEY) ORDER 2009

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Jersey

## **PLANNING AND BUILDING (ISLAND PLAN) (JERSEY) ORDER 2009**

**THE MINISTER FOR PLANNING AND ENVIRONMENT**, in pursuance of Articles 3 and 124 of the [Planning and Building \(Jersey\) Law 2002](#), orders as follows –

Commencement [[see endnotes](#)]

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### **PART 1**

#### **INTERPRETATION AND GENERAL**

#### **1 Interpretation**

In this Order, unless the context otherwise requires –

“announce and publish” is to be read in accordance with Article 3;

“closing date for initial representations” means the date determined under Article 5(2)(b)(iv);

“examination in public” means the conduct of the inspector’s functions under Part 3;

“hearing” means a thematic or plenary hearing;

“initial draft Island Plan” means the document referred to in Article 5(1)(a);

“initial representation” means a representation submitted in accordance with Article 6;

“inspector” means the person appointed as such under Article 7, and includes any assistant inspector;

“Law” means the [Planning and Building \(Jersey\) Law 2002](#);

“plenary hearing” means a hearing held under Article 15;

“revised draft Island Plan” means the draft of the Island Plan, or of the revision to it, that is prepared by the Minister, after the submission of the

inspector's report under Article 18(c), for presentation to the States under Article 3(1) or (2) of the Law;

"thematic hearing" means a hearing held under Article 14;

"timetable" means the timetable produced under Article 11(4).

## **2 Application of Order**

This Order applies where, by virtue of Article 3(3) of the Law, the Minister is required to publicize the Minister's proposals in respect of the Island Plan or of a revision of it, and to seek representations from the public.

## **3 Publicity: general**

- (1) A requirement in this Order to announce and publish a document is satisfied by –
  - (a) placing copies of the document for inspection by the public in one or more offices during reasonable hours;
  - (b) announcing information as to the steps taken under subparagraph (a) and any steps taken under paragraph (2); and
  - (c) circulating information as to those steps.
- (2) In addition to complying with paragraph (1)(a) the person subject to the requirement may make electronic copies of the document available for downloading by the public from a website.
- (3) Information shall be announced under paragraph (1)(b) –
  - (a) by at least one means that the person subject to the requirement considers likely to bring the information to the attention of the public of Jersey; and
  - (b) in addition, if a website has been used under paragraph (2), by placing an announcement on that website, or on another website from which a reader is directed to that website.
- (4) Information shall be circulated under paragraph (1)(c) to –
  - (a) any person who has made a representation by the time at which the information is to be circulated, other than a person who –
    - (i) has not provided any address for communication, whether postal or electronic, or
    - (ii) has provided such an address but has subsequently indicated a wish not to receive circulated information;
  - (b) the Minister, if the person subject to the requirement is the inspector; and
  - (c) any other person who, by the time at which the information is to be circulated –
    - (i) has been invited by the inspector under this Order to contribute in any manner to the examination in public,

- (ii) has agreed to do so, and
  - (iii) has provided an address for postal or electronic communication of circulated information.
- (5) Information shall be circulated to a person under paragraph (1)(c) –
  - (a) by transmitting the information to an address for electronic communications provided by the person for the purpose; or
  - (b) if no address for electronic communications has been provided, by sending the information in writing to the postal address provided by the person for the purpose.
- (6) If a person is subject to a requirement in this Order to announce and publish any matter other than a document –
  - (a) that requirement is to be read as a requirement –
    - (i) to prepare a document containing information as to that matter, and
    - (ii) to announce and publish that document in accordance with paragraphs (1) to (5); and
  - (b) the person subject to the requirement may treat paragraphs (1)(b) and (1)(c) as if they referred to the information contained in the document under sub-paragraph (a)(i) of this paragraph, rather than to information as to steps taken under paragraphs (1)(a) and (2).
- (7) A power or duty under this Order to publish a document, or announce or circulate information, is subject to a duty to edit that document or information to any extent necessary to comply with the [Data Protection \(Jersey\) Law 2018](#).<sup>1</sup>

#### **4 Representations: general**

- (1) Representations may be submitted only by whichever one or more of the following means is available under this Order –
  - (a) initial representations to the Minister in the manner required under Article 6;
  - (b) second-round representations to the inspector in the manner required under Article 12;
  - (c) appearance and being heard at thematic or plenary hearings under Article 14 or 15.
- (2) Without prejudice to paragraph (1), the following shall not be used as a forum for the submission of representations –
  - (a) the programme meeting under Article 11; or
  - (b) an informal resolution meeting, administrative meeting, technical seminar, or a site visit, under Article 13.
- (3) The Minister and the inspector may provide standard forms to assist the making of representations to them, but the use of such forms shall not be required.

- (4) A person submitting a representation may use that representation –
  - (a) to comment on the initial draft Island Plan, or on any amendment to it proposed by the Minister;
  - (b) to comment on any representation already submitted by any other person; and
  - (c) to supplement or to replace, but not to repeat substantively, any points made in any earlier representation submitted by the person submitting the representation.
- (5) The Minister or inspector may invite any person who has submitted a written representation to him or her to provide in writing, before the closing date for submission of that representation, either or both of –
  - (a) further information or background material relevant to that representation; and
  - (b) a summary of, or briefing note on, any argument put forward in that representation.
- (6) For the purpose of paragraph (5) anything provided by the Minister to the inspector may be treated as a representation.
- (7) For the purpose of any requirement to announce and publish a representation, anything provided in response to an invitation under paragraph (5) is to be treated as part of the representation to which it relates.
- (8) A person submitting a representation shall include in that representation –
  - (a) his or her name and postal address; and
  - (b) an indication of whether he or she wishes to receive circulated information as to documents published in the examination in public.
- (9) If the person submitting the representation wishes to receive circulated information other than at the postal address provided under paragraph (8)(a), he or she may include in the representation an alternative address for postal or electronic communication for that purpose.

## **PART 2**

### **REPRESENTATIONS TO MINISTER AND APPOINTMENT OF INSPECTOR**

#### **5 Announcement of proposals for Island Plan**

- (1) The Minister shall publicize his or her proposals in respect of the Island Plan or any revision of it by –
  - (a) setting out those proposals in the form of an initial draft Island Plan, being a document that is –
    - (i) a draft of the Island Plan, or



- (ii) in the case of a revision of the Island Plan, a draft of the parts of the Island Plan to be revised together with a reasoned justification for the revision; and
- (b) announcing and publishing the matters listed in paragraph (2).
- (2) The matters are –
  - (a) the initial draft Island Plan;
  - (b) an invitation to members of the public to submit initial representations to the Minister in respect of the initial draft Island Plan, with details of –
    - (i) a postal address and an address for electronic communications, to which the representations may be sent or transmitted,
    - (ii) if a facility has been made available for the public to post the representations on a website, the details of that website,
    - (iii) the requirements of Articles 4 and 6 as to the contents of the representations, and
    - (iv) a closing date determined by the Minister for submission of the representations, being not less than 8 weeks after its announcement; and
  - (c) the Minister's intention to appoint an inspector to conduct an examination in public, in which representations may be heard in public before the Minister decides on the Island Plan or revision that he or she will present to the States.

## **6 Initial representations**

- (1) Any member of the public may submit an initial representation in respect of the initial draft Island Plan.
- (2) An initial representation must –
  - (a) summarize in writing, in not more than 1,500 words, the key points that the person wishes to make in respect of the initial draft Island Plan; and
  - (b) be submitted before the closing date for initial representations.
- (3) An initial representation may be accompanied by documents that –
  - (a) are concise;
  - (b) support any of the key points summarized in the initial representation; and
  - (c) do not contain any matter that is not relevant to those points.

## **7 Appointment of inspector and supporting officers**

- (1) The Minister shall, before the closing date for initial representations, appoint a person as inspector.

- (2) The Minister may appoint one or more persons as assistant inspectors, to assist the inspector in the discharge of his or her functions.
- (3) The Minister shall set terms of reference for the inspector and assistant inspectors.
- (4) The Minister may appoint as an inspector or assistant inspector a person who –
  - (a) does not fall within paragraph (5); and
  - (b) appears to the Minister to have –
    - (i) qualifications in planning matters,
    - (ii) experience in the conduct of planning inquiries or examinations in public, and
    - (iii) no prior involvement directly or indirectly with the preparation of the initial draft Island Plan.
- (5) A person falls within this paragraph if that person –
  - (a) is a member of the States;
  - (b)
  - (c) holds appointment to any judicial office in Jersey;
  - (d) has fallen within sub-paragraph (a) or (c) at any time within the period of 2 years before the date of the proposed appointment, other than as an inspector appointed under this Order or Part 7 of the Law;
  - (e) is providing services to the States in relation to any function under the Law, other than the function of an inspector appointed under this Order or Part 7 of the Law; or
  - (f) has a significant direct or indirect personal or financial interest in any of the matters set out in the initial draft Island Plan.<sup>2</sup>
- (6) If, for any reason, the person appointed as inspector ceases to be inspector before the inspector's report is produced under Article 18, the Minister may appoint another person as inspector in accordance with paragraph (4).
- (7) The Minister may designate one of the assistant inspectors to perform the functions of the inspector for any period during which the person appointed as inspector is unable to perform those functions through temporary absence or incapacity.
- (8) The Minister may appoint persons to provide the inspector with advice on any technical matter arising in the public inquiry.
- (9) The Minister shall, if the inspector so requests, arrange for the inspector to be able to control the content of a website which –
  - (a) is to be used by the inspector for the purposes of the examination in public;
  - (b) is to be maintained or arranged by an administration of the States; and

- (c) may include a facility, subject to the inspector's control of the content of the website, for members of the public to submit representations by posting them on the website.
- (10) The Minister shall ensure that administrative support is provided to the inspector and any assistant inspectors, including in particular for the purposes of the maintenance and operation of any website under paragraph (9).

## **8 Report by Minister to inspector**

- (1) The Minister shall, after the closing date for initial representations –
  - (a) consider the representations received; and
  - (b) produce a written report of the result of that consideration.
- (2) The report shall include –
  - (a) an analysis of the representations;
  - (b) the Minister's views on points in the representations considered significant by the Minister; and
  - (c) recommendations, with reasoned justifications, for particular matters to be examined by the inspector, having particular regard to any representations made about –
    - (i) the adequacy of particular policies, and of justifications given for policies, that are of significance to the Island,
    - (ii) issues involving significant controversy, and
    - (iii) alleged conflicts between the initial draft Island Plan and other policies of the States.
- (3) If the Minister is minded to amend the initial draft Island Plan as a result of considering the representations he or she shall also include in the report –
  - (a) a draft of each proposed amendment; and
  - (b) a reasoned justification of each proposed amendment.
- (4) After completing the report, the Minister shall send to the inspector –
  - (a) the report;
  - (b) the representations; and
  - (c) any other evidence relied on by the Minister in compiling the report.
- (5) After sending the report to the inspector, the Minister shall announce and publish –
  - (a) the documents sent to the inspector under paragraph (4);
  - (b) the name and terms of reference of the inspector; and
  - (c) a note to the effect that any further representation should only be submitted –

- (i) after the publication of the invitation and timetable under Article 11,
- (ii) to the inspector, and
- (iii) in accordance with the invitation, the timetable and Article 12.

### **PART 3**

#### **EXAMINATION IN PUBLIC**

#### **9 General functions of inspector**

- (1) Subject to the requirements of this Order and of the inspector's terms of reference, the inspector shall conduct the examination in public as he or she thinks fit, and may in particular choose –
  - (a) the topics for examination;
  - (b) the persons invited to participate in any part of the examination;
  - (c) the format and nature of the examination;
  - (d) the format of evidence to be submitted.
- (2) If the inspector considers it just in all the circumstances to do so he or she may, in any case or generally –
  - (a) extend any period within which anything shall or may be done under this Order, if the inspector is satisfied that the extension will not prejudice the Minister's ability to present an Island Plan or revision to the States within the time allowed under Article 3 of the Law;
  - (b) permit the use of a greater number of words in a submission than otherwise provided for under this Order.
- (3) If, before the end of the final plenary hearing, the inspector believes that he or she may wish, in the report under Article 18, to recommend an amendment to the initial draft Island Plan that has not been discussed in any representation, he or she –
  - (a) shall consider how best to obtain representations as to the potential recommended amendment;
  - (b) may invite any person to provide evidence or opinion as to that amendment, in any form seeming convenient to the inspector; and
  - (c) may adjourn and reconvene the examination in public to obtain and consider any representations, evidence or opinion under this paragraph.

#### **10 Preparation of draft timetable**

- (1) The inspector shall, after receiving the Minister's report –

- (a) consider the documents sent to the inspector by the Minister under Article 8(4);
  - (b) make enquiries as to –
    - (i) which persons who have submitted initial representations wish to appear and be heard at a plenary hearing,
    - (ii) which persons who have submitted initial representations would wish to appear and be heard at a thematic hearing, if selected by the inspector, and
    - (iii) which other persons, whom the inspector is considering inviting to appear and be heard at a thematic or plenary hearing, would wish to accept such an invitation; and
  - (c) prepare a draft list of –
    - (i) the matters to be examined at the hearing or hearings, with an indication of which, if any, are to be the subject of any thematic hearing,
    - (ii) the persons who have been selected or invited and have agreed to appear and be heard at any thematic hearings, and
    - (iii) the dates on which hearings are to be held.
- (2) The Inspector shall announce and publish –
- (a) the draft list prepared under paragraph (1)(c); and
  - (b) an invitation to comment on the draft list, specifying the means by which to do so and a period of not less than 7 days following its announcement in which to do so.

## **11 Programme meeting and timetable**

- (1) The inspector shall –
- (a) make arrangements to hold a programme meeting on a date that is after the end of the time allowed for making comments under Article 10(2)(b); and
  - (b) announce and publish the date, time, venue and purpose of the programme meeting.
- (2) The programme meeting shall be held in public.
- (3) The purpose of the programme meeting is to discuss the draft list published under Article 10(2)(a) and the comments on it, and to assist the inspector in deciding on the timetable under paragraph (4).
- (4) After the programme meeting the inspector shall produce a timetable for the examination in public, showing –
- (a) the closing date or dates by which any second-round representation under Article 12 must be submitted (being a date not less than 14 days before the hearing to which the representation relates), and the maximum number of words to be used in each second-round representation, whether generally or in relation to a particular matter or matters;

- (b) in respect of any administrative meeting, technical seminar or site visit –
    - (i) the date and time,
    - (ii) the venue,
    - (iii) whether it is public or private, and
    - (iv) if it is private, the persons invited;
  - (c) the date, time and venue for each hearing, and whether it is to be thematic or plenary; and
  - (d) for each thematic hearing, the matters to be examined and the persons to appear and be heard.
- (5) The inspector shall announce and publish –
- (a) the timetable; and
  - (b) an invitation to members of the public to submit second-round representations to the inspector, with details of –
    - (i) a postal address and an address for electronic communications, to which the representations may be sent or transmitted,
    - (ii) if a facility has been made available for the public to post the representations on a website, the details of that website, and
    - (iii) the requirements of Articles 4 and 12 as to the submission of the representations.
- (6) The inspector –
- (a) may revise the timetable if he or she considers it expedient to do so; and
  - (b) shall announce and publish any revision to the timetable.

## **12 Second-round representations**

- (1) After the timetable has been published any member of the public, or any person invited by the inspector, may submit to the inspector a second-round representation in respect of a thematic or plenary hearing, irrespective of whether that person –
  - (a) is to appear and be heard at that hearing; or
  - (b) has submitted an initial representation.
- (2) A person's second-round representation –
  - (a) shall be submitted, in writing, before the date specified in the timetable in respect of the hearing for which it is submitted;
  - (b) shall consist of representations material –
    - (i) to the revised draft Island Plan to be prepared by the Minister, if submitted in respect of a plenary hearing, or

- (ii) to the matters to be examined at the thematic hearing in respect of which it is submitted;
- (c) shall raise any substantial point on which that person may intend to expand by appearing and being heard at any hearing, and which he or she has not already raised in a previous representation;
- (d) shall not exceed the maximum number of words specified in the timetable in respect of the hearing for which it is submitted; and
- (e) may be accompanied by a supplementary document (or documents) that –
  - (i) is concise,
  - (ii) supports points made in the representation that it accompanies, and
  - (iii) does not contain any matter that is not relevant to those points.
- (3) If a representation is submitted to the inspector between the publication of the Minister's report and the publication of the timetable, the inspector shall –
  - (a) treat the representation as a second-round representation submitted in respect of one of the hearings, if it appears to the inspector that the representation –
    - (i) is relevant to and useful for that hearing, and
    - (ii) would have complied with sub-paragraphs (b) to (e) of paragraph (2), if it had been submitted in respect of that hearing; or
  - (b) notify the person submitting the representation that it has not been so treated and invite that person to submit a properly made second-round representation.
- (4) The inspector shall, no later than 7 days after the closing date in the timetable for second-round representations for each hearing, announce and publish any second-round representations and supplementary documents submitted or treated as submitted in respect of that hearing.

### **13 Informal resolution meetings, administrative meetings, technical seminars and site visits**

- (1) The inspector may invite any 2 or more of the persons listed in paragraph (3) to discuss at an informal resolution meeting any issue to be aired at a hearing.
- (2) The purpose of an informal resolution meeting is to seek to resolve, narrow or clarify any disagreement on the issue among any of the persons invited, before the hearing at which the issue is to be aired.
- (3) The persons are –
  - (a) any person who has submitted a representation in respect of the issue;

- (b) the Minister; and
  - (c) any other person whom the inspector believes could usefully contribute to the meeting.
- (4) An informal resolution meeting shall be held in private and in the absence of the inspector, and no record need be kept of it.
- (5) The inspector may, if he or she thinks fit, hold one or more administrative meetings, technical seminars or site visits.
- (6) The purposes for which an administrative meeting may be held are –
  - (a) to discuss the conduct of the examination in public with invited persons or with any persons who wish to participate in the examination;
  - (b) to review the timetable; or
  - (c) any other purpose related to the arrangements for the examination.
- (7) Paragraph (6)(b) does not constrain the inspector's power under Article 11(6) to revise the timetable without first holding an administrative meeting.
- (8) An administrative meeting may be held in public or in private.
- (9) The purpose of a technical seminar is to provide technical information relevant to the examination in public to persons who wish to participate in the examination.
- (10) A technical seminar shall be held in public.
- (11) An administrative meeting or technical seminar may take place at any time between the programme meeting and the final plenary hearing.
- (12) The inspector shall cause a record to be made of any administrative meeting or technical seminar.
- (13) The purpose of a site visit is for the inspector to see any land specifically referred to in the initial draft Island Plan or in any representation.
- (14) The inspector may make a site visit either unaccompanied or accompanied.
- (15) If the inspector arranges to make a site visit accompanied by any person, the inspector shall not be required to defer the visit in the event that the person is not present at the time appointed for the visit.
- (16) A site visit may take place at any time between the receipt by the inspector of the Minister's report under Article 8 and the submission of the inspector's report under Article 18.

## **14 Thematic hearings**

- (1) The inspector may hold one or more thematic hearings on any particular matter or matters relevant to the examination in public if he or she considers that a separate hearing would assist the examination of that matter or those matters.



- (2) If the inspector holds a thematic hearing, the inspector shall invite to appear and be heard at that hearing –
  - (a) the Minister; and
  - (b) such other persons as appear to the inspector to be likely to be able to contribute usefully to the examination of the subject matter of that hearing.
- (3) In considering the persons to be invited under paragraph (2)(b), the inspector shall have particular regard to –
  - (a) any person who has submitted an initial representation that appears to the inspector to be relevant to the subject matter of the hearing; and
  - (b) any person who has submitted a second-round representation under Article 12 in respect of that hearing.

## **15 Plenary hearings**

- (1) The inspector shall hold at least one plenary hearing.
- (2) If a thematic hearing is held, the final hearing shall be a plenary hearing.
- (3) Subject to paragraphs (4), (5) and (6), the inspector may invite any person to appear and be heard at any plenary hearing.
- (4) The inspector shall invite the Minister to appear and be heard at any plenary hearing.
- (5) A person who has submitted a second-round representation under Article 12 shall be entitled to appear and be heard at the final plenary hearing, unless –
  - (a) that representation was submitted in respect of a thematic hearing;
  - (b) the person has appeared and been heard at any previous plenary hearing; or
  - (c) the inspector has notified the person that the inspector considers that there is nothing in any of that person's representations that requires to be heard in public at the final plenary hearing.
- (6) In considering the persons to be invited under paragraph (3), the inspector shall have particular regard to any person who has submitted an initial representation that appears to the inspector to be relevant to any matter that the inspector wishes to consider in that plenary hearing.

## **16 Conduct of hearings**

- (1) Hearings shall be held in public.
- (2) The inspector may permit all or part of any hearing to be broadcast publicly.
- (3) A person may appear at a hearing in person or through his or her representative, and references in this Order to a person appearing shall be construed accordingly.

- (4) The inspector may, subject to any conditions which he or she considers appropriate –
  - (a) allow a person appearing at a hearing to bring with him or her any person having technical knowledge of any matter pertaining to that hearing; and
  - (b) allow the person having that knowledge to speak at that hearing either in place of or in addition to the person appearing.
- (5) The inspector shall not allow any cross-examination at a hearing.
- (6) The inspector shall cause a record to be made of a hearing.

#### **17 Power of inspector to exclude person from meeting, seminar or hearing**

- (1) In this Article “session” means a programme meeting, administrative meeting, technical seminar or hearing.
- (2) Paragraph (3) applies if the inspector considers that any person is behaving in a disruptive manner when appearing or present at a session.
- (3) The inspector may require the person to leave the session and may further –
  - (a) refuse to permit the person to return to the session or to any later session; or
  - (b) permit the person to return to the session, or to any or all of the later sessions, only on conditions specified by the inspector.
- (4) The inspector may adjourn and reopen a session at any time to deal with any disruption, or for any other purpose.

### **PART 4**

#### **INSPECTOR’S REPORT AND MINISTER’S PUBLICATION OF REVISED DRAFT ISLAND PLAN**

#### **18 Inspector’s report**

When the inspector has concluded the hearings and any site visit the inspector shall –

- (a) collate for the Minister the representations made in the examination in public;
- (b) consider whether the initial draft Island Plan complies with Article 4(3) of the Law, and if not then what amendments should be made to it; and
- (c) prepare and submit to the Minister a written report –
  - (i) covering the main issues raised in the representations, and
  - (ii) setting out the results of the Inspector’s considerations under sub-paragraph (b), and

- (iii) otherwise complying with the inspector's terms of reference, which may include provision as to the format of the report and as to submission of a draft of the report for checking for factual or typographic errors.

## **19 Minister's power to direct that examination in public be re-opened**

- (1) The Minister may direct the inspector to re-open the examination in public if, before the Minister presents the revised draft Island Plan to the States, it appears to the Minister –
  - (a) that there are material considerations, other than the Minister's policy, that either are not mentioned in the inspector's report or are insufficiently considered in that report; or
  - (b) that the report contains any technical information that is incorrect in a material particular.
- (2) The inspector shall comply with a direction under paragraph (1) and, in doing so, may make such arrangements as he or she thinks fit for further conduct of the examination in public.

## **20 Minister to publish inspector's report, revised draft Island Plan and justification**

As soon as is practicable after the Minister has prepared the revised draft Island Plan, the Minister shall announce and publish –

- (a) the inspector's report;
- (b) the revised draft Island Plan; and
- (c) an indication, with reasoned justification, of –
  - (i) each difference, if any, between the initial draft Island Plan and the revised draft Island Plan, and
  - (ii) each point, if any, on which the Minister has not accepted a recommendation in the inspector's report.

## **PART 5**

### **FINAL**

## **21 Citation**

This Order may be cited as the Planning and Building (Island Plan) (Jersey) Order 2009.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Planning and Building (Island Plan) (Jersey) Order 2009	<a href="#">R&amp;O.96/2009</a>	22 September 2009
Data Protection (Jersey) Law 2018	<a href="#">L.3/2018</a>	25 May 2018
Planning and Building (Island Plan) (Amendment) (Jersey) Order 2020	<a href="#">R&amp;O.9/2020</a>	14 February 2020

### Table of Renumbered Provisions

Original	Current
21	Spent, omitted
22	21

### Table of Endnote References

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<sup>1</sup> Article 3(7)

*amended by L.3/2018*

<sup>2</sup> Article 7(5)

*amended by R&O.9/2020*