



Jersey

DRAFT REGULATION OF CARE (AMENDMENTS) (JERSEY) LAW 202-

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Jersey

DRAFT REGULATION OF CARE (AMENDMENTS) (JERSEY) LAW 202-

A **LAW** to amend the Regulation of Care (Jersey) Law 2014, the Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018 and the Public Finances (Jersey) Law 2019, and to repeal the Nursing Homes (Jersey) Law 1994 and the Nursing Homes (General Provisions) (Jersey) Order 1995.

| | |
|--|------------------------------|
| <i>Adopted by the States</i> | <i>[date to be inserted]</i> |
| <i>Sanctioned by Order of Her Majesty in Council</i> | <i>[date to be inserted]</i> |
| <i>Registered by the Royal Court</i> | <i>[date to be inserted]</i> |
| <i>Coming into force</i> | <i>[date to be inserted]</i> |

THE STATES, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law –

PART 1

INTERPRETATION

1 Interpretation

In this Law, “Law” means the Regulation of Care (Jersey) Law 2014.

PART 2

LAW AMENDED

2 Law amended

This Part amends the Law.

3 Article 1(1) (interpretation) amended

In Article 1(1) –

- (a) for the definition “Chairman” there is substituted –

- “ “Chair” means the Chair of the Commission;”;
- (b) after the definition “health care associated infection” there is inserted –
 - “ “hospice service” means a service in which care is provided for the terminally ill;”;
- (c) after the definition “premises” there is inserted –
 - “ “Public Finances Law” means the Public Finances (Jersey) Law 2019;
 - “Public Finances Manual” means the Public Finances Manual issued under Article 31 of the Public Finances Law;
 - “publish” means publish in a manner that is likely to bring it to the attention of those affected;”.

4 Article 3 (requirement to be registered to carry on, or act as manager in relation to, regulated activity) amended

For Article 3(7)(b) there is substituted –

- (b) if no-one is specified under sub-paragraph (a) in relation to the activity –
 - (i) the accountable officer appointed in accordance with Article 39 of the Public Finances Law, or
 - (ii) if no-one has been appointed under that Article, the Principal Accountable Officer as defined by Article 38 of the Public Finances Law.”.

5 Article 4A inserted

After Article 4 (application for registration as provider or manager), there is inserted –

“4A Government or other large providers

- (1) An application may be made under Article 4(4) without the permission of the Commission if the regulated activity –
 - (a) falls within Part 4 of Schedule 1 and –
 - (i) is carried on by a Minister, or
 - (ii) employs more than 50 full-time staff; or
 - (b) falls within paragraph 9 of Schedule 1 and is carried on by a Minister.
- (2) When making an application to which paragraph (1) applies, the provider must set out –
 - (a) the regulated activities that are relevant to the application;
 - (b) the premises from which each regulated activity is provided; and
 - (c) the proposed manager in relation to each regulated activity.
- (3) The Commission may impose a condition on the provider that each regulated activity must have a separate registered manager.”.

6 Article 8 (keeping of register and issue of certificates) amended

In Article 8, after paragraph (2), there is inserted –

“(2A) If the Commission grants an application made to which Article 4A applies, the particulars in paragraph (2)(c) to (e) must be entered in the register in respect of each regulated activity carried on by the provider.”.

7 Article 9 (annual fee) amended

In Article 9, after paragraph (3), there is inserted –

“(4) This Article does not apply to a registered person in respect of a regulated activity that is carried on by a Minister.”.

8 Article 14 (requirements in respect of regulated activities) amended

In Article 14(3) after sub-paragraph (k) there is inserted –

“(l) restrict or prohibit the provision of a particular service to a particular class or description of person;”.

9 Article 35 (establishment of Health and Social Care Commission) amended

In Article 35, after paragraph (5) there is inserted –

“(6) The States may by Regulations amend Schedule 2.”.

10 Article 38A (advice or assistance for other public authorities) inserted

After Article 38 (reports, information and advice) there is inserted –

“38A Advice or assistance for other public authorities

- (1) The Commission may, if it thinks it appropriate to do so, provide health and social care regulatory services analogous to its functions under this Law to a public authority wherever based.
- (2) The Commission may provide the services on whatever terms, including as to payment, as it thinks fit.
- (3) But the Commission must not provide services under this Article if doing so would, in the Commission’s opinion, have a negative impact on the Commission’s ability to perform its functions under this Law.

11 Article 40A inserted

After Article 40 (limitations of liability) there is inserted –

“40A Annual assessment of funding by the Minister

- (1) The Minister must make an annual assessment of the funding required to ensure that the Commission is provided with the financial and administrative resources and other support, including staff, services, equipment and

accommodation, necessary to enable the Commission to discharge its functions economically, effectively and efficiently in relation to regulated activities carried on by a Minister.

- (2) The Minister may make an annual assessment of the funding required to enable the Commission to discharge its functions economically, effectively and efficiently in relation to regulated activities not carried on by a Minister if, in the Minister's opinion, that assessment supports a safe and effective health and social care sector in Jersey.
- (3) Before submitting an amount in respect of the Commission to the Council of Ministers under Article 10(1)(d) of the Public Finances Law, the Minister must –
 - (a) consult the Commission; and
 - (b) consider the Commission's strategic plan.”.

12 Article 41 (fees and surcharge chargeable by Commission) amended

In Article 41 –

- (a) after paragraph (3), there is inserted –

“(3A) A fee or surcharge must not be prescribed or set in respect of a regulated activity that is carried on by a Minister.”;
- (b) paragraph (7) is deleted.

13 Article 42A inserted and Article 43 (requirement to prepare annual accounts and reports) substituted

For Article 43 there is substituted –

“42A Strategic plan

- (1) The Commission must prepare an annual plan (a “strategic plan”) that –
 - (a) must set out the financial requirements of the Commission for the financial year to which the strategic plan relates; and
 - (b) may set out how the Commission proposes to discharge its functions during the financial year to which the strategic plan relates.
- (2) The Commission must publish its strategic plan as soon as reasonably practical after it is prepared, and in any event before the beginning of the financial year to which it relates.
- (3) The Commission may provide a copy of its strategic plan to the Minister.

43 Accounts, audit and annual report

- (1) The Commission must –
 - (a) keep proper accounts and proper records in relation to those accounts;
 - (b) prepare accounts in respect of each financial year (“annual accounts”); and

- (c) ensure that the annual accounts are prepared using the accounting standards according to which the accounts of the States are to be prepared, and that are included in the Public Finances Manual.
- (2) If the annual accounts are not included in the accounts of the States for a financial year the Commission must appoint auditors approved by the Comptroller and Auditor General to audit the annual accounts.
- (3) The Commission must produce a report on the exercise and performance of the functions of the Commission in relation to each financial year (an “annual report”).
- (4) The annual report must –
 - (a) include the annual accounts;
 - (b) include the most recent strategic plan;
 - (c) comply with the Public Finances Manual, as it applies to the annual reports of public bodies listed in Schedule 6 to that Law; and
 - (d) be approved by the Commissioners.
- (5) The Chair must present the annual report to the Minister as soon as reasonably practicable after the end of the financial year to which it relates.
- (6) The Minister must present a copy of the annual report to the States as soon as reasonably practicable after receiving it.
- (7) The Commission must publish each annual report as soon as reasonably practicable.
- (8) The Minister may make written comments in response to an annual report and submit them alongside the copy of the report presented to the States.
- (9) In this Article –
 - “Comptroller and Auditor General” has the meaning given by the Comptroller and Auditor General (Jersey) Law 2014;
 - “financial year” means a calendar year.
- (10) The Minister may by Order amend this Article.”.

14 Articles 49A and 49B inserted

After Article 49 (transitional and transfer Regulations), there is inserted –

“49A Transitional provision for hospice services

- (1) A registered provider of one of the following services that, immediately before the commencement date, provided a hospice service, is treated on the commencement date as being registered as the provider of a hospital service –
 - (a) a care home service;
 - (b) a children’s home service;
 - (c) a home care service; or
 - (d) an adult day care service.
- (2) An individual is treated on the commencement date as the registered manager of a hospital service if –

- (a) the individual was, immediately before the commencement date, the registered manager of a service that provides a hospice service and is –
 - (i) a care home service,
 - (ii) a children’s home service,
 - (iii) a home care service, or
 - (iv) an adult day care service; and
 - (b) after the commencement date, the individual continues to act as a manager.
- (3) No later than 3 months after the commencement date, the Commission must –
- (a) amend the register held under Article 8, to reflect the change of regulated activity in respect of –
 - (i) the registered provider, and
 - (ii) if applicable, the registered manager;
 - (b) inform the registered provider and, if applicable, the registered manager that the change has been made; and
 - (c) issue a fresh certificate under Article 8(6).
- (4) The Commission must not charge a fee under Article 41 in respect of the requirements in paragraph (3).
- (5) In this Article, “commencement date” means the date that the Regulation of Care (Amendments) (Jersey) Law 202- comes into force.

49B Transitional provision relating to the Regulation of Care (Amendments) (Jersey) Law 202-

- (1) This Article applies to a person who –
 - (a) is not a person to whom Article 49A applies, and
 - (b) on or after the commencement date, is carrying on or managing a newly regulated activity.
- (2) The person does not commit an offence under Article 3 if less than 6 months has passed following the commencement date.
- (3) The person does not commit an offence under Article 3 if –
 - (a) no later than 6 months after the commencement date, the person has applied under Article 4 –
 - (i) to be registered as a provider of a newly regulated activity, and
 - (ii) if applicable, for the registration of an individual as a manager in relation to the newly regulated activity; and
 - (b) the 6-month period expired before that application is determined.
- (4) In this Article –
 - “commencement date” means the date that the Regulation of Care (Amendments) (Jersey) Law 202- comes into force; and
 - “newly regulated activity” means an activity regulated under Part 4, 5 or 6 of Schedule 1.”.

PART 3**SCHEDULE 1 TO THE LAW AMENDED****15 Schedule 1 (regulated activities) to the Law amended**

This Part amends Schedule 1 to the Law.

16 Paragraph 2 (interpretation) amended

In paragraph 2 –

- (a) after the definition “Children Law” there is inserted –
“ “disorder” includes mental disorder;”
- (b) after the definition “foster care” there is inserted –
“ “health care professional” means –
 - (a) a medical practitioner;
 - (b) a person registered under the Health Care Registration Law;
 - (c) a person registered under the [Dentistry \(Jersey\) Law 2015](#);
 - (d) a person registered under the [Opticians \(Registration\) \(Jersey\) Law 1962](#);
 - (e) a person registered as a pharmacist or pharmacy technician under the [Pharmacists and Pharmacy Technicians \(Registration\) \(Jersey\) Law 2010](#);”;
- (c) for the definition “hospital” there is substituted –
“ “hospital” means premises, other than at the prison –
 - (a) used for the reception and inpatient treatment of people suffering from illness or injury;
 - (b) used for the reception of pregnant people or people who have recently given birth;
 - (c) used for the reception and inpatient treatment of people during convalescence or people requiring medical rehabilitation;
 - (d) used as a hospice service;
 - (e) maintained in connection with premises described in sub-paragraphs (a) to (d) and used –
 - (i) as a clinic,
 - (ii) as a dispensary, or
 - (iii) as a department treating outpatients (whether or not the department also treats inpatients);

“hospital accommodation” means accommodation provided as part of a hospital;”.

17 Parts 4 to 6 inserted

After paragraph 15 (children and family community nursing service), there is inserted –

“PART 4

Regulated activities: provision of health care related assessments, procedures, treatments and services

16 Conditions applying to activities regulated under this Part

- (1) An activity described in this Part is a regulated activity if Conditions A and B both apply.
- (2) Condition A is that the activity is not regulated under –
 - (a) paragraph 4(4)(b),
 - (b) paragraph 7(5)(b),
 - (c) paragraph 13,
 - (d) paragraph 15, or
 - (e) paragraph 30.
- (3) Condition B is that the activity –
 - (a) is performed –
 - (i) on an inpatient or outpatient basis, at a hospital; or
 - (ii) by or under the supervision of a health care professional who is based at a hospital; and
 - (b) is not a service operated –
 - (i) by a general medical practice (as defined in Article 1(4) of the Health Insurance (Jersey) Law 1967),
 - (ii) for the purposes of providing services usually provided by a general medical practice, and
 - (iii) outside the usual operating hours of a general medical practice.

17 Treatment of disease, disorder or injury

- (1) The provision of a treatment service is a regulated activity.
- (2) A “treatment service” is –
 - (a) the provision of treatment for disease, disorder or injury by or under the supervision of a health care professional or a team which includes a health care professional; or
 - (b) the assessment or medical treatment for a person detained under the Mental Health Law.

18 Diagnostic and screening procedures

- (1) The provision of diagnostic and screening procedures is a regulated activity.
- (2) A “diagnostic and screening procedure” is a service involving –
 - (a) the examination of the body using radiation, ultrasound or magnetic resonance imaging;
 - (b) the use of instruments or equipment that are inserted into the body to –

- (i) view the body's internal parts, or
- (ii) gather physiological data;
- (c) the removal of tissues, cells or fluid from the body for the purposes of discovering the presence, cause or extent of disease, disorder or injury;
- (d) the use of equipment to examine cells, tissues and bodily fluids for the purposes of obtaining information on the causes and extent of a disease, disorder or injury;
- (e) the use of equipment to measure or monitor physiological data in relation to any system in the human body; and
- (f) the analysis and reporting of the results of the procedures referred to in sub-paragraphs (a) to (e).

19 Assessment or treatment for persons detained under the [Mental Health Law](#)

The assessment or medical treatment of a person detained under the Mental Health Law is a regulated activity.

20 Surgical procedures

- (1) A surgical procedure is a regulated activity.
- (2) A "surgical procedure" is surgery carried out by a health care professional for –
 - (a) the purpose of treating disease, disorder or injury;
 - (b) the purpose of sterilisation or reversal of sterilisation;
 - (c) cosmetic purposes, if the procedure involves the use of instruments or equipment that are inserted into the body; or
 - (d) the purpose of religious observance.

21 Management of blood, tissue and organs

- (1) The management of blood, tissue and organs is a regulated activity.
- (2) The "management of blood, tissue and organs" is the collection and management of –
 - (a) the supply of blood, blood components and blood derived products intended for transfusion;
 - (b) the supply of tissues and tissue derived products intended for transplant, grafting or use in a surgical procedure; and
 - (c) the matching and allocation of donated organs intended for transplant, and of blood, stem cells and bone marrow intended for transfusion.
- (3) But it does not include management of the supply of products mentioned in sub-paragraphs (2)(a) or (b) if that management does not involve direct physical contact with donors or patients.
- (4) In this paragraph –
"donor" means a person from whom anything mentioned in sub-paragraph (2)(a) or (b) is derived;

“patient” means a person to whom anything mentioned in sub-paragraph (2)(a) or (b) is administered.

22 Pharmacy

The undertaking of work or provision of advice in relation to the preparation, assembly, dispensing, sale, supply or use of medicines, the science of medicines, the practice of pharmacy or the provision of health care is a regulated activity.

23 Patient transport services, triage and medical advice provided remotely

(1) The following services are regulated activities –

(a) a patient transport service provided by a vehicle that is primarily designed to transport a person who –

(i) requires treatment, or

(ii) is attending a follow-up appointment having previously received treatment;

(b) medical advice or triage provided over the telephone or by email.

(2) In this paragraph, “triage” means the assignment of degrees of urgency to diseases, disorders or injuries to decide the order of treatment and placement of service users.

24 Maternity and midwifery services

Maternity and midwifery services are regulated activities.

25 Termination of pregnancies

The termination of a pregnancy is a regulated activity.

26 Slimming clinics

A service provided in a slimming clinic is a regulated activity if it consists of the provision of advice or treatment for the purposes of weight reduction, including the prescribing of medicines.

27 Nursing care

The provision of nursing care, including nursing care provided in a person’s own home, is a regulated activity.

28 IUD insertion or removal

The insertion or removal of an intrauterine contraceptive device is a regulated activity.

29 Assisted reproduction

The provision of clinical treatment and support for the purposes of assisting people to conceive is a regulated activity.

PART 5

Regulated activity: ambulance service

30 Ambulance service

- (1) The provision of an ambulance service is a regulated activity.
- (2) An “ambulance service” is a service that comprises or includes –
 - (a) the provision of care to a relevant patient while that patient is being transported to or from a place of medical treatment;
 - (b) the provision, at or in connection with a public event, of medical treatment which takes place outside relevant premises, under an arrangement made with the provider of the service;
 - (c) the operation of a call centre, the purpose of which is to despatch and direct a vehicle for the purposes of providing care under sub-paragraph (a).
- (3) But the following do not constitute an ambulance service –
 - (a) a health care professional providing medical treatment or medical care at a sporting event for the primary benefit of people taking part in the sporting event;
 - (b) a service with the primary purpose of rescuing people at sea;
 - (c) an air ambulance or sea ambulance registered with a health and social care regulator, with similar powers and responsibilities to the Commission, in another jurisdiction;
 - (d) a service that includes services described in sub-paragraph (2), but –
 - (i) is based in another jurisdiction,
 - (ii) is provided under an arrangement made with a Minister,
 - (iii) is intended to provide support to manage the effects or potential effects of a major incident, and
 - (iv) operates in Jersey for less than 60 days in any period of 12 months.
- (4) In this paragraph –

“medical treatment” includes medical care and medical advice;

“place of medical treatment” means a hospital or other premises used or intended to be used for the purposes of medical treatment;

“public event” means an event, function or other organised activity of any kind to which members of the public have access;

“relevant patient” means a patient –

 - (a) whose condition or recovery would or might be impaired if the treatment or care described in sub-paragraph (2) was not provided;

- (b) whose condition affects the patient's mobility to such an extent that, if the treatment was not provided while the patient is being transported, the patient's condition or recovery would or might be impaired;
 - (c) who, without the treatment or care, could not be transported as described in sub-paragraph (2) because of their lack of mobility;
- “relevant premises” means premises used or intended to be used for the provision of medical treatment, but does not include –
- (a) any means of transport; or
 - (b) temporary premises at or near, and provided in connection with, a public event.

PART 6

Regulated Activities: controlled techniques

31 Conditions applying to activities regulated under this Part

An activity described in this Part is a regulated activity if it is not regulated under –

- (a) paragraph 4(4)(b),
- (b) paragraph 7(5)(b),
- (c) paragraph 15,
- (d) Part 4; or
- (e) paragraph 30.

32 Laser and intense pulsed light procedures

- (1) A medical or cosmetic technique is a regulated activity if –
 - (a) it is not performed by or under the supervision of a medical practitioner or a person registered under the Dentistry (Jersey) Law 2015; and
 - (b) it involves the use of –
 - (i) a class 3B laser product,
 - (ii) a class 4 laser product, or
 - (iii) an intense pulsed light product.
- (2) In this paragraph, “class 3B laser product” and “class 4 laser product” have the meanings assigned to them in Part 1 of British Standard 4803:83 (Radiation safety of laser products and systems) as effective on 31st March 1983.

33 Hyperbaric oxygen therapy

- (1) The provision of hyperbaric oxygen therapy is a regulated activity.
- (2) “Hyperbaric oxygen therapy” is the administration of oxygen (whether or not combined with one or more other gases) to a person who is in a sealed chamber which is gradually pressurised with compressed air.”.

18 Minor amendments to Schedule 1

- (1) In the following places, for “the hospital” there is substituted “a hospital” –
 - (a) paragraph 4(3)(b);
 - (b) paragraph 4(4);
 - (c) paragraph 7(4)(b);
 - (d) paragraph 7(5).
- (2) Paragraphs 4(4)(a), 5(2) and 7(5)(a) are deleted.

PART 4

SCHEDULE 2 TO THE LAW AMENDED

19 Schedule 2 (appointment, resources and funding of Commission) amended

This Part amends Schedule 2 to the Law.

20 Paragraph 2 (appointment of Chairman of Commission) amended

After sub-paragraph (5) of paragraph 2 there is inserted –

- “(6) A decision under sub-paragraph (2)(b) or an appointment under sub-paragraph (5) must not result in the individual holding office for a total of more than 9 years.”.

21 Paragraph 3 (appointment of other Commissioners) amended

In paragraph 3 for sub-paragraph (4)(b) there is substituted –

- “(b) specify the term of appointment of each Commissioner, which –
 - (i) must be no less than 3 years and no more than 5 years, and
 - (ii) must not result in the individual holding office for a total of more than 9 years.”.

22 Paragraph 4 (disqualification for appointment) amended

(1) For paragraph 4(1) there is substituted –

- “(1) A person cannot be a Commissioner if the person –
 - (a) is a member of the States of Jersey, the States of Guernsey or Tynwald;
 - (b) has been a member of the States of Jersey, the States of Guernsey or Tynwald at any time since the relevant date; or
 - (c) at any time has held a senior States’ office (as agreed under Article 16(1) of the Employment of States of Jersey Employees (Jersey) Law 2005) in any administration of the States for which the Minister for Health and Social Services, the Minister for Children and Families or the Minister for Justice and Home Affairs is responsible.

- (1A) In sub-paragraph (1)(b), the relevant date is the date on which the public election preceding the last public election was held, where “public election” has the meaning given in Article 1 of the Elections (Jersey) Law 2002.”
- (2) In paragraph 4(2) –
 - (a) in clause (a) –
 - (i) after “has worked” there is inserted “at any time within the preceding 9 years”,
 - (ii) after “Minister for Health and Social Services” there is inserted “, Minister for Justice and Home Affairs”;
 - (b) clause (b) is deleted;
 - (c) in clause (c) –
 - (i) after “has had” there is inserted “at any time within the preceding 9 years”, and
 - (ii) “Guernsey, or the Isle of Man,” is deleted.

23 Paragraph 5 (term of office of Commissioner) amended

In paragraph 5 after clause (a), there is inserted –

- “(aa) the date on which the Commissioner has served 9 years in total from the Commissioner’s date of appointment;”.

24 Paragraph 9 (employees and agents of Commission) amended

In paragraph 9 (employees and agents of Commission), after sub-paragraph (3) there is inserted –

- “(4) If an officer appointed under sub-paragraph (1) is a States’ employee, the officer is a member of the Commission’s staff for the purposes of this paragraph if, under the direction of the Commission, that officer performs, or assists in the performance of, a function of the Commission.”.

25 Paragraph 12 (accounts and audits) deleted and minor amendments

- (1) Paragraph 12 is deleted.
- (2) In the following places, for “Chairman” there is substituted “Chair” –
 - (a) paragraph 2, in the heading and in sub-paragraphs (1), (2)(a) and (2)(b);
 - (b) paragraph 3(1) and (2);
 - (c) paragraph 6(2) and (3);
 - (d) paragraph 7(1)(d), (e) and (f) and 7(2), in both places in which it appears;
 - (e) paragraph 13(1)(a).

PART 5

REGULATION OF CARE (STANDARDS AND REQUIREMENTS) (JERSEY) REGULATIONS 2018 AMENDED

26 Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018 amended

This Part amends the Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018.

27 Regulation 1 (interpretation) amended

In Regulation 1(1) –

- (a) after the definition “barred list” there is inserted –
“ “Capacity Law” means the Capacity and Self-Determination (Jersey) Law 2016;”;
- (b) after the definition “Law” there is inserted –
“ “Mental Health Law” means the Mental Health (Jersey) Law 2016;”.

28 Regulation 2 (fitness criteria) amended

For Regulation 2(2)(b) there is substituted –

- “(b) is an eligible subject of a search of a barred list, and is named on that barred list;”

29 Regulation 3 (conditions of registration: general) substituted

For Regulation 3 there is substituted –

“3 Conditions of registration: general

- (1) The Commission must impose the following conditions upon the registration of a provider –
 - (a) to have an address in Jersey;
 - (b) to supply the address of each location at which it provides a regulated activity;
 - (c) to submit a Statement of Purpose, namely a document that includes a description of services, including where and to whom they are provided, along with the provider’s aims and objectives, ethos and intended outcomes to every –
 - (i) inspector appointed by the Commission,
 - (ii) person working in the service,
 - (iii) service user and their representatives, and
 - (iv) person involved in arranging care for a service user;

- (d) to provide care only to a stipulated category or categories of service user;
 - (e) if the regulated activity is a care home service, to provide care only to a stipulated maximum number of service users at any one time –
 - (i) in terms of who may be accommodated in the home, and
 - (ii) if both nursing care and personal care or personal support are provided, in terms of who may be provided with nursing care and personal care or personal support;
 - (f) to provide care only to a stipulated maximum number or to a stipulated category or categories of service user at any one time who may be accommodated in particular rooms (which may vary depending on the type of care provided), if the regulated activity is –
 - (i) a care home service,
 - (ii) a children’s home service, or
 - (iii) a residential family centre service;
 - (g) if the regulated activity is a home care service, to provide care only up to a stipulated maximum number of hours, and if both nursing care and social care are provided, to provide care only up to a stipulated maximum number of hours relating to each type of care that may be provided;
 - (h) if the regulated activity is an adult day care service, a child contact centre service or care service in a special school, to provide care only to a stipulated maximum number of service users at any one time;
 - (i) in relation to a regulated activity, to provide care only to service users of a stipulated age parameter;
 - (j) to conduct the regulated activity in accordance with the Statement of Purpose.
- (1AA) The Commission must not impose the conditions set out in paragraph (1)(d) and (i) if the following regulated activities are provided by a Minister –
- (a) an activity regulated under Part 4 of Schedule 1 to the Law;
 - (b) an ambulance service regulated under Part 5 of Schedule 1 to the Law.
- (1A) The Commission must impose the conditions set out in paragraph (1B) upon the registration of a provider of the following regulated activities if those activities are not provided by a Minister –
- (a) a social work service for children and young people;
 - (b) an independent monitoring and review service in respect of looked after children’s cases; and
 - (c) a children and young people’s mental health service.
- (1B) The conditions referred to in paragraph (1A) are –
- (a) to provide care to a stipulated maximum number of service users; or
 - (b) to provide care to a stipulated category or categories of service users.
- (1C) If an activity regulated under Parts 4, 5 or 6 of Schedule 1 to the Law is not provided by a Minister, the Commission must impose the conditions set out in paragraph (1D) upon the registration of a provider.
- (1D) The conditions are –

- (a) to provide the stipulated treatments or services; or
 - (b) to provide services to a stipulated category or categories of service users.
- (2) It is a further condition of registration as a manager that the manager demonstrate to the satisfaction of the Commission that the manager has undertaken training and continuing professional development to ensure that the manager maintains the experience and skills necessary to manage the regulated activity.
- (3) A registered person must pay the annual fee required by Article 9 of the Law by 31st January each year.”.

30 Regulation 5 (conduct of regulated activity) amended

In Regulation 5(2) after “consistent” there is inserted “with”.

31 Regulation 6 (openness and transparency) substituted

For Regulation 6 there is substituted –

“6 Openness and transparency

- (1) A registered person must, in relation to care and treatment provided to service users –
- (a) act in an open and transparent way; and
 - (b) have due regard to service users’ protected characteristics.
- (2) A registered person must, as soon as reasonably practicable after becoming aware that a notifiable safety incident has occurred –
- (a) notify the relevant person that the incident has occurred; and
 - (b) provide reasonable support to the relevant person in relation to the incident.
- (3) The notification given under paragraph (2)(a) must –
- (a) be given in person by one or more representatives of the registered person;
 - (b) provide an account of all the facts known by the registered person about the incident at the date of notification;
 - (c) advise the relevant person what further enquiries into the incident the registered person believes are appropriate;
 - (d) include an apology; and
 - (e) be recorded in writing and kept securely by the registered person.
- (4) After giving notification under paragraph (2)(a), the registered person must give or send written notification to the relevant person containing –
- (a) a written version of the account provided under paragraph (3)(b), stated to be true to the best of the registered person’s knowledge and belief;
 - (b) details of any enquiries to be undertaken under paragraph (3)(c);
 - (c) the results of any enquiries carried out into the incident; and

- (d) an apology.
- (5) If the relevant person cannot be contacted in person or declines to speak to the representative of the registered person –
 - (a) paragraphs (2) to (4) do not apply; and
 - (b) the registered person must keep a written record of their attempts to contact or speak to the relevant person.
- (6) The registered person must keep a copy of all correspondence with the relevant person under paragraph (4).
- (7) In relation to a regulated activity provided by a service regulated under Part 4 or Part 5 of Schedule 1 to the Law, “notifiable safety incident” means an unintended or unexpected incident that occurred in respect of a service user during the provision of a regulated activity that, in the reasonable opinion of a health care professional, could result in, or appears to have resulted in –
 - (a) the death of the service user, if the death relates directly to the incident rather than to the natural course of the service user’s illness or underlying condition; or
 - (b) severe harm, moderate harm or prolonged psychological harm to the service user.
- (8) In relation to any other registered person, “notifiable safety incident” means an unintended or unexpected incident that occurred in respect of a service user during the provision of a regulated activity that, in the reasonable opinion of a health care professional –
 - (a) appears to have resulted in –
 - (i) the death of the service user, if the death relates directly to the incident rather than to the natural course of the service user’s illness or underlying condition;
 - (ii) an impairment of the sensory, motor or intellectual functions of the service user which has lasted, or is likely to last, for a continuous period of at least 28 days,
 - (iii) changes to the structure of the service user’s body,
 - (iv) the service user experiencing prolonged pain or prolonged psychological harm, or
 - (v) the shortening of the life expectancy of the service user; or
 - (b) requires treatment by a health care professional to prevent –
 - (i) the death of the service user, or
 - (ii) any injury to the service user that, if left untreated, would lead to one or more of the outcomes listed in sub-paragraph (a).”.
- (9) In this Regulation –
 - “apology” means an expression of regret in respect of a notifiable safety incident;
 - “moderate harm” means harm –
 - (a) that requires a moderate increase in treatment; and
 - (b) is significant but not permanent;
 - “moderate increase in treatment” includes –
 - (a) an unplanned return to surgery;

- (b) an unplanned readmission;
- (c) the prolongation of a course of treatment or care;
- (d) extra time in hospital or as an outpatient;
- (e) cancellation of treatment; or
- (f) transfer to another treatment area such as intensive care;

“prolonged pain” means pain that a service user has experienced, or is likely to experience, for a continuous period of at least 28 days;

“prolonged psychological harm” means psychological harm which a service user has experienced, or is likely to experience, for a continuous period of at least 28 days;

“relevant person” means –

- (a) the service user, or
- (b) a person acting lawfully on the service user’s behalf –
 - (i) on the death of the service user,
 - (ii) if the service user is under the age of 16 and not competent to make a decision in relation to their care or treatment, or
 - (iii) if the service user has attained the age of 16 and lacks capacity in relation to the matter;

“severe harm” means harm that –

- (a) causes a permanent lessening of bodily, sensory, motor, physiological or intellectual functions;
- (b) is related directly to the notifiable safety incident; and
- (c) is not related to the natural course of the service user’s illness or underlying condition.

32 Regulation 7A inserted

After Regulation 7 (respect and involvement) there is inserted –

“7A Visitors and involvement in the community

- (1) If, as part of a registered activity, a service user is provided with accommodation, the registered person must support the involvement in the community of the service user.
- (2) That support includes –
 - (a) facilitating visits and social contact from people, including relatives and friends, to support the mental and social wellbeing of the service user;
 - (b) facilitating visits from or access to people providing professional support to the service user, including lawyers, priests, hairdressers and health care professionals.
- (3) But a registered person must restrict access of a visitor to a service user if the visit, or the visitor, in the opinion of the registered person would or might adversely affect the mental or physical health or wellbeing of the service user.”.

33 Regulation 8A inserted

After Regulation 8 (person-centred care) there is inserted –

“8A Requirement to inform and update

- (1) A registered person must make appropriate and adequate arrangements to communicate with service users or their representatives regarding arrangements for the service user’s care and treatment, including changes to those arrangements.
- (2) Communication must be clear, timely and effective, and must be appropriate to both the service user and the situation.”.

34 Regulation 9 (personal plans and care records) amended

(1) In Regulation 9 –

(a) for paragraph (3)(b) there is substituted –

“(b) if the service user has a representative and the service user consents, give the representative access to the personal plan; and”;

(b) in paragraph (6) for “if the registered person considers it appropriate to do so” there is substituted “if the service user gives consent”;

(c) after paragraph (7) there is inserted –

“(8) The registered person may withhold access to a service user’s personal plan or care plan by the service user’s representative if –

(a) the service user –

(i) is accommodated in a children’s home provided by the Minister for Children and Families,

(ii) is under the care of a social work service for children and young people provided by that Minister, or

(iii) lacks capacity; and

(b) the registered person thinks it is appropriate to withhold that access.

(9) A registered person must not withhold access to a service user’s personal plan or care plan by the a service user’s representative by reason of the service user lacking capacity if the service user’s representative is the holder of a lasting power of attorney in respect of the service user’s health and welfare under Article 14 of the Capacity Law.”.

35 Regulation 18 (premises and equipment) amended

In Regulation 18 –

(a) in the heading, for “Premises and equipment” there is substituted “Premises, vehicles and equipment”;

(b) in paragraph (1) for “premises or equipment” there is substituted “premises, vehicles or equipment”;

(c) after paragraph (3) there is inserted –

“(4) In this Article, “vehicle” includes any means of transport by land, sea or air, its fittings, its detachable parts and any containers (whether detachable or not) used with it.”.

36 Regulation 19 (reviewing quality of service) amended

For Regulation 19(4) there is substituted –

“(4) The registered provider must arrange for a representative to report monthly on the quality of the care provided and compliance with the registration requirements under the Law and these Regulations.

(4A) But the registered provider need not make an arrangement under paragraph (4) if the registered provider –

- (a) is the registered manager; or
- (b) is an independent person appointed under Regulation 30.”.

37 Regulation 20A inserted

After Regulation 20 (provision of updated information and review of Statement of Purpose) there is inserted –

“20A Requirement to display registration

A registered person must prominently display a notice to the effect that the person is registered with the Commission, together with the contact details of the Commission –

- (a) in all premises operated by the regulated person; and
- (b) on each written or electronic communication made by the person relating to the regulated activity.”.

38 Regulation 21 substituted

For Regulation 21 (notification of incidents, accidents and other events) there is substituted –

“21 Notification requirements

- (1) A registered person must notify the Commission if –
 - (a) a service user is subject to a significant restriction on their liberty under Article 38 of the Capacity Law;
 - (b) a service user is detained under Part 3 of the Mental Health Law;
 - (c) an incident, accident or event occurs that –
 - (i) is specified by the Commission, and
 - (ii) has posed or may pose a risk of harm to service users.
- (2) Notification must be made in the manner specified by the Commission.”.

39 Regulation 24 (financial viability) amended

In Regulation 24, for paragraph (4) there is substituted –

- “(4) This Regulation does not apply to –
- (a) a regulated activity operated by a Minister;
 - (b) a regulated activity operated by a registered person who is an individual directly employed by, or personally in receipt of any reward from, the service user for the care provided; or
 - (c) a regulated activity described in Part 6 (regulated activities: controlled techniques) of Schedule 1 to the Law.”.

40 Part 8A inserted

After Regulation 79 there is inserted –

“PART 8A**REGULATED ACTIVITIES PROVIDED IN RESPECT OF PERSONS DETAINED UNDER
THE MENTAL HEALTH LAW****79A Requirement in respect of provision of a regulated activity that involves a
function being carried out under the Mental Health Law**

- (1) This Article applies if the regulated activity is provided in relation to a function being carried out under the Mental Health Law and for the purposes of Article 14 of the Law.
- (2) In providing a service that is a regulated activity the registered person must act in accordance with the code of practice issued by the Minister for Health and Social Services under Article 90(1) of the Mental Health Law.”.

**41 Regulation 80 (requirement for Commission to carry out certain inspections)
amended**

(1) This Article amends Regulation 80.

(2) In paragraph (1) “at least once every 12 months” is deleted.

(3) After paragraph (1) there is inserted –

- “(1A) The inspections must be carried out at the following frequency –
- (a) for a regulated activity described in Part 4 (regulated activities: provision of health care related assessments, procedures, treatments and services) of Schedule 1 to the Law, other than a hospice service, at least once every 3 years;
 - (b) for a hospice service and any other regulated activity, at least once every 12 months.
- (1B) But a hospital service in which individuals may be deprived of liberty or detained under the Mental Health Law must be inspected at least once every 12 months.”.

42 Regulation 82 (offences and improvement notices) amended

In Regulation 82, after paragraph (5), there is inserted –

- “(6) It is a defence for a person charged under Regulation 18 to prove that, at the time of the alleged offence, they took all reasonable precautions and put in place all reasonable procedures to mitigate deficiencies in the premises provided for the regulated activity.”.

PART 4**MISCELLANEOUS AND FINAL****43 Repeals**

The following enactments are repealed –

- (a) the Nursing Homes (Jersey) Law 1994;
- (b) the Nursing Homes (General Provisions) (Jersey) Order 1995;
- (c) the Regulation of Care (Transitional Provisions) (Jersey) Regulations 2022.

44 Consequential amendment

In Schedule 6 to the Public Finances Law, for “Office of the Official Analyst” there is substituted –

- “(a) “Health and Social Care Commission established under the Regulation of Care (Jersey) Law 2014;
- (b) Office of the Official Analyst as defined by the Official Analyst (Jersey) Law 2022.”.

45 Citation and commencement

This Law may be cited as the Regulation of Care (Amendments) (Jersey) Law 202- and comes into force on a day to be specified by Order by the Minister for the Environment.