

Stakeholder Report Part 2: Regulation of Care (Jersey) Law 2014 – Draft Regulations

REGULATION OF CARE (REGULATED ACTIVITIES) REGULATIONS

Explanatory Note

These Regulations amend Schedule 1 of the Regulation of Care (Jersey) Law 2014 so as to describe as regulated activities for the purpose of that Law –

- (a) the provision of a care home service;
- (b) the provision of a home care service; and
- (c) the provision of an adult day care service.



Jersey

REGULATION OF CARE (REGULATED ACTIVITIES) REGULATIONS

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Jersey

REGULATION OF CARE (REGULATED ACTIVITIES) REGULATIONS

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Article 2 of the Regulation of Care (Jersey) Law 2014, Article 10(3)(b) of the Rehabilitation of Offenders (Jersey) Law 2001 and Article 22(6) of the Children (Jersey) Law 2002, have made the following Regulations –

1 Schedule 1 of Law substituted

For Schedule 1 to the Regulation of Care (Jersey) Law 2014 there shall be substituted the Schedule set out in Schedule 1 to these Regulations.

2 Repeals and amendments consequential on Regulation 1 and related provisions

Schedule 2 has effect.

3 Citation and commencement

These Regulations may be cited as the Regulation of Care (Regulated Activities) (Jersey) Regulations 201- and shall come into force

SCHEDULE 1

(Regulation 1)

SCHEDULE AMENDED**“SCHEDULE 1**

(Article 2(1))

REGULATED ACTIVITIES**1 Provision of care home service**

- (1) The provision of a care home service is a regulated activity.
- (2) In this paragraph a “care home service” is a service providing residential accommodation together with care, whether on a temporary or permanent basis, to adults or children where residents have no choice as to the provider of the care, other than foster care or a service provided in –
 - (a) a hospital;
 - (b) a school;
 - (c) a prison or Young Offenders Institution; or
 - (d) private accommodation occupied exclusively by the care receiver and his or her family.
- (3) For clarity, nothing in sub-paragraph 2(c) prevents a secure children’s home being a care home service.
- (4) In this paragraph “hospital” does not include any –
 - (a) hospice;
 - (b) long-term or respite nursing care provision;
 - (c) residential or respite services for people with learning difficulties or mental health problems; or
 - (d) children’s home within the meaning of Article 1(1) of the Children (Jersey) Law 2002,even if operated from within a hospital.

2 Provision of home care service

- (1) The provision of a home care service is a regulated activity.
- (2) In this paragraph a “home care service” is a service consisting of the provision of care to an individual in his or her own home by any person –
 - (a) for reward (whether in money or in kind and whether or not that person is a relative or friend of the care receiver); or
 - (b) as part of a professional service offered to the individual free of charge,

other than a service that is carried on exclusively by a Minister.

- (3) However, the following do not constitute reward –
- (a) the giving of birthday, Christmas and similar gifts, the reimbursement of expenses or the payment of, or a contribution towards, the cost of shared meals or travel by a care receiver to or for the benefit of the person providing care;
 - (b) receipt of the special component of income support under Article 5(3)(d) of the Income Support (Jersey) Law 2007 (the carer’s component) or the Home Carer’s Allowance under Article 18A of the Social Security (Jersey) Law 1974;
 - (c) any part of the value of an approved care package within the meaning of Article 7 of the Long-Term Care (Jersey) Law 2012 that is paid directly to an unpaid carer who is caring otherwise than as the person’s employment to provide respite for the carer instead of being used to provide alternative care to the care receiver.
- (4) The services provided by an employment agency whereby an individual is introduced to a care receiver but there is no ongoing management or control of the care provided by the individual do not constitute the provision of a home care service by that agency.

3 Provision of adult day care service

- (1) The provision of an adult day care service is a regulated activity.
- (2) In this paragraph “adult day care service” means a service providing premises other than a private home –
- (a) for adult persons only;
 - (b) for a limited number of hours in any one day without overnight accommodation; and
 - (c) for care that is not limited to social activities, self-help or advice.

4 Interpretation for Schedule

In this Schedule –

“care” means nursing care or social care;

“care receiver” means a person in receipt of care.”.

SCHEDULE 2

(Regulation 2)

REPEALS AND CONSEQUENTIAL AMENDMENTS**1 Lodging Houses (General Provisions (Jersey) Order 1962**

For Article 2(e) of the Lodging Houses (General Provisions) (Jersey) Order 1962 there is substituted the following paragraph –

“(e) any nursing home to which the Nursing Homes (Jersey) Law 1994 applies, and any care home service within the meaning of paragraph 1(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014;”.

2 Inquests and Post-Mortem Examinations (Jersey) Law 1995

For Article 2(4)(c) of the Inquests and Post-Mortem Examinations (Jersey) Law 1995 there is substituted the following sub-paragraph and continuation paragraph –

“(c) a child accommodated in a children’s home within the meaning of the Children (Jersey) Law 2002 or a care home service within the meaning of paragraph 1(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014,

the person in charge of the hospital or home shall immediately notify a police officer of the facts and circumstances relating to the death, and the police officer shall, as soon as reasonably practicable thereafter, notify the Viscount of such facts and circumstances.”.

3 Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002

(1) The Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002 are amended as follows.

(2) In Regulation 17(1) –

(a) for subparagraph (a)(iv) there is substituted the following clause –

(iv) a children’s home within the meaning of the Children (Jersey) Law 2002 or a care home service within the meaning of Schedule 1 paragraph 1(2) of the Regulation of Care (Jersey) Law 2014 which is exclusively or mainly for children.”;

(b) in sub-paragraph (b) for the words “as a nursery under Article 42(1)(a) of the Children (Jersey) Law 1969” there are substituted the words “as day care accommodation under the Day Care of Children (Jersey) Law 2002”;

(c) for subparagraph (d)(iii) and (iv) there are substituted the following clauses –

- (iii) a person whose premises are registered as day care accommodation under the Day Care of Children (Jersey) Law 2002,
 - (iv) a person who is registered as a day carer under that Law,
- (3) In Regulation 17(3)(d) for the words “child minding, being the reception of children as mentioned in Article 42(1)(b) of the Children (Jersey) Law 1969” there are substituted the words “work as a day carer under the Day Care of Children (Jersey) Law 2002” and for the words “child minding” there are substituted the words “day caring”.
- (4) In Regulation 17(5) for sub-paragraphs (a) and (b) there are substituted the following sub-paragraphs –
 - “(a) to have premises registered as day care accommodation under the Day Care of Children (Jersey) Law 2002; or
 - (b) to be registered as a day carer under that Law.”.
- (5) In Regulation 18(2) and (4) for the words “Nursing and Residential Homes (Jersey) Law” there are substituted the words “Regulation of Care (Jersey) Law 2014”.

4 Sexual Offences (Jersey) Law 2018

In Article 20 of the Sexual Offences (Jersey) Law 2018 –

- (a) for paragraph (b) of the definition of “children’s home” there is substituted the following paragraph –
 - “(b) a care home service within the meaning of Schedule 1 paragraph 1(2) of the Regulation of Care (Jersey) Law 2014 which is exclusively or mainly for children;”
- (b) for the definition of “nursing home” there is substituted the following definition –
 - “ ‘nursing home’ means a nursing home within the meaning of Article 1A of the Nursing Homes (Jersey) Law 1994 or a care home service within the meaning of paragraph 1(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014;”.

5 Adoption (Jersey) Law 1961

In Article 33 of the Adoption (Jersey) Law 1961 –

- (a) in paragraph (2)(a)(i) the words “voluntary home or” are deleted;
- (b) for paragraph (2)(b)(ii) there is substituted the following clause –
 - “(ii) resident in accommodation provided as part of a care home service within the meaning of paragraph 1(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014”;

- (c) in paragraph (3) for the words “ ‘hospital’, ‘residential care home’, ‘school’ and ‘voluntary home’ there are substituted the words “ ‘hospital’ and ‘school’ ”.

6 Children (Jersey) Law 2002

- (1) The Children (Jersey) Law 2002 is amended as follows.
- (2) In Article 1(1) –
- (a) for the definitions “mental nursing home”, “nursing home” and “residential care home” there are substituted the following definitions in the correct alphabetical order –
- “ ‘care home service’ has the same meaning as in paragraph 1(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014;
- ‘mental nursing home’ has the same meaning as in Article 1(1) of the Nursing Homes (Jersey) Law 1994;
- ‘nursing home’ has the same meaning as in Article 1A of the Nursing Homes (Jersey) Law 1994;”;
- (b) the definition of “voluntary home” is deleted.
- (3) In Article 20(1)(b) and 46(1)(a), for the words “voluntary home” there are substituted the words “care home service for children”
- (4) In Article 21(2)(c) and (6)(b) and Article 58(2)(g) for the words “residential care home” there are substituted the words “care home service”.
- (5) Part 7 is repealed.
- (6) Article 58(2)(d) and paragraph 9 of Schedule 5 are deleted.
- (7) In Schedule 4, in paragraph 1(f) after the words “financial interest in” there are inserted the words “a care home service for children which the Commission has refused to registered under Article 5 of the Regulation of Care (Jersey) Law 2014 or the registration of which the Commission has cancelled under Article 20 of that Law or”.

7 Children (Placement) Regulations 2005

In the Children (Placement) Regulations 2005 –

- (a) in Regulation 14(4) for the words “carrying on a voluntary home or for fostering a child privately under Schedule 4 of the Law” there are substituted the words “fostering a child privately under Schedule 4 of the Law or carrying on a care home service”;
- (b) in Schedule 3 paragraph 1(f) for the words “in a voluntary home or children’s home” there are substituted the words “in a children’s home or as part of a care home service”,

8 Children (Regulation of Employment) (Jersey) Order 2011

For Article 7(2)(l) of the Children (Regulation of Employment) (Jersey) Order 2011 there is substituted the following sub-paragraph –

“(l) undertake any work administering personal care to residents of a nursing home within the meaning of Article 1A of the Nursing Homes (Jersey) Law 1994 or a care home service, home care service or adult day care service within the meaning of Schedule 1 to the Regulation of Care (Jersey) Law 2014; or”.

9 Children (Secure Accommodation) (Jersey) Order 2005

Article 7 of the Children (Secure Accommodation) (Jersey) Order 2005 is revoked.

10 Children (Voluntary Homes) (Jersey) Order 2005

The Children (Voluntary Homes) (Jersey) Order 2005 is revoked.

11 Day Care of Children (Jersey) Law 2002

In Article 1(1) of the Day Care of Children (Jersey) Law 2002, in paragraph (c) of the definition of “day care accommodation” for the words “, residential care home or voluntary home” there are substituted the words “or care home service within the meaning of paragraph 1(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014”.

12 Control of Housing and Work (Jersey) Law 2012

In Article 1(2) and 14(1) of the Control of Housing and Work (Jersey) Law 2012 for the words “Nursing and Residential Homes (Jersey) Law 1994” there are substituted the words “Nursing (Jersey) Law 1994, the Regulation of Care (Jersey) Law 2014”.

13 Control of Housing and Work (Exemptions) (Jersey) Order 2013

In Article 3(1) of the Control of Housing and Work (Exemptions) (Jersey) Order 2013 –

(a) for sub-paragraph (f)(iii)(C) there is substituted the following sub-clause –

“(C) an undertaking registered under the Nursing Homes (Jersey) Law 1994 or the Regulation of Care (Jersey) Law 2014;”;

(b) in sub-paragraph (g)(ii) for the words “Nursing and Residential Homes (Jersey) Law 1994” there are substituted the words “Nursing Homes (Jersey) Law 1994, the Regulation of Care (Jersey) Law 2014”.

14 Nursing Agencies (Jersey) Law 1978

The Nursing Agencies (Jersey) Law 1978 is repealed.

15 Nursing and Residential Homes (Jersey) Law 1994

- (1) The Nursing and Residential Homes (Jersey) Law 1994 is amended as follows.
- (2) In the short title and in Article 22 (citation) the words “and Residential” are deleted and in the long title the words “and residential care homes” are deleted.
- (3) Before the heading “INTRODUCTORY” before Article 1 there is inserted the heading “PART 1”.
- (4) In Article 1(1) –
 - (a) the definitions “appropriate register”, “disabled”, “personal care” and “residential care home” are deleted;
 - (b) for the definition “mental nursing home” there is substituted the following definition –

“mental nursing home” means any premises used or intended to be used for the reception of, and the provision of nursing or other medical treatment (including care, habilitation or rehabilitation under medical supervision) for, one or more mentally disordered persons, (meaning persons suffering, or appearing to be suffering, from mental disorder) whether exclusively or in common with other persons;”;
 - (c) in the definition of “maternity home” for the words “Article 3(1)(c)” there are substituted the words “Article 1A(1)(b)”;
 - (d) in the definition of “nursing home” for the words “Article 3(1)(c)” there are substituted the words “Article 1A”.
- (5) After Article 1 there is inserted the following Article –

1A Meaning of “nursing home”

- (1) In this Law “nursing home” means any premises, not being a mental nursing home, which are used or intended to be used –
 - (a) for the reception of, and the provision of nursing for, persons suffering from any sickness, injury or infirmity, or
 - (b) for the reception of pregnant women or of women immediately after childbirth (a ‘maternity home’), or
 - (c) for the provision of all or any of the services specified in paragraph (3).
- (2) However “nursing home” does not include –
 - (a) any sanatorium provided at a school or educational establishment and used or intended to be used solely by persons in attendance at, or members of the staff of, that school or establishment or members of their families;

- (b) any first aid or treatment room provided at a factory, office, shop premises or at a sports ground, show ground or place of public entertainment;
 - (c) any premises used or intended to be used wholly or mainly –
 - (i) by a registered medical practitioner for the purpose of consultations with patients,
 - (ii) by a registered dental practitioner or chiropodist for the purpose of treating patients, or
 - (iii) for the provision of occupational health facilities, unless they are used or intended to be used for the provision of any of the services specified in paragraph (3), not being premises prescribed under sub-paragraph (e);
 - (d) any premises used or intended to be used wholly or mainly as a private dwelling;
 - (e) any other premises which may be prescribed for the purposes of this paragraph.
- (3) The services mentioned in paragraph (1)(c) and paragraph (2)(c) are –
- (a) the carrying out of surgical procedures under anaesthesia;
 - (b) the carrying out of terminations of pregnancy;
 - (c) endoscopy;
 - (d) haemodialysis or peritoneal dialysis;
 - (e) treatment by laser and diagnosis or treatment by radiation, including X-ray; and
 - (f) any other technique of medicine or surgery (including cosmetic surgery) as to which the Minister is satisfied that its use may create a hazard for persons treated by means of it or for the staff of any premises where the technique is used, and which is prescribed for the purposes of this paragraph.”.
- (6) Article 2(4) is deleted.
- (7) For Article 3 there is substituted the following Article –

“3 Homes to which Law applies

- (1) This Law applies to any nursing home.
- (2) This Law does not apply to –
 - (a) any hospital maintained or controlled by the States or any administration thereof;
 - (b) any provided school, within the meaning of the Education (Jersey) Law 1999, or any school or class of school to which the Minister may by Order declare that this Law shall not apply;
 - (c) any other establishment or premises maintained or controlled by a Minister;

- (d) any premises used for the purposes of a regulated activity within the meaning of Article 2 of the Regulation of Care (Jersey) Law 2014.”.
- (8) For the heading “REGISTRATION OF HOMES” after Article 3 there is substituted the following headings –

“PART 2

REGISTRATION OF NURSING HOMES”

- (9) In Article 4 –
- (a) for paragraph (1) there is substituted the following paragraph –
“(1) The Minister shall maintain a register for each nursing home.”;
 - (b) in paragraph (2) for the words “home to which this Law applies without being registered in the appropriate register or registers in respect of that home” there are substituted the words “nursing home without being registered under this Law”;
 - (c) paragraphs (3) and (7) are repealed;
 - (d) in paragraph (5) clause (c) is deleted and in clause (d) the words “in the case of a nursing home” are deleted;
 - (e) in paragraph (9) for the words “under this Law in respect of any home to which this Law applies” there are substituted the words “under this Article”.
- (10) In each of the following provisions for the words “home to which this Law applies” there are substituted the words “under this Law” –
- (a) Article 4(4);
 - (b) Article 6(3);
 - (c) Article 15(d) and (k);
 - (d) Article 19(1) and (2);
 - (e) Article 20.
- (11) Article 5 is repealed.
- (12) In Article 6 –
- (a) in paragraph (1) for the words “in respect of “ to “the number of persons kept,” there are substituted the words “under this Law that the number of persons kept”;
 - (b) paragraphs (3A) and (3B) are deleted.
- (13) In each of the following provisions for the words “in respect of a home to which this Law applies” there are substituted the words “under this Law” –
- (a) Article 7(1);
 - (b) Article 8(1);
 - (c) Article 9(1) and (3);
 - (d) Article 11(1)(a).
- (14) In Article 7(1) –

- (a) in sub-paragraph (a) for the words “home of such a class as that named in the application” there are substituted the words “nursing home”;
 - (b) in sub-paragraphs (b) and (c) for the words “home of that class” there are substituted the words “nursing home”;
 - (c) in sub-paragraphs (e) and (f) the words “in the case of a nursing home or a mental nursing home” are deleted
 - (d) in sub-paragraph (e) for the words “either a registered medical practitioner, qualified nurse or in the case of a maternity home, a certified midwife” there are substituted the words “a person who has the necessary qualifications, skill, knowledge or experience necessary to be in charge of a nursing home”.
- (15) In Article 8(2) for the words “class of homes to which this Law applies since the date of registration of any person in respect of a home within that class” there are substituted the words “nursing home since the date of registration of any person”.
- (16) Before the heading “PROCEDURE” after Article 8 there is inserted the heading “PART 3”.
- (17) In Article 9(3)(b) and 11(1)(b) for the words “for the time being in force in respect of the home by virtue of this Law” there are substituted the words “of such registration”.
- (18) In Article 13 –
- (a) in paragraph 1(a) the words “in respect of a home to which this Law applies, other than a home to which paragraphs (3) to (5) apply” are deleted;
 - (b) paragraphs (2) to (6) are deleted.
- (19) In Article 15 –
- (a) in paragraph (1) for the words “class of homes to which this Law applies” there are substituted the words “nursing home”;
 - (b) in paragraph (2) for the words “homes or any class of homes to which this Law applies” there are substituted the words “nursing homes”;
 - (c) paragraphs 2(e), (j) and (m) are deleted and in paragraph (f) the words from “, including records” until the end of the paragraph are deleted.
- (20) Before the heading “OFFENCES” after Article 15 there is inserted the heading “PART 4”.
- (21) For Article 16(1) there is substituted the following paragraph –
- “(1) A person who –
 - (a) applies any name to premises in Jersey; or
 - (b) in any way describes such premises or holds such premises out,so as to indicate, or so as reasonably to be understood to indicate, that the premises are a nursing home shall be guilty of an offence unless registration has been effected under this Law.”

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- (22) Before the heading “MISCELLANEOUS AND SUPPLEMENTAL” after Article 18 there is inserted the heading “PART 5”.
- (23) In Article 19 –
- (a) in paragraph (1) the words “, and may inspect any records kept in pursuance of any Order under Article 15(2)(e)” are deleted;
 - (b) in paragraph (3) the words “or the visiting or examination of a patient who is liable to be detained by a registered medical practitioner authorized under Article 19 of the Mental Health (Jersey) Law 1969” are deleted;
 - (c) paragraph (6) is deleted.]
- (24) In the Schedule –
- (a) paragraphs 2 and 3 are deleted;
 - (b) in paragraph 4(1) and (3)(c) the words “, 2(3) or 3(2)” are deleted;
 - (c) in paragraph 5 the words “2(2)” are deleted;
 - (d) in paragraphs 6 and 7(2) the words “, 2(1) or 3(1) are deleted;
 - (e) in paragraph 7(1) the definitions “1964 Law” and “1969 Law” are deleted and in the definition “appointed day” the words “, as respects any class of home to which this Law applies,” are deleted.

16 Nursing Homes and Mental Nursing Homes (General Provisions) (Jersey) Order 1995

In the Nursing Homes and Mental Nursing Homes (General Provisions) (Jersey) Order 1995 –

- (a) in the short title and in Article 19 the words “and mental nursing homes” are deleted;
- (b) in the definition of “home” in Article 1 the words “or mental nursing home” are deleted;
- (c) In Article 6 –
 - (i) in paragraph (2)(b) the words from and where that person” to the end of the sub-paragraph are deleted;
 - (ii) paragraph (10) is deleted;
- (d) for the word “Registers” in the heading to Article 7 there is substituted the word “Register” and for the word “registers” in Article 7(1) there is substituted the word “register”;
- (e) Article 12 is revoked;
- (f) in Article 14 for the word “twice” there is substituted the word “once”.
- (g) in the Schedule –
 - (i) in the subheading below “Part 1” the words “AND RESIDENTIAL” are deleted and in the heading below that sub-heading the words “OR MENTAL NURSING HOME” are deleted;
 - (ii) for paragraph 4(a) of Part 2 there is substituted the following sub-paragraph –

“(a) the address of any other home or any regulated activity (within the meaning of Article 2 the Regulation of Care (Jersey) Law 2014) in which the applicant has or had a business interest and the nature and extent of his or her interest;”.

17 Residential Homes (General Provisions) (Jersey) Order 1995

The Residential Homes (General Provisions) (Jersey) Order 1995 is revoked.

18 Termination of Pregnancy (Jersey) Law 1997

In the definition “approved place” in Article 7 of the Termination of Pregnancy (Jersey) Law 1997 the words “and Residential” are deleted.

19 Restriction on Smoking (Workplaces) Regulations 2006

In the Restriction on Smoking (Workplaces) Regulations 2006 –

- (a) in Regulation 1 the definition “1994 Law” the words “and Residential” are omitted;
- (b) for Regulation 5(3)(c) and (d) there is substituted the following sub-paragraph –
 - “(c) a care home service within the meaning of paragraph 1(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014;”.

20 Fire Precautions (Designated Premises) (Jersey) Regulations 2012

For the definition “care or nursing home” in Regulation 1(1) of the Fire Precautions (Designated Premises) (Jersey) Regulations 2012 there is substituted the following definition –

“ ‘care or nursing home’ means any care home service as defined in paragraph 1(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014 or a nursing home within the meaning of Article 1A of the Nursing Homes (Jersey) Law 1994, and includes any nursing home maintained, controlled or administered by the States or a Minister and which, by virtue of Article 3(2) of the Nursing Homes (Jersey) Law 1994, are premises to which that Law does not apply;”.

21 Goods and Services Tax (Jersey) Law 2007

In Schedule 5 to the Goods and Services Tax (Jersey) Law 2007, in paragraph 4(1)(e) for the words “a home in respect of which a person is registered under the Nursing and Residential Homes (Jersey) Law 1994” there are substituted “nursing home registered under the Nursing Homes (Jersey) Law 1994 or a care home service within the meaning of paragraph 1(2) of the Schedule to the Regulation of Care (Jersey) Law 2014 registered under that Law”.

22 Long-Term Care (Jersey) Law 2012

In the Long-term Care (Jersey) Law 2012 –

- (a) In Article 1 before the definition of “approved care home” there is inserted the following definition –

“ ‘approved agency or care worker’ shall be construed in accordance with Article 6A;”;

- (b) After Article 6 there is inserted the following Article –

“6A Approved agencies and care workers

- (1) An agency or care worker may be approved by the Minister for the purposes of this Law (an ‘approved agency or care worker’).

- (2) The Minister shall, by Order, make provision as respects all such matters as he or she thinks fit concerning approval under paragraph (1) including, without limiting the generality of the foregoing –

- (a) conditions subject to which approval may be given;
- (b) procedures for approval and subsequent reviews;
- (c) the form and manner of an application for approval, including any application fee;
- (d) revocation or suspension of approval;
- (e) provision for appeals against revocation or suspension of approval.”.

23 Long-Term Care (General Provisions) (Jersey) Order 2014

In the Long-Term Care (General Provisions) (Jersey) Order 2014 –

- (a) for Article 4(2)(b) there is substituted the following sub-paragraph –

“(b) the person responsible for providing any long term care as part of the approved care package –

- (i) receives remuneration for providing such services,
- (ii) is registered under Article 3 of the Regulation of Care (Jersey) Law 2014, and
- (iii) is approved under Article 13A of this Order.”.

- (b) For Article 13(1) there is substituted the following paragraph –

“(1) In this Article “registered home” means a home which is –

- (a) registered under the Nursing Homes (Jersey) Law 1994; or would be required to be registered under that Law were it not for Article 3(2)(a) or (c) of that Law; or
- (b) part of a care home service within the meaning of paragraph 1(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014;”;

- (c) for Article 13(8)(a) there is substituted the following sub-paragraph –

“(a) is in breach of a condition of registration under the Nursing Homes (Jersey) Law 1994 or the Regulation of Care (Jersey) Law 2014 (in circumstances where paragraph (7) does not apply); or”

(d) After Article 13 there is inserted the following Article –

“13A Approved agencies or care workers

- (1) An agency or care worker may apply to the Minister for approval under this Article.
- (2) An application under paragraph (1) must be made to the Minister on a form approved by the Minister, or in such other manner as the Minister may accept as sufficient in the circumstances of the case, and accompanied by such information, documents and evidence as the Minister requires for the purpose of enabling the application to be assessed.
- (3) On receiving an application under paragraph (1) the Minister may –
 - (a) grant the application;
 - (b) grant the application on a provisional basis; or
 - (c) refuse the application.
- (4) The Minister shall notify the applicant in writing of any decision under paragraph (3)(a) or (b) with reasons and, if the application is granted –
 - (a) under paragraph (3)(a), that the agency or care worker is a fully approved agency or care worker; or
 - (b) under paragraph (3)(b), that the agency or person is approved only to the extent of providing long term care to individuals who were already provided with it immediately before the application was granted (a ‘provisionally approved’ agency or care worker).
- (5) The Minister shall not grant an application under paragraph (3) unless he or she is satisfied that the agency or care worker is registered under Article 3 of the Regulation of Care (Jersey) Law 2014 and an approval under this Article shall cease to have effect when the registration under that Law ceases to have effect.
- (6) If the Minister is satisfied that an approved agency or care worker is in breach of a condition of registration under the Nursing and Residential Homes (Jersey) Law 1994 (in circumstances where registration under that Law continues to have effect) Minister may take the steps referred to in paragraph (7).
- (7) Those steps are that –
 - (a) in the case of a fully approved agency or care worker –
 - (i) the Minister may make a determination by imposing a restriction, that the agency or person is approved only in respect of persons provided with long term care immediately before the date that the restriction is imposed, and
 - (ii) if, after imposing such a restriction, the Minister is not satisfied that the breach of the condition or agreement referred to in paragraph (6) is likely to be remedied in a satisfactory

- manner, the Minister may determine that the approval shall cease from the date of the Minister's determination; or
- (b) in the case of a provisionally approved agency or care worker, if the Minister is not satisfied that the breach of the condition or arrangements referred to in paragraph (6) is likely to be remedied in a satisfactory manner, the Minister may determine that the approval shall cease from the date of the Minister's determination.
- (8) A notification of a decision to refuse an application under paragraph (3)(c) or of a determination under paragraph (7) shall be by notice in writing with reasons to the agency or care worker and only after consideration of any objections or representations in accordance with paragraph (9).
- (9) Before giving a notification under paragraph (3)(c) or (7) the Minister must serve notice on the person carrying on the care home –
- (a) giving the Minister's reasons for the Minister's proposed refusal or determination; and
- (b) stating that within such period as may be specified in the notice (not being less than 21 days beginning with the date of service of the notice) the person on whom it is served may make objections or representations in writing to the Minister concerning the proposal.
- (10) If a person is aggrieved by –
- (a) a decision of the Minister under paragraph (3); or
- (b) a determination under paragraph (7),
- the person may appeal to the Royal Court no later than 28 days after the date of receipt of the notification of the decision or determination, as the case may be, on the ground that the decision or determination of the Minister was unreasonable having regard to all the circumstances of the case.
- (11) Unless the Royal Court so orders, the lodging of an appeal shall not operate to stay the effect of a decision under paragraph (3) or a determination under paragraph (7) pending determination of the appeal.
- (12) On hearing the appeal, the Court may confirm, reverse or vary the Minister's decision or determination.”.

24 Social Security (Television Licence Benefit) (Jersey) Regulations 2009

In the definition “domestic premises” in Regulation 1 of the Social Security (Television Licence Benefit) (Jersey) Regulations 2009 for the words “nursing home, a mental nursing home, or a residential care home, in each case within the meaning of the Nursing and Residential Homes (Jersey) Law 1994” there are substituted the words “nursing home within the meaning of Article 1A of the Nursing Homes (Jersey) Law 1994 or a residential care service within the meaning of paragraph 1(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014”.

