



Jersey

REGULATION OF CARE (REGULATED ACTIVITIES) (No. 2) (JERSEY) REGULATIONS 202-

Contents

Regulation

1	Interpretation.....	3
2	Article 1 (interpretation) amended	3
3	Schedule 1 (regulated activities) substituted	3
4	Amendments consequential on Regulation 3.....	3
5	Citation and commencement	4

SCHEDULE 1 **5**

SCHEDULE 1 TO LAW AMENDED	5
---------------------------	---

SCHEDULE 2 **13**

CONSEQUENTIAL AMENDMENTS	13
--------------------------	----

1	Adoption (Jersey) Law 1961.....	13
2	Lodging Houses (General Provisions) (Jersey) Order 1962.....	13
3	Inquests and Post-Mortem Examinations (Jersey) Law 1995.....	13
4	Children (Jersey) Law 2002	13
5	Day Care of Children (Jersey) Law 2002	14
6	Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002	14
7	Children (Secure Accommodation) (Jersey) Order 2005	14
8	Restriction on Smoking (Workplaces) (Jersey) Regulations 2006	15
9	Goods and Services Tax (Jersey) Law 2007	15
10	Social Security (Television Licence Benefit) (Jersey) Regulations 2011.....	15
11	Control of Housing and Work (Jersey) Law 2012	15
12	Fire Precautions (Designated Premises) (Jersey) Regulations 2012.....	15
13	Long-Term Care (Jersey) Law 2012	16
14	Long-Term Care (General Provisions) (Jersey) Order 2014	16
15	Sexual Offences (Jersey) Law 2018	16



Jersey

REGULATION OF CARE (REGULATED ACTIVITIES) (No. 2) (JERSEY) REGULATIONS 202-

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

THE STATES, after fulfilment of the requirement to consult the Health and Social Care Commission in accordance with Article 39(1)(a) of the Regulation of Care (Jersey) Law 2014, make these Regulations under Articles 1(2) and 2 of that Law and Articles 20(3) and 47 of the Sexual Offences (Jersey) Law 2018 –

1 Interpretation

In these Regulations “Law” means the Regulation of Care (Jersey) Law 2014.

2 Article 1 (interpretation) amended

In Article 1(1) of the Law for the definition “social care” there is substituted –

““social care” means in respect of an individual whose welfare or wellbeing by reason of the individual’s age, mental or physical illness, disability, pregnancy, childbirth, dependence on alcohol or drugs, or for any other reason, puts the individual in need of any of the following –

- (a) services provided under the direction or supervision of a social worker (as defined in Schedule 1) that include, but which are not limited to, assessing the personal needs of individuals and safeguarding individuals from risk of harm;
- (b) any form of personal care and other practical assistance; or
- (c) any form of personal support;”.

3 Schedule 1 (regulated activities) substituted

For Schedule 1 to the Law there is substituted the Schedule set out in Schedule 1 to these Regulations.

4 Amendments consequential on Regulation 3

Schedule 2 amends other enactments consequentially upon the addition of an activity to Schedule 1 to the Law.

5 Citation and commencement

These Regulations may be cited as the Regulation of Care (Regulated Activities) No. 2) (Jersey) Regulations 202- and come into force 7 days after the day on which they are made.

CONSULTATION DRAFT

SCHEDULE 1

(Regulation 3)

SCHEDULE 1 TO LAW SUBSTITUTED**“SCHEDULE 1**

(Article 2(1))

REGULATED ACTIVITIES**PART 1**

Interpretation provisions for Schedule

1 Regulated activities

- (1) The activities described in this Schedule are regulated activities for the purposes of Article 2.
- (2) An activity which is ancillary to, or is carried on wholly or mainly in relation to, a regulated activity is treated as part of that activity.

2 Interpretation

In this Schedule –

“Adoption Law” means the Adoption (Jersey) Law 1961;

“adult” means an individual who has attained the age of 18;

“care” means nursing care or social care;

“children” means individuals who have not attained the age of 18;

“children’s home” means a home consisting of a children’s home service that provides residential accommodation only for children;

“Children Law” means the Children (Jersey) Law 2002;

“foster care” means a placement described in Article 20(1)(a) of the Children Law;

“Health Care Registration Law” means the Health Care (Registration) (Jersey) Law 1995;

“hospital” includes the General Hospital, Overdale Hospital and Orchard House;

“Mental Health Law” means the Mental Health (Jersey) Law 2016;

“Minister”, in paragraphs 5 to 8 and 10, means the Minister for Children and Education;

“parent” has the meaning given in Article 1(1) of the Children Law and includes any individual who has acquired parental responsibility in respect of a child by virtue of an order made by the court under

the Children Law, or who is a child's guardian appointed under Article 7 of that Law;

"parental responsibility" is construed in accordance with Article 3 of the Children Law;

"prison" means HM Prison La Moye;

"social worker" means a person registered to engage in that registrable occupation (as set out in the Schedule to the Health Care Registration Law) holding a qualification prescribed in the Schedule to the Health Care (Registration) (Prescribed Qualifications) (Jersey) Order 2003.

PART 2

Regulated activities: provision of care services

3 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 private accommodation –
 - (a) for adults 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 Care home service

- (1) Subject to the provisions of this paragraph, 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 people who have no choice as to the provider of the care.
- (3) The provision of accommodation and care in the following settings does not constitute a care home service –
 - (a) foster care;
 - (b) subject to sub-paragraph (4), the hospital;
 - (c) the prison; or
 - (d) private accommodation (not being accommodation provided purely in the context of the provision of a care home service by the same person who provides that accommodation) occupied exclusively by a person receiving care and his or her family.
- (4) For the purposes of this paragraph the following services constitute a care home service even if they are operated from the hospital –
 - (a) hospice services;

- (b) long-term or respite nursing care services;
 - (c) residential or respite services for people with learning difficulties or mental health problems.
- (5) Nothing in this paragraph constitutes the provision of a children's home service regulated under paragraph 7 or a residential family centre service regulated under paragraph 12.

5 Home care service

- (1) The provision of a home care service, other than such a service that is carried on exclusively by a Minister, is a regulated activity.
- (2) Subject to sub-paragraph (3), in this paragraph a "home care service" is a service consisting of the provision of care by a person to an individual in private accommodation (not being accommodation provided purely in the context of the provision of a care home service by the same person who provides that accommodation) –
- (a) for reward (whether in money or in kind and whether or not that person is a relative or friend of the person in receipt of the service); or
 - (b) as part of a professional service offered to the person free of charge.
- (3) However, the following do not constitute reward –
- (a) the giving of birthday, Christmas and other celebratory or thank-you gifts, the reimbursement of expenses or the payment of, or a contribution towards, the cost of shared meals or travel by a person in receipt of the home care service to or for the benefit of the person providing that service;
 - (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 person receiving care.
- (4) Services provided by an employment agency through which the provider of a home care service is introduced to a person requiring that service without the provider being subject to any ongoing management or control, do not constitute the provision of a home care service by that agency.
- (5) Nothing in this paragraph constitutes the provision of a children and family community nursing service regulated under paragraph 15.

PART 3

Regulated activities: provision of services or arrangements for, or in respect of children and young people

6 Adoption service

- (1) The provision of an adoption service is a regulated activity.
- (2) In this paragraph an “adoption service” is –
 - (a) the Adoption Service maintained by the Minister under Article 2 (establishment of Adoption Service) of the Adoption Law; or
 - (b) a service provided by a registered adoption society (as defined in sub-paragraphs (b) and (c) of the definition of that expression in Article 1(1) of the Adoption Law) whether provided as part of the Adoption Service under Article 2(1) and (3) of the Adoption Law, or independently.

7 Children’s home service

- (1) The provision of a children’s home service is a regulated activity.
- (2) In this paragraph a “children’s home service” is a service –
 - (a) providing residential accommodation together with care, whether on a temporary or permanent basis, including accommodation provided by the Minister under Article 17 of the Children Law, to children or young people only; and
 - (b) in the case of a child, where the day to day delivery of care under that service is discharged solely by the registered person and is not discharged in conjunction with the child’s parent.
- (3) The following settings, which are defined in the Children Law, constitute the provision of a children’s home service –
 - (a) a children’s home;
 - (b) a voluntary home; and
 - (c) secure accommodation.
- (4) The provision of accommodation and care in the following settings does not constitute a children’s home service –
 - (a) foster care;
 - (b) subject to sub-paragraph (5), the hospital; or
 - (c) private accommodation (not being accommodation provided purely in the context of the provision of a children’s home service by the same person who provides that accommodation) occupied exclusively by a child receiving care and his or her family.
- (5) For the purposes of this paragraph the following services constitute a children’s home service even if they are operated from the hospital –

- (a) hospice services;
- (b) long-term or respite nursing care services;
- (c) residential or respite services for children or young people with learning difficulties or mental health problems; or
- (d) services provided in a children's home, voluntary home or secure accommodation.

(6) In this paragraph "young people" means individuals who have attained the age of 18 but are under the age of 22.

8 Fostering service

- (1) The provision of a fostering service is a regulated activity.
- (2) In this paragraph a "fostering service" is a service –
 - (a) discharging the functions of the Minister in accordance with the Children (Placement) (Jersey) Regulations 2005; and
 - (b) which includes the functions of the Minister in relation to privately fostered children under Articles 60 (power of Minister to impose requirements and prohibitions) and 61 (functions of Minister in relation to welfare of privately fostered children) of the Children Law.
- (3) In sub-paragraph (2)(b) "privately fostered children" has the definition given in Article 58 of the Children Law.

9 Social work service for children and young people

- (1) The provision of a social work service for children and young people is a regulated activity.
- (2) In this paragraph a "social work service for children and young people" is a service provided by a social worker or a person under the direction or supervision of a social worker which includes the assessment of a child's or young person's social care needs which may include but are not limited to any of the following activities –
 - (a) providing assessments for the purpose of determining whether a child, young person or their carer is in need of financial support;
 - (b) arrangements for the safeguarding of children or young people who may be at risk of harm;
 - (c) health care assessments carried out by a registered health care professional or doctor employed or contracted to provide such assessments as part of a social work service for children and young people; or
 - (d) providing any other form of assessment, services or support.
- (3) The activities described in sub-paragraph (2) include any, except the activities regulated under paragraphs 13 and 14, which may be required in the discharge of any Minister's functions under any enactment in relation to children or young people.
- (4) In this paragraph –

- (a) “registered health care professional” means a person registered to engage in a registrable occupation as defined by the Health Care Registration Law;
- (b) “young people” has the definition given in the Commissioner for Children and Young People (Jersey) Law 2019.

10 Independent monitoring and review service in respect of children’s safeguarding arrangements

The provision of a service under the direction or supervision of a social worker for the independent monitoring and review of the Minister’s functions in relation to the safeguarding of children, is a regulated activity.

11 Child contact centre service

- (1) The provision of a child contact centre service is a regulated activity.
- (2) In this paragraph a “child contact centre service” is a service providing premises for facilitating contact between a child and any of the following persons who do not live with that child –
 - (a) the child’s mother or father;
 - (b) a relative (as defined by the Children Law); or
 - (c) a friend.

12 Residential family centre service

- (1) The provision of a residential family centre service is a regulated activity.
- (2) In this paragraph a “residential family centre service” is a service providing residential accommodation for children and their parents at which –
 - (a) the parents’ capacity to respond to the children’s needs and to safeguard their welfare is monitored or assessed; and
 - (b) the parents are given such advice, guidance or counselling as is considered necessary.
- (3) In sub-paragraph (2) “parent” includes –
 - (a) in relation to a child who is not looked after by the Minister, any person who is looking after that child;
 - (b) in relation to a child who is looked after by the Minister, any person described in Regulation 6(1) of the Children (Placement) (Jersey) Regulations 2005.
- (4) In sub-paragraph (3) “looked after by the Minister” is construed in accordance with Article 1A of the Children Law.
- (5) Nothing in this paragraph constitutes the provision of a children’s home service regulated under paragraph 7.

13 Children and young people's mental health service

- (1) The provision of a children and young people's mental health service is a regulated activity.
- (2) In this paragraph a "children and young people's mental health service" means a service, including a service provided by an approved establishment, providing out-patient mental health or psychological assessment, diagnosis and treatment services for –
 - (a) children; or
 - (b) young people –
 - (i) who received such services before the age of 18 and for whom there is ongoing provision of treatment services after the age of 18, and
 - (ii) who have not been referred for treatment as an adult.
- (3) In sub-paragraph (2) –
 - (a) "approved establishment" is construed in accordance with Article 5 of the Mental Health Law;
 - (b) "treatment" has the same definition as in the Mental Health Law;
 - (c) "treatment services" includes services provided in the community for the family of a child or young person in connection with that child's or young person's mental health condition;
 - (d) "young people" means individuals who have attained the age of 18 but are under the age of 25.

14 Care service in special schools

- (1) The provision of a care service in a special school is a regulated activity.
- (2) In sub-paragraph (1) –
 - (a) "care service" means a service providing health care or social care;
 - (b) "special school" has the same definition as in Article 4(4) of the Education (Jersey) Law 1999.

15 Children and family community nursing service

- (1) The provision of a children and family community nursing service is a regulated activity.
- (2) In this paragraph a "children and family community nursing service" is a care service provided to children and their families by, or under the direction or supervision of a specialist community public health nurse, or a nurse –
 - (a) in a community setting;
 - (b) in a family home; or
 - (c) in a school.

- (3) In sub-paragraph (2) a “specialist community public health nurse” is a person registered to engage in that registrable occupation (as set out in the Schedule to the Health Care Registration Law) holding a qualification prescribed in the Schedule to the Health Care (Registration) (Prescribed Qualifications) (Jersey) Order 2003.
- (4) Nothing in this paragraph constitutes the provision of a care service regulated under paragraph 14.”.

CONSULTATION DRAFT

SCHEDULE 2

(Regulation 4)

CONSEQUENTIAL AMENDMENTS**1 Adoption (Jersey) Law 1961**

In the Adoption (Jersey) Law 1961 –

- (a) in Article 1(1) (interpretation) –
 - (i) before the definition “adoption order” there is inserted –
“Adoption and Children Act” means the Adoption and Children Act 2002 of the United Kingdom;”,
 - (ii) in sub-paragraph (b) of the definition “approved adoption society”, “(c. 38) of the United Kingdom” is deleted;
- (b) in Article 5 (duty to use approved adoption societies) –
 - (i) in the heading, for “approved”, there is substituted “registered”,
 - (ii) for “an adoption society approved under the Adoption Act 1976 (c.36) of the United Kingdom” there is substituted “a registered adoption society as defined by section 2 of the Adoption and Children Act”;
- (c) in Article 33 (meaning of protected child), in paragraph (2)(b)(ii), for “a care home service within the meaning of paragraph 1(2)” there is substituted “a care home service within the meaning of paragraph 4(2), or a children’s home service within the meaning of paragraph 7(2)”.

2 Lodging Houses (General Provisions) (Jersey) Order 1962

In Article 2(e) (exemption from registration provisions) of the Lodging Houses (General Provisions) (Jersey) Order 1962, for “paragraph 1(2)” there is substituted “paragraph 4(2), or children’s home service within the meaning of paragraph 7(2)”.

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

In Article 2(4)(b) (duty to notify death) of the Inquests and Post-Mortem Examinations (Jersey) Law 1995 for “paragraph 1(2)” there is substituted “paragraph 4(2)”.

4 Children (Jersey) Law 2002

In Article 1(1) (interpretation) of the Children (Jersey) Law 2002 –

- (a) the definition “care home service” is deleted;
- (b) after the definition “children’s home” there is inserted –

“children’s home service” has the same meaning as in paragraph 7(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014;”.

5 Day Care of Children (Jersey) Law 2002

In Article 1(1) (interpretation) of the Day Care of Children (Jersey) Law 2002, for sub-paragraph (c) of the definition “day care accommodation” there is substituted –

- “(c) a place which, in respect of those children, is operating as –
- (i) a school, hospital or nursing home,
 - (ii) a home consisting of a care home service within the meaning of paragraph 4(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014 (the “2014 Law”), or
 - (iii) a home consisting of a children’s home service, child contact centre service or residential family centre service within the meanings assigned to those expressions in Part 3 of Schedule 1 to the 2014 Law.”.

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

In Regulation 17(1)(a) (work with children) of the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002 –

- (a) for clause (iv) there is substituted –

- “(iv) a home consisting of a care home service within the meaning of paragraph 4(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014 (the “2014 Law”) which provides services to children as well as persons who have attained the age of 18,
- (v) a home care service within the meaning of paragraph 5(2) of Schedule 1 to the 2014 Law which provides services to children as well as persons who have attained the age of 18, or
- (vi) to the extent not already covered by clauses (i) to (v), any service regulated under Part 3 of Schedule 1 to the 2014 Law;”.

7 Children (Secure Accommodation) (Jersey) Order 2005

In Article 7(1)(b) and (3) (children to whom Article 22 of the Law shall apply and have effect subject to modifications) of the Children (Secure Accommodation) (Jersey) Order 2005, in each place, for “a care home service within the meaning of paragraph 1(2)” there is substituted “a care home service within the meaning of paragraph 4(2), or a children’s home service within the meaning of paragraph 7(2)”.

8 Restriction on Smoking (Workplaces) (Jersey) Regulations 2006

In Regulation 5(3)(c) (smoking in certain workplaces) of the Restriction on Smoking (Workplaces) (Jersey) Regulations 2006, for “paragraph 1(2)” there is substituted “paragraph 4(2)”.

9 Goods and Services Tax (Jersey) Law 2007

In Schedule 5 (exempt supplies) to the Goods and Services Tax (Jersey) Law 2007, in paragraph 4(1)(e) (group 4 – medical and paramedical supplies) for “paragraph 1, 2 or 3” there is substituted “paragraph 3, 4, 5, 7, 13, 14 or 15”.

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

In Regulation 1 (interpretation) of the Social Security (Television Licence Benefit) (Jersey) Regulations 2009, for the definition “domestic premises” there is substituted –

“domestic premises” means a dwelling, used for residential accommodation that is not part of –

- (a) a nursing home within the meaning of Article 1A of the Nursing Homes (Jersey) Law 1994; or
- (b) a home consisting of –
 - (i) a care home service within the meaning of paragraph 4(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014 (the “2014 Law”), or
 - (ii) a children’s home service or residential family centre service within the meaning assigned to each of those expressions in Part 3 of Schedule 1 to the 2014 Law.”.

11 Control of Housing and Work (Jersey) Law 2012

In Article 1(2) (interpretation) of the Control of Housing and Work (Jersey) Law 2012 for “within the meaning of paragraph 1(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014” there is substituted “within the meaning of paragraph 4(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014 (the “2014 Law”), or a children’s home service or residential family centre service within the meaning assigned to each of those expressions in Part 3 of Schedule 1 to the 2014 Law.”.

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

In Regulation 1(1) (interpretation) of the Fire Precautions (Designated Premises) (Jersey) Regulations 2012, for sub-paragraph (a) of the definition “care or nursing home” there is substituted –

- “(a) a home consisting of –
 - (i) a care home service as defined in paragraph 4(2) of Schedule 1 to the Regulation of Care (Jersey) Law 2014 (the “2014 Law”), or

- (ii) a children’s home service or residential family centre service within the meaning assigned to each of those expressions in Part 3 of Schedule 1 to the 2014 Law;”.

13 Long-Term Care (Jersey) Law 2012

In Article 1 (interpretation) of the Long-Term Care (Jersey) Law 2012, in the definition “home care service” for “paragraph 2(2)” there is substituted “paragraph 5(2)”.

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

In Article 13(1) (approved care homes) of the Long-Term Care (General Provisions) (Jersey) Order 2014 for “paragraph 1(2)” there is substituted “paragraph 4(2)”.

15 Sexual Offences (Jersey) Law 2018

In the Sexual Offences (Jersey) Law 2018 –

- (a) in Article 19(2)(b) (positions of trust) after clause (iv) there is inserted –
 - “(v) where a child contact centre service, within the meaning of paragraph 11 of Schedule 1 to the Regulation of Care Law, is being provided,
 - (vi) where a residential family centre service, within the meaning of paragraph 12 of Schedule 1 to the Regulation of Care Law, is being provided, or
 - (vii) where a children and young people’s mental health service, within the meaning of paragraph 13 of Schedule 1 to the Regulation of Care Law, is being provided.”;
- (b) in Article 20(2) (interpretation and amendment of Article 19) –
 - (i) for sub-paragraph (b) of the definition “Children’s home”, there is substituted –
 - “(b) a home consisting of a care home service, within the meaning of paragraph 4(2) of Schedule 1 to the Regulation of Care Law, which provides services to children as well as adults; or
 - (c) a home consisting of a children’s home service within the meaning of paragraph 7(2) of Schedule 1 to the Regulation of Care Law;”,
 - (ii) after the definition “nursing home” there is inserted –

“Regulation of Care Law” means the Regulation of Care (Jersey) Law 2014;”.