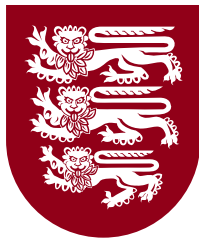


STATES OF JERSEY



Jersey

DRAFT REGULATION OF CARE (JERSEY) AMENDMENT LAW 202-

**Lodged au Greffe on 14th July 2025
by the Minister for the Environment
Earliest date for debate: 9th September 2025**

STATES GREFFE



Jersey

DRAFT REGULATION OF CARE (JERSEY) AMENDMENT LAW 202-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for the Environment has made the following statement –

In the view of the Minister for the Environment, the provisions of the Draft Regulation of Care (Jersey) Amendment Law 202- are compatible with the Convention Rights.

Signed: **Deputy S.G. Luce of Grouville and St. Martin**

Minister for the Environment

Dated: 10th July 2025

REPORT

1. Introduction

Summary

1. The draft Regulation of Care (Jersey) Amendment Law 202- (the “draft Law”) would amend the [Regulation of Care \(Jersey\) Law 2014](#) (the “2014 Law”) and the [Regulation of Care \(Standards and Requirements\) \(Jersey\) Regulations 2018](#) (the “2018 Regulations”) to implement independent regulation of Jersey’s hospital services (including Government-provided mental health services) and ambulance services. Parts 2, 3, 4 and 5 of the draft Law would make key changes to this legislation in the following ways:
 - Part 2 of the draft Law makes amendments designed to strengthen the governance and independence of the Jersey Care Commission (the Commission);
 - Part 3 describes the characteristics of the new services that will be regulated, including hospital (and the majority of Government-provided health services, including mental health services) and ambulance services, those laser clinic services that are currently regulated under the [Nursing Homes \(Jersey\) Law 1994](#) and hyperbaric oxygen therapy services;
 - Part 4 amends the eligibility criteria for members of the Board of the Commission; and
 - Part 5 makes changes to the 2018 Regulations which sets out requirements and regulatory tools to ensure services provide care that is appropriate, safe and of a high quality.
2. This is a continuation of the long-term project to regulate all health and social care providers in Jersey. This will bring Jersey into line with most other jurisdictions in the British Isles, where independent regulation and inspection has been embedded across care settings for many years. Care services need to be regulated to help keep people safe and to ensure they receive good quality care that meets their needs. Unregulated services place people at risk of harm or abuse (whether that be physical, emotional or financial abuse or at risk of neglect).
3. Jersey has an independent regulator for health and social care: the Jersey Care Commission. The Commission is established under the 2014 Law and currently regulates care home, home care and adult day care services as well as children’s social work and children’s outpatient mental health services.
4. If adopted by the States, the draft Law would continue the process of extending the existing framework Law so that hospital, ambulance, and most Government-provided mental health services would be required to meet legally enforceable standards of high-quality care. The Commission would be responsible for enforcing these standards by inspecting services to verify and to publicly report on the quality of care provided. Providers of services which fail to meet those standards would be committing an offence.

Background

5. The 2014 Law provides a legislative framework for the independent regulation of health and social care in Jersey. It is a single enabling Law which is underpinned by a series of Regulations, each focusing on a distinct type of health and social care provision.

6. The 2014 Law brings Jersey into line with other UK jurisdictions, which have had independent inspection and regulation regimes for many years. The Law provides for:
 - (a) Independent regulatory oversight: the independent Jersey Care Commission has been established for several years and has been fully operational since January 2019. The Commission fulfils all the regulatory functions set out in the 2014 Law. The Commission's remit would be expanded, subject to the Assembly's approval, to include the regulation of hospital, Government-provided mental health and ambulance services.
 - (b) Registration of regulated activities: providers and managers of all regulated services (registered persons) are required by law to be registered with the Commission. The Commission applies conditions on registration and may refuse or cancel any registration where those conditions are not met.
 - (c) Requirements related to regulated activities: registered persons have a legal obligation to ensure that services are well conducted, provide good care and protect clients from harm. This includes proper facilities, a safe and appropriate environment, and appropriately qualified and competent staff in sufficient numbers to meet clients' needs. The Commission publishes detailed standards, setting out what providers of regulated services must do to meet statutory requirements.
 - (d) Inspection: the 2014 Law provides comprehensive powers for inspections, to monitor the quality and standards of care. The purpose of inspections is not just about monitoring compliance but supporting and facilitating service improvement. Where local expertise is not available, the Commission will engage external agencies to carry out specialised inspections. The frequency and type of inspection are set out in the Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018, as amended by the draft Law. Following an inspection, a provider will be informed of any action required to comply with standards. Failure to comply with Regulations is an offence that can ultimately result in de-registration.
7. In adopting the 2014 Law, the Assembly acknowledged that Jersey's existing legislation was fragmented and inadequate. It allows high-risk health and social care services to operate with minimal independent monitoring of safety or quality of care. This includes Government of Jersey delivered services and services delivered to vulnerable individuals, including children and young people.
8. The 2014 Law was adopted by the States Assembly on 3 July 2014 ([P.95/2014](#)), and it was set out in the report to the proposition that establishing regulation of previously unregulated environments across Jersey's health and social care sector is a sizeable and complex task. Implementing regulation across the whole sector overnight would overwhelm both the regulator and the regulated entities. It is for this reason that amendments to the framework Law have been and will continue to be brought for debate in the States Assembly in phases.
9. Phase 1 of the project was to regulate care home (including children's home), home care and adult day care services. These Regulations were adopted by the States on 20 November 2018 and came into force on 1 January 2019 ([P.126/2018](#)). It was set out under paragraph 43 of the accompanying report that further phases of Regulations would be brought forward, which the States Assembly again agreed.
10. The regulation of social work and outpatient mental health services for children and young people represented phase 2 of this project – this was approved by the States Assembly on 25 April 2022 ([P.45/2022](#)). The report accompanying the Regulations made clear and the States Assembly further agreed that future phases of amendments should continue to be brought forward, in line with the Assembly's longstanding commitment to regulate all health and social care provided in Jersey. At paragraph 66 of the report to P.45/2022 it was set out that: "over time, further Regulations will be brought forward for consideration by

the Assembly to extend independent regulation and inspection across the health and social care sector.”

11. On 15 February 2022, in response to public concerns, including a [public petition](#) and [questions in the States Assembly](#), the Council of Ministers (CoM) committed to bringing forward legislation so that services provided by the Department for Health and Care Jersey (HCJ) will be independently inspected and regulated by the Commission as a matter of law. In December 2022, the States Assembly approved funding to regulate hospital, ambulance and government provided mental health services in the Government Plan 2023-26.
12. Aside from indications of public support for the inspection of hospital services evidenced by a public petition to this effect, there are widely accepted benefits attached to regulating health and social care services. Independent, high-quality regulation is needed for 3 key reasons:
 - (a) Protecting adults and children: Care services need to be regulated to help keep adults and children safe and to ensure they receive good quality care that meets their needs. Unregulated services place people at risk of harm or abuse (whether that be physical, emotional or financial abuse or at risk of neglect).
 - (b) Ongoing provision of services: Locally registered healthcare professionals, including doctors, nurses and midwives, social workers and other allied health professionals, cannot work in Jersey unless they are registered with a statutory regulator in the UK (for example, the General Medical Council, Nursing and Midwifery Council, Health and Care Professions Council). Many of those registration bodies increasingly expect their members to be working within regulated services. Without an appropriate regulatory framework for all health and social care services in Jersey, there is a very real risk that UK professional regulators will refuse to allow the validation, supervision or registration of healthcare professionals in Jersey.
 - (c) Measuring and enhancing service quality: At present, there is no legislation which sets out general standards that health and social care providers are expected to meet to ensure that health care provided in Jersey is effective. In fully regulated health care systems, all providers must produce data to demonstrate to regulators that they meet legally enforceable standards. This data provides both service users and service providers with clear information about the quality of all services. Service providers in Jersey would be able to benchmark their services against those provided by others and in other jurisdictions, and to identify those services which require improvements more efficiently and effectively.
13. Effective regulation not only assures the quality of health and social care but also improves the quality and safety of care. This would impact positively on the overall health and wellbeing of Islanders.
14. When services are regulated, Islanders will be able to access objective information on the quality of care provided in Jersey. It is important that, in an open, democratic society, citizens have access to transparent information, particularly in relation to publicly funded services, so that the public can have trust and confidence in the quality of the services they receive.
15. Regulating health services will bring Jersey into line with the majority of jurisdictions in the British Isles and all OECD countries, where mechanisms for external evaluation of health care facilities are accepted practice. Regulating health services would, for the first time, provide robust, effective information to measure whether Islanders can access high quality, effective health services.

Consultation Process and Feedback

16. The draft Law was subject to a full public consultation which lasted for 8 weeks from 8 April to 3 June 2024. Feedback was sought on the details of the draft Law as well as the principles underpinning it, including:
 - all hospital and ambulance services being regulated by the Commission;
 - regulating those laser clinic services that are currently required to register under the Nursing Homes (Jersey) Law 1994 under the Regulation of Care (Jersey) Law 2014;
 - regulating hyperbaric oxygen therapy services;
 - amending the funding provisions for the Commission in relation to Government of Jersey provided services, its annual reporting and audit requirements;
 - amending the eligibility criteria for those who may be appointed as Care Commissioners, including the introduction of a maximum 9-year term limit; and
 - updating aspects of the 2018 Regulations that affect all regulated care services.
17. The consultation was aimed at providers of services that it is proposed to regulate as well as providers of services that are currently regulated. Key stakeholders are the Jersey Care Commission and the Department for Health and Care Jersey (HCJ). The consultation also sought the views of patients and care receivers, as well as key advisory bodies, including the Office of the Children’s Commissioner.
18. In total, 7 responses were received via the consultation Smartsurvey, and 4 email responses were received. Feedback was also gathered in meetings with stakeholders.
19. Respondents were asked to provide feedback on any aspects of the proposed amendments to the 2014 Law which they considered could be improved. Feedback was broadly supportive of the proposals. All comments provided to consultation were considered in detail and, where appropriate, amendments were made to the draft Law based on the feedback received. The feedback received and the amendments made to the draft Law in response to that feedback was summarised in the published [consultation response](#).

Next Steps in Development of Regulatory Framework

20. As set out above, establishing regulation of previously unregulated environments across Jersey’s health and social care sector is a sizeable and complex task. Implementing regulation across the whole sector overnight would overwhelm both the regulator and the regulated entities. It is for this reason that Regulations under the framework law (including this draft Amendment Law) have been and will continue to be brought for debate in the Assembly in phases.
21. Phase 1 of the project was to regulate care home (including children’s home), home care and adult day care services. Phase 2 of the project was the regulation of social work and mental health services for children and young people. The regulation of hospital, including Government of Jersey provided mental health services, and ambulance services represents phase 3 of the project.
22. It is envisaged that, over time, further Regulations will be brought forward for consideration by the Assembly to extend independent regulation and inspection across the health and social care sector, in the following phases:
 - clinic services, including provision of medicinal cannabis;
 - adult social and community care services;
 - community medical and dental services.

2. Part 2 of the draft Law: Governance of the Jersey Care Commission

Registered Providers for Government Care Services

23. Currently, under Article 3(7) of the 2014 Law, the Accountable Officer for the government department that provides a regulated care service must register as the legal provider for that service. This is usually the chief officer for the relevant department. Notwithstanding that there is a limited likelihood of prosecutions being brought against chief officers for regulatory breaches, the fact that the 2014 Law places liability on these individuals contrasts with other jurisdictions. For example, in England, NHS Trusts as corporate bodies are liable for regulatory breaches prosecuted by the Care Quality Commission (CQC). It is considered that if this legal position persists in Jersey, it is likely to deter candidates from applying for chief officer roles in future. It would be disproportionate to expect a chief officer to be held criminally liable for regulatory breaches of a large service, such as a hospital or children's social services department.
24. Article 4 of the draft Law would amend this position by placing legal accountability for registering as the provider of a regulated government care service on the minister responsible for providing that service. Ministers would be held accountable for regulatory breaches as a corporate entity and not in their personal capacity. For example, if a minister is fined under the 2014 Law, it would be the responsibility of the public service and, ultimately, the Government of Jersey to pay. This would protect chief officers (and ministers) from any personal liability for regulatory breaches and reflect the position which is most common in other jurisdictions where the legal entity responsible for providing the service – in this case the relevant minister – is held ultimately accountable by the regulator for service performance. It should be noted that public service employees may continue to be held accountable for their performance by the States Employment Board through their contracts of employment, in the usual way.

Registration of Large Services

25. Article 5 of the draft Law covers the registration of large health and social care services. Large services, such as hospital and government social work services, consist of several subcategories of service, each of which will, in practice, have its own manager. For these services, it may be impractical to expect a single manager to retain effective responsibility for a whole hospital or large-scale social work service.
26. New Article 4A of the 2014 Law and the amendments to Article 8 of the 2014 Law will ensure that separate managers may be registered for each of these services, enabling the Commission to hold the appropriate individuals accountable of their leadership of them. This applies to the following services:
 - public hospital services provided by the Government of Jersey;
 - any private hospital service which may, in future, be established and which employs more than 50 people; and
 - children's social work services provided by the Government of Jersey.
27. In practice, these provisions will ensure that the Commission must accept a single registration application from the provider for each of those services listed above, regardless of the number of premises the service operates from. For example, the Department for Health and Care Jersey will be able to make a single application to register hospital services

at the Jersey General Hospital, the Enid Quenault Health and Wellbeing Centre and its other sites.

28. In practice, the provider of these services will set out the subcategories of services they provide (e.g. maternity and midwifery, emergency care, diagnostic testing, pharmacy etc.) and the location where each of these subcategories of services are provided from (e.g. Jersey General Hospital, Overdale etc.). The Commission will make the final determination of the subcategories of service which are provided.
29. While the Law will allow the registration of multiple managers, it will be a decision for the Commission, in consultation with service providers, as to whether it is appropriate to register multiple managers in each specific case. This amendment will provide the Commission with the ability to register more than one manager for hospital services but does not necessarily require a separate manager for each regulated activity. While the Law cannot be prescriptive on this point to cater for individual circumstances, as a matter of policy, the Commission is expected to work with HCJ prior to registering its services to ensure that managers of services are of sufficient seniority to hold effective accountability for the services they manage. It is not intended for the Commission to implement this rigidly and to require, for example, the registration of each ward manager – if this were the case then this could encourage a lack of consistency in patient care which must be avoided. It may be appropriate for registered managers of hospital services to be at director level.

Restrictions on Health and Social Care Services

30. Article 14 of the 2014 Law provides the States Assembly with powers to make and amend Regulations to require regulated care services to provide services that conform with legally enforceable standards. The 2018 Regulations have been brought into force under this Article. Article 8 of the draft Law introduces a small but important power for the States Assembly to restrict or prohibit the provision of services to a certain class or description of persons. For example, this would enable Regulations to be brought into force to prevent certain cosmetic procedures from being provided to those under the age of 18.

Sole and Small Providers of Regulated Services

31. Article 9 of the draft Law introduces two new Articles to the 2014 Law, 21A and 21B, which clarify the Care Commission's powers to suspend the registration of sole providers of home care services and small care services where the same individual is registered as both the provider and manager of that service. Generally, the Commission does not have the power to suspend the provider of a care service – it may only suspend the registration of a manager, under Article 19 of the 2014 Law. This is because it is such a significant step to suspend a service and prevent them from providing services. For example, there would be a deleterious impact on care home residents who would have to leave the premises and then potentially return when a suspension is lifted. In cases when the Commission considers that a registered provider is unable to provide safe and effective services, the Commission has powers to apply to the Court for immediate cancellation of the provider's registration under Article 21 of the 2014 Law.
32. While it would not be generally appropriate for the Commission to be able to suspend larger services unilaterally in this way – given the impact it would have on care receivers – it would be reasonable for the Commission to have powers to do so for very small care services, where the impact of suspension on care receivers would be proportionate. New Article 21A of the 2014 Law ensures that the Commission may take action to suspend sole providers of home care services (also termed individual care workers), as they would the managers of larger care services. New Article 21B provides that where the same individual is registered as both the provider and the manager of the same regulated activity, any action

taken on one aspect of their registration is to be deemed an action taken on both aspects of their registration (i.e. if an individual care worker is suspended under Article 19 as a manager then they are to be suspended as a provider on the same basis as that suspension under Article 19 and cancellation of registration under Articles 20 or 21 would automatically cancel their position as a manager).

Complaints

33. Article 30 of the 2014 Law currently places a duty on the Commission to ensure that complaints are investigated whether by the Commission or by another person. It may be appropriate for the Commission to investigate certain complaints, particularly if they relate to wider breaches of the Commission's standards. However, the Commission is primarily a service regulator and not a complaints handling body. Article 10 of the draft Law introduces amendments to Article 30 of the 2014 Law which clarify the circumstances in which the Commission may investigate specific complaints brought against regulated services. This will ensure that complaints are first directed to the relevant service, unless it would be unreasonable to expect a complainant to do so. It will also clarify that the Commission must not investigate matters that may be complained about to other bodies, including the courts, and that the Commission should only carry out investigations when it would be a reasonable and proportionate use of its resources to do so.

Regulation of Services in Other Jurisdictions

34. Article 13 of the draft Law would add in a new Article 37A to the 2014 Law to allow the Commission to provide services in other jurisdictions, providing that this would not have any impact on the Commission's regulatory activities in Jersey. The Commission would be able to and be expected to charge for the services it provides to other jurisdictions.
35. This would enable other small jurisdictions, such as the Isle of Man and Guernsey, which do not yet have an independent health and social care regulator to engage the Commission to conduct inspections of its health and social care services. This would benefit Jersey's relationship with these jurisdictions and assist the Island to collaborate in the delivery of health and social care across the Crown Dependencies.

Funding

36. The new Article 40A of the 2014 Law (introduced by Article 16 of the draft Law) places a duty on the Minister for the Environment to provide funding for the Commission under the Budget (Government Plan) to cover the costs of regulating Government provided health and social care services. In conjunction with this new duty, fees may no longer be charged to Government services by the Commission under Articles 9 and 41 of the 2014 Law.
37. The purpose of these changes is to simplify the way that fees are charged. At present, the Commission is funded by way of both fees and Government grant. This was a sustainable position when the Commission first commenced regulating services, as it was mainly responsible for regulating care home, home care and adult day care services, the majority of which are maintained by private and charitable providers. From 2019 onwards, the Commission has been funded on the basis that 45% of its income would be derived from public funds and 55% from providers through fees.
38. However, when the Government's hospital and ambulance services become subject to regulation, most of the Commission's work will be focused on regulating this and other children's social care services which are provided by the Government of Jersey. In these circumstances it becomes increasingly challenging to retain the original funding model for

the Commission when the public sector provides most of the Commission's funding by way of a grant and not, in practice, through fees.

39. These amendments would support this reality by requiring the Minister for the Environment to assess the funding which the Commission requires to regulate Government of Jersey provided services, and to include this in the Budget. The Minister must ensure that the Commission is provided with the funding it requires to regulate these services economically, effectively and efficiently. In this regard, the Minister will be acting purely in accordance with their responsibilities to fund the Commission effectively and they will not take account of wider considerations. The Council of Ministers will, under Article 10(2) of the [Public Finances \(Jersey\) Law 2019](#), be able to indicate whether it agrees with this assessment, but they will not be able to amend the amount. It will ultimately be for the States Assembly to approve or to amend the Minister's assessment under the Budget.
40. In addition, the Minister may include in this assessment the resources that they think are reasonable to subsidise the regulation of non-Government providers of health and social care by the Commission. This should enable the Minister to decide on public policy grounds to subsidise – as is currently the case – the regulation of health and social care by other providers. The Minister and the Commission would retain the power to levy fees on non-Government providers of health and social care to register and maintain registration with the Commission. It is still envisaged that fees will be levied on non-government providers, but that the status quo will be maintained whereby fee income will not cover the full costs of regulation.
41. This is designed to be a fully transparent process so that all stakeholders can see how much money the Commission considers that it requires, and then, ultimately, how much it is provided with by the States Assembly. This will be achieved by requiring the Commission, under new Article 42A (inserted by Article 18 of the draft Law), to produce a strategic plan in advance of the next financial year that will set out its funding requirements. The plan must be published by the Commission.
42. The Minister for the Environment must consult the Commission and consider its strategic plan before the Minister determines how much funding the Commission should be allocated under the Budget that is submitted to the States Assembly. This will be a separate line item in the Budget (and it would also be likely to feature as a separate item in the States of Jersey's annual accounts). As stated above, while the Minister for the Environment will be solely responsible for this decision, the States Assembly, as with all funding decisions, must ultimately determine the level of funding provided to the Commission.
43. In association with this change, the Commission would be included under the list of bodies under Schedule 6 to the Public Finances (Jersey) Law 2019 – see paragraph 14 of the Schedule to the draft Law.

Accounts, Audit and Annual Reporting

44. The annual reporting and accounting requirements for the Commission are being updated to bring them into line with current best practice standards. A new Article 43 of the 2014 Law (inserted by Article 18 of the draft Law) will ensure that:
 - the Commission's annual report must be published in a timely fashion and conform with prevailing standards and requirements for the contents of annual reports which will be set out under the Public Finances Manual;
 - the Commission must publish its strategic plan alongside its annual report to provide transparency on its projected financial requirements for the next financial year;
 - the Commission must include annual accounts in its annual report which conform with the statutory standards for the annual accounts of the States of Jersey; and

- the Commission's annual accounts must be audited by an auditor appointed by the Comptroller & Auditor General but that, where the Commission's accounts are included in and audited as part of the States of Jersey's accounts, it will not be required to appoint separate auditors.

Transitional Arrangements

45. Article 19 of the draft Law introduces transitional arrangements for services when the draft Law comes into force. New Article 49A of the 2014 Law requires providers of hospital and ambulance services that will become regulated to make an application to register with the Commission within 6 months of the draft Law coming into force. A service provider will not be liable to be convicted of the offence of carrying on a regulated activity without having registered with the Commission, if they have made an application within that 6-month period and until that application has been approved (or declined) by the Commission, including the time taken for any appeals process.

3. Part 3 of the draft Law: New Regulated Activities

46. The draft Law defines and describes four new categories of service which will become 'regulated activities' under the 2014 Law, including certain laser clinic services which are currently regulated under the Nursing Homes (Jersey) Law 1994. All the services described below will become subject to independent regulation and inspection by the Jersey Care Commission.
47. In England, the legislation that establishes the Care Quality Commission (CQC) and its powers are the Health and Social Care Act 2008 and the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the "HSC Act Regs"). The 2014 Law and the 2018 Regulations in Jersey draw significantly on features of this English legislation. Schedule 1 to the HSC Act Regs sets out the activities which are regulated by the CQC and Schedule 1 to the 2014 Law sets out the activities which are regulated by the Commission.
48. Schedule 1 to the HSC Act Regs establishes 14 types of activity which are regulated by the CQC. As Jersey has and will continue to take a phased approach to extending regulatory requirements across the health and social care sector, it has not been possible to mirror this under the 2014 Law. The phased approach adopted in Jersey continues to require services to be defined in a more targeted fashion under the 2014 Law, so as not to include too many services under regulation simultaneously. However, as far as possible, the definition of health care services under the English Law has been drawn on to assist in defining hospital services under the amendments proposed to Schedule 1 of the 2014 Law.

Hospital Services

49. Article 21 of the draft Law introduces a new definition of a "hospital". To be regarded as a hospital service under the 2014 Law, that service must provide inpatient health care. This means that those services such as GP services or clinic services provided by independent medical practitioners which provide outpatient care only would not be regarded as a "hospital". However, outpatient services are included as part of a regulated hospital service, providing that service also provides inpatient care. Prison health care services are excluded from this definition and would not be required to register with the Commission at this stage.
50. Article 22 of the draft Law inserts new Part 4 of Schedule 1 to the 2014 Law. Part 4 of Schedule 1 to the 2014 Law defines hospital services. Providers of services that fall into this category must register with the Commission and will be regulated and inspected. This includes all health care services provided by the Government of Jersey at or from the Jersey General Hospital and its satellite sites, including the Enid Quenault Health and Wellbeing

Centre, Orchard House and any other sites at which the Department for Health and Care Jersey operates or may operate health care services in future. This would also include private hospital services should any operate in Jersey in the future.

51. New paragraph 16 of Schedule 1 to the 2014 Law excludes some services from being required to register with the Commission that may otherwise be captured by this definition of hospital services, including:
 - health care services provided in care homes and children’s homes (these are already regulated);
 - children and young people’s mental health services provided to outpatients that are already regulated (e.g. the Government’s Children and Adolescent Mental Health Service (CAMHS) which are already regulated);
 - services that are already regulated as children and family community nursing services;
 - ambulance services – providers of these services must register under new paragraph 30 of Schedule 1; and
 - the out of hours GP service that is provided on hospital premises. This will become regulated when the rest of the Island’s GP practices become regulated and inspected.

52. New paragraphs 17 to 29 of Schedule 1 to the 2014 Law list those services that are regulated if carried out in a “hospital” as defined under Article 21 of the draft Law. To be clear, these services, if not carried out as part of a wider hospital service (i.e. services provided in GP and independent clinics), would remain unregulated for the time being. However, if these services are carried out within a hospital service – including if they are provided by a private clinic that is renting hospital facilities – they will be regulated as part of the hospital service. It would be for the registered provider and managers of the hospital service to ensure that any private clinics operating in the hospital conform with the requirements under the 2018 Regulations and the Commission’s standards.

53. New paragraph 17 of Schedule 1 to the 2014 Law establishes a broad definition for the treatment of disease, disorder or injury. In practice, most services provided by a hospital will be regulated under this paragraph. This captures treatment for all mental and physical health conditions by or under the supervision of a health care professional. “Health care professional” is defined under Article 21 of the draft Law and includes all health and social care professionals who are required to register under Jersey Law (e.g. medical practitioners, dentists, nurses, midwives, pharmacists, allied health care professionals etc.).

54. New paragraph 18 will capture most other health care services provided in a hospital under the broad category of “diagnostic and screening procedures”. This will include the use of scans and X-rays, and the taking of samples from the human body. This category will also capture the hospital’s laboratory services.

55. The provision of most mental health services will be regulated under paragraph 17 of Schedule 1. Assessment or treatment provided to persons detained under the [Mental Health \(Jersey\) Law 2016](#) would be regulated under paragraph 19.

56. New paragraph 20 captures surgical procedures carried out in a hospital service. This includes all surgery provided by a health care professional for any purpose, including treatment of a person’s disease, disorder or injury or for cosmetic purposes.

57. The management of blood, tissue and organs is regulated under new paragraph 21 of Schedule 1 to the 2014 Law. This would ensure that blood donation is regulated and that the use and storage of blood, tissue and organs can be inspected and controlled appropriately.

58. Hospital pharmacy services will be regulated as part of the hospital service under new paragraph 22. The supply and storage of medicines is a key service provided by hospitals to patients. It is, therefore, necessary to be able to regulate the pharmacy to ensure that the services it provides are effective, safe and appropriate.
59. New paragraph 23 of Schedule 1 to the 2014 Law captures patient transport services, and triage and medical advice provided remotely. This would ensure that transport services provided directly by regulated hospital services would be regulated. However, distinct ambulance services are only required to register under paragraph 30. The provision of care to patients who are being transported off the Island by air or sea by the hospital service will be regulated under both this paragraph and under paragraphs 17 and 27 as the hospital would be providing those patients being transported with treatment and nursing services.
60. New paragraphs 24 to 29 of Schedule 1 to the 2014 Law set out regulated activities that are not otherwise captured by those broader service categories described above. The following specific services provided by a hospital would be regulated:
 - maternity and midwifery services;
 - termination of pregnancies;
 - slimming clinic services;
 - nursing care provided in the hospital or outside a hospital by the hospital service;
 - the insertion or removal of intrauterine contraceptive devices; and
 - assisted reproduction services.

Ambulance Services

61. Article 23 of the draft Law inserts a new Part 5 of Schedule 1 to the 2014 Law which defines those ambulance services that would be required to register with the Commission. This would include ambulance services provided on a private or charitable basis, as well as the Government of Jersey's Ambulance Service. Any individual or organisation providing the following services will be regulated:
 - services providing care to patients while they are being transported to or from a place of medical treatment;
 - services providing pre-arranged medical treatment at public events; and
 - services provided by a call centre for the purpose of despatching ambulances to patients.
62. It should be noted that, in Law, providers of those services that comprise or include the above will be required to register. It is recognised that ambulance services will provide other care services, for example, ambulance workers will attend call outs to patients, provide them with care and may not then be required to transport those some patients to hospital or other places of medical treatment. This and other activities will be regulated as part of the ambulance service if that service undertakes any or all the three services set out in new paragraph 30(2) of Schedule 1 to the 2014 Law.
63. Under new paragraph 30(3)(a), the provision of care primarily to those who are taking part in sporting events is not regulated as an ambulance service. This will ensure that, for example, team doctors and physiotherapists attending to players at football or rugby matches would not be required to register. The provision of ambulance services for spectators at sporting fixtures (as well as participants) would be regulated. Lifeboat services are exempt from regulation. Ambulance services provided in Jersey from other jurisdictions

will also be exempt from registering with and being regulated by the Commission, providing that they are either:

- an air or sea ambulance that is regulated in another jurisdiction by a regulator that has equivalent powers and responsibilities to the Commission (e.g. the CQC in England or an agence régionale de santé in France); or
- mutual aid or assistance provided under an arrangement made between a minister and a service from neighbouring jurisdictions that do not regulate health and social care services, provided that service operates in Jersey for less than 60 days per year and is provided to manage the effects of major incidents.

Controlled Techniques

64. Article 24 of the draft Law introduces a new Part 6 of Schedule 1 to the 2014 Law to enable certain specialist, controlled technique services to be regulated. This will include specialist health care services that may be provided by those who are not otherwise regulated for their medical practice's services (i.e. services provided outside GP and dental surgeries).
65. When the 2014 Law was enacted and care home services became regulated by the Commission, the Nursing Homes (Jersey) Law 1994 became largely redundant. However, it has been kept in force as laser clinic services continued to be regulated under it. It also provided a potential way to regulate any private hospital services, should any have been established. To enable the Nursing Homes (Jersey) Law 1994 to be repealed (see Article 50 of the draft Law), laser clinics will be regulated under the 2014 Law.
66. New paragraph 32 of Schedule 1 to the 2014 Law defines the types of laser services that will be required to register with the Commission. This definition ensures that those services that are currently regulated will continue to be regulated under the 2014 Law. In this way, medical practitioners and dentists who provide services with medical grade lasers will continue to be exempt from regulation – ultimately, they will be regulated for all the services that they provide in due course, subject to the Assembly's approval.
67. The provision of hyperbaric oxygen therapy would also become subject to regulation under new paragraph 33. Given the potential risks to patients if these services are performed improperly and the fact that there are no other statutory restrictions on who may carry out hyperbaric oxygen therapy, it is considered necessary to regulate these services at this stage. However, it is understood that there are no hyperbaric oxygen therapy services currently in operation in Jersey. This provides safeguards should any such services be established in future.

4. Part 4 of the draft Law: Care Commission Office Holders

Term Limits

68. Articles 27 and 28 of the draft Law amend paragraphs 2 and 3 of Schedule 2 to the 2014 Law to prevent the Chair of the Commission and other commissioners from serving on the Commission for more than 9 years in total, while they may be appointed for individual terms of between 3 and 5 years in length. Currently, there is no maximum term limit for commissioners which is at odds with the Jersey Appointments Commission's Guidelines. Article 27 of the draft Law amends paragraph 5 so that a commissioner's term will end automatically after 9 years.
69. The effect of these changes is to ensure that an individual may serve for a maximum of 9 years as a commissioner, including as chair i.e. an individual who serves for 5 years as a commissioner and is then appointed chair may only serve for 4 years in that role, as this

will bring their total time as a commissioner to 9 years. This term limit applies regardless of whether the individual's service on the Commission is in broken, separate, or as unbroken consecutive terms i.e. a commissioner who serves for 4 years and has 2 years off the Commission would be able to hold a further 5-year term, or combination of terms up to a total of 5 years only.

70. A further amendment has been made to clarify that at least one commissioner must have experience of health or social care in Jersey. This ensures that there is always a commissioner who has experience of using local services on the Board.

Disqualifications from Office

71. Paragraph 4 of Schedule 2 to the 2014 Law sets out certain disqualifications from a being commissioner. These are important provisions to maintain the independence of the Commission. Article 29 amends paragraph 4(1) to prevent both sitting members of the States of Jersey or of the States of Guernsey or Tynwald and recent members of those legislative bodies from being commissioners. Those who are a member of those bodies or have been a member of those bodies at any point during the current or previous election cycles would now be prohibited from being appointed as a commissioner. The reason this provision includes members of the Guernsey and Isle of Man parliaments is so that the Commission may operate in those jurisdictions with effective independence from their political leadership, should the Commission be contracted to do so.
72. Amendments have been made to paragraph 4(2) of Schedule 2 as, in practice, these disqualifications have been found to be too restrictive as they are not currently time limited. This has led to high quality candidates for the role of commissioner being deemed ineligible, even though their time of employment or contract with the States of Jersey was over twenty years ago and they held junior roles at that time.
73. To remedy this, the blanket restrictions under each of paragraph 4(2)(a) and (c), which prevent those who were employed in or have held an interest in health or social care services in Jersey at any time from being commissioners, have been limited to the last 9 years. This will mean that those who have worked in Government of Jersey provided health or social care within the last 9 years will be ineligible from being appointed as a commissioner.
74. In addition, the same restrictions that are in place on those who worked in public sector health or social care services in Guernsey or the Isle of Man would be removed. This is because it is not currently anticipated that the Commission will operate on a statutory basis in those jurisdictions. It would, therefore, be disproportionate to continue to apply these restrictions. If this position changes, these provisions may be amended by Regulations under the new power to amend Schedule 2 which is set out in Article 11 of the draft Law.

Status of the Commission's Employees

75. Article 31 of the draft Law amends paragraph 9 of Schedule 2 to the 2014 Law to confirm that any individual who works for the Commission but is employed via the States of Jersey will be treated as a member of the Commission's staff. This will enable regulation officers to benefit from the employment protections, pay structure and pension scheme provided by being a States employee. However, it will confirm that in all other respects they will be regarded as staff of the Commission and cannot be directed by public officials or States members in the performance of their work.

5. Part 5 of the draft Law: Amendments to the Regulation of Care (Standards and Requirements (Jersey) Regulations 2018

76. Part 5 of the draft Law makes amendments to the Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018 (the “2018 Regulations”). The 2018 Regulations give people using care services, and their loved ones, confidence that the care they will receive will be appropriate, safe and of a high standard. They include provisions concerning the suitability of people who are registered to operate and manage care services, the quality of care provided, operational requirements and arrangements relating to inspection.
77. The core requirements of the 2018 Regulations – from Regulation 2 to Regulation 27 – largely apply equally to all regulated activities. They have been purposefully based on the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the “HSC Act Regs”) which establish the requirements for health and social care providers that are regulated by the CQC in England. Few amendments are, therefore, required to make them fit for purpose to regulate hospital and ambulance services. Those amendments that have been deemed necessary are explained below.

Registration of Providers

78. The process for applying conditions to a provider’s registration is set out in the 2014 Law. This includes a right of appeal against any condition the Commission wishes to apply that is not already agreed with the provider as part of their registration.
79. The 2018 Regulations oblige the Commission to apply specific registration conditions for the purpose of ensuring that, once registered, a service remains appropriate for the needs of the people receiving care. The 2014 Law, however, is sufficiently flexible to enable a registered provider or manager to apply for a change or variation in the registration conditions should the circumstances or needs of a service change.
80. In general, the conditions applied to a registration are based on information supplied by providers in their Statement of Purpose which forms part of the application process. The Statement of Purpose includes the aims and objectives of the service, the type of care offered by the service, the number of people provided with care and details of how the service will operate.
81. The conditions applied to a provider’s registration include administrative details such as having a local address and providing the addresses of each location from which the service operates. They also include quality and safety features intended to ensure the service is capable of meeting users’ needs. This includes, for example, setting a maximum number of people for whom the service can provide care, the age ranges of people using the service and the types of care that can be provided.
82. Article 35 of the draft Law amends Regulation 2(2)(b) of the 2018 Regulations to ensure that it is practicable. Currently, the requirement for all providers of regulated health and social care services to obtain an enhanced Disclosure and Barring Service (DBS) check to ascertain whether all providers appear on the barred list is unenforceable. This is because the UK’s DBS policy does not permit enhanced DBS checks for those people who are not directly working in care environments. This means that the requirement for providers which are the board of a company or the governors of a charity (and who have no further direct involvement in delivering care services) to obtain an enhanced DBS check cannot, in practice, be carried out.
83. The amendment to Regulation 2(2)(b) maintains the current requirement that providers of care services must not appear on the barred list. However, it modifies the duty on providers to clarify that DBS checks can only be conducted in accordance with the UK’s Disclosure and Barring Service’s policy.

84. Article 36 of the draft Law inserts a new Regulation 3 of the 2018 Regulations to amend the powers of the Commission to impose conditions on regulated care services. As Jersey is a small island jurisdiction, it would not be appropriate for the Commission to be able to apply conditions to public hospital and ambulance services to limit the services that they provide. This is because they are both providers of last resort in Jersey – there is no option for Islanders to seek alternative acute hospital and ambulance services from elsewhere within the jurisdiction. Therefore, Regulation 3(2) disapplies Regulations (1)(d) and (i) of the 2018 Law, so that the Commission may not impose conditions regarding the categories of care and the ages or persons to which those categories of care may be provided by public hospital or public ambulance services.
85. In the case of private or charitable hospital and ambulance services, as well as controlled technique services (including laser clinics and hyperbaric oxygen therapy), under Regulation 3(5), the Commission must impose conditions on these services in relation to:
- the treatments and services which may be provided by the regulated activity; and
 - the categories of service user to whom the treatment and services may be provided.
86. This will enable the Commission to limit the health care services that these services may provide to ensure that they are providing appropriate care to patients. This would, for example, prevent a private hospital from providing an acute care service unless the provider could demonstrate to the Commission that they have sufficient expertise, experience and equipment to deliver that service.

Duty of Candour

87. With the extension of the 2014 Law to cover hospital services, Article 38 of the draft Law enhances Regulation 6 of the 2018 Regulations so that it reflects the equivalent provision in English legislation, Regulation 20 of the HSC Act Regs. This establishes a duty of candour, which is a duty that health and social care services in Jersey should also be expected to comply with.
88. The duty of candour requires registered providers and registered managers to act in an open and transparent way with people receiving care or treatment from them. The Regulation also defines “notifiable safety incidents” and specifies how registered persons must apply the duty of candour if these incidents occur. A crucial part of the duty of candour is the apology. Apologising is not an admission of liability, and this is put beyond doubt by Regulation 6(11), which would prevent the fact of an apology being made under this requirement being admissible as evidence when determining liability in connection with an incident. It is important that services are open, transparent and apologise when things go wrong without fear of legal repercussions for issuing such an apology. It should be noted, however, that this would not prevent other information from being gathered and being admitted as evidence of liability in legal proceedings.
89. In relation to regulated hospital and ambulance services, “notifiable safety incident” means any 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:
- the death of the service user, where the death relates directly to the incident rather than to the natural course of the service user’s illness or underlying condition; or
 - severe harm, moderate harm or prolonged psychological harm to the service user.

90. In relation to all other regulated health and social care services, “notifiable safety incident” means any unintended or unexpected incident that in the reasonable opinion of a health care professional appears to have resulted in:
- 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;
 - 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;
 - changes to the structure of the service user’s body;
 - the service user experiencing prolonged pain or prolonged psychological harm; or
 - the shortening of the life expectancy of the service user.

Or, requires treatment by a health care professional in order to prevent:

- the death of the service user; or
 - any injury to the service user which, if left untreated, would lead to one or more of the outcomes mentioned above.
91. If an event satisfies any of the indicators outlined above, then the duty of candour applies. The key procedures that regulated services are then required to carry out are set out in new Regulation 6(2)(a) and (b):
- the service user or lawful representative should be notified in writing that a “safety incident” has occurred; and
 - reasonable support should be offered over the incident (the nature and content of which will depend on the situation).
92. New Regulation 6(4) specifies the notification process to be followed. The written notification must include:
- an accurate, truthful account of what has happened;
 - a description of how the matter has been dealt with and of any enquiries carried out or to be carried out;
 - any further steps being taken to follow up on the incident; and
 - an apology, which is described later in the Regulation as “an expression of regret”.

Access to Visitors

93. Article 39 of the draft Law provides a new Regulation 7A of the 2018 Regulations that requires services that provide accommodation and care (e.g. hospital, care home and children’s home services) to support service users’ involvement in the community. This Regulation is designed to ensure that service users have access to and social contact with other people, which is important to secure their wellbeing and mental health needs. In addition, it is important that those accommodated in hospital and care homes can access professional support, including from lawyers, priests, hairdressers, chiropodists etc.
94. While this should, as far as possible, be an absolute requirement for registered persons to provide service users with access to visitors, it is recognised that it may not always be possible for visitors to be admitted. This includes the need to prohibit parents and others from accessing children in children’s homes where access may be prohibited by a court order. There may be a need to restrict access to visitors to protect service users in other

circumstances – for example, women’s refuge services would not be required to enable visits from service user’s abusive partners.

95. Therefore, Regulation 7A(3) enables registered care providers and managers to restrict a visitor’s access but only in cases when it would be reasonable to do so to protect the mental or physical health or wellbeing of the service user. Where a decision has been taken that it would be reasonable to restrict access on these grounds, Regulation 7A(4) requires the registered person to both inform the service user of their decision and their reasons for this decision, and to keep an accurate record of the decision.

Effective Communication

96. Article 40 of the draft Law introduces a new Regulation 8A to require regulated services to communicate with service users and their representatives effectively regarding their care and treatment. The registered person must have in place systems of communication to ensure that any changes made in arrangements for the care and treatment of service users, including any appointments and planned admissions, are provided in a clear and timely manner to service users and, where appropriate, their representatives. This would require, for example, a hospital service that had to cancel a patient’s appointment at short notice to have a system in place to inform that patient as soon as possible by email, telephone or text message.

Access to Care and Health Records

97. Article 41 of the draft Law amends Regulation 9(3)(b) and (6) of the 2018 Regulations, as these currently provide that the registered person is responsible for considering whether it is appropriate to allow the service user’s representative to access their personal plan and care record. Instead, in virtually all cases, registered persons must provide the service user’s representative with access to personal plans (under Regulation 9(3)(b)) and care records (under Regulation 9(6)) providing the service user consents to their representative being able to review these.
98. However, there is an important caveat under Regulation 9(8) that if the service user is accommodated in a children’s home or under the care of a social work service for children and young people provided by the Minister for Children and Families, or lacks capacity, the registered person may prevent a representative from viewing the service user’s personal plan or care record if it is reasonable to do so to protect their mental or physical health or wellbeing. Regulation 9(9) requires that, when the registered provider decides to deny access to care records, they must inform the service user, explain their reasons for the decision and maintain an accurate record of it. Regulation 9(10) clarifies that in cases when a service user lacks capacity, as defined within the meaning of Article 4 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#), a registered person cannot deny access to personal plans or care records to an individual who has a lasting power of attorney in respect of the service user’s health and welfare under Article 14 of that Law or to delegates appointed under Article 24 of that Law.

Minor Amendments

99. Article 42 amends Regulation 18 of the 2018 Regulations to enable the Commission to regulate vehicles used by health and social care providers. This is a crucial addition to enable the Commission to regulate ambulance and other patient transfer services effectively.
100. Article 43 provides updated drafting for Regulation 19(4) of the 2018 Regulations. This currently provides an erroneous reference to Regulation 80.

101. Article 44 of the draft Law introduces a new Regulation 20A to require registered persons to display the fact of their registration with the Commission prominently, together with the Commission's contact details, in any premises operated by the regulated activity and on any written or electronic communication relating to the regulated activity. This is to ensure that service users are made aware that they are using regulated services and that they may raise concerns with the Commission as easily as possible, by clicking through to the Commission's website from the service's website or email. This will also highlight services that are and are not regulated to service users.
102. Article 45 inserts a new Regulation 21 of the 2018 Regulations which requires registered service providers and managers to notify the Commission when a service user has had a significant restriction placed on their liberty or if a service user has been detained, received into guardianship or a Power of the Royal Court has been exercised in their respect under the Mental Health (Jersey) Law 2016. In practice, the Commission already requires regulated services to provide notifications in these cases. However, it is important to place this in the Law so that Jersey may meet its obligations under international law in relation to those who have been detained or deprived of their liberty. The Commission will retain the discretion, under Regulation 21(2), to require services to notify them of other incidents or relevant matters that occur within a regulated service.
103. Regulation 24 of the 2018 Regulations is designed to enable the Commission to monitor the financial viability of key care services, such as care homes, which would, if they suddenly closed, have a significant impact on residents and their families. During the public consultation on the draft Law, the Commission noted that it does not have the expertise to review the financial accounts of care providers and so it should no longer be a requirement for providers to send annual accounts to the Commission as a matter of course. This submission was accepted, and so, in future, care providers will only be required to provide this information when requested to do so by the Commission. These requirements would not apply to controlled technique services (laser clinics and hyperbaric oxygen therapy). This is because the impact on service users if these types of service were to close due to their lack of revenue is minimal.
104. Article 47 of the draft Law inserts a new Regulation 79A into the 2018 Regulations to enable the Commission to ensure that services provided under the Mental Health (Jersey) Law 2016 adhere to the code of practice for mental health services which is issued by the Minister for Health and Social Services. This provision allows the Commission to regulate and inspect against the code of practice – it does not allow the Commission to amend the code of practice.

Mandatory Inspection Periods

105. Currently, the 2018 Regulations require the Care Commission to carry out an inspection of all regulated services at least once per year. The inspection regime does not apply to an individual who is directly employed to provide care as this would be overly intrusive. The annual inspection may cover monitoring compliance, reviewing the effectiveness of the service or may be to encourage improvements. This is the mandatory minimum requirement placed on the Commission, but the Commission has powers to inspect services more than once per year and to do so on an announced or an unannounced basis. The Commission's powers to inspect are provided under Article 26 of the 2014 Law.
106. Article 48 of the draft Law amends Regulation 80(1). New Regulation 80(1B) provides that the Commission must continue to inspect the following services that are currently regulated at least once every year. These services are:
 - Adult day care services

- Care home services
- Home care services (except for services provided by individual carers, as above)
- Child contact centre services
- Residential family centre services
- Care services in special schools
- Children and family community nursing service
- Children's home services

107. In addition, the following newly regulated services must be inspected at least once per year:

- Laser clinic services
- Hyperbaric oxygen therapy

108. Having considered feedback in the public consultation and taken account of evidence from other jurisdictions, Regulation 80(1A) provides that the Commission must inspect the following services (that must currently be inspected every year) at least once every 3 years:

- Adoption services
- Fostering services
- Social work services for children and young people
- Independent monitoring and review services in respect of looked after children's cases
- Children and young people's mental health services

109. This would not prevent the Commission from undertaking inspections at any time. As noted above, the Commission's current powers under Article 26 of the 2014 Law will enable it to undertake announced and unannounced inspections of any regulated service when the Commission considers it is appropriate to do so, albeit the Commission would not be expected nor necessarily resourced to undertake full inspections outside of these periods. This would bring the Law into line with other jurisdictions in the British Isles. For example, in England Ofsted must inspect local authority children's services once every 3 years. However, the regulator may and often does decide to inspect certain local authority children services more frequently to monitor specific areas of services which may concern Ofsted. In the same way, it will be an operational decision for the Jersey regulator as to whether it deems it necessary to undertake visits to monitor specific issues or concerns outside the mandatory timetable for full inspections.

110. Regulation 80(1A) would also require the Commission to inspect hospital and ambulance services once every 5 years. To be clear, it is envisaged that, for hospital services, the Commission will conduct annual inspections of parts of each service (i.e. maternity and midwifery, pharmacy, neurology, dentistry etc.), but not every aspect of the hospital service will be looked at every year. However, within 5 years, the Commission must have inspected every part of a registered hospital service.

Offences

111. Regulation 82 of the 2018 Regulations provides that, where non-compliance with the requirements is identified following an inspection or complaint investigation, and where

there is no risk of serious harm or neglect, the Commission may serve an improvement notice to give providers an opportunity to address any deficiencies in their services. Where, however, there is a risk of serious harm or neglect, or where serious harm or neglect has occurred, the registered person may be prosecuted without the need to serve an improvement notice. The Commission is responsible for collecting evidence that may support a prosecution for offences committed under the 2014 Law and the 2018 Regulations. The States of Jersey Police would continue to investigate serious offences outside the scope of this legislation. Prosecution decisions are for the Attorney General to consider. If convicted, the penalty for non-compliance with registration requirements is a fine of up to £50,000.

112. Article 49 of the draft Law amends Regulation 82 to include a defence for registered persons of hospital services who may be charged with an offence under Regulation 18 for deficiencies in their premises. If registered persons can prove that they took all reasonable precautions and put in place all reasonable procedures to mitigate deficiencies in the premises provided as part of the hospital service, they will not be guilty of an offence. Regulation 82(8) would allow this defence to be repealed by Order as this is a time limited defence, designed to be in place until such time as new hospital facilities have been completed and are in use.

Financial and staffing implications

113. The 2014 Law provides for several different fees to be set, including:
- (a) fees associated with making an initial application for registration as a provider or a manager;
 - (b) an annual fee for continued registration;
 - (c) fees associated with applying for a variation on conditions of registration; and
 - (d) miscellaneous fees such as a fee for replacement registration certificates.
114. Since the 2014 Law came into force, all fees have been set by the Minister for the Environment by Order, although the Law does provide that the Commission may set its own fees. It is proposed that fees continue to be set in this manner for non-Government providers of regulated services – i.e. the fees to be paid by any private providers of hospital, ambulance, laser clinic and hyperbaric oxygen therapy services will be set under amendments to the [Regulation of Care \(Fees\) \(Jersey\) Order 2022](#) (the “2022 Order”).
115. The 2014 Law was agreed by the States on the understanding that the then inspection team’s budget would be grant-funded to the Care Commission, and that this would represent approximately 45% of the total cost of administering the Law (i.e. fees should generate approximately 55% of total Commission expenditure). 45% is part way between 34% government funding provided to the Care Quality Commission (CQC) in England and the 65% provided to the Scottish Care Inspectorate.
116. The established practice of a care regulator’s income being derived from a combination of direct government funding and fee income speaks to the principle that assurance of good quality care is a matter of public interest, as opposed to solely being of service user / service provider interest. It avoids the necessity of the regulator having to curtail essential inspection to fit budgetary constraints that may arise if the regulator were solely dependent on fee income. This principle accords with OECD good regulatory practice.
117. As set out above, the draft Law would simplify the way that fees are charged. At present, the Commission charges fees to both Government and non-Government providers. This was a sustainable position when the Commission first commenced regulating services in 2019, as it was mainly regulating care home, home care and adult day care services, the majority of which are maintained by private and charitable providers. It was, therefore,

practical to charge fees to Government for the few regulated services that it provided, and to receive the remainder of its funding by a grant.

118. When the Government's hospital and ambulance services become subject to regulation, most of the Commission's work will be focused on regulating this and other children's social care services which are provided by the Government of Jersey. It is not cost effective to administer the charging of fees across these public authorities. It is for this reason that the draft Law replaces the power for the Commission and the Minister to charge fees to Government providers of regulated services with a transparent funding process under the Budget.
119. It is anticipated that registration fees for non-Government providers and managers for the newly regulated categories of service will be commensurate with those charged for the existing registered services. These will be subject to full consultation with the affected services before the fees are set. It should be noted that there are only two known non-Government providers of ambulance services that would be affected. Laser clinic services are already regulated and, in 2025, pay an annual registration fee of £429.11. This is set by the Chief Minister under the [Nursing Homes \(General Provisions\) \(Jersey\) Order 1995](#). It is envisaged that these services will be charged similar fees under the 2014 Law. There are no hyperbaric oxygen therapy services currently operating in Jersey.
120. The States Assembly approved funding for HCJ and Department for Justice and Home Affair (which was previously responsible for providing the Ambulance Service) to cover the costs associated with preparing for regulation, as well as the costs for Government-provided hospital and ambulance services in being regulated on an ongoing basis. The Care Commission has also been funded for the work it has been required to undertake to prepare to regulate services from 2023 onwards. Further funding is in place for the Commission to be able to register and to regulate Government-provided hospital and ambulance services when the draft Law comes into force. Funding for legal advice in connection with the new regulatory framework is also in place. In summary, the States approved the following levels of funding under the Government Plan 2023-26 to prepare for and to enable the implementation of the draft Law, as set out in the Plan's Annex ([R.146/2022](#)):

| Government Plan 2023-26 | £'000 | | | |
|--------------------------------------|-------|------|------|------|
| Department | 2023 | 2024 | 2025 | 2026 |
| Jersey Care Commission | 751 | 940 | 890 | 840 |
| Health and Care Jersey | 452 | 596 | 485 | 485 |
| Justice and Home Affairs (Ambulance) | 114 | 168 | 168 | 168 |
| Law Officers' Department | 75 | 115 | 117 | 117 |

121. This funding has enabled public services to prepare effectively for the regulation of hospital and ambulance services so that, if approved by the Assembly, the draft Law may be implemented soon after it has been registered by the Royal Court.

Children's Rights Impact Assessment

A Children's Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

Human Rights

The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX TO REPORT**Human Rights Notes on the Draft Regulation of Care (Jersey) Amendment Law 202-**

These notes have been prepared in respect of the draft Regulation of Care (Jersey) Amendment Law 202- (the “**draft Law**”) by the Law Officers’ Department.

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The draft Law gives rise to no human rights concerns. It provides for amendments to the Regulation of Care (Jersey) Law 2014 and the Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018 to, inter alia, implement independent regulation of Jersey’s hospital services (including Government-provided mental health services) and ambulance services.

EXPLANATORY NOTE

The Regulation of Care (Jersey) Amendment Law 202-, if adopted, will amend the Regulation of Care (Jersey) Law 2014 (the “Law”), the Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018 (the “Regulations”) and the Public Finances (Jersey) Law 2019 (the “PFL”), as well as repealing the Nursing Homes (Jersey) Law 1994 and the Nursing Homes (General Provisions) (Jersey) Order 1995, which are replaced by this draft Law, and the Regulation of Care (Transitional Provisions) (Jersey) Regulations 2022, which is spent.

In particular –

PART 1

Article 1 is an interpretation provision.

PART 2

Articles 2-19 amend the main body of the Law. *Article 3* amends the interpretation provision of the Law to insert definitions relating to the PFL, a definition of hospice, and to modernise some of the language of the Law.

Article 4 updates Article 3 of the Law (requirement to be registered to carry on, or act as manager in relation to, regulated activity) to provide that if a regulated activity is carried on by a Minister, the Minister must be registered at the provider of the service, but may delegate the Minister’s functions in providing the service. It also introduces a power to prescribe by Order persons to provide a regulated service carried on by a Minister.

Article 5 inserts new Article 4A (government or other large providers) into the Law, which provides that, in the specified circumstances, the Government or another large provider of regulated activities may apply under Article 4 of the Law for registration as the manager or provider of 2 or more regulated activities, without the prior permission of the Health and Social Care Commission (the “Commission”).

Article 6 amends Article 8 (keeping of register and issue of certificates) of the Law to provide that, if an application under Article 4A is granted, the register must contain particulars in relation to each regulated activity carried on.

Article 7 amends Article 9 (annual fee) of the Law to provide that, if a regulated activity is carried on by a Minister, the annual fee is nil.

Article 8 amends Article 14 (requirements in respect of regulated activities) of the Law to provide that Regulations made under that Article may restrict or prohibit the provision of a particular service to a particular class or description of person.

Article 9 inserts new Articles 21A and 21B. Article 21A provides that, if a registered provider of a home care service is an individual who either is directly employed by a service user, or receives any reward from a service user, any action taken under Article 19, 20 or 21 to suspend or cancel their registration applies as if the person were a registered manager of the activity as well as the registered provider. Article 21B provides that if a person is registered as provider and manager of a regulated activity, any action taken against them under Article 19, 20 or 21 in their capacity as provider of the activity applies also to their capacity as manager of the activity, and vice versa.

Article 10 amends Article 30 (complaints and further requirements as to inspections) of the Law to restrict the circumstances in which the Commission may investigate a complaint itself.

Article 11 amends Article 35 (establishment of Health and Social Care Commission) of the Law to add a power for the States to amend Schedule 2 of the Law by Regulations.

Article 12 is a minor amendment providing that the Commission is independent of the Minister for Education and Lifelong Learning (in addition to those already named).

Article 13 inserts new Article 37A (provision of services for other public authorities) of the Law. New Article 37A provides that the Commission may provide health and social care regulatory functions to public authorities outside Jersey, as long as it can still carry out its functions under the 2014 Law.

Article 14 amends Article 38 (reports, information and advice) of the Law to provide that the Minister for Education and Lifelong Learning may request a report from the Commission.

Article 15 amends Article 40 (limitations of liability) of the Law to provide that, subject to the conditions in that Article, the Minister for Education and Lifelong Learning is not liable for acts or omissions of the Commission.

Article 16 inserts new Article 40A (annual assessment of funding by the Minister) into the Law. New Article 40A provides that the Minister for the Environment must make an annual assessment of the funding required by the Commission to discharge its specified responsibilities, having consulted the Commission and its strategic plan.

Article 17 amends Article 41 (fees and surcharge chargeable by Commission) of the Law to provide that fees and surcharges cannot be set in respect of activities carried on by a Minister. It also makes a minor housekeeping amendment.

Article 18 replaces Article 43 (requirement to prepare annual accounts and reports) of the Law with new Articles 42A and 43. Article 42A (strategic plan) inserts a requirement for the Commission to prepare and publish an annual strategic plan. New Article 43 (accounts, audit and annual report) specifies the annual accounts and reports that the Commission must keep, along with publishing requirements.

Article 19 inserts new Article 49A, a transitional provision, which provides that a person carrying on an activity that, as a result of this Law, will become a regulated activity, does not commit an offence provided that they apply for registration within 6 months after the date of commencement of the provision relating to their regulated activity (and that application has not been refused).

PART 3

Articles 20 to 25 amend Schedule 1 to the Law.

Article 21 amends the interpretation provision of Schedule 1.

Article 22 inserts Part 4 (health care services) of Schedule 1, which contains 13 activities that will be regulated under this Part provided that they meet the conditions set out in new paragraph 16 –

- Treatment of disease, disorder or injury
- Diagnostic and screening procedures for a disease, disorder or injury
- Assessing or treating people detained under the Mental Health (Jersey) Law 2016
- Surgical procedures
- Blood, tissue or organ management
- Pharmacy
- Patient transport services, triage and medical advice
- Maternity and midwifery
- Termination of pregnancy
- Slimming clinics
- Nursing care

- IUD insertion or removal
- Assisted reproduction

Article 23 inserts Part 5 (ambulance services) of Schedule 1, which provides that ambulance services will be a regulated activity under the Law and defines “ambulance service” and related terms.

Article 24 inserts Part 6 (controlled techniques) of the Schedule, which introduces 2 activities that will be regulated under the Law, provided that they are not already regulated under the provisions of the Law specified in new paragraph 31 –

- Laser procedures
- Hyperbaric oxygen therapy

Article 25 makes minor amendments to Schedule 1 consequential on the amendment of the definition “hospital”.

PART 4

Articles 26 to 32 amend Schedule 2 to the Law.

Articles 27 and 28 amend paragraphs 2 (appointment of Chairman of Commission) and 3 (appointment of other Commissioners) of Schedule 2, to provide that a Commissioner may not hold office for more than 9 years in total.

Article 29 amends paragraph 4 (disqualification for appointment) of Schedule 2 to provide that a person may not sit as a Commissioner if they have been a member of the States of Jersey, the States of Guernsey or Tynwald within the last 2 parliamentary sessions or have worked in health and social care within the last 9 years.

Article 30 amends paragraph 5 (term of office of Commissioner) to provide that a Commissioner’s term may last a maximum of 9 years in aggregate.

Article 31 inserts a new sub-paragraph (4) into paragraph 9 (employees and agents of Commission), which states that if a States’ employee is employed as an officer of the Commission, the employee is an employee of the Commission if they perform a function of the Commission.

Article 32 deletes the now obsolete paragraph 12 (accounts and audits) and makes other minor amendments.

PART 5

Articles 33 to 49 amend the Regulations.

Article 34 amends Regulation 1 (interpretation) to add 2 new definitions.

Article 35 amends Regulation 2 (fitness criteria) to alter the criterion that a manager or provider of a regulated activity must not appear on a barred list. The effect of the amendment is to include only those people whose name is returned in a search of a barred list, when that search is performed at the appropriate level (i.e. basic, standard or enhanced) for the position held or regulated activity undertaken.

Article 36 substitutes Regulation 3 (conditions of registration: general). New Regulation 3 sets out the conditions that the Commission must and must not impose on providers of regulated activities.

Article 37 corrects a typographical error in Regulation 5.

Article 38 substitutes Regulation 6 (openness and transparency). New Regulation 6 sets out the duty of candour that a registered person must maintain in respect of service users. It further defines “notifiable safety incident” and sets out the procedure to be followed if a notifiable safety incident occurs.

Article 39 inserts new Regulation 7A (visitors and involvement in the community). Regulation 7A applies if a service user is provided with accommodation and imposes a duty on a registered person to support the service user to maintain their involvement in the community, including facilitating visits both social and professional. It also gives the registered person the discretion to restrict access of a visitor if it is reasonable to believe that restricting access will protect the service user’s wellbeing.

Article 40 inserts new Regulation 8A (requirement to inform and update). New Regulation 8A imposes a duty on a registered person to make appropriate arrangements with service users or their representatives to communicate arrangements regarding the service user’s care.

Article 41 amends Regulation 9 (personal plans and care records). It makes amendments to paragraphs (3)(b) and (6) to provide that a service user’s representative must be given access to the service user’s personal plan if the service user consents. It inserts new paragraphs (8) to (10), which provide the circumstances in which a registered person may, or may not, withhold access to a service user’s personal plan.

Article 42 amends Regulation 18 (premises and equipment). Regulation 18 states that a registered provider must ensure that premises and equipment must be fit for purpose and suitable for the regulated activity. The amendment expands the Regulation to add vehicles (as defined in the Regulation).

Article 43 amends Regulation 19 (reviewing quality of service) to amend the person who must make a monthly report with regard to the quality of service provided to service users. The report must be made by a representative of the registered provider unless the registered provider is also the registered manager, or a person appointed under Regulation 30.

Article 44 inserts new Regulation 20A (requirement to display registration), which requires a registered person to display a notice to that effect.

Article 45 substitutes Regulation 21 (notification requirements). New Regulation 21 sets out that a registered person must notify the Commission if –

- a service user is subject to a significant restriction of liberty
- a service user is detained under the Mental Health (Jersey) Law 2016
- a service user is received into guardianship
- a power of the Royal Court is exercised in respect of a service user
- an incident of a specified description occurs that has or may have posed a risk of harm to service users.

Article 46 amends Regulation 24 (financial viability), so that a registered provider need only provide certificated copies of their accounts to the Commission if the Commission requests them, and also that the Regulation does not apply to regulated activities carried on by a Minister, to people employed directly by service users, or to activities regulated under Part 6 of Schedule 1 to the Law.

Article 47 inserts new Part 8A, comprising Regulation 79A (requirement for regulated activities involving function carried out under Mental Health Law). New Regulation 79A provides that a registered person providing a service that is a regulated activity in relation to a function under the Mental Health (Jersey) Law 2016 must comply with the code of practice issued by the Minister for Health and Social Services under Article 90(1) of that Law.

Article 48 amends Regulation 80 (requirement for Commission to carry out certain inspections) to amend the frequency with which the Commission must carry out inspections of regulated activities other than those involving a deprivation of liberty for a service user.

Article 49 amends Regulation 82 (offences and improvement notices) to include a defence to the offence of contravening Regulation 18 by failing to ensure that premises are fit for purpose for the regulated activity, being that the person has taken all reasonable precautions and put in place all reasonable procedures to mitigate any deficiency in the premises.

PART 6

Article 50 repeals the Nursing Homes (Jersey) Law 1994 and the Nursing Homes (General Provisions) (Jersey) Order 1995, which are both replaced by this Law, and the Regulation of Care (Transitional Provisions) (Jersey) Regulations 2022, which is spent.

Article 51 introduces the Schedule, which makes consequential amendments.

Article 52 gives the citation and provides that this Law comes into force on a day to be specified by the Minister for the Environment by Order.



Jersey

DRAFT REGULATION OF CARE (JERSEY) AMENDMENT LAW 202-

Contents

Article

| | | |
|-------------------------------|---|-----------|
| PART 1 | | 33 |
| INTERPRETATION | | 33 |
| 1 | Interpretation | 33 |
| PART 2 | | 33 |
| LAW AMENDED | | 33 |
| 2 | Law amended..... | 33 |
| 3 | Article 1(1) (interpretation) amended..... | 33 |
| 4 | Article 3 (requirement to be registered to carry on, or act as manager in relation to, regulated activity) amended..... | 34 |
| 5 | Article 4A inserted | 34 |
| 6 | Article 8 (keeping of register and issue of certificates) amended..... | 35 |
| 7 | Article 9 (annual fee) amended | 35 |
| 8 | Article 14 (requirements in respect of regulated activities) amended | 35 |
| 9 | Articles 21A and 21B inserted..... | 35 |
| 10 | Article 30 (complaints and further requirements as to inspections) amended | 36 |
| 11 | Article 35 (establishment of Health and Social Care Commission) amended | 36 |
| 12 | Article 36 (independence of Commission) amended | 36 |
| 13 | Article 37A inserted | 36 |
| 14 | Article 38 (reports, information and advice) amended | 37 |
| 15 | Article 40 (limitations of liability) amended | 37 |
| 16 | Article 40A inserted | 37 |
| 17 | Article 41 (fees and surcharge chargeable by Commission) amended | 37 |
| 18 | Article 42A inserted and Article 43 (requirement to prepare annual accounts and reports) substituted..... | 38 |
| 19 | Article 49A inserted | 39 |
| PART 3 | | 40 |
| SCHEDULE 1 TO THE LAW AMENDED | | 40 |
| 20 | Schedule 1 (regulated activities) to the Law amended | 40 |
| 21 | Paragraph 2 (interpretation) amended | 40 |
| 22 | Part 4 inserted | 40 |

| | | |
|--|---|-----------|
| 23 | Part 5 inserted | 44 |
| 24 | Part 6 inserted | 45 |
| 25 | Minor amendments to Schedule 1 | 46 |
| PART 4 | | 46 |
| SCHEDULE 2 TO THE LAW AMENDED | | 46 |
| 26 | Schedule 2 (appointment, resources and funding of Commission) amended | 46 |
| 27 | Paragraph 2 (appointment of Chairman of Commission) amended | 46 |
| 28 | Paragraph 3 (appointment of other Commissioners) amended | 46 |
| 29 | Paragraph 4 (disqualification for appointment) amended | 46 |
| 30 | Paragraph 5 (term of office of Commissioner) amended | 47 |
| 31 | Paragraph 9 (employees and agents of Commission) amended | 47 |
| 32 | Paragraph 12 (accounts and audits) deleted and other minor amendments | 47 |
| PART 5 | | 48 |
| REGULATION OF CARE (STANDARDS AND REQUIREMENTS) (JERSEY) REGULATIONS 2018 AMENDED | | 48 |
| 33 | Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018 amended | 48 |
| 34 | Regulation 1 (interpretation) amended | 48 |
| 35 | Regulation 2 (fitness criteria) amended | 48 |
| 36 | Regulation 3 (conditions of registration: general) substituted | 48 |
| 37 | Regulation 5 (conduct of regulated activity) amended | 50 |
| 38 | Regulation 6 (openness and transparency) substituted | 50 |
| 39 | Regulation 7A inserted | 53 |
| 40 | Regulation 8A inserted | 53 |
| 41 | Regulation 9 (personal plans and care records) amended | 53 |
| 42 | Regulation 18 (premises and equipment) amended | 54 |
| 43 | Regulation 19 (reviewing quality of service) amended | 54 |
| 44 | Regulation 20A inserted | 55 |
| 45 | Regulation 21 (notification of incidents, accidents and other events) substituted | 55 |
| 46 | Regulation 24 (financial viability) amended | 55 |
| 47 | Part 8A inserted | 56 |
| 48 | Regulation 80 (requirement for Commission to carry out certain inspections) amended | 56 |
| 49 | Regulation 82 (offences and improvement notices) amended | 57 |
| PART 6 | | 57 |
| MISCELLANEOUS AND FINAL | | 57 |
| 50 | Repeals | 57 |
| 51 | Consequential amendments | 57 |
| 52 | Citation and commencement | 58 |
| SCHEDULE | | 59 |
| CONSEQUENTIAL AMENDMENTS | | 59 |
| 1 | Capacity and Self-Determination (Independent Capacity Advocates) (Jersey) Regulations 2018 amended | 59 |

| | | |
|----|---|----|
| 2 | Capacity and Self-Determination (Supervision of Delegates etc.) (Jersey) Regulations 2018 amended | 59 |
| 3 | Children (Jersey) Law 2002 amended | 59 |
| 4 | Children (Regulation of Employment) (Jersey) Order 2011 amended | 60 |
| 5 | Control of Housing and Work (Exemptions) (Jersey) Order 2013 amended | 60 |
| 6 | Control of Housing and Work (Jersey) Law 2012 amended | 60 |
| 7 | Digital Switchover (Disclosure of Information) (Jersey) Law 2010 amended | 60 |
| 8 | Fire Precautions (Designated Premises) (Jersey) Regulations 2012 amended | 60 |
| 9 | Goods and Services Tax (Jersey) Law 2007 amended | 61 |
| 10 | Lodging Houses (General Provisions) (Jersey) Order 1962 amended | 61 |
| 11 | Long-Term Care (General Provisions) (Jersey) Order 2014 amended | 61 |
| 12 | Matrimonial Causes (Jersey) Law 1949 amended | 61 |
| 13 | Public Health and Safety (Rented Dwellings) (Licensing) (Jersey) Regulations 2023 amended | 61 |
| 14 | Public Finances (Jersey) Law 2019 amended | 61 |
| 15 | Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002 amended | 62 |
| 16 | Residential Tenancy (Jersey) Law 2011 amended | 62 |
| 17 | Restriction on Smoking (Workplaces) (Jersey) Regulations 2006 amended | 62 |
| 18 | Sexual Offences (Jersey) Law 2018 amended | 62 |
| 19 | Social Security (Television Licence Benefit) (Jersey) Regulations 2009 amended | 62 |
| 20 | Termination of Pregnancy (Jersey) Law 1997 amended | 63 |



Jersey

DRAFT REGULATION OF CARE (JERSEY) AMENDMENT 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 for related purposes.

| | |
|--|------------------------------|
| <i>Adopted by the States</i> | <i>[date to be inserted]</i> |
| <i>Sanctioned by Order of His 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 that provides care 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”, in relation to material, means publish in a manner that is likely to bring the material 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) there is substituted –

- (7) If a regulated activity is carried on by a Minister –
 - (a) the Minister must register as the provider of the service, unless a person or organisation has been prescribed in respect of the service under an Order under paragraph (8), in which case that person or organisation must be registered as the provider of the service; and
 - (b) the Minister may delegate their functions as provider of the service, but the delegation does not affect the responsibility of the Minister for the discharge of the functions.
- (8) The Minister may by Order prescribe a person or organisation to provide a regulated service currently carried on by a Minister.

5 Article 4A inserted

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

4A Government or other major providers

- (1) An application may be made under Article 4(4) without the permission of the Commission if Condition A or Condition B is met in relation to each of the activities to which the application relates.
- (2) Condition A is that the activity –
 - (a) falls within Part 4 of Schedule 1; and
 - (b) is, or is to be, carried on by –
 - (i) a Minister; or
 - (ii) a person who employs more than 50 full-time equivalent employees.
- (3) Condition B is that the activity –
 - (a) falls within Schedule 1, paragraph 9;
 - (b) is, or is to be, carried on by a Minister.
- (4) In this Article –
 - (a) “full-time employee” means an employee who works more than 27 hours per week;

- (b) “full-time equivalent employee” in relation to an employee who works –
 - (i) not more than 9 hours per week, means 0.25 of a full-time employee’s hours per week;
 - (ii) more than 9 hours but not more than 18 hours per week, means 0.50 of a full-time employee’s hours per week;
 - (iii) more than 18 hours but not more than 27 hours per week, means 0.75 of a full-time employee’s hours per week.

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 to which Articles 4(4) or 4A apply, 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 if the provider of the activity is 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, in the carrying on of a regulated activity, to a particular class or description of person.

9 Articles 21A and 21B inserted

After Article 21 there is inserted –

21A Individual as provider of home care services

- (1) Paragraph (2) applies to a person who is –
 - (a) an individual;
 - (b) a registered provider of a home care service regulated under Schedule 1, paragraph 5; and
 - (c) either –
 - (i) is directly employed by a service user receiving care in their own home; or
 - (ii) personally receives reward from the service user.
- (2) The Commission may suspend the person’s registration as provider of the regulated activity under Article 19 as though Article 19 referred to a registered provider.

- (3) The provisions of Article 19 apply to a person described in paragraph (1) as they apply to a registered manager.

21B Same person registered as provider and manager

If a person is registered as both provider and manager of a regulated activity –

- (a) an action taken under Article 19 in relation to them as a manager also applies to the person in their capacity as a provider; and
- (b) an action taken under Article 20 or 21 in relation to them as a provider also applies to the person in their capacity as a manager.

10 Article 30 (complaints and further requirements as to inspections) amended

In Article 30, after paragraph (1) there is inserted –

- (1A) The Commission must not investigate a complaint itself unless –
 - (a) either –
 - (i) the complainant has exhausted the internal complaints handling process of the registered provider; or
 - (ii) the Commission considers that in the circumstances it would not be reasonable to expect the complainant to address the complaint to the registered provider;
 - (b) the complainant does not have –
 - (i) a right of appeal to, reference to or review before a tribunal;
 - (ii) a right of appeal to a Minister; or
 - (iii) a remedy by way of proceedings in a court of law; and
 - (c) the Commission considers that it is a reasonable and proportionate use of the Commission’s resources.

11 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.

12 Article 36 (independence of Commission) amended

In Article 36, after “the Minister for Children and Families,” there is inserted “the Minister for Education and Lifelong Learning,”.

13 Article 37A inserted

After Article 37 (functions of Commission) there is inserted –

37A Provision of services 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 outside Jersey.
- (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.

14 Article 38 (reports, information and advice) amended

In Article 38(1), after "Minister for Health and Social Services" there is inserted ", the Minister for Education and Lifelong Learning".

15 Article 40 (limitations of liability) amended

In Article 40(3), after "the Minister for Children and Families" there is inserted ", the Minister for Education and Lifelong Learning".

16 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 funding 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 most recent strategic plan.

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

In Article 41 –

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

- (3A) In respect of a regulated activity that is carried on by a Minister, the prescribed fee is nil.
- (b) paragraph (7) is deleted.

18 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”) setting out the financial requirements of the Commission for the financial year to which the strategic plan relates.
- (2) The strategic plan may set out how the Commission proposes to discharge its functions during the financial year to which the strategic plan relates.
- (3) The Commission must publish its strategic plan as soon as reasonably practicable after it is prepared, and in any event before the beginning of the financial year to which it relates.

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 strategic plan for the year to which the accounts relate; and
 - (c) comply with the Public Finances Manual, as it applies to the annual reports of public bodies listed in Schedule 6 to the Public Finances (Jersey) Law 2019.
- (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 in the [Comptroller and Auditor General \(Jersey\) Law 2014](#);
“financial year” means a calendar year.
- (10) The Minister may by Order amend this Article.

19 Article 49A inserted

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

49A Transitional provision relating to the Regulation of Care (Jersey) Amendment Law 202-

- (1) This Article applies to a person who, 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;
 - (b) the 6-month period expired before that application is determined; and
 - (c) the application has not been refused.
- (4) In this Article –
“commencement date” means –
 - (a) in relation to an activity regulated under Schedule 1, Part 4, the date that Article 18 of the Regulation of Care (Jersey) Amendment Law 202- comes into force;
 - (b) in relation to an activity regulated under Schedule 1, Part 5, the date that Article 19 of the Regulation of Care (Jersey) Amendment Law 202- comes into force;
 - (c) in relation to an activity regulated under Schedule 1, Part 6, the date that Article 20 of the Regulation of Care (Jersey) Amendment Law 202- comes into force;
“newly regulated activity” means an activity regulated under Schedule 1, Part 4, 5 or 6.

PART 3**SCHEDULE 1 TO THE LAW AMENDED****20 Schedule 1 (regulated activities) to the Law amended**

This Part amends Schedule 1 to the Law.

21 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 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 disease, injury or disorder;
 - (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) maintained in connection with premises described in clauses (a) to (c) 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;

22 Part 4 inserted

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

PART 4

Regulated activities: provision of health care service

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)(a) or (b);
 - (b) paragraph 7(5)(a) or (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 by 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; or
 - (b) the assessment of, or medical treatment for, mental disorder.

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 clauses (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-paragraph (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

- (1) Pharmacy services are a regulated activity.
- (2) “Pharmacy services” means –
 - (a) undertaking work or providing advice in relation to the –
 - (i) preparation of medicines;
 - (ii) assembly of medicines;
 - (iii) supply of medicines; or
 - (iv) use of medicines;
 - (b) undertaking work or providing advice regarding the science of medicines; and
 - (c) the practice of pharmacy.

23 Patient transport services, triage and medical advice provided remotely

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 at a hospital; or
 - (ii) is attending a follow-up appointment having previously received treatment at a hospital;
- (b) medical advice or triage provided over the telephone or by email.

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.

23 Part 5 inserted

After paragraph 29 (as inserted by Article 22) there is inserted –

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 treatment or 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 that 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 clause (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 body 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 primarily 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)(a) was not provided; and
- (b) either –
 - (i) the patient’s condition affects their 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; or
 - (ii) the patient, without the treatment or care, could not be transported as described in sub-paragraph (2)(a) 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.

24 Part 6 inserted

After paragraph 30 (as inserted by Article 23) there is inserted –

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 procedures

- (1) Treatment with a class 3B or class 4 laser product is a regulated activity unless it is performed by or under the supervision of –
 - (a) a medical practitioner; or
 - (b) a person registered under the [Dentistry \(Jersey\) Law 2015](#).
- (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 31 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 1 or more other gases) to a person who is in a sealed chamber that is gradually pressurised with compressed air.

25 Minor amendments to Schedule 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).

PART 4**SCHEDULE 2 TO THE LAW AMENDED****26 Schedule 2 (appointment, resources and funding of Commission) amended**

This Part amends Schedule 2 to the Law.

27 Paragraph 2 (appointment of Chairman of Commission) amended

After paragraph 2(5) 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.

28 Paragraph 3 (appointment of other Commissioners) amended

In paragraph 3 –

- (a) in sub-paragraph (2)(c), after “social care” there is inserted “in Jersey”;
- (b) 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.

29 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;or

- (b) has been a member of the States of Jersey, the States of Guernsey or Tynwald at any time since the relevant date.
- (1A) In sub-paragraph (1)(b), the relevant date is the date on which the parliamentary election preceding the last parliamentary election was held, where “parliamentary election” –
 - (a) in relation to the States of Jersey, means –
 - (i) an ordinary election for Deputies under Article 6(3) of the [States of Jersey Law 2005](#); or
 - (ii) an ordinary election for Connétables under Article 2(3) of the [Connétables \(Jersey\) Law 2008](#); and
 - (b) in relation to the States of Guernsey or Tynwald, means an election that is the equivalent of a public election in that jurisdiction.
- (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, Minister for Education and Lifelong Learning”;
 - (b) clause (b) is deleted;
 - (c) in clause (c) –
 - (i) after “has had” there is inserted “at any time within the preceding 9 years”;
 - (ii) “Guernsey or the Isle of Man,” is deleted.

30 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;

31 Paragraph 9 (employees and agents of Commission) amended

In paragraph 9, 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.

32 Paragraph 12 (accounts and audits) deleted and other 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(3);
 - (d) paragraph 7(1)(d), (e) and (f) and 7(2), in both places in which it appears;
 - (e) paragraph 13(1)(a).
- (3) In paragraph 6(2) for “Chairman’s” there is substituted “chair’s”.

PART 5

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

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

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

34 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) in the definition “independent person”, for “31(1)” there is substituted “30(1)”;
- (c) after the definition “Law” there is inserted –
“Mental Health Law” means the [Mental Health \(Jersey\) Law 2016](#);

35 Regulation 2 (fitness criteria) amended

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

- (b) is named in a basic, standard or enhanced search (whichever is appropriate to the role and the regulated activity) of a barred list;

36 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 1 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 1 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 1 time;
- (i) in relation to a regulated activity, to provide care only to service users of a stipulated age range;
- (j) to conduct the regulated activity in accordance with the Statement of Purpose.
- (2) The Commission must not impose the conditions set out in paragraph (1)(d) and (i) on the following regulated activities if they 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.
- (3) If a provider of a regulated activity set out in paragraph (4) is a person other than the Minister, upon registration of the provider the Commission must stipulate, as a condition of the registration –
- (a) the maximum number of service users to whom the provider may provide care; or
 - (b) the category or categories of service user to whom the provider may provide care.

- (4) The regulated activities referred to in paragraph (3) are –
 - (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.
- (5) If a provider of an activity regulated under Parts 4, 5 or 6 of Schedule 1 to the Law is a person other than the Minister, upon registration of the provider the Commission must stipulate, as a condition of the registration –
 - (a) the treatments or services that the registered person may provide; or
 - (b) the category or categories of service user to whom the registered person may provide services.
- (6) It is a further condition of registration as a manager that the manager demonstrates 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.
- (7) A registered person must pay the annual fee required by Article 9 of the Law by 31 January each year.

37 Regulation 5 (conduct of regulated activity) amended

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

38 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 1 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) As soon as reasonably practicable 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) But the registered person may send a written notification under paragraph (4) if –
- (a) the registered person has a valid address for the relevant person;
 - (b) more than 28 days has elapsed since the notifiable safety incident; and
 - (c) the registered person or their representative has made reasonable efforts to contact the relevant person during the 28 days after the notifiable safety incident occurred.
- (7) The registered person must keep a copy of all correspondence with the relevant person under paragraph (4).
- (8) 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 that is related directly to the notifiable safety incident, moderate harm or prolonged psychological harm to the service user.
- (9) 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 that 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 1 or more of the outcomes listed in sub-paragraph (a).
- (10) 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;
 - (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 that 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; and
 - (b) is not related to the natural course of the service user’s illness or underlying condition.
- (11) An apology included in a notification given under paragraph (2)(a) or (4) –
 - (a) is not admissible as evidence of anything relevant to the determination of liability in connection with the notifiable safety incident to which it relates; and

- (b) cannot be used in any other way to the prejudice of the person by or on behalf of whom the apology was made.

39 Regulation 7A inserted

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

7A Visitors and involvement in community

- (1) If, as part of a registered activity, a service user is provided with accommodation, the registered person must support the service user's involvement in the community.
- (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) A registered person may restrict access of a visitor to a service user if, having consulted the service user, it is reasonable for the registered person to restrict that access to protect the service user's mental or physical health or wellbeing.
- (4) If a registered person restricts access of a visitor under paragraph (3), the registered person must –
 - (a) inform the service user of their decision and the reasons for it; and
 - (b) keep an accurate record of their decision and the reasons for it.

40 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 care and treatment arrangements.
- (2) Communication must be clear, timely and effective, and must be appropriate to both the service user's needs and the situation.

41 Regulation 9 (personal plans and care records) amended

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 consents”;

- (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) it is reasonable for the registered person to withhold that access to protect the service user’s mental or physical health or wellbeing.
- (9) If a registered person restricts access to a service user’s personal plan, the registered person must –
 - (a) inform the service user of their decision and the reasons for it; and
 - (b) keep an accurate record of their decision and the reasons for it.
- (10) A registered person must not withhold access to a service user’s personal plan or care plan by a service user’s representative by reason of the service user lacking capacity if the service user’s representative –
 - (a) 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; or
 - (b) is a delegate appointed in respect of the service user’s health and welfare under Article 24 of that Law.

42 Regulation 18 (premises and equipment) amended

In Regulation 18 –

- (a) for the heading there is substituted –

18 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.

43 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.

44 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 registered person; and
- (b) on each written or electronic communication made by the person relating to the regulated activity.

45 Regulation 21 (notification of incidents, accidents and other events) substituted

For Regulation 21 there is substituted –

21 Notification requirements

- (1) A registered person must notify the Commission as soon as practicable after –
 - (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) a service user is received into guardianship under Part 4 of the Mental Health Law;
 - (d) a power of the Royal Court is exercised in respect of a service user under Part 9 of the Mental Health Law; or
 - (e) an incident, accident or event occurs that –
 - (i) is of a description 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.

46 Regulation 24 (financial viability) amended

In Regulation 24 –

- (a) in paragraph (2)(a), for “every year” there is substituted “on request”;
- (b) 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.

47 Part 8A inserted

After Regulation 79 there is inserted –

PART 8A

REGULATED ACTIVITIES PROVIDED IN RESPECT OF PERSONS DETAINED UNDER MENTAL HEALTH LAW

79A Requirement for regulated activities involving function carried out under 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.

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

- (1) This Article amends Regulation 80.
- (2) For the heading there is substituted –

80 Requirement for Commission to carry out inspections - general

- (3) In paragraph (1), “at least once every 12 months” is deleted.
- (4) After paragraph (1) there is inserted –
 - (1A) Inspections for the activities described in the second column of the table must be carried out at least once in the period shown in the fourth column of the table (showing the corresponding provision of Schedule 1 to the Law in the third column) –

| | Description of activity | Corresponding provision of Schedule 1 to the Law | Period of time |
|----|---|--|----------------|
| 1. | Adoption services | Paragraph 6 | 3 years |
| 2. | Fostering services | Paragraph 8 | 3 years |
| 3. | Children and young people’s social work | Paragraph 9 | 3 years |

| | Description of activity | Corresponding provision of Schedule 1 to the Law | Period of time |
|----|---|--|----------------|
| | services | | |
| 4. | Independent reviewing officer services with regard to looked after children | Paragraph 10 | 3 years |
| 5. | Mental health services for children and young people | Paragraph 13 | 3 years |
| 6. | Provision of health care related assessments, procedures, treatments and services | Part 4 (paragraphs 16 to 29) | 5 years |
| | Ambulance services | Paragraph 30 | 3 years |
| 7. | Regulated activities not described in rows 1 to 6 | Paragraphs 1 to 5, 7, 11, 12, 14, 15, and 31 to 33 | 12 months |

49 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 with a contravention of Regulation 18 in relation to premises 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.
- (7) The defence in paragraph (6) applies only to activities regulated under Part 4 of Schedule 1 to the Law.
- (8) Paragraphs (6) and (7) may be deleted by the Minister by Order.

PART 6

MISCELLANEOUS AND FINAL

50 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](#).

51 Consequential amendments

The Schedule contains consequential amendments.

52 Citation and commencement

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

SCHEDULE

(Article 51)

CONSEQUENTIAL AMENDMENTS

1 [Capacity and Self-Determination \(Independent Capacity Advocates\) \(Jersey\) Regulations 2018](#) amended

In Regulation 4(2)(c)(ii) of the [Capacity and Self-Determination \(Independent Capacity Advocates\) \(Jersey\) Regulations 2018](#), for “[Nursing and Residential Homes \(Jersey\) Law 1994](#)” there is substituted “[Regulation of Care \(Jersey\) Law 2014](#)”.

2 [Capacity and Self-Determination \(Supervision of Delegates etc.\) \(Jersey\) Regulations 2018](#) amended

In Regulation 5(2)(b)(i) of the [Capacity and Self-Determination \(Supervision of Delegates etc.\) \(Jersey\) Regulations 2018](#), for “[Nursing and Residential Homes \(Jersey\) Law 1994](#)” there is substituted “[Regulation of Care \(Jersey\) Law 2014](#)”.

3 [Children \(Jersey\) Law 2002](#) amended

- (1) This paragraph amends the [Children \(Jersey\) Law 2002](#).
- (2) In Article 1(1) –
 - (a) the definition “nursing home” is deleted;
 - (b) in the definition “voluntary home”, for sub-paragraph (a) there is substituted –
 - (a) a care home within the meaning of paragraph 4 of Schedule 1 to the [Regulation of Care \(Jersey\) Law 2014](#);
- (3) For Article 21(1)(b) there is substituted –
 - (b) accommodated in a hospital, or in any home consisting of a care home service, for a consecutive period of at least 3 months (whether or not that period began before the individual reached the age of 16); or
- (4) In Article 21(4)(b), “or any nursing home,” is deleted.
- (5) In Article 58(2)(g), “or any nursing home” is deleted.
- (6) In Schedule 3 –
 - (a) for paragraph 3(1)(c) there is substituted –
 - (c) in the case of –
 - (i) a medical examination, at a hospital; or
 - (ii) a psychiatric examination, at a hospital at which the supervised child is, or is to attend as, a resident patient.
 - (b) in paragraph 4(2)(c), “or mental nursing home” is deleted.

4 [Children \(Regulation of Employment\) \(Jersey\) Order 2011](#) amended

In Article 7(2)(l) of the [Children \(Regulation of Employment\) \(Jersey\) Order 2011](#), “a nursing home within the meaning of Article 1A of the [Nursing Homes \(Jersey\) Law 1994](#) or” is deleted.

5 [Control of Housing and Work \(Exemptions\) \(Jersey\) Order 2013](#) amended

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

- (a) in sub-paragraph (f)(iii)(C), “the [Nursing Homes \(Jersey\) Law 1994](#) or” is deleted;
- (b) in sub-paragraph (g)(ii), “the [Nursing Homes \(Jersey\) Law 1994](#),” is deleted.

6 [Control of Housing and Work \(Jersey\) Law 2012](#) amended

In the [Control of Housing and Work \(Jersey\) Law 2012](#), “, the [Nursing Homes \(Jersey\) Law 1994](#)” is deleted from the following places –

- (a) Article 1(2);
- (b) Article 14(1).

7 [Digital Switchover \(Disclosure of Information\) \(Jersey\) Law 2010](#) amended

(1) This paragraph amends the [Digital Switchover \(Disclosure of Information\) \(Jersey\) Law 2010](#).

(2) In Article 1, for the definition “care home” there is substituted –

“care home” means –

- (a) a care home within the meaning of paragraph 4 of Schedule 1 to the [Regulation of Care \(Jersey\) Law 2014](#); and
- (b) premises used to provide health care services regulated under Part 4 of that Schedule.

(3) In Article 2, in the following places, for “[Nursing and Residential Homes \(Jersey\) Law 1994](#)” there is substituted “[Regulation of Care \(Jersey\) Law 2014](#)” –

- (a) paragraph (3);
- (b) paragraph (6)(b).

8 [Fire Precautions \(Designated Premises\) \(Jersey\) Regulations 2012](#) amended

(1) This paragraph amends the [Fire Precautions \(Designated Premises\) \(Jersey\) Regulations 2012](#).

(2) In Regulation 1(1), for the definition “care or nursing home” there is substituted –

“care home” means a home consisting of –

- (a) a care home service within the meaning of paragraph 4 of Schedule 1 to the [Regulation of Care \(Jersey\) Law 2014](#) (the “2014 Law”); or
- (b) a children’s home service or residential family centre service within the meaning given to each of those expressions in Part 3 of Schedule 1 to the 2014 Law;

- (3) In the following places, “or nursing” is deleted –
- (a) Regulation 1(1), in the definitions –
 - (i) “hospital”;
 - (ii) “hostel”;
 - (b) Regulation 3(1)(b).

9 [Goods and Services Tax \(Jersey\) Law 2007](#) amended

In Schedule 5, paragraph 4(1)(e) of the [Goods and Services Tax \(Jersey\) Law 2007](#), “in a nursing home registered under the [Nursing Homes \(Jersey\) Law 1994](#) or” is deleted.

10 [Lodging Houses \(General Provisions\) \(Jersey\) Order 1962](#) amended

In Article 2 of the [Lodging Houses \(General Provisions\) \(Jersey\) Order 1962](#) –

- (a) in sub-paragraph (e), “any nursing home to which the [Nursing Homes \(Jersey\) Law 1994](#) applies, and” is deleted;
- (b) after sub-paragraph (e) there is inserted –
 - (ea) premises that are used or intended to be used to provide a health care service regulated under Part 4 of Schedule 1 to the [Regulation of Care \(Jersey\) Law 2014](#).

11 [Long-Term Care \(General Provisions\) \(Jersey\) Order 2014](#) amended

In Article 13(8)(a) of the [Long-Term Care \(General Provisions\) \(Jersey\) Order 2014](#), “the [Nursing Homes \(Jersey\) Law 1994](#) or” is deleted.

12 [Matrimonial Causes \(Jersey\) Law 1949](#) amended

In Article 2(b) of the [Matrimonial Causes \(Jersey\) Law 1949](#), “, mental nursing home” is deleted.

13 [Public Health and Safety \(Rented Dwellings\) \(Licensing\) \(Jersey\) Regulations 2023](#) amended

In Regulation 2(2) of the [Public Health and Safety \(Rented Dwellings\) \(Licensing\) \(Jersey\) Regulations 2023](#) –

- (a) sub-paragraph (c) is deleted;
- (b) after sub-paragraph (d) there is inserted –
 - (e) premises that are used or intended to be used to provide a health care service regulated under Part 4 of Schedule 1 to the [Regulation of Care \(Jersey\) Law 2014](#).

14 [Public Finances \(Jersey\) Law 2019](#) amended

In Schedule 6 to the Public Finances Law, after “Chief Statistician” there is inserted –
Health and Social Care Commission

15 [Rehabilitation of Offenders \(Exceptions\) \(Jersey\) Regulations 2002](#) amended

- (1) This paragraph amends the [Rehabilitation of Offenders \(Exceptions\) \(Jersey\) Regulations 2002](#).
- (2) In Regulation 17(1)(a) –
 - (a) in clause (ii), “or nursing home” is deleted;
 - (b) after clause (ii) there is inserted –
 - (iii) a children’s home service as defined in paragraph 7 of Schedule 1 to the [Regulation of Care \(Jersey\) Law 2014](#);
- (3) In Regulation 18 –
 - (a) in paragraph (1)(c), for “nursing home” there is substituted “care home”;
 - (b) in paragraph (2), “the [Nursing Homes \(Jersey\) Law 1994](#) or” is deleted;
 - (c) in paragraph (4), “the [Nursing Homes \(Jersey\) Law 1994](#) or” is deleted.

16 [Residential Tenancy \(Jersey\) Law 2011](#) amended

In Article 3(4)(b) of the [Residential Tenancy \(Jersey\) Law 2011](#), for “[Nursing and Residential Homes \(Jersey\) Law 1994](#)” there is substituted “[Regulation of Care \(Jersey\) Law 2014](#)”.

17 [Restriction on Smoking \(Workplaces\) \(Jersey\) Regulations 2006](#) amended

In the [Restriction on Smoking \(Workplaces\) \(Jersey\) Regulations 2006](#), the following are deleted –

- (a) in Regulation 1, the definition “1994 Law”;
- (b) Regulation 5(3)(a) and (b).

18 [Sexual Offences \(Jersey\) Law 2018](#) amended

- (1) This paragraph amends the [Sexual Offences \(Jersey\) Law 2018](#).
- (2) For Article 19(2)(b)(iii) there is substituted –
 - (iii) a hospital, if the child is accommodated in that hospital, or in any other hospital in Jersey, to receive services provided there;
- (3) In Article 20(2), the definition “nursing home” is deleted.

19 [Social Security \(Television Licence Benefit\) \(Jersey\) Regulations 2009](#) amended

In Regulation 1 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 home consisting of –
- (a) a care home service within the meaning of paragraph 4 of Schedule 1 to the [Regulation of Care \(Jersey\) Law 2014](#) (the “2014 Law”), or
 - (b) a children’s home service or residential family centre service within the meaning given to each of those expressions in Part 3 of Schedule 1 to the 2014 Law;

20 [Termination of Pregnancy \(Jersey\) Law 1997](#) amended

For Article 7 of the [Termination of Pregnancy \(Jersey\) Law 1997](#) there is substituted –

7 Approved places

“Approved place” means a hospital maintained or controlled by the States or by an administration of the States.