

# STATES OF JERSEY



Jersey

## **DRAFT MARRIAGE AND CIVIL STATUS (AMENDMENT No. 5) (JERSEY) LAW 202-**

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**Lodged au Greffe on 17th January 2022  
by the Minister for Home Affairs  
Earliest date for debate: 1st March 2022**

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**STATES GREFFE**





Jersey

## **DRAFT MARRIAGE AND CIVIL STATUS (AMENDMENT No. 5) (JERSEY) 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 Home Affairs has made the following statement –

In the view of the Minister for Home Affairs, the provisions of the Draft Marriage and Civil Status (Amendment No. 5) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy G.C.U. Guida of St. Lawrence**  
*Minister for Home Affairs*

Dated: 14th January 2022



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## REPORT

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This Draft Marriage and Civil Status (Amendment No. 5) (Jersey) Law 202- (“the draft Law”) will, if passed, primarily amend the [Marriage and Civil Status \(Jersey\) Law 2001](#) (“the 2001 Law”) and the [Marriage and Civil Status \(Jersey\) Order 2018](#) (“the 2018 Order”). It will also consequentially amend provisions of the [Inquests and Post-Mortem Examinations \(Jersey\) Law 1995](#), the [Education \(Jersey\) Law 1999](#), the [Gender Recognition \(Jersey\) Law 2010](#), the [Discrimination \(Jersey\) Law 2013](#), the [Cremation \(Jersey\) Regulations 1961](#) and the [Legitimacy and Illegitimacy \(Re-Registration of Births\) \(Jersey\) Regulations 1974](#).

It is a companion draft Law with the Draft Civil Partnership (Amendment) (Jersey) Law 202- (P.7/2022) and should be considered in conjunction with that Law.

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### Chapter 1: Introduction

#### Section A: Background

In July 2015 the States of Jersey agreed, in principle, that the 2001 Law should be amended to allow for the solemnisation of marriages in the open air including in public spaces (see [P.65/2015](#)).

In September 2015, the Assembly further agreed that, in principle, the 2001 Law should be amended to allow for same-sex couples to get married in Jersey, and for people in civil partnerships to convert their civil partnerships into marriage (marriage by

conversion), whilst ensuring that religious officials and organisation should not be compelled to solemnize same-sex marriage (see [P.77/2015](#)).

In February 2018 the Assembly debated and voted in favour of the Draft [Marriage and Civil Status \(Amendment No.4\) \(Jersey\) Law 2018 \(P.91/2017\)](#) that provided for a number of amendments and improvements to the 2001 Law including –

- To allow for same-sex couples to get married in Jersey and for people in civil partnerships to convert their civil partnerships into marriage, whilst ensuring that religious officials and organisations should not be compelled to solemnize same-sex marriage
- To allow for the solemnization of marriage in the open air including in public spaces
- Streamlining the processes associated with giving notice to marry and the registration of marriage
- Introducing additional requirements in relation to certificates of no-impediment and processes for verifying people’s identity, to better protect against sham or forced marriage
- Allowing couples greater choice over the content of their wedding ceremonies
- Making provision in relation to marriage in emergency or special circumstances.

The Draft [Marriage and Civil Status \(Amendment No.4\) \(Jersey\) Law 2018](#) did not, however, make amendments to the [Civil Partnership \(Jersey\) Law 2012](#) to ensure that the processes set out in that Law mirror those of the then amended [Marriage and Civil Status \(Jersey\) Law](#), or make any further amendments to reflect the requirements of the UNCRC, CEDAW or the Independent Jersey Care Inquiry. Amendments to the 2001 Law and the [Civil Partnership \(Jersey\) Law 2012](#) to further the compliance to the UNCRC, CEDAW and implement the recommendations of the Independent Jersey Care Inquire are made by this draft Law and the Civil Partnership (Amendment) Jersey Law 202-

## **Section B: Age of Marriage**

The UK’s ratification of the United Nations Convention on the Rights of the Child (UNCRC) was extended to Jersey in 2014. As part of a State Party to the UNCRC, the Island is subject to the monitoring and reporting processes of the UN Committee on the Rights of the Child and has an obligation to continue to pursue measures to realise children’s rights and implement the Convention.

In June 2016<sup>1</sup> the UN Committee recommended, in their fifth periodic review of the UK’s (including Jersey’s) compliance with the Convention, that “*the State Party raise the minimum age of marriage to 18 years across all devolved administrations, Overseas Territories and Crown Dependencies*”. The Committee expressed concerns about systems which potentially allow for the forced marriage of girls and boys aged 16 or 17 years.

Whilst forced marriage is not necessarily an issue of immediate concern within Jersey’s resident community, people who do not live in Jersey can get married in the Island, and hence there is a potential for exploitation in relation to forced marriage. Furthermore, child marriage is interpreted by the Convention of the Elimination of all forms of Discrimination Against Women (CEDAW) and UNCRC as a form of forced marriage,

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<sup>1</sup> [UK-CRC-Concluding-observations-2016-2.pdf \(unicef.org.uk\)](#)

since children – given their age – inherently lack the ability to give their full, free and informed consent to their marriage or its timing.

The UK's ratification of the Convention of the Elimination of all forms of Discrimination Against Women (CEDAW) was extended to Jersey in February 2021 and, as such, the Island has an obligation to continue to pursue measures to further realise the rights of women and girls. CEDAW's General Comment 21<sup>2</sup> explicitly states that *'the Committee considers that the minimum age for marriage should be 18 years for both man and woman.'*

In July 2017, the Independent Jersey Care Inquiry (IJCI)<sup>3</sup> concluded that: *"Legislation for children in Jersey has lagged behind the developed world."* The Government response to the IJCI was approved by the Assembly in late 2017 ([P.108/2017](#)).

P.108/2017 established a schedule of children's policy and legislative programme which subsequently became known as 'The Children's Legislation Transformation Programme' (CLTP)<sup>4</sup>. The CLTP, as published by the Minister for Children and Housing in December 2018, contained a commitment to review and reform 'Family Law Matters' including the commitment to 'raise the minimum age of marriage (and civil partnership) in Jersey'.

### Consultation

The *Divorce reform, future of civil partnerships & age of marriage* public consultation also asked if Jersey's laws should be amended to raise the minimum age of marriage and civil partnership to 18 years old. 77% of respondents agreed, 13% disagreed and 10% said they had no preference<sup>5</sup>.

It is proposed to make amendments to the 2001 Law to raise the minimum age of marriage to 18 years of age. As part of raising the age of marriage provisions will also be introduced so a marriage solemnized anywhere in the world after the date of the coming into force of the draft Law is void if at the time of its solemnization at least one of the parties to the marriage is domiciled in Jersey and at least one of the parties to the marriage is under the age of 18.

### **Section C: Alternative location in addition to an open-air location**

As set out above, the amendments brought forward in 2018 allowed for the solemnization of marriage in the open air. Open-air weddings have proved popular but bring practical challenges in the case of inclement weather.

The draft Law is, therefore, amended to provide that where a couple intend to marry in an approved location which is an open-air location, an alternative non-open air approved location may also be provided for at which the marriage may be solemnized in the case of inclement weather.

The couple must specify their intended alternative location in advance as it will be cited on the application of notice of intended marriage and other relevant forms and must confirm which of the two locations is to be the location at which the marriage is solemnized prior to the issuing of the marriage schedule. A marriage schedule must be

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<sup>2</sup> [Refworld | CEDAW General Recommendation No. 21: Equality in Marriage and Family Relations](#)

<sup>3</sup> [BIR\\_LIT\5713803\1 \(jerseycareinquiry.org\)](#)

<sup>4</sup> [ID Childrens Legislation Transformation Programme - Schedule 20190104v2 FW.pdf \(gov.je\)](#)

<sup>5</sup> [Consultation report - divorce reform, future of civil partnerships, and age of marriage.pdf \(gov.je\)](#)

issued at least two clear days in advance of the day on which the marriage is to be solemnized.

#### **Section D: Registration of name and confusing, embarrassing or offensive names**

Currently Article 58 of the 2001 Law permits a child's birth to be registered without that child being given a name. Where this occurs the father, mother or guardian of the child may within the period of one year following the birth of the child request the registrar to register the name of the child as given. The law does not, however, require that the child must be given a name and does not provide any method of resolution should the father, mother or guardian of a child fail to give a child a name, which essentially permits a child to remain nameless. This conflicts with both Article 7 & 8 of the UNCRC as they impact on that child's right to a name and an identity.

Article 7 of the UNCRC requires that –

*'1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.*

*2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.'*

Article 8 of the UNCRC requires that –

*'1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.*

*2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.'*

It is proposed that Article 58 is amended to remove references to a child being registered without a name - these matters will be dealt with by a new inserted Article 58A – but retaining the ability to alter a child's registered name within one year following the child's birth, in instances such as baptism.

Article 58A, as inserted, would shorten the period where a child can remain nameless from one year to three months. It will also provide that, where a child remains nameless after a three month period, the Superintendent Registrar must notify a person who the Superintendent Registrar knows to have parental responsibility for the child that they must, within one month, notify the relevant registrar of the name of the child and pay the existing prescribed fee to re-register the birth of that child.

If the person with parental responsibility does not comply or cannot be found, the Superintendent Registrar must inform the Minister who must choose a forename for the child and instruct the relevant registrar to enter that forename in the register (the child's surname will be determined by current registration protocol, if the parents are married the child will be registered with the father's surname and if the parents of the child are unmarried the child shall be registered with the birth mother's surname), and annotate the register accordingly. This given name can still be altered within the period of one year of the child's birth by Article 58.

#### Offensive names

Legislative provisions to limit names that can be given to a child because they are confusing, offensive, or embarrassing are common in other jurisdictions around the

world. They promote the best interests of the child and accord with Article 3 of the UNCRC.

Article 3 of the UNCRC requires that:

*'1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*

*2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.'*

It is proposed that Article 58 is amended to introduce provisions that prohibit confusing, embarrassing, or offensive names. Article 58B would permit the relevant registrar to register a birth without a name or refuse to amend an existing name recorded in the register of births if the applicant seeks to give a child a name which:

- (a) might reasonably be expected to cause mistake or confusion, or embarrassment to the child;
- (b) is sought for an improper purpose, or
- (c) is, for any other reason objectionable.

If the relevant registrar is a parish registrar, they must notify the Superintendent Registrar and the applicant of the decision. Where the Superintendent Registrar is notified of such a decision, they must determine whether the decision should be confirmed or not. If the relevant registrar is the Superintendent Registrar, then they must only inform the applicant of the decision.

Where the Superintendent Registrar has made the decision to:

- register a birth without a name or has refused to alter an existing name, or
- confirmed the decision of the parish registrar to register the birth without a name or
- has refused to alter an existing name

the applicant may appeal against that decision to the Minister for Home Affairs. Where such an appeal is made the Minister must determine the appeal having regard to the interests of the child and the applicant and the public interest.

### **Section E: Transfer of relevant registration duties**

In March 2020 the Comité des Connétables and Minister for Home Affairs determined that, on a temporary basis, the Superintendent Registrar should provide a centralised Island wide civil registration service to ensure continuity of civil registration during the Covid-19 pandemic period. Civil registration being the registrations of births, stillbirths, deaths, marriages, civil partnerships and associated conversations.

This centralisation was achieved via Article 42 of the [Marriage and Civil Status \(Jersey\) Law 2001](#) (the "2001 Marriage Law") which, as currently drafted, provides that the Superintendent Registrar can act in the capacity of a parish registrar where there is no registrar appointed in that Parish, and, where the Connétable has provided their consent for the Superintendent Registrar to do so. The provisions of Article 42 of the 2001 Marriage Law are, however, limited in that they only permit the Superintendent Registrar to act in the capacity of a Parish registrar temporarily, with the statutory responsibility and liability for parish registration remaining with the Registrar and Connétable of the Parish.

The proposed provisions of the draft Amendment No.5 Law, which have been developed in consultation with the Comité des Connétables, would provide that the Superintendent Registrar will hold the statutory functions and associated liability for civil registration, where a Connétable has determined to transfer the responsibility for parish registrations to the Superintendent Registrar on completion of a notice period set out in the amended law. Where a Connétable retains the statutory responsibility within their parish, they are required to continue fulfilling their statutory responsibility pursuant to both the 2001 Law and the 2012 Law.

Where the Connétable of a Parish has opted to relinquish civil registration functions they may, at a later date, be transferred back to the Parish where written notice is provided to the Superintendent Registrar and on completion of the full statutory notice period.

If notice is given but withdrawn during the statutory notice period, either when the relevant registration duties are being transferred to the Superintendent Registrar or being transferred to a Parish, the clock essentially resets as the notice period must be completed in full. This is to provide ample notice to the Superintendent Registrar to ensure there is enough time for the appropriate resourcing to be put into place. The Minister for Home Affairs will, by Order, provide for the statutory notice period, having consulted the Comité des Connétables.

In bringing forward these provisions, it is necessary to amend the terminology used in the 2001 Law, hence this draft law introduces the terms ‘relevant registrar’ and ‘relevant registration duties’ and replaces the term ‘parish registrar’ with ‘relevant registrar’ throughout the 2001 Law.

### **Section F: Abolition of wife’s domicile of dependence**

In Jersey customary law provides that a wife’s domicile is that of her husband’s. Therefore, a woman who is married to man who is not domiciled in Jersey, is unable to have a domicile of choice in Jersey, irrespective of the length of time she has resided in Jersey. Furthermore, a woman who is married to a Jersey resident man and who seeks a domicile of choice abroad must, under Jersey Law, retain the same domicile as her husband unless her husband also changes his domicile.

This is contrary to Article 15(4) of the Convention on the Elimination of Discrimination Against Women (CEDAW) which provides – “*States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence in domicile.*”

The current impetus to address the issue comes from CEDAW being extended to Jersey earlier this year.

When the Island’s authorities requested extension of the UK’s ratification to CEDAW earlier this year, the request was conditional on the understanding that action would be taken by Jersey’s authorities to address this (and other areas of non-compliance with CEDAW) as soon as possible.

The necessary abolition of the current common law arrangements are provided for in Article 77A of the amending law.

### **Section G: Other administrative and procedural amendments**

In reviewing the 2001 Law and the 2012 Law in relation to raising the age of marriage and introducing opposite sex civil partnerships, and as a result of learning from the Covid 19 Pandemic, it became clear that a range of further amendments to the

administrative and procedural provisions were required in order to ensure Jersey's marriage legislation remains fit for purpose.

The amendments, which are detailed below, make provision for a number of improvements including –

- amendment of the provisions relating to offences so as to include activities relating to conversion of a civil partnership to a marriage
- correction of certain provisions in the 2001 Law and the 2018 Order to clarify the provisions and original intentions of the Law
- providing for the Superintendent Registrar to, by notice, require any evidence or documentation necessary to corroborate any application made under the Law
- amendments to reflect the fact that the conversion declaration form is now called a conversion schedule
- an amendment to the Law to reflect the fact that a marriage is not solemnized by the parties themselves, but by the authorised official conducting the ceremony.

The draft Law provides for the administrative amendments mentioned above and consequential amendments to other legislation necessitated by this draft Law.

### **Section H: Fees**

The draft law proposes to introduce a new fee in respect of a re-registration of a birth where the parents of a child were not married at the time of the birth and no person was recorded as the father of the child at the time of registration (Article 56 of the 2001 Law). The proposed £56.38 fee, which will be set out in an Order, is the same fee required in all other instances where a birth is to be re-registered under different provisions of the 2001 Law.

No other new fees are to be introduced by this draft Law.

## **Chapter 2: Draft Marriage and Civil Status (Amendment No.5) (Jersey) Law 202-**

### **Section I: Effects of the draft Marriage and Civil Status (Amendment No.5) (Jersey) Law 202-**

The effects of the new Articles and Schedules of the draft Law are described below, except for where the changes are very minor in nature, for example, the 2001 Law is amended simply to correct typographical errors or amend references to individual provisions.

**Part 1** of the draft Law contains the amendments to the [Marriage and Civil Status \(Jersey\) Law 2001](#).

#### **Article 1 Marriage and Civil Status Law 2001 amended**

This Article introduces these amendments.

#### **Article 1 (interpretation) amended**

Article 2 amends Article 1 of the 2001 Law to insert new definitions, including “relevant registrar” and “relevant registration duties” and “retained”. These insertions recognise that in 10 Parishes the civil registrations functions are currently undertaken by the Superintendent Registrar, acting in the capacity of a parish registrar, while in the other

two Parishes they are undertaken by a registrar appointed by the Connétable. “Retained” in this context means that the duties are performed by a parish officer rather than the Superintendent Registrar.

### **Article 3 (restriction on marriage) amended**

Article 3 amends Article 3 of the 2001 Law to replace the current paragraphs (3) to (5) with new provisions dealing with the circumstances in which a marriage is void where the parties are related to each other.

Paragraphs (6) to (8) provide that it will no longer be possible for a person domiciled in Jersey to contract a valid marriage anywhere in the world if at least one of the parties is under the age of 18, nor for a person under the age of 18 to contract a marriage in Jersey.

A transitional saving provision is contained in the newly inserted paragraph (8) for minors who give notice of their intention to marry before the draft Law comes into force but who marry after that time in accordance with the notice, or a notice of change of date given to the Superintendent Registrar.

### **Article 4 (marriage of a minor) and Schedule 2 (consents required to the marriage of a minor) deleted**

Article 4 deletes Article 4 of the 2001 Law, and with it, Schedule 2 of the 2001 Law, as they are now unnecessary as a result of the new prohibition on persons under the age of 18 marrying.

### **Article 5 (restriction on marriage by conversion) amended**

Article 5 amends Article 5 of the 2001 Law, in consequence of the fact that, while marriages involving persons under the age of 18 in Jersey, or someone who is domiciled in Jersey and entering into a marriage overseas where one party is under the age of 18 will no longer be valid, the previous law in relation to conversion of a civil partnership to a marriage needs to be preserved so as not to invalidate the marriage by conversion of a person under the age of 18 which has occurred before the coming into force of this draft Law.

The new paragraph (3) ensures that a marriage between people who are not related by blood but are nevertheless within the prohibited degrees is not void if the younger party to the marriage was not a child of the family in relation to the other while under the age of 18.

### **Article 6 (persons authorised to solemnize marriages in Jersey) amended**

Article 6 amends Article 6 of the 2001 Law. It deletes paragraph (3), dealing with the scheme made by the Minister for the authorisation of religious officials and civil celebrants, the scheme is restated in Article 82C of the 2001 Law which provides for the authorisation of religious officials and civil celebrants. (Article 82C is inserted by Article 69 of the draft Law).

Article 6 also deletes paragraph (7) which was a transitional provision as a result of the [Marriage and Civil Status \(Amendment No.4\) \(Jersey\) Law 2018](#) that had effect for the period of 12 months and is now spent.

### **Article 7 (marriages according to religious rites; no compulsion to solemnize marriage etc.) substituted**

Article 7 replaces the existing Article 7 with a new Article which provides clarity as to:

- the position in relation to a religious official who has a personal objection to conducting a same-sex marriage or a marriage of a person who is of an acquired gender, even though the religious organization to which he belongs has no such objection

- the classes of people entitled to object to only religious officials.

These clarifications are in the light of the decision in *Ladele v. Islington* [2009] which held that an English registrar employed by a local authority to perform civil marriages could not object, on religious grounds, to officiating at civil partnership ceremonies.

These changes are for clarification only. There is no change to the underlying policy and therefore no effect on the Article

#### **Article 10 (giving notice of intended marriage and making freedom to marry declaration) amended**

Article 8 makes amendment to Article 10, it adds the notices of intended marriage book to the documents whose form is to be determined by the Superintendent Registrar. It also amends the statutory declaration required as part of all freedom to marry declarations to provide that the parties must declare that they ‘*have not at any time before attaining the age of 18, been a child of the family in relation to [BC]*’ (the other party to the marriage).

#### **Article 11 (publication of notice of intended marriage and entry in notices of intended marriage book) amended**

Article 9 makes an amendment to the heading of Article 11 of the 2001 Law to better reflect the Article’s subject-matter.

#### **Article 12 (caveat against issue of marriage schedule or certificate of no impediment to marriage) amended**

Article 10 amends Article 12 of the 2001 Law. It separates out the two functions of paragraph (6) into paragraph (6) and (6A). Whilst the new paragraphs retain the requirement to obtain a decision of the Inferior Number of the Royal Court in relation to a case where it is alleged that one of the parties has been a member of the family of the other whilst under the age of 18, it enables, where a caveat has been entered against a marriage, the Superintendent Registrar (rather than the Royal Court) to determine on the available evidence whether a party to a proposed marriage is under the age of 18. If the Superintendent Registrar is satisfied that neither party is under the age of 18 he or she can issue a marriage schedule or a certificate of no impediment.

Verification of identity of the parties to a marriage forms a significant part of the Superintendent Registrar’s due diligence prior to issuing a marriage schedule. It is therefore common sense, as the Superintendent Registrar is already required to examine any caveat that is entered under this Article, that the Superintendent Registrar is also able to issue a marriage schedule where he or she is satisfied that a caveat entered on the grounds that one of the parties is under the age of 18, is baseless.

#### **Article 13 (forbidding of issue of marriage schedule or certificate of no impediment to marriage) deleted**

Article 11 deletes Article 13 of the 2001 Law which will be spent on the coming into operation of the new provisions of Article 3 of the Law.

#### **Article 14 (marriage in Jersey by non-Jersey resident; certificate of freedom to marry issued by other authority) amended**

Article 12 amends Article 14 of the 2001 Law to clarify the information that is required on certificates of freedom to marry as per paragraph (4) and to qualify that where a marriage is to be solemnized at an open-air location, the certificate of freedom to marry may specify an alternative location.

It also replaces paragraph (6) so as to give the Superintendent Registrar a discretion to refuse to issue a marriage schedule, where a non-resident of Jersey is unable to deliver the required evidence of freedom to marry, the Superintendent Registrar is already

permitted to refuse to issue a marriage schedule in this way under the current paragraph. However, the new paragraph (6) provides clarity of the grounds for non-refusal; where the Superintendent Registrar is satisfied that the failure to deliver it is through no fault of the non-resident, or because the relevant authority of the non-resident's own jurisdiction does not issue certificates of no impediment to marry.

#### **Article 15 (issue of marriage schedule) amended**

Article 13 amends Article 15 of the 2001 Law to clarify that its scope applies to marriages which are intended to be solemnized under Part 2 of the 2001 Law

It also will ensure that if the parties have given notice that they intend their marriage to be solemnized in an open-air location, and have specified an alternative location (for use, for example, in bad weather) that the Superintendent Registrar has been notified of the actual location to be used, and that the Superintendent Registrar must endorse this information on the published notice of intended marriage, the notices of intended marriage book and any relevant electronic records. The Article also corrects typographical errors in the Article.

#### **Article 16 (issue of certificate of no impediment by Superintendent Registrar for marriage outside of Jersey) amended**

Article 14 amends Article 16 of the 2001 Law to add an additional ground to be satisfied before a certificate of no impediment can be issued by the Superintendent Registrar, namely that the parties will both be 18 or over when they marry i.e., the Superintendent Registrar must not issue a certificate of no impediment if either party will be not be aged 18 or over when the marriage is solemnized. This accords with the overarching policy position that any marriage formed overseas is not recognised if either party is domiciled in Jersey and at least one party to the marriage is under the age of 18.

#### **Article 17 (solemnization of marriage) amended**

Article 15 amends Article 17 of the 2001 Law to insert the missing word 'to'.

#### **Article 18 (changes to date, time or location of intended marriage) amended**

Article 16 amends Article 18 of the 2001 Law to clarify the provisions and intentions of the Law, so that where the date, time or location of an intended marriage is to be changed the Superintendent Registrar must be notified in writing either 25 days before the intended date of the marriage, or if the new date is earlier than the original intended date, at least 25 clear days before the new intended date. The amended Article would also permit the changes to be notified, in the case of a marriage to be solemnized in an open-air location, so that any change would apply to both that location and the alternate location.

#### **Article 21 (issue of conversion declaration form) amended**

Article 17 amends Article 21 of the 2001 Law to reflect the fact that the conversion declaration form is now called a conversion schedule and to clarify the provisions and intentions of the Law.

The Article also sees the first use of the term 'relevant registrar' that replaces the term 'registrar of the parish' this is to facilitate the transfer of the duties of registration from the parish registrar to the Superintendent Registrar, it is the first of many similar amendments to be made by the draft Law.

#### **Article 22 (marriage by conversion) amended**

Article 18 amends Article 22 of the 2001 Law to reflect the fact that a marriage is not solemnized by the parties themselves, but by the official conducting the ceremony. Article 18 also removes a contradiction between 2 paragraphs of Article 22, in order to make it clear that, despite the general prohibition on religious rituals, symbols, prayers

or any religious worship or service being conducted, candles, hymns, chants, readings from religious texts, and vows of commitment may be used at a civil marriage ceremony.

This amendment again clarifies the existing provisions and make clear the intention of the current Law but does not make any change to the function of the paragraphs concerned.

#### **Article 23 (approved locations) amended**

Article 19 makes minor grammatical corrections to Article 23 of the 2001 Law and updates a cross-reference.

#### **Article 24 (marriage; special circumstances) amended**

Article 20 amends Article 24 of the 2001 Law to change the references to the parties solemnizing their marriage to references to having their marriage solemnized by the officiating celebrant, as was originally intended by the Law. It also expands the provisions to also be applicable to alternative locations to open-air locations and updates the reference to Jersey's new mental health legislation the [Mental Health \(Jersey\) Law 2016](#).

Additionally, the substituted paragraph (2)(b) makes it clear that it is possible for a marriage to be solemnized somewhere other than an approved location in the case of someone who was physically incapacitated before the giving of the notice of marriage or becomes so incapacitated after that notice has been given.

#### **Article 24A (retention of marriage schedule or conversion declaration form) substituted**

Article 21 substitutes a new Article 24A of the 2001 Law which reflects the fact that for some parishes, the relevant registration duties will be performed by the Superintendent Registrar as a result of the transfer of registration duties made possible by the new Article 41A.

#### **Article 24B (keeping of information, books, indexes, registers etc. relating to marriage) amended**

Article 22 amends Article 24B of the 2001 Law in a similar way to that in which Article 21 amends Article 24A. It also deals with a grammatical infelicity in subparagraphs (f) and (g) of paragraph (2), relocating their substance into a new paragraph (2A).

#### **Article 24D (proof of certain matters not necessary to validity of marriages) amended**

Article 23 amends Article 24D(1) of the 2001 Law to remove from the list of matters that need not be proved the grant of consent for a marriage because, with the removal of the possibility of marriage of minors, consent will not in future be needed for any marriage.

#### **Article 24E (marriages void under Part 2 of the Law) amended & Article**

Article 24 amends the terminology used in Article 24E of the 2001 Law for the sake of consistency with other provisions of the Law.

#### **Article 34 (places in which marriage may be solemnized by ordinary licence) amended**

Article 25 amends the terminology used in Article 34 of the 2001 Law for the sake of consistency with other provisions of the Law.

**Article 35 (requirements for grant of licence) amended**

Article 26 amends Article 35 of the 2001 Law to remove the now spent references to the marriage of minors and to impose a new requirement to inform the Dean if either of the parties to be married has, while under 18, been a child of the family in relation to the other, this requirement is the same as what is required for all other marriages currently.

**Article 36 (caveat against licence of Dean) amended**

Article 27 amends Article 36 of the 2001 Law to impose similar requirements in relation to the entering of caveats for Anglican weddings as those imposed by Article 12 (Article 10 of this draft law as described above) of the 2001 Law in respect of other weddings.

**Article 39 (marriages void under Part 3) amended**

Article 28 amends Article 39 of the 2001 Law to remove a spent cross-reference.

**Article 41A Performance of registration duties under this Law and the Civil Partnership (Jersey) Law 2012**

Article 29 inserts Article 41A into the 2001 Law. Paragraph (1) of the new Article provides that where, at the coming into force of the Article, the relevant registration duties are being performed in relation to a Parish by the Superintendent Registrar acting in the capacity of a parish registrar, they become the duties of the Superintendent Registrar, thus transferring the duties of registration from the Parish to the Superintendent Registrar.

Paragraph (2) provides, however, that a Connétable of a Parish may, on giving notice in the prescribed form and manner to the Superintendent Registrar, require that the relevant registration duties are to be performed by a parish registrar. This will enable the transfer of registration duties from the Superintendent Registrar to the Parish upon the completion of the notice period.

Paragraph (2) also provides that a Connétable of a Parish may give notice to the Superintendent Registrar that the Connétable wishes the registration duties to cease to be performed by their Parish. This will enable the transfer of registration duties from the Parish to the Superintendent Registrar upon the completion of the notice period.

To facilitate the transfer of registration as provided for above to take place, it has been necessary to tweak the terminology used in the 2001 Law and the 2018 Order. As such all mentions of '*parish registrar*' or '*registrar of the parish*' have been amended to '*the relevant registrar*'. This enables the existing provisions to continue to function as originally intended irrespective of if the parish registrar or Superintendent Registrar is carrying out that function. Examples of this amendment to terminology can be found in Articles: 21, 22, 34, 35, 36, 37, 40, 42, 45, 46, 47, 48, 49, 51, 52, 54, 55, 56, 57, 58, 59, 63, 65, 87, 88, 89, 92, 93, 96, 97, 98, 100 and 101 of this draft Law.

**Article 42 (registrars and deputy registrars) amended**

Article 30 amends Article 42 of the 2001 Law to reflect the fact that the relevant registration duties may be performed by the Superintendent Registrar. Clearly, if the relevant registration duties are performed by a parish registrar, or if the Connétable has decided to resume responsibility for the relevant registration duties and given the Superintendent Registrar notice under the new Article 41A of the 2001 Act, the Connétable then needs to be able to appoint a registrar or a deputy registrar on a vacancy occurring, or with effect from the expiry of the notice.

**Article 45 (requirement to display name and office) substituted**

Article 31 substitutes a new Article for the existing Article 45 of the 2001 Law to deal with the display by relevant registrars of notices outside their offices informing the

public of the Parish or parishes for which they are the relevant registrar. It also imposes specific new responsibilities on the Superintendent Registrar to display a list of those parishes for which he or she is the relevant registrar and a list of the names and addresses of all the registrars and deputy registrars for the parishes in which the relevant registration duties are retained.

**Article 46 (provision of storage) amended**

Article 32 substitutes a new Article for the existing Article 46 of the 2001 Law so that the requirement to supply fire-resistant boxes to a parish registrar applies only where the relevant registration duties are retained by a Parish.

**Article 47 (provision of registers, form and certificates) amended**

Article 33 makes amendment to Article 47 of the 2001 Law in a similar way to how Article 46 of the 2001 Law has been amended in respect of the provision of stationery.

**Article 49 (interpretation of Part 5 of the Law) amended**

Article 34 makes an amendment to Article 49 of the 2001 Law consequent on the changes effected by the insertion of Article 41A into that Law.

**Article 50 (duty to register births and deaths) substituted**

Article 35 replaces Article 50 of the 2001 Law with a new Article reflecting the distribution of the relevant registration duties, plus Articles 36 and 37 respectively amend Article 51 and Article 52 of the 2001 Law for the same reason.

**Article 51 (duty to inform registrar of birth within 21 days) amended**

Article 36 amends Article 51 to reflect the new arrangements of distribution for the relevant registration duties made possible by Article 41A.

**Article 52 (restriction on registration of birth after 21 days) amended**

Article 37 amends Article 52 to reflect the new arrangements of distribution for the relevant registration duties made possible by Article 41A.

**Article 53 (power of Superintendent Registrar to require information about birth) amended**

Article 38 amends Article 53 of the 2001 Law, to limit the obligation of the Superintendent Registrar to pass information to a parish registrar to those cases where the relevant registration duties are retained by the Parish within which the birth occurred.

**Article 54 (restriction on registration of birth after 6 months) amended**

Article 39 amends Article 54(3) of the 2001 Law to extend the exception from the requirement that those seeking to register a birth or stillbirth late must pay a fee to include cases where the delay in registration is attributable to the fault of the Superintendent Registrar. This reflects that the Superintendent Registrar will now be registering births for parishes where registration duties have been transferred to them.

**Article 55 (registration of father where parents not married) amended**

Article 40 amends Article 55 of the 2001 Law to substitute for each reference to the registrar (which in this Article means the parish registrar) a reference to the relevant registrar, reflecting the distribution of functions under the newly inserted Article 41A of the 2001 Law.

**Article 56 (re-registration where parents not married) amended**

Article 41 amends Article 56 of the 2001 Law to reflect the new distribution of relevant registration duties and to make it clear that the applicant must pay the new prescribed fee.

**Article 57 (re-registration of birth of legitimated person) amended**

Article 42 amends Article 57(8) of the 2001 Law to ensure that the relevant registrar re-registers a birth on the parents' marriage or civil partnership.

**Article 58 (further registration of name) amended**

Article 43 amends Article 58 of the 2001 Law so that the function of the Article is restricted to cases where the name of the child is re-registered following baptism and to clarify that the prescribed maximum amount of the fee payable to the clergyman baptising the child may not be different from the maximum fee payable to the relevant registrar.

**Article 58A Re-registration following giving of name**

Article 44 inserts Articles 58A and 58B, into the 2001 Law. Article 58A shortens the period where a child can remain nameless from one year (under the current Article 58) to three months. It also provides that where a child remains nameless after a period of three months following their birth, that the Superintendent Registrar must notify a person who the Superintendent Registrar knows to have parental responsibility for the child, and that person must within one month notify the relevant registrar with the name of the child and pay the existing prescribed fee to re-register the birth of that child.

**Article 58B Registration: confusing, embarrassing or offensive names**

Article 58B provides that if the person with parental responsibility does not comply or cannot be found the Superintendent Registrar must inform the Minister who must choose a forename for the child and instruct the relevant registrar to enter that forename and annotation as required by Article 58A in the register, this given name can still be altered within the period of one year of the child's birth by Article 58. Article 58B provides for the relevant registrar to register a birth without a name or refuse to amend an existing name recorded in the register of births if the applicant seeks to give a child a name which:

- (a) Might reasonably be expected to cause mistake or confusion, or embarrassment to the child;
- (b) is sought for an improper purpose, or
- (c) is, for any other reason objectionable.

If the relevant registrar is a parish registrar, they must notify the Superintendent Registrar and the applicant of the decision. Where the Superintendent Registrar is notified of a decision of this nature, they must determine whether the decision should be confirmed or not. In confirming this decision the Superintendent Registrar must have regard to –

- (a) the interests of the child and the applicant; and
- (b) the public interest.

If the relevant registrar is the Superintendent Registrar, then they must only inform the applicant of the decision. Where the Superintendent Registrar has made the decision to register a birth without a name or has refused to alter an existing name or confirmed the decision of the parish registrar to register the birth without a name, or has refused to alter an existing name, the applicant may appeal against that decision to the Minister for Home Affairs. Where such an appeal is made the Minister must determine the appeal having regard to the interests of the child and the applicant and the public interest.

**Article 59 (registration of birth of abandoned child) amended**

Article 45 amends Article 59 of the 2001 Law to deal with the registration of the birth of a foundling in the light of the new distribution of functions under the Law.

**Article 60 (short birth certificate) amended**

Article 46 amends Article 60 to reflect the new distribution of registration duties made possible by Article 41A.

**Article 61 (registration of stillbirth) amended**

Article 47 amends Article 61 to reflect the new distribution of registration duties made possible by Article 41A.

**Article 62 (duty to inform registrar of death within 5 days) amended**

Article 48 amends Article 62 to reflect the new distribution of registration duties made possible by Article 41A.

**Article 63 (power of Superintendent Registrar to require information about death) amended**

Article 49 amends Article 63 to limit the Superintendent Registrar's obligation to notify a parish registrar to those cases where the death occurs in a Parish where the relevant registration duties have been retained by that Parish.

**Article 64 (certificate of fact and cause of death) amended**

Article 50 clarifies that the obligation of the registered medical practitioner under Article 64(1)(b) of the 2001 Law is to give the informant a certificate which contains the prescribed particulars.

It also substitutes the term '*the registrar*' for '*the relevant registrar*' to reflect the new distribution of registration duties made possible by Article 41A.

**Article 65 (duty of registrar to notify Viscount of death) amended**

Article 51 amends Article 65 to substitute the term '*registrar*' for '*relevant registrar*' so that the relevant registrar has a duty to notify the Viscount of a death where certain circumstances have occurred.

**Article 66 (restrictions of registration of death) amended**

Articles 52 amends Article 66 to prevent registration by the relevant registrar, as opposed to the registrar in relation to death, where the Viscount has been notified of a death or is empowered or required to conduct an inquest.

**Article 67 (registration in exceptional circumstances) substituted**

Article 53 substitutes a new Article 67 into the 2001 Law which prevents a parish registrar from registering a death more than 12 months after its occurrence.

Article 53 also introduces a new Article 67A of the 2001 Law which will require the Superintendent Registrar, in the case of a death in exceptional circumstances, to seek a direction from the Minister before registering it. The Minister may give directions about the registration or refer the matter to the Inferior Number of the Royal Court.

The effect of Article 53 on Article 67A is, for clarity, to separate Article 67 into two Articles. The original effect of Article 67 is retained apart from providing that the amended Article 67 only applies where a parish has retained the relevant registration duties.

**Article 68 (certificate of registration of death) amended, Article 69 (duty to register marriage) amended, Article 70 (duty to record marriage) amended, Article 71 (power to ask for particulars) amended, Article 72 (duty of informant to sign register) amended, Article 75 (duty of Minister) amended**

Articles 54 to 59 respectively amend Articles 68 to 72 and 75 of the 2001 Law to replace references to the registrar of a parish with references to the relevant registrar.

**Article 76 (offences relating to the solemnization of marriage) substituted**

Article 60 substitutes a new Article 76 in the 2001 Law dealing with offences which may be committed in relation to the solemnization of marriages so that the offences that already exist in the 2001 Law now apply to the conversion of a civil partnership to marriage also.

**Article 77 (offences relating to registration) amended**

Article 61 amends Article 77 of the 2001 Law to make it clear that the offence provision in relation to registration which it contains applies equally to marriages by conversion also.

**Article 77A (abolition of wife's domicile of dependence) inserted**

Article 62 inserts a new Article 77A into the 2001 Law to abolish the concept of a wife's domicile of dependence. Currently, a woman who is resident in Jersey and who marries, acquires her husband's domicile automatically, but on the coming into force of this provision the concept of a domicile of dependence will be abolished and a woman will be free, whether married or not, to establish a domicile of choice like anyone else. Until a woman does that, however, she will retain the domicile which she acquired before Article 77A comes into force, which if she is already married would be a domicile of dependence.

**Article 78 (searches) amended**

Article 63 amends Article 78 of the 2001 Law to reflect the new distribution of relevant registration duties. It substitutes the term '*every registrar*' for '*every relevant registrar*' to reflect the new distribution of registration duties made possible by Article 41A.

**Article 80 (witnesses for marriage) amended**

Article 64 makes an amendment to Article 80 of the 2001 Law to replace a reference to someone being of full age with a reference to being aged at least 18. Similar amendments are also made elsewhere in the 2001 Law to remove references to people being minors.

**Article 80A (provision of document to Superintendent Registrar) substituted**

Article 65 restates the provisions of Article 80A of the 2001 Law to reflect the new distribution of relevant registration duties provided by Article 41A.

**Article 80B (signing of documents) amended**

Article 66 replaces the reference in Article 80B(4) of the 2001 Law to a conversion declaration form with one to a conversion schedule.

**Article 80C (fees and charges) substituted**

Article 67 replaces Article 80C of the 2001 Law dealing with fees payable under the Law to make it clear, that only in prescribed circumstances will a fee be refundable.

**Article 82 (power to make further provision in connection with marriage and registration of marriages, births and deaths) amended**

Article 68 amends Article 82 of the 2001 Law to remove paragraph (1) of the Article on the basis that, the age of marriage having been increased by the present draft Law, it is spent and no longer required.

**Article 82B (applications) and 82C (scheme for authorization of civil celebrants) inserted**

Article 69 inserts 2 new provisions, Articles 82B and 82C in the 2001 Law. The first of these confers a power on the Superintendent Registrar, subject to anything in the Law or an Order under Article 82, to publish a notice specifying the form of any application

to a relevant registrar including the information which must be provided with the application.

The new Article 82C of the 2001 Law restates the content of Article 6(3), (5) and (6) dealing with the authorization of religious officials and civil celebrants because, so far as they relate to the latter the provisions now apply both to marriages and civil partnerships.

#### **Schedule 1 (relations whom it is prohibited to marry) substituted**

Article 70 substitutes a new Schedule 1 to the 2001 Law, which states the prohibited degrees for marriage, in a more straightforward way. The new text is set out in Schedule 1 to this amending Law.

#### **Schedule 2A, paragraph 2 (re-registration of surname) amended**

Article 71 amends paragraph 2 of Schedule 2A, which deals with the re-registration of a person's surname under Article 59A, to substitute references to the relevant registrar for the existing references to a registrar, reflecting the distribution of the relevant registration duties.

**Part 2** of the Law amends the [Marriage and Civil Status \(Jersey\) Order 2018](#).

#### **Marriage and Civil Status (Jersey) Order 2018 amended**

Article 72 introduces the amendments.

#### **Article 11 (fees for grant of authorization or renewal) substituted**

Article 73 substitutes for the existing Article 11 of the 2018 Order a new Article, to reflect the restructuring of Schedule 1 to 2018 Order.

#### **Article 13 (kinds of location) amended**

Article 74 makes minor grammatical corrections to Article 13 of the 2018 Order.

#### **Article 15 (application for the approval of a location) amended**

Article 75 replaces Article 15(2)(c)(v) with a new heading which expands the information which is required to be supplied in connection with the registration of an approved location.

#### **Article 17 (register of approved locations) amended**

Article 76 amends Article 17 of the 2018 Order to require the inclusion and recording in the register of approved locations, of whether the location is an open-air one.

#### **Article 19 (responsible person) amended**

Article 77 amends Article 19 of the 2018 Order to impose an additional duty on the responsible person for an approved location, which requires that person to notify the Superintendent Registrar of changes to a location which would cause it to become, or cease to be, an open-air location, this is especially necessary now that a second approved location is able to be chosen alongside an open-air location.

#### **Article 20 (standard conditions) amended**

Article 78 amends Article 20 of the 2018 Order. Apart from minor typographical corrections, it relieves the authorized civil celebrant of the duty to prevent the consumption of food and drink in the period beginning one hour before the start of the ceremony and ending with the end of the ceremony in an open-air location, but not if the ceremony is taking place in a temporary structure in that location. This is due to a large number of open-air locations being public spaces (i.e. beaches), and as such it

would be inappropriate to require the marriage celebrant to prevent members of the public who are unconnected with the ceremony from consuming food or drink within that open-air location.

**Article 28 (application for notice of intended marriage) amended, Article 29 (notice of intended marriage form) amended, Article 30 (freedom to marry declaration) amended, Article 35 (application for conversion) amended, and Article 38 (information, books, indexes and registers kept by the Superintendent Registrar) amended**

Articles 79, 80, 81, 83 and 85 respectively amend Articles 28, 29, 30, 35 and 38 of the 2018 Order to impose new requirements to give information about both the physical address and the postal address of a proposed marriage ceremony, if different, for any approved location, including an open-air location in certain preliminary procedures leading to a marriage ceremony (including a ceremony by conversion).

**Article 34 (certificate of no impediment to marriage) amended**

Article 82 makes a minor correction to Article 34 of the 2018 Order to replace the phrase '*the place of the marriage*' with '*the location of the marriage*' and removes a reference to a marriage being forbidden consequent on the raising of the minimum age for marriage.

**Article 37 (requirements and procedure for marriage in special circumstance) amended**

Article 84 imposes an additional requirement in Article 37(10) of the 2018 Order for a marriage that is taking place in special circumstances under Article 24 of the 2001 Law, that the prescribed fee has been paid in a similar way to all other marriages.

**Article 42 (registration of marriage) amended**

Article 86 makes minor corrections to Article 42 of the 2018 Order to make it clear that the parish registrar's obligation to retain marriage schedules relates to marriages solemnized their parish, rather than marriages solemnized by the parish registrar.

**Article 46 (registration of births and still births) amended**

Article 87 amends Article 46 of the 2018 Order in consequence of the new distribution of the relevant registration duties and to impose an obligation to record in the register of still-births the details of the parents' marriage (if any).

**Article 49 (registration of abandoned child) substituted**

Article 88 substitutes a new Article for Article 49 of the 2018 Order dealing with the registration of the birth of a foundling, reflecting the new distribution of the relevant registration duties provided by Article 41A.

**Article 50 (short birth certificate) amended**

Article 89 amends Article 50 of the 2018 Order to reflect the new distribution of the relevant registration duties provided by Article 41A.

**Article 51 (certificate of registration of still birth) amended**

Article 90 amends Article 51 of 2018 Order to add new information to be recorded in a certificate of still-birth, namely the sex of the child and details of the parents' marriage (if any) to update the particulars for a still birth to be the same as the particulars required when registering a birth.

**Article 51A (certificate of fact and cause of death) inserted**

Article 91 inserts a new Article 51A into the 2018 Order which specifies the particulars to be included in a certificate of fact and cause of death, these particulars are currently

included on every certificate of fact and cause of death but are not prescribed in law in a similar way to all other certificates for civil registration.

#### **Article 52 (registration of death) amended**

Article 92 restructures Article 52 of the 2018 Order and makes minor adjustments to that Article to reflect the new distribution of the relevant registration duties provided by Article 41A.

#### **Article 53 (certificate of registration of death) substituted**

Article 93 replaces Article 53 of the 2018 Order to reflect the new distribution of the relevant registration duties provided by Article 41A.

#### **Article 58 (fees) substituted**

Article 94 substitutes Article 58 in the 2018 Order. It gives effect to the new version of Schedule 1 to the Order, specifying fees under the Order and under the 2001 Law.

#### **Schedule 1 (fees) substituted**

Article 95 gives effect to Schedule 2 to the draft Law, which substitutes the new Schedule 1 to the Order.

**Part 3** of the draft Law makes consequential amendments to other Laws.

#### **Inquests and Post-Mortem Examinations (Jersey) Law 1995 amended**

Article 96 amends the [Inquests and Post-Mortem Examinations \(Jersey\) Law 1995](#) to reflect the distribution of the relevant registration duties provided by Article 41A, replacing duties placed upon the parish registrar with duties placed upon the relevant registrar in a similar way to other amends made to the 2001 Law.

#### **Education (Jersey) Law 1999 amended**

Article 97 amends the [Education \(Jersey\) Law 1999](#) to replace references to the different types of registrar who deals with births and deaths with references to the relevant registrar to reflect the distribution of the relevant registration duties provided by Article 41A.

#### **Gender Recognition (Jersey) Law 2010 amended**

Article 98 amends paragraph 1 of the Schedule to the [Gender Recognition \(Jersey\) Law 2010](#) to reflect the distribution of the relevant registration duties provided by Article 41A.

#### **Discrimination (Jersey) Law 2013 amended**

Article 99 makes minor corrections to Schedule 2 to the [Discrimination \(Jersey\) Law 2013](#) to clarify the provisions and intentions of that Law.

#### **Cremation (Jersey) Regulations 1961 amended**

Article 100 amends the [Cremation \(Jersey\) Regulations 1961](#) to reflect the new distribution of the relevant registration duties provided by Article 41A.

### **Legitimacy and Illegitimacy (Re-Registration of Births) (Jersey) Regulations 1974 amended**

Article 101 amends the [Legitimacy and Illegitimacy \(Re-Registration of Births\) \(Jersey\) Regulations 1974](#) to reflect the new distribution of the relevant registration duties provided by Article 41A.

### **Marriage and Civil Partnership (Amendments – Fees) (Jersey) Order 2021 repealed**

Article 102 repeals the [Marriage and Civil Partnership \(Amendment – Fees\) Order 2021](#) because its provisions are now incorporated in the replacement of Schedule 1 to the 2018 Order and in the provision on fees in the [Civil Partnership \(Forms, Registration and Fees\) \(Jersey\) Order 2012](#).

### **Citation and commencement**

Article 103 provides for the citation and commencement of the amending Law.

### **Section J: Financial and Manpower Implications**

The amended Law has a small number of financial and manpower implications.

Providing for the approval of second locations where the first location proposed for a marriage ceremony is an open-air location as per the amended provisions of the 2001 Law, will require one-off changes to the digital forms used to provide the details of the approved location the couple has selected for their marriage ceremony. It will also require minor changes to the electronic approved location register to add a field stating if a location is open-air or not. These changes will be met from within existing Customer and Local Services Departmental budgets.

The amendments provide for the formalisation of the transfer of registration duties to the Superintendent Registrar, as opposed to the Superintendent Registrar merely acting in the capacity of a parish registrar, may impact the Superintendent Registrar's resourcing requirements. This will be offset, in part, by the Superintendent Registrar no longer paying Parish Registrars to register marriages (as per Article 24A) plus, in the event it is necessary, an increase in the fees charged under the law in accordance with the Assembly's decision that the Officer of the Superintendent Registrar should be self-funded through user-pays fees ([P.68/2016](#)).

The amended law also provides for the introduction of a new fee in respect of a re-registration of a birth where the parents of a child were not married at the time of the birth and no person was recorded as the father of the child at the time of registration. The proposed £55 fee, which will be set out in an Order, is the same fee already provided for in the 2001 Law in all other instances where a birth is to be re-registered under different provisions of the 2001 Law. As set out in the proposition accompanying this report, and in accordance with [P.63/2003](#), the Assembly are asked to approve the introduction of new user pays fees.

### **Section K: Human Rights Statement**

#### **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 Marriage and Civil Status (Amendment No. 5) (Jersey) Law 202-**

These Notes have been prepared in respect of the draft Marriage and Civil Status (Amendment No. 5) (Jersey) Law 202- (the “draft Law”) by the Law Officers’ Department, who have reviewed a draft of the draft Law dated 3 January 2022. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law, in the form reviewed by them, is compatible with the European Convention on Human Rights (“ECHR”)

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

The draft Law, if passed, would amend the Marriage and Civil Status (Jersey) Law 2001 (the “principal Law”). The principal purpose of the draft Law is, as the Explanatory Note to the draft Law states, to eliminate the possibility of two people, at least one of whom is a minor, from marrying in Jersey, but to also make a number of minor refinements and corrections to the principal Law and the Marriage and Civil Status (Jersey) Order 2018.

It is considered that the provisions of the ECHR which are engaged by the principal provisions of the draft Law are Article 8 ECHR (right to private and family life), Article 1 to the First Protocol to the ECHR (right to property), but, for the most part, Article 9 ECHR (right to freedom of religion) and Article 12 ECHR (right to marry).

**Amendment to age of marriage**

Several provisions of the draft Law, including in particular Articles 3 (Article 3 (restriction on marriage) amended), 4 (Article 4 (marriage of a minor) and Schedule 2 (consents required to the marriage of a minor) deleted), 5 (Article 5 (restriction on marriage by conversion) amended), 11 (Article 13 (forbidding of issue of marriage schedule or certificate of no impediment to marriage) deleted), 14 (Article 16 (issue of certificate of no impediment by Superintendent Registrar for marriage outside Jersey) amended), and 23 (Article 24D (proof of certain matters not necessary to validity of marriages) amended), would make amendments to the principal Law that would have the effect, in general terms, of increasing, or reflecting an increase in, the legal age of marriage from 16 to 18 and amending existing provisions around procedural aspects of marriage (eg consents required) to further implement this change.

The right to marry guaranteed under Article 12 ECHR is subject to internal laws governing the exercise of that right. As such, the obligation to respect the legal marriageable age does not amount to a denial of the right to marry. The European Court of Human Rights (“ECtHR”) has also held that neither Article 8 ECHR (right to private and family life) nor Article 12 ECHR could be interpreted as imposing on any State party to the ECHR an obligation to recognise a marriage contracted by a minor. Article 12 ECHR expressly provides for regulation of marriage by national law, and given the sensitive moral choices concerned and the importance to be attached to the protection of children and the fostering of secure family environments, the ECtHR emphasized that State party policy on age of marriage should prevail over its own judgment, on account of national authorities being best placed to assess and respond to the needs of society. As such, the amendment to the age of marriage, and associated

provisions, that would be achieved by the draft Law are considered compatible with Articles 8 and 12 ECHR.

### **Other provisions restricting or related to the exercise of the right to marry**

Several provisions in the draft Law would make provision for the restriction on the exercise of the right to marry. These provisions are, in most cases, provisions comparable to existing provisions in the principal Law that operate to control the exercise of the right to marriage for legitimate public interest and civil registration objectives, but have been re-stated in the draft Law in amended form as part of the exercise of refining and enhancing such matters of civil registration. These provisions include, for example, Article 3 (Article 3 (restriction on marriage) amended) and Article 5 (Article 5 (restriction on marriage by conversion) amended).

Numerous other provisions make amending provision concerning administrative and procedural aspects of marriage or conversion to marriage. These include, for illustrative purposes, Article 8 (Article 10 (giving notice of intended marriage and making freedom to marry declaration) amended); Article 10 (Article 12 (caveat against issue of marriage schedule or certificate or no impediment to marriage) amended); Article 12 (Article 14 (marriage in Jersey by non-Jersey resident: certificate if freedom to marry issued by other authority) amended); Article 13 (Article 15 (issue of marriage schedule) amended); Article 16 (Article 18 (changes to date, time or location of intended marriage) amended); Article 17 (Article 21 (issue of conversion declaration form) amended); Article 26 (Article 35 (requirements for grant of licence) amended); and Article 27 (Article 36 (caveat against licence of Dean) amended). These provisions make amendments of a nature such as the evidential basis on which the Superintendent Registrar may refuse the issue of a marriage schedule, a requirement for applicants for marriage in an open-air location to name an alternative location as a secondary option, and other relatively minor administrative and process refinements.

Other provisions in the draft Law concern, or are amended to reflect, an amendment to the principal Law in Article 28 of the draft Law (Article 41A (discharge of registration duties) inserted). This amendment would enable civil registration duties arising under the principal Law to be performed by parish officials or by the Superintendent Registrar (on a centralised arrangement), subject to the mechanism of notification and other requirements in proposed Article 41A. Provisions in the draft Law which are restated to reflect the potential revised registration arrangement, and associated with the principal amendment in proposed Article 41A, include Article 21 (Article 24A (retention of marriage schedule or conversion declaration form) substituted); Article 22 (Article 24B (keeping of information, books, indexes, registers etc. relating to marriage) amended); Article 45 (Article 59 (registration of birth of abandoned child) amended); and Article 49 (Article 63 (power of Superintendent Registrar to require information about death) amended).

As noted further above, national laws may lay down formal rules, compatible with Article 12 ECHR, which concern the exercise of the right to marriage and rules of substance based on generally recognised considerations of public interest. These rules can include, for example, those relating to notice, publicity and formalities whereby marriage is solemnized, and those relating to matters of substance, such as prohibited degrees of consanguinity. Moreover, a state may establish and require certain formalities to be completed in order to establish the identity of the individuals concerned.

The provisions of the draft Law noted above, and those of similar effect in the draft Law, are provisions which can be classified as those addressing matters of formality and process, or other matters associated with reasonable civil registration objectives, and come within this scope of that national law which, while engaging the exercise of the

Article 12 ECHR right, is generally recognised as being with the exercise of that right. As such, it is considered that the draft Law, in this regard, is compatible with Article 12 ECHR.

### **Provision relating to no compulsion to solemnize marriage**

Article 7 of the draft Law would substitute a new version of Article 7 of the principal Law in place of the version appearing in the enacted version of the principal Law. The new version of Article 7 is a re-arranged restatement of the existing provision and, as such, there are no material changes that would affect the assessment of its substantive effect being compatible with the ECHR.

For present purposes, it may assist the reader to understand the following. The substituted Article 7 would continue to constitute one element of the ‘quadruple lock’ approach to Article 9 ECHR safeguards in the principal Law, that is, a framework of provisions in the principal Law intended to ensure protection for the religious freedoms of religious organisations and officials against compulsion in matters relating to same sex marriages. The new Article 7 provides, inter alia, that religious organizations, authorized religious officials and clergymen shall not be compelled to do, or refrain from doing, certain activities in relation to a marriage or an acquired gender marriage, where the reason for not doing so, or refraining, is that the marriage is a same sex marriage or an acquired gender marriage.

A provision of the nature as that stated in new Article 7 will engage Article 9 ECHR, the right to freedom of religion. Article 9(1) ECHR provides that everyone has the right to freedom of thought, conscience and religion. Article 9(2) ECHR provides that freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others. Measures which prevent a person from manifesting their belief in a way that is recognised under Article 9 ECHR or penalising them for doing so will generally constitute a limitation of the person’s right which will require justification. Justification will require showing that the limiting measure is proportionate to the aim of the interference. Article 9 ECHR is a collective, as well as an individual, right so both religious officials and religious organizations benefit from its protection.

‘Manifestations’ of a religion or belief protected under Article 9 ECHR are only those linked to beliefs or creeds such as acts of worship and devotion. To understand the application of Article 9 ECHR in the context of marriage legislation, it is important to appreciate that, while religious officials and organizations who facilitate marriages are doing so pursuant to a legal framework for the legal union of two people, the solemnization of a marriage by a religious celebrant is itself a ‘sacrament’. A marriage according to religious rites is an act of worship or devotion forming part of the practice of a religion or belief and, because it is a ‘manifestation’ which is intimately linked to such acts, it is a practice that falls squarely within the protection of Article 9 ECHR. Religious organizations have the right to determine their doctrine and internal religious affairs, including as regards marriage, without interference from the State.

The ECtHR has held that the autonomy of religious organizations is “indispensable for pluralism in a democratic society and is thus an issue at the very heart of the protection which [Article 9 ECHR] affords”. The State therefore has an obligation to protect the Article 9 ECHR rights of religious organizations and officials, and given the importance afforded to religious autonomy, it could not be proportionate to interfere with the religious freedom of such persons by requiring them to solemnize marriages that they consider to be doctrinally impermissible. As a result, any compulsion by a State on a religious organization to engage in a practice contrary to the beliefs of its members

would infringe the Article 9 ECHR rights of the organizations, its members and officials. The draft Law does not require that any religious organization or individual must solemnize marriages of same sex couples or acquired gender marriages and so there is no active infringement with the Article 9 ECHR right by the draft Law in this regard. New Article 7 operates, as does the current Article 7 of the principal Law, to ensure there can be no lawful compulsion of religious organizations and officials in this sphere, and this is clearly justified given the importance of protecting the Article 9 ECHR rights of such persons.

### **Exclusion of civil officials from non-compulsion provisions**

Article 7 of the draft Law (Article 7 (marriages according to religious rites: no compulsion to solemnize marriage etc) substituted) provides a new Article 7, in an amended form, for inclusion in the principal Law. The existing Article 7 had included a provision clarifying its application to “persons” as not including application to civil marriage celebrants. The new Article 7 provides expressly in new Article 7(1) that the no compulsion provision set out in new Article 7 applies to religious organizations, clergymen and authorized religious officials, only.

As such, the no compulsion provision in new Article 7, as is the case with the existing Article 7, does not apply to civil marriage celebrants. The effect of this, to illustrate, is that, for example, a civil marriage celebrant is required to comply with the principal Law, ie to marry a same sex couple, and a registrar is required to make the relevant registrations as the case may be, notwithstanding that he or she may have religious objections to same sex marriage.

As was considered when the existing Article 7 was introduced to the principal Law, it is possible that civil officials might argue that Article 14 ECHR (prohibition of discrimination) read with Article 9 ECHR should mean that they must be allowed to conscientiously object to performing functions where their beliefs conflict with the principle of same sex marriage. The ECtHR has directly considered such claims before, holding that if a person is employed as a registrar or celebrant performing public functions, for example, it is unlawful to refuse to perform a part of those functions because of disagreement with the law as to who may get married.

The justification for the interference with the ECHR rights of civil officials in such cases is based on the legitimate aim that public officials should offer their services to all without discrimination based on sexual orientation. Article 9 ECHR requires a balance to be struck between the rights of same sex couples in this regard and the rights of those who disagree with homosexuality or same sex union. Addressing inequality and tackling discrimination is a legitimate aim and an important social issue, and would, arguably, undoubtedly justify measures preventing civil officials from objecting to same sex marriage being deemed proportionate in the determination of that balancing exercise.

Moreover, the ECtHR has held that there is a wide margin of appreciation for national authorities when it comes to striking a balance between competing ECHR rights (ie between the Article 12 and 8 ECHR rights of same sex couples and the Article 9 ECHR rights of civil officials) and that a State did not exceed the margin of appreciation by prohibiting civil officials to object to performing functions as regards same sex couples, or by refusing to put in place alternative arrangements which would accommodate the objections of civil officials if made. So, in conclusion, and as was the case when the existing Article 7 was considered, it is difficult to see that the effect of a continuing non-compulsion provision would be considered incompatible as regards civil officials.

### **Position of the Anglican Church in Jersey**

Article 7 of the draft Law (Article 7 (marriages according to religious rites: no compulsion to solemnize marriage etc) substituted) restates the provision at paragraph

(6) of the new Article, ie that any duty of a member of the clergy to solemnize marriages (and any corresponding right of persons to have their marriages solemnized by members of the clergy) is not extended by the Law to same sex or acquired gender marriages.

This provision maintains existing provision in the principal Law, see Article 7(6). The effect of the provision is that the Anglican Church is treated differently to other religious organizations, which are permitted to determine whether or not to provide for marriages of same sex couples. The reason for principal Law, and the draft Law in maintaining this provision, taking this position is the Anglican Church's unique position as the established Church in Jersey and the fact that, at this time, the Anglican Church does not favour same sex marriage. The Anglican Church is under a duty to marry a parishioner in their parish church and, if the draft Law sought to extend provisions relating to same sex marriage to the Anglican Church, the right of every parishioner to be married in his or her parish church would then be engaged as regards same sex couples as well as opposite sex couples. For this reason, and the distinct position of Canon Law, it is important that the draft Law continues to expressly make it clear that there is no duty on a member of the clergy to solemnize marriages of same sex couples, in addition to not imposing statutory measures facilitating sex marriage on the Anglican Church.

The effect of this is that, arguably, the draft Law and the wider position of the Anglican Church, will limit the choice of same sex couples who happen also to be members of the Church of England to be married in a religious ceremony according to their faith. It also limits the choice of clergymen in determining who to marry in pursuance of their beliefs; their authority to marry being limited to opposite sex couples. While that may be the case, any interference with the Article 9 ECHR rights of parishioners or clergymen is justified. Any requirement imposed on the Church of England by the draft Law or otherwise, to marry same sex couples contrary to its religious doctrine, would infringe its Article 9 ECHR rights. Once more, the margin of appreciation in Article 9 ECHR matters afforded to states is relevant here. That margin is wide and, in Jersey's case (as in England), must accommodate the complex issues surrounding the relationship of the state and the Church. The difference in treatment of the Anglican Church is justified due to the legal circumstances of that Church in Jersey.

#### **Provisions regulating or associated with the registration of birth**

A handful of provisions in the draft Law would amend provisions relating to, or associated with, the registration of birth. An example is Article 41 (Article 56 (re-registration where parents not married) amended), which would insert a provision to require the payment of a prescribed fee for the re-registration of a birth.

The arrangements and procedures relating to the registration of birth engage the Article 8 ECHR right to private life of the child and family involved, and the Article 8 ECHR right to family life of, principally, the parents of the child. However, any interference with such rights that might be presented by requirements such as payment for a fee for registration, or evidential requirements in order to obtain registration of a birth, or re-registration of the birth to acknowledge parentage, are in pursuit of, and proportionate to, the legitimate aim of ensuring proper and comprehensive civil registration as regards births. As such, those provisions of the draft Law which seek to enhance provisions of the principal Law around the registration of birth are considered compatible with Article 8 ECHR.

#### **Provisions relating to choice of name for child**

Article 44 of the draft Law would insert a new Article 58A to the principal Law which would, inter alia, permit the Minister to choose a forename for an abandoned child. Article 44 of the draft Law would also insert a new Article 58B to the principal Law

which would, inter alia, permit the Superintendent Registrar to refuse to register, re-register or amend a name if doing so would cause confusion or mistake as to the child's identity, cause embarrassment to the child or is, for any other reason, objectionable.

The ECtHR has established that issues concerning an individual's first name and surname fall under Article 8 ECHR. The ECtHR held that as a means of personal identification and of linking to a family, a person's name concerns his or her private and family life, and has, on occasion, found a violation of Article 8 ECHR where authorities have refused to register names. The ECtHR has found that some laws relating to the registration of names strike a proper balance, while others do not<sup>6</sup>. The mere fact that an existing name could take on a negative connotation does not mean that the refusal to permit a change of name will automatically constitute a breach of Article 8 ECHR.

The new provisions to be inserted to the principal Law are considered compatible with Article 8 ECHR as they strike a balance between the Article 8 right and the interests of ensuring comprehensive civil registration and the public interest of ensuring the best interests of the child. In the case of new Article 58B the grounds on which a name can be refused are clearly stated, the Superintendent Registrar must take into account the interests of the child and the applicant for registration of the name alongside the public interest. Provision is also made for the applicant to appeal a determination of the Superintendent Registrar to the Minister (see new Article 58B(7)). The Minister's decision on appeal is subject to judicial review by an independent and impartial court, i.e. the Royal Court, making the overall determination of the civil rights of the individuals concerned compatible with Article 6 ECHR.

### **Provision relating to scheme of authorization for civil celebrants and authorized religious officials**

Article 69 of the draft Law would insert, inter alia, new Article 82C which would enable the Minister to prescribe a scheme for the authorization by the Superintendent Registrar of persons as authorized civil celebrants, or as authorized religious officials. New Article 82C would re-state, in amended form, existing Article 6(3) of the principal Law (which would be deleted by Article 6 of the draft Law). The scheme mentioned in Article 6(3) of the principal Law has been prescribed in the Marriage and Civil Status (Jersey) Order 2018 (the "2018 Order"), and the draft Law goes on to propose amendments to the 2018 Order in Articles 72-95.

New Article 82C would require that the scheme include, inter alia, the matters to be considered in determining whether to authorize a person, the conditions that shall or may be imposed on the grant or renewal of an authorization, the determination and charging of prescribed fees in respect of the grant of or renewal of an authorization, and the circumstances in which an authorization shall or may be granted, renewed, suspended or revoked. In practice, the provision of authorized celebrant services will, in some cases, be a significant commercial enterprise for individuals.

A power to prescribe a scheme for the authorization of civil celebrants is, in itself, compatible with the ECHR. However, an order made under that provision (such as the 2018 Order) which implements, from time to time, the detail of the scheme will seek to allow for the determination of when a person can be authorized, impose potentially restrictive conditions on the exercise of that authorization and when that authorization might be revoked. These aspects of the authorization scheme have the potential to engage the protection of property in Article 1 of the First Protocol ("A1P1") to the ECHR. The concept of a 'possession' under A1P1 has been given an expansive scope. In particular, a client base can amount to a 'possession' and the refusal to grant an

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<sup>6</sup> See, for example, *Guillot v. France*, 24 October 1996, Reports of Judgments and Decisions 1996-V and *Johansson v. Finland*, no. 10163/02, 6 September 2007.

authorization or equivalent to the business, which would affect the provision or scope of professional services, in turn resulting in the commerciality of the business, has been held to amount to an interference with the A1P1 right. The client base of an authorized civil celebrant, and the commercial nature of the provision of celebrant services, would mean that any restriction on that business, or revocation or alteration of the authorization, would amount to an interference with the A1P1 right of that celebrant.

An interference with the A1P1 rights of celebrants in these circumstances would be justified. Measures for the authorization of civil celebrants will be in ‘accordance with the law’, i.e. they will be implemented pursuant to primary and secondary legislation power. The rationale for those measures would also be for ‘the general interest’, namely the interest of ensuring that civil celebrants provide services relating to the solemnization of marriage in a manner that is both legal and moral (i.e. reflects the solemnity and dignity of the occasion of marriage). The requirement for a civil celebrant to comply with a scheme of authorization would, in principle, be proportionate to those legitimate aims.

The authorization of celebrants is necessary to ensure that marriages are conducted in a legal and solemn manner, and by appropriate and qualified individuals. Equally, for these reasons, there is a necessity for it to be possible to revoke or cancel authorizations. It should be appreciated that, where property rights are concerned, states have a considerable margin of appreciation in determining the existence of a general public concern and in implementing measures designed to meet it, so in imposing an authorization system that might interfere with certain property rights but is required for an identifiable public interest, the States would be afforded a substantial degree of deference. In principle, therefore, the power to provide for a scheme of authorisation and the intention to regulate the ability for civil celebrants to operate, in this manner, is compatible with the ECHR. The detail of that scheme, implemented from time to time must be proportionate and it is considered that the current scheme contained in the 2018 Order would, as proposed to be amended by the draft Law, remain compatible with the ECHR.

### **Provisions amending the Marriage and Civil Status (Jersey) Order 2018**

As noted in the previous paragraph of this memorandum, Articles 72 – 95 (inclusive) of the draft Law would amend the 2018 Order in connection with certain administrative, evidential, and procedural aspects or particulars required for or associated to the civil registration provisions contained in the principal Law. In particular, an amended and restated power to permit the charging of a fee for the authorization of civil celebrants (see new Article 11 at Article 73 of the draft Law), the charging of a fee for the issue of a marriage schedule in relation to marriages in special circumstances (see amended Article 37(10) at Article 84 of the draft Law) and a range of fees payable under the principal Law re-stated in a new Schedule 1 to the 2018 Order (see Schedule 2 to the draft Law); and a new Article 51A providing particulars for a certificate of fact and cause of death (see Article 91 of the draft Law). The provisions in Article 72-95, in amending the provisions contained in the 2018 Order, in particular in the nature of the charging of fees and requiring the provision of certain information in relation to individuals, are considered proportionate to the civil registration objectives for which the principal Law enables the order making powers, and are considered compatible with Article 8 ECHR and A1P1 ECHR.

### **Miscellaneous provisions**

Articles 96 – 102 set out miscellaneous provisions that would make minor consequential amendments and repeals to other legislation associated with, or referencing, civil registration arrangements in the principal Law. It is considered that these provisions do not raise any issues from an ECHR compatibility perspective.



## EXPLANATORY NOTE

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This draft Law will, if passed, amend the Marriage and Civil Status (Jersey) Law 2001 (“the 2001 Law”). It is an associated draft Law which is being moved in conjunction with the Civil Partnership (Amendment) (Jersey) Law 202- (P.7/2022) (“the associated draft Law”). The principal purpose of the draft Law to which this Note relates is to eliminate the possibility of 2 people, at least one of whom is a minor, from marrying in Jersey, or, if one of them is domiciled in Jersey, from marrying anywhere in the world, but it also makes a number of minor refinements and corrections to the 2001 Law and the Marriage and Civil Status (Jersey) Order 2018 (“the 2018 Order”).

*Part 1* contains the amendments to the 2001 Law.

*Article 1* introduces these amendments.

*Article 2* amends Article 1 of the 2001 Law to insert new definitions in that Article. 3 of these are particularly significant in the context of the other amendments. They are the definitions of “relevant registrar”, “relevant registration duties” and “retained”. These insertions recognise that, for 10 of the parishes, the functions of registering births, deaths, marriages, civil partnerships and the conversion of civil partnerships into marriages are currently undertaken by the Superintendent Registrar, while in the other 2 they are undertaken by a registrar appointed by the Connétable. “Retained” in this context means that the duties are performed by a parish officer rather than the Superintendent Registrar.

*Article 3* amends Article 3 of the 2001 Law to replace the current paragraphs (3) to (5) with new provisions dealing with the circumstances in which a marriage is void. It will no longer be possible for a minor to contract a marriage in Jersey, nor for a minor domiciled in Jersey to contract a valid marriage anywhere in the world. A transitional saving is contained in the newly-inserted paragraph (8) for minors who give notice of their intention to marry before the draft Law come into force, but marry after that time in accordance with the notice, or a notice of change of date given to the Superintendent Registrar.

*Article 4* deletes Article 4 of the 2001 Law, and with it, Schedule 2 to that Law, as they are unnecessary as a result of the new prohibition on minors marrying.

*Article 5* amends Article 5 of the 2001 Law, in consequence of the fact that, while marriages involving a minor in Jersey or who is domiciled in Jersey will no longer be valid, the previous law in relation to conversion of a civil partnership to a marriage needs to be preserved so as not to invalidate the marriage by conversion of a minor which occurs before the coming into operation of the draft Law. The new paragraph (3) ensures that a marriage between people who are not related by blood but are nevertheless within the prohibited degrees is not void if the younger party to the marriage was not a child of the family in relation to the other while under the age of 18.

*Article 6* amends Article 6 of the 2001 Law. It deletes paragraph (3), dealing with the scheme made by the Minister for the authorisation of religious officials and civil celebrants, because that provision should form part of the Part of the 2001 Law which contains common provisions, rather than those relating only to marriage, and is restated in Article 82C of the 2001 Law which is inserted by *Article 67* below.

*Article 7* replaces the existing Article 7 with a new Article which clarifies the position in relation to a religious official who has a personal objection to conducting a same-sex marriage or a marriage of a person who is of an acquired gender, even though the religious organization to which the official belongs has no such objection. It also limits

the class of people who are entitled to object to being required to conduct such marriages to religious officials, and excludes civil celebrants. This is in the light of the decision in *Ladele v. Islington* [2009] All England Law Reports (Discrimination) 100, which held that an English registrar employed by a local authority to perform civil marriages could not object, on religious grounds, to officiating at civil partnership ceremonies.

*Article 8* adds the notices of intended marriage book to the documents whose form is to be determined by the Superintendent Registrar.

*Article 9* makes an amendment to the heading to Article 11 of the 2001 Law to reflect its actual subject-matter.

*Article 10* amends Article 12 of the 2001 Law. Whilst it retains the requirement to obtain a decision of the Inferior Number of the Royal Court in relation to a case where it is alleged that one of the parties has been a member of the family of the other whilst under the age of 18, it enables the Superintendent Registrar (rather than the Royal Court) to determine on the available evidence whether a party to a proposed marriage is a minor: only if the Superintendent Registrar is satisfied that neither party is a minor can he or she issue a marriage schedule or a certificate of no impediment.

*Article 11* deletes Article 13 of the 2001 Law which will be spent on the coming into operation of the new provisions of Article 3 of the Law.

*Article 12* amends Article 14 of the 2001 Law to clarify the requirements imposed by paragraph (4) and to qualify that paragraph so that where a marriage is to be solemnized at an open-air location, the certificate of freedom to marry may specify an alternative location. It also replaces paragraph (6) so as to give the Superintendent Registrar a discretion to refuse to issue a marriage schedule, where a non-resident of Jersey is unable to deliver the required evidence of freedom to marry, unless the Superintendent Registrar is satisfied that the failure to deliver it is through no fault of the non-resident, or because the relevant authority of the non-resident's own jurisdiction does not issue certificates of no impediment to marry.

*Article 13* amends Article 15 of the 2001 Law to limit its scope to marriages which are intended to be solemnized under Part 2 of the 2001 Law, and to ensure that if the parties have given notice that they intend their marriage to be solemnized in an open-air location, and have specified an alternative location (for use, for example, in bad weather) that the Superintendent Registrar has been notified of the actual location to be used, and endorsed this information on the published notice of intended marriage, the notices of intended marriage book and any relevant electronic records. The Article also corrects typographical errors in the Article.

*Article 14* amends Article 16 of the 2001 Law to add an additional ground of which the Superintendent Registrar must be satisfied before issuing a certificate of no impediment, namely that the parties will both be 18 or over when they marry.

*Article 15* amends Article 17 of the 2001 Law to insert a missing word.

*Article 16* amends Article 18 of the 2001 Law to permit changes to be notified, in the case of a marriage to be solemnized in an open-air location, of both that location and the alternate location.

*Article 17* amends Article 21 of the 2001 Law to reflect the fact that the conversion declaration form is now called a conversion schedule.

*Article 18* amends Article 22 of the 2001 Law to reflect the fact that a marriage is not solemnized by the parties themselves, but by the official conducting the ceremony. It also removes a contradiction between 2 paragraphs of the Article, in order to make it clear that, despite the general prohibition on religious ceremonial, candles, hymns,

chants, readings from religious texts, and vows of commitment may be used at a civil marriage ceremony. This amendment reflects the existing practice.

*Article 19* makes minor grammatical corrections to Article 23 of the 2001 Law, and updates a cross-reference.

*Article 20* amends Article 24 of the 2001 Law to change references to the parties solemnizing their marriage to references to their having their marriage solemnized by the officiating celebrant, to incorporate provision about alternative locations to open-air locations, and to update the reference to Jersey's mental health legislation. Additionally, the substituted paragraph (2)(b) makes it clear that it is possible to use somewhere other than an approved location in the case of someone who was physically incapacitated before the giving of the notice of marriage, or becomes so incapacitated after that notice has been given.

*Article 21* substitutes a new Article 24A of the 2001 Law which reflects the fact that for some parishes, the relevant registration duties will be performed by the Superintendent Registrar by virtue of the new Article 41A.

*Article 22* amends Article 24B of the 2001 Law in a similar way to that in which *Article 21* amends Article 24A. It also deals with a grammatical infelicity in subparagraphs (f) and (g) of paragraph (2), relocating their substance into a new paragraph (2A).

*Article 23* amends Article 24D(1) of the 2001 Law to remove from the list of matters that need not be proved the grant of consent for a marriage because, with the removal of the possibility of marriage of minors, consent will not in future be needed for any marriage.

*Articles 24 and 25* respectively amend Articles 24E and 34 of the 2001 Law for the sake of consistency with other provisions of that Law.

*Article 26* amends Article 35 of the 2001 Law to remove spent references to the marriage of minors and imposing new requirements to inform the Dean if either of the parties to be married has, while under 18, been a child of the family in relation to the other.

*Article 27* amends Article 36 of the 2001 Law to impose similar requirements in relation to the preliminaries for Anglican weddings as those imposed by *Article 12* in respect of other weddings.

*Article 28* amends Article 39 of the 2001 Law to remove a spent cross-reference.

*Article 29* inserts Article 41A into the 2001 Law. Paragraph (1) of the new Article provides that where, at the coming into force of the Article the relevant registration duties are in fact being performed in relation to a parish by the Superintendent Registrar, they become the duties of the Superintendent Registrar. However, paragraph (2) provides that a Connétable of any parish may, on giving notice in the prescribed form and manner to the Superintendent Registrar, require the relevant registration duties, after the lapse of such period as may be prescribed, to be performed by a parish registrar or transferred to the Superintendent Registrar.

*Article 30* amends Article 42 of the 2001 Law to reflect the fact that the relevant registration duties may be performed by the Superintendent Registrar. Clearly, if the relevant registration duties are performed by a parish registrar, or if the Connétable has decided to resume responsibility for the relevant registration duties and given the Superintendent Registrar notice under the new Article 41A of the 2001 Law, the Connétable needs to be able to appoint a registrar or a deputy registrar on a vacancy occurring, or with effect from the expiry of the notice.

*Article 31* substitutes a new Article for the existing Article 45 of the 2001 Law to deal with the display by relevant registrars of notices outside their offices informing the public of the parish or parishes for which they are the relevant registrar. It imposes specific responsibilities on the Superintendent Registrar in relation to those parishes for which he or she is the relevant registrar.

*Article 32* substitutes a new Article for the existing Article 46 of the 2001 Law so that the requirement to supply boxes to a parish registrar applies only where the relevant registration duties are retained. *Article 33* makes a corresponding amendment to Article 47 of the 2001 Law in respect of the provision of stationery.

*Article 34* makes an amendment to Article 49 of the 2001 Law consequent on the changes effected by the insertion of Article 41A into that Law.

*Article 35* replaces Article 50 of the 2001 Law with a new Article reflecting the distribution of the relevant registration duties, and *Articles 36* and *37* respectively amend Article 51 and Article 52 of the 2001 Law for the same reason.

*Article 38* amends Article 53 of the 2001 Law, to limit the obligation of the Superintendent Registrar to pass information to a parish registrar to those cases where the relevant registration duties are retained by the parish.

*Article 39* amends Article 54(3) of the 2001 Law to extend the exception from the requirement that those seeking to register a birth or stillbirth late must pay a fee to include cases where the delay in registration is attributable to the fault of the Superintendent Registrar.

*Article 40* amends Article 55 of the 2001 Law to substitute for each reference to the registrar a reference to the relevant registrar, reflecting the distribution of functions under the newly inserted Article 41A of the 2001 Law.

*Article 41* amends Article 56 of the 2001 Law to reflect the new distribution of relevant registration duties and to make it clear that the applicant must pay the prescribed fee.

*Article 42* amends Article 57(8) of the 2001 Law to ensure that the relevant registrar re-registers a birth on the parents' marriage or civil partnership.

*Article 43* amends Article 58 of the 2001 Law so that it is restricted to cases where the name of the child is re-registered following baptism and to make it clear that the prescribed maximum amount of the fee payable to the clergyman baptising the child may be different from that payable to the relevant registrar.

*Article 44* inserts 2 new Articles, 58A and 58B, into the 2001 Law. The new Article 58A confers default powers on the Minister to name a child in the case where the parents have registered him or her without giving the child a name, and the new Article 58B deals with the registration of confusing embarrassing or offensive names.

*Article 45* amends Article 59 of the 2001 Law to deal with the registration of the birth of a foundling in the light of the new distribution of functions under the Law.

*Articles 46, 47 and 48* respectively amend Articles 60, 61 and 62 of the 2001 Law to reflect the new distribution of functions.

*Article 49* limits the Superintendent Registrar's obligation to notify a parish registrar under Article 63 of the 2001 Law to those cases where the relevant registration duties are retained.

*Article 50* makes it clear that the obligation of the registered medical practitioner under Article 64(1)(b) of the 2001 Law is to give the informant a certificate which contains the prescribed particulars.

*Articles 51 and 52* respectively amend Articles 65 and 66 of the 2001 Law to impose on the relevant registrar the duty to notify the Viscount in the case of certain deaths, and to

prevent registration by the relevant registrar in relation to death where the Viscount has been notified of a death, or is empowered or required to conduct an inquest.

*Article 53* replaces Article 67 in the 2001 Law with a new Article which prevents a parish registrar from registering a death more than 12 months after its occurrence, and inserts a new Article 67A in the 2001 Law which will require the Superintendent Registrar in the case of a death in exceptional circumstances to seek a direction from the Minister before registering it. The Minister may give directions about the registration or refer the matter to the Inferior Number of the Royal Court.

*Articles 54 to 59* respectively amend Articles 68 to 72 and 75 of the 2001 Law to replace references to the registrar of a parish with references to the relevant registrar.

*Article 60* substitutes a new Article 76 in the 2001 Law dealing with offences which may be committed in relation to the solemnization of marriages.

*Article 61* amends Article 77 of the 2001 Law to make it clear that the offence provision which it contains applies equally to marriages by conversion.

*Article 62* inserts a new Article 77A into the 2001 Law to abolish the concept of a wife's domicile of dependence. Currently, a woman who is resident in Jersey and who marries acquires her husband's domicile, but on the coming into force of this provision the concept of a domicile of dependence will be abolished and a woman will be free, whether married or not, to establish a domicile of choice like anyone else. Until a woman does that, however, she will retain the domicile which she acquired before Article 77A comes into force.

*Article 63* amends Article 78 of the 2001 Law to reflect the new distribution of relevant registration duties.

*Article 64* makes an amendment to Article 80 of the 2001 Law to replace a reference to someone's being of full age with a reference to being 18. Similar amendments are also made elsewhere to remove references to people being minors.

*Article 65* restates the provisions of Article 80A of the 2001 Law to reflect the new distribution of relevant registration duties.

*Article 66* replaces a reference in Article 80B(4) of the 2001 Law to a conversion declaration form with one to a conversion schedule.

*Article 67* replaces Article 80C of the 2001 Law dealing with fees payable under the Law to make it clear, among other things, that only in prescribed circumstances will a fee be refundable.

*Article 68* amends Article 82 of the 2001 Law to remove paragraph (1) of the Article on the basis that, the age of marriage having been increased by the present draft Law, it is spent.

*Article 69* inserts 2 new provisions, Articles 82B and 82C in the 2001 Law. The first of these confers a power on the Superintendent Registrar, subject to anything in the Law or an Order under Article 82, to publish a notice specifying the form of any application to a relevant registrar. The new Article 82C of the 2001 Law restates the content of Article 6(3), (5) and (6) dealing with the authorization of religious officials and civil celebrants because, so far as they relate to the latter, the provisions apply both to marriages and civil partnerships.

*Article 70* substitutes a new Schedule 1 to the 2001 Law, which states the prohibited degrees for marriage, in a more straightforward way. The new text is set out in Schedule 1 to this amending Law.

*Article 71* amends paragraph 2 of Schedule 2A, which deals with the re-registration of a person's surname under Article 59A, to substitute references to the relevant registrar

for the existing references to a registrar, reflecting the distribution of the relevant registration duties.

*Part 2* of the Law amends the Marriage and Civil Status (Jersey) Order 2018 (“the 2018 Order”).

*Article 72* introduces the amendments.

*Article 73* substitutes for the existing Article 11 of the 2018 Order a new Article, to reflect the restructuring of Schedule 1 to the 2018 Order.

*Article 74* makes minor grammatical corrections to Article 13 of the 2018 Order.

*Article 75* replaces Article 15(2)(c)(v) with a new clause which expands the information which is required to be supplied in connection with the registration of an approved location.

*Article 76* amends Article 17 of the 2018 Order to require the inclusion in the register of approved locations, whether the location is an open-air one.

*Article 77* amends Article 19 of the 2018 Order to impose an additional duty on the responsible person for an approved location, which requires that person to notify the Superintendent Registrar of changes to a location which would cause it to become, or cease to be, an open-air location.

*Article 78* amends Article 20 of the 2018 Order. Apart from minor typographical corrections, it relieves the authorized celebrant of the duty to prevent the consumption of food and drink in the period beginning one hour before the start of the ceremony and ending with the end of the ceremony in an open-air location, but not if the ceremony is taking place in a temporary structure in that location.

*Articles 79, 80, 81, 83 and 85* respectively amend Articles 28, 29, 30, 35 and 38 of the 2018 Order to impose new requirements to give information about both the physical address and the postal address of proposed marriage ceremony, if different, for any approved location, including an open-air location in certain preliminary procedures leading to a marriage ceremony (including a ceremony by conversion).

*Article 82* makes a minor correction to Article 34 of the 2018 Order and removes a reference to a marriage being forbidden consequent on the raising of the minimum age for marriage.

*Article 84* imposes an additional requirement in Article 37(10) of the 2018 Order for a marriage taking place in special circumstances that the prescribed fee has been paid.

*Article 86* makes minor corrections to Article 42 of the 2018 Order to make it clear that the parish registrar’s obligation to retain marriage schedules relates to marriages solemnized in the parish, rather than marriages solemnized by the parish registrar.

*Article 87* amends Article 46 of the 2018 Order in consequence of the new distribution of the relevant registration duties and to impose an obligation to record in the register of still-births the details of the parents’ marriage (if any).

*Article 88* substitutes a new Article for Article 49 of the 2018 Order dealing with the registration of the birth of a foundling, reflecting the new distribution of the relevant registration duties.

*Article 89* amends Article 50 of the 2018 Order to reflect the new distribution of the relevant registration duties.

*Article 90* amends Article 51 of 2018 Order to add new information to be recorded in a certificate of still-birth, namely the sex of the child and details of the parents’ marriage (if any).

*Article 91* inserts a new Article 51A into the 2018 Order which specifies the particulars to be included in a certificate of fact and cause of death.

*Article 92* restructures Article 52 of the 2018 Order, and makes minor adjustments to that Article to reflect the new distribution of the relevant registration duties.

*Article 93* replaces Article 53 of the 2018 Order to reflect the new distribution of the relevant registration duties.

*Article 94* substitutes Article 58 in the 2018 Order. It gives effect to the new version of Schedule 1 to the Order, specifying fees under the Order and under the 2001 Law.

*Article 95* gives effect to Schedule 2 to the draft Law, which substitutes the new Schedule 1 to the Order.

*Part 3* of the draft Law makes consequential amendments to other Laws.

*Article 96* amends the Inquests and Post-Mortem Examinations (Jersey) Law 1995 to reflect the distribution of the relevant registration duties.

*Article 97* amends the Education (Jersey) Law 1999 to replace references to the different types of registrar who deals with births and deaths with references to the relevant registrar.

*Article 98* amends paragraph 1 of the Schedule to the Gender Recognition (Jersey) Law 2010 to reflect the distribution of the relevant registration duties.

*Article 99* makes minor corrections to Schedule 2 to the Discrimination (Jersey) Law 2013.

*Article 100* amends the Cremation (Jersey) Regulations 1961 to reflect the new distribution of the relevant registration duties.

*Article 101* amends the Legitimacy and Illegitimacy (Re-Registration of Births) (Jersey) Regulations 1974 to reflect the new distribution of the relevant registration duties.

*Article 102* repeals the Marriage and Civil Partnership (Amendment – Fees) (Jersey) Order 2021 because its provisions are now incorporated in the replacement of Schedule 1 to the 2018 Order and in the provision on fees in the Civil Partnership (Forms, Registration and Fees) (Jersey) Order 2012.

*Article 103* provides for the citation and commencement of the amending Law.





Jersey

## DRAFT MARRIAGE AND CIVIL STATUS (AMENDMENT No. 5) (JERSEY) LAW 202-

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Jersey

## **DRAFT MARRIAGE AND CIVIL STATUS (AMENDMENT No. 5) (JERSEY) LAW 202-**

A **LAW** to amend further the [Marriage and Civil Status \(Jersey\) Law 2001](#); and for connected purposes.

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

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

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### **PART 1**

#### AMENDMENT OF THE [MARRIAGE AND CIVIL STATUS \(JERSEY\) LAW 2001](#)

#### **1 Marriage and Civil Status Law 2001 amended**

This Part amends the [Marriage and Civil Status \(Jersey\) Law 2001](#).

#### **2 Article 1 (interpretation) amended**

In Article 1(1) –

- (a) after the definition “acquired gender” there is inserted –  
“ “alternative location”, in the case of the solemnization of an intended marriage at an approved open-air location, means an approved location that is not an open-air location, and is the location at which the marriage may be solemnized instead of at the approved open-air location;  
“Amendment No. 5 Law” means the Marriage and Civil Status (Amendment No. 5) (Jersey) Law 202-;”;
- (b) in the definitions “authorized civil celebrant” and “authorized religious official” for “under Article 6(3)” there is substituted “under Article 82C(1)”;

- (c) in the definition “child of the family” for “when not of full age” there is substituted “before attaining the age of 18”;
- (d) for the definition “civil marriage celebrant” there is substituted –  
 “ “civil marriage celebrant” means the Superintendent Registrar or the Deputy Superintendent Registrar acting in relation to the celebration of a marriage or an authorized civil celebrant;”;
- (e) after the definition “civil marriage celebrant” there is inserted –  
 “ “civil partnership celebrant” means the Superintendent Registrar or the Deputy Superintendent Registrar acting in relation to the solemnization of a civil partnership or an authorized civil celebrant;”;
- (f) for the definition “marriage authority” there is substituted –  
 “ “marriage authority”, in relation to a jurisdiction outside Jersey, means the person or body responsible for the maintenance of public records of the formation and dissolution of marriages and civil partnerships;”;
- (g) after the definition “officer of the Impôts” there is inserted –  
 “ “open-air location” means a location that is entirely in the open air or a covered temporary structure that is, at all times, exposed on all sides to the open air;”;
- (h) after the definition “registrar” there is inserted –  
 “ “relevant registrar” means –
  - (a) in relation to a parish for which the relevant registration duties are for the time being performed by the Superintendent Registrar under Article 41A, the Superintendent Registrar or a Deputy Superintendent Registrar; and
  - (b) in relation to a parish where the relevant registration duties are performed by a registrar appointed by the Connétable, that registrar;
 “relevant registration duties” means the duties of registering births, deaths, marriages and civil partnerships (and the conversion of marriages to civil partnerships and *vice versa*) and “retained” in relation to those duties means that the duties are performed by a registrar appointed by the Connétable of the parish in which the event being registered takes place;”.

### 3 Article 3 (restriction on marriage) amended

In Article 3 for paragraphs (3) to (5) there is substituted –

- “(3) A marriage between 2 persons is void if one of them is related to the other in a prohibited degree specified in paragraph 1 of Schedule 1.
- (4) A marriage between 2 persons is void if one of them is related to the other in a prohibited degree specified in paragraph 2 of Schedule 1 unless the younger has not at any time before reaching the age of 18 been a child of the family (within the meaning of paragraph 2(2) of that Schedule) in relation to the other.

- (5) A marriage between 2 persons is void if one of them is related to the other in a prohibited degree specified in an entry in column 1 of the table in paragraph 3 of Schedule 1 unless the persons mentioned in the corresponding entry in column 2 of that table are dead.
- (6) Subject to paragraph (8), a marriage solemnized anywhere in the world after the date of the coming into force of the Amendment No. 5 Law is void if at the time of the solemnization of the marriage –
  - (a) at least one party is domiciled in Jersey; and
  - (b) at least one party is under the age of 18.
- (7) Subject to paragraph (8), a marriage solemnized in Jersey on or after the date of the coming into force of the Amendment No. 5 Law, is void if at the time of the solemnization of the marriage at least one party is under the age of 18.
- (8) Any marriage to which paragraph (6) or (7) applies is not void by reason only of that paragraph if, before the coming into force of the Law mentioned in that paragraph, the parties to the intended marriage –
  - (a) gave notice of intended marriage; or
  - (b) in accordance with Article 18, notified the Superintendent Registrar of a change of date,  
which would result in the intended marriage being solemnized after the coming into force of that Law.”.

#### **4 Article 4 (marriage of a minor) and Schedule 2 (consents required to the marriage of a minor) deleted**

Article 4 and Schedule 2 are deleted.

#### **5 Article 5 (restriction on marriage by conversion) amended**

- (1) Article 5 is amended as follows.
- (2) In paragraph (2) –
  - (a) for sub-paragraph (a) there is substituted –  
“(a) the civil partnership is between 2 people who are within a prohibited degree of relationship;”;
  - (b) for sub-paragraph (b) there is substituted –  
“(b) in the case of a conversion occurring on or after the date of the coming into force of the Amendment No. 5 Law, either party was under the age of 18 at the time of the conversion;”;
  - (c) for sub-paragraph (c) there is substituted –  
“(c) in the case of a civil partnership formed before the coming into force of the Amendment No. 5 Law, at the time the civil partnership was formed, either party was under the age of 18 and consent had not been obtained, before the formation of the civil partnership, from a person specified in Schedule 2 to

this Law as it stood at the time the civil partnership was formed;”.

(3) For paragraph (3) there is substituted –

“(3) Any marriage to which paragraph (2)(d) applies is not void by reason only of that paragraph if the younger party to the civil partnership has not, at any time before attaining the age of 18, been a child of the family in relation to the other party.”.

## **6 Article 6 (persons authorized to solemnize marriages in Jersey) amended**

In Article 6, paragraphs (3) and (7) are deleted.

## **7 Article 7 (marriages according to religious rites: no compulsion to solemnize marriage etc.) substituted**

For Article 7 there is substituted –

### **“7 Religious marriages: no compulsion to solemnize, etc.**

(1) This Article applies to –

- (a) a religious organization;
- (b) a clergyman; and
- (c) an authorized religious official.

(2) In the case of an individual, this Article applies to the individual regardless of whether any religious organization to which the individual belongs consents to same sex marriage or to acquired gender marriage.

(3) In the case of –

- (a) a same sex marriage; or
- (b) the marriage of 2 persons, at least one of whom the person to whom this Article applies (or, in the case where that person is a religious organization, the marriage celebrant) reasonably believes to be a person of an acquired gender,

a person to whom this Article applies must not be compelled, in any such case (whether by any provision of this Law, by any requirement imposed by another enactment, or by any other legal requirement, including a term of any contract), to do any of the things listed in paragraph (4) where the reason for not doing such a thing is that the marriage is a same sex marriage or an acquired gender marriage.

(4) The things mentioned in paragraph (3) that a person must not be compelled to do in respect of a same sex marriage, or an acquired gender marriage are –

- (a) solemnizing it;
- (b) attending at it;
- (c) consenting to it;

- (d) applying for authorization for a person to solemnize it; or
- (e) certifying any matter relating to it.

(5) For the avoidance of doubt –

- (a) a person must not be compelled to refrain from doing any of the things listed in paragraph (4); and
- (b) a person may withdraw, and must not be compelled to refrain from withdrawing, a consent or certificate previously given or an application previously made.

(6) Any duty of a clergyman to solemnize marriages (and any corresponding right of persons to have their marriage solemnized by a clergyman) is not extended by this Law to same sex or acquired gender marriages.

(7) In this Article “acquired gender marriage” means a marriage solemnized or to be solemnized between 2 persons at least one of whom is of an acquired gender.”.

## **8 Article 10 (giving notice of intended marriage and making freedom to marry declaration) amended**

In Article 10 –

- (a) in paragraph (8), after “A notice of intended marriage form”, there is inserted “and the notices of intended marriage book”;
- (b) in the declaration set out in paragraph (9) for “before attaining full age” there is substituted “before attaining the age of 18”.

## **9 Article 11 (publication of notice of intended marriage and entry in notices of intended marriage book) amended**

In the heading of Article 11 “and entry in notices of intended marriage book” is deleted.

## **10 Article 12 (caveat against issue of marriage schedule or certificate of no impediment to marriage) amended**

For Article 12(6) and (7) there is substituted –

“(6) Where a caveat is entered against a marriage on the ground that the persons to be married are not both at least 18, even if the caveat is withdrawn by the person who entered it, the Superintendent Registrar must not issue a marriage schedule or certificate of no impediment to marriage unless satisfied, by the production of evidence, that the persons to be married are both aged at least 18.

(6A) Where a caveat is entered against a marriage on the ground that one of the persons to be married has, at any time before attaining the age of 18, been a child of the family in relation to the other then, even if the caveat is withdrawn by the person who entered it, the Superintendent Registrar must not issue a marriage schedule or a certificate of no impediment to marriage unless a declaration is

obtained from the Inferior Number of the Royal Court under paragraph (7).

- (7) In the case falling within paragraph (6A), one or both of the persons to be married may apply to the Inferior Number of the Royal Court for a declaration to the effect that neither of them has, at any time before attaining the age of 18, been a child of the family in relation to the other and, accordingly, that there is no impediment (on the ground referred to in paragraph (6A)) to the solemnization of the marriage.”.

### **11 Article 13 (forbidding of issue of marriage schedule or certificate of no impediment to marriage) deleted**

Article 13 is deleted.

### **12 Article 14 (marriage in Jersey by non-Jersey resident: certificate of freedom to marry issued by other authority) amended**

In Article 14 –

- (a) for paragraph (4)(a) to (c) there is substituted –
- “(a) include the full names of the parties to the intended marriage and the approved location where the marriage is intended to be solemnized;
  - (b) be issued not more than 3 months before the intended date for solemnization of the marriage; and
  - (c) if it contains a date of expiry, contain a date that falls after the intended date of the solemnization of the marriage.”;
- (b) after paragraph (4) there is inserted –
- “(4A) If the approved location which is included under paragraph (4)(a) is an open-air location, the certificate of freedom to marry may include an alternative location.”;
- (c) for paragraph (6) there is substituted –
- “(6) The Superintendent Registrar may refuse to issue a marriage schedule in respect of any person intending to marry in Jersey who fails to deliver to the Superintendent Registrar a valid certificate of freedom to marry required under paragraph (1) or (2) unless the Superintendent Registrar is satisfied –
- (a) that the failure is beyond the control of the person in respect of whom the requirement applies; or
  - (b) that the marriage authority referred to in paragraph (1) or (2) does not issue such certificates.”.

### **13 Article 15 (issue of marriage schedule) amended**

In Article 15 –

- (a) in paragraph (1), for “Where a marriage is intended to be solemnized in Jersey one of the parties”, there is substituted “Where, under this

Part, a marriage is intended to be solemnized in Jersey, one of the parties”;

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

“(ba) if the notice of intended marriage form included the particulars of an open-air location as well as an alternative location, both parties to the intended marriage have confirmed which of those 2 approved locations is to be the location at which the marriage is to be solemnized;

(bb) the Superintendent Registrar has endorsed a note upon the published notice of intended marriage, the notices of intended marriage book and on any electronic records so as accurately to record the approved location confirmed under sub-paragraph (ba);”;

(c) for paragraph (5) there is substituted –

“(5) Subject to paragraphs (3) and (4), the Superintendent Registrar must issue the marriage schedule to the marriage celebrant unless any lawful impediment has been shown to the satisfaction of the Superintendent Registrar.”;

(d) in paragraph (9) –

(i) for “from” there is substituted “form”,

(ii) for “the Superintendent” there is substituted “the Superintendent Registrar”.

#### **14 Article 16 (issue of certificate of no impediment by Superintendent Registrar for marriage outside Jersey) amended**

In Article 16 –

(a) in paragraph (3), immediately before sub-paragraph (a) there is inserted –

“(aa) the Superintendent Registrar is satisfied that both parties to the marriage will be aged 18 or over when the marriage is solemnized;”;

(b) paragraph (4)(b) is deleted.

#### **15 Article 17 (solemnization of marriage) amended**

In Article 17(1) after “is subject” there is inserted “to”.

#### **16 Article 18 (changes to date, time or location of intended marriage) amended**

In Article 18 –

(a) for paragraph (1) there is substituted –

“(1) Subject to Article 24, if the parties to an intended marriage wish to change the date or time of the marriage contained in the notice of intended marriage, both parties must notify the Superintendent Registrar in writing –

- (a) in the case of a change of time, not later than 25 clear days before the date of the intended marriage;
  - (b) in the case of a change of date which is earlier than the date contained in the notice of intended marriage, not later than 25 clear days before the new date of the intended marriage;
  - (c) in the case of a change of date which is later than the date contained in the notice of intended marriage, not later than 25 clear days before the date contained in the notice of intended marriage.”;
- (b) in paragraph (2) –
    - (i) for “change the location” there is substituted “change the approved location, or alternative location,”;
    - (ii) for “the new location” there is substituted “the new approved location, or new alternative location,”;
  - (c) in paragraph (3) for “shall” there is substituted “must”.

## 17 Article 21 (issue of conversion declaration form) amended

In Article 21 –

- (a) in the heading, for “conversion declaration form” there is substituted “conversion schedule”;
- (b) in paragraph (1) –
  - (i) for “conversion declaration form” there is substituted “conversion schedule”;
  - (ii) for “parties to the marriage” there is substituted “parties to the civil partnership”;
- (c) in paragraph (3) –
  - (i) in the opening words for “conversion declaration form” there is substituted “conversion schedule”;
  - (ii) in sub-paragraph (a), after “intended conversion have” there is inserted “, during the period specified in paragraph (1),”;
  - (iii) “and” following sub-paragraph (a) is deleted;
  - (iv) after sub-paragraph (a) there is inserted –
    - “(ab) both parties to the intended conversion have confirmed the location of the solemnization of the marriage by conversion;”;
- (d) in paragraph (4) –
  - (i) in sub-paragraph (a) for “party to the marriage” there is substituted “party to the civil partnership”;
  - (ii) in sub-paragraph (b) for “conversion declaration form” there is substituted “conversion schedule”;
- (e) in paragraph (5) –
  - (i) for “conversion declaration form” there is substituted “conversion schedule”;
  - (ii) for “parties to the marriage” there is substituted “parties to the civil partnership”;

- (f) in paragraph (6) –
  - (i) in the opening words, for “conversion declaration form” there is substituted “conversion schedule”,
  - (ii) in sub-paragraph (a) for “the registrar of the parish” there is substituted “the relevant registrar”.

## 18 Article 22 (marriage by conversion) amended

In Article 22 –

- (a) in paragraph (2), for “in the presence of” there is substituted “by”;
- (b) in paragraph (4), for “before the” there is substituted “by”;
- (c) at the beginning of paragraph (6), there is inserted “Subject to paragraphs (7) and (8),”;
- (d) in paragraph (7), “, if satisfied that the content of the marriage ceremony does not contravene paragraph (6),” is deleted.

## 19 Article 23 (approved locations) amended

In Article 23 –

- (a) in paragraph (13) for “usual public places” there is substituted “usual places”;
- (b) in paragraph (14) for “certified as a place” there is substituted “certified as a usual place”;
- (c) in paragraph (15)(a) for “a place of public religious worship” there is substituted “a usual place of public religious worship”.

## 20 Article 24 (marriage: special circumstances) amended

In Article 24 –

- (a) in paragraph (1) for “solemnize their marriage”, in each place, there is substituted “have their marriage solemnized”;
- (b) in paragraph (1)(d) for “time or location” there is substituted “time, approved location or alternative location”;
- (c) for paragraph (2)(b) there is substituted –
  - “(b) whether before or after the delivery of an application for a notice of intended marriage under Article 8, or conversion under Article 19, one or both of the parties to the intended marriage are, or become, physically incapacitated such that it would be impossible to solemnize the marriage in an approved location;”;
- (d) in paragraph (2) –
  - (i) in sub-paragraph (d) for “Mental Health (Jersey) Law 1969” there is substituted “[Mental Health \(Jersey\) Law 2016](#)”,
  - (ii) in sub-paragraph (e) for “the approved location” there is substituted “the location”.

**21 Article 24A (retention of marriage schedule or conversion declaration form) substituted**

For Article 24A there is substituted –

**“24A Retention of marriage schedule or marriage conversion schedule**

- (1) A marriage celebrant must return each marriage schedule, marriage conversion schedule, marriage certificate and signature verification form to the Superintendent Registrar as soon as reasonably practicable after the solemnization of a marriage.
- (2) If the relevant registration duties are retained by the parish in which a marriage is solemnized or converted –
  - (a) the Superintendent Registrar must, as soon as reasonably practicable upon receipt of the marriage schedule or marriage conversion schedule –
    - (i) complete the entries in the copy marriage register or copy marriage conversion register held by the Superintendent Registrar in respect of the marriage to which the marriage schedule or marriage conversion schedule (as the case requires) relates with the particulars contained in the schedule, and
    - (ii) return the original marriage schedule or marriage conversion schedule to the registrar of the parish in which the marriage was solemnized or converted; and
  - (b) the registrar of the parish must keep registers recording –
    - (i) in date order in which each marriage is solemnized, particulars of all marriages solemnized in his or her parish, and
    - (ii) in date order in which each civil partnership is converted to a marriage, particulars of all conversions occurring in his or her parish.
- (3) The Superintendent Registrar must pay a registrar the prescribed fee –
  - (a) for each marriage or conversion which the registrar records under paragraph (2)(b); and
  - (b) for the provision of registers and returns.
- (4) If the relevant registration duties are not retained by a parish the Superintendent Registrar –
  - (a) must keep for that parish –
    - (i) a register of marriages, and
    - (ii) a register of marriage conversions; and
  - (b) must, as soon as reasonably practicable, record in the applicable register for the parish –
    - (i) in date order in which each marriage is solemnized, the particulars contained in the marriage schedule, and

- (ii) in date order in which each civil partnership is converted to a marriage, the particulars contained in the conversion schedule.”.

## 22 Article 24B (keeping of information, books, indexes, registers etc. relating to marriage) amended

In Article 24B –

- (a) in paragraphs (1) and (2) for “The Superintendent Registrar shall” there is substituted “The Superintendent Registrar must”;
- (b) in paragraph (2), sub-paragraphs (f) and (g) are deleted;
- (c) after paragraph (2) there is inserted –

“(2A) The Superintendent Registrar must keep in such form as the Superintendent Registrar decides –

- (a) a copy of the entries in the marriage registers held by each registrar and by each incumbent of an Anglican Church in which marriages may be solemnized;
- (b) a copy of each marriage certificate or marriage conversion certificate signed by the parties to the marriage and the person officiating.

(d) in paragraph (3) for “paragraph (2)” there is substituted “paragraphs (2) and (2A)”;

(e) for paragraph (4) there is substituted –

“(4) In relation to a parish where the relevant registration duties are performed by the Superintendent Registrar, the Superintendent Registrar must keep up to date and in such form and manner as he or she may determine, and containing the prescribed details –

- (a) a register of all marriages that took place in the parish before the coming into force of the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 2018; and
- (b) the marriage schedules and conversion schedules in respect of all marriages that take place in that parish.

(4A) In relation to a parish where the relevant registration duties are retained by the parish, the registrar must keep up to date and in such form and manner as the Superintendent Registrar may by notice require and containing the prescribed details –

- (a) a register of all marriages that took place in the parish before the coming into force of the Marriage and Civil Status (Amendment No. 4) (Jersey) Law 2018; and
- (b) the marriage schedules and conversion schedules in respect of all marriages that take place in that parish.”;

(f) in paragraph (5) for “their maintenance” there is substituted “their being kept”.

**23 Article 24D (proof of certain matters not necessary to validity of marriages) amended**

Article 24D(1)(b) is deleted.

**24 Article 24E (marriages void under Part 2 of the Law) amended**

In Article 24E(i), in both places, for “place” there is substituted “location”.

**25 Article 34 (places in which marriage may be solemnized by ordinary licence) amended**

In the heading to Article 34 for “Places” there is substituted “Parish churches”.

**26 Article 35 (requirements for grant of licence) amended**

In Article 35 –

(a) for paragraph (1) there is substituted –

“(1) The Dean must not grant any licence unless one of the persons to be married has sworn before the Dean that the person believes that there is no impediment of kindred or alliance or any other lawful cause, nor any suit commenced in any court, to bar or hinder the solemnization of the marriage in accordance with the licence.”;

(b) in paragraph (2) for “shall not” there is substituted “must not”;

(c) for paragraph (3) there is substituted –

“(3) The Dean must not grant any licence for the solemnization of a marriage to which paragraph 2 of Schedule 1 applies unless the Dean has received a declaration in writing made by each of the persons to be married specifying how they are related and declaring that the younger has not, at any time before attaining the age of 18, been a child of the family in relation to the other.”.

**27 Article 36 (caveat against licence of Dean) amended**

In Article 36 –

(a) in paragraph (3) for “the Dean shall not” there is substituted “the Dean must not”;

(b) for paragraphs (6) and (7) there is substituted –

“(6) Where a caveat is entered against a marriage on the ground that the persons to be married are not both aged at least 18, the Dean must not issue a licence unless he or she is satisfied, by the production of evidence, that the persons to be married are both aged at least 18 (even if the caveat is withdrawn by the person who entered it).

(6A) Where a caveat is entered against a marriage on the ground that one of the persons to be married has, at any time before attaining the age of 18, been a child of the family in relation to the other, even if the caveat is withdrawn by the person who entered it, the Dean must not issue a licence unless a declaration is obtained from the Inferior

Number of the Royal Court under paragraph (7) (even if the caveat is withdrawn by the person who entered it).

- (7) In the case described in paragraph (6A), one or both of the persons to be married may apply to the Inferior Number of the Royal Court for a declaration to the effect that neither of them has, at any time before attaining the age of 18, been a child of the family in relation to the other and, accordingly, that there is no impediment (on the ground referred to in paragraph (6A)) to the solemnization of the marriage.”.

## 28 Article 39 (marriages void under Part 3) amended

In Article 39(c) there is deleted “4(8) or”.

## 29 Article 41A (discharge of registration duties) inserted

After Article 41 there is inserted –

### “41A Performance of registration duties under this Law and the [Civil Partnership \(Jersey\) Law 2012](#)

- (1) On the coming into force of this Article, the relevant registration duties for those parishes for which the Superintendent Registrar is, immediately before the commencement of this Article, acting in the capacity of parish registrar under Article 42(8), shall be the duty of the Superintendent Registrar, but subject to paragraph (2).
- (2) A Connétable may, give notice to the Superintendent Registrar in such form and manner as may be prescribed, and expiring not earlier than such time as may be prescribed, that the Connétable –
- (a) wishes the relevant registration duties to be performed, in respect of the parish, from the expiry of the time specified in the notice, by a parish registrar; or
- (b) wishes those duties to cease to be performed, in respect of the parish, from the expiry of the time specified in the notice, by a parish registrar and thereafter to be performed by the Superintendent Registrar.
- (3) Where notice is given under paragraph (2), the Minister may by Order make such amendments to this Law or the [Civil Partnership \(Jersey\) Law 2012](#) as appear necessary or expedient to give effect to the transfer of the duties referred to in paragraph (1) which is the subject of the notice.
- (4) Before making an Order under paragraph (3) the Minister must consult the Comité des Connétables.
- (5) For the sake of clarity, a notice under paragraph (2) may only require the transfer of all of the relevant registration duties.”.

## 30 Article 42 (registrars and deputy registrars) amended

In Article 42 –

- (a) in paragraph (2) for the words preceding sub-paragraph (a) there is substituted –
  - “(2) In each parish in which the relevant registration duties are retained or, pursuant to a notice under Article 41A(2) are to be retained –”;
- (b) for paragraph (8) there is substituted –
  - “(8) The Connétable may appoint the Superintendent Registrar, a registrar, deputy registrar of a different parish or an employee of the parish, to be the registrar or deputy registrar of the parish if –
    - (a) the relevant registration duties are, or by virtue of a notice under Article 41A(2) will be, retained;
    - (b) there is no registrar or deputy registrar in a parish; and
    - (c) it appears to the Connétable, having made such enquiries as the Connétable considers reasonable, that there is no person resident in the parish who is qualified to be appointed to that role by reference to the role description published under Article 42(1) and willing to be so appointed.”.

### **31 Article 45 (requirement to display name and office) substituted**

For Article 45 there is substituted –

#### **“45 Requirement to display name and office**

- (1) In a parish where the relevant registration duties are retained, the registrar and each deputy registrar must display, on the exterior of any premises which that person uses as his or her office in that person’s capacity as the registrar or deputy registrar of that parish, a notice stating the person’s name and indicating whether he or she is the registrar or the deputy registrar.
- (2) The Superintendent Registrar must clearly display on the exterior of his or her office –
  - (a) a list of the parishes for which the Superintendent Registrar performs the relevant registration duties; and
  - (b) a list of the names and addresses of all of the registrars and deputy registrars for the parishes in which the relevant registration duties are retained.”.

### **32 Article 46 (provision of storage) amended**

For Article 46 there is substituted –

#### **“46 Provision of storage**

- (1) The States must supply to each of the persons specified in paragraph (2) a durable and fire-resistant box in which the registers and other records in that person’s custody for the purposes of this Law and the 2012 Law are to be stored when not in use.
- (2) The persons referred to in paragraph (1) are –

- (a) the registrar of each parish for which the relevant registration duties are for the time being retained; and
- (b) the incumbent of each Anglican church in which marriages may be solemnized.”.

### **33 Article 47 (provision of registers, forms and certificates) amended**

In Article 47(1) and (2) for “each registrar” there is substituted “each registrar of a parish to which Article 41A(2)(a) applies for the time being”.

### **34 Article 49 (interpretation of Part 5 of the Law) amended**

In Article 49(3) for “by the registrar required to register the occurrence” there is substituted “by the relevant registrar”.

### **35 Article 50 (duty to register births and deaths) substituted**

For Article 50 there is substituted –

#### **“50 Duty to register births and deaths**

Subject to the other provisions of this Part, if the relevant registrar is informed of the particulars of a birth, stillbirth or death, the relevant registrar must register the birth, stillbirth or death in accordance with the prescribed requirements.”.

### **36 Article 51 (duty to inform registrar of birth within 21 days) amended**

In Article 51 –

- (a) in the heading to the Article for “registrar” there is substituted “relevant registrar”;
- (b) in paragraph (1), for “the registrar” there is substituted “the relevant registrar”;
- (c) in paragraph (1A), after “birth of a child” there is inserted “in a parish for which the relevant registration duties are retained”.

### **37 Article 52 (restriction on registration of birth after 21 days) amended**

In Article 52 –

- (a) in paragraph (2) for “the registrar” there is substituted “the relevant registrar”;
- (b) for paragraph (3) there is substituted –
  - “(3) The informant must –
    - (a) make a solemn declaration, to the best of his or her ability, of the particulars of the birth –
      - (i) in the presence of the Superintendent Registrar, and

- (ii) if the birth took place in a parish where the relevant registration duties are retained, in the presence of the registrar of the parish; and
- (b) unless the birth was not registered within 21 days by reason of any fault of the relevant registrar or the Superintendent Registrar, on payment of the prescribed fee.”.

**38 Article 53 (power of Superintendent Registrar to require information about birth) amended**

In Article 53(2) for “shall inform the registrar of the parish” there is substituted “must, if the parish has retained the relevant registration duties, inform the registrar of the parish”.

**39 Article 54 (restriction on registration of birth after 6 months) amended**

In Article 54(3) after “the registrar” there is inserted “or the Superintendent Registrar”.

**40 Article 55 (registration of father where parents not married) amended**

In Article 55 –

- (a) in paragraph (2) for “the registrar” there is substituted “the relevant registrar”;
- (b) in paragraph (3) for “the registrar” there is substituted “the relevant registrar”;
- (c) in paragraph (4) for “a registrar” there is substituted “the relevant registrar”.

**41 Article 56 (re-registration where parents not married) amended**

In Article 56 –

- (a) in paragraph (2) for “the registrar” there is substituted “the relevant registrar”;
- (b) in paragraph (3) for “and with the authority of the Superintendent Registrar” there is substituted “, by, or with the authority of, the Superintendent Registrar and on payment of the prescribed fee”;
- (c) in paragraph (4) –
  - (i) for “the registrar” there is substituted “the relevant registrar”, and
  - (ii) after “where” there is inserted “the relevant registration functions are retained for the parish in which the birth occurred, and”;
- (d) in paragraph (5) for “the registrar” there is substituted “a relevant registrar”.

**42 Article 57 (re-registration of birth of legitimated person) amended**

In Article 57(8) for “the Superintendent Registrar shall direct” there is substituted –

“the Superintendent Registrar shall –

- (a) if the relevant registration duties have not been retained, make an entry in the register for the parish in which the birth took place as if the child had been legitimate at birth and to note the re-registration against the original entry; or
- (b) if the relevant registration duties are retained by the parish, direct”.

**43 Article 58 (further registration of name) amended**

In Article 58 –

- (a) in paragraph (1) –
  - (i) there is deleted “or, if the child was registered without a name, the child is given a name”,
  - (ii) for “the registrar to register the name as altered or given” there is substituted “the relevant registrar to register the name as altered”;
- (b) in paragraph (2) at the end there is inserted “as a result of the registration”;
- (c) in paragraph (3) –
  - (i) there is deleted “or given”,
  - (ii) for “on payment of a fee not exceeding the prescribed fee” there is substituted “on payment of a fee not exceeding such maximum as may be prescribed.”.

**44 Articles 58A and 58B inserted**

After Article 58 there is inserted –

**“58A Re-registration following giving of name**

- (1) This Article applies where, within the period of 3 months following the birth of a child, the birth has been registered but no name has been recorded in the entry relating to the child.
- (2) If the relevant registration duties have been retained in the parish in which the birth occurred, the registrar must inform the Superintendent Registrar of the fact that no name has been recorded in the entry relating to the child.
- (3) On –
  - (a) the expiry of the period mentioned in paragraph (1) if the Superintendent Registrar is the relevant registrar; or
  - (b) on being informed as mentioned in paragraph (2),

the Superintendent Registrar must notify a person whom the Superintendent Registrar knows to have parental responsibility for the child that no name has been recorded in respect of the child and that the person notified must, within one month, comply with paragraph (4).

- (4) A person complies with this paragraph if he or she –
  - (a) notifies the relevant registrar of the name of the child; and
  - (b) pays the prescribed fee.
- (5) If paragraph (4) is not complied with, or the Superintendent Registrar has been unable, despite making reasonable efforts to do so, to contact any person whom the Superintendent Registrar knows to have parental responsibility for the child, the Superintendent Registrar must notify the Minister.
- (6) On receipt of notice under paragraph (5), the Minister must choose a forename for the child and instruct the relevant registrar to enter that forename in the register.
- (7) The relevant registrar must annotate an entry made under paragraph (6) in the margin with the words “Forename(s) chosen by the Minister under Article 58A(6) of the [Marriage and Civil Status \(Jersey\) Law 2001](#)” and must sign and date the entry.

#### **58B Registration: confusing, embarrassing or offensive names**

- (1) Paragraph (2) or (4) applies if the relevant registrar considers that a name which a person applying for the registration of a birth, or an amendment of such a registration (such person being referred to below as “the applicant”), seeks to give to a child is one which –
  - (a) might reasonably be expected to cause mistake or confusion as to the child’s identity, or to cause embarrassment to the child;
  - (b) is sought for an improper purpose; or
  - (c) is, for any other reason, objectionable.
- (2) If the relevant registration duties are performed by the Superintendent Registrar and paragraph (1)(a), (b) or (c) applies he or she must –
  - (a) register, or re-register the birth without the name applied for or refuse to amend the existing name recorded in the register; and
  - (b) notify the applicant of the decision.
- (3) In reaching a decision under paragraph (1), the Superintendent Registrar must have regard to –
  - (a) the interests of the child and the applicant; and
  - (b) the public interest.
- (4) If the relevant registration duties are retained by the parish, the registrar of the parish must –
  - (a) having regard to the interests mentioned in paragraph (3)(a) and (b), register, or re-register the birth without the name

- applied for, or refuse to amend the existing name recorded in the register; and
- (b) notify the applicant and the Superintendent Registrar of the decision.
- (5) On receipt of notification under paragraph (4)(b), the Superintendent Registrar must determine whether the decision under paragraph (4) should be confirmed or not, and in doing so must have regard to the interests mentioned in paragraph (3)(a) and(b).
  - (6) The Superintendent Registrar must notify the registrar and the applicant of a determination under paragraph (5).
  - (7) If the Superintendent Registrar makes a decision under paragraph (2)(a) or confirms the decision of the registrar under paragraph (4)(a), the applicant may appeal against the decision to the Minister, who must determine the appeal having regard to the interests referred to in paragraph (3).
  - (8) This Article has effect despite Articles 51, 52, 54, 55, 56, 57, 58 and 59A.”.

#### **45 Article 59 (registration of birth of abandoned child) amended**

For Article 59(2) there is substituted –

- “(2) On an application under this Article, the Superintendent Registrar must, subject to paragraph (3) –
  - (a) if the child was found in a parish for which the relevant registration duties are performed by the Superintendent Registrar, cause the prescribed particulars to be recorded in the register of births for the parish; and
  - (b) in any other case, direct the registrar of the parish where the child was found, to record the prescribed particulars in the register of births for the parish.”.

#### **46 Article 60 (short birth certificate) amended**

In Article 60(1) –

- (a) for “a registrar” there is substituted “the relevant registrar”;
- (b) for “the registrar” (in both places) there is substituted “the relevant registrar”.

#### **47 Article 61 (registration of stillbirth) amended**

In Article 61 –

- (a) in paragraph (1), for “the registrar” there is substituted “the relevant registrar”;
- (b) in paragraph (5) for “A registrar” there is substituted “A relevant registrar”.

**48 Article 62 (duty to inform registrar of death within 5 days) amended**

In Article 62 –

- (a) in the heading to the Article for “registrar” there is substituted “relevant registrar”;
- (b) in paragraph (1), in the words following sub-paragraph (c) for “the registrar” (in both places) there is substituted “the relevant registrar”.

**49 Article 63 (power of Superintendent Registrar to require information about death) amended**

In Article 63(2) for “The Superintendent Registrar” there is substituted –

“In the case of a death occurring in a parish which has retained the relevant registration duties, the Superintendent Registrar must inform the registrar”.

**50 Article 64 (certificate of fact and cause of death) amended**

In Article 64 –

- (a) for paragraph (1)(b) there is substituted –
  - “(b) give the certificate, containing prescribed particulars, to the informant.”;
- (b) in paragraph (2)(b) for “the registrar” there is substituted “the relevant registrar”.

**51 Article 65 (duty of registrar to notify Viscount of death) amended**

In Article 65 –

- (a) in the heading for “registrar” there is substituted “relevant registrar”;
- (b) in paragraph (1) for “a registrar” and for “the registrar” there is substituted “the relevant registrar” in each place where the expression occurs; and
- (c) in paragraph (2) for “the registrar” there is substituted “the relevant registrar”.

**52 Article 66 (restrictions on registration of death) amended**

In Article 66 for “registrar” there is substituted “relevant registrar” in each place.

**53 Article 67 (registration in exceptional circumstances) substituted**

For Article 67 there is substituted –

**“67 Parish registrar must not register death more than 12 months after it occurs**

A registrar of a parish which has retained the relevant registration duties –

- (a) must not register a death if registration is sought more than 12 months after the death occurred; and
- (b) must refer the case to the Superintendent Registrar.

#### **67A Registration of death in exceptional circumstances**

- (1) This Article –
  - (a) applies in the case of a death if –
    - (i) registration is sought more than 12 months after the death occurred, or
    - (ii) the Superintendent Registrar is satisfied that, by reason of the exceptional circumstances of the death, it is not practicable to fulfil any requirement relating to registration imposed by or under this Part; but
  - (b) does not apply to a death to which Article 66 applies.
- (2) If this Article applies to a death, the Superintendent Registrar –
  - (a) must refer the case to the Minister; and
  - (b) must not register the death unless authorised to do so under paragraph (3).
- (3) The Minister may –
  - (a) direct that any requirement imposed by or under this Part be dispensed with in relation to the death, and direct the registration of the death; or
  - (b) refer the case through the Attorney General to the Inferior Number of the Royal Court for the Court's direction and authorisation.”.

#### **54 Article 68 (certificate of registration of death) amended**

In Article 68 for “A registrar” there is substituted “A relevant registrar”.

#### **55 Article 69 (duty to register marriage) amended**

For Article 69(b) there is substituted –

- “(b) in any other case, by the relevant registrar for the parish in which the marriage was solemnized.”.

#### **56 Article 70 (duty to record marriage) amended**

In Article 70, for “the registrar of the parish” there is substituted “the relevant registrar for the parish”.

#### **57 Article 71 (power to ask for particulars of marriage) amended**

In Article 71 after “particulars of a marriage” there is inserted “(other than the Superintendent Registrar)”.

**58 Article 72 (duty of informant to sign register) amended**

In Article 72(1) for “the registrar” there is substituted “the relevant registrar”.

**59 Article 75 (duty of Minister) amended**

In Article 75(2) and (3) for “registrar” there is substituted “relevant registrar” in each place.

**60 Article 76 (offences relating to solemnization of marriage) substituted**

For Article 76 there is substituted –

**“76 Offences relating to solemnization of marriage**

- (1) A person commits an offence if he or she knowingly and voluntarily makes any false declaration, signs any false document, or otherwise provides false information for the purpose of –
  - (a) giving notice of intended marriage (including by conversion);
  - (b) obtaining a marriage schedule, marriage conversion schedule, or a certificate of no impediment to marriage; or
  - (c) having a marriage solemnized (including by conversion).”.
- (2) The Superintendent Registrar commits an offence if he or she, knowingly and voluntarily –
  - (a) issues a marriage schedule, marriage conversion schedule or certificate of no impediment to marriage pursuant to a notice of intended marriage which is void by virtue of Article 11(2);
  - (b) issues a marriage schedule where there are fewer than 25 clear days between the date on which the notice of intended marriage was given and the date of the marriage specified on that notice, unless special circumstances exist under Article 24;
  - (c) issues a certificate of no impediment to marriage where there are fewer than 25 clear days between the date on which the certificate of no impediment to marriage was issued and the date of the marriage specified on the notice of intended marriage, unless special circumstances exist under Article 24;
  - (d) issues a licence, schedule, or certificate on which a lawful objection has been entered unless the Superintendent Registrar has determined (in a case where he or she is empowered to do so) that the objection is without merit, or the Inferior Number of the Royal Court has ordered that the schedule or certificate may nevertheless be issued;
  - (e) authorizes an authorized civil celebrant to solemnize a marriage in a location that is not an approved location, or only approved for the solemnization of marriages according to the rites or usages of a religious organization;
  - (f) authorizes an authorized religious official to solemnize a marriage in a location that is not an approved location for the

- solemnization of marriages according to the rites or usages of the particular religious organization that applied for the authorization of that official;
- (g) authorizes the solemnization of a marriage between 2 persons of the same sex in a location that is not approved for the solemnization of same sex marriages; or
  - (h) authorizes an authorized religious official to solemnize a marriage of 2 persons of the same sex according to the rites or usages of a religious organization that has not consented to the solemnization of same sex marriage.
- (3) A person commits an offence if he or she knowingly and voluntarily solemnizes a marriage declared void under this Law.
  - (4) A person commits an offence if he or she knowingly and voluntarily solemnizes a marriage on the authority of a marriage schedule before the expiry of any period required by this Law to elapse between the issue of that schedule and the solemnization of the marriage.
  - (5) A person commits an offence if he or she knowingly and voluntarily –
    - (a) solemnizes a marriage on the authority of a marriage conversion schedule which is void;
    - (b) solemnizes a marriage on the authority of a marriage conversion schedule before the expiry of any period required by this Law to elapse between the issue of that schedule and the solemnization of the marriage by conversion.
  - (6) A person commits an offence if he or she knowingly and voluntarily –
    - (a) subject to sub-paragraph (b), solemnizes a marriage on the authority of a marriage schedule in a location other than that specified in the notice of intended marriage and the marriage schedule;
    - (b) in a case to which Article 24 applies, solemnizes a marriage on the authority of a marriage schedule, otherwise than at the location approved under that Article.
  - (7) A person commits an offence if he or she, knowingly and voluntarily –
    - (a) subject to sub-paragraph (b), solemnizes a marriage on the authority of a marriage conversion schedule in a location other than that specified in the notice of intended conversion and the marriage conversion schedule; or
    - (b) in a case to which Article 24 applies, solemnizes a marriage by conversion, otherwise than at the location approved under that Article.
  - (8) A person other than a marriage celebrant commits an offence if he or she solemnizes a marriage.
  - (9) A person commits an offence if, knowingly and voluntarily, he or she makes a false declaration, signs any false document or otherwise provides false or inaccurate information for the purpose of an application for –

- (a) an authorization of a person as an authorized civil celebrant or an authorized religious official; or
  - (b) approval of location as an approved location.
- (10) A person guilty of an offence under this Article is liable on conviction to imprisonment for a term not exceeding 5 years, a fine or both.”.

#### **61 Article 77 (offences relating to registration) amended**

In Article 77(1)(a), after “marriage” there is inserted “(including a marriage by conversion)”.

#### **62 Article 77A (abolition of wife’s domicile of dependence) inserted**

After Article 77 there is inserted –

##### **“77A Abolition of wife’s domicile of dependence**

- (1) Subject to paragraph (2), the domicile of a married woman as at any time after the coming into force of this Article, instead of being the same as her husband’s by virtue only of marriage, is to be ascertained by reference to the same factors as in the case of any other individual capable of having an independent domicile.
- (2) Where immediately before this Article came into force a woman was married and then had her husband’s domicile by dependence, she is to be treated as retaining that domicile (as a domicile of choice) unless and until it is changed by acquisition or revival of another domicile either on or after the coming into force of this Article.”.

#### **63 Article 78 (searches) amended**

In Article 78(2) –

- (a) for “Every registrar” there is substituted “Every relevant registrar”;
- (b) for “any register in his or her keeping” there is substituted “any such register in his or her keeping”.

#### **64 Article 80 (witnesses for marriage) amended**

In Article 80 for “of full age” there is substituted “aged at least 18”.

#### **65 Article 80A (provision of documents to Superintendent Registrar) substituted**

For Article 80A there is substituted –

**“80A Provision of information to Superintendent Registrar or relevant registrar**

- (1) All information delivered to the Superintendent Registrar or a relevant registrar under this Law –
  - (a) must be recorded in, or translated into, the English or French language; and
  - (b) if a document has been translated, the original document and a certified translation must be supplied to the Superintendent Registrar or the relevant registrar (as the case requires).
- (2) Except as otherwise provided under this Law or as prescribed, information required or authorised to be delivered to the relevant registrar under this Law may be delivered electronically.”.

**66 Article 80B (signing of documents) amended**

In Article 80B(4) for “conversion declaration form” (in both places) there is substituted “conversion schedule” in both places.

**67 Article 80C (fees and charges) substituted**

For Article 80C there is substituted –

**“80C Fees and charges**

- (1) The Superintendent Registrar or the registrar of a parish may charge fees for such services incidental to his or her functions under this Law as may be prescribed.
- (2) The Superintendent Registrar or the registrar of a parish may refuse to issue a form, certificate, notice or schedule under this Law if the prescribed fee for that form, certificate, notice or schedule, has not been paid.
- (3) A fee paid under this Law is not refundable except in such circumstances as may be prescribed.”.

**68 Article 82 (power to make further provision in connection with marriages and registration of marriages, births and deaths**

Article 82(1) is deleted.

**69 Articles 82B (applications) and 82C (scheme for authorization of civil celebrants and authorized religious officials) inserted**

After Article 82A there is inserted –

**“82B Applications**

Subject to any provision of this Law and to anything provided for in an Order under Article 82A, the Superintendent Registrar may by notice –

- (a) provide for the form of any application to a relevant registrar, including the information which must be provided with the application; and
- (b) authorize a relevant registrar to require the provision of any evidence or information reasonably necessary to corroborate information supplied with any application so made.

#### **“82C Scheme of authorization for civil celebrants and authorized religious officials**

- (1) The Minister must, by Order, prescribe a scheme for the authorization by the Superintendent Registrar of persons as authorized civil celebrants, or as authorized religious officials, which must include –
  - (a) the procedures for applying to be authorized;
  - (b) the matters to be taken into account in determining whether to authorize a person provisionally or fully;
  - (c) such qualifications, awarded by such persons or bodies, as the Minister may consider appropriate;
  - (d) the duration and renewal of an authorization;
  - (e) the conditions that must or may be imposed on the grant or renewal of an authorization, including any condition in respect of the circumstances in which –
    - (i) an authorized civil celebrant or an authorized religious official may or must solemnize a marriage,
    - (ii) an authorized civil celebrant may or must solemnize a civil partnership;
  - (f) the training and monitoring of authorized civil celebrants;
  - (g) the determination and charging of prescribed fees in respect of the grant of or renewal of an authorization and for the charging by the Superintendent Registrar for the training of an authorized civil celebrant or to a person seeking to be an authorized civil celebrant;
  - (h) the circumstances in which an authorization may or must be granted, renewed, suspended or revoked; and
  - (i) the review or appeal of any decision to refuse to grant or renew an authorization, impose a condition on the grant or renewal of an authorization or suspend or revoke an authorization.
- (2) Before solemnizing any marriage or civil partnership, an authorized civil celebrant must take an oath before the Royal Court to well and faithfully perform the duties imposed on him or her by or under this Law and the [Civil Partnership \(Jersey\) Law 2012](#) and to carry out such duties relating to the solemnization and registration of marriages and civil partnerships as the Superintendent Registrar directs.

- (3) An authorized civil celebrant must carry out the solemnization of marriages and civil partnerships –
  - (a) in compliance with the requirements of this Law and the [Civil Partnership \(Jersey\) Law 2012](#) (as the case requires) and with any guidance issued by the Superintendent Registrar; and
  - (b) in such a way as to uphold the dignity and solemnity of marriage and civil partnership.
- (4) An authorized religious official must carry out the solemnization of marriages –
  - (a) in compliance with the requirements of this Law and with any guidance issued by the Superintendent Registrar; and
  - (b) in such a way as to uphold the dignity and solemnity of marriage.”.

## **70 Schedule 1 (relations whom it is prohibited to marry) substituted**

For Schedule 1 there is substituted Schedule 1 to this Law.

## **71 Schedule 2A, paragraph 2 (re-registration of surname) amended**

In paragraph 2 of Schedule 2A –

- (a) in sub-paragraph (1) for “the registrar” there is substituted “the relevant registrar”;
- (b) in sub-paragraph (2) for “the registrar” there is substituted “the relevant registrar”.

## **PART 2**

### AMENDMENT OF THE [MARRIAGE AND CIVIL STATUS \(JERSEY\) ORDER 2018](#)

## **72 [Marriage and Civil Status \(Jersey\) Order 2018](#) amended**

This Part amends the [Marriage and Civil Status \(Jersey\) Order 2018](#).

## **73 Article 11 (fees for grant of authorization or renewal) substituted**

For Article 11 there is substituted –

### **“11 Fees**

- (1) An authorized civil celebrant must pay the Superintendent Registrar the following fees for the grant or renewal of authorization –
  - (a) the fee specified in item 1 in the table in Part 2 of Schedule 1 before the authorized civil celebrant takes the oath referred to in Article 6(5) of the Law; and
  - (b) the annual fee specified in item 2 in that table during the period of authorization.

- (2) An authorized religious official must pay the Superintendent Registrar the following fees for the grant or renewal of an authorization –
  - (a) the fee specified in item 3 in the table in Part 2 of Schedule 1 before the Superintendent Registrar enters the details of the authorization in the register of authorized religious officials; and
  - (b) the annual fee specified in item 4 in that table during the period of authorization.
- (3) The annual fees payable under this Article are due by 5th January in each year for that year and where an authorized civil celebrant or authorized religious official is first authorized after 5th January in any year, the annual fee is pro-rated.”.

#### **74 Article 13 (kinds of location) amended**

In Article 13(1) –

- (a) in sub-paragraph (a) for “open air” there is substituted “open-air”;
- (b) in sub-paragraph (c) for “immovable property” there is substituted “a fixed structure”.

#### **75 Article 15 (application for approval of location) amended**

For Article 15(2)(c)(v) there is substituted –

- “(v) the name and full physical address and postal address (if different) of the location including a location plan (if any) for that location, and if it is an open-air location,”.

#### **76 Article 17 (register of approved locations) amended**

In Article 17(3) after sub-paragraph (a) there is inserted –

- “(aa) if the approved location is an open-air location;”.

#### **77 Article 19 (responsible person) amended**

In Article 19(3) after sub-paragraph (c) there is inserted –

- “(d) notifying the Superintendent Registrar of any changes to the approved location which would amount to it becoming or ceasing to be an open-air location.”.

#### **78 Article 20 (standard conditions) amended**

In Article 20(2) –

- (a) in sub-paragraph (a)(ii) –
  - (i) for “open air” there is substituted “open-air”;
  - (ii) after “consumption” there is inserted –

“in the case of a marriage ceremony taking place in an open-air location, but not in a temporary structure in that location, it would be unreasonable for the marriage celebrant to prevent such consumption”;

- (b) in sub-paragraph (d)(ii) for “open air” there is substituted “open-air”;
- (c) after sub-paragraph (d) there is inserted –
  - “(e) the public must be able to gain access to the location in which a marriage ceremony is to take place, and any temporary structure in that location, without charge;”.

## **79 Article 28 (application for notice of intended marriage) amended**

For Article 28(g) there is substituted –

“(g) the full name and physical address and, if different, the postal address of the proposed approved location at which the marriage is to be solemnized, and if that is an open-air location, the full name and physical address and, if different, the postal address of the proposed alternative location (if any) may also be included;”.

## **80 Article 29 (notice of intended marriage form) amended**

For Article 29(b) there is substituted –

“(b) the full name and physical address, and, if different, the postal address of the proposed approved location at which the marriage is to be solemnized, and if that is an open-air location, the full name and physical address, and, if different, the postal address of the proposed alternative location (if any) may also be included;”.

## **81 Article 30 (freedom to marry declaration) amended**

In Article 30 –

- (b) after sub-paragraph (c) there is inserted –
  - “(d) the full name and physical address and, if different, the postal address of the proposed approved location at which the marriage is to be solemnized, and if that is an open-air location, the full name and physical address and, if different, the postal address of the proposed alternative location (if any) may also be included.”.

## **82 Article 34 (certificate of no impediment to marriage) amended**

In Article 34 –

- (a) in sub-paragraph (c) for “the place of the marriage” there is substituted “the location of the marriage”;
- (b) for sub-paragraph (f)(iii) there is substituted –

“(iii) no impediment to the proposed marriage has been shown to the Superintendent Registrar.”.

### **83 Article 35 (application for conversion) amended**

For Article 35(e) there is substituted –

“(e) the full name and physical address and, if different, the postal address of the proposed approved location, and if that is an open-air location, the full name and physical address and, if different, the postal address of the proposed alternative location may also be included;”.

### **84 Article 37 (requirements and procedures for marriage in special circumstances) amended**

In Article 37(10) after “unless” there is inserted “the prescribed fee has been paid and”.

### **85 Article 38 (information, books, indexes and registers kept by the Superintendent Registrar) amended**

For Article 38(3)(b) there is substituted –

“(b) the full name and physical address and, if different, the postal address of the proposed approved location, and if that is an open-air location, the full name and physical address and, if different, the postal address of the proposed alternative location (if any) may also be included;”.

### **86 Article 42 (registration of marriage) amended**

In Article 42(2)(a) and 3(a) for “solemnized by the registrar” there is substituted “solemnized in the parish”.

### **87 Article 46 (registration of births and still births) amended**

In Article 46 –

- (a) in paragraph (2) –
  - (i) in the opening words, for “registrar” there is substituted “relevant registrar” in both places,
  - (ii) in sub-paragraph (j), after “marriage” there is inserted “or civil partnership”;
- (b) in paragraph (3) –
  - (i) in the opening words, for “registrar” there is substituted “relevant registrar” in both places,
  - (ii) after sub-paragraph (i) there is inserted –
    - “(ia) the date and place of the parents’ marriage or civil partnership (if any);”.

**88 Article 49 (registration of abandoned child) substituted**

For Article 49 there is substituted –

**“49 Registration of abandoned child**

- (1) If a child is found abandoned in a parish for which the Superintendent Registrar performs the relevant registration duties, the Superintendent Registrar must enter the following particulars in the register of births for that parish –
  - (a) the date and location in which the child was found;
  - (b) the age of the child when the child was found, as advised by a registered medical practitioner;
  - (c) the forenames and surname of the child;
  - (d) the word “unknown” for the mother’s and father’s names and occupations;
  - (e) the informant’s name, signature, job title and organization.
- (2) If a child is found abandoned in a parish for which the relevant registration duties are retained, the registrar for that parish, when directed by the Superintendent Registrar in accordance with Article 59(2)(b) of the Law, must enter the particulars specified in paragraph (1) above in the register of births kept by the registrar.”.

**89 Article 50 (short birth certificate) amended**

In Article 50(1) –

- (a) in the opening words, for “registrar” there is substituted “relevant registrar”;
- (b) in sub-paragraph (d), for “registrar of the parish in which the birth was registered” there is substituted “relevant registrar for the parish where the birth occurred”;
- (c) in sub-paragraph (e) for “registrar” there is substituted “relevant registrar”.

**90 Article 51 (certificate of registration of still birth) amended**

In Article 51 –

- (a) after paragraph (e), there is inserted –  
“(ea) the sex of the child;”;
- (b) after paragraph (h), there is inserted –  
“(ha) the date and place of the parents’ marriage or civil partnership (if any);”.

**91 Article 51A (certificate of fact and cause of death) inserted**

After Article 51 (certificate of registration of stillbirth) there is inserted –

**“51A Certificate of fact and cause of death**

- (1) A certificate of fact and cause of death under Article 64(1)(a) of the Law must contain the following particulars –
  - (a) the forenames and surname of the deceased person, including maiden name, previous name or aliases (if any);
  - (b) the deceased person’s address (if any);
  - (c) the deceased person’s date of birth;
  - (d) the time and date of death;
  - (e) the place of death, including parish;
  - (f) whether the cause of death is known and, if so, the cause including any of the following that are known –
    - (i) details of any disease,
    - (ii) conditions leading to death,
    - (iii) antecedent causes,
    - (iv) morbid conditions giving rise to the cause of death or antecedent causes, or
    - (v) any other significant conditions contributing to death but not related to disease or condition causing death;
  - (g) the approximate interval between the onset of a known cause or condition leading to the death, and the date of death;
  - (h) if there is any reason why the death should be reported to the police;
  - (i) whether the registered medical practitioner has reported the death to the police;
  - (j) whether the registered medical practitioner is otherwise aware that the death has been reported to the police or the Viscount;
  - (k) such supplementary information as the Superintendent Registrar may require the registered medical practitioner to provide in respect of the deceased person.
- (2) A certificate of fact and cause of death must contain the registered medical practitioner’s full name, qualifications, practice address, signature and date of signature and be accompanied by a declaration by the registered medical practitioner that –
  - (a) he or she is authorised to give the certificate, by reason of –
    - (i) having attended upon the deceased person during that person’s last illness,
    - (ii) having last attended upon that person not more than 14 days before death, and
    - (iii) having also viewed the person’s body after death; or
  - (b) having viewed the deceased person’s body after death, the registered medical practitioner is authorised by the Viscount to give the certificate.
- (3) Without limiting paragraph (1)(k), the supplementary information which the Superintendent Registrar may require the registered

medical practitioner to provide in respect of a deceased person includes –

- (a) that person’s Health and Social Services number;
- (b) particulars of any surgical operations performed on that person’s body in the 12 months prior to that person’s death;
- (c) particulars of any morbid conditions present at the time of that person’s death, but not contributing to his or her death; and
- (d) any personal accident suffered by that person in the 12 months prior to that person’s death.”.

## 92 Article 52 (registration of death) amended

In Article 52 –

- (a) in paragraph (2) –
  - (i) for “a registrar who is informed” there is substituted “where the relevant registrar is informed”,
  - (ii) for “particular of a death shall” there is substituted “particular of a death, he or she shall”,
  - (iii) in sub-paragraph (l) “signature,” is deleted,
  - (iv) sub-paragraphs (m) and (n) are deleted;
- (b) for paragraph (3) there is substituted –

“(3) An entry under paragraph (2) must be signed by the informant and by the relevant registrar, who must add his or her name and official description.”.

## 93 Article 53 (certificate of registration of death) substituted

For Article 53 there is substituted –

### “53 Certificate of registration of death

- (1) A certificate of registration of death must contain the following particulars –
  - (a) the name of the parish in which the death occurred;
  - (b) the date on which the relevant registrar registered the death;
  - (c) the name, age and address of the deceased person;
  - (d) the place of death; and
  - (e) the date of death.
- (2) The relevant registrar must –
  - (a) authenticate the certificate with a statement that the death has been registered in accordance with the Law;
  - (b) sign and date the certificate; and
  - (c) add his or her name and official description.”.

**94 Article 58 (fees) substituted**

For Article 58 (fees) there is substituted –

**“58 Fees**

- (1) Schedule 1 has effect to set the fees payable under the Law or under this Order.
- (2) Part 1 of that Schedule sets the fees payable under the provisions of the Law specified in that Part.
- (3) Part 2 of that Schedule sets the fees payable under the provisions of this Order specified in that Part.”.

**95 Schedule 1 (fees) substituted**

For Schedule 1 there is substituted Schedule 2 to this Law.

**PART 3****MISCELLANEOUS****96 [Inquests and Post-Mortem Examinations \(Jersey\) Law 1995](#) amended**

In the [Inquests and Post-Mortem Examinations \(Jersey\) Law 1995](#) –

- (a) in Article 1 (interpretation) for the definition “Registrar” there is substituted –

“ “relevant registrar” has the same meaning as it has in the [Marriage and Civil Status \(Jersey\) Law 2001](#), and in relation to a relevant registrar, “register of deaths” means the register maintained by that registrar for the registration of deaths under that Law;”;

- (b) for Article 14(7) (which concerns the registration of the verdict of an inquest) there is substituted –

“(7) After the Court has registered the finding, the Viscount shall notify the relevant registrar for the parish in which the death occurred, and the relevant registrar shall make an entry in the register of deaths accordingly.”;

- (c) for Article 18(2) (which concerns the registration of the results of a post-mortem examination without an inquest) there is substituted –

“(2) If, following a post-mortem examination under paragraph (1), the Viscount decides that an inquest is unnecessary, the Viscount must authorize the registered medical practitioner who conducted the examination to deliver to the relevant registrar for the parish in which the death occurred a certificate stating the cause of death as disclosed by the examination, and the relevant registrar must make an entry accordingly in the register of deaths for that parish.”.

**97 [Education \(Jersey\) Law 1999](#) amended**

In Article 65 (supply of information by Registrar of births and deaths) of the [Education \(Jersey\) Law 1999](#) –

- (a) in paragraph (1) for “The Superintendent Registrar or the Superintendent Registrar’s Deputy, or a Registrar or the Registrar’s Deputy shall supply” there is substituted “The relevant registrar must supply”;
- (b) in paragraph (2) for “In this Article the expressions “Superintendent Registrar” and “Registrar” shall have the same meaning as in the [Marriage and Civil Status \(Jersey\) Law 2001](#) and the expression” there is substituted –  
“In this Article “relevant registrar” has the same meaning as in the [Marriage and Civil Status \(Jersey\) Law 2001](#), and the expression”.

**98 [Gender Recognition \(Jersey\) Law 2010](#) amended**

In paragraph 1 of the Schedule to the [Gender Recognition \(Jersey\) Law 2010](#) –

- (a) for sub-paragraph (3) there is substituted –  
“(3) If the relevant registration duties are retained for the parish in which the person’s birth was registered, the Superintendent Registrar shall furnish the registrar of the parish concerned with the following particulars contained in the gender recognition certificate –
  - (a) the person’s acquired gender; and
  - (b) the person’s acquired name.”;
- (b) in sub-paragraph (4) for “The registrar” there is substituted “The relevant registrar for the parish in which the person’s birth was registered”;
- (c) for sub-paragraph (6) there is substituted –  
“(6) Where, under Article 6, there is a correction of a gender recognition certificate that affects the person’s acquired name –
  - (a) the Court shall send a copy of the corrected gender recognition certificate to the Superintendent Registrar;
  - (b) the Superintendent Registrar shall amend the entries made under sub-paragraph (4) accordingly; and
  - (c) if the relevant registration duties are retained for the parish in which the person’s birth was registered, the Superintendent Registrar shall furnish the registrar of the parish concerned with the corrected acquired name.”;
- (d) for sub-paragraph (9) there is substituted –  
“(9) In this paragraph –
  - (a) “relevant registrar” and “relevant registration duties” have the same meaning as they have in the 2001 Law; and
  - (b) references to the relevant registration duties being retained are to be construed in accordance with that Law.”.

**99 [Discrimination \(Jersey\) Law 2013](#) amended**

In Schedule 2 to the [Discrimination \(Jersey\) Law 2013](#) –

- (a) in paragraph 24A (sex or sexual orientation: marriage between persons of the same sex) after “protected characteristic of sex” there is inserted “or sexual orientation”;
- (b) for the heading to paragraph 24B (sex and sexual orientation: marriage after gender reassignment) there is substituted “Sex or sexual orientation: marriage of a person of acquired gender”.

**100 [Cremation \(Jersey\) Regulations 1961](#) amended**

In the [Cremation \(Jersey\) Regulations 1961](#) –

- (a) in Regulation 1 for the definition of “Superintendent Registrar” and “Registrar” there is substituted –
  - “ “relevant registrar” and “Superintendent Registrar” have the meanings respectively assigned to them in the [Marriage and Civil Status \(Jersey\) Law 2001](#);”;
- (b) in Regulation 6(b) for “the Registrar” there is substituted “the relevant registrar”;
- (c) in Regulation 10 for “the Registrar of the parish concerned” there is substituted “the relevant registrar”.

**101 [Legitimacy and Illegitimacy \(Re-Registration of Births\) \(Jersey\) Regulations 1974](#) amended**

(1) This Article amends the [Legitimacy and Illegitimacy \(Re-Registration of Births\) \(Jersey\) Regulations 1974](#).

- (2) In Regulation 1, for the definition of “Registrar” there is substituted –
  - “original entry” means the original entry in the Register of Births in relation to the person whose legitimacy is the subject of a decree;
  - “registrar”, “relevant registrar” and “Superintendent Registrar” have the meanings respectively assigned to those expressions in the [Marriage and Civil Status \(Jersey\) Law 2001](#);
  - “relevant registration duties” has the meaning assigned to that expression in the [Marriage and Civil Status \(Jersey\) Law 2001](#); and
  - “retained”, in relation to those duties, is to be construed in accordance with that Law.”;

(3) for Regulation 2 there is substituted –

**“2**

- (1) This Regulation applies if –
  - (a) the Superintendent Registrar has received from the Judicial Greffier a certified copy of a decree in pursuance of Article 10(1) of the Law, and
  - (b) the parish in whose Register of Births the original entry was made has retained the relevant registration duties.

- (2) The Superintendent Registrar must as soon as practicable furnish to the registrar having custody of the Register of Births containing the original entry the information required for the re-registration of the birth.”.
- (4) In Regulation 3 –
  - (a) in paragraph (1) –
    - (i) for “The Registrar shall attend” there is substituted –
      - “If the relevant registration duties are not being performed by the Superintendent Registrar, the registrar having custody of the Register containing the original entry must attend”,
      - (ii) for “this Regulation” there is substituted “paragraph (2)”,
      - (iii) for “, appending thereto” there is substituted “and adding after”;
    - (b) after paragraph (1) there is inserted –
      - “(1A) If the relevant registration duties are being performed by the Superintendent Registrar, the Superintendent Registrar must –
        - (a) enter the birth in the manner and form set out in paragraph (2);
        - (b) sign the Register in the column of the entry headed “Informant’s signature and relationship to the child”; and
        - (c) add the Superintendent Registrar’s official designation and the words “Registered in accordance with an Act of the Royal Court dated....”;
    - (c) in paragraph (2) in the words following sub-paragraph (d) for “the Registrar” there is substituted “the relevant registrar”.
- (5) In Regulation 4(1) –
  - (a) for “the Registrar shall write” there is substituted “the relevant registrar must write”;
  - (b) for “the Registrar’s signature” there is substituted “the relevant registrar’s signature”;
  - (c) for “shall prepare and deliver” there is substituted “if the relevant registration duties are retained, the registrar must prepare and deliver”.

## 102 Repeal

The Marriage and Civil Partnership (Amendments – Fees) (Jersey) Order 2021 is repealed.

## PART 4

### CLOSING PROVISION

## 103 Citation and commencement

This Law may be cited as the Marriage and Civil Status (Amendment No. 5) (Jersey) Law 202- and comes into force 7 days after it is registered.

**SCHEDULE 1**

(Article 70)

**RELATIONS WHOM IT IS PROHIBITED TO MARRY****“SCHEDULE 1**

(Article 3)

**RELATIONS WHOM IT IS PROHIBITED TO MARRY****1 Absolute prohibitions**

- (1) 2 people are within a prohibited degree of relationship if one falls within the list in sub-paragraph (2) in relation to the other.
- (2) The list referred to in sub-paragraph (1) is as follows –
  - Adoptive child
  - Child
  - Former adoptive child
  - Grandchild
  - Parent’s sibling
  - Sibling
  - Sibling’s child
- (3) In the list in sub-paragraph (2) “sibling” means a brother, sister, half-brother or half-sister.

**2 Qualified prohibitions**

- (1) 2 people are within a prohibited degree of relationship if one falls within the list in sub-paragraph (2) in relation to the other unless the younger has not at any time before reaching the age of 18 been a child of the family in relation to the other.
- (2) The list referred to in sub-paragraph (1) is –
  - Adoptive child of former civil partner
  - Adoptive child of former spouse
  - Adoptive grandchild of former civil partner
  - Adoptive grandchild of former spouse
  - Child of former civil partner
  - Child of former spouse
  - Grandchild of former civil partner
  - Grandchild of former spouse
- (3) In this paragraph “child of the family” in relation to another person means a person who –

- (a) has lived in the same household as that other person; and
- (b) has been treated by that other person as a child of his or her family.”.

### 3 Qualified prohibition on marriage with a former step-parent

2 people are within a prohibited degree of relationship if one falls within column 1 of the table below in relation to the other, unless the people mentioned in column 2 of the corresponding entry are dead.

Relationship	Relevant deaths
Former civil partner of child	The child The child’s other parent
Former spouse of child	The child The child’s other parent
Parent of former civil partner	The former civil partner The former civil partner’s other parent
Parent of former spouse	The former spouse The former spouse’s other parent”.

**SCHEDULE 2**

(Article 95)

**SCHEDULE 1 TO THE 2018 ORDER SUBSTITUTED**

For Schedule 1 to the [Marriage and Civil Status \(Jersey\) Order 2018](#) there is substituted the Schedule below.

**“SCHEDULE 1****FEES PAYABLE UNDER THE LAW OR THIS ORDER****PART 1****FEES PAYABLE UNDER THE LAW**

<b>Item No.</b>	<b>Description</b>	<b>Provision of the Law</b>	<b>Fee</b>	<b>To whom payable</b>
1.	Application for a notice of intended marriage	Article 8(1)(b)	£205	The Superintendent Registrar
2.	Request for, and issue of, a marriage schedule	Article 15(2) and (3)(c)	£307.50	The Superintendent Registrar
3.	Request for, and issue of, a certificate of no impediment to marriage	Article 16(2) and (3)(c)	£102.50 per applicant	The Superintendent Registrar
4.	Change to date, time or location contained in the published notice of intended marriage	Article 18(3)	£51.25	The Superintendent Registrar
5.	Application for a conversion of a civil partnership to a marriage	Article 19(1)(b)	£205	The Superintendent Registrar
6.	Request for issue of conversion schedule	Article 21(2) and 21(3)(c)	£307.50	The Superintendent Registrar
7.	Solemnization of a marriage by conversion	Article 22(3)(a)	£0	
8.	Fee payable by the Superintendent Registrar for each	Article 24A(4)	£10.25	The registrar of a parish

	marriage that a registrar registers under Article 24A(3)(a) or (b) and for the provisions of returns of registers			
9.	Search of books, indexes, registers, notices or entries held at the office of the Superintendent Registrar	Article 24C(2) and (4)	£92.25	The Superintendent Registrar
10.	Registration of birth more than 21 days and less than 6 months after the birth	Article 52(3)(b)	£205	The relevant registrar
11.	Re-registration of birth where parents not married	Article 56(3)	£56.38	The relevant registrar
12.	Re-registration of birth following legitimation	Article 57(6)	£56.38	The Superintendent Registrar
13.	Registration of a name as altered within one year of birth	Article 58(1)	£56.38	The relevant registrar
14.	Certificate required under Article 58(1) where the name of a child is altered or given in baptism	Article 58(3)	£56.38	The person providing the certificate
15.	Re-registration of child to include the child's name	Article 58A(4)	£56.38	The relevant registrar
16.	Short birth certificate – (a) if issued on the day on which the application is made (b) if issued on a day after that on which the	Article 60(1) or (2)	£20.50  £10.25	The relevant registrar

	application is made			
17.	Copy of an entry in a register kept by the relevant registrar under the Law	Article 78(2)	£30.75	The relevant registrar
18.	Search of indexes maintained by Superintendent Registrar	Article 78(3)(a)	£0	
19.	Copy certified under the hand of the Superintendent Registrar of an entry in a book or register – (a) if issued on the same day on which the application is made (b) if issued after the day on which the application is made	Article 78(3)(b)	£61.50  £30.75	The Superintendent Registrar
20.	Search of indexes by the Superintendent Registrar	Article 80C	£30.75 per hour of part of an hour	The Superintendent Registrar
21.	Issue of a proof of life letter	Article 80C	£51.25	The Superintendent Registrar
22.	Supplementary fee for use of the office of the Superintendent Registrar as a location for the solemnization of a marriage taking place on Monday to Friday	Article 80C	£20.50	The Superintendent Registrar
23.	Supplementary fee for use of office of the Superintendent Registrar as a	Article 80C	£102.50	The Superintendent Registrar

	location for the solemnization of marriage taking place on Saturday, Sunday or a bank holiday			
24.	Solemnization of a marriage by the Superintendent Registrar or Deputy Superintendent Registrar on Monday to Friday at the office of the Superintendent Registrar	Article 80C	£0	
25.	Solemnization of a marriage by the Superintendent Registrar or Deputy Superintendent Registrar on a Saturday, Sunday or bank holiday at the office of the Superintendent Registrar	Article 80C	£153.75	The Superintendent Registrar
26.	Solemnization of a marriage by the Superintendent Registrar or Deputy Superintendent Registrar at any approved location other than the office of the Superintendent Registrar	Article 80C	£153.75	The Superintendent Registrar
27.	Delivery of a certificate or document by the Superintendent Registrar to the Customs and Immigration Department for an apostille	Article 80C	£20.50	The Superintendent Registrar

28.	Re-registration of a surname	Schedule 2A, paragraph 2	£56.38	The relevant registrar
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**PART 2**

## FEES PAYABLE UNDER THIS ORDER

Item No.	Description	Article of the Order	Fee	To whom payable
1.	Grant of authorization for an authorized civil celebrant	11(1)(a)	£153.75	The Superintendent Registrar
2.	Annual fee for authorization of an authorized civil celebrant	11(1)(b)	£205	The Superintendent Registrar
3.	Registration of authorization for authorized religious official	11(2)(a)	£0	The Superintendent Registrar
4.	Annual fee for registration of authorized religious official	11(2)(b)	£0	The Superintendent Registrar
5.	Application for approval of a location for the solemnization of marriage in the case of a specific marriage	15(2)(d)	£230	£100 payable to the parish and £130 to the Superintendent Registrar
6.	Application for approval of a location for the solemnization of marriage for a period of 3 years	15(2)(d)	£430	£300 payable to the parish and £130 to the Superintendent Registrar
7.	Application for the renewal of approval of a location for the	Article 16(10)	£430	£300 payable to the parish and £130 to the Superintendent Registrar

	solemnization of marriage			
8.	Application for amendment of approval of a location for the solemnization of marriage	Article 22(2)	£102.50	The Superintendent Registrar
9.	Attendance by Superintendent Registrar to sign forms and do identity checks in special circumstances	Article 37(7)(d) (ii)	£51.25	The Superintendent Registrar
10.	Amendments to a marriage schedule, book or certificate arising from special circumstances	Article 37(9)	£76.88	The Superintendent Registrar”.