

DRAFT ADOPTION (AMENDMENT No. 4) (JERSEY) LAW 199

**Lodged au Greffe on 19th January 1999
by the Health and Social Services Committee**



STATES OF JERSEY

STATES GREFFE

Report

The Amendment contains two main provisions -

1. It provides the Health and Social Services Committee with the power to establish an Adoption Panel to which it may delegate such powers and duties it has in relation to the Adoption Service as will be set out in an Order.

An Adoption Panel has in fact operated for a number of years on behalf of the Committee to deal with such issues as registering couples to become adoptive parents and determining the placement of a child to be adopted. The Panel comprises officers of the Committee plus representatives of the community and is supported with medical advice by a nominated GP and legal advice through the Solicitor General.

The Amendment gives the Panel a foundation in law whereas previously it existed only by Committee decision and policy.

2. The Amendment also empowers the Health and Social Services Committee to pay allowances to adoptive parents where such a recommendation is made by the Adoption Panel.

Article 32A is introduced into the principal Law which provides a general power for Orders to be made which may specify the procedures to be followed by the Panel in making such recommendation and the procedure for review, variation and termination of allowances.

This part of the Amendment will provide the Committee with the power to pay an allowance to a family who might otherwise not be able to adopt a child due to financial constraints. Such a situation might encompass foster parents who wish to adopt a child, or children, in their long-term care but are prevented from considering such an application as their family income is insufficient to meet the costs of raising the child(ren) without financial assistance. It also would apply to a situation, which does arise very occasionally, in which the Committee wishes to place a child who is a full sibling to a child already adopted by a particular family, with that family but the latter does not have the financial resources to take on the care of an additional child without assistance.

Explanatory Note

The purpose of this draft Law is to amend the Adoption (Jersey) Laws 1961 to 1995 (“the principal Law”) to -

- (a) establish an Adoption Panel to which the Committee may delegate its functions in relation to the maintenance of the Adoption Service; and
- (b) provide for allowances to be payable to persons adopting infants where adoption without such an allowance would be impracticable.

The proposed new Article 1F establishes the panel, and the proposed new Article 1G provides for the Committee to delegate to it such powers and duties which it has in relation to the Adoption Service as will be set out in an Order. The proposed new Article 1H empowers the Committee to pay allowances where a recommendation is made by the panel.

The three new Articles are introduced into the principal Law by *Article 2*.

Article 3 exempts such allowances from the effect of Article 30 of the principal Law which prohibits certain payments in connexion with the adoption of infants.

Article 4 introduces a new Article 32A into the principal Law which provides a general power for Orders to be made under the Law. Such Orders may specify the procedures to be followed by the panel, the circumstances the panel shall take into account in making recommendations to the Committee for the payment of an allowance and the procedure for review, variation and termination of allowances.

Article 1 contains interpretation provisions and *Article 5* provides for the short title and commencement of the draft Law.

ADOPTION (AMENDMENT No. 4) (JERSEY) LAW 199

A LAW to amend further the Adoption (Jersey) Laws 1961 to 1995, sanctioned by Order of Her Majesty in Council of the

(Registered on the day of 199)

STATES OF JERSEY

The day of 199

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

ARTICLE 1

In paragraph (1) of Article 1 of the Adoption (Jersey) Laws 1961 to 1995¹ (hereinafter referred to as “the principal Law”) after the definition of “mental nursing home” there shall be inserted the following definition -

“ ‘the panel’ has the meaning assigned to it by Article 1F of this Law;”.

ARTICLE 2

After Article 1E of the principal Law² there shall be inserted the following Articles -

¹ Volume 1961-1962, page 363, Volume 1994-1995, page 118, and No. 8859.

² Volume 1961-1962, page 365, and Volume 1994-1995, page 353.

“ARTICLE 1F

Adoption Panel

(1) There is established an Adoption Panel (in this Law referred to as “the panel”) -

- (a) to carry out such of the powers and duties of the Committee as may be determined pursuant to Article 1G of this Law; and
- (b) to recommend to the Committee where an allowance payable under Article 1H of this Law is appropriate.

(2) Subject to paragraph (3) of this Article, the panel shall comprise such members of the Committee and such members of the public as the Committee shall from time to time think fit.

(3) Nothing in paragraph (2) of this Article shall be construed as a requirement that a member of the Committee shall at all times be a member of the panel.

ARTICLE 1G

Delegation to the panel

The Committee may delegate to the panel such of its powers and duties in relation to the maintenance of the Adoption Service as it may by Order determine.

ARTICLE 1H

Allowances

The Committee may, after considering a recommendation of the panel, pay an allowance to persons who have adopted, or intend to adopt, infants, where the Committee is satisfied that such an adoption is not practicable without payment of an allowance.”.

ARTICLE 3

After paragraph (3) of Article 30 of the principal Law³ there shall be inserted the following paragraph -

“(4) This Article does not apply to any allowance paid by the Committee pursuant to Article 1H of this Law.”.

ARTICLE 4

After Article 32 of the principal Law⁴ there shall be inserted the following Article -

“ARTICLE 32A

ORDERS

(1) The Committee may make Orders for any purpose for which Orders may be made under this Law and generally for the purposes of carrying this Law into effect.

(2) Without prejudice to the generality of paragraph (1) of this Article, Orders may specify -

- (a) the procedures to be followed by the panel;
- (b) the circumstances the panel shall take into account in recommending to the Committee the payment of an allowance; and
- (c) the procedure for review, variation and termination of allowances.

(3) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders made under this Law.”.

³ Volume 1961-1962, page 385, and Volume 1994-1995, page 363.

⁴ Volume 1961-1962, page 386.

ARTICLE 5

(1) This Law may be cited as the Adoption (Amendment No. 4) (Jersey) Law 199 and this Law and the principal Law may together be cited as the Adoption (Jersey) Laws 1961 to 199 .

(2) This Law shall come into force on such day as the States may by Act appoint.

CORRIGENDUM

P.5/99 Draft Adoption (Amendment No. 4) (Jersey) Law 199

Page 5 -

In paragraph (3) of the new Article 1F, for the figure “(1)” in the first line, substitute the figure “(2)”.