

STATES OF JERSEY



Jersey

DRAFT MARRIAGE AND CIVIL STATUS (AMENDMENT OF LAW No. 2) (COVID-19 – TEMPORARY AMENDMENT) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 1st April 2020
by the Minister for Home Affairs**

STATES GREFFE

REPORT

1. Introduction

- 1.1 This is emergency draft legislation, drafted in response to the Covid-19 pandemic which is currently affecting Jersey and most of the globe.
- 1.2 The Draft Marriage and Civil Status (Amendment of Law No. 2) (Covid-19 – Temporary Amendment) (Jersey) Regulations 202- (the “draft Regulations”) would amend the [Marriage and Civil Status \(Jersey\) Law 2001](#) (“the 2001 Law”). Article 49A of the 2001 Law, which was itself inserted into the Law by the [Marriage and Civil Status \(Amendment of Law\) \(Covid-19 – Temporary Amendment\) \(Jersey\) Regulations 2020](#) last week, has the effect of modifying a number of provisions in the 2001 Law governing the registration of births, deaths and marriages in Jersey, as a consequence of the outbreak of Covid-19 in Jersey. The aim of the draft Regulations is to make an amendment to the modification provision in Article 49A in respect of Article 64 of the 2001 Law which governs the issue of whether a medical practitioner is qualified in relation to a death.
- 1.3 This is necessary due to the emergency operational procedures that have been put in place by the Health and Community Services Department and agreed by the Excess Death Bronze Group to increase the capacity to certify death during the outbreak of Covid-19 in Jersey.
- 1.4 The new emergency process includes the formation of the Community Death Certification Team who will certify all deaths in the community. This would require, under the current 2001 Law, for almost all certified deaths in the community to be referred by the Superintendent Registrar to the Viscount as per Article 65(1)(b) of the 2001 Law, even where the registered medical practitioner was able to certify to the best of their knowledge and belief the cause of death.
- 1.5 This would lead to unacceptable delays when registering deaths in Jersey and is not an efficient use of the Viscount’s or the Superintendent Registrar’s time or resources. A further concern is that the delays caused would lead to significantly increased body storage requirements. As such, the Viscount, Office of the Superintendent Registrar, and Excess Death Bronze Group have recommended, due to the high risk of delays, that it is necessary to amend the 2001 Law.
- 1.6 The draft Regulations amend Article 49A which itself will expire on 30th September 2020.

2. Background

- 2.1 Article 64(1) of the 2001 Law sets out that when certifying a death, a registered medical practitioner is either qualified in relation to the death, or unqualified. Regardless of whether the practitioner is qualified or unqualified, they can certify the death by completing a certificate of fact and cause of death – in completing that certificate they must be able to certify to the best of their knowledge and belief the cause of death.
- 2.2 If an unqualified medical practitioner completes a certificate of fact and cause of death, then currently under Article 65(1)(b) of the 2001 Law the registrar must upon receiving the certificate notify the Viscount of the death.

- 2.3 Due to the emergency processes being put in place by the Health and Community Services Department in collaboration with the Excess Death Bronze Group, most deaths that will occur in the community in the next few months will be certified by unqualified medical practitioners. This is because a core team of 4 medical practitioners have been tasked with the sole responsibility of attending where a person has passed away and completing the certificate of fact and cause of death, they will be, however, for almost all cases unqualified in relation to the deaths they are certifying under the current 2001 Law.
- 2.4 For a medical practitioner to be qualified in relation to a death under Article 64(2)(a), the medical practitioner certifying the death needs to have –
- (1) attended the deceased during their last illness in the 28 days prior to the death;
 - (2) viewed the body after death.
- 3. Legislation**
- 3.1 The Regulations, if approved, would firstly amend the qualification criteria in Article 64(2)(a) by removing the first requirement, so that a medical practitioner is qualified in relation to a death if they have viewed the body after death. This would result in all deaths attended in the community whilst the temporary Regulations are in force being certified by a qualified medical practitioner.
- 3.2 The Regulations would, if approved, also enable one of the following 3 outcomes to take place when a qualified medical practitioner attends a death –
- (1) If the qualified medical practitioner has viewed the body after death and can certify to the best of their knowledge and belief the cause of death, then the medical practitioner can issue the certificate of fact and cause of death, this is as per Article 64(1)(a)(i) of the 2001 Law.
 - (2) If the qualified medical practitioner has viewed the body after death and cannot certify to the best of their knowledge and belief the cause of death, then, they can as per these Regulations make the Viscount aware of the circumstances of the case. The qualified medical practitioner and the Viscount may then consult to discuss the circumstances of the case and may together agree a cause of death. The Viscount having regard to the circumstances of the case can then authorise the practitioner to issue the certificate.
 - (3) If the qualified medical practitioner has viewed the body after death, and cannot certify to the best of their knowledge and belief the cause of death, and despite having consulted the Viscount of the circumstances of the case they cannot between them agree the cause of death, then the medical practitioner will be unable to certify the cause of death, and the cause of death shall be recorded as unknown as per Article 64(1)(a)(ii) of the 2001 Law. This outcome will require in due course the Registrar to notify the Viscount and therefore trigger further action as per the Post-mortem Examinations (Jersey) Law 1995.
- 3.3 These amendments are a pragmatic response to allow the timely registration of death in Jersey during the outbreak of Covid-19 in Jersey. The Viscount and Superintendent Registrar are confident that appropriate levels of safeguards will remain in place, as the Community Death Certification Team will receive specialist training from the Viscount, Superintendent Registrar, Medical

Referees and Forensic Medical Examiners. They will therefore be well-versed in the overall certification of death process and standards of evidence-gathering when certifying a death. There is also the ability for the medical practitioner to consult the Viscount regarding a cause of death. The final option where a medical practitioner is unable to state to the best of their knowledge and belief the cause of death also remains. It is an important safeguard that will trigger a formal referral from the Superintendent Registrar to the Viscount.

4. Financial and manpower implications

- 4.1 There are no financial or manpower implications for the States arising from the adoption of these draft Regulations.

EXPLANATORY NOTE

These Regulations, if passed, would temporarily modify the operation of Article 64 (Certificate of fact and cause of death) of the Marriage and Civil Status (Jersey) Law 2001 (the “principal Law”) as a consequence of the outbreak of Covid-19 in Jersey.

The principal Law is amended as follows (*Regulation 1*).

Currently, Article 49A(2) of the principal Law modifies Article 64(2) of the principal Law to increase the period of time preceding the date of death of a person (from 14 to 28 days) during which a registered medical practitioner must have attended the person in order to be qualified to certify the death of that person. The practitioner must also have attended the person during his or her last illness and have viewed the body after death.

Regulation 2 substitutes Article 49A(2) in order to remove the requirement for the registered medical practitioner to have attended the person during his or her last illness or before the person’s death, with the effect that a registered medical practitioner will be qualified to certify the death of a person if the practitioner has viewed the body of the person after death.

The amendment also inserts Article 49A(2A) to require a qualified registered medical practitioner who is unable to certify the cause of death to inform the Viscount before giving a certificate under Article 64(1) of the principal Law. The Viscount may consult with the practitioner and, having regard to the circumstances of the case and with the agreement of the practitioner, authorise the giving of a certificate that specifies the cause of death of the person.

If the giving of the certificate is not authorised under Article 49A(2A), the practitioner must certify that the cause of death is unknown in accordance with Article 64(1)(a)(ii) of the principal Law.

Article 49A expires on 30th September 2020.

Regulation 3 sets out how these Regulations may be cited and provides for them to come into force on the day after they are made.



Jersey

DRAFT MARRIAGE AND CIVIL STATUS (AMENDMENT OF LAW No. 2) (COVID-19 – TEMPORARY AMENDMENT) (JERSEY) REGULATIONS 202-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES make these Regulations under Article 82(2) of the Marriage and Civil Status (Jersey) Law 2001¹ –

1 Marriage and Civil Status (Jersey) Law 2001 amended

The Marriage and Civil Status (Jersey) Law 2001² is amended in accordance with these Regulations.

2 Article 49A (modification of Part 5 due to outbreak of Covid-19) amended

In Article 49A, for paragraph (2) there is substituted –

“(2) Despite Article 64(2), a registered medical practitioner is qualified in relation to the death of a person if the practitioner has viewed the body of the person after death.

(2A) Before giving a certificate under Article 64(1), a registered medical practitioner who is qualified in relation to the death of a person and unable to certify the cause of death of the person must inform the Viscount who may consult with the practitioner and, having regard to the circumstances of the case and with the agreement of the practitioner, authorise the giving of a certificate that specifies the cause of death of the person.

(2B) If the giving of the certificate is not authorised under paragraph (2A), the practitioner must certify that the cause of death is unknown in accordance with Article 64(1)(a)(ii).

3 Citation and commencement

These Regulations may be cited as the Marriage and Civil Status (Amendment of Law No. 2) (Covid-19 – Temporary Amendment) (Jersey) Regulations 202- and come into force on the day after they are made.

ENDNOTES

Table of Endnote References

<i>1</i>	<i>chapter 12.600</i>
<i>2</i>	<i>chapter 12.600</i>