

STATES OF JERSEY



DRAFT CHILDREN (ARRANGEMENTS TO ASSIST CHILDREN TO LIVE OUTSIDE JERSEY) (AMENDMENT) (JERSEY) LAW 202- (P.9/2022): COMMENTS

**Presented to the States on 22nd February 2022
by the Minister for Children and Education**

STATES GREFFE

COMMENTS

Draft Children (Arrangements to Assist Children to Live Outside Jersey) (Amendment) (Jersey) Law 202-

The Children (Jersey) Law 2002 (the Children Law) contains provisions to allow the Minister for Children and Education (“the Minister”) to look after children where there is a need under certain defined circumstances. In a small number of cases this will mean an off-island placement is required.

The recent trend for children placed in off-island placements has steadily reduced from 25 placements in January 2019 down to 18 in January 2022.

Paragraph 4 of Schedule 2 of the Children Law confers a power on the Minister to arrange for, or assist in arranging for, any child in the Minister’s care to live outside Jersey. A safeguard built into the Children Law in this respect is a requirement under Schedule 2, paragraph 4 for the Royal Court to approve such a placement for a child who is subject to a care order. The proposed amendment does not seek to change the role of the Court in approving an off-island placement. The amendment does not have the effect of lowering the bar to approving an off-island placement by the Court.

It was recently recommended by the Royal Court that the Minister give consideration to seeking an amendment to Schedule 2, paragraph 4(2)(c)(ii) of the Children’s Law in order to address potential uncertainty and adverse outcomes in the construction and application of that provision. The Court’s recommendation in this regard acknowledges that, in its current form, paragraph (4)(2)(c)(ii) and the interpretation of “suitable person” could lead to anomalous outcomes in its application in the case of the placement of children unable to consent or withholding consent to placement arrangements, as compared to those able to consent to placement arrangements. In substituting a revised subparagraph (2)(c) for the existing provision, the amendment would resolve the technical issue in this respect. It is important to note that the existing requirement for the Court to approve placement arrangements for children who are subject to a care order is not affected.

The benefit of this amendment is, through a restatement of the provision, to clarify a matter in respect of which the Court must be satisfied and thereby removing the existing anomaly in application of the placement arrangement provision as between consenting and non-consenting children. This will enable timely decisions based on the child’s needs that achieve placement stability and permanence.