
STATES OF JERSEY



NOTICE IN ACCORDANCE WITH ARTICLE 29A(3) OF THE STATES OF JERSEY LAW 2005 OF THE INTENTION TO MAKE AN ORDER TO TRANSFER LEGISLATIVE FUNCTIONS FROM THE MINISTER FOR HEALTH AND SOCIAL SERVICES TO THE MINISTER FOR CHILDREN AND HOUSING

**Presented to the States on 23rd September 2019
by the Chief Minister**

STATES GREFFE

REPORT

A number of changes have been announced to ministerial responsibilities since the formation of the new Government in 2018, which are designed to support the Council of Ministers in delivering its responsibilities.

Among these was the creation of the new role of Minister for Children and Housing. The new portfolio was part of the commitment to take urgent action to ensure that all children and young people in Jersey are provided with the best quality care, protection and support.

In February 2019, the Chief Minister approved the transfer of political responsibility for Children's Services and the Child and Adolescent Mental Health Service from the Minister for Health and Social Services to the Minister for Children and Housing.

The intention was then to give effect to the formal legislative changes that transfer the relevant statutory and non-statutory responsibilities and functions previously held by the Minister for Health and Social Services to the Minister for Children and Housing.

In furtherance of this, under Article 29A(3) of the [States of Jersey Law 2005](#), the Chief Minister now wishes to present the draft Order to the States, so as to provide 2 weeks' notice of the intention to make the Order, and thereby to transfer statutory responsibilities for the legislation listed in the Order to the Minister for Children and Housing.

The Order is therefore attached for the information of Members as the **Appendix** to this Report.

EXPLANATORY NOTE

States of Jersey (Transfer of Responsibilities and Functions) (Health and Social Services to Children and Housing) Order 2019.

This Order transfers certain legislated responsibilities and functions that relate to children from the Minister for Health and Social Services to the Minister for Children and Housing.

Article 1 contains definitions.

Article 2 transfers certain legislated responsibilities and functions that relate to children from the Minister for Health and Social Services to the Minister for Children and Housing. It also makes amendments that are consequential to that transfer.

Article 3 transfers to the Minister for Children and Housing any rights enjoyed and liabilities incurred by the Minister for Health and Social Services in connection with the responsibilities and functions transferred by Article 2.

Article 4 provides for the continuity of any appointment, approval or other decision made, or authority to do anything given, by the Minister for Health and Social Services under the enactments covered by this Order and substitutes the Minister for Children and Housing in any ongoing legal proceedings.

Article 5 sets out the name by which this Order may be cited and states that the Order comes into force on the day after it is made.



Jersey

STATES OF JERSEY (TRANSFER OF RESPONSIBILITIES AND FUNCTIONS) (HEALTH AND SOCIAL SERVICES TO CHILDREN AND HOUSING) ORDER 201-

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Jersey

STATES OF JERSEY (TRANSFER OF RESPONSIBILITIES AND FUNCTIONS) (HEALTH AND SOCIAL SERVICES TO CHILDREN AND HOUSING) ORDER 201-

Made [date to be inserted]

Coming into force [date to be inserted]

THE CHIEF MINISTER makes this Order under Article 29A of the States of Jersey Law 2005 –

1 Interpretation

In this Order –

“receiving Minister” means the Minister for Children and Housing;

“transferring Minister” means the Minister for Health and Social Services.

2 Transfer to Minister for Children and Housing

- (1) There are transferred to the receiving Minister the responsibilities and functions of the transferring Minister under the enactments set out in Part 1 of the Schedule.
- (2) Part 2 of the Schedule contains consequential amendments.

3 Connected rights and liabilities transferred

- (1) All rights enjoyed and liabilities incurred by the transferring Minister in connection with the responsibilities and functions transferred by Article 2 are transferred to the receiving Minister and become the rights and liabilities of the receiving Minister.
- (2) A provision of a contract or other instrument that specifies that a right or liability of the transferring Minister is incapable of transfer is, to the extent that it applies to a right or liability transferred by paragraph (1), of no effect.
- (3) The operation of paragraph (1) is not to be regarded –
 - (a) as a breach of contract or confidence or otherwise as a civil wrong;

- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities; or
- (c) as giving rise to any remedy by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship.

4 Transitional provisions

- (1) The transfers effected by Article 2 and 3 do not prejudice the operation of any appointment, approval, authorisation, consent, delegation, determination, direction, instruction, requirement or other thing that is, before this Order comes into force, made, given or done by the transferring Minister in relation to the responsibilities, functions, rights and liabilities so transferred, but any such matter, if then in force, continues in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the receiving Minister.
- (2) Anything commenced before this Order comes into force by or under the authority of the transferring Minister may, so far as it relates to any of the responsibilities, functions, rights and liabilities transferred by Article 2 and 3, be carried on and completed by or under the authority of the receiving Minister.
- (3) Where, on commencement of this Order, any legal proceeding is pending to which the transferring Minister is a party and the proceeding has reference to any of the responsibilities, functions, rights and liabilities transferred by Article 2 and 3, the receiving Minister is substituted in the proceeding for the transferring Minister and the proceeding does not abate by reason of the substitution.

5 Citation

This Order may be cited as the States of Jersey (Transfer of Responsibilities and Functions) (Health and Social Services to Children and Housing) Order 201- and comes into force on the day after it is made.

SCHEDULE

(Article 2)

PART 1

Enactments

Adoption (Jersey) Law 1961

Child Abduction and Custody (Jersey) Law 2005

Child Custody (Jurisdiction) (Jersey) Law 2005

Children (Jersey) Law 2002

Children's Benefit Funds (Jersey) Law 1969

Civil Partnership (Jersey) Law 2012

Criminal Justice (Young Offenders) (Placement Panel) (Jersey) Regulations 2016

Criminal Law (Child Abduction) (Jersey) Law 2005

Employment (Jersey) Law 2003

Marriage and Civil Status (Jersey) Law 2001

PART 2

Consequential Amendments

1 References to Minister for Health and Social Services amended

In each of the following enactments, for "Health and Social Services" (wherever it occurs) there is substituted "Children and Housing" –

- (a) the definition "Minister" in Article 1(1) of the Adoption (Jersey) Law 1961;
- (b) Articles 8(1)(a) and 22(1)(a) of the Child Abduction and Custody (Jersey) Law 2005;
- (c) Article 2(a) of the Child Custody (Jurisdiction) (Jersey) Law 2005;
- (d) the definition "Minister" in Article 1(1) of the Children (Jersey) Law 2002;
- (e) Articles 2(7) and (12) of the Children's Benefit Funds (Jersey) Law 1969;
- (f) paragraph 1(c) of Schedule 3 to the Civil Partnership (Jersey) Law 2012;
- (g) Article 11(3)(a) of the Criminal Justice (Young Offenders) (Jersey) Law 2014;
- (h) Regulation 6(1)(b) of the Criminal Justice (Young Offenders) (Placement Panel) (Jersey) Regulations 2016;
- (i) column 2 of the Schedule to the Criminal Law (Child Abduction) (Jersey) Law 2005;

- (j) Articles 4(4)(c) and 4A(7)(c) of the Education (Discretionary Grants – General) (Jersey) Order 2008;
- (k) Articles 4(5)(c) and 5(7)(b) of the Education (Grants and Allowances) (Jersey) Order 2018;
- (l) the definition “official notification” in Article 55A(1) of the Employment (Jersey) Law 2003;
- (m) paragraph 1(c) of Schedule 2 to the Marriage and Civil Status (Jersey) Law 2001;
- (n) Regulation 16 of the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002;
- (o) Articles 19(4)(a) and (5), and sub-paragraph (a) of the definition “children’s home” in Article 20(2), of the Sexual Offences (Jersey) Law 2018;
- (p) section 1.6(i)(a) of the code of practice set out in the Schedule to the Terrorism (Audio Recording of Interviews) (Jersey) Order 2003.

2 References to Minister for Children and Housing inserted

- (1) In the Regulation of Care (Jersey) Law 2014 –
 - (a) in Article 36, after “the Minister for Health and Social Services,” there is inserted “the Minister for Children and Housing,”;
 - (b) in Article 38(1), for “the Chief Minister or the Minister for Health and Social Services” there is substituted “the Chief Minister, the Minister for Health and Social Services or the Minister for Children and Housing”;
 - (c) in Article 40(3), after “the Minister for Health and Social Services” there is inserted “, the Minister for Children and Housing”;
 - (d) in paragraph 4(2)(a) of Schedule 2, after “the Minister for Health and Social Services” there is inserted “or Minister for Children and Housing”.
- (2) In the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002, in Regulation 17(1)(k), after “Minister for Health and Social Services” there is inserted “or Minister for Children and Housing”.