



Jersey

# **DAY CARE OF CHILDREN (JERSEY) LAW 2002**

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## DAY CARE OF CHILDREN (JERSEY) LAW 2002

### Arrangement

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Jersey

## DAY CARE OF CHILDREN (JERSEY) LAW 2002<sup>1</sup>

A **LAW** to make new provision for the regulation of the care of children for short periods and for connected purposes.

Commencement [[see endnotes](#)]

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### 1 Interpretation

- (1) In this Law, unless the context otherwise requires –

“day care accommodation” means any place where children under the age of 12 years are looked after for reward for a period or periods the total of which exceeds 2 hours in any day and 6 days in any calendar year and which is not –

- (a) wholly or mainly used as a private dwelling;
- (b) a place (such as a supermarket or hotel crèche) where the parents of, or other persons who normally care for, those children are not expected to leave the vicinity while the children are being looked after; or
- (c) a place which, in respect of those children, is operating as a school, hospital, nursing home, mental nursing home, residential care home or voluntary home;

“day carer” means a person –

- (a) who looks after one or more children under the age of 12 years in his or her home or other place wholly or mainly used as a private dwelling for reward;
- (b) who looks after any such child for a period or periods the total of which exceeds 2 hours in any day and 6 days in any calendar year; and
- (c) who is not –
  - (i) a parent or relative of, or person with parental responsibility for, all such children,

- (ii) an appointed foster parent or a person who is fostering them privately, and
- (iii) employed as a nanny for all such children by a parent of, or other person who normally cares for, those children and who is looking after the children wholly or mainly in the home of his or her employer;

“Minister” means the Minister for Education, Sport and Culture;

“premises” means day care accommodation or the place where a day carer looks after, or proposes to look after, any children.

- (2) Words and phrases used in this Law shall, unless the context otherwise requires, have the same respective meanings as in the Children (Jersey) Law 2002<sup>2</sup>.

## **2 Registration of day care accommodation and day carers**

- (1) The Minister shall keep registers of day care accommodation and day carers and such registers shall be open to inspection at all times.
- (2) Any person –
  - (a) looking after or proposing to look after any children in day care accommodation; or
  - (b) acting or proposing to act as a day carer,shall apply for registration under this Article in such manner and accompanied by such particulars as the Minister may require, and on receipt of such application the Minister shall, subject to the provisions of this Article, register the accommodation or person as the case may be.
- (3) Where a day carer registered under this Article changes premises, the day carer’s registration shall cease to have effect unless and until he or she is re-registered in accordance with this Article.
- (4) The Minister may refuse an application for registration under this Article if he or she is satisfied that –
  - (a) the premises are not fit to be used for looking after children, whether because of the condition of the premises, the adequacy of any equipment used on the premises, or for any reason connected with the situation, construction or size of the premises;
  - (b) the applicant or any person looking after, or likely to be looking after, any children on the premises is not fit to look after children;
  - (c) any person living or working, or likely to be living or working, on the premises is not fit to be in the proximity of children.
- (5) The Minister may, in the Minister’s absolute discretion –
  - (a) grant exemption from the provisions of this Article;
  - (b) attach to any such exemption such conditions as the Minister thinks fit; and
  - (c) vary such conditions at any time or withdraw the exemption.

**3 Disqualification**

A person who is disqualified for the purposes of Article 54(2) or Article 62 of the Children (Jersey) Law 2002 by virtue of Schedule 4 to that Law shall not –

- (a) look after a child in day care accommodation or be concerned in the management of or have a financial interest in such accommodation;
- (b) employ a person to look after children in day care accommodation; or
- (c) act as a day carer,

unless he or she has disclosed the disqualification to the Minister and obtained its consent.

**4 Power to impose requirements in respect of day care accommodation and day carers**

- (1) Where the Minister registers an application under Article 2, the Minister may impose any or all of the following requirements –
  - (a) specify the maximum number of children, or the maximum number of children within specified age groups, who may be looked after (having regard to the number of other children who may at any time be on the premises);
  - (b) require the applicant to secure that the premises and the equipment used on the premises, are adequately maintained and kept safe;
  - (c) require the applicant to keep records in relation to the children received, and persons living or working, at the premises containing such particulars as the Minister may specify; and
  - (d) specify the training and qualifications to be possessed by the day carer or any person employed at day care accommodation;
  - (e) in the case of day care accommodation –
    - (i) specify the number of persons who may be employed at that accommodation,
    - (ii) require to be kept informed of the persons there employed, their names, addresses, training and qualifications, and the facilities provided and the period during which they are provided; and
  - (f) impose such other requirements as to the health and welfare of children being looked after as the Minister considers appropriate.
- (2) The Minister may at any time vary any requirement imposed under this Article, impose any additional requirement or remove any requirement.

**5 Certificates of registration**

- (1) Where the Minister registers a person under Article 2 the Minister shall issue the person with a certificate of registration.
- (2) The certificate –

- (a) shall specify the address of the premises and, in the case of a day carer, his or her name and address; and
- (b) shall be accompanied by any requirement imposed under Article 4.
- (3) Where, due to a change of circumstances, any part of the certificate requires to be amended, the Minister shall issue an amended certificate.
- (4) The certificate of registration shall be displayed in a prominent position in the premises in which any child is to be looked after and produced or delivered to the Minister when so required.

## **6 Fees**

- (1) The Minister may charge such fees as the Minister may prescribe by Order for or in connection with any registration or application for registration under this Law and the issuing of certificates of registration, and such fees may be prescribed on any basis, including an annual or other periodic basis.
- (2) The Subordinate Legislation (Jersey) Law 1960<sup>3</sup> shall apply to Orders made under this Article.

## **7 Cancellation of registration**

The Minister may at any time cancel any registration under Article 2 if –

- (a) it appears to the Minister that the circumstances of the case are such that the Minister would be justified in refusing to register the day care accommodation or day carer concerned;
- (b) the care provided at such accommodation or, by such day carer, is, in the Minister's opinion, seriously inadequate having regard to the needs of the children concerned;
- (c) there has been a contravention of, or non-compliance with, any requirement imposed under Article 4; or
- (d) there has been a failure to pay any fee charged under Article 6.

## **8 Notice of decisions**

- (1) Not less than 14 days before –
  - (a) refusing an application for registration under Article 2;
  - (b) cancelling any such registration;
  - (c) refusing consent under Article 3;
  - (d) imposing, removing or varying any requirement under Article 4; or
  - (e) refusing to grant any application for the variation or removal of any such requirement,

the Minister shall send to the applicant, to the occupier of the accommodation to which the registration relates or to the day carer registered, as the case may be, notice in writing of the Minister's intention to do so and the reasons for the Minister's decision.



- (2) Every notice under paragraph (1) shall inform the addressee of his or her right to object to the decision by giving written notice to the Minister within 14 days of receipt of the notice, and where the addressee does so, the Minister shall give the addressee the opportunity to be heard in person or by a representative.
- (3) If the Minister, after having complied with paragraph (2), nevertheless decides to take any of the steps described in paragraph (1), the Minister shall give the person concerned written notice of the Minister's decision and inform the person of his or her right to appeal under Article 9.

## **9 Appeals**

- (1) A person aggrieved by a decision under Article 8(3) may, within one month from the receiving notice of that decision, appeal to the Royal Court on the ground that the decision is unreasonable in all the circumstances of the case.
- (2) Where the court allows an appeal against the refusal or cancellation of any registration under Article 2 it may impose requirements under Article 4.
- (3) Where the court allows an appeal against such a requirement it may, instead of cancelling the requirement, vary it.
- (4) Where the court imposes or varies any requirement under paragraph (2) or (3) the requirement, or the requirement as varied, shall be treated for all purposes (other than this Article) as if it had been imposed by the Minister.
- (5) A step of a kind mentioned in Article 8(1)(b) or (d) shall not take effect until the expiry of the time within which an appeal may be brought under this Article or, where such an appeal is brought, before its determination.

## **10 Protection of children in an emergency**

- (1) Where the Minister cancels a registration under Article 7, varies or removes a requirement imposed under Article 4 or imposes an additional requirement under that Article, the Minister may apply to the court for an order that such cancellation, variation, removal or imposition shall have immediate effect.
- (2) An application under paragraph (1) may be made *ex parte* and shall be supported by a written statement of the Minister's reasons for making it.
- (3) The court may make an order under this Article if it is satisfied that a child who is being, or who may be, looked after by the day carer or at the day care accommodation concerned, as the case may be, is suffering, or is likely to suffer, significant harm.
- (4) Where an order is made under this Article the Minister shall serve on the registered person, as soon as is reasonably practicable, notice of the order and a copy of the statement of its reasons for making the application.

**11 Power of entry and inspection**

Any officer in an administration of the States for which the Minister is assigned responsibility may, subject to the production by the officer of evidence of his or her authority, at all reasonable times enter any premises and inspect –

- (a) the premises;
- (b) the children being looked after on the premises;
- (c) the arrangements made for the welfare of such children; and
- (d) any records relating to them kept as a result of this Law.

**12 Offences**

A person who –

- (a) allows children to be received into day care accommodation which is not registered or exempted under Article 2;
- (b) acts as a day carer without being so registered or exempted;
- (c) contravenes Article 3;
- (d) makes, or causes or procures another person to make, any statement in an application for registration under Article 2 which he or she knows to be false or misleading in a material particular;
- (e) without reasonable excuse contravenes or fails to comply with –
  - (i) a requirement imposed on the person under Article 4,
  - (ii) a condition attached to an exemption granted under Article 2(5), or
  - (iii) the provisions of Article 5(4); or
- (f) intentionally obstructs an officer in an administration of the States for which the Minister is assigned responsibility who is exercising his or her powers under Article 11,

shall be liable to a fine of level 3 on the standard scale.

**12A General provisions as to offences<sup>4</sup>**

- (1) Where an offence under this Law committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
  - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in

connection with the member's functions of management as if he or she were a director of the body corporate.

- (3) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of an offence and liable in the same manner as a principal offender to the penalty provided for that offence.

### **13 Transitional provision**

Any registration effected under Article 42 of the Children (Jersey) Law 1969<sup>5</sup> which, had this Law been in force at the time of such registration, could have been effected under this Law, shall, on and after the commencement of this Law, have effect as if made under Article 2, and any requirement imposed under Article 43 of that Law with respect to such registration shall have effect as if it were imposed under Article 4.

### **14 Citation**

This Law may be cited as the Day Care of Children (Jersey) Law 2002.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Day Care of Children (Jersey) Law 2002	L.51/2002	1 August 2005 (R&O.68/2005)
States of Jersey (Amendments and Construction Provisions No. 6) (Jersey) Regulations 2005	R&O.46/2005	9 December 2005
Children and Day Care (Amendment) (Jersey) Law 2005	L.36/2005	23 December 2005

### Table of Renumbered Provisions

Original	Current
Article 1(3) and (4)	Omitted, see Article 9 of the Interpretation (Jersey) Law 1954 chapter 15.360

### Table of Endnote References

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*The monetary value of levels on the standard scale of fines is set by the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993 chapter 08.360*

- <sup>1</sup> *This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 6) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- <sup>2</sup> *chapter 12.200*
- <sup>3</sup> *chapter 15.720*
- <sup>4</sup> *Article 12A* *inserted by L.36/2005*
- <sup>5</sup> *chapter 12.200, revised edition 31 August 2004*