

STATES OF JERSEY



Jersey

DRAFT REGULATION OF CARE (AMENDMENT OF LAW) (COVID-19 – TEMPORARY AMENDMENT No. 2) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 7th April 2020
by the Chief Minister**

STATES GREFFE

REPORT

On 24th March 2020, the States Assembly approved [P.27/2020](#)¹, therefore amending the [Regulation of Care \(Jersey\) Law 2014](#) (“the 2014 Law”) to provide that temporary care homes or adult day care centres would be exempt from having to register with, or be regulated by, the Jersey Care Commission (“the Commission”), but only if that service –

- is provided as a direct or indirect result of Covid-19; and
- is established after 24th March 2020 (i.e. this exemption does not apply to existing services).

This amendment will fall away on 30th September 2020. Therefore, from 1st October 2020 these temporary services – if they still exist – will need to register with, and to be regulated by, the Care Commission.

P.27/2020 was adopted by the Assembly because Members acknowledged that temporary care services –

1. may be needed in the coming months by, for example, the Department for Health and Community Services and/or other care providers in the event that existing care homes or adult day care centres become infected with Covid-19 and residents/service users are required to temporarily move out to facilitate a deep clean. Or, if during the outbreak, the demand for the services outstrips the supply.
2. could not realistically be expected to adhere to currently regulatory standards for reasons of practicality. If temporary services are not exempt from registration and regulation with the Commission, it will inhibit the speed with which the services can be set up. The registration process is lengthy and – rightly – exhaustive. The Commission expects regulated services to conform to high standards, including requirements related to –
 - the facility, such as designated safe storage for medicines, accessible washing facilities, and appropriate door-widths for wheelchair access;
 - staff, who must be fully qualified, skilled and experienced to undertake the role they are required to perform in a care setting.

In adopting P.27/2020, Members were nevertheless mindful of the risks associated with unregulated care, and sought assurance that the services would only be provided if the need for the services could be demonstrated.

The purpose of this additional amendment is, therefore, to introduce 2 further safeguards by providing that any such service may only operate if –

- (a) the Minister for Health and Social Services is satisfied that the service is required; and
- (b) the provider has consulted the Commission, in order that the Commission can provide all appropriate advice and support, even where the service is not a regulated service.

¹ Regulation of Care (Amendment of Law) (Covid-19 – Temporary Amendment) (Jersey) Regulations 2020 ([R&O.29/2020](#)).

Further amendments following the adoption of P.27/2020

The additional amendments set out in the Draft Regulation of Care (Amendment of Law No. 2) (Covid-19 – Temporary Amendment No. 2) (Jersey) Regulations 202- have been deemed necessary for 2 reasons.

Firstly, the requirement for the Minister for Health and Social Services to be satisfied will help ensure that temporary Covid-19-related care homes or adult day care facilities can only be established if there is a genuine need for the facility. The Minister will be in a position to determine whether the service is genuinely required, or it is just a way for a provider to enter the market via the “backdoor”.

Secondly, the provider of the temporary service is required to consult with the Commission before the service can be established, so that the Commission can offer advice and assistance to the provider. This will include advising on appropriate training of staff, and on realistic measures that should be taken to render the accommodation more appropriate for the needs of care receivers. This will also ensure that the Commission is aware of all the services which the Minister has agreed should be established so that, if the service is still operational on 1st October 2020, the Commission will be well-placed to register and to regulate the service in the usual way.

It should be restated that –

- (a) from 1st October 2020 all providers of care home, home care and adult day care services must adhere to the full standards and requirements which were expected by the Commission in all cases prior to the onset of the Covid-19 pandemic. This also means that there will be no exemption for any provider from the requirement that all their staff must be fully qualified, skilled and experienced to undertake any role which they are required to perform in a care setting; and
- (b) these exemptions do not apply to existing services or home care services, all of which are required to be registered and regulated by the Commission.

Financial and manpower implications

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 make further temporary changes to Schedule 1 to the Regulation of Care (Jersey) Law 2014, which describes what are “regulated activities” to be regulated under the Law. The changes are as a consequence of the outbreak of Covid-19 in Jersey.

Paragraph 1 of that Schedule names a “care home service” as a regulated activity. The Regulation of Care (Amendment of Law (Covid-19 – Temporary Amendment (Jersey) Regulations 2020 recently passed by the States inserted, as paragraph 1(2A), an exception for care home services that were not regulated activities before those Regulations commenced and that are provided as a direct or indirect result of the outbreak of Covid-19 in Jersey. These Regulations add additional requirements to this exception, namely that the Minister for Health and Social Services must be satisfied that the care home service is required and that before providing the service the provider must have sought advice from the Health and Social Care Commission about the best means of providing it (*Regulation 1(2)*).

Paragraph 3 of that Schedule names an “adult day care service” as a regulated activity. The 2020 Regulations mentioned above also inserted, as paragraph 3(3), an exception for adult day care services that were not regulated activities before the 2020 Regulations commenced and that are provided as a direct or indirect result of the outbreak of Covid-19 in Jersey. These Regulations also now insert the same additional requirements to meet this exception as mentioned above (*Regulation 1(3)*).

Because these additional requirements are inserted in provisions due to expire on 30th September (by virtue of paragraph 3A of the Schedule), they will also expire on that day.

Regulation 2 states how the Regulations may be cited and provides for them to come into force on the day after they are made.



Jersey

DRAFT REGULATION OF CARE (AMENDMENT OF LAW) (COVID-19 – TEMPORARY AMENDMENT No. 2) (JERSEY) REGULATIONS 202-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES make these Regulations under Article 2 of the Regulation of Care (Jersey) Law 2014¹ –

1 Schedule 1 to Law amended

- (1) Schedule 1 to the Regulation of Care (Jersey) Law 2014² is amended in accordance with this Regulation.
- (2) In paragraph 1(2A) –
 - (a) at the end of clause (a) “and” is deleted;
 - (b) after clause (b) there is inserted –
 - “(c) the Minister for Health and Social Services is satisfied that the service is required; and
 - (d) before providing the service the provider has sought advice from the Commission about the best means of providing it”.
- (3) In paragraph 3(3) –
 - (a) at the end of clause (a) “and” is deleted;
 - (b) after clause (b) there is inserted –
 - “(c) the Minister for Health and Social Services is satisfied that the service is required; and
 - (d) before providing the service the provider has sought advice from the Commission about the best means of providing it”.

2 Citation and commencement

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

ENDNOTES

Table of Endnote References

<i>1</i>	<i>chapter 20.820</i>
<i>2</i>	<i>chapter 20.820</i>