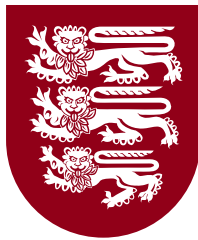


STATES OF JERSEY



Jersey

DRAFT CHILDREN AND CIVIL STATUS (CONSEQUENTIAL AMENDMENTS) (JERSEY) AMENDMENT No. 2 REGULATIONS 202-

**Lodged au Greffe on 3rd July 2025
by the Minister for Children and Families
Earliest date for debate: 9th September 2025**

STATES GREFFE

REPORT

Introduction

The Draft Children and Civil Status (Consequential Amendments) (Jersey) Amendment No. 2 Regulations 202- (the “Draft Consequential Regulations”), provide some supplementary consequential amendments which will support the [Children and Civil Status \(Amendments\) \(Jersey\) Law 2024](#) (the “2024 Law”). These additional amendments were identified during the policy development and law drafting process for the [Draft Civil Status \(Abolition of Legitimacy Etc.\) \(Jersey\) Law 202-](#) (the “Draft Legitimacy Law”). The Draft Consequential Regulations form part of a package of legislation, supporting the 2024 Law, which will establish new routes for same-sex parents and parents using fertility treatments or surrogacy to gain legal parental status and parental responsibility. These are small enhancements and technical changes to ensure that the policy intentions of the 2024 Law are fully enacted throughout legislation. The Draft Consequential Regulations will come into force immediately after the [Children and Civil Status \(Consequential Amendments\) \(Jersey\) Amendment Regulations 2025](#) (“the 2025 Regulations”).

Registration of Deceased Parents via Fertility Treatment

The new Article 56D of the [Marriage and Civil Status \(Jersey\) Law 2001](#) (the “2001 Law”) adds new routes to registration for deceased fathers and second parents, under paragraphs 11-15 of Schedule A1 to the [Children \(Jersey\) Law 2002](#). This will allow parents, who have consented to relevant fertility treatment, and subsequently passed away before their child was conceived, to be registered as the child’s parent. This registration is symbolic and for record purposes only; it does not confer any rights of succession. This safeguard ensures that the deceased person’s estate can be confidently administered without the risk of retrospective claims arising from posthumous parenthood; for example, in cases involving the use of frozen embryos. Nevertheless, registration of a parent on a child’s birth certificate plays a significant role in affirming a child’s identity and engages Article 8 of the European Convention on Human Rights (the “ECHR”). This measure provides a meaningful and symbolic recognition of parenthood, supporting the child’s sense of identity and belonging.

Jersey is considerably far behind the UK in legislation to recognise parents who use fertility treatment. For example, the UK [Human Fertilisation and Embryology \(Deceased Fathers\) Act 2003](#), was passed two decades ago after a high-profile High Court case to address the situation of mothers who had conceived children after the death of their husbands or partners using fertility treatment.¹ The proposed amendment follows a similar policy intention by enabling posthumous parental registration. It also includes second parents, thereby reflecting contemporary family structures.

Enhancing the Rights of Parents via Overseas Equivalents of Jersey Parental Orders

Some small amendments are made to strengthen the recognition of parents via overseas equivalents to Jersey parental orders. The 2024 Law introduces the concept of a Jersey parental order, which applies to children born in Jersey through surrogacy. A parental order transfers legal parenthood from the surrogate to the intended parents, extinguishing the surrogate’s parental responsibility and granting the intended parents full parental responsibility. This ensures that the child is legally recognised as the child of the receiving parents alone.

¹ [Human Fertilisation and Embryology \(Deceased Fathers\) Act 2003 - Explanatory Notes](#)

To support this framework, the 2024 Law amends the Children (Jersey) Law 2002 to provide that:

“ “parental order” means an order made by the court under Article 9G or, in relation to children outside Jersey, by a court of a jurisdiction outside Jersey that has an effect corresponding to an order made under Article 9G;”

This definition recognises orders made by courts in other jurisdictions which have a corresponding effect to a Jersey parental order. For example, this includes parental orders granted in England and Wales under the Human Fertilisation and Embryology Act 2008. These Draft Consequential Regulations ensure that parental order equivalents from other jurisdictions are recognised across several pieces of legislation.

It is recognised that some parents may choose to use surrogates outside Jersey, either due to personal preference or to access fertility treatments not currently available on the island. These legislative amendments ensure that such parents, whose children are subject to the equivalent of a Jersey parental order, are treated in the same way as those with Jersey parental orders. In many instances, the definition of a parent “via parental order” has been expanded to include equivalent orders made by courts in other jurisdictions. These amendments are technical in nature and are intended to support the implementation of the 2024 Law. They do not alter the original policy intentions of that Law but ensure the interpretation of *parental order* is applied more consistently.

In line with the family-friendly policies, these amendments ensure that parents who obtain overseas equivalents to Jersey parental orders are eligible for parental benefits and leave on the same basis as those with Jersey parental orders. Only a small operational adjustment is required to enable the processing of benefit claims for these parents. It is anticipated that these provisions will apply to a limited number of cases, but they will help ensure fairness and consistency.

Codifying Domicile of Dependence in Statute Law

Additional amendments are added to the new Part 5A of the 2001 Law, codifying the existing customary position for domicile of dependence (hence domicile of origin) for children of mixed-sex parents. It also clarifies the position for mixed-sex parents using fertility treatment. A child’s domicile of dependence is derived from either parent, depending on the parents’ circumstances, and may be separate to the child’s country of birth. This domicile of dependence generally continues until the child reaches a legal capacity, at which point they may acquire a new domicile of choice, such as by establishing a permanent home in another country. The child will usually acquire the domicile of dependence from their father if their parents are in a mixed-sex marriage. Otherwise, they would generally gain their mother’s domicile. Provisions in Part 5A of the 2001 Law, as amended by the 2024 Law, have already clarified the position for children of same-sex female parents who will acquire their birth mother’s domicile. It also provided for children via parental order based on genetic connection to either parent.

The Draft Legitimacy Law abolishes legitimacy and removes all legal distinctions based on whether a person’s parents were married. It explicitly states that no one governed by Jersey law is illegitimate, and that parental marriage is irrelevant in determining legal status or relationships. It also abolishes any rule of customary law governing the status of legitimacy. Traditionally, under customary law, a child’s domicile of dependence relied on legitimacy or whether the parents were married. To prevent incongruity between the Draft Legitimacy Law, the 2024 Law, and the customary law position for determining a child’s domicile of dependence, it is essential to codify the rules governing domicile of dependence. This will promote legal clarity and coherence, ensuring that the implications of the new legislation are applied consistently and with certainty.

The amendments in these Draft Consequential Regulations complement the provisions already introduced by the 2024 Law. They codify the existing customary position for children born to both married and unmarried mixed-sex parents, including children born via relevant fertility

treatment. The amendments ensure that the domicile of dependence for children is clearly set out in statutory law. This will provide certainty for all families, and recognise all routes to parenthood, including the new provisions for fertility treatment. These amendments do not aim to transform the position on domicile of dependence but merely reflect and clarify the existing customary position.

Some minor amendments rationalise the position of a child's domicile of dependence, so that children born to mixed-sex parents in a civil partnership will gain their father's domicile in the same manner as children presently born to mixed-sex married parents. Currently, there is an anomaly where children of mixed-sex married parents gain their father's domicile of dependence and children whose parents are in a mixed-sex civil partnership gain their mother's domicile of dependence. This is based on the customary law position. The Draft Consequential Regulations make a minor change, so that all children of mixed-sex parents in a legally recognised union are treated in the same manner and gain their father's domicile. This aligns with the Government's long-term policy that civil partnership and marriage should be treated equally. It is anticipated that this change will impact a very small number of families, as there are very few mixed-sex civil partnerships²

Completely reforming the policy on gaining domicile of dependence from parents is beyond the current scope of these Draft Consequential Regulations and would require separate, extensive consultation. The traditional customary position of domicile is therefore 'harmonised' for the new routes to parenthood and civil partnerships. It is recognised that this follows traditional frameworks, which are also in line with English common law. There are arguments for determining a child's domicile using different frameworks.³ The 2024 Law contains regulation making powers if further policy consideration of this position is desired in the future.

Bringing the Children and Civil Status Law into force

Preparations are progressing to target to ensure the operational readiness of all relevant departments to smoothly implement the 2024 Law, and wider package of legislation by autumn 2025. A comprehensive communications plan has been developed and is ready to be rolled out in advance of the commencement date. Clear and co-ordinated communications will be targeted at the existing families and the wider community who may benefit. For example, communications will be sent to relevant charities and community groups. These Draft Consequential Regulations were developed alongside the Draft Legitimacy Law and have been lodged in a parallel timeline to the operational preparations in readiness for implementation in autumn 2025.

The 2024 Law, and supporting package of legislation, has been complex to develop and represents a landmark reform in Jersey's approach to parenthood and family rights. It will confer fundamental and non-negotiable parental rights to both same-sex and mixed-sex parents who conceive through fertility treatment or surrogacy. Similar policies and legislation, including some parts of the original Human Fertilisation and Embryology Act 1990, have gradually evolved in the UK over the last 40 years. Jersey has been significantly behind other jurisdictions in these areas. This complete package of legislation is a huge step forward in recognising parental rights and includes the abolishment of the outdated and discriminatory status of illegitimacy. These provisions ensure that long-overdue changes are implemented, improving the rights of all children and families.

² The changes proposed are not likely to have any unintended consequences for Jersey tax purposes. In Jersey, the focus is instead on types of 'residence,' which impact upon an individual's tax liabilities. There may be impact upon how an individual is treated for tax purposes in another jurisdiction if they have dual residency.

³ For example, Section 22 of Family Law (Scotland) Act 2006 has provisions for "domicile of persons under 16" determined by the country the child has the closest connection with or where they have their home with their parents. However, this has faced some criticism for causing uncertainty, especially for departing from the established legal concept of domicile of dependence. ([6th Report, 2016 \(Session 4\): Post-legislative Scrutiny of the Family Law \(Scotland\) Act 2006](#))

Financial and staffing implications

There are no additional financial or staffing implications.

Children's Rights Impact Assessment

A Children's Rights Impact Assessment has been prepared in relation to this proposition and is available to read on the States Assembly website.

EXPLANATORY NOTE

These Regulations contain further amendments required as a consequence of the coming into force of the Children and Civil Status (Amendments) (Jersey) Law 2024 (the “2024 Law”). The 2024 Law, when it comes into force, will amend the Children (Jersey) Law 2002, the Marriage and Civil Status (Jersey) Law 2001 and the Marriage and Civil Status (Jersey) Order 2018 to make provision for children who are conceived as a result of fertility treatment or surrogacy arrangements, including provision for the making of parental orders, the acquisition of parental responsibility, and the associated registration procedures.

Regulation 1 amends the Capacity and Self-Determination (Jersey) Law 2016 to provide that the making of a parental order is an excluded decision but that the court may, under Article 27 of that Law, consent to the making of a recognition order in a person’s name, consent to a person’s name being entered onto a child’s birth certificate under Schedule A1 to the Children (Jersey) Law 2002, or, in certain circumstances, consent to a parental order being made in a person’s name.

Regulations 2, 7, 8, 9, 10, 11 and 16 amend various enactments to update the definition of “via parental order”. *Regulations 10 and 11* also amend certain other definitions.

Regulation 3 amends the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013 to update the definition of “child”.

Regulation 4 amends the Criminal Law (Child Abduction) (Jersey) Law 2005 to amend the definition of a person connected to a child, and the circumstances in which a person does not commit an offence.

Regulation 5 amends the Employment (Jersey) Law 2003 to update the terminology relating to surrogacy.

Regulation 6 amends the Marriage and Civil Status (Jersey) Law 2001 to provide for the registration of the father or second parent of a child born to whom Schedule A1, paragraphs 11 to 15 to the 2002 Law apply (sperm used or embryo transferred after death), and to provide for the domicile of children born in certain circumstances.

Regulation 12 amends Schedule 1, paragraph 8(3) to the Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018 to include provision for a second female parent.

Regulation 13 amends the Social Security (Jersey) Law 1974 to update the definition of “parental order certificate”.

Regulation 14 amends the Social Security (Death Grant) (Jersey) Order 1974 to update the definition of “parent”.

Regulation 15 corrects a typographical error in the Social Security (Parental Benefit) (Jersey) Order 2020.

Regulation 17 gives the citation and provides that the Regulations come into force immediately after the Children and Civil Status (Consequential Amendments) (Jersey) Amendment Regulations 2025 come into force.



Jersey

DRAFT CHILDREN AND CIVIL STATUS (CONSEQUENTIAL AMENDMENTS) (JERSEY) AMENDMENT No. 2 REGULATIONS 202-

Contents

Regulation

1	Capacity and Self-Determination (Jersey) Law 2016 amended	8
2	Civil Partnership (Jersey) Law 2012 amended	8
3	Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013 amended	8
4	Criminal Law (Child Abduction) (Jersey) Law 2005 amended.....	9
5	Employment (Jersey) Law 2003 amended.....	9
6	Marriage and Civil Status (Jersey) Law 2001 amended	9
7	Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 amended	11
8	Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989 amended	11
9	Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992 amended	11
10	Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989 amended	11
11	Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015 amended	12
12	Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018 amended	12
13	Social Security (Jersey) Law 1974 amended	12
14	Social Security (Death Grant) (Jersey) Order 1974 amended.....	12
15	Social Security (Parental Benefit) (Jersey) Order 2020 amended.....	12
16	Teachers' Superannuation (New Members) (Jersey) Order 2007 amended.....	13
17	Citation and commencement	13



Jersey

DRAFT CHILDREN AND CIVIL STATUS (CONSEQUENTIAL AMENDMENTS) (JERSEY) AMENDMENT No. 2 REGULATIONS 202-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES make these Regulations under Article 82A of the [Children \(Jersey\) Law 2002](#) and Article 82 of the [Marriage and Civil Status \(Jersey\) Law 2001](#) –

1 [Capacity and Self-Determination \(Jersey\) Law 2016](#) amended

- (1) This Regulation amends the [Capacity and Self-Determination \(Jersey\) Law 2016](#).
- (2) After Article 7(1)(a)(viii) there is inserted –
 - (ix) the making of a parental order (within the meaning of the [Children \(Jersey\) Law 2002](#)); or
- (3) For Article 27(2)(d) and (e) (specific provision which may be made under this Part as to P's health and welfare) there is substituted –
 - (d) give consent under Schedule A1 to the [Children \(Jersey\) Law 2002](#).

2 [Civil Partnership \(Jersey\) Law 2012](#) amended

In Schedule 2, paragraph 4 to the [Civil Partnership \(Jersey\) Law 2012](#), for the definition “via parental order” there is substituted –

“via parental order” means that a parental order or a recognition order (each as defined in the [Children \(Jersey\) Law 2002](#)) has been made conferring parental responsibility in respect of a child to a person named in the parental order or recognition order.

3 [Control of Housing and Work \(Residential and Employment Status\) \(Jersey\) Regulations 2013](#) amended

For Regulation 2(7) of the [Control of Housing and Work \(Residential and Employment Status\) \(Jersey\) Regulations 2013](#) there is substituted –

- (7) In this Regulation, “child” includes –
 - (a) a child adopted under an adoption order made by a court of competent jurisdiction in the British Islands or elsewhere;

- (b) a child of a person who is the child's father under Circumstances A or B of Schedule A1 (fertility treatment and artificial insemination) to the [Children \(Jersey\) Law 2002](#), or the child's second parent under Circumstances C or D of that Schedule;
- (c) a child of a person who is the child's second parent under that Schedule; or
- (d) a child who is the subject of a parental order or a recognition order (each as defined in the [Children \(Jersey\) Law 2002](#)) in which the person is named as the child's parent.

4 [Criminal Law \(Child Abduction\) \(Jersey\) Law 2005](#) amended

Articles 2(2)(f) and 3(3)(aa) of the [Criminal Law \(Child Abduction\) \(Jersey\) Law 2005](#) are deleted.

5 [Employment \(Jersey\) Law 2003](#) amended

- (1) This Regulation amends the [Employment \(Jersey\) Law 2003](#).
- (2) In Article 55A(1), for the definition "receiving parent" there is substituted –
 - "receiving parent" means –
 - (a) a person on whose application a parental order has been made, in which the person is to be named as a child's parent; or
 - (b) a person who is a potential applicant for a parental order, which means –
 - (i) if the person intends to apply for an order under Article 9G of the 2002 Law, that the requirements of Article 9I(2)(a) to (c) of that Law are met and the requirements of Article 9I(2)(d) to (g) of that Law can reasonably be expected to be met in relation to that person; or
 - (ii) otherwise, that a person has met, or can reasonably be expected to meet, the requirements necessary for a court of competent jurisdiction outside Jersey to make an order with an effect corresponding to an order made under Article 9G of the 2002 Law.
- (3) For Article 55D(7)(d) there is substituted –
 - (d) a receiving parent.

6 [Marriage and Civil Status \(Jersey\) Law 2001](#) amended

- (1) This Regulation amends the [Marriage and Civil Status \(Jersey\) Law 2001](#).
- (2) After Article 56C there is inserted –

56D Registration of father or second parent under certain provisions of [Children \(Jersey\) Law 2002](#)

- (1) This Article applies if a child is born to whom any of paragraphs 11 to 15 of Schedule A1 to the [Children \(Jersey\) Law 2002](#) apply.

- (2) The relevant registrar must not enter the name of a person in the register of births as the child's father or second parent unless –
 - (a) the mother requests the registrar to make the entry in the register and produces the relevant documents; or
 - (b) in the case of the death or inability of the mother, the relevant documents are produced by another person.
- (3) In this Article, “relevant documents” means –
 - (a) the consent in writing mentioned in paragraph 11(2)(c), 12(2)(e), 13(2)(c), 14(2)(d) or 15(2)(c) of Schedule A1 to the [Children \(Jersey\) Law 2002](#);
 - (b) a certificate from a registered medical practitioner as to the medical facts concerned; and
 - (c) the other documentary evidence (if any) that the registrar considers appropriate.
- (3) After Article 75A, there is inserted –

75AA Domicile of child conceived in Circumstance A or to parents married or in civil partnership

- (1) This Article applies in the case of a child –
 - (a) conceived in Circumstance A;
 - (b) conceived naturally and born to parents who are –
 - (i) married to each other; or
 - (ii) civil partners of each other; or
 - (c) conceived naturally and born to a woman whose husband or civil partner –
 - (i) was the biological father of the child; and
 - (ii) died before the birth of the child.
- (2) The child's domicile of dependence (and hence the child's domicile of origin) is derived from the child's father.

75AB Domicile of child conceived in Circumstance B or to parents neither married nor in civil partnership

- (1) This Article applies in the case of a child –
 - (a) conceived in Circumstance B; or
 - (b) conceived naturally and born to parents who are not married to or a civil partnership with each other.
- (2) The child's domicile of dependence (and hence the child's domicile of origin) is derived from the child's mother.
- (4) In Article 75B(1)(b), after the parentheses there is inserted “or any of paragraphs 11 to 15”.
- (5) In Schedule 1 –
 - (a) in paragraph 1(3), for the definition “via parental order” there is substituted –

“via parental order” means that a parental order or a recognition order (each as defined in the [Children \(Jersey\) Law 2002](#)) has been made conferring parental responsibility in respect of a child to a person named in the parental order or recognition order.

(b) for paragraph 2(3) there is substituted –

(3) In the list in sub-paragraph (2) “via parental order” means that a parental order or a recognition order (each as defined in the [Children \(Jersey\) Law 2002](#)) has been made conferring parental responsibility in respect of a child to a person named in the parental order or recognition order.

7 [Public Employees \(Contributory Retirement Scheme\) \(Jersey\) Regulations 1967](#) amended

In Regulation 1(1) (interpretation) of the [Public Employees \(Contributory Retirement Scheme\) \(Jersey\) Regulations 1967](#), for the definition “via parental order” there is substituted –

“via parental order” means that a parental order has been made conferring parental responsibility in respect of a child to a person named in the parental order.

8 [Public Employees \(Contributory Retirement Scheme\) \(Existing Members\) \(Jersey\) Regulations 1989](#) amended

In Regulation 1(1) (interpretation) of the [Public Employees \(Contributory Retirement Scheme\) \(Existing Members\) \(Jersey\) Regulations 1989](#), for the definition “via parental order” there is substituted –

“via parental order” means that a parental order has been made conferring parental responsibility in respect of a child to a person named in the parental order.

9 [Public Employees \(Contributory Retirement Scheme\) \(Former Hospital Scheme\) \(Jersey\) Regulations 1992](#) amended

In Regulation 1(1) (interpretation) of the [Public Employees \(Contributory Retirement Scheme\) \(Former Hospital Scheme\) \(Jersey\) Regulations 1992](#), for the definition “via parental order” there is substituted –

“via parental order” means that a parental order has been made conferring parental responsibility in respect of a child to a person named in the parental order.

10 [Public Employees \(Contributory Retirement Scheme\) \(New Members\) \(Jersey\) Regulations 1989](#) amended

In Regulation 1 (interpretation) of the [Public Employees \(Contributory Retirement Scheme\) \(New Members\) \(Jersey\) Regulations 1989](#) –

- (a) in the definition “relations”, in sub-paragraph (b)(iv), after “is named” there is inserted “as the child’s parent”;
- (b) for the definition “via parental order” there is substituted –

“via parental order” means that a parental order has been made conferring parental responsibility in respect of a child to a person named in the parental order.

11 [Public Employees \(Pension Scheme\) \(Membership and Benefits\) \(Jersey\) Regulations 2015](#) amended

In Regulation 1 (interpretation) of the [Public Employees \(Pension Scheme\) \(Membership and Benefits\) \(Jersey\) Regulations 2015](#) –

- (a) in the definition “child-related leave”, after “or adoption of a child” there is inserted “or the making of a parental order in respect of a child”;
- (b) for the definition “via parental order” there is substituted –
“via parental order” means that a parental order has been made conferring parental responsibility in respect of a child to a person named in the parental order.

12 [Regulation of Care \(Standards and Requirements\) \(Jersey\) Regulations 2018](#) amended

In Schedule 1, paragraph 8(3) to the [Regulation of Care \(Standards and Requirements\) \(Jersey\) Regulations 2018](#), after “father” there is inserted “or second parent”.

13 [Social Security \(Jersey\) Law 1974](#) amended

For Article 11A(4)(a)(iii) (interpretation of Part 3) of the [Social Security \(Jersey\) Law 1974](#) there is substituted –

- (iii) “parental order certificate” means –
 - (A) a certificate issued under Article 61A(3) of the 2001 Law relating to a parental order registration under that Law; or
 - (B) a certificate issued outside Jersey having equivalent effect;

14 [Social Security \(Death Grant\) \(Jersey\) Order 1974](#) amended

- (1) This Regulation amends the [Social Security \(Death Grant\) \(Jersey\) Order 1974](#).
- (2) In Article 3(1), after “parent” there is inserted “(as defined in Article 11A of the Law)”.
- (3) In Article 4(a), after “[Adoption \(Jersey\) Law 1961](#)” there is inserted “or a person who is, or would have been, named in a parental order in respect of a child under the [Children \(Jersey\) Law 2002](#)”.

15 [Social Security \(Parental Benefit\) \(Jersey\) Order 2020](#) amended

In Article 8(3) and (4) (nomination of parents and period specified for payment of parental allowance) of the [Social Security \(Parental Benefit\) \(Jersey\) Order 2020](#), after “parental order” there is inserted “certificate”.

16 [Teachers' Superannuation \(New Members\) \(Jersey\) Order 2007](#) amended

In Article 1 (interpretation) of the [Teachers' Superannuation \(New Members\) \(Jersey\) Order 2007](#), for the definition “via parental order” there is substituted –

“via parental order” means that a parental order has been made conferring parental responsibility in respect of a child to a person named in the parental order.

17 Citation and commencement

These Regulations may be cited as the Children and Civil Status (Consequential Amendments) (Jersey) Amendment No. 2 Regulations 202- and come into force immediately after the Children and Civil Status (Consequential Amendments) (Jersey) Amendment Regulations 2025 come into force.