

# STATES OF JERSEY



## **DRAFT HEALTH INSURANCE (AMENDMENT No. 14) (JERSEY) LAW 201-**

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**Lodged au Greffe on 9th August 2011  
by the Minister for Social Security**

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**STATES GREFFE**





Jersey

## **DRAFT HEALTH INSURANCE (AMENDMENT No. 14) (JERSEY) LAW 201-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Social Security has made the following statement –

In the view of the Minister for Social Security the provisions of the Draft Health Insurance (Amendment No. 14) (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Deputy I.J. Gorst of St. Clement**

## REPORT

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**The Health Insurance (Amendment No. 14) (Jersey) Law 2011- introduces new arrangements which will support the development and implementation of a well-regulated primary healthcare system, with stronger governance arrangements for practising General Practitioners (G.P.s) combined with the ability to provide funding for specified medical services in agreed areas.**

### **Background**

It has previously been acknowledged that primary medical care in Jersey has, in some ways, been lagging behind developments seen in other parts of the world. In response to this, Proposition 36/2010 set out the first steps towards a better primary care service for the people of Jersey. In particular, P.36/2010 highlighted the need for Jersey G.P.s to be licensed with the U.K. General Medical Council (G.M.C.).

To practise medicine in the U.K. all doctors are now required by law to hold a licence to practise. Licences will require periodic renewal and revalidation starting from 2012. Revalidation will require doctors to demonstrate to the G.M.C. that they are practising in accordance with specified generic standards.

The G.M.C. has made it clear that, in order for G.P.s working in Jersey to fully meet the new expectations of revalidation, the accountability of G.P.s to the States of Jersey needs to be strengthened. A system of self-regulation is not acceptable. The first step in this process has already been taken with the recently agreed changes to the Medical Practitioners (Registration) Law, which creates a live register of all doctors practising in Jersey and allows the Minister for Health and Social Services to create arrangements to evaluate specific groups of doctors. The amendments to the Health Insurance Law covered by this proposition build on these changes and set out a mechanism (known as a performers list) to evaluate the performance of G.P.s.

The proposals set out in this amendment have been developed in close collaboration with the Primary Care Body (P.C.B.), which represents practising G.P.s in the Island, and the Health and Social Services Department.

### **Changes to Health Insurance Law**

Following on from the Assembly's agreement of P.36/2010, these amendments to the Health Insurance Law set up a legal framework for –

- a G.P. performers list;
- contracts for primary care services;
- patient registration;
- funding for a Primary Care Governance Team.

This report accompanies the primary legislation which amends the Health Insurance Law. The amendments presented are an enabling framework which will be supported by Regulations and Orders to be brought forward at a later date. Further details of the amendments to primary legislation are provided below.

**1. G.P. Performers List established by the Minister for Health and Social Services for the purposes of strengthening local governance, managing poor performance and providing assurance regarding the quality and safety of local G.P. services**

Article 8 of this amending Law amends Article 26 of the principal Law.

Article 9 of this amending Law inserts new Articles 27A and 27B in the principal Law.

The proposed Jersey G.P. Performers List will be the primary mechanism for achieving the required greater accountability of G.P.s to the States of Jersey.

Once a doctor has satisfied the local registration requirements for practising medicine in Jersey, they will then be eligible to apply for inclusion on the Jersey G.P. Performers List, which will be managed on behalf of the Minister for Health and Social Services by a Primary Care Governance Team.

The purpose of a G.P. Performers List is to provide a framework within which action can be taken if a medical practitioner's personal and/or professional conduct, competence or performance gives cause for concern. Protection of patients will be the overriding consideration when considering whether –

- a medical practitioner should be admitted to the list,
- a medical practitioner should be suspended from the list,
- restrictions should be placed on a medical practitioner's position on the list,
- a medical practitioner should be excluded from the list (disqualification).

G.P.s currently practising in Jersey will be included on the list by default once it is established. After establishment, all new G.P.s will need to satisfy the inclusion criteria before being accepted onto the list. Inclusion on the list will be a requirement for becoming an 'approved medical practitioner' with regard to medical benefit paid out of the Health Insurance Fund.

Draft details of the application, approval and removal of G.P.s to the Performers List are set out in Appendix 1 to this report. These details will be finalised by Orders made under Article 27A by the Minister for Health and Social Services.

Under the current Health Insurance Law, there is no provision for a G.P. to be suspended. In future, this will be achieved using the Performers List. To ensure that patients still have access to G.P. services during any suspension, the Minister will negotiate a standard contract with the P.C.B. which will allow for payments to be made to the relevant G.P. practice for a period of no more than 4 weeks, to cover the cost of replacing the services that would otherwise be provided by the suspended G.P.

**2. The ability of the Minister for Social Security to enter into contracts for securing agreed standards of quality and/or additional medical services provided in a primary care setting**

Article 5 of this amending Law amends Article 10 of the principal Law.

Article 6 of this amending Law inserts a new PART 3A into the principal Law.

In future, the Minister for Social Security will be able to fund contracts for medical services from the Health Insurance Fund. This is a major step forward, which will help to guarantee quality standards and allow the development of modern primary care provision in Jersey over the next few years. It is intended that the first contract will be the £1.5 million 'Quality Contract' as described in the report accompanying P.36/2010.

The contract will be based on the Quality and Outcomes Framework implemented in the UK as part of their G.P. contract, but amended to reflect local circumstances. The Jersey Quality Improvement Framework (Q.I.F.) is a set of performance and quality-related indicators that will be used to assess and monitor the standard of routine medical services in Jersey.

The Health Insurance Fund medical benefit was increased from £15 to £19 in May 2010 in order to fund the preparatory work that G.P. practices needed to undertake in order to ready themselves for the new contractual framework. However, once the Q.I.F. Contract is established, the medical benefit will be reduced to its previous level (plus any increase for inflation) and the £1.5 million Q.I.F. Contract will be available to G.P. practices based on their achievement of the agreed standards.

The Jersey Q.I.F. will promote and incentivise consistency of primary care for a number of common medical conditions that otherwise have the potential to cause significant ill-health, hospital admissions or early death, such as heart disease, diabetes, stroke, asthma and chronic lung disease. The Q.I.F. will also include indicators to provide assurance concerning the organisational governance of general practice. Areas that the Q.I.F. are likely to cover are set out in Appendix 2 to this report. As part of the contract, general practices will be able to include services provided by nurses and other healthcare professionals.

The amendment will also allow the Minister for Social Security to enter into contracts with local pharmacists for the provision of services. Pharmacists are trained to deliver a wide range of primary care services, but these services are not generally available in Jersey as there is currently no public funding in this area. This is an area which could, in time, yield substantial benefits to the general public through the provision of additional primary care services through local pharmacies.

The structure of the amendment also allows the Minister for Social Security to return to the States in the future to seek approval to widen the contract-making powers to include other types of health care professional.

**3. Ability for the Minister for Social Security to introduce patient registration requirements in order to both support the introduction of new contracts and to ensure that maximum benefit is achieved from the implementation of a centralised patient database.**

Article 4 of this amending Law inserts a new Article 9A into the principal Law.

The implementation of the Q.I.F. contract will require the current arrangements for patient registration to be updated. At present there are no rules in respect of patient registration, and an individual can choose to access G.P. services at one or more practices. Without a mechanism for identifying an accurate 'practice list' it will not be possible to accurately assess progress or to benchmark performance between G.P. practices in Jersey or with other parts of the U.K. For example, the majority of clinical indicators assume practices can identify a disease register for conditions such

as diabetes, which then allows practices to demonstrate the progress they are making in providing appropriate interventions and care for patients on that register.

There is a presumption that primary care in Jersey is generally good, but currently it is difficult to demonstrate this objectively. In addition, there is a lack of robust primary health care information, which means that patterns of illness and the extent to which good quality care is delivered by G.P.s in Jersey, are unknown. Without this information, strategies to prevent disease and improve health services are hampered. Once available, information from the Q.I.F. will help address this shortfall.

The amendment gives the Minister the power to restrict the payment of medical benefit to individuals who have formally registered with a single general medical practice. Although it will be a requirement to be registered with a single medical practice, the amendment also specifically upholds the right of a member of the general public to receive G.P. services from **any** approved G.P. on the Island and to be able to claim the medical benefit.

**4. Provision to establish funding for a Primary Care Governance Team, which will administer the new governance regime and contractual frameworks established under these amendments to the Health Insurance Law.**

Article 7 of this amending Law amends Article 21 of the principal Law.

The report accompanying P.36/2010 highlighted that the establishment of a Primary Care Governance Team would cost in the region of £200,000 per annum. This team will be under the control of the Minister for Health and Social Services but, subject to the ongoing agreement of the 2 Ministers, the cost of the primary care governance team will be met from the Health Insurance Fund.

A staffing structure has been developed and agreed between Health and Social Services and Social Security, which also includes external specialist support from 2 national bodies: NHS Primary Care Commissioning, and the National Clinical Assessment Service.

**Financial and manpower implications**

As a set out in P.36/2010, the cost of the Primary Care Governance Team is estimated to be up to £200,000 per annum. This cost will be borne by the Health Insurance Fund.

The cost of the initial Q.I.F. contract is limited at a maximum of £1.5 million, but at the time that the contract is introduced the value of the medical benefit will be reduced by a compensating amount.

The development costs associated with setting up the primary care governance framework, including a new patient database, are estimated at £1 million. This cost will be borne by the Health Insurance Fund, as approved by the States in P.125/2010.

There are no additional costs associated specifically with this proposition.

The Primary Care Governance Team is estimated at 4 FTE, which will be accommodated from within the Health and Social Services Department's overall manpower total.

## **European Convention on Human Rights**

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 8th August 2011 the Minister for Social Security made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Social Security the provisions of the Draft Health Insurance (Amendment No. 14) (Jersey) Law 201- are compatible with the Convention Rights.



Application for inclusion in the Performers List

Applications for inclusion to the Performers List will need to be made in writing to Health and Social Services and requirements are likely to include:

- Medical qualifications, professional registration number; date of first registration; where they were obtained (with evidence).
- Professional experience separated into experience in general practice, hospital appointments and “other”. This must include full supporting particulars, including chronological details of professional experience (including the starting and finishing dates of each appointment together with an explanation of any gaps between appointments), and an explanation of why they were dismissed from any post.
- Names and addresses of 2 referees who are willing to provide clinical references relating to 2 recent posts (which may include any current post) as a performer which lasted at least 3 months without a significant break, and, where this is not possible, a full explanation and the names and addresses of alternative referees.
- Details of any list or equivalent list from which they have been removed or contingently removed, or to which they have been refused admission or in which they have been conditionally included, with an explanation as to why; (including any application relating to a body corporate).
- Information about criminal convictions; current or pending criminal investigations.
- Consent to a request being made by Health and Social Services to any current or former employer (including partnerships), licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, to them or a body corporate.
- If Health and Social Services finds that the information, references or documentation supplied are not sufficient for it to decide the application, such further information, references or documentation as may reasonably be required in order to make a decision.

Undertakings required by doctors on the Performers List

G.P.s will also be required to give a series of undertakings to Health and Social Services when applying to join the list. Failure to adhere to these undertakings may lead to removal from the list. The main undertakings may include:

- To notify Health and Social Services within 7 days of any material changes to the information provided (i.e. that above) in the application until the application is finally determined and, if included in the performers list, at any time when their name is included in that list.
- To notify Health and Social Services if they are included, or apply to be included, in any other list held by a PCT or equivalent body.

- To participate in the required appraisal system.
- To co-operate with an assessment by the National Clinical Assessment Service (NCAS), when requested to do so by Health and Social Services.

#### Decisions concerning an application for inclusion on the Performers List

There are certain circumstances in which Health and Social Services will as a matter of course refuse an application. In other circumstances Health and Social Services may refuse admission, defer a decision or accept the applicant onto the list with conditions.

Reasons for an applications being refused may include:

- There is no satisfactory evidence of an intention to perform primary medical services in Jersey (does not apply in the case of an armed forces G.P.).
- Health and Social Services is not satisfied they have the necessary knowledge of English.
- The applicant has been convicted of murder.
- The applicant has been convicted of a criminal offence and has been sentenced to a term of imprisonment of over 6 months.
- The applicant has been subject to a national disqualification.
- The applicant is unwilling to accept conditions imposed after an appeal against their imposition.

Health and Social Services will also have discretion to refuse applications, for example if:

- Having considered the application and any other information or documents in its possession relating to them, it considers that they are unsuitable to be included in its performers list.
- It is not satisfied with the references.
- Having considered information and any other facts in its possession relating to fraud involving or relating to them, it considers these justify refusal.
- Having considers information relating to past or current investigations or proceedings involving or related to the performer and, having considered these and any other facts in its possession involving or relating to the performer, it considers these justify refusal.
- There are any grounds for considering that admitting them to its performers list would be prejudicial to the efficiency of primary medical services.
- Their registration in the register of medical practitioners is subject to conditions or an order by the GMC or its committees.
- The applicant is included in the medical performers list of a P.C.T. in the U.K., unless notice has been given to that P.C.T. that they wish to withdraw from that list.

Health and Social Services may also defer an application when:

- Information is not available or investigations or criminal proceedings are in progress. When reconsidering a deferred application Health and Social Services will require the doctor to provide updated information. There is no right of appeal against a decision to defer an application.

#### Removal from the Performers List

Health and Social Services will remove a medical practitioner from its performers list where it becomes aware that s/he:

- Has been convicted of murder.
- Has been convicted of a criminal offence and has been sentenced to a term of imprisonment of over 6 months.
- Is subject to a national disqualification.
- Has died or is no longer a member of the relevant health care profession.

Health and Social Services will use its discretion to remove medical practitioners from its performers list where:

- Their continued inclusion in the performers list would be prejudicial to the efficiency of primary medical services (“an efficiency case”). ‘The Department of Health guidance<sup>1</sup> defines this as ‘issues of competence and quality of performance. They may relate to everyday work, inadequate capability, poor clinical performance, bad practice, repeated wasteful use of resources that local mechanisms have been unable to address, or actions or activities that have added significantly to the burdens of others in the NHS (including other doctors)’;
- They are involved in a fraud case in relation to any health scheme; or
- They are unsuitable to be included in the performers list (“an unsuitability case”). The Department of Health guidance<sup>1</sup> states that ‘suitability as a ground for action could be relied on where it is a consequence of a decision taken by others (for example, by a court, by a professional body, or the contents of a reference) or where ‘there is a lack of tangible evidence of a doctor’s ability to undertake the performer role (for example, satisfactory qualifications and experience, essential qualities)’.
- Where performers cannot demonstrate that they have performed primary medical services within Jersey during the preceding 12 months. (Excludes a period of suspension from the list or certain armed forces, or equivalent service.)

If Health and Social Services is considering removing a medical practitioner from its performers list it will give:

- Notice of any allegation against them.
- Notice of what action it is considering and on what grounds.
- The opportunity to make written representations to it within 28 days.

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<sup>1</sup> Primary Medical Performers Lists – Delivering Quality in Primary Care – Department of Health

- The opportunity to put their case at an oral hearing before it, if they so request, within the 28 day period.

As an alternative to a removal, Health and Social Services may impose conditions on the doctor's continued inclusion in the list; this is known as Contingent Removal. Breach of the conditions may lead to actual removal. Such conditions might include additional educational or training requirements or restrictions on treating certain categories of patient.

#### Appeals

An appeal mechanism will also be put in place as part of the detailed procedural arrangements and this will be included in the Orders.

## APPENDIX 2

The Q.I.F. assessment process for the current indicators will be in 2 stages. At the end of December 2011 all practices will be assessed against the organisational domain of the Q.I.F., which is likely to include indicators covering:

- Professional Standards
- Clinical Governance
- Child Protection
- Information Governance
- Significant Event Review
- Practice Management and Employment
- Prescribing
- Access
- Patient Information
- Investigations
- Continuity of Care.

At the end of December 2012 all practices will be assessed against the clinical domain of the Q.I.F., which is likely to include indicators covering:

- Secondary prevention of Coronary Heart Disease
- Cardiovascular disease – primary prevention
- Heart failure
- Stroke and Transient Ischaemic Attack (TIA)
- Hypertension
- Diabetes mellitus
- Chronic Obstructive Pulmonary Disease
- Hypothyroid
- Cancer
- Asthma
- Dementia
- Depression
- Chronic kidney disease
- Atrial fibrillation
- Obesity

- Learning disability
- Smoking
- Suicide.

The assessment of the clinical domain takes place later than the organisational domain as it is first necessary to complete the implementation of the G.P. Central Server before progress against the indicators across all practices can be assessed. The G.P. Central Server is currently due to be implemented in the early part of 2012.

Once the second stage has been completed, the overall assessment scores will be used to calculate the Q.I.F. payment that practices will receive as a replacement for the additional £4 Health Insurance Fund payment. The exact assessment criteria are likely to closely mirror the arrangements in the U.K. where practices are awarded for achieving for certain thresholds. It is likely that some practices will make more progress and achieve a higher assessment score than other practices and will, as such, receive a correspondingly larger share of the Q.I.F. Fund.

After each assessment stage it is intended that a Primary Care Annual Report will also be prepared in order to provide feedback to all stakeholders on the progress being made. This will be prepared by the Primary Care Governance Team once it is established.

## Explanatory Note

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This Law would amend the Health Insurance (Jersey) Law 1967 (the “principal Law”).

*Article 1* defines the principal Law.

*Article 2* amends the long title to the principal Law, having regard to the extended definition of “medical services” that applies for the purposes provisions added by *Article 6*, below, and also having regard to the enhanced arrangements for governance of approved medical practitioners, provided for in the provisions added by *Article 9*, below.

*Article 3* adds definitions to the principal Law that are relevant to the amendments that follow. These include a new definition “general medical practice” for the purposes of the new Article 9A and the new Part 3A, described below.

*Article 4* inserts Article 9A in the principal Law.

### **9A Registration with general medical practice**

This Article confers on the Minister for Social Security a power, by Order, to make it a condition of entitlement to medical benefit that the recipient of the medical service is registered with one general medical practice as his or her preferred practice. The Order would not have the effect that a person may only receive medical benefit for medical services provided by a practitioner working within his or her preferred practice. By requiring a person to be registered with one, preferred practice, the Order would facilitate the preparation of more accurate anonymised, statistical returns by practices regarding patients, as a practice would only compile returns in respect of patients who are registered with it as their preferred practice, with the consequence that a patient will not be counted twice in statistical returns.

*Article 5* amends Article 10 of the principal Law. Article 10 defines what is a medical service for the purposes of the Law. Currently that definition applies solely for the purpose of defining the services for which medical benefit is paid. The States are empowered, by Regulations, to amend the definition “medical service” either for the purposes of the Law as a whole or for the purposes of any specified provisions of the Law.

*Article 6* inserts Part 3A in the principal Law.

### **Part 3A – Contracts**

#### **20A – Extended meaning of “medical service”**

This Article provides that, in this Part, “medical service” means not only a service provided by a general medical practitioner, but also a service provided by a health care professional employed by a general medical practice and a service provided by a pharmacist (whether in his or her own right or as an employee of a person lawfully conducting a retail pharmacy business).

## **20B – Performance and governance of medical practitioners – contracts**

This Article describes contracts that may be entered into by the Minister for Social Security for the provision of medical services, as defined in Article 10 of the principal Law and extended by Article 20A, above. The Minister has full power to enter into contracts in any event, by virtue of being a corporation sole (see Article 26 of the States of Jersey Law 2005). The purpose of creating this separate power to enter into contracts for the provision of medical services is that the costs associated with the contracts will be met from the Health Insurance Fund (see Article 21 of the principal Law as amended by *Article 7*, below). This Article also provides that where, in the course of an inspection under a contract, an issue is discovered regarding the fitness to practise of a medical practitioner, a pharmacist or a health care professional, the information must be passed on to the authority responsible for the regulation in Jersey of the profession in question.

*Article 7* amends Article 21 of the principal Law. Article 21 specifies the moneys to be paid into and out of the Health Insurance Fund. These amendments provide for 2 further charges on the fund –

- (a) all costs incurred by the Minister for Social Security in connection with contracts for the provision of medical services (see Article 20B, described above), and costs incurred by the Minister for Health and Social Services, with the prior agreement of the Minister for Social Security, in connection with the governance and enforcement of the contracts;
- (b) an amount, to be agreed between the Minister for Social Security and the Minister for Health and Social Services, for the costs of the Minister for Health and Social Services in administering a performers list for general practitioners (see Article 27A, inserted in the principal Law by *Article 9* of this draft Law) and in respect of the appointment of a responsible officer for general practitioners under the Medical Practitioners (Registration) (Jersey) Law 1960, as it is amended by the Medical Practitioners (Registration) (Amendment No. 4) (Jersey) Law 201-, P.106/2011, adopted on 20th July 2011, in order to provide the necessary professional oversight to facilitate the revalidation of general medical practitioners.

*Article 8* amends Article 26 of the principal Law. Article 26 sets out the arrangements for the approval of medical practitioners, dentists, opticians and suppliers of pharmaceutical benefit by the Minister for Social Security for the purposes of the principal Law. The consequence of approval of a medical practitioner is that a patient receives medical benefit for medical services provided by the practitioner. For the future, it will be a condition for approval of medical practitioners that the practitioner is on a performers list maintained by the Minister for Health and Social Services (see *Article 9*, below). Consequently, the Minister for Social Security must suspend the approval of a practitioner if the practitioner is suspended from the performers list and must withdraw approval if a practitioner is removed from the performers list. The Minister for Social Security retains the power to withdraw approval, under Article 27 of the principal Law, if a practitioner's conduct has been such as to be prejudicial to the efficient administration of the principal Law or as to create an unreasonable charge on the Health Insurance Fund.



*Article 9* inserts Part 5A in the principal Law.

**Part 5A – Performers lists**

**27A – Performers list for general medical practitioners**

This Article empowers the Minister for Health and Social Services, by Order, to provide for the establishment and governance of a performers list for general medical practitioners. The Order may further make provision for the onward transmission of information that raises an issue regarding the fitness to practise of a general medical practitioner to the authority responsible in Jersey for the regulation of general medical practitioners.

**27B – Regulations – establishment of further performers lists**

This Article would enable the States to make Regulations amending the principal Law so as to add provision for the establishment of performers lists for pharmacists and for health practitioners other than medical practitioners.

*Article 10* amends Article 30 of the principal Law. Article 30 confers powers of inspection of business premises on inspectors appointed by the Minister for Social Security for the purposes of the administration of the Law. The amendment extends those powers to inspectors appointed by the Minister for Health and Social Services, for the purposes of Part 5A, as inserted in the principal Law by *Article 9*, above.

*Article 11* revokes the Health Insurance (Conditions for Approval of Medical Practitioners) (Jersey) Regulations 1993, the contents of which will be superseded by requirements of the Order made under Article 27A of the principal Law, as amended by this draft Law, establishing the performers list for general medical practitioners.

*Article 12* provides for the citation of the draft Law and its commencement by Appointed Day Act.





Jersey

## DRAFT HEALTH INSURANCE (AMENDMENT No. 14) (JERSEY) LAW 201-

### Arrangement

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#### Article

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Jersey

## **DRAFT HEALTH INSURANCE (AMENDMENT No. 14) (JERSEY) LAW 201-**

**A LAW** to amend further the Health Insurance (Jersey) Law 1967

*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

### **1 Interpretation**

In this Law, “principal Law” means the Health Insurance (Jersey) Law 1967<sup>1</sup>.

### **2 Long title amended**

In the long title to the principal Law –

- (a) for the words “and ophthalmic services” there shall be substituted the words “, ophthalmic and other health services”;
- (b) after the word “therewith,” there shall be inserted the words “to establish a system of governance of and set performance standards for persons providing such services,”.

### **3 Article 1 amended**

(1) In Article 1(1) of the principal Law –

- (a) after the definition “determining officer” there shall be inserted the following definition –

“ ‘employee’ means –

- (a) a person who works for another person under a contract of service; or

- (b) a person who performs personally work for another person under a contract for services, either between the first-mentioned person and the other person, or between a third person and the other person;”;
- (b) after the definition “entry into insurance” there shall be inserted the following definitions –
- “ ‘general medical practice’ shall be construed in accordance with paragraph (4);
- ‘health care professional’ means a person registered under the Health Care (Registration) (Jersey) Law 1995<sup>2</sup>;”;
- (c) for the definition “Order” there shall be substituted the following definition –
- “ ‘Order’ means –
- (a) an Order made by the Minister for Health and Social Services under Part 5A; or
- (b) an Order made by the Minister for Social Security under this Law, apart from Part 5A;”;
- (d) after the definition “Order” there shall be inserted the following definition –
- “ ‘performers list’ means the list for medical practitioners practising as general practitioners, established by Order made under Article 27A;”;
- (e) after the definition “person lawfully conducting a retail pharmacy business” there shall be inserted the following definition –
- “ ‘personal data’ has the same meaning as in the Data Protection (Jersey) Law 2005<sup>3</sup>;”;
- (f) after the definition “Pharmaceutical Benefit Advisory Committee” there shall be inserted the following definition –
- “ ‘pharmacist’ means a person registered as a pharmacist under the Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 2010<sup>4</sup>;”;
- (g) after the definition “prescribed” there shall be inserted the following definitions –
- “ ‘processing’ has the same meaning as in the Data Protection (Jersey) Law 2005<sup>5</sup>;
- ‘registrable occupation’ has the same meaning as in the Health Care (Registration) (Jersey) Law 1995<sup>6</sup>;
- ‘responsible officer’ means the person appointed pursuant to an Order made under Article 10C of the Medical Practitioners (Registration) (Jersey) Law 1960<sup>7</sup>, to direct the arrangements described in paragraph (1) of that Article in relation to general medical practitioners;
- ‘sensitive personal data’ has the same meaning as in the Data Protection (Jersey) Law 2005<sup>8</sup>;”.

- (2) After Article 1(3) of the principal Law there shall be added the following paragraph –

“(4) For the purposes of this Law, a general medical practice is –

- (a) an approved medical practitioner practising as a sole practitioner;
- (b) approved medical practitioners practising in partnership; or
- (c) an entity of a prescribed description or class which provides the services of approved medical practitioners.”.

#### 4 Article 9A inserted

After Article 9 of the principal Law there shall be inserted the following Article –

##### “9A Registration with general medical practice

- (1) The Minister may, by Order, make it a condition of entitlement to medical benefit that the person to whom the medical services are provided is, at the time the services are provided, registered with one general medical practice as his or her preferred practice.
- (2) A condition imposed by an Order under this Article for a person to be registered with one general medical practice as his or her preferred practice shall not, of itself, prevent the payment of medical benefit for medical services provided by an approved medical practitioner who is not practising as or within the person’s preferred practice.
- (3) An Order under this Article may further –
  - (a) specify circumstances in which a person is deemed to be registered with a general medical practice as his or her preferred practice; and
  - (b) make transitional and supplementary provisions.
- (4) This Article is without prejudice to the power to prescribe conditions, under Article 3(1), of becoming an insured person.”.

#### 5 Article 10 amended

In Article 10 of the principal Law –

- (a) at the beginning of the Article there shall be inserted the paragraph number “(1)”;
- (b) after paragraph (1) there shall be inserted the following paragraph –

“(2) The States may by Regulations amend this Law, in particular, this Article and Article 20A, to define what is or is not, for the purposes of this Law, or for the purposes of different provisions of this Law, a ‘medical service’.”.

**6 Part 3A inserted**

After Part 3 of the principal Law there shall be inserted the following Part –

**“PART 3A  
CONTRACTS**

**20A Extended meaning of “medical service”**

In this Part, ‘medical service’ includes –

- (a) a service that may be performed by a health care professional engaged in his or her registrable occupation as an employee of a general medical practice; and
- (b) a service that may be performed by a pharmacist practising as such in his or her own right or as an employee of a person lawfully conducting a retail pharmacy business.

**20B Performance and governance of medical services - contracts**

- (1) This Article is without prejudice to the generality of the Minister’s power to enter into agreements, conferred by Article 26 of the States of Jersey Law 2005<sup>9</sup>.
- (2) The Minister may enter into contracts with general medical practices, pharmacists or persons lawfully conducting retail pharmacy businesses –
  - (a) for the provision of a medical service;
  - (b) for purposes associated with the delivery of a medical service.
- (3) The terms of a contract may in particular –
  - (a) provide for payments to be made to the contractor by reference to compliance with standards or the achievement of levels of performance;
  - (b) provide for the making of payments in respect of the provision, by the contractor, of the services of persons approved under Part 5 or health care professionals;
  - (c) provide that the whole or any part of a payment is subject to conditions, and that payments are payable to the contractor only if the Minister is satisfied as to certain conditions;
  - (d) require the contractor to comply with directions published by the Minister as to the drugs, medicines or other substances that may or may not be ordered for patients in the provision of a medical service to which the contract applies;
  - (e) require the contractor to make returns to the Minister of specified information relating to patients for medical purposes, as defined in paragraph 8(2) of Schedule 3 to the Data Protection (Jersey) Law 2005<sup>10</sup>;



- (f) require that any information required to be provided relating to patients is anonymised;
  - (g) specify –
    - (i) the manner in which and the standards to which a medical service must be provided,
    - (ii) the descriptions or classes of persons who may perform a medical service,
    - (iii) the descriptions or classes of patients to whom a medical service will be provided,
    - (iv) the power of the Minister to vary the terms of a contract (including a power to suspend or terminate any obligation of the contractor under a contract),
    - (v) rights of entry and inspection of the contractor's premises and rights of inspection of –
      - (A) documents (other than clinical records) that are in the possession or control of the contractor; and,
      - (B) subject to paragraph (7), clinical records that are in the possession or control of the contractor,by an officer authorized by the Minister for the purpose,
    - (vi) the circumstances in which and the manner in which the contract may be terminated,
    - (vii) arrangements for and powers of enforcement, and
    - (viii) arrangements for the adjudication of disputes.
- (4) The provisions referred to in paragraph (3)(g)(iii) may make provision as to the circumstances in which a contractor or contractors –
- (a) must or may accept a person as a patient to whom a medical service is provided under the contract;
  - (b) may decline to accept a person as a patient to whom a medical service is provided under the contract; or
  - (c) may terminate the contractor's responsibility for a patient to whom a medical service is provided under the contract.
- (5) A contract may make provision as to the rights of patients to choose the persons from whom they receive a medical service provided under the contract.
- (6) Information obtained in the exercise of rights of entry and inspection referred to in paragraph (3)(g)(v) that raises an issue regarding the fitness to practise of an approved medical practitioner shall be passed to –
- (a) the Minister for Social Security, for use only for the purposes of the discharge of his or her functions in connection approved medical practitioners under Part 5;

- (b) the responsible officer, for use only for the purposes of the discharge of that officer's functions under an Order made under Article 10C of the Medical Practitioners (Registration) (Jersey) Law 1960<sup>11</sup>;
  - (c) a person maintaining and governing the performers list, for use only for the purposes of the discharge of that person's functions under an Order made under Article 27A; and
  - (d) the Minister for Health and Social Services, for use only for the purposes of the discharge of his or her functions under the Medical Practitioners (Registration) (Jersey) Law 1960<sup>12</sup>.
- (7) Information obtained in the exercise of rights of entry and inspection referred to in paragraph (3)(g)(v) that raises an issue regarding the fitness to practise of a pharmacist shall be passed to the Minister for Health and Social Services, for use only the purposes of the discharge of his or her functions under the Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 2010<sup>13</sup>.
- (8) Information obtained in the exercise of rights of entry and inspection referred to in paragraph (3)(g)(v) that raises an issue regarding the fitness to practise of a health care professional shall be passed to the Minister for Health and Social Services, for use only for the purposes of the discharge of his or her functions under the Health Care (Registration) (Jersey) Law 1995<sup>14</sup>.
- (9) Nothing in a contract made under this Article requires or empowers any person to process personal data, including sensitive personal data, in a manner that is inconsistent with the Data Protection (Jersey) Law 2005<sup>15</sup> and the enactments made under it.
- (10) For the purposes of this Article information relating to a patient is anonymised if the identity of the patient is not ascertainable –
- (a) from the information; or
  - (b) from the information and other information which is in the possession of, or is likely to come into the possession of, the person processing it.
- (11) In this Article 'payments' includes fees, allowances, reimbursements, loans and repayments."

## 7 Article 21 amended

After Article 21(1) of the principal Law there shall be inserted the following paragraph –

- "(1A) In addition to the sums specified in paragraph (1) there shall be paid out of the Health Insurance Fund –
- (a) all sums payable under contracts entered into pursuant to Article 20B and all expenses incurred by the Minister for Social Security in connection with such contracts, including, but not by way of limitation, such expenses as are incurred by the Minister for Social Security and, with the prior

- agreement of the Minister for Social Security, by the Minister for Health and Social Services, in connection with the governance and enforcement of such contracts;
- (b) such amounts as the Minister for Social Security and the Minister for Health and Social Services agree in respect of the expenses incurred by the Minister for Health and Social Services in connection with –
- (i) the maintenance and governance of the performers list, whether by the Minister for Health and Social Services or by a person appointed by that Minister for the purpose, and
- (ii) the implementation, administration and enforcement of the requirements of an Order made under Article 10C of the Medical Practitioners (Registration) (Jersey) Law 1960<sup>16</sup>, to the extent that the requirements apply to general medical practitioners.”.

## 8 Article 26 amended

In Article 26 of the principal Law –

- (a) in paragraph (1), the words “Every medical practitioner,” shall be deleted;
- (b) after paragraph (1) there shall be inserted the following paragraphs –
- “(1A) Every medical practitioner who –
- (a) is included in the performers list and not suspended from that list;
- (b) is not disqualified by reason of his or her approval having been withdrawn under Article 27(2);
- (c) complies with such conditions (if any) as the States may by Regulations specify; and
- (d) applies to the Minister for approval in the prescribed manner,
- shall be approved by the Minister for the purposes of this Law.
- (1B) The Minister shall suspend a medical practitioner’s approval upon the practitioner being suspended from the performers list.
- (1C) The Minister shall restore a medical practitioner’s approval upon the practitioner’s suspension from the performers list being ended.
- (1D) The Minister shall withdraw a medical practitioner’s approval upon the practitioner being removed from the performers list.”.

## 9 Part 5A inserted

After Part 5 of the principal Law there shall be inserted the following Part –

**“PART 5A**  
**PERFORMERS LISTS**

**27A Performers list for general medical practitioners**

- (1) The Minister for Health and Social Services shall by Order provide for the establishment, maintenance and governance of a performers list for general medical practitioners.
- (2) The Order shall include provision for –
  - (a) the preparation, maintenance and publication of a performers list;
  - (b) eligibility for inclusion in the performers list;
  - (c) the procedure for applying for inclusion in the performers list and the documentation to be supplied in support of an application;
  - (d) the grounds on which an application for inclusion in the performers list may be granted or refused;
  - (e) the requirements with which a person included in the performers list must comply (which may include a requirement to declare financial interests and gifts and other benefits);
  - (f) suspension or removal of a person from the performers list (including provision for the grounds for, and the consequences of, suspension or removal and the procedure for suspension or removal);
  - (g) the criteria to be applied in making decisions under the Order;
  - (h) appeals against decisions made under the Order; and
  - (i) disclosure of information about applicants for inclusion in the performers list, the grant or refusal of applications for inclusion in the performers list and the suspension of persons on, or removal of persons from, the performers list.
- (3) The Order may, in particular, also provide for –
  - (a) circumstances in which a person included in the performers list may not withdraw from it;
  - (b) a person’s inclusion in the performers list to be subject to conditions specified by a person maintaining and governing the list;
  - (c) a person maintaining and governing the performers list to vary the conditions of a person’s inclusion in the list, or impose different conditions;
  - (d) the consequences of failing to comply with a condition of inclusion in the performers list (which may include suspension or removal from the performers list); and
  - (e) the review of decisions made, by virtue of the Order, by a person maintaining and governing the performers list.

- (4) The Order may also limit the number of persons who, at any time, may be included in the performers list and, for that purpose, specify how the number of hours that a person works in any specified period is to be determined and how persons are to be counted for the purposes of the limit, according to the number of hours that they work in a specified period.
- (5) An Order making provision as to the matter referred to in paragraph (2)(h) may confer the right to hear appeals upon –
  - (a) a court; or
  - (b) a person, board or tribunal appointed under this Law or another enactment and, for that purpose –
    - (i) specify a procedure for the appointment of a person to hear appeals, or
    - (ii) establish a board or tribunal to hear appeals and provide for its constitution, powers, staff, accommodation and funding and for the appointment and remuneration of its members and any matter ancillary or supplemental to its establishment.
- (6) An Order making provision as to the matters referred to in paragraph (2)(i) may require the disclosure of information or supply of any document that raises an issue regarding the fitness to practise of a person included in the performers list by a person maintaining and governing the performers list to –
  - (a) the Minister for Social Security, for use only for the purposes of the discharge of that Minister's functions in connection with approved medical practitioners under Part 5;
  - (b) the Minister for Health and Social Services, for use only for the purposes of the discharge of that Minister's functions under the Medical Practitioners (Registration) (Jersey) Law 1960<sup>17</sup>;
  - (c) the responsible officer for use only for the purposes of the discharge of that officer's functions under an Order made under Article 10C of the Medical Practitioners (Registration) (Jersey) Law 1960<sup>18</sup>.
- (7) The Order may make provision for the disclosure of such information as is specified in the Order by any of the following persons to a person maintaining and governing the performers list, for use only for the purposes of the discharge of that person's functions in respect of the performers list –
  - (a) the Minister for Social Security;
  - (b) the Minister for Health and Social Services; and
  - (c) the responsible officer.
- (8) The Order may provide for the inclusion, subject to such conditions as may be prescribed, of any prescribed class of medical practitioners in the performers list upon its establishment.

- (9) The Order may not make provision for or in connection with the processing of personal data, including sensitive personal data, in a manner that is inconsistent with the Data Protection (Jersey) Law 2005<sup>19</sup> and any enactment made under it.
- (10) The Minister for Health and Social Services may appoint one or more persons to maintain and govern the performers list.
- (11) If, at any time, the Minister for Health and Social Services has not appointed a person to maintain and govern the performers list, the Minister for Health and Social Services shall maintain and govern the list.

#### **27B Regulations – establishment of further performers lists**

- (1) The States may, by Regulations, amend this Part so as to confer powers by Order, to provide for the establishment, maintenance and governance of performers lists for dentists, opticians, pharmacists, suppliers of pharmaceutical benefit and health care professionals.
- (2) Regulations made under paragraph (1) may also amend Part 3A and Article 21, and make ancillary and supplemental amendments to other provisions of this Law and to the Dentists Registration) (Jersey) Law 1961<sup>20</sup>, the Health Care (Registration) (Jersey) Law 1995<sup>21</sup>, the Medicines (Jersey) Law 1995<sup>22</sup>, the Opticians (Registration) (Jersey) Law 1962<sup>23</sup> and the Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 2010<sup>24</sup>.”.

#### **10 Article 30 amended**

In Article 30 of the principal Law –

- (a) in paragraph (1) for the words “Any officer in an administration of the States for which the Minister is assigned responsibility generally or specially authorized in writing in that behalf (in this Article referred to as an “inspector”)” there shall be substituted the words “An inspector”;
- (b) after paragraph (4) there shall be added the following paragraphs –
  - “(5) In this Article –
    - (a) ‘inspector’ means a person who is generally or specially authorized, in writing, by –
      - (i) the Minister for Health and Social Services, where the powers conferred by this Article are to be exercised for the purposes of an Order made under Part 5A,
      - (ii) the Minister for Social Security, where the powers conferred by this Article are to be exercised for the purposes of this Law, apart from Part 5A;
    - (b) except in sub-paragraph (a), a reference to ‘this Law’ is –
      - (i) in relation to an inspector appointed by the Minister for Health and Social Services, a reference to an Order made under Part 5A, and

- (ii) in relation to an inspector appointed by the Minister for Social Security, a reference to this Law, apart from Part 5A.
- (6) A person may, under paragraph (5), be authorized by, at the same time, the Minister for Health and Social Services and the Minister for Social Security.
  - (7) Nothing in this Article authorizes the processing of personal data, including sensitive personal data, in a manner that is inconsistent with the Data Protection (Jersey) Law 2005<sup>25</sup> or any enactment made under it.”.

## **11 Revocation**

The Health Insurance (Conditions for Approval of Medical Practitioners) (Jersey) Regulations 1993<sup>26</sup> are revoked.

## **12 Citation and commencement**

This Law may be cited as the Health Insurance (Amendment No. 14) (Jersey) Law 201- and shall come into force on such day or days as the States by Act appoint.

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- 1 *chapter 26.500*
  - 2 *chapter 20.300*
  - 3 *chapter 15.240*
  - 4 *chapter 20.770*
  - 5 *chapter 15.240*
  - 6 *chapter 20.300*
  - 7 *chapter 20.600*
  - 8 *chapter 15.240*
  - 9 *chapter 16.800*
  - 10 *chapter 15.240*
  - 11 *chapter 20.600*
  - 12 *chapter 20.600*
  - 13 *chapter 20.770*
  - 14 *chapter 20.300*
  - 15 *chapter 15.240*
  - 16 *chapter 20.600*
  - 17 *chapter 20.600*
  - 18 *chapter 20.600*
  - 19 *chapter 15.240*
  - 20 *chapter 20.100*
  - 21 *chapter 20.300*
  - 22 *chapter 20.625*
  - 23 *chapter 20.750*
  - 24 *chapter 20.770*
  - 25 *chapter 15.240*
  - 26 *R&O.8562 (chapter 26.500.04)*