

# STATES OF JERSEY

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## **DRAFT JERSEY ASSOCIATION FOR MENTAL HEALTH AND JERSEY SCHIZOPHRENIA FELLOWSHIP (INTEGRATION WITH JERSEY FOCUS ON MENTAL HEALTH) (JERSEY) LAW 200**

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**Lodged au Greffe on 13th May 2003  
by the Health and Social Services Committee**

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**STATES GREFFE**





Jersey

## **DRAFT JERSEY ASSOCIATION FOR MENTAL HEALTH AND JERSEY SCHIZOPHRENIA FELLOWSHIP (INTEGRATION WITH JERSEY FOCUS ON MENTAL HEALTH) (JERSEY) LAW 200**

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

The President of the Health and Social Services Committee has made the following statement –

In the view of the Health and Social Services Committee the provisions of the Draft Mental Health and Jersey Schizophrenia Fellowship (Integration with Jersey Focus on Mental Health) (Jersey) Law 200 are compatible with the Convention Rights.

(Signed) **Senator S. Syvret**

## REPORT

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The Jersey Association for Mental Health (the “**JAMH**”) and the Jersey Schizophrenia Fellowship (the “**JSF**”) are both local charitable bodies which have been incorporated by the Royal Court pursuant to the terms of the Loi (1862) sur les teneures en fidéicommiss et l'incorporation d'associations, as amended.

During 2002, these two bodies decided that their respective objects would be better served by combining their efforts and merging their resources. The first step towards achieving this aim was taken in November 2002 by the incorporation of a new charitable body, Jersey Focus on Mental Health (“**Focus**”). It was intended that Focus would encompass the objectives of both the JAMH and the JSF and would be the vehicle through which both of these bodies would combine their resources (both in terms of people and property) in order to better serve the community.

Earlier this year, the JAMH and the JSF returned to the Royal Court and successfully applied for permission to alter the terms of their respective constitutions to allow their assets to be used by Focus. This has allowed Focus effectively to replace the JAMH and the JSF whilst still being able to carry on the work of both of these organisations.

In order to complete the process, however, it is now necessary to actually transfer the ownership of all of the property which currently belongs to either the JAMH or the JSF to Focus, and then to arrange for the dissolution of the JAMH and the JSF.

Whilst such a transfer of ownership could be established for most of the affected assets (such as bank accounts or real property) without the need for specific legislation, there are certain types of property which may belong to either the JAMH or the JSF which are not so simple either to quantify or to transfer. The most obvious example is legacies under wills. The problem is that somebody currently alive may have, for example, made a will leaving property to the JAMH. If the JAMH is now dissolved, and that person subsequently dies, there would be considerable doubt over the destination of that legacy (since the JAMH would no longer exist).

Accordingly, the principal purpose of the Proposed Law is to transfer all property which may belong to either the JAMH or to the JSF to Focus (including property which may be left to either of those two bodies by will). The Proposed Law also provides for Focus to step into the shoes of the JAMH and the JSF for other purposes (such as for the purpose of honouring contracts which either of the original two bodies may have made) and, ultimately, for the dissolution of both the JAMH and the JSF.

This Draft Law has no implications for the financial or manpower resources of the States.

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

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee 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). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 7th May 2003 the Health and Social Services Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Health and Social Services Committee the provisions of the Draft Mental Health and Jersey Schizophrenia Fellowship (Integration with Jersey Focus on Mental Health) (Jersey) Law 200 are compatible with the Convention Rights.

## **Explanatory Note**

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This Projet de Loi would carry into effect the transfer of the assets and liabilities of the two incorporated bodies known as the Jersey Association for Mental Health and the Jersey Schizophrenia Fellowship to the one incorporated body known as Jersey Focus on Mental Health.

Upon that transfer being carried into effect, the Jersey Association for Mental Health and the Jersey Schizophrenia Fellowship will cease to exist, having effectively merged with Jersey Focus on Mental Health.





Jersey

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## **Arrangement**

### **Article**

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<u>1</u>	<u>Interpretation</u>
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Jersey

## **DRAFT JERSEY ASSOCIATION FOR MENTAL HEALTH AND JERSEY SCHIZOPHRENIA FELLOWSHIP (INTEGRATION WITH JERSEY FOCUS ON MENTAL HEALTH) (JERSEY) LAW 200**

**A LAW** to carry into effect the transfer of the assets and liabilities of the Jersey Association for Mental Health and the Jersey Schizophrenia Fellowship to Jersey Focus on Mental Health and to provide for other purposes incidental thereto and consequential thereon.

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*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 –

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### **WHEREAS:**

- (1) The Jersey Association for Mental Health (hereinafter referred to as “JAMH”) is an association incorporated by Act of the Royal Court dated the 19th day of December 1969;
- (2) The principal objects of JAMH are, *inter alia*, to supplement the provision of mental health services, to provide a focus for information, research, education and propaganda in the field of mental health and to provide a meeting ground for those engaged in work connected with mental health, whether medical, educational or social, and fostering and developing an interest in such work;
- (3) The Jersey Schizophrenia Fellowship (hereinafter referred to as “JSF”) is an association incorporated by Act of the Royal Court dated the 29th day of November 1985;
- (4) The principal objects of JSF are, *inter alia*, to act as a non-sectarian, non-political charitable association in support of sufferers, and the families of sufferers, from schizophrenia and related conditions, to undertake or finance, or to contribute towards the financing of research and education as to the causes and management of schizophrenia and related conditions, and to provide advice and assistance in the field of mental health and welfare generally;
- (5) Jersey Focus on Mental Health (hereinafter referred to as “Focus”) is an association incorporated by Act of the Royal Court dated the 15th day of November 2002;
- (6) The principal objects of Focus are, *inter alia*, to promote the preservation and the safeguarding of mental health and the relief of persons suffering from mental disorder, to provide advice, assistance and services in the field of mental health and welfare generally and to carry on those activities and provide those services hitherto carried on and provided by JAMH and JSF and, ultimately, to assume the property, liabilities and duties of those associations;
- (7) It is expedient and in the interests of the efficient and effective pursuit of the objects of JAMH, JSF and Focus that JAMH and JSF should integrate their activities with those of Focus and the most effective way of achieving this is for JAMH and JSF to transfer their assets, liabilities and activities to Focus and then for JAMH and JSF to be terminated;

- (8) It is further expedient that the transfer, integration and termination mentioned in paragraph (7) should be effected as provided in this Law.

## **1 Interpretation**

In this Law, unless the context otherwise requires –

“appointed day” means such day as the States shall by Act appoint;

“liabilities” includes duties and obligations of every description;

“Loi of 1862’ means the Loi (1862) sur les teneures en fidéicommiss et l’incorporation d’associations;<sup>[1]</sup>

“property” means property of every description including immovable property, wherever situate, and includes securities, rights and powers of every description;

“security” means hypothec (whether legal, judicial or conventional), charge security interest, debenture, bill of exchange, promissory note, guarantee, lien, pledge or other means of security for the payment of a debt, whether present or future, or in the discharge of an obligation or liability, whether actual or contingent.

## **2 Integration**

On the appointed day JAMH and JSF shall by virtue of this Law integrate with Focus to the intent that Focus shall succeed to all the property and liabilities of JAMH and JSF.

## **3 Provisions relating to the amalgamation and to the acquisition of property and liabilities**

- (1) The production of a copy of this Law signed by the Greffier of the States shall, on and after the appointed day, be conclusive evidence in all courts and proceedings of the integration of the activities of JAMH and JSF into Focus and the vesting of their liabilities and property in Focus.
- (2) The Royal Court shall, when it orders the registration of this Law, also order the registration of a copy of this Law signed by the Greffier of the States in the Public Registry of Contracts.
- (3) The registration of a copy of this Law in the Public Registry of Contracts shall have like effect as a contract passed before the Royal Court and the title to any property vested in or belonging to or held by JAMH or JSF which immediately before the appointed day was registered in the Public Registry of Contracts shall vest in, belong to and be held by Focus on and after the appointed day.
- (4) No fees shall be payable under the Stamp Duties and Fees (Jersey) Law 1998<sup>[2]</sup> in relation to the registration of a copy of this Law as required by paragraph (2).
- (5) For the avoidance of doubt it is hereby declared that the transfer of an interest in land under and by virtue of this Law shall not constitute an assignment, transfer, devolution, parting with possession or other disposition of that interest for the purposes of any provision relating to assignment, transfer, devolution, parting with possession or other disposition in any instrument concerning that interest.

## **4 Saving of contracts etc.**

- (1) Subject to paragraph (2), all contracts, agreements, indemnities, conveyances, leases, deeds settlements, wills, codicils to wills, licences, and other instruments or undertaking entered into by or made with or addressed to JAMH or JSF (whether alone or with any other person) before and in force on the appointed day shall as from that day be binding and of full force and effect in every respect against or in favour of Focus as fully and effectually as if, instead of JAMH or JSF, Focus had been a party thereto or bound thereby or entitled to the benefit thereof.

- (2) In relation to every contract of employment to which paragraph (1) applies, that paragraph shall operation to substitute Focus for whichever of JAMH or JSF was the employer thereunder immediately before the appointed day.

## **5 Actions etc. not to abate**

Any action, arbitration or proceeding and any cause of action, arbitration or proceeding which shall on the appointed day be pending or existing by, against or in favour of JAMH or JSF shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of this Law, but the same may be prosecuted, continued and enforced by, against or in favour of Focus as and when it might have been prosecuted, continued and enforced by, against or in favour of JAMH or JSF as if this Law had not been passed.

## **6 Documents, etc. to remain evidence**

All documents, records and admissions which if this Law had not been passed would have been evidence in respect of any matter for or against JAMH or JSF shall, on and after the appointed day, be admitted in evidence in respect of the same or the like manner for or against Focus.

## **7 Application of enactments and documents**

- (1) Subject to this Article, where –

- (a) any enactment other than this Law; or
- (b) any document whensoever made or executed,

contains any reference express or implied to JAMH or JSF such reference shall, on and after the appointed day and, except where the context otherwise requires, be read, construed and have effect as a reference to Focus.

- (2) Any will or codicil to a will made before, on or after the appointed day by a person dying on or after the appointed day by which JAMH or JSF is a beneficiary thereof shall be construed and have effect as if for any reference therein to JAMH or JSF there was substituted a reference to Focus and, in the case where Focus did not exist at the day of the will or codicil, as if it had then existed.

## **8 Dissolution of JAMH and JSF**

On the day after the appointed day JAMH and JSF shall, by virtue of this Law and notwithstanding any of the provisions of the Loi of 1862, be dissolved *de plein droit*.

## **9 Application of Loi of 1862**

Nothing in this Law shall be construed as derogating from the continuing application to Focus of the provisions of the Loi of 1862.

## **10 Citation and commencement**

This Law may be cited as the Jersey Association for Mental Health and Jersey Schizophrenia Fellowship (Integration with Jersey Focus on Mental Health) (Jersey) Law 200 and shall come into force on the seventh day following its registration.

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[1] *Tomes I-III, page 258, Volume 1963-1965, page 33, Volume 1992-1993, page 99, and Volume 1996-1997, page 681.*

[2] *Volume 1998, page 103, R & Os 9369, 9441 and Finance (Jersey) Law 200- (with Privy Council).*