

STATES OF JERSEY

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DRAFT HEALTH (IMPLEMENTATION) (JERSEY) LAW 200

**Lodged au Greffe on 26th February 2008
by the Minister for Health and Social Services**

STATES GREFFE



Jersey

DRAFT HEALTH (IMPLEMENTATION) (JERSEY) LAW 200

European Convention on Human Rights

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

In the view of the Minister for Health and Social Services the provisions of the Draft Health (Implementation) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator B.E. Shenton**

REPORT

Background

1. In 2005 the World Health Organisation re-issued substantially changed International Health Regulations IHR(2005). The Regulations are scheduled to enter into force in June 2007. Jersey has concurred with the view that the regulations are applicable to the Island to the extent that domestic implementation measures fall within the scope of the UK's international obligations.
2. The United Kingdom government has indicated that because they need to change primary legislation, they will not be able to make all the changes required by June 2007, but are working to do so by June 2008. Similarly, in accordance with Article 59.3 of the IHR (2005), Jersey has informed the UK that we are working to introduce the necessary changes by 15th June 2008.

Issues

3. The purpose and scope of the IHR(2005) are to “prevent, protect against, control and provide a public health response to the international spread of disease and which avoid unnecessary interference with international traffic and trade.” Accordingly the requirement to implement the Regulations falls within the remit of Health and Social Services Department.
4. States Parties to the IHR(2005) are required to develop, strengthen and maintain core surveillance and response capacities to detect, assess, notify and report public health events to WHO and respond to public health risks and public health emergencies. State Parties must notify all events that may constitute a public health emergency of international concern (PHEIC). States are also obliged to report evidence of public health risks outside their territory that may cause international disease spread. Notifications and reports are now communicated to WHO through the National IHR Focal Point. The focal point for Jersey and other crown or dependent territories will be through the UK Government representatives at the Health Protection Agency.
5. The specific legislative provisions that may be required or permitted by the IHR 2005 will be given effect by Regulations or Orders to be made subject to the provisions of a principal enabling Law. The draft principal Law giving effect to the Regulations has now been completed. The main Regulations under the Law are to be drafted shortly by the Law Draftsman within this year's law drafting time allocation.

Financial implications

6. The financial implications for the Law are still being considered by the working group, but at this point in time it is expected that it is likely to be limited, as there is no requirement for significant resources, either capital or manpower to achieve compliance. Health facilities as they exist at present are expected to be sufficient for the purposes of the new Law.

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 15th February 2008 the Minister for Health and Social Services made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Health and Social Services the provisions of the Draft Health (Implementation) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

This draft Law would enable the States to make Regulations giving local effect to the International Health Regulations adopted in 2005 by the World Health Assembly.

Article 1 is the interpretation provision. In particular “International Health Regulations” is defined so as to encompass, not only the Regulations adopted by the World Health Assembly on 23rd May 2005, but also any amendment to, or replacement for, those Regulations.

Article 2 enables the States to make Regulations to give effect to the International Health Regulations, making such provision as is appropriate for Jersey. Those Regulations may be implemented in whole or in part, and with or without exceptions, adaptations and modifications. The Regulations made by the States may also make provision for matters arising out of or related to the International Health Regulations. In particular, paragraph (2) allows the States to make, in the Regulations, the same provision as might be made by a Law. For example, the Regulations may amend other enactments, create a power to make Orders and create new offences. In the course of giving effect to the International Health Regulations, documents mentioned in those Regulations or made under them may also be given effect. The Regulations may also contain such incidental, supplementary and transitional provisions and savings as may be necessary. Paragraph (3) confers a power on the Minister for Health and Social Services to make, by Order, provision of the same extent as would be made by the States by Regulations. However, the Minister could only do so if it were necessary or expedient in the public interest. This additional power allows the Minister to respond to events necessitating urgent action that cannot await the making of Regulations by the States. For example, if action needed to be taken during the summer recess.

Article 3 provides for the draft Law, if adopted, to come into force 7 days after it is registered.



Jersey

DRAFT HEALTH (IMPLEMENTATION) (JERSEY) LAW 200

A LAW to enable the States and, in specified circumstances, a Minister, to enact subordinate legislation to give effect, with or without exceptions, adaptations and modifications, to all, or any provision, of the International Health Regulations adopted on 23rd May 2005 by the World Health Assembly, as those Regulations may be amended from time to time, and of any Regulations that replace those Regulations and for connected purposes

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 these Regulations, “International Health Regulations” means the International Health Regulations adopted on 23rd May 2005 by the World Health Assembly, as those Regulations may be amended from time to time, and any Regulations, as amended from time to time, that replace those Regulations.

2 Implementation of International Health Regulations

- (1) The States may make Regulations for the purposes of –
 - (a) giving effect, whether wholly or partly and whether with or without such exceptions, adaptations and modifications as are appropriate for Jersey, to the International Health Regulations;
 - (b) making provision, in a manner appropriate for Jersey, for matters arising out of or related to the International Health Regulations as given effect under sub-paragraph (a).
- (2) Without prejudice to the generality of paragraph (1), Regulations made under it may–
 - (a) include any such provision (of any such extent) as might be made by a Law passed by the States;
 - (b) make provision by reference to any document mentioned in or made under the International Health Regulations;
 - (c) give effect, whether wholly or partly, whether with or without exceptions, adaptations and modifications and whether by reference, annexation or otherwise, to any document mentioned in or made under the International Health Regulations;
 - (d) contain incidental, supplemental and transitional provisions and savings.
- (3) Without prejudice to the generality of paragraph (1) and to paragraph (2), the exceptions, adaptation and modifications to the International Health Regulations that are appropriate for Jersey and the

provisions to be made, in a manner appropriate for Jersey, for matters arising out of those Regulations as given effect, may include provision made as if Jersey were a discrete State Party and, accordingly, as if –

- (a) a voyage by an individual between Jersey and another place was an international voyage; and
 - (b) the movement of persons, baggage, cargo, containers, conveyances, goods or postal parcels between Jersey and another place was movement across an international border.
- (4) Where the Minister for Health and Social Services is of the opinion that the immediate or early enactment of any provision that may be made under paragraph (1) is necessary or expedient in the public interest, the Minister may, by Order, make such provision as may be made by the States by Regulations under paragraph (1).

3 Citation and commencement

This Law may be cited as the Health (Implementation) (Jersey) Law 200- and shall come into force 7 days after it is registered.

