

STATES OF JERSEY

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DRAFT CHILDREN AND DAY CARE (AMENDMENT) (JERSEY) LAW 200-

**Lodged au Greffe on 19th April 2005
by the Health and Social Services Committee**

STATES GREFFE



Jersey

DRAFT CHILDREN AND DAY CARE (AMENDMENT) (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 Children and Day Care (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator S. Syvret**

REPORT

The Children (Jersey) Law 2002 and the Day Care of Children (Jersey) Law 2002 require a number of minor amendments. For administrative convenience, one amending law, the Draft Children and Day Care (Amendment) (Jersey) Law, is being proposed.

The proposed amendments will not change the Laws in any substantial way. They are required simply to ensure accuracy in wording, and to establish a standard provision regarding liability for offences under the Laws.

The amendments will –

1. make references to subordinate legislation accurate following the revision of the laws of Jersey which came into effect on 1st April 2005;
2. correct a reference to the Probation Committee and substitute it with the words ‘Probation Board’;
3. establish liability for offences committed by secondary parties. This is a standard provision recommended by the Law Officers Department. The amendment extends liability for offences under the Laws to limited liability partnerships and, in certain circumstances, to individual partners. In the case of the Day Care of Children (Jersey) Law 2002 it also establishes liability in the case of offences committed by companies.

Financial and manpower statement

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 4th March 2005 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 Children and Day Care (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

This draft Law substitutes a provision in the Children (Jersey) Law 2002 the effect of which is to provide for criminal liability by secondary parties (*Article 3*). It also inserts a new Article into the Day Care of Children (Jersey) Law 2002 that makes general provision for offences, including liability for bodies corporate, limited liability partnerships and secondary parties (*Article 4*). The opportunity has been taken to correct a reference to the Probation Committee, which is now known as the Probation Board (*Article 1*), and a mistake in a cross reference to another Law (*Article 2*).



Jersey

DRAFT CHILDREN AND DAY CARE (AMENDMENT) (JERSEY) LAW 200-

A LAW to amend the Children (Jersey) Law 2002 and the Day Care of Children (Jersey) Law 2002 in particular so as to provide for the liability of secondary parties.

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 Article 16 of the Children (Jersey) Law 2002 amended

In Article 16(7) of the Children (Jersey) Law 2002^[1] for the words “Probation Committee” there shall be substituted the words “Probation Board”.

2 Article 78 of the Children (Jersey) Law 2002 amended

In Article 78(1)(c) of the Children (Jersey) Law 2002^[2] for the words “Article 34” there shall be substituted the words “Article 35”.

3 Article 80 of the Children (Jersey) Law 2002 substituted

For Article 80 of the Children (Jersey) Law 2002^[3] there shall be substituted the following Article –

“80 General provisions as to offences

- (1) Where an offence under this Law committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
 - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall

apply in relation to acts and defaults of a member in connection with the member's functions of management as if he or she were a director of the body corporate.

- (3) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of an offence and liable in the same manner as a principal offender to the penalty provided for that offence.”.

4 Article 12A of the Day Care of Children (Jersey) Law 2002 inserted

After Article 12 of the Day Care of Children (Jersey) Law 2002^[4] there shall be inserted the following Article –

“12A General provisions as to offences

- (1) Where an offence under this Law committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
 - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if he or she were a director of the body corporate.
- (3) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of an offence and liable in the same manner as a principal offender to the penalty provided for that offence.”.

5 Citation and commencement

This Law may be cited as the Children and Day Care (Amendment) (Jersey) Law 200- and shall come into force on the seventh day following its registration.

[1] *Volume 2002, page 1346.*

[2] *Volume 2002, page 1429.*

[3] *Volume 2002, page 1430.*

[4] *Volume 2002, page 1503.*