

STATES OF JERSEY

r

DRAFT NURSING AND RESIDENTIAL HOMES (AMENDMENT No. 2) (JERSEY) LAW 200

**Lodged au Greffe on 6th July 2004
by the Health and Social Services Committee**

STATES GREFFE



Jersey

DRAFT NURSING AND RESIDENTIAL HOMES (AMENDMENT No. 2) (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 Social Services Committee the provisions of the Draft Nursing and Residential Homes (Amendment No. 2) (Jersey) Law 200 are compatible with the Convention Rights.

(Signed) **Senator S. Syvret**

REPORT

The Health and Social Services Committee wishes to enable residents of Residential Homes whose needs change to that of requiring a basic level of nursing care to remain or return to the home. Under the current legislation Residential Care Homes are unable to provide basic nursing care unless the home registers and fully complies with the standard as a Nursing Home.

The proposed amendment to the principal Law will address this matter while still enabling the Committee to ensure that adequate standards of care are maintained. The aim of the amendment is to allow a Residential Care Home to provide a limited level of nursing care for up to 5 people who have been resident at the home but whose needs change. This will be achieved by enabling a residential home to register as Nursing Home with certain conditions imposed. The amendments will allow the Committee to regulate the category of person to be kept in a nursing home and the level of nursing care that the nursing home can provide; this to be specified in the Certificate of Registration. The amendment will also extend the Committee's ability to make Orders in respect of a requirement arising out of a condition imposed.

Financial and manpower implications

This draft Amendment to the principal Law has no manpower or revenue implications for the States as the existing legislation permits dual registration of Care Homes.

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 5th July 2004 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 Nursing and Residential Homes (Amendment No. 2) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

Article 1 provides for a definition of the principal Law to mean the Nursing and Residential Homes (Jersey) Law 1994.

Article 2 amends Article 6(2) of the principal Law which sets out the conditions that may be imposed in respect of the registration for nursing home, mental nursing home or residential care home. The amendments allow all the conditions listed in Article 6(2) of the principal Law to be imposed together. It also requires all the conditions imposed under Article 6(2) to be stated on the certificate of registration.

It also inserts two new paragraphs (2B) and (2C) into Article 6 of the principal Law. These new paragraphs provide for additional conditions of registration that may be imposed on a nursing home that proposes to provide nursing care for residents of a residential care home. These additional conditions are (a) to regulate the category of persons who may be kept in the home and (b) the category of nursing care that the nursing home may provide. A condition imposed under this paragraph must also be stated on the certificate of registration.

Article 3 provides for the amendment of Article 15 of the principal Law (an Order making power) to allow the Committee to make Orders in respect of a requirement arising out of a condition imposed under Article 6(2C) of the principal Law.

Article 4 provides for the name of the Law and its commencement.



Jersey

DRAFT NURSING AND RESIDENTIAL HOMES (AMENDMENT No. 2) (JERSEY) LAW 200

A LAW to amend further the Nursing and Residential Homes (Jersey) Law 1994

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 Nursing and Residential Homes (Jersey) Law 1994.^[1]

2 Article 6 amended

(1) In Article 6(2) of the principal Law^[2] –

- (a) in sub-paragraph (a) for the words “or other category” there shall be substituted the words “and other category”;
- (b) in sub-paragraph (a) for the words “in question; or” there shall be substituted the words “in question; and”; and
- (c) for the words “sub-paragraph (a)” there shall be substituted the words “sub-paragraphs (a) and (b)”.

(2) After Article 6(2A) of the principal Law^[3] there shall be inserted the following paragraphs –

“(2B) Paragraph (2C) applies where a person who is registered under this Law to carry on a residential care home –

- (a) makes an application for registration in respect of a nursing home; and
- (b) intends to receive and keep in that nursing home persons who are residents of the residential care home in respect of which that person is registered.

(2C) Without prejudice to the generality of paragraphs (1) and (2), a registration to which this paragraph applies may be effected subject to such additional conditions as the Committee may consider appropriate for regulating –

- (a) the category of person who may be kept in that nursing home; and
 - (b) the category of nursing care to be provided by that nursing home,
- and any condition imposed by virtue of this paragraph shall be specified in the

certificate of registration.”.

3 Article 15 amended

- (1) In Article 15(2)(m) of the principal Law^[4] for the word “relates.” there shall be substituted the word “relates;”.
- (2) After Article 15(2)(m) of the principal Law^[5] there shall be added the following sub-paragraph –
“(n) as to a requirement arising out of a condition imposed under Article 6(2C)”.

4 Citation and commencement

This Law may be cited as the Nursing and Residential Homes (Amendment No. 2) (Jersey) Law 200 and shall come into force on the fourteenth day following its registration.

[1] *Volume 1994-1995, page 85, Volume 1996-1997, pages 564 and 565, Volume 1999, page 516 and Volume 2003, page 7.*

[2] *Volume 1994-1995, page 97.*

[3] *Volume 1994-1995, page 97 and Volume 1996-1997, page 565.*

[4] *Volume 1994-1995, page 107.*

[5] *Volume 1994-1995, page 107.*