CHILDREN (JERSEY) LAW 2002

Official Consolidated Version

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Jersey

CHILDREN (JERSEY) LAW 2002

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Jersey

CHILDREN (JERSEY) LAW 2002[1]

A LAW to reform and consolidate the law relating to children and for connected purposes.

Commencement [see endnotes]

PART 1

INTRODUCTORY

1 Interpretation

(1) In this Law, unless the context otherwise requires –

"agreed female parenthood conditions" is construed in accordance with paragraph 8 of Schedule A1;

"applicant", apart from in Articles 9N and 9O, means a person who applies for a parental order;

"appointed foster parent" means a person, appointed by the Minister, with whom a child in the care of the Minister is placed under Article 20(1)(a) (the person so appointed not being a person described in paragraph (2)(a) or (b) of that Article);

"Article 10 order" means any of the orders mentioned in Article 10(1) and any order varying or discharging such an order;

"artificial insemination" means the fertilisation of a human egg by means other than intercourse;

"biological father" means –

(a) in relation to a child conceived by intercourse, the man who participated in the act of intercourse; and

(b) in relation to an embryo created by artificial insemination, the man whose sperm was used to create it;

"care home service" is construed in accordance with paragraph 4 of Schedule 1 to the Regulation of Care (Jersey) Law 2014;

"care order" means an order under Article 24(1)(a) and (unless express provision to the contrary is made) includes –

(a) an interim care order made under Article 30; and

(b) any order which by or under any enactment has the effect of, or is deemed to be, a care order for the purposes of this Law,

and any reference to a child who is in the care of the Minister is a reference to a child who is in the Minister's care by virtue of a care order;

"child" means a person who has not attained the age of 18 years, subject to –

(a) the definition "child" in Articles 1A, 22A and 22B; and

(b) paragraph 13 of Schedule 1;

"child assessment order" means an order under Article 36;

"child of the family" in relation to parties to a marriage or a civil partnership, means –

(a) a child of both of those parties; and

(b) any other child, other than a child placed with them as foster parents by the Minister or a voluntary organization, who has been treated by both of those parties as a child of their family;

"children's home" means any home or other institution under the administration of the Minister for the accommodation, care and maintenance of children;

"children's home service" is construed in accordance with paragraph 7 of Schedule 1 to the Regulation of Care (Jersey) Law 2014;

"Circumstance A", "Circumstance B", "Circumstance C" and "Circumstance D" are construed in accordance with Schedule A1;

"Civil Status Law" means the Marriage and Civil Status (Jersey) Law 2001;

"Civil Status Order" means the Marriage and Civil Status (Jersey) Order 2018;

"contact order" means an order requiring the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for that person and the child otherwise to have contact with each other;

"contribution notice" means a notice served on a contributor under paragraph 7 of Schedule 2;

"contribution order" means an order under paragraph 8 of Schedule 2;

"contributor" means a person liable to make contribution to a child's maintenance under paragraph 6 of Schedule 2;

"court" means the Royal Court;

"emergency protection order" means an order under Article 37;

"excluded person" means the person in respect of whom an exclusion requirement is imposed;

"exclusion requirement" means one or more of the following –

(a) a provision requiring the excluded person to leave a dwelling house in which he or she is living with the child in question;

(b) a provision prohibiting the excluded person from entering a dwelling house in which that child lives; and

(c) a provision excluding the excluded person from a defined area in which a dwelling house in which the child lives is situated;

"family assistance order" means an order under Article 16;

"Family Judge" has the meaning given in Article 12A(1) of the Royal Court (Jersey) Law 1948;

"family proceedings" means proceedings within the jurisdiction of the Family Division of the Royal Court and specified in Rule 3/1(2) of the Royal Court Rules 2004;

"fertility treatment services" means –

(a) creating embryos *in utero* by artificial insemination;

(b) creating embryos *in vitro*;

(c) procuring, keeping, testing, processing or distributing embryos;

(d) procuring, testing, processing, distributing or using sperm;

(e) performing other practices designed to ensure that embryos are in a suitable condition to be placed in a woman; or

(f) placing an embryo in a woman;

"functions" includes powers and duties;

"guardian" means a guardian appointed under Article 7 but does not mean a *tuteur*;

"harm" has the meaning assigned by Article 24(6) and the question of whether harm is significant shall be construed in accordance with paragraph (7) of that Article;

"holiday" means Good Friday, Christmas Day and any day which is appointed as a public holiday or bank holiday under Article 2 of the Public Holidays and Bank Holidays (Jersey) Law 1951;

"hospital" means any institution for the reception and treatment of persons suffering from any illness, injury or disability or requiring convalescence or medical rehabilitation and includes any maternity home;

"ill-treatment" has the meaning assigned by Article 24(6);

"inquiry officer" means the person inquiring into the case of a child pursuant to Article 41(2)(d);

"Minister" means the Minister for Children and Families;

"mother" means the woman who gives birth to a child;

"parent", whether or not that person has parental responsibility for the child, includes –

(a) the child's mother;

(b) the child's biological father;

(c) a man who is the child's father under Schedule A1;

(d) a woman who is the child's second parent under Schedule A1;

(e) a person named in a parental order as the child's parent;

(f) a person named as the child's parent in an order described in Article 9N(1) in respect of whom a recognition order has been made;

"parental order" means an order made by the court under Article 9G or, in relation to children outside Jersey, by a court of a jurisdiction outside Jersey that has an effect corresponding to an order made under Article 9G;

"parental responsibility" means all the rights, duties, powers, responsibilities and authority that the parent of a child has in relation to the child and the child's property;

"parental responsibility agreement" means an agreement under Article 9C(1)(b), 9D(b) or 9E(a);

"police detention" has the meaning given in Article 2(1) (meaning of police detention) of the Police Procedures Law;

"Police Procedures Law" means the Police Procedures and Criminal Evidence (Jersey) Law 2003;

"prescribed" means prescribed by Rules of Court made under this Law;

"privately fostered child" has the meaning assigned by Article 58;

"probation officer" means a *délégué* appointed under Article 7 of the Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée;

"programme service" has the same meaning as in section 201 of the Broadcasting Act 1990 (as extended to Jersey by the Broadcasting Act 1990 (Jersey) (No. 2) Order 1991);

"prohibited steps order" means an order that no step which could have been taken by a parent in meeting his or her parental responsibility for a child, and which is of a kind specified in the order, shall be taken by any person without the consent of the court;

"recognition order" has the meaning given by Article 9N;

"recovery order" means an order under Article 45(1);

"registered medical practitioner" has the same meaning as in Article 1(1) of the Medical Practitioners (Registration) (Jersey) Law 1960;

"relative", in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage or civil partnership) or step-parent (whether by marriage or civil partnership);

"relevant court" has the meaning given in Article 36A(10) (appropriate place of detention for children or young people kept in police detention) of the Police Procedures Law;

"relevant fertility treatment services" means fertility treatment services –

(a) carried on in Jersey by the Minister for Health and Social Services; or

(b) carried on in the United Kingdom in accordance with a licence granted under the Human Fertilisation and Embryology Act 2008 of the United Kingdom,

and "relevant fertility treatment" is construed accordingly;

"residence order" means an order settling the arrangements to be made as to the person with whom a child is to live;

"responsible person", in relation to a supervised child means –

(a) any person who has parental responsibility for the child; and

(b) any other person with whom the child is still living;

"school" has the same meaning as in the Education (Jersey) Law 1999;

"second parent" is construed in accordance with paragraph 6, 7 or 9 of Schedule A1 (as the case may be);

"secure accommodation" means accommodation provided by the Minister for the purpose of restricting a person's liberty;

"service", in relation to any provision made under Part 3, includes any facility;

"signed", in relation to any person, includes the making by that person of his or her mark;

"specific issue order" means an order giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child;

"supervised child" means a child who is (or is to be) placed under the supervision of a supervisor in accordance with a supervision order;

"supervision order" means an order under Article 24(1)(b) and includes an interim supervision order under Article 30;

"supervisor" means, in relation to a supervised child, the person under whose supervision the child is to be placed in accordance with the supervision order;

"surrogacy arrangement" has the meaning given by Article 1B;

"surrogate mother" has the meaning given by Article 1B;

"upbringing", in relation to any child, includes the care of the child but not the child's maintenance;

"voluntary home" means any home or other institution providing care and accommodation for children which is carried on by a voluntary organisation but does not include –

(a) a care home within the meaning of paragraph 4 of Schedule 1 to the Regulation of Care (Jersey) Law 2014;

(b) a school; or

(c) a hospital or other approved establishment within the meaning given by the Mental Health (Jersey) Law 2016;

"voluntary organisation" means a body the activities of which are carried on otherwise than for profit;

"Young Offenders Law" means the Criminal Justice (Young Offenders) (Jersey) Law 2014;

"young person" has the meaning given in Article 1(1) of the Young Offenders Law.[2]

(2) References in this Law –

(a) to a child whose parents were married to each other at the time of the child's birth include a child who is the subject of an adoption order under Article 10 of the Adoption (Jersey) Law 1961;

(b) to a child whose parents were not married to each other at the time of the child's birth do not include a child who is the subject of an adoption order under that Article.[3]

(2A) [4]

(3) References in this Law to –

(a) a person with whom a child lives, or is to live, as the result of a residence order; or

(b) a person in whose favour a residence order is in force,

shall be construed as references to the person named in the order as the person with whom the child is to live.

(3A) For the purposes of this Law, a woman who has not conceived naturally becomes pregnant at the time of the particular instance of fertility treatment that results in the woman's pregnancy.[5]

(4) [6]

(5) In determining the "ordinary residence" of a child for the purposes of this Law, there shall be disregarded any period in which the child lives in any place –

(a) which is a school or institution;

(b) in accordance with the requirements of a supervision order under this Law; or

(c) while the child is being provided with accommodation by or on behalf of the Minister.

(6) Any notice or other document required under this Law to be served on any person may be served on the person by being delivered personally to the person, or being sent by post to the person in a registered letter or by the recorded delivery service at the person's proper address.

(7) Any notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.

(8) For the purpose of this Article and of Article 7 of the Interpretation (Jersey) Law 1954 in its application to this Article, the proper address of a person –

(a) in the case of a secretary or clerk of a body corporate, shall be that of the registered or principal office of that body;

(b) in the case of a partner of a firm, shall be that of the principal office of the firm; and

(c) in any other case, shall be the last known address of the person to be served.

(9) The States may by Regulations amend the definition "parent" in paragraph (1).[7]

(10) Schedule A1 sets out circumstances (including Circumstance A, Circumstance B, Circumstance C and Circumstance D) in which a person is treated in law as the father, or second parent, of a child conceived as a result of fertility treatment or artificial insemination.[8]

1A References to a child who is looked after by the Minister[9]

(1) In this Law references to a child who is looked after by the Minister are references to any of the following –

(a) a child in the care of the Minister;

(b) a child, other than a child falling within the description in sub-paragraph (c) or (d), provided with accommodation by the Minister for a continuous period of more than 24 hours in the exercise of the Minister's functions under any enactment;

(c) a child or young person who is required to be detained in custody on remand or following sentence under the Young Offenders Law, if the place of custody is –

(i) secure accommodation; or

(ii) a young offender institution or the prison, within the meaning given to those terms in Article 1(1) of the Young Offenders Law; or

(d) a child or young person provided with accommodation by the Minister for a continuous period of more than 24 hours in the exercise of the Minister's powers under Article 22A(2) or 22B.[10]

(2) In paragraph (1)(c) and (d), "child" has the meaning given in Article 1(1) of the Young Offenders Law.[11]

1B Definition of "surrogate mother", "surrogacy arrangement" and related terms[12]

(1) This Article provides for the construction in this Law of references to –

(a) a surrogate mother or a surrogacy arrangement; and

(b) payment in connection with a surrogacy arrangement.

(2) "Surrogate mother" means a woman who is pregnant under an arrangement ("a surrogacy arrangement") made –

(a) before the woman became pregnant; and

(b) with a view to a child born of the pregnancy, under the arrangement, being handed over to, and parental responsibility being met (so far as practicable) by, another person.

(3) In determining whether an arrangement is a surrogacy arrangement, regard may be had to the circumstances as a whole and, in particular, to any promise or understanding that a payment will, or may, be made to the woman, or for her benefit, in respect of the pregnancy as a result of the arrangement.

(4) An arrangement may be a surrogacy arrangement even though it contains, or is subject to, conditions relating to the handing over of a child.

(5) In this Article "payment" means payment in money or money's worth.

2 Welfare of the child

(1) When the court determines any question with respect to –

(a) the upbringing of a child; or

(b) the administration of a child's property or the application of any income arising from it,

the child's welfare shall be the court's paramount consideration.

(2) In any proceedings in which any question with respect to the upbringing of a child arises, the court shall have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child.

(2A) The making or revocation of a parental order or of a recognition order is a question with respect to the upbringing of a child.[13]

(2B) Paragraph (1) is to be read as if after "the child's welfare" there is inserted "throughout the child's lifetime" in a case involving –

(a) the making or revocation of a parental order; or

(b) the making or revocation of a recognition order.[14]

(3) In the circumstances mentioned in paragraph (4), the court shall have regard in particular to –

(a) the ascertainable wishes and feelings of the child concerned (considered in the light of the child's age and understanding);

(b) the child's physical, emotional and educational needs;

(c) the likely effect on the child of any change in his or her circumstances;

(d) the child's age, sex, background and any characteristics of the child which the court considers relevant;

(e) any harm which the child has suffered or is at risk of suffering;

(f) how capable each of the child's parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting the child's needs; and

(g) the range of powers available to the court under this Law in the proceedings in question.

(4) The circumstances are that –

(a) the court is considering whether to make, vary or discharge an Article 10 order, and the making, variation or discharge of the order is opposed by any party to the proceedings; or

(b) the court is considering whether to make, vary or discharge an order under Part 4.

(5) Where the court is considering whether or not to make one or more orders under this Law with respect to a child, it shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.

3 [15]

4 [16]

5 [17]

6 Disputes as to paternity

If, during any proceedings under this Law, any dispute arises as to paternity, the court shall have power to determine it in the same manner as it would have determined a dispute as to paternity when hearing an action for *pension alimentaire* prior to the commencement of Article 82(2).

7 Appointment of guardians

(1) Where an application with respect to a child is made to the court by any individual, the court may by order appoint that individual to be the child's guardian if –

(a) the child has no parent with parental responsibility for him or her; or

(b) a residence order has been made with respect to the child in favour of a parent or guardian of the child's who has died while the order was in force.

(2) The power conferred by paragraph (1) may also be exercised in any family proceedings if the court considers that the order should be made even though no application has been made for it.

(3) A parent who has parental responsibility for his or her child may appoint another individual to be the child's guardian in the event of his or her death.

(4) A guardian of a child may appoint another individual to take his or her place as the child's guardian in the event of his or her death.

(5) An appointment under paragraph (3) or (4) shall not have effect unless it is made in writing, is dated and is signed –

(a) by the person making the appointment; or

(b) at the direction of the person making the appointment, in his or her presence and in the presence of 2 witnesses who each attest the signature.

(6) A person appointed as a child's guardian under this Article shall have parental responsibility for the child concerned.

(7) Where –

(a) on the death of any person making an appointment under paragraph (3) or (4), the child concerned has no parent with parental responsibility for the child; or

(b) immediately before the death of any person making such an appointment, a residence order in his or her favour was in force with respect to the child,

the appointment shall take effect on the death of that person.

(8) Where, on the death of any person making an appointment under paragraph (3) or (4) –

(a) the child concerned has a parent with parental responsibility for the child; and

(b) paragraph (7)(b) does not apply,

the appointment shall take effect when the child no longer has a parent who has parental responsibility for him or her.

(9) Paragraphs (1) and (7) do not apply if the residence order referred to in sub-paragraph (b) of those paragraphs was also made in favour of a surviving parent of the child.

(10) Nothing in this Article shall be taken to prevent an appointment under paragraph (3) or (4) being made by 2 or more persons acting jointly.

(11) A guardian of a child may only be appointed in accordance with the provisions of this Article.

(12) [18]

(13) [19]

8 Guardians: revocation and disclaimer

(1) An appointment under Article 7(3) or (4) revokes an earlier such appointment (including one made in an unrevoked will or codicil) made by the same person in respect of the same child, unless it is clear (whether as the result of an express provision in the later appointment or by any necessary implication) that the purpose of the later appointment is to appoint an additional guardian.

(2) An appointment under Article 7(3) or (4) (including one made in an unrevoked will or codicil) is revoked if the person who made the appointment revokes it by a written and dated instrument which is signed –

(a) by the person; or

(b) at the person's direction, in his or her presence and in the presence of 2 witnesses who each attest the signature.

(3) An appointment under Article 7(3) or (4) (other than one made in a will or codicil) is revoked if, with the intention of revoking the appointment, the person who made it –

(a) destroys the instrument by which it was made; or

(b) has some other person destroy that instrument in his or her presence.

(4) An appointment under Article 7(3) or (4) (including one made in a will or codicil) is revoked if the person appointed is the spouse of the person who made the appointment and either –

(a) the court by order dissolves, or by decree annuls the marriage; or

(b) the marriage is dissolved and the divorce is entitled to recognition in Jersey by virtue of the Recognition of Divorces and Legal Separations (Jersey) Law 1973,

unless a contrary intention appears by the appointment.

(4A) An appointment under Article 7(3) or (4) (including one made in a will or codicil) is revoked if the person appointed is the civil partner of the person who made the appointment and either –

(a) the court by order dissolves or annuls the civil partnership; or

(b) the civil partnership is dissolved and the dissolution is entitled to recognition in Jersey by virtue of Part 4 of the Civil Partnership (Jersey) Law 2012,

unless a contrary intention appears by the appointment.[20]

(5) For the avoidance of doubt, an appointment under Article 7(3) or (4) made in a will or codicil is revoked if the will or codicil is revoked.

(6) A person who is appointed as a guardian under Article 7(3) or (4) may disclaim the appointment by an instrument in writing signed by the person and made within a reasonable time of his or her first knowing that the appointment has taken effect.

(7) Where Rules of Court are made prescribing the manner in which such disclaimers must be recorded, no such disclaimer shall have effect unless it is recorded in the prescribed manner.

(8) Any appointment of a guardian under Article 7 may be brought to an end at any time by order of the court –

(a) on the application of any person who has parental responsibility for the child;

(b) on the application of the child concerned; or

(c) in any family proceedings, if the court considers that it should be brought to an end even though no application has been made.

9 Welfare reports

(1) In considering any question with respect to a child under this Law the court may require –

(a) a probation officer who is not the child's guardian ad litem; or

(b) the Minister to arrange for –

(i) an officer of an administration of the States for which the Minister is assigned responsibility, or

(ii) such other person (other than a probation officer) as the Minister considers appropriate,

to report to the court, in writing or orally as the court may direct, on such matters relating to the welfare of that child as are required to be dealt with in the report.

(2) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, the court may take account of –

(a) any statement contained in the report; and

(b) any evidence given in respect of the matters referred to in the report,

in so far as the statement or evidence is, in the opinion of the court, relevant to the question which it is considering.

PART 1A[21]

PARENTAL RESPONSIBILITY AND PARENTAL ORDERS

9A Parental responsibility for children

(1) If a child's mother and father were married to, or civil partners of, each other at the time of the child's birth, they each have parental responsibility for the child.

(2) If a child's mother and father were not married to, nor civil partners of, each other at the time of the child's birth –

(a) the mother has parental responsibility for the child; and

(b) the father does not have parental responsibility for the child, unless he acquires it in accordance with Article 9C.

(3) If a child's mother and second parent were married to, or civil partners of, each other at the time of the child's birth, they each have parental responsibility for the child.

(4) If a child's mother and second parent were not married to, nor civil partners of, each other at the time of the child's birth –

(a) the mother has parental responsibility for the child; and

(b) the second parent does not have parental responsibility for the child, unless she acquires it in accordance with Article 9D.

(5) The following are abolished –

(a) the rule of law that if a child is legitimate, the child's father has sole custody of the child; and

(b) the rule of law that if a child is illegitimate and the child's mother marries, her husband (whether or not he is the father) has sole custody of the child.

(6) More than one person may have parental responsibility for the same child at the same time.

(7) A person who has parental responsibility for a child at any time does not cease to have that responsibility solely because another person subsequently acquires parental responsibility for the child.

(8) If more than one person has parental responsibility for a child, each of them may act alone and without the other (or others) in meeting that responsibility.

(9) Nothing in this Part is to be taken to affect the operation of an enactment that requires the consent of more than one person in a matter affecting the child.

(10) The fact that a person has parental responsibility for a child does not entitle the person to act in a way that would be incompatible with an order made with respect to the child under this Law.

(11) A person who has parental responsibility for a child may not surrender or transfer any part of that responsibility to another, but may arrange for some or all of it to be met by one or more people acting on the person's behalf.

(12) Paragraph (11) does not prevent the making of an adoption order, a parental order or a recognition order.

(13) The person with whom an arrangement under paragraph (11) is made may be a person who already has parental responsibility for the child concerned.

(14) The making of an arrangement under paragraph (11) does not affect any liability of the person making it that may arise from a failure to meet any part of the person's parental responsibility for the child concerned.

9B Person without parental responsibility

(1) The fact that a person has, or does not have, parental responsibility for a child does not affect –

(a) an obligation that the person may have in relation to the child (such as a duty to maintain the child); or

(b) rights that, in the event of the child's death, the person (or another person) may have in relation to the child's property.

(2) A person who does not have parental responsibility for a child, but has care of that child, may do whatever is reasonable in all the circumstances of the case for the purposes of safeguarding or promoting the child's welfare.

9C Acquisition of parental responsibility by father

(1) If a child's father and mother are neither married to, nor civil partners of, each other at the time of the child's birth –

(a) subject to paragraph (2), the father has parental responsibility for the child if he becomes registered as the child's father under Part 5 of the Civil Status Law;

(b) the mother and father may make an agreement providing for the father to have parental responsibility for the child; or

(c) the court may, on the father's application, order that he is to have parental responsibility for the child.

(2) A father who was registered under the Civil Status Law before the commencement of the Children and Adoption (Amendment) (Jersey) Law 2016 acquires parental responsibility under paragraph (1)(a) only if, after that registration, he has married or entered into a civil partnership with the child's mother.[22]

(3) The court may order that a man is to have parental responsibility if –

(a) he makes an application stating that he is the child's biological father; and

(b) the court is satisfied that the man is the child's biological father.[23]

9D Acquisition of parental responsibility by second parent

If a child's mother and second parent are neither married to, nor civil partners of, each other at the time of the child's birth –

(a) the second parent has parental responsibility for the child if she becomes registered as the child's second parent under Part 5 of the Civil Status Law;

(b) the mother and the second parent may make an agreement providing for the second parent to have parental responsibility for the child; or

(c) the court may, on the second parent's application, order that she is to have parental responsibility for the child.

9E Acquisition of parental responsibility by step-parent

If a child's parent who has parental responsibility for the child ("parent A") is married to, or a civil partner of, a person who is the child's step-parent –

(a) parent A or, if any other person has parental responsibility for the child, all of those people, may by agreement with the step-parent provide for the step-parent to have parental responsibility for the child; or

(b) the court may, on the application of the step-parent, order that the step-parent is to have parental responsibility for the child.

9F Parental responsibility agreements and orders: general

(1) A parental responsibility agreement has effect for the purposes of this Law only if –

(a) it is made in the prescribed form; and

(b) it is recorded in the prescribed manner (if any).

(2) Paragraphs (3) and (4) are subject to Article 13(4).

(3) A person who has parental responsibility for a child ceases to have that responsibility when the child reaches the age of 18, subject to paragraph (4).

(4) A person who has acquired parental responsibility under Article 9C, 9D or 9E ceases to have parental responsibility if the court –

(a) revokes the parental responsibility order; or

(b) orders that the parental responsibility agreement giving that person parental responsibility ceases to have effect.

(5) The court may make an order under paragraph (4) on the application of –

(a) a person who has parental responsibility for the child; or

(b) the child with the leave of the court.

(6) The court may grant leave under paragraph (5)(b) only if satisfied that the child has sufficient understanding to make the application.

9G Parental orders

(1) A parental order is an order made by the court conferring parental responsibility for a child on the applicant.

(2) If a parental order is made, the child who is the subject of the order is to be treated in law, from the time that the order is made, as the child of the applicant and not of any other person.

(3) But paragraph (2) does not affect entitlement to property that is dependent upon the biological relationship between the child who is the subject of the order and an applicant for the order, or anything else dependent on that relationship.

(4) The making of a parental order extinguishes –

(a) the parental responsibility that anyone has, immediately before the making of the order, in relation to the child who is the subject of the order;

(b) every order under this Law, unless the court otherwise orders; and

(c) every duty arising under an agreement or an order of the court to make payments in respect of the child's maintenance or upbringing for any period after the making of the parental order.

(5) Paragraph (4)(c) does not apply to a duty arising under an agreement that –

(a) constitutes a trust; or

(b) expressly provides that the duty is not to be extinguished by the making of a parental order.

(6) If 2 people are named in a parental order as the parents of the child, the child is to be treated in law as the issue of their relationship.

(7) A parental order does not affect parental responsibility so far as it relates to a period before the making of the order.

9H Amendment of parental order

(1) The court may amend a parental order by the correction of an error in the particulars contained in the order, on application by a person who applied for the order, or who is the subject of the order.

(2) The court may also amend a parental order, by substituting or adding a name, if paragraph (3) applies.

(3) On the application of a person who is named in a parental order, the court may amend that parental order if the court is satisfied that, within one year beginning with the date of the birth of the person who is the subject of the order ("S") –

(a) a new name has been given to S whether in baptism or otherwise; or

(b) a new name has been given to S instead of, or in addition to, a name entered in the Parental Orders Register under Schedule 1A to the Civil Status Order.

(4) Paragraph (5) applies if –

(a) a parental order includes a direction for the marking of an entry in the register of births as required under Article 61B(5) of the Civil Status Law; and

(b) a person who was a party to the proceedings in which the parental order was made, or a person who has the leave of the court, applies for the revocation of the direction.

(5) The court may revoke the direction referred to in paragraph (4) if the court is satisfied that the direction was wrongly included in the parental order.

(6) If a parental order is amended under paragraph (3) or a direction is revoked under paragraph (5), the Judicial Greffier must, as soon as is reasonably practicable,

cause the amendment or revocation to be communicated to the Superintendent Registrar, who must –

(a) cause the entry in the Parental Orders Register to be amended; or

(b) cause the marking of the entry in the register of births to be cancelled.

(7) In this Article "Parental Orders Register", "register of births" and "Superintendent Registrar" have the meaning given to those terms in the Civil Status Law.

9I Application for parental order

(1) An application for a parental order must be made in the prescribed manner.

(2) A parental order may be made only if –

(a) the child was borne by a woman who is not one of the applicants for the parental order as a result of the placing in her of an embryo or sperm and eggs, or of artificial insemination (whether in a course of relevant fertility treatment or otherwise);

(b) the child's birth is registered in Jersey;

(c) the applicant's gametes or, in the case of a joint application, the gametes of at least one of the applicants, were used in the child's conception;

(d) the application for the order is made not later than 6 months after the child's birth;

(e) the applicant is at least 18 years old, or in the case of a joint application, both applicants are at least 18 years old, when the parental order is made;

(f) at the time of the application and of the making of the order –

(i) the child's home is the same as the applicant's, and

(ii) the applicant, or, in the case of a joint application at least one of the applicants, is domiciled in Jersey; and

(g) no other parental order has been made in relation to the child, unless that order has been quashed or an appeal against the order has been allowed.

(3) In the case of a joint application, at the time the application is made, the applicants must be –

(a) spouses or civil partners of each other; or

(b) in an enduring family relationship with each other.

(4) The reference in paragraph (3)(b) to an enduring family relationship does not include one in which one of the people in it is within a prohibited degree of relationship in relation to the other for the purposes of the Civil Status Law.

(5) Before making a parental order, the court must be satisfied that each of the following have freely and unconditionally consented to the making of the order, with full understanding of what is involved –

(a) the surrogate mother; and

(b) every other parent of the child who is not one of the applicants (including a man who is the father under Circumstance A or Circumstance B, and a woman who is the second parent under Circumstance C or Circumstance D).

(6) For the purposes of paragraph (5) –

(a) the consent of the surrogate mother is ineffective if given in the first 6 weeks after the birth; and

(b) the requirement for a person's consent does not apply if that person is incapable of giving consent or cannot be found.

(7) The court must be satisfied that no money or other benefit (other than for expenses reasonably incurred) has been given or received by the surrogate mother for, or in consideration of –

(a) the making of the order;

(b) consent required by paragraph (5);

(c) handing the child over to the applicant; or

(d) making arrangements with a view to obtaining the order.

(8) Paragraph (7) does not apply if the payment of money or the conferment of the benefit is authorised by the court.

(9) This paragraph applies if, after a surrogacy arrangement is made, one of the parties to the surrogacy arrangement who is, or is intended to be, an applicant for a parental order in respect of the child dies before the parental order is made.

(10) If paragraph (9) applies this Article is to be read –

(a) with the following modifications –

(i) for paragraph (2)(e) there is substituted –

"(e) the surviving applicant is at least 18 years old when the order is made, and the applicant who has died would, but for their death, have been at least 18 when the order is made;",

(ii) for paragraph (3) there is substituted –

"(3) The applicants must have been spouses or civil partners of each other, or in an enduring family relationship with each other, immediately before the death of one of the parties to the surrogacy arrangement."; and

(b) as if references in this Article to the applicants are taken to include –

(i) a person whom the court is satisfied would have been one of the applicants had they not died before the making of the application, and

(ii) an applicant who died before the making of the order.

9J When court may not make a parental order

The court must not hear an application for a parental order if a previous application has been made by an applicant in respect of the same child and refused by the court, unless –

(a) when refusing the previous application, the court directed that this Article was not to apply; or

(b) the court is satisfied that, by reason of a change in the applicant's circumstances, or any other reason that appears to the court to be sufficient, it is proper to hear the application.

9K Restrictions on removal

(1) A person must not remove a child from the care of an applicant for a parental order, other than in accordance with Article 9L, if –

(a) the child's home is the same as the applicant's; and

(b) the application has not been determined.

(2) A person who contravenes this Article commits an offence and is liable to imprisonment for a term of 3 months and to a fine of level 3 on the standard scale.

9L Exception to restrictions on removal

If Article 9K(1) applies, a child may be removed from the care of an applicant for a parental order by –

(a) a person who has obtained the court's leave; or

(b) a person who acts under a power conferred by an enactment.

9M Parental orders: intestacies etc.

(1) Paragraph (2) applies if, at any time after the making of a parental order, one of the following dies intestate in respect of all or any part of that person's immovable or movable property –

(a) the applicant;

(b) the person who is the subject of the parental order ("S"); or

(c) any other person.

(2) The property referred to in paragraph (1) devolves in all respects as if S were the child of the applicant and not the child of another person.

(3) For the purposes of the law relating to the indefeasible right of a person to succeed to the movable property of the person's ascendants, S is taken to be the child of the applicant and not the child of another person.

(4) In a disposition of immovable or movable property made, whether by instrument *inter vivos* or by will (including codicil), after the date of a parental order, unless a contrary intention appears, a reference (express or implied) in the instrument or will –

(a) to the child of the applicant for the order, is to be construed as, or as including, a reference to S;

(b) to the child of a surrogate mother is to be construed as not being, or as not including, a reference to S; and

(c) to a person related to S in any degree is to be construed as a reference to the person who would be related to S in that degree if S were the natural child of the applicant and not the child of another person.

(5) For the purposes of paragraph (4), a disposition made by will or codicil is to be treated as made on the date of the death of the testator.

(6) If S is born before a natural child, S ranks as principal heir in preference to the natural child.

(7) In the application of the law regarding the devolution of acquired immovable property (*acquêts*) and movable property (*meubles*), and for the purposes of the construction of a disposition of the property referred to in paragraph (4), S is treated as related to a child or adopted child of the applicant –

(a) as brother or sister of the whole blood if the parental order was made in favour of 2 spouses or civil partners jointly, or in favour of 2 persons living in an enduring family relationship jointly, and that other person is the child or adopted child of both of them;

(b) in any other case, as brother or sister of the half-blood.

(8) Despite anything in this Article, an executor of the will or an administrator of the estate of a deceased person –

(a) may distribute movable property to or among the people entitled to that property without having established whether a parental order has been made by virtue of which any person is, or may be, entitled to an interest in that property; and

(b) is not liable to a person of whose claim the executor of the will or the administrator of the estate has not had notice at the time of the distribution.

(9) Nothing in paragraph (8) affects the right of a person claiming to be entitled to an interest as mentioned in sub-paragraph (a) of that paragraph to follow such property, or any property representing it, into the hands of a person who may have acquired it by devolution or descent.

(10) In this Article –

"movable property" does not include movable property that is subject to an entailed interest under a disposition not falling within paragraph (4);

"parental order" includes a recognition order.

9N Recognition of pre-existing parental orders made in England and Wales

(1) This Article applies if –

(a) a parental order was made in England and Wales, before the commencement of this Article, under section 30 of the Human Fertilisation and Embryology Act 1990 of the United Kingdom (when that section was in force) or section 54 or 54A of the Human Fertilisation and Embryology Act 2008 of the United Kingdom (the "relevant order"); and

(b) the relevant order is in force when this Article is commenced and is not then the subject of an appeal to a court having an appellate jurisdiction in respect of proceedings relating to children in England and Wales.

(2) A person (the "applicant") named in the relevant order may apply to the court for an order (a "recognition order") that the relevant order have the same effect in Jersey as a parental order made under Article 9G on the same day as the relevant order, but subject to paragraphs (3) to (7).

(3) If an application is made under paragraph (2), the court must make a recognition order unless –

(a) the court would have refused to make a parental order under Article 9G if the applicant had applied for such an order at the time the relevant order was made; or

(b) it would be manifestly contrary to public policy to make a recognition order.

(4) The child who is the subject of the recognition order is to be treated in law as having become the issue of the applicant on the date on which the relevant order was made.

(5) Before making a recognition order, the court may require an applicant to provide such evidence as it considers necessary to determine the application.

(6) As soon as reasonably practicable after a recognition order is made, the Judicial Greffier must cause the order to be sent to the Superintendent Registrar.

(7) For the purposes of this Article, Article 9G must be treated as having been in force on the day the relevant order was made.

9O Disclosure of records of children subject to parental orders

(1) This Article applies to a person who has attained the age of 18 and is the subject of –

(a) a parental order; or

(b) a recognition order.

(2) The person mentioned in paragraph (1) (the "applicant") may apply to the court in the prescribed manner, for the supply to the applicant of a copy of any prescribed document relating to the making of the parental order or the recognition order.

(3) The court must supply any prescribed document to the applicant but, before doing so, the Judicial Greffier must inform the applicant of the availability of any counselling services approved by the Minister.

PART 2

ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS

10 Power of court to make certain orders with respect to children

(1) Subject to Article 11 and the following provisions of this Article, in any family proceedings in which a question arises with respect to the welfare of any child, the court may make the following orders with respect to a child –

(a) a contact order;

(b) a prohibited steps order;

(c) a residence order; or

(d) a specific issue order.

(2) The court may make an Article 10 order –

(a) on the application of any person who –

(i) is entitled to apply for an Article 10 order with respect to the child, or

(ii) has obtained the leave of the court to make the application; or

(b) if it considers that the order should be made even though no such application has been made.

(3) The following persons are entitled to apply to the court for any Article 10 order with respect to a child –

(a) any parent or guardian of the child;

(b) any person in whose favour a residence order is in force with respect to the child; and

(c) any person falling within such category of persons as may be prescribed in relation to such type of Article 10 order as may be there prescribed.

(4) The following persons are entitled to apply for a residence or contact order with respect to a child –

(a) any party to a marriage or civil partnership (whether or not subsisting) in relation to whom the child is a child of the family;

(b) any person with whom the child has lived for a period of not less than 12 out of the 15 months immediately preceding the application;

(c) any person who –

(i) in any case where a residence order is in force with respect to the child, has the consent of each of the persons in whose favour the order was made,

(ii) in any case where the child is in the care of the Minister, has the Minister's consent, or

(iii) in any other case, has the consent of each of those (if any) who have parental responsibility for the child.[24]

(5) A person who would not otherwise be entitled (under the previous provisions of this Article) to apply for the variation or discharge of an Article 10 order shall be entitled to do so if –

(a) the order was made on the person's application; or

(b) in the case of a contact order, the person is named in the order.

(6) Where the person applying for leave to make an application for an Article 10 order is not the child concerned, the court shall, in deciding whether or not to grant leave, have particular regard to –

(a) the nature of the proposed application for the Article 10 order;

(b) the applicant's connection with the child;

(c) any risk there might be of that proposed application disrupting the child's life to such an extent that the child would be harmed by it; and

(d) where the child is being looked after by the Minister –

(i) the Minister's plans for the child's future, and

(ii) the wishes and feelings of the child's parents.

11 Restrictions on making Article 10 orders

(1) The court shall not make any Article 10 order, other than a residence order, with respect to a child who is in the care of the Minister.

(2) The Minister shall not make any application for a residence order or contact order and the court shall not make such an order in favour of the Minister.

(3) A person who is, or was at any time within the last 6 months, an appointed foster parent of a child may not apply for leave to apply for an Article 10 order with respect to the child unless –

(a) the person has the consent of the Minister;

(b) the person is a relative of the child; or

(c) the child has lived with the person for at least 3 years preceding the application.

(4) The period of 3 years mentioned in paragraph (3)(c) need not be continuous but must have begun not more than 5 years before the making of the application.

(5) The court shall not exercise its powers to make a specific issue order or prohibited steps order –

(a) with a view to achieving a result which could be achieved by making a residence or contact order; or

(b) in any way which is denied to the court (by Article 76) in the exercise of its inherent jurisdiction with respect to children.

(6) The court shall not make any Article 10 order –

(a) which is to have effect for a period which will end after the child has reached the age of 16; or

(b) other than one varying or discharging such an order, with respect to a child who has reached the age of 16,

unless it is satisfied that the circumstances of the case are exceptional.

12 General principles and supplementary provisions

(1) In proceedings in which any question of making an Article 10 order, or any other question with respect to such an order, arises, the court may (in the light of any Rules of Court made by virtue of paragraph (2)) –

(a) draw up a timetable with a view to determining the question without delay; and

(b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that the timetable is adhered to.

(2) Rules of Court may –

(a) specify periods within which specified steps must be taken in relation to proceedings in which such questions arise; and

(b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that such questions are determined without delay.

(3) Where the court has power to make an Article 10 order, it may do so at any time during the course of the proceedings in question even though it is not in a position to dispose finally of those proceedings.

(4) Where a residence order is made in favour of 2 or more persons who do not themselves live together, the order may specify the periods during which the child is to live in the different households concerned.

(5) Where –

(a) a residence order has been made with respect to a child; and

(b) as a result of the order the child lives, or is to live, with one of 2 parents who each have responsibility for the child,

the residence order shall cease to have effect if the parents live together for a continuous period of more than 6 months.

(6) A contact order which requires the parent with whom a child lives to allow the child to visit or otherwise have contact with the child's other parent shall cease to have effect if the parents live together for a continuous period of more than 6 months.

(7) An Article 10 order may –

(a) contain directions about how it is to be carried into effect;

(b) impose conditions which must be complied with by any person –

(i) in whose favour the order is made,

(ii) who is a parent of the child concerned,

(iii) who is not a parent of the child but who has parental responsibility for the child, or

(iv) with whom the child is living,

and to whom the conditions are expressed to apply;

(c) be made to have effect for a specified period, or contain provisions which are to have effect for a specified period; and

(d) make such incidental, supplemental or consequential provision as the court thinks fit.

13 Residence orders and parental responsibility

(1) If the court makes a residence order in favour of the father or second parent of a child, it must, if the father or second parent would not otherwise have parental responsibility for the child, make an order –

(a) under Article 9C giving the father parental responsibility; or

(b) under Article 9D giving the second parent parental responsibility.[25]

(2) If the court makes a residence order in favour of any person who is not the parent or guardian of the child concerned, that person shall have parental responsibility for the child while the residence order remains in force.[26]

(3) If a person has parental responsibility for a child as a result of paragraph (2), the person shall not have the right –

(a) to consent, or refuse to consent, to the making of an application with respect to the child under Article 12 of the Adoption (Jersey) Law 1961; or

(b) to agree, or refuse to agree, to the making of an adoption order, or an order under Article 41 of the Adoption (Jersey) Law 1961 with respect to the child.[27]

(4) If paragraph (1) requires the court to make an order under Article 9C in respect of the father of the child or under Article 9D in respect of the second parent of the child, the court shall not bring that order to an end at any time while the residence order concerned remains in force.[28]

14 Change of child's name or removal from jurisdiction

(1) If a residence order is in force with respect to a child, no person may –

(a) cause the child to be known by a new surname; or

(b) remove the child from Jersey,

without either the written consent of every person who has parental responsibility for the child or the leave of the court.[29]

(2) Paragraph (1)(b) does not prevent the removal of a child, for a period of less than one month, by the person in whose favour the residence order is made.

(3) In making a residence order with respect to a child the court may grant the leave required by paragraph (1)(b), either generally or for specified purposes.

15 Orders for financial relief with respect to children

The court may make orders for financial relief with respect to any child in accordance with Schedule 1.

16 Family assistance orders

(1) Where, in any family proceedings, the court has power to make an order under this Part with respect to any child, it may (whether or not it makes such an order) make a family assistance order requiring –

(a) a probation officer to be made available; or

(b) the Minister to make an officer of an administration of the States for which the Minister is assigned responsibility available,

to advise, assist and (where appropriate) befriend any person named in the order.

(2) The persons who may be named in a family assistance order are –

(a) any parent of the child;

(b) any person with whom the child is living or in whose favour a contact order is in force with respect to the child; or

(c) the child.

(3) The court may not make a family assistance order unless –

(a) it is satisfied that the circumstances of the case are exceptional; and

(b) it has obtained the consent of every person to be named in the order other than the child.

(4) A family assistance order may direct –

(a) the person named in the order; or

(b) such of the persons named in the order as may be specified in the order,

to take such steps as may be so specified with a view to enabling the officer concerned to be kept informed of the address of any person named in the order and to be allowed to visit any such person.

(5) Unless it specifies a shorter period, a family assistance order shall have effect for a period of 6 months beginning with the day on which it is made.

(6) Where a family assistance order and an Article 10 order are both in force with respect to a child the officer concerned may refer to the court the question whether the Article 10 order should be varied or discharged.

(7) Where a family assistance order requires a probation officer to be made available, the officer shall be selected in accordance with arrangements made by the Probation Board, and if the selected officer is unable to carry out his or her duties or dies, another probation officer shall be selected in the same manner.[30]

PART 3

MINISTERIAL SUPPORT FOR CHILDREN AND FAMILIES

17 Provision of accommodation for children: general

(1) The Minister shall provide accommodation for any child in need who appears to the Minister to require accommodation as a result of –

(a) there being no person who has parental responsibility for the child;

(b) the child's being lost or having been abandoned; or

(c) the person who has been caring for the child being prevented (whether or not permanently, and for whatever reason) from providing the child with suitable accommodation or care.

(2) Where the Minister provides accommodation under paragraph (1) for a child who is ordinarily resident outside Jersey, the Minister may arrange with the appropriate authority in the place where the child ordinarily resides for that authority to take over the provision of accommodation for the child.

(3) The Minister shall provide accommodation for any child in need who has reached the age of 16 and whose welfare the Minister considers is likely to be seriously prejudiced if the Minister does not provide the child with accommodation.

(4) The Minister may provide accommodation for any child in need regardless of the fact that a person who has parental responsibility for the child is able to provide the child with accommodation, if the Minister considers that to do so would safeguard or promote the child's welfare.

(5) The Minister may provide accommodation for any person who has reached the age of 16 but is under 22 in any children's home which takes children who have reached the age of 16 if the Minister considers that to do so would safeguard or promote the person's welfare.[31]

(6) Before providing accommodation under this Article, the Minister shall, so far as is reasonably practicable and consistent with the child's welfare –

(a) ascertain the child's wishes regarding the provision of accommodation; and

(b) give due consideration (having regard to the child's age and understanding) to such wishes of the child as the Minister has been able to ascertain.

(7) Notwithstanding the provisions of this Article, the Minister may not provide accommodation for a child under this Article if the Minister receives an objection from any person who has parental responsibility for the child and is willing and able to provide or arrange for the provision of accommodation for the child.

(8) Any person who has parental responsibility for a child may at any time remove the child from accommodation provided by or on behalf of the Minister under this Article.

(9) Paragraphs (7) and (8) do not apply while any person –

(a) in whose favour a residence order is in force with respect to the child; or

(b) who has care of the child by virtue of an order made in the exercise of the court's inherent jurisdiction with respect to children,

agrees to the child being looked after in accommodation provided by or on behalf of the Minister.

(10) Where there is more than one such person as is mentioned in paragraph (9), all of them must agree.

(11) Paragraphs (7) and (8) do not apply where a child who has reached the age of 16 agrees to being provided with accommodation under this Article.

18 Provision of accommodation for children needing protection

(1) The Minister shall make provision for the reception and accommodation of children –

(a) who are removed or kept away from home under Part 5; or

(b) who have been taken into police protection and in relation to whom a request for accommodation has been made under Article 41(2)(e).

(2) Where a child has been removed under Part 5 and the child is not provided with accommodation by the Minister or in a hospital, any reasonable expenses of accommodating the child shall be recoverable from the Minister.

19 General duty of Minister in relation to children the Minister looks after

(1) Where the Minister is looking after any child, the Minister shall –

(a) promote and support the child's wellbeing, and safeguard the child's welfare; and

(b) provide that child with such services as the child requires in accordance with Part 7 of the Children and Young People (Jersey) Law 2022. [32]

(2) Before making any decision with respect to a child the Minister is looking after or proposes to look after, the Minister shall, so far as is reasonably practicable, ascertain the wishes and feelings of –

(a) the child;

(b) the child's parents;

(c) any person who is not a parent of the child but who has parental responsibility for the child; and

(d) any other person whose feelings and wishes the Minister considers to be relevant,

regarding the matter to be decided.

(3) In making any such decision the Minister shall give due consideration –

(a) to such wishes and feelings as the Minister has been able to ascertain of –

(i) the child, having regard to the child's age and understanding, and

(ii) any other person mentioned in paragraph (2); and

(b) to the child's religious persuasion, racial origin and cultural and linguistic background.

(4) The Minister's powers may be exercised, with respect to a child whom the Minister is looking after, in a manner which may not be consistent with the Minister's duties if the Minister considers it necessary to do so to protect members of the public from serious injury.

20 Provision of accommodation and maintenance by Minister for children whom Minister is looking after

(A1) Nothing in this Article applies to a child or young person described in Article 1A(1)(c) or (d).[33]

(1) The Minister shall provide accommodation and maintenance for any child the Minister is looking after –

(a) subject to paragraph (2) and any Regulations made by the States, by placing the child with a family, a relation of the child or any other suitable person on such terms as to payment by the Minister and otherwise as the Minister may determine;

(b) by maintaining the child in a children's home or home consisting of a care home service that is mainly for children; or

(c) by making such other arrangements as seem appropriate to the Minister and which comply with any Regulations made under this Law.[34]

(2) Save as the States may, by Regulations, otherwise provide, the Minister shall make arrangements with respect to a child the Minister is looking after to enable the child to live with –

(a) the child's parent or a person with parental responsibility for the child;

(b) where the child is in care and there was a residence order in force with respect to child immediately before the care order was made, a person in whose favour the residence order was made; or

(c) a relative, friend or other person connected with the child,

unless that would not be reasonably practicable or consistent with the child's welfare.

(3) Schedule 2 shall have effect for the purposes of –

(a) making further provision as to children looked after by the Minister and in particular as to the Regulations that may be made under paragraph (1)(a) and (c); and

(b) making provision in connection with contribution towards the maintenance of children who are being looked after by the Minister.

(4) Where the Minister receives a child into care under this Article who is ordinarily resident outside Jersey, the Minister may arrange with the appropriate authority in the place where the child ordinarily resides for that authority to take over the care of the child and, in such case, the Minister may make such arrangements with that authority regarding expenses incurred by the Minister under this Law in respect of the child as the Minister may think fit.

21 Advice and assistance for certain individuals and notification to be given in respect of children leaving certain accommodation after age 16[35]

(1) Paragraph (2) applies in respect of an individual who has reached the age of 18 but is under the age of 22 who, at any time between the ages of 16 and 18, was –

(a) accommodated by or on behalf of a voluntary organisation;

(b) accommodated in a hospital, or in any home consisting of a care home service, for a consecutive period of at least 3 months (whether or not that period began before the individual reached the age of 16); or

(c) a privately fostered child.[36]

(2) Paragraph (3) applies where an individual described in paragraph (1) has asked the Minister for assistance and –

(a) that individual appears to the Minister to need advice and to be befriended; or

(b) the Minister is satisfied that the person who was looking after the individual concerned does not have the necessary facilities for advising or befriending that individual.

(3) Where this paragraph applies, the Minister may advise and befriend the individual concerned and may give that individual assistance which may be in kind or in cash.

(4) Paragraph (5) applies in respect of a child who is accommodated –

(a) by a voluntary organisation or in a children's home; or

(b) in any home consisting of a care home service, for a consecutive period of at least 3 months.[37]

(5) Where a child described in paragraph (4) ceases to be so accommodated after reaching the age of 16, the organisation, or person carrying on the home which was accommodating the child, must inform the Minister.

22 Secure accommodation other than for children on remand or following sentence[38]

(A1) This Article does not apply to a child or young person described in Article 1A(1)(c) or (d).[39]

(1) Subject to the following provisions of this Article, a child who is being looked after by the Minister may not be placed, and, if placed, may not be kept, in secure accommodation unless it appears –

(a) that –

(i) the child has a history of absconding and is likely to abscond from any other description of accommodation, and

(ii) if the child absconds, he or she is likely to suffer significant harm; or

(b) that if the child is kept in any other description of accommodation he or she is likely to injure himself or herself or other persons.[40]

(1A) [41]

(1B) [42]

(2) The Minister may by Order –

(a) specify a maximum period –

(i) beyond which a child may not be kept in secure accommodation without the authority of the court, and

(ii) for which the court may authorize a child to be kept in secure accommodation;

(b) empower the court from time to time to authorize a child to be kept in secure accommodation for such further period as the Order may specify; and

(c) provide that applications to the court under this Article shall be made only by the Minister.

(3) The court hearing an application under this Article shall decide whether the necessary criteria for keeping a child in secure accommodation are satisfied and if so it shall make an order –

(a) authorizing the child to be so kept; and

(b) specifying the maximum period for which the child may be so kept.

(4) On any adjournment of the hearing of an application under this Article the court may make an interim order permitting the child to be kept in secure accommodation during the period of the adjournment.

(5) The court shall not exercise the powers conferred by this Article in respect of a child who is not legally represented unless, having been informed of his or her right to apply for legal aid and having had the opportunity to do so, the child refused or failed to apply.

(6) The Minister may by Order provide that –

(a) this Article shall or shall not apply to any description of children specified in the Order;

(b) this Article shall have effect in relation to children of a description specified in the Order subject to such modifications as may be so specified;

(c) such other provisions as may be so specified shall have effect for the purpose of determining whether a child of a description specified in the Order may be placed or kept in secure accommodation.

(7) The giving of an authorization under this Article shall not prejudice any power of the court to give directions relating to the child to whom the authorization relates.

(8) This Article is subject to Article 17(8).

22A Secure accommodation for children or young people in police detention, on remand or following sentence[43]

(1) The Minister may provide secure accommodation for a child or young person who, in accordance with the Young Offenders Law, is required to be detained –

(a) in custody on remand in secure accommodation; or

(b) in custody in secure accommodation following the passing of a sentence.

(2) The Minister may provide secure accommodation for a child or young person who, pending their attendance before the relevant court, is charged with an offence and is to be kept in police detention under Article 36(3) of the Police Procedures Law.

(3) In this Article, "child" has the meaning given in Article 1(1) of the Young Offenders Law.

22B Provision of suitable accommodation for children or young people kept in police detention[44]

(1) This Article applies to a child or young person who, pending their attendance before the relevant court, is charged with an offence and is to be kept in police detention under Article 36(3) of the Police Procedures Law.

(2) The Minister may provide, for the child or young person, accommodation that –

(a) is not secure accommodation; but

(b) is suitable for the purpose of accommodating that child or young person.

(3) In this Article, "child" has the meaning given in Article 1(1) of the Young Offenders Law.

23 Duties of other Ministers not affected

Nothing in this Part shall affect any duty imposed on any other Minister by or under any other enactment.

PART 4

CARE AND SUPERVISION

24 Care and supervision orders

(1) The court may, on the application of the Minister, make –

(a) a care order placing the child with respect to whom the application is made in the care of the Minister; or

(b) a supervision order putting the child under the supervision of the Minister or of a probation officer.

(2) The court may only make a care order or supervision order if it is satisfied –

(a) that the child concerned is suffering, or is likely to suffer, significant harm; and

(b) that the harm, or likelihood of harm, is attributable to –

(i) the care given to the child, or likely to be given to the child if the order were not made, not being what it would be reasonable to expect a parent to give the child, or

(ii) the child's being beyond parental control.

(3) The court may not make a care order in respect of a child who has reached the age of 17 or, if he or she is married or in a civil partnership, 16.[45]

(4) An application under this Article may be made on its own or in any other family proceedings.

(5) The court may –

(a) on an application for a care order, make a supervision order; and

(b) on an application for a supervision order, make a care order.

(6) In this Article –

"harm" means ill-treatment or the impairment of health or development;

"development" means physical, intellectual, emotional, social or behavioural development;

"health" means physical or mental health; and

"ill-treatment" includes sexual abuse and forms of ill-treatment which are not physical.

(7) Where the question of whether harm suffered by a child is significant turns on the child's health or development, his or her health or development shall be compared with that which could be expected of a similar child.

25 Time periods

(1) When hearing an application for an order under this Part the court may, in the light of any Rules made by virtue of paragraph (2) –

(a) draw up a timetable with a view to disposing of the application without delay; and

(b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that the timetable is adhered to.

(2) Rules of Court may –

(a) specify periods within which specified steps must be taken in relation to such proceedings; and

(b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that they are disposed of without delay.

26 Effect of care order

(1) Where a care order is in force with respect to a child the Minister shall –

(a) receive the child and keep the child in the Minister's care;

(b) have parental responsibility for the child; and

(c) subject to –

(i) any right, power, responsibility or authority which a parent or guardian of the child has in relation to the child and the child's property by virtue of any other enactment, and

(ii) the following provisions of this Article,

have the power to determine the extent to which a parent or guardian of the child may meet his or her parental responsibility for the child.

(2) The Minister may not exercise the power in paragraph (1)(c) unless the Minister is satisfied that it is necessary to do so in order to safeguard or promote the child's welfare.

(3) Nothing in paragraph (1)(c) shall prevent a parent or guardian of the child who has care of the child from doing what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare.

(4) While a care order is in force the Minister shall not –

(a) cause the child to be brought up in any religious persuasion other than that in which the child would have been brought up if the order had not been made; or

(b) have the right –

(i) to consent or refuse to consent to the making of an application with respect to the child under Article 12 of the Adoption (Jersey) Law 1961,

(ii) to agree or refuse to agree to the making of an adoption order, or an order under Article 41 of the Adoption (Jersey) Law 1961 with respect to the child, or

(iii) to appoint a guardian for the child.

(5) While a care order is in force with respect to a child, no person may –

(a) cause the child to be known by a new surname; or

(b) remove the child from Jersey,

without the written consent of every person who has parental responsibility for the child or with leave of the court.

(6) Paragraph (5)(b) does not –

(a) prevent the removal of such a child, for the period of less than one month, by the Minister; or

(b) apply to arrangements for such a child to live outside Jersey.

27 Contact with children in care

(1) Subject to the provisions of this Article, the Minister shall allow a child in the care reasonable contact with –

(a) the child's parents;

(b) where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the order was made; and

(c) where, immediately before the care order was made, a person had care of the child by virtue of an order made by a court of competent jurisdiction with respect to children, that person.

(2) On an application made by the Minister or the child, the court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and the named person.

(3) On an application made by –

(a) any person mentioned in paragraph (1)(a) to (c); or

(b) any person who has obtained the leave of the court to make the application,

the court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and that person.

(4) On an application made by the Minister or the child, the court may make an order authorizing the Minister to refuse contact between the child and any person mentioned in paragraph (1)(a) to (c) and named in the order.

(5) When making a care order with respect to a child, or in family proceedings in connection with a child who is in the care of the Minister, the court may make an order under this Article, even though no application for such an order has been made with respect to the child, if it considers that the order should be made.

(6) The Minister may, as a matter of urgency, refuse to allow the contact that would otherwise be required by virtue of paragraph (1) or an order under this Article for a period of not more than 7 days if the Minister is satisfied that it is necessary to do so in order to safeguard or promote the child's welfare.

(7) An order under this Article may impose such conditions as the court considers appropriate.

(8) The States may by Regulations make provision as to –

(a) the steps to be taken by the Minister where he or she has exercised his or her powers under paragraph (6);

(b) the circumstances in which, and conditions subject to which, the terms of any order under this Article may be departed from by agreement between the Minister and the person in relation to whom the order is made; and

(c) notification by the Minister of any variation or suspension of arrangements made (otherwise than an order under this Article) with a view to affording any person contact with a child to whom this Article applies.

(9) The court may vary or discharge any order made under this Article on the application of –

(a) the Minister;

(b) the child concerned; or

(c) the person named in the order.

(10) An order under this Article may be made either at the same time as the care order itself or later.

(11) Before making a care order with respect to any child the court shall –

(a) consider the arrangements which the Minister has made, or proposes to make, for affording any person contact with a child to whom this Article applies; and

(b) invite the parties to the proceedings to comment on those arrangements.

28 Supervision orders

(1) While a supervision order is in force the supervisor shall –

(a) advise, assist and befriend the supervised child;

(b) take such steps as are reasonably necessary to give effect to the order; and

(c) where the order is not wholly complied with or the supervisor considers that it may no longer be necessary, consider whether or not to apply to the court for its variation or discharge.

(2) Schedule 3 makes further provision with respect to supervision orders.

29 Powers of court in certain family proceedings

(1) Where, in any family proceedings in which a question arises with respect to the welfare of any child, it appears to the court that it may be appropriate for a care or supervision order to be made with respect to the child, the court may direct the Minister to undertake an investigation of the child's circumstances.

(2) Where the court gives a direction under this Article the Minister shall, when undertaking the investigation, consider whether the Minister should –

(a) apply for a care order or for a supervision order with respect to the child;

(b) provide services or assistance for the child or his or her family; or

(c) take any other action with respect to the child.

(3) Where the Minister undertakes an investigation under this Article and decides not to apply for a care order or supervision order with respect to the child concerned, the Minister shall inform the court of –

(a) the Minister's reasons for so deciding;

(b) any service or assistance which the Minister has provided, or intends to provide, for the child and the child's family; and

(c) any other action which the Minister has taken or proposes to take, with respect to the child.

(4) The information shall be given to the court before the end of the period of 8 weeks beginning with the date of direction, unless the court otherwise directs.

30 Interim care and supervision orders

(1) The court may make an interim care order or an interim supervision order where, in relation to the child concerned, it –

(a) adjourns any application for a care order or a supervision order; or

(b) gives a direction under Article 29(1),

provided that it is satisfied that there are reasonable grounds for believing that the circumstances with respect to that child are as mentioned in Article 24(2).

(2) Where in any proceedings on an application for a care order or supervision order the court makes a residence order with respect to the child concerned, it shall also make an interim supervision order with respect to the child unless it is satisfied that the child's welfare will be satisfactorily safeguarded without an interim order being made.

(3) An interim order made under or by virtue of this Article shall have effect for such period as may be specified in the order, but in any event shall cease to have effect on whichever of the following events first occurs –

(a) the expiry of the period of 8 weeks beginning with the date on which the order is made;

(b) if the order is the second or subsequent such order made with respect to the same child in the same proceedings, the expiry of the period of –

(i) 4 weeks beginning on the date on which the order in question is made, or

(ii) the period of 8 weeks beginning with the date on which the first order was made,

whichever is the later;

(c) in a case which falls within paragraph (1)(a), the disposal of the application;

(d) in a case which falls within paragraph (1)(b) –

(i) the disposal of the application for a care order or supervision order made by the Minister with respect to the child, or

(ii) where the court has given a direction under Article 29(4) but no application for a care order or supervision order has been made with respect to the child, the expiry of the period fixed by that direction.

(4) Where the court makes an interim care order or interim supervision order it may give such directions (if any) as it considers appropriate with respect to the medical or psychiatric examination or other assessment of the child having regard to his or her wishes.

(5) A direction under paragraph (4) may be to the effect that there is to be no such examination or no such examination unless the court directs otherwise.

(6) A direction under paragraph (4) may be –

(a) given when the interim order is made or at any time while it is in force; and

(b) varied at any time on the application of any person falling within any class of person prescribed for the purposes of this paragraph.

(7) Paragraphs 3 and 4 of Schedule 3 shall not apply in relation to an interim supervision order.

(8) Where the court makes an order under or by virtue of this Article it shall, in determining the period for which the order is to be in force, consider whether any party who was, or might have been, opposed to the making of the order was in a position to argue his or her case against the order in full.

31 Power to include exclusion requirement in interim care order

(1) Where –

(a) on being satisfied that there are reasonable grounds for believing that the circumstances with respect to a child are as mentioned in Article 24(2)(a) and (b)(i), the court makes an interim care order with respect to a child; and

(b) the conditions mentioned in paragraph (2) are satisfied,

the court may include an exclusion requirement in the interim care order.

(2) The conditions are –

(a) that there is reasonable cause to believe that, if the person in respect of whom the court is considering imposing an exclusion requirement is excluded from a dwelling house in which the child lives, the child will cease to suffer, or cease to be likely to suffer, significant harm; and

(b) that another person living in the dwelling house (whether a parent of the child or some other person) –

(i) is able and willing to give to the child the care which it would be reasonable to expect a parent to give the child, and

(ii) consents to the inclusion of the exclusion requirement.

(3) The court may provide that the exclusion requirement is to have effect for a shorter period than the other provisions of the interim care order.

(4) The court may attach a power of arrest to the exclusion requirement and may provide for such power to have effect for a shorter period than the exclusion requirement.

(5) Any period specified for the purposes of paragraph (3) or (4) may be extended by the court (on one or more occasions) on an application to vary or discharge the interim care order.

(6) Where a power of arrest is attached to an exclusion requirement a police officer may arrest without warrant any person whom the officer has reasonable cause to believe to be in breach of the requirement.

(7) Article 3(8) of the Powers of Arrest (Injunctions) (Jersey) Law 1998 shall have effect in relation to a person arrested under paragraph (6) of this Article as it has effect in relation to a person arrested under paragraph (3) or (4) of that Article.

(8) If, while an interim care order containing an exclusion requirement is in force, the Minister has removed the child from the dwelling house from which the excluded person is excluded to other accommodation for a continuous period of more than 24 hours, the interim care order shall cease to have effect in so far as it imposes the exclusion requirement.

32 Undertakings relating to interim care orders

(1) Without prejudice to any other power of the court, in any case where the court has power to include an exclusion requirement in an interim care order, it may accept an undertaking from the excluded person.

(2) No power of arrest may be attached to any undertaking given under paragraph (1).

(3) An undertaking given to the court under paragraph (1) –

(a) shall be enforceable as if it were an order of the court; and

(b) shall cease to have effect if, while it is in force, the Minister has removed the child from the dwelling house from which the excluded person is excluded to other accommodation for a continuous period of more than 24 hours.

33 Discharge and variation of care orders and supervision orders

(1) A care order may be discharged by the court on the application of –

(a) any person who has parental responsibility for the child;

(b) the child; or

(c) the Minister.

(2) A supervision order may be varied or discharged by the court on the application of –

(a) any person who has parental responsibility for the child;

(b) the child; or

(c) the supervisor.

(3) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person with whom the child is living, a supervision order may be varied by the court in so far as it imposes a requirement which affects that person.

(4) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person to whom an exclusion requirement contained in the order applies, an interim care order may be varied or discharged by the court in so far as it imposes the exclusion requirement.

(5) Where a power of arrest has been attached to an exclusion requirement of any interim care order, the court may, on the application of any person entitled to apply for the discharge of the order so far as it imposes the exclusion requirement, vary or discharge the order in so far as it confers a power of arrest (whether or not any application has been made to vary or discharge any other provision of the order).

(6) Where a care order is in force with respect to a child the court may, on the application of any person entitled to apply for the order to be discharged, substitute a supervision order for the care order.

(7) When a court is considering whether to substitute one order for another under paragraph (6), any provision of this Law which would otherwise require Article 24(2) to be satisfied at the time when the proposed order is substituted or made shall be disregarded.

34 Orders pending appeals in care and supervision cases

(1) If when the court dismisses an application for a care order the child concerned is the subject of an interim care order, the court may make a care order with respect to the child to have effect subject to such directions (if any) as the court may see fit to include in the order.

(2) If when the court dismisses an application for a care order or a supervision order the child concerned is the subject of an interim supervision order, the court may make a supervision order with respect to the child to have effect subject to such directions (if any) as the court may see fit to include in the order.

(3) Where the court grants an application to discharge a care order or supervision order, it may order that –

(a) its decision is not to have effect; or

(b) the care order or supervision order is to continue to have effect but subject to such directions as the court sees fit to include in the order.

(4) An order made under this Article shall only have effect for such period, not exceeding the appeal period, as may be specified in the order.

(5) Where –

(a) an appeal is made against any decision of the court under this Article; or

(b) any application is made to the Court of Appeal in connection with a proposed appeal against that decision,

the Court of Appeal may extend the period for which the order in question is to have effect, but not so as to extend it beyond the end of the appeal period.

(6) In this Article "appeal period" means –

(a) where an appeal is made against the decision in question, the period between the making of that decision and the determination of the appeal; and

(b) otherwise, the period during which an appeal may be made against the decision.

PART 5

PROTECTION OF CHILDREN

35 Causing harm to or neglecting children under 16

(1) If any person who has responsibility for a child under the age of 16 intentionally or recklessly –

(a) causes any harm to that child;

(b) exposes the child to a risk of harm; or

(c) neglects the child in a manner likely to cause the child harm,

the person shall be guilty of an offence and liable to imprisonment for a term of 10 years and to a fine.

(2) For the purposes of this Article –

(a) a person with responsibility for a child shall be deemed to have neglected the child in a manner likely to cause the child harm if he or she has failed to

provide, or procure the provision of, adequate food, clothing, medical aid or lodging for the child; and

(b) where it is proved that the death of a child under the age of 3 years was caused by suffocation (other than as a result of disease or the presence of a foreign body in that child's throat or air passages) while that child was in bed with some other person over the age of 16 years who went to bed under the influence of intoxicating liquor or drugs, that other person shall be deemed to have neglected the child in a manner likely to cause the child harm.

(3) A person may be convicted of an offence under this Article notwithstanding –

(a) that harm or the likelihood of harm was obviated by the action of another person; or

(b) that the child in question has died.

(4) If, on the trial of any person on a charge of infanticide or manslaughter of a child under the age of 16 for whom he or she had responsibility, the court or the jury as the case may be, is of the opinion that the person was not guilty of the offence charged but was guilty of an offence under this Article, the person may be found guilty of such an offence and shall be liable to be sentenced accordingly.

(5) [46]

(6) For the purposes of this Article –

(a) any person who has parental responsibility for a child or is otherwise legally liable to maintain a child; and

(b) any person who has care of a child,

shall be presumed to have responsibility for the child.

36 Child assessment orders

(1) The court may, on the application of the Minister, make a child assessment order authorizing any person carrying out the assessment or any part of the assessment to do so in accordance with the order, provided that it is satisfied that –

(a) the Minister has reasonable cause to suspect that the child is suffering, or is likely to suffer, significant harm;

(b) an assessment of the state of the child's health or development, or of the way in which the child has been treated, is required to enable the Minister to determine whether or not the child is suffering, or is likely to suffer, significant harm; and

(c) it is unlikely that such an assessment will be made, or be satisfactory, in the absence of an order under this Article.

(2) The court may treat an application under this Article as an application for an emergency protection order.

(3) The court shall not make a child assessment order if it is satisfied –

(a) that there are grounds for making an emergency protection order with respect to the child; and

(b) that it ought to make such an order rather than a child assessment order.

(4) A child assessment order shall –

(a) specify the date by which the assessment is to begin; and

(b) have effect for such period, not exceeding 7 days beginning with that date, as may be specified in the order.

(5) Where a child assessment order is in force any person who is able to produce the child to which it relates shall –

(a) produce the child to such person as may be named in the order; and

(b) comply with such directions relating to the assessment of the child as the court thinks fit to specify in the order.

(6) The child may only be kept away from home –

(a) in accordance with directions specified in the order;

(b) if it is necessary for the purposes of the assessment; and

(c) for such period or periods as may be specified in the order.

(7) Where the child is to be kept away from home, the order shall contain such directions as the court thinks fit with regard to the contact that the child must be allowed to have with other persons while away from home.

(8) The Minister shall take such steps as are reasonably practicable to ensure that notice of the application is given before the hearing to –

(a) the child's parents;

(b) any person who is not a parent of the child but who has parental responsibility for the child;

(c) any other person caring for the child;

(d) any person in whose favour a contact order is in force with respect to the child; and

(e) any person who is allowed to have contact with the child by virtue of an order under Article 27.

(9) The court may vary or discharge a child assessment order.

37 Emergency protection orders

(1) The Bailiff may, on the application of any person, make an emergency protection order with respect to a child if the Bailiff is satisfied that –

(a) there is reasonable cause to believe that the child is likely to suffer significant harm if –

(i) the child is not removed to accommodation provided by or on behalf of the Minister, or

(ii) the child does not remain in the place in which he or she is then being accommodated; or

(b) in the case of an application made by the Minister –

(i) enquiries are being made with respect to the child under Article 42(1)(b), and

(ii) those enquiries are being frustrated by access to the child being unreasonably refused to an officer of an administration of the States for which the Minister is assigned responsibility, or other person authorized to act on behalf of, the Minister and the Minister has reasonable cause to believe that access to the child is required as a matter of urgency.

(2) Any person seeking access to a child in connection with enquiries of a kind mentioned in paragraph (1) and purporting to be a person authorized to do so shall, on being asked to do so, produce some duly authenticated document as evidence that he or she is such a person.

(3) Where an emergency protection order is in force –

(a) any person who can comply with any request to produce the child to the applicant must do so; and

(b) the applicant may, in order to safeguard the welfare of the child –

(i) at any time remove the child to and keep the child at accommodation provided by the applicant or on the applicant's behalf, or

(ii) prevent the child being removed from any hospital or other place in which he or she was being accommodated immediately before the making of the order; and

(c) the applicant shall –

(i) have parental responsibility for the child but shall only take such action in meeting such responsibility as is reasonably required to safeguard or promote the child's welfare having regard to the duration of the order, and

(ii) comply with the requirements of any Regulations made by the States for the purposes of this Article.

(4) Where the Bailiff makes an emergency protection order the Bailiff may give such directions, if any, as he or she considers appropriate with respect to –

(a) the contact which is, or is not, to be allowed between the child and any named person and may impose conditions on such contact; and

(b) the medical or psychiatric examination or other assessment of the child.

(5) A direction under paragraph (4)(b) may be to the effect that there is to be no such examination or assessment or no such examination or assessment unless the Bailiff directs otherwise.

(6) A direction under paragraph (4) may be –

(a) given when the emergency protection order is made or at any time while it is in force; and

(b) varied at any time on the application of any person falling within any class of person prescribed for the purposes of this paragraph.

(7) Where an emergency protection order is in force with respect to a child and the applicant has exercised the power given by –

(a) paragraph (3)(b)(i) but it appears to the applicant that it is safe for the child to be returned; or

(b) paragraph (3)(b)(ii) but it appears to the applicant to be safe for the child to be allowed to be removed from the place in question,

the applicant shall return the child or (as the case may be) allow the child to be removed.

(8) Where the applicant is required by paragraph (7) to return the child the applicant shall –

(a) return the child to the care of the person from whose care the child was removed; or

(b) if that is not reasonably practicable, return the child to the care of –

(i) a parent of the child,

(ii) any person who is not a parent of the child but who has parental responsibility for the child, or

(iii) such other person as the Minister, with the agreement of the Bailiff, considers appropriate.

(9) Where the applicant has been required by paragraph (7) to return the child, or to allow the child to be removed, the applicant may again exercise his or her powers with respect to the child (at any time while the emergency protection order remains in force) if it appears to the applicant that a change in the circumstances of the case makes it necessary for him or her to do so.

(10) Where an emergency protection order has been made with respect to a child, the applicant shall, subject to any direction given under paragraph (4), allow the child reasonable contact with –

(a) his or her parents;

(b) any person who is not a parent of the child but who has parental responsibility for the child;

(c) any person with whom the child was living immediately before the making of the order;

(d) any person in whose favour a contact order is in force with respect to the child;

(e) any person who is allowed to have contact with the child by virtue of an order under Article 27; and

(f) any person acting on behalf of any of those persons.

(11) Wherever it is reasonably practicable to do so, an emergency protection order shall name the child or describe the child as clearly as possible.

(12) A person who intentionally obstructs any person exercising the power under paragraph (3)(b) to remove, or prevent the removal of, a child shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

38 Power to include exclusion requirement in emergency protection order

(1) Where –

(a) on being satisfied as mentioned in Article 37(1)(a) or (b), the Bailiff makes an emergency protection order with respect to a child; and

(b) the conditions mentioned in paragraph (2) are satisfied,

the Bailiff may include an exclusion requirement in the emergency protection order.

(2) The conditions are –

(a) that there is reasonable cause to believe that, if the person in respect of whom the Bailiff is considering imposing an exclusion requirement is excluded from a dwelling house in which the child lives, then –

(i) in the case of an order made on the ground mentioned in Article 37(1)(a), the child will not be likely to suffer significant harm even though the child is not removed as mentioned in clause (i) of that

sub-paragraph or does not remain as mentioned in clause (ii) of that sub-paragraph, or

(ii) in the case of an order made on the ground mentioned in Article 37(1)(b), the enquiries referred to in that paragraph will cease to be frustrated; and

(b) that another person living in the dwelling house (whether a parent of the child or some other person) –

(i) is able and willing to give to the child the care which it would be reasonable to expect a parent to give the child, and

(ii) consents to the inclusion of the exclusion requirement.

(3) The Bailiff may provide that the exclusion requirement is to have effect for a shorter period than the other provisions of the order.

(4) The Bailiff may attach a power of arrest to the exclusion requirement and may provide for such power to have effect for a shorter period than the exclusion requirement.

(5) Any period specified for the purposes of paragraph (3) or (4) may be extended by the Bailiff (on one or more occasions) on an application to vary or discharge the emergency protection order.

(6) Where a power of arrest is attached to an exclusion requirement a police officer may arrest without warrant any person whom the officer has reasonable cause to believe to be in breach of the requirement.

(7) Article 3(8) of the Powers of Arrest (Injunctions) (Jersey) Law 1998 shall have effect in relation to a person arrested under paragraph (6) of this Article as it has effect in relation to a person arrested under paragraph (3) or (4) of that Article.

(8) If, while an emergency protection order containing an exclusion requirement is in force, the applicant has removed the child from the dwelling house from which the excluded person is excluded to other accommodation for a continuous period of more than 24 hours, the emergency protection order shall cease to have effect in so far as it imposes the exclusion requirement.

39 Undertakings relating to emergency protection orders

(1) Without prejudice to any other power of the court, in any case where the court has power to include an exclusion requirement in an emergency protection order, it may accept an undertaking from the excluded person.

(2) No power of arrest may be attached to any undertaking given under paragraph (1).

(3) An undertaking given to the court under paragraph (1) –

(a) shall be enforceable as if it were an order of the court; and

(b) shall cease to have effect if, while it is in force, the applicant has removed the child from the dwelling house from which the excluded person is excluded to other accommodation for a continuous period of more than 24 hours.

40 Duration of emergency protection orders and other supplemental provisions

(1) An emergency protection order shall have effect for such period, not exceeding 28 days, as may be specified in the order, but where the order would, but for the

following provisions of this paragraph, cease to have effect on a day which is a holiday, the order shall have effect until noon on the first day thereafter which is not a holiday.

(2) Where an emergency protection order is made on an application under Article 41(5)(a), the period of 28 days mentioned in paragraph (1) shall begin with the first day on which the child was taken into police protection under Article 41.

(3) Any person who –

(a) has parental responsibility for a child as the result of an emergency protection order; and

(b) is entitled to apply for a care order with respect to the child,

may apply to the Bailiff for the period during which the emergency protection order is to have effect to be extended.

(4) Regardless of any enactment or rule of law which would otherwise prevent the Bailiff from doing so, the Bailiff may, when hearing an application for or with respect to an emergency protection order, take account of –

(a) any statement contained in any report made to the Bailiff in the course of, or in connection with, the hearing; or

(b) any evidence given during the hearing,

which is, in the Bailiff's opinion, relevant to the application.

(5) An application to discharge an emergency protection order may be made to the court by –

(a) the child;

(b) a parent of the child;

(c) any person who is not a parent of the child but who has parental responsibility for the child; or

(d) any person with whom the child was living before the making of the order.

(6) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person to whom an exclusion requirement contained in the order applies, an emergency protection order may be varied or discharged by the court in so far as it imposes the exclusion requirement.

(7) Where a power of arrest has been attached to an exclusion requirement of an emergency protection order, the court may, on the application of any person entitled to apply for the discharge of the order so far as it imposes the exclusion requirement, vary or discharge the order in so far as it confers a power of arrest (whether or not any application has been made to vary or discharge any other provision of the order).

(8) No application for the discharge of an emergency protection order shall be heard by the court before the expiry of the period of 72 hours beginning with the making of the order.

(9) No appeal may be made against –

(a) the making of, or refusal to make, an emergency protection order;

(b) the extension of, or refusal to extend, the period during which such an order is to have effect;

(c) the discharge of, or refusal to discharge, such an order; or

(d) the giving of, or refusal to give, any direction in connection with such an order.

(10) Paragraph (5) does not apply –

(a) where the person who would otherwise be entitled to apply for the emergency protection order to be discharged –

(i) was given notice (in accordance with Rules of Court) of the hearing at which the order was made, and

(ii) was present at the hearing; or

(b) to any emergency protection order the effective period of which has been extended under paragraph (4).

(11) In making an emergency protection order the Bailiff may direct that the applicant may, in exercising any powers which the applicant has by virtue of the order, be accompanied by a registered medical practitioner or such other person as the Bailiff may direct.

41 Taking of children into police protection

(1) Where a police officer has reasonable cause to believe that a child would otherwise be likely to suffer significant harm, the officer may take the child into police protection for up to 72 hours by –

(a) removing the child to and keeping the child in suitable accommodation; or

(b) taking such steps as are reasonable to prevent the child's removal from any hospital, or other place, in which the child is then being accommodated,

and the officer may enter and search any premises in order to do so.

(2) As soon as reasonably practicable after taking a child into police protection, the police officer concerned shall –

(a) inform the Minister of the steps that have been, and are proposed to be, taken with respect to the child under this Article and the reasons for taking them;

(b) inform the child (if the child appears capable of understanding) –

(i) of the steps that have been taken with respect to him or her under this Article and of the reasons for taking them, and

(ii) of the further steps that may be taken with respect to him or her under this Article;

(c) take such steps as are reasonably practicable to discover the wishes and feelings of the child;

(d) secure that the case is inquired into by a police officer designated for the purposes of this Article by the Chief Officer of the States of Jersey Police Force, or an officer of an administration of the States for which the Minister is assigned responsibility, or both of them acting jointly (an "inquiry officer");

(e) where the child was taken into police protection by being removed to accommodation which is not provided by the Minister or as a refuge in compliance with the requirements of Article 46, secure that the child is moved to accommodation which is so provided.[47]

(3) As soon as is reasonably practicable after taking a child into police protection, the police officer concerned shall take such steps as are reasonably practicable to inform –

(a) the child's parents;

(b) every person who is not a parent of the child but who has parental responsibility for the child; and

(c) any other person with whom the child was living immediately before being taken into police protection,

of the steps that the officer has taken under this Article with respect to the child, the reasons for taking them and the further steps that may be taken with respect to the child under this Article.

(4) On completing an inquiry under paragraph (2)(d), the inquiry officer shall cause the child to be released from police protection unless the officer considers that there is still reasonable cause for believing that the child would be likely to suffer significant harm if released.

(5) While a child is being kept in police protection –

(a) an officer of an administration of the States for which the Minister is assigned responsibility may apply on behalf of the Minister for an emergency protection order;

(b) neither the police officer concerned nor the inquiry officer shall have parental responsibility for the child; and

(c) the inquiry officer shall do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare (having regard in particular to the length of the period during which the child will be so protected).

(6) Where a child has been taken into police protection –

(a) the child's parents;

(b) any person who is not a parent of the child but who has parental responsibility for the child;

(c) any person with whom the child was living immediately before the child was taken into police protection;

(d) any person in whose favour a contact order is in force with respect to the child;

(e) any person who is allowed to have contact with the child by virtue of an order under Article 27; and

(f) any person acting on behalf of any of those persons,

shall have such contact (if any) with the child as, in the opinion of the inquiry officer, is both reasonable and in the child's best interests.

42 Minister's duty to investigate

(1) Where the Minister –

(a) is informed that a child is the subject of an emergency protection order or is in police protection; or

(b) has reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm,

the Minister shall make, or cause to be made, such enquiries as the Minister considers necessary to enable the Minister to decide whether he or she should take any action to safeguard or promote the child's welfare.

(2) Where the Minister has obtained an emergency protection order with respect to a child, the Minister shall make, or cause to be made, such enquiries as he or she considers necessary to enable the Minister to decide whether he or she should take any action to safeguard or promote the child's welfare.

(3) The enquiries shall, in particular, be directed towards establishing –

(a) whether the Minister should make any application to the court, or exercise any of the Minister's other powers under this Law, with respect to the child;

(b) whether, in the case of a child –

(i) with respect to whom an emergency protection order has been made, and

(ii) who is not in accommodation provided by or on behalf of the Minister,

it would be in the child's best interests (while an emergency protection order remains in force) for the child to be in such accommodation; and

(c) whether, in the case of a child who has been taken into police protection, it would be in the child's best interests for an application to be made under Article 41(5)(a).

(4) Where enquiries are being made under paragraph (1) with respect to a child, the Minister shall (with a view to enabling the Minister to determine what action, if any, to take with respect to the child) take such steps as are reasonably practicable –

(a) to obtain access to the child; or

(b) to ensure that access to the child is obtained, on the Minister's behalf, by a person authorized by the Minister for the purpose,

unless the Minister is satisfied that the Minister already has sufficient information with respect to the child.

(5) Where, in the course of enquiries made under this Article, an officer of an administration of the States for which the Minister is assigned responsibility or any other person authorized by the Minister to act on his or her behalf in connection with those enquiries –

(a) is refused access to the child concerned; or

(b) is denied information as to the child's whereabouts,

the Minister shall apply for an emergency protection order, a child assessment order, a care order or supervision order with respect to the child unless the Minister is satisfied that the child's welfare can be satisfactorily safeguarded without the Minister's doing so.

(6) If, on conclusion of any enquiries or review made under this Article, the Minister decides not to apply for any of the orders mentioned in paragraph (5) the Minister shall –

(a) consider whether it would be appropriate to review the case at a later date; and

(b) if the Minister decides that it would be so appropriate, determine the date on which that review is to begin.

(7) Where, as a result of complying with this Article, the Minister concludes that he or she should take action to safeguard or promote the child's welfare the Minister shall take that action (so far as it is both within the Minister's power and reasonably practicable for him or her to do so).

(8) Where the Minister is conducting enquiries under this Article, it shall be the duty of any administration of the States to assist the Minister with his or her enquiries (in particular by providing relevant information and advice) if called upon by the Minister to do so, unless it would be unreasonable to do so in all the circumstances of the case.

(9) Where the Ministry is making enquiries under this Article with respect to a child who appears to the Minister to be ordinarily resident outside Jersey, the Minister shall consult the appropriate authority for the place where the child is so resident.

43 Powers to assist in discovery of children who may be in need of emergency protection

(1) Where the Bailiff –

(a) makes an emergency protection order; and

(b) considers that adequate information as to the child's whereabouts is not available to the applicant but is available to another person,

the Bailiff may include in the order a provision requiring that other person to disclose, if asked to do so by the applicant, any information that he or she may have as to the child's whereabouts.

(2) No person shall be excused from complying with such a requirement on the ground that complying might incriminate the person or his or her spouse or civil partner of an offence; but a statement or admission made in complying shall not be admissible in evidence against either of them in proceedings for any offence other than perjury.[48]

(3) An emergency protection order may authorize such person as is named in the order to enter premises specified by the order and search for the child with respect to whom the order is made.

(4) Where the Bailiff is satisfied that there is reasonable cause to believe that there may be another child on those premises with respect to whom an emergency protection order ought to be made, the Bailiff may make an order authorizing the applicant to search for that other child on those premises and the applicant shall notify the Bailiff of the result of such search.

(5) Where –

(a) an order has been made under paragraph (4);

(b) the child has been found on the premises; and

(c) the applicant is satisfied that the grounds for making an emergency protection order exist with respect to the child,

the order shall have effect as if it were an emergency protection order.

(6) A person who intentionally obstructs any person exercising the power of entry and search under paragraph (3) or (4) shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

44 Abduction of children

A person who, knowingly and without lawful authority or reasonable excuse –

(a) takes a child who is in care, the subject of an emergency protection order or in police protection away from the person who for the time being has care of the child by virtue of such order or protection;

(b) keeps such a child away from such person; or

(c) induces, assists or incites such a child to run away or stay away from such person,

shall be guilty of an offence and liable to imprisonment for a term of 6 months, and to a fine of level 3 on the standard scale.[49]

45 Recovery of abducted children

(1) Where it appears to the court that there is reason to believe that an offence under Article 44 has been committed or that a child described in paragraph (a) of that Article has run away or is missing it may issue a recovery order.

(2) A recovery order –

(a) operates as a direction to any person who is in a position to do so to produce the child on request to any authorized person;

(b) authorizes the removal of the child by any authorized person;

(c) requires any person who has information as to the child's whereabouts to disclose that information, if asked to do so, to any authorized person; and

(d) where it appears to the court that there are reasonable grounds for believing the child is on premises specified in the order, authorizes a police officer to enter such premises and search for the child, using reasonable force if necessary.

(3) The court may make a recovery order only on the application of –

(a) any person who has parental responsibility for the child by virtue of a care order or emergency protection order; or

(b) where the child is in police protection, the inquiry officer.

(4) A recovery order shall name the child and –

(a) any person who has parental responsibility for the child by virtue of a care order or emergency protection order; or

(b) where the child is in police protection, the inquiry officer.

(5) In this Article "authorized person" means –

(a) any person specified by the court;

(b) any police officer; or

(c) any person who is authorized –

(i) after the recovery order is made, and

(ii) by a person who has parental responsibility for the child by virtue of a care order or an emergency protection order,

to exercise any power under a recovery order.

(6) Where a person is authorized as mentioned in paragraph (5)(c) –

(a) the authorization shall identify the recovery order; and

(b) any person claiming to be so authorized shall, if asked to do so, produce some duly authenticated document showing that he or she is so authorized.

(7) A person who intentionally obstructs an authorized person exercising the power under paragraph (2)(b) to remove a child shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

(8) No person shall be excused from complying with any request made under paragraph (2)(c) on the ground that complying with it might incriminate the person or his or her spouse or civil partner of an offence; but a statement or admission made in complying shall not be admissible in evidence against either of them in proceedings for an offence other than perjury.[50]

(9) Where a child is made the subject of a recovery order whilst being looked after by the Minister, any reasonable expenses incurred by an authorized person in giving effect to the order shall be recoverable from the Minister.

46 Refuges for children at risk

(1) Where –

(a) it is proposed to use a children's home to provide for a refuge for children who appear to be at risk of harm; or

(b) the Minister arranges for a foster parent to provide such a refuge,

the Minister may issue a certificate under this Article with respect to that home or that foster parent.[51]

(2) In paragraph (1) "foster parent" means a person who is, or who from time to time is, an appointed foster parent or a foster parent with whom children are placed by a voluntary organization.

(3) The States may by Regulations –

(a) make provision as to the manner in which certificates are issued;

(b) impose requirements which must be complied with while any certificate is in force; and

(c) provide for the withdrawal of certificates in such circumstances as the Regulations may prescribe.

(4) Article 44 of this Law and Article 3 of the Criminal Law (Child Abduction) (Jersey) Law 2005 shall not apply –

(a) where a certificate is in force with respect to a home, in relation to any person providing a refuge for any child in that home; and

(b) where a certificate is in force with respect to a foster parent, in relation to the provision by that foster parent of a refuge for any child in accordance with arrangements made by the Minister.[52]

47 Rules of Court

(1) Without prejudice to Article 67 or any other power to make such Rules, Rules of Court may be made with respect to the procedure to be followed in connection with proceedings under this Part.

(2) The Rules may in particular make provision –

(a) as to the form in which any application is to be made or direction is to be given;

(b) prescribing the persons who are to be notified of –

(i) the making, or extension, of an emergency protection order, or

(ii) the making of an application under Article 40(3) or (6) or Article 41(5)(a); and

(c) as to the content of any such notification and the manner in which, and person by whom, it is to be given.

PART 6

EMPLOYMENT OF CHILDREN

48 Restrictions on employment of children

(1) The Minister may make Orders with respect generally to the employment of children, and any such Order may distinguish between children of different ages and sexes and between different trades, occupations and circumstances.

(2) If it appears to the Minister that any child is being employed in such a manner as to be prejudicial to the child's health or otherwise to render the child unfit to obtain the full benefit of any education provided for the child, the Minister may give notice in writing to the employer prohibiting the employer from employing the child or imposing such restrictions on the employment of the child as appear to the Minister to be expedient in the interests of the child.

(3) The Minister may serve notice in writing on the employer of, or the parent or guardian of, any child, requiring such person to provide the Minister, within such period as may be specified in the notice, with such information as appears to the Minister to be necessary to ascertain whether the child is being employed in such a manner as to render the child unfit to obtain the full benefit of the education provided for the child.

(4) An employer aggrieved by a notice served on him or her under paragraph (2) or the child to whom such notice relates, may appeal to the court within 15 days of such service, on the ground that the decision is unreasonable having regard to all the circumstances of the case, and the requirements of the notice shall not be effective until the 15-day period has elapsed or, where an appeal is brought, until its determination.

(5) For the purposes of this Part and any Order made under it, a person who assists in a trade or occupation carried on for profit shall be regarded as being employed notwithstanding the person receives no reward for his or her labour.

(6) In this Part –

"employment" includes any work within the meaning of the Control of Housing and Work (Jersey) Law 2012; and

"guardian", in relation to a child, includes a person who has for the time being the care of the child.[53]

49 Offences in connection with employment of children

(1) Subject to paragraphs (2) and (3), if a child is employed in contravention of Article 48 or any Order made thereunder, the employer and any person (other than

the child) to whose act or default the contravention is attributable shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

(2) If proceedings are brought under this Article against the employer, on giving the prosecution not less than 3 days' notice of his or her intention, the employer shall be entitled to have any person (other than the child) to whose act or default he or she alleges that the contravention was due, brought before the court as a party to the proceedings.

(3) If, after the contravention has been proved, the employer proves that the contravention was due to the act or default of the person made a party to the proceedings under paragraph (2), that person may be convicted of the offence, and if the employer further proves that he or she used all due diligence to secure that the provisions in question should be complied with, the employer shall be acquitted of the offence.

(4) Where an employer seeks to avail himself or herself of paragraphs (2) and (3) –

(a) the prosecution shall have the right to cross-examine the employer (if the employer gives evidence) and any witness called by the employer in support of his or her allegations, and to call rebutting evidence; and

(b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any such other party.

(5) If a person fails to comply with the requirements of a notice served on him or her under Article 48(3), the person shall be guilty of an offence and liable to a fine of level 2 on the standard scale.

50 Restrictions on children taking part in performances

(1) Subject to the provisions of this Article, a child under the age of 16 years shall not take part in a performance to which this Article applies except under the authority of a licence granted by the Minister.

(2) This Article applies to –

(a) any performance in connection with which a charge is made (whether for admission or otherwise);

(b) any performance in licensed premises within the meaning of the Licensing (Jersey) Law 1974;

(c) any broadcast or television performance;

(d) any performance not falling within sub-paragraph (c) but included in a programme service; and

(e) any performance recorded (by whatever means) with a view to its use in a broadcast, a programme service or in a film intended for public exhibition,

and a child shall be treated for the purposes of this Article as taking part in a performance if he or she takes the place of a performer in any rehearsal or in any preparation for the recording of the performance.

(3) A licence under this Article shall not be required for any child to take part in a performance to which this Article applies if –

(a) in the 6 months preceding the performance the child has not taken part in other performances to which this Article applies on more than 3 days; or

(b) the performance is given under arrangements made by a school or by a body of persons approved for the purposes of this Article by the Minister, and no

payment in respect of the child's taking part in the performance is made, whether to the child or to any other person, except for defraying expenses,

but the Minister may by Order prescribe conditions to be observed with respect to the age, hours of work, rest or meals of children taking part in any performance for which a licence is not required in accordance with sub-paragraph (a).

(4) The Minister may grant a licence for a child to take part in a performance or series of performances if the Minister is satisfied that –

(a) the child is fit to do so;

(b) proper provision has been made to secure the child's health and welfare; and

(c) having regard to such provision (if any) as has been or will be made under sub-paragraph (b), the child's education will not suffer.

51 Supplementary provisions as to licences

(1) The Minister may, on the application of the holder, vary a licence granted under Article 50.

(2) The Minister may, having given such notice (if any) as may be practicable in the circumstances, vary or revoke the licence if –

(a) any condition subject to which it was granted is not observed; or

(b) if it is not satisfied as to the matters mentioned in Article 50(4).

(3) The licence holder shall keep such records as the Minister may prescribe by Order and shall produce them on request to an officer of an administration of the States for which the Minister is assigned responsibility, at any time not later than 6 months after the performance or last performance to which it relates.

(4) Where the Minister refuses an application for a licence under Article 50 or revokes or, otherwise than on the application of the holder, varies such a licence, the Minister shall give written reasons for doing so to the applicant or licence holder as the case may be.

(5) The applicant or licence holder may appeal to the court against the refusal, revocation or variation of a licence, or against any condition subject to which it was granted or any approval is given (not being a condition which the Minister was required to impose) on the ground that the refusal, revocation or variation or the imposition of the condition, as the case may be, was unreasonable having regard to all the circumstances of the case.

52 Offences in connection with performances by children

(1) If any person –

(a) causes or procures any child under the age of 16 years or, being the child's parent or guardian, allows the child, to take part in any performance in contravention of Article 50;

(b) fails to observe any condition subject to which a licence under that Article is granted, or any condition prescribed by an Order made under paragraph (3) of that Article; or

(c) knowingly or recklessly makes any false statement in or in connection with an application for a licence under that Article,

the person shall be guilty of an offence and liable to imprisonment for a term of 3 months and to a fine of level 3 on the standard scale.

(2) If any person fails to keep or produce any record which he or she is required to keep or produce under Article 51, the person shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

(3) Where the holder of a licence granted under Article 50 is convicted of an offence under this Article the court may revoke the licence.

(4) In any proceedings for an offence under paragraph (1)(a) it shall be a defence to prove that the accused believed that the condition specified in Article 50(3)(a) was satisfied and that he or she had reasonable grounds for that belief.

53 Power of entry

(1) If it appears to the Minister that there is reasonable cause to believe that the provisions of this Part, or of any Order made thereunder, are being contravened with respect to any person, any officer of an administration of the States for which the Minister is assigned responsibility may, subject to the production by the officer of his or her authority, enter any place in connection with which the child in question is, or is believed to be, employed or taking part in a performance as the case may be, and make enquiries with respect to that child.

(2) A person who intentionally obstructs an officer in the exercise of any power conferred on the officer by paragraph (1) shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

PART 7[54]

PART 8

PRIVATE ARRANGEMENTS FOR FOSTERING CHILDREN

58 Meaning of privately fostered child

(1) In this Law " privately fostered child" means, subject to the following provisions of this Article, a child under the age of 16 years who is cared for and provided with accommodation for a period which has exceeded or which is intended to exceed 28 days by a person other than –

(a) a parent of the child;

(b) a person who is not a parent of the child but who has parental responsibility for the child; or

(c) a relative of the child.

(2) A child is not a privately fostered child while he or she –

(a) is being looked after by the Minister;

(b) is in the care of any person in premises in which any –

(i) parent of the child,

(ii) person who is not a parent of the child but who has parental responsibility for the child, or

(iii) person who is a relative of the child and who has assumed responsibility for the child's care,

is for the time being living;

(c) is in the care of any person in any children's home;

(d)

(e) is in the care of any person in any school where he or she is receiving full-time education;

(f) is in the care of any person in a hospital;

(g) is in the care of any person in any home consisting of a care home service;

(h) is liable to be detained under Part 3 of the Mental Health (Jersey) Law 2016;

(j) is placed in the care of a person who proposes to adopt him or her under arrangements made by the Adoption Service pursuant to the Adoption (Jersey) Law 1961 or is a protected child within the meaning of Article 33 of that Law; or

(k) is in the care of a person who intends to apply for a parental order in respect of the child.[55]

(3) In this Part "to foster a child privately" means to look after a child in circumstances in which the child is a privately fostered child.

59 Notification in respect of privately fostered children

(1) A person who proposes to foster a child privately who is not already in the person's care shall notify the Minister not less than 2 weeks before the person receives the child unless the person receives the child in an emergency.

(2) A person who fosters a child privately whom the person received in an emergency or who became a privately fostered child while in his or her care shall notify the Minister not less than one week after the fostering arrangements began.

(3) A notice given under paragraph (1) or (2) shall be in writing and shall specify the premises in which the child is to be or is being accommodated.

(4) If a person who fosters a child privately changes his or her permanent address or the premises in which the child is being accommodated, the person shall, not less than 2 weeks before the change, or, if the change is made in an emergency, not later than one week after the change, give written notice to the Minister, specifying the new address or premises.[56]

(5) If a privately fostered child dies or is removed or removes himself or herself from the care of the person maintaining the child, that person shall, within 48 hours of such an event, give to the Minister and to the person from whom the child was received written notice of the death or removal and, in the case of a removal, the notice shall state, if known, the name and address of such person (if any) into whose care the child has been removed or received.

(6) If a privately fostered child ceases to be such on his or her removal from the care of the person maintaining the child that person shall, if so requested by the Minister, inform the Minister of the name and address of such person (if any) into whose care the child has been removed or received.[57]

(7) The Minister may exempt any person from the duty of giving notices under this Article, and any such exemption may be granted as regards all or any such notices

for a specified period, and may be revoked at any time by notice in writing given to that person.

(8) A person who fosters or proposes to foster a child privately shall at the request of the Minister supply to the Minister –

(a) the name, sex and date and place of birth of the child; and

(b) the name and address of any parent of the child and of any other person who has parental responsibility for the child and (if different) of any person from whom the child was, or is to be, received.

60 Power of Minister to impose requirements and prohibitions

(1) Where a person fosters or proposes to foster any children privately, the Minister may impose on the person requirements as to –

(a) the number, age and sex of the children who may be privately fostered by the person;

(b) the standard of the accommodation and equipment to be provided for them;

(c) the arrangements to be made with respect to their health and welfare;

(d) the giving of particulars of the person for the time being in charge of them;

(e) the number, qualifications or experience of the persons employed in looking after the children; and

(f) the keeping of records.

(2) A requirement under paragraph (1) may be limited to a particular child or class of child and (except in the case of a requirement imposed under sub-paragraph (a) of that paragraph) may be limited by the Minister so as to apply only when the number of children maintained by the person exceeds a specified number.

(3) Where a person fosters or proposes to foster a child privately and the Minister is of the opinion that –

(a) he or she is not a suitable person to do so;

(b) the premises in which the child is being, or will be, accommodated are not suitable; or

(c) it would be prejudicial to the welfare of the child for the child to be, or continue to be, accommodated by that person in those premises,

the Minister may prohibit the person from maintaining any child in any premises, any child in premises specified in the prohibition, or any child identified in the prohibition in premises specified in the prohibition.

(4) The Minister may cancel a prohibition imposed under paragraph (3) of his or her own motion or on the application of the person to whom it is addressed if the Minister is satisfied that it is no longer justified.

(5) Where the Minister imposes a requirement on any person under paragraph (1), the Minister may impose a prohibition on the person under paragraph (3).

(6) Any prohibition imposed by virtue of paragraph (5) shall not have effect unless the time specified for complying with the requirement has expired without it having been complied with.

(7) Any requirement or prohibition imposed under this Article shall be imposed by giving notice in writing to the person on whom it is imposed and informing the person of –

(a) the reasons for the imposition;

(b) his or her right of appeal under Article 63; and

(c) the time within which he or she may appeal.

61 Functions of Minister in relation to welfare of privately fostered children

(1) The Minister shall –

(a) satisfy himself or herself that the welfare of all privately fostered children is being satisfactorily safeguarded and promoted;

(b) give such advice as to the care and maintenance of such children as he or she considers necessary; and

(c) arrange for such children to be visited from time to time in the interests of their welfare.

(2) Where the Minister is not satisfied that the welfare of any privately fostered child is being satisfactorily safeguarded or promoted, the Minister shall –

(a) unless he or she considers that it would not be in the best interests of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by –

(i) a parent of the child's,

(ii) any person who is not a parent of the child's but who has parental responsibility for the child, or

(iii) a relative of the child's; and

(b) consider the extent to which (if at all) the Minister should exercise any of his or her functions with respect to the child.

(3) Any officer of an administration of the States for which the Minister is assigned responsibility may, subject to the production by the officer if so required of evidence of the officer's authority, enter and inspect any premises in which privately fostered children are to be or are being accommodated and any children there.

62 Disqualification for fostering a child privately

A person shall not foster a child privately if he or she is disqualified for doing so by virtue of Schedule 4 unless he or she has disclosed the disqualification to the Minister and obtained the Minister's consent.

63 Appeals

(1) Any person aggrieved by –

(a) a requirement or prohibition imposed under Article 60; or

(b) a refusal of consent under Article 62,

may, within 14 days from the date on which he or she is notified of the requirement, prohibition or refusal, appeal to the court, and, where the appeal is against such a requirement, the requirement shall not have effect while the appeal is pending.

(2) Where the court allows an appeal against a requirement or prohibition, it may, instead of cancelling the requirement or prohibition –

(a) vary the requirement or allow more time for compliance with it; or

(b) if an absolute prohibition has been imposed, substitute for it a prohibition on using the premises after such time as the court may specify unless such specified requirements as the Minister had power to impose under Article 60 are complied with.

(3) Any requirement or prohibition specified or substituted by the court under this Article shall be deemed for the purposes of this Part (other than this Article) to have been imposed by the Minister under Article 60.

64 Extension of this Part to certain children over 16

Where a child is a privately fostered child when he or she attains the age of 16 years, this Part shall continue to apply to the child –

(a) if the child is disabled and under full age; or

(b) until the earliest of the following events –

(i) the child would, apart from attaining that age, have ceased to be a privately fostered child,

(ii) the child reaches full age, or

(iii) the child lives elsewhere than with the person with whom the child was living when he or she attained that age.

65 Offences

If any person –

(a) being required under any provision of this Part, to give any notice or information –

(i) fails without reasonable excuse to give the notice within the time there specified,

(ii) fails without reasonable excuse to give the information within a reasonable time, or

(iii) makes, or causes or procures another person to make, any statement in the notice or information which he or she knows to be false or misleading in a material particular;

(b) refuses to allow a duly authorized officer of an administration of the States for which the Minister is assigned responsibility to visit a privately fostered child or intentionally obstructs such an officer in the exercise of any power conferred on the officer by Article 61(3);

(c) fails without reasonable excuse to comply with any requirement imposed by the Minister under this Part or accommodates a privately fostered child in any premises in contravention of a prohibition so imposed;

(d) contravenes Article 62; or

(e) directly or indirectly insures the life of any privately fostered child maintained by the person,

the person shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

PART 9

MISCELLANEOUS AND GENERAL

66 Effect and duration of orders

(1) The making of a residence order with respect to a child who is the subject of a care order discharges the care order.

(2) The making of a care order with respect to a child who is the subject of any Article 10 order or a supervision order discharges that other order.

(3) Where an emergency protection order is made with respect to a child who is in care, the care order shall have effect subject to the emergency protection order.

(4) Any –

(a) order made under Article 7(1);

(b)

(c) appointment under Article 7(3) or (4); or

(d) care order other than an interim order,

shall continue in force until the child reaches full age, unless it is brought to an end earlier.[58]

(4A) An order under Part 1A continues in force, unless it is earlier revoked by an order of the court –

(a) throughout the lifetime of the child who is the subject of the order, so far as it determines who the child's parents are; and

(b) for all other purposes, until the child reaches the age of 18.[59]

(5) An Article 10 order, if it would otherwise still be in force, ceases to have effect when the child reaches the age of 18, unless it is to have effect beyond that age by virtue of Article 11(6)(a).[60]

(6) An order under Schedule 1 has effect as specified in that Schedule.[61]

(7) Any order made under any other provision of this Law in relation to a child shall, if it would otherwise still be in force, cease to have effect when he or she reaches full age.

(8) On disposing of any application for an order under this Law, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Law of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.

(9) Where an application (the "previous application") has been made for –

(a) the discharge of a care order or supervision order;

(b) the substitution of a supervision order for a care order; or

(c) a child assessment order,

no further application of a kind mentioned in paragraphs (a) to (c) may be made with respect to the child concerned, without leave of the court, unless the period between the disposal of the previous application and the making of the further application exceeds 6 months.

(10) Paragraph (9) does not apply to applications made in relation to interim orders.

(11) Where an application for an order under Article 27 has been refused, no further application may be made with respect to the same child within 6 months of such refusal without leave of the court.

67 Rules of Court

(1) Rules of Court to give effect to this Law, any enactment made under this Law or any amendment made by this Law to any other enactment, may be made by –

(a) the Superior Number of the Royal Court, with the advice and assistance of the Rules Committee; or

(b) if the Criminal Procedure Rules Committee considers it appropriate, the Criminal Procedure Rules Committee.[62]

(2) Rules of Court made under this Article may, in particular, make provision –

(a) with respect to the procedure to be followed in any relevant proceedings (including the manner in which any application is to be made or other proceedings commenced);

(b) as to the persons entitled to participate in any relevant proceedings, whether as parties to the proceedings or by being given the opportunity to make representations to the court;

(c) with respect to the documents and information to be furnished, and notices to be given, in connection with any relevant proceedings;

(d) with respect to preliminary hearings;

(e) for the service outside Jersey in such circumstances and in such manner as may be prescribed, of any notice of proceedings in the court;

(f) enabling the court, in such circumstances as may be prescribed, to proceed on any application even though the respondent has not been given notice of the proceedings; and

(g) authorizing the Judicial Greffier or the Family Judge to discharge the functions of the court with respect to such relevant proceedings as may be prescribed.[63]

(3) In paragraph (2) –

"notice of proceedings" means a summons or such other notice of proceedings as is required; and "given" in relation to a summons, means "served";

"relevant proceedings" means any application made, or proceedings brought, under any of the provisions mentioned in paragraph (1) and any part of such proceedings.

(4) This Article and any other power in this Law to make Rules of Court are not to be taken as in any way limiting any other power of the Superior Number of the Royal Court to make Rules of Court.

68 Appeals

(1) Subject to any express provisions to the contrary made by or under this Law, an appeal shall lie –

(a) where a Family Judge is exercising the functions of the court in accordance with Rules of Court, to the court; and

(b) in any other case, to the Court of Appeal,

against the making or refusal to make any order under this Law other than in relation to an interim order for periodical payments under Schedule 1.[64]

(2) On an appeal under this Article, the court hearing the appeal may make such orders as may be necessary to give effect to its determination of the appeal, and where it makes any such order it may also make such incidental or consequential orders as appear to it to be just.

(3) Where an appeal relates to an order for the making of periodical payments, the court hearing the appeal may order that its determination of the appeal shall have effect from such date as it thinks fit to specify in the order provided that such date must not be earlier than the earliest date allowed in accordance with Rules of Court made for the purposes of this Article.

(4) Where, on an appeal under this Article in respect of an order requiring a person to make periodical payments, the court hearing the appeal reduces the amount of those payments or discharges the order –

(a) it may order the person entitled to the payments to pay to the person making them such sum in respect of payments already made as it thinks fit; and

(b) if any arrears are due under the order for periodical payments, it may remit payment of the whole, or part, of those arrears.

(5) Any order of the Court of Appeal made on an appeal under this Article (other than one directing that an application be re-heard) shall, for the purposes of the enforcement of the order and any power to vary, revive or discharge orders, be treated as if it were an order of the court.

69 Attendance at court of person with parental responsibility for child who is the subject of proceedings under Part 4

Where a child is the subject of an application for a care or supervision order under Part 4, any person who has parental responsibility for the child may be required to attend court during all the stages of the proceedings, and any such person shall be so required at any stage where the court thinks it desirable, unless the court is satisfied that it would be unreasonable to require his or her attendance.

70 Attendance at court of child at hearing under Parts 2, 4 or 5

(1) In any proceedings in which the court is hearing an application for an order under Part 2, 4 or 5, or is considering whether to make any such order, the court may order the child concerned to attend such stage or stages of the proceedings as may be specified in the order.

(2) The power conferred by paragraph (1) shall be exercised in accordance with Rules of Court.

(3) Where an order under paragraph (1) has not been complied with or the court has reasonable cause to believe that it will not be complied with, the court may make an order –

(a) authorizing a police officer or such other person as may be specified in the order –

(i) to take charge of the child and to bring the child to the court, and

(ii) to enter and search any premises specified in the order if the officer has reasonable cause to believe that the child may be found on the premises;

(b) requiring any person who is in a position to do so to bring the child to the court; or

(c) requiring a person to disclose to the court any information which it has reason to believe he or she has concerning the whereabouts of the child.

71 Evidence given by, or with respect to, children

(1) Where a child who is called as a witness in any civil proceedings does not, in the opinion of the court, understand the nature of an oath, the court may hear the child's evidence if it considers that –

(a) the child understands that it is his or her duty to speak the truth; and

(b) the child has sufficient understanding to justify his or her evidence being heard.

(2) The Superior Number of the Royal Court may, by Rules of Court, make provision for the admissibility of evidence which would otherwise be inadmissible under any rule of law relating to hearsay with respect to –

(a) civil proceedings in general or such civil proceedings, or class of civil proceedings, as may be prescribed; and

(b) evidence in connection with the upbringing, maintenance or welfare of a child.

(3) Rules of Court under paragraph (2) –

(a) may, in particular, provide for the admissibility of statements which are made orally or in a prescribed form or which are recorded by any prescribed method of recording;

(b) may make different provision for different purposes;

(c) may make such amendments and repeals in any enactment relating to evidence (other than this Law) as the Superior Number considers necessary or expedient in consequence of the provision made by the Rules.

72 Power of court to order scientific tests in cases of disputed parentage

(1) For the purpose of any proceedings in which the parentage of a child falls to be determined, the court may, on an application by any party to the proceedings, give a direction –

(a) for the use of scientific tests for the purpose of facilitating such determination; and

(b) for the taking of bodily samples from the child, any person alleged to be a parent of the child and any other party to the proceedings,

and the court may at any time revoke or vary a direction previously given by it under this paragraph.

(2) The person responsible for carrying out scientific tests in pursuance of a direction under paragraph (1) shall report to the court –

(a) the results of the tests;

(b) whether any person to whom the report relates is or is not excluded by the results from being a parent of the child; and

(c) in relation to any party who is not so excluded, the value, if any, of the results in determining whether that party is a parent of the child.

(3) Rules of Court may make further provision with respect to a direction or report given under this Article.

(4) The costs of taking and testing bodily samples and reporting to the court in pursuance of this Article shall be paid by the party requesting the direction but the amount paid shall be treated as costs incurred by the party in the proceedings.

(5) A bodily sample which is required to be taken from any person for the purpose of giving effect to a direction under paragraph (1) –

(a) in the case of a person over the age of 16 years of full mental capacity, shall only be taken with his or her consent;

(b) in the case of a child under the age of 16 years, shall only be taken with the consent of a person who has parental responsibility for the child; and

(c) in the case of a person suffering from a mental disorder and incapable of understanding the nature and purpose of scientific tests, shall only be taken –

(i) with the consent of his or her nearest person or, if the person so suffering has been the subject of a guardianship application, the person named in that application as guardian, and

(ii) if the responsible medical officer has certified that the taking of a bodily sample from the person will not be prejudicial to his or her proper care and treatment.[65]

(6) Where the court considers that a person with parental responsibility for a child or a nearest person is unreasonably withholding consent under paragraph (5)(b) or (c) as the case may be, it may dispense with the need for that consent.[66]

(7) Where the court gives a direction under paragraph (1) and a person fails to take any step required of him or her for the purpose of giving effect to the direction, the court may draw such inferences, if any, from that fact as appear proper in the circumstances.

(8) Where any person named in a direction under paragraph (1) fails to consent to the taking of a bodily sample from himself or herself or from any person named in the direction of whom he or she has the care and control, the person shall be deemed for the purposes of this Article to have failed to take a step required of him or her for the purpose of giving effect to the direction.

(9) A person who, for the purpose of providing a bodily sample for a test required under paragraph (1), personates another or proffers a child knowing that it is not the child named in the direction shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

(10) In this Article –

"bodily sample" means a sample of bodily fluid or bodily tissue taken for the purpose of scientific tests;

"excluded" means excluded subject to the occurrence of mutation;

"guardianship application", "mental disorder", "nearest person" and "responsible medical officer" shall have the same respective meanings as in the Mental Health (Jersey) Law 2016;

"scientific tests" means scientific tests carried out under this Article and made with the object of ascertaining the inheritable characteristics of bodily fluids or bodily tissue.[67]

73 Privacy for children involved in certain proceedings

(1) Without prejudice to any other rule-making power or power of the court to sit in private, Rules of Court may make provision for the court to sit in private in proceedings in which any powers under this Law may be exercised by the court with respect to any child.

(2) Any person who publishes any material which is intended, or likely, to identify –

(a) any child as being concerned in any proceedings before any court either as being a child against or in respect of whom the proceedings are taken or as being a witness in those proceedings; or

(b) an address or school as being that of a child involved in any such proceedings,

except in so far (if at all) as the court hearing those proceedings, having regard to the interest of justice and the welfare of the child concerned, directs, shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

(3) In any proceedings for an offence under this Article it shall be a defence for the accused to prove that he or she did not know, and had no reason to suspect, that the published material was intended, or likely, to identify the child.

(4) For the purposes of this Article –

"publish" includes –

(a) include within a programme service; or

(b) cause to be published; and

"material" includes any picture or representation.

74 Self-incrimination

(1) In any proceedings in which a court is hearing an application for an order under Part 4 or 5, no person shall be excused from –

(a) giving evidence on any matter; or

(b) answering any question put to the person in the course of his or her giving evidence,

on the ground that doing so might incriminate the person or his or her spouse or civil partner of an offence.[68]

(2) A statement or admission made in such proceedings shall not be admissible in evidence against the person making it or his or her spouse or civil partner in proceedings for an offence other than perjury.[69]

75 Representation and assistance for children

(1) Where it considers it desirable in the interests of a child to do so the court may order –

(a) that the child be separately represented in such proceedings under this Law as the court may specify; or

(b) that the child be assisted and befriended by such person, being a person independent from the Minister, as the court may specify.

(2) Where a child is empowered to bring any proceedings under this Law –

(a) the child may not do so without leave of the court and the court may only grant leave if it is satisfied that the child has sufficient understanding to bring those proceedings; and

(b) the child may only act through a guardian ad litem appointed by the court.

(3) Without prejudice to any other power of the court to make an order for costs against any party to proceedings, where a child has been granted legal representation under a legal aid certificate for any proceedings under this Law, the court may order that the costs of such representation be paid –

(a) out of public funds; or

(b) where he or she has been given an opportunity to be heard on the question of costs, by any person with parental responsibility for the child who is not a party to the proceedings.

(4) The amount of costs that the court has ordered to be paid under paragraph (1) shall be determined in accordance with Rules of Court made under the Royal Court (Jersey) Law 1948 and where the costs are to be paid out of public funds, such amount shall be paid from the annual income of the States.

76 Restriction on court's inherent jurisdiction

The court shall not exercise its inherent jurisdiction with respect to children –

(a) so as to require a child to be placed in care or put under the supervision of the Minister;

(b) so as to require a child to be accommodated by or on behalf of the Minister; or

(c) for the purpose of conferring on the Minister power to determine any question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.

77 Effect of orders as between Jersey and any other part of the British Islands

(1) An order made by a court in any other part of the British Islands which is of a class of orders that the Minister has, by Order, designated as corresponding in effect to such an order which may be made under this Law as may be specified in the Order, shall have effect for the purposes of this Law in Jersey as if it had been made under the corresponding provision of this Law.

(2) Where a child who is in the care of the Minister is lawfully taken to live in any other part of the British Islands, the care order in question shall cease to have effect if –

(a) the court has given its approval under paragraph 4(1)(a) of Schedule 2 to the Minister arranging or assisting in arranging for the child to live in another part of the British Islands;

(b) the local authority in whose area the child has been taken to live has notified the court in writing that it agrees to receive the child into its care; and

(c) the Minister has notified the court that the Minister agrees to that local authority receiving the child into its care.

(3) In this Article "local authority" has the same meaning as in paragraph 9(4) of Schedule 2.

78 Warrants

(1) Where, on an application made by any person, it appears to the Bailiff that a person has been, or is likely to be, prevented from exercising his or her powers under –

(a) Articles 43, 53, 57 or 61;

(b) paragraph 6(1)(b) and (2)(b) of Schedule 3;

(c) Article 35 of the Adoption (Jersey) Law 1961; or

(d) Article 11 of the Day Care of Children (Jersey) Law 2002,

by being refused entry to the premises concerned or refused access to the child concerned, the Bailiff may issue a warrant authorizing any police officer, at any time or times within one month from the date of that warrant, to assist the person named in the warrant in the exercise of his or her powers, using reasonable force if necessary.[70]

(2) Every warrant issued under this Article shall be addressed to, and executed by, a police officer who shall be accompanied by –

(a) if the Bailiff does not direct otherwise, the person applying for the warrant if that person so desires; and

(b) if the Bailiff so directs, a registered medical practitioner or such other person as the Bailiff may specify.

(3) The person named in the warrant shall immediately inform the Connétable or a Centenier of the parish in which the premises are situated of the details of the warrant and thereafter may exercise his or her powers under the warrant at any time during its currency.

(4) An application for a warrant under this Article shall be made in the manner and form prescribed.

(5) The application and any warrant granted on the application shall, where it is reasonably practical to do so, name the child, and where it does not name the child it shall describe the child as clearly as possible.

79 Abolition of defence of reasonable corporal punishment[71]

(1) Any defence of reasonable corporal punishment of a child under customary law is abolished.

(2) Accordingly, corporal punishment of a child cannot be justified in any civil or criminal proceedings on the grounds that it constituted, for the purposes of any rule of customary law –

(a) reasonable punishment; or

(b) acceptable conduct.

(3) In this Article, "corporal punishment" means, in relation to a child, administering a physical act on the person of a child for the purpose of punishing that child (whether or not there are other reasons for administering the act) which would constitute assault.

80 General provisions as to offences[72]

(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.

81 Regulations and Orders

(1) Any Regulations or Order made under this Law may –

(a) make different provision in relation to different cases or circumstances;

(b) provide for exemptions from any of its provisions; and

(c) contain such incidental, supplemental and transitional provisions as appear to the States or the Minister, as the case may be, to be necessary or expedient for the purposes of the Regulations or Order.

(2) [73]

82 Transitional provisions and savings

(1) The transitional provisions and savings contained in Schedule 5 shall have effect.

(2) The customary law action for *pension alimentaire* is abolished.

(3) [74]

82A Power to amend enactments[75]

(1) The States may by Regulations amend this Law or any other enactment to make further provision that appears to the States to be necessary or expedient in connection with –

(a) a provision of this Law; or

(b) an amendment made by the Children and Civil Status (Amendments) (Jersey) Law 2024.

(2) In paragraph (1) "further provision" includes any consequential, incidental, supplemental or transitional provision.

83 Citation

This Law may be cited as the Children (Jersey) Law 2002.

SCHEDULE A1[76]

(Article 1(10))

CIRCUMSTANCES IN WHICH A PERSON IS TREATED IN LAW AS A PARENT IF CHILD CONCEIVED BY FERTILITY TREATMENT OR ARTIFICIAL INSEMINATION

1 Application and interpretation of Schedule

(1) This Schedule specifies who is to be treated in law as the other parent of a child if the child was born as a result of –

(a) the placing in a woman of an embryo or sperm and eggs; or

(b) a woman's artificial insemination.

(2) Only paragraph 9, and paragraph 16(a) so far as it relates to paragraph 9, apply in the case of a child born before this Schedule comes into force, but otherwise the Schedule applies in the case of a child born after it comes into force.

(3) A reference in a paragraph of this Schedule to a "resulting child" is a reference to a child born as a result of the process (whether artificial insemination or relevant fertility treatment) described in that paragraph.

2 Circumstance A: woman married to, or civil partner of, a man at time of treatment

(1) This paragraph sets out Circumstance A and applies whether the woman referred to in sub-paragraph (2) was in Jersey or elsewhere at the time referred to in that sub-paragraph.

(2) A man is treated in law as a child's father for all purposes if a woman was married to the man, or was the man's civil partner –

(a) at the time when –

(i) an embryo was, or sperm and eggs were, placed in the woman, resulting in the birth of the child, or

(ii) the woman was artificially inseminated, resulting in the birth of the child; and

(b) the embryo carried by the woman was not created with the man's sperm.

(3) But a man is not treated in law as a child's father for any purpose if –

(a) it is shown that he did not consent to the placing of the embryo, or the sperm and eggs, in the woman, or her artificial insemination; or

(b) the child is treated by virtue of adoption or a parental order as not being the man's child.

3 Circumstance B: treatment provided to a woman if agreed fatherhood conditions apply

(1) This paragraph sets out Circumstance B and applies if –

(a) no man is treated under paragraph 2 as a child's father; and

(b) no woman is treated under paragraph 6, 7 or 9 as a child's second parent.

(2) A man is treated in law as a child's father for all purposes if –

(a) a woman underwent relevant fertility treatment;

(b) at the time of the placing in the woman of an embryo or sperm and eggs, or of her artificial insemination in the course of that treatment, the agreed fatherhood conditions (set out in paragraph 5) were fulfilled in relation to the man;

(c) the man was alive at that time; and

(d) the embryo carried by the woman was not created with the man's sperm.

(3) But a man is not treated in law as a child's father for any purpose if the child is treated by virtue of adoption or a parental order as not being the man's child.

4 Further provisions relating to Circumstances A and B

If a man is treated in law as a child's father by virtue of paragraph 2 or 3, no other person is to be treated as the child's father for any purpose.

5 Agreed fatherhood conditions

(1) The agreed fatherhood conditions referred to in paragraph 3(2)(b) are set out in sub-paragraph (2).

(2) The conditions are that –

(a) the man has given the person responsible for the woman's fertility treatment (the "person responsible") a notice stating that the man consents to being treated as the father of any resulting child;

(b) the woman has given the person responsible a notice that she consents to the man being treated as the father of any resulting child;

(c) neither the man nor the woman has, since giving the notice referred to in clause (a) or (b), given the person responsible notice of the withdrawal of the man's or woman's consent to the man being treated as the father of any resulting child;

(d) the woman has not, since giving notice under clause (b), given the person responsible –

(i) a further notice under that clause stating that she consents to another man being treated as the father of the resulting child, or

(ii) a notice under paragraph 8(2)(b) stating that she consents to a woman being treated as the second parent of the resulting child; and

(e) the woman and the man are not within the prohibited degrees of relationship with each other set out in Schedule 1 to the Civil Status Law, or, in the case where the woman and the man are in an enduring family relationship, they would not be within those prohibited degrees of relationship if they were married to each other.

(3) A notice under sub-paragraph (2)(a), (b) or (c) must be in writing signed by the person giving it.

6 Circumstance C: woman married to, or civil partner of, a woman at time of treatment

(1) This paragraph sets out Circumstance C and applies whether a woman ("A") was in Jersey or elsewhere at the time referred to in sub-paragraph (2).

(2) A woman ("B") is treated as a child's second parent for all purposes if A was married to B, or was B's civil partner at the time when –

(a) an embryo was, or sperm and eggs were, placed in A resulting in the birth of the child; or

(b) A was artificially inseminated, resulting in the birth of the child.

(3) But B is not treated as a child's second parent for any purpose if –

(a) it is shown that B did not consent to the placing of the embryo or the sperm and eggs in A, or A's artificial insemination; or

(b) the child is treated by virtue of adoption or a parental order as not being B's child.

7 Circumstance D: treatment provided to a woman if agreed female parenthood conditions apply

(1) This paragraph sets out Circumstance D and applies if –

(a) no man is treated under paragraph 2 as a child's father; and

(b) no woman is treated under paragraph 6 or 9 as a child's second parent.

(2) Another woman ("B") is treated as a child's second parent for all purposes if –

(a) a woman ("A") underwent relevant fertility treatment;

(b) at the time of the placing in A of an embryo or sperm and eggs, or of her artificial insemination in the course of that treatment, the agreed female parenthood conditions (set out in paragraph 8) were fulfilled in relation to B; and

(c) B was alive at that time.

(3) But B is not treated as a child's second parent for any purpose if the resulting child is treated by virtue of adoption or a parental order as not being B's child.

8 Agreed female parenthood conditions

(1) The agreed female parenthood conditions referred to in paragraph 7(2)(b) are set out in sub-paragraph (2).

(2) The conditions are that –

(a) B has given the person responsible for the woman's relevant fertility treatment (the "person responsible") a notice stating that B consents to being treated as the second parent of any resulting child;

(b) the woman undergoing relevant fertility treatment ("A") has given the person responsible a notice that she consents to B being treated as the second parent of any resulting child;

(c) neither B nor A has, since giving notice under clause (a) or (b), given the person responsible notice of the withdrawal of B or A's consent to B being treated as the second parent of any resulting child;

(d) A has not, since giving notice under clause (b), given the person responsible –

(i) a further notice under that clause stating that she consents to a woman other than B being treated as the second parent of any resulting child, or

(ii) a notice under paragraph 5(2)(b) stating that she consents to a man being treated as the father of any resulting child; and

(e) A and B are not within the prohibited degrees of relationship set out in Schedule 1 to the Civil Status Law, or in a case where A and B are in an enduring family relationship with each other, they would not be within the prohibited degrees of relationship if they were married to each other.

(3) A notice under sub-paragraph (2)(a), (b) or (c) must be in writing signed by the person giving it.

9 Female same-sex couples: child born before commencement

(1) This paragraph applies if –

(a) a child was born before the coming into force of this paragraph; and

(b) the child's birth is re-registered under Article 56C of the Civil Status Law on the joint application of the mother and another woman.

(2) If this paragraph applies the other woman is treated as the second parent of the child.

10 Further provision relating to cases involving female same-sex couple

If a woman is treated as a child's second parent by virtue of paragraph 6, 7 or 9 no man is to be treated in law as the child's father for any purpose.

11 Use of sperm, or transfer of embryo, after death of man providing sperm

(1) If the conditions set out in sub-paragraph (2) are fulfilled, a deceased man is treated in law as a child's father only for the purpose of enabling the man's particulars to be entered as the particulars of the child's father in a register of births.

(2) The conditions are that –

(a) the child was borne by a woman as a result of the placing in her of an embryo or sperm and eggs, or her artificial insemination, whether the woman was in Jersey or elsewhere at the time;

(b) the embryo carried by the woman was created using the man's sperm after his death, or the embryo was created before the man's death, but placed in the woman after his death;

(c) the man consented in writing (and did not withdraw the consent) –

(i) to the use of his sperm after his death for the purpose of creating an embryo to be carried by the woman, or to the placing in the woman, after his death, of the embryo created using the man's sperm before his death, and

(ii) to his being treated as the father of any resulting child only for the purpose specified in sub-paragraph (1);

(d) the woman has elected in writing, not later than the end of the period of 21 days beginning with the day on which the child was born, for the man to be treated for the purpose specified in sub-paragraph (1) as the child's father; and

(e) no-one else is to be treated –

(i) as the child's father under paragraph 2 or 3,

(ii) as the child's second parent under paragraph 6, 7 or 9, or

(iii) as the child's parent by virtue of adoption or a parental order.

12 Embryo transferred after death of male spouse or civil partner who did not provide sperm

(1) If the conditions set out in sub-paragraph (2) are fulfilled, a deceased man is treated in law as a child's father for the purpose only of enabling the man's particulars to be entered as the particulars of the child's father in a register of births.

(2) The conditions are that –

(a) the child was borne by a woman as a result of the placing in her of an embryo, whether the woman was in Jersey or elsewhere at the time the embryo was placed in her;

(b) the embryo was created at a time when the woman was married to the man or was the man's civil partner;

(c) the embryo was not created with the man's sperm;

(d) the man died before the embryo was placed in the woman;

(e) the man consented in writing (and did not withdraw that consent) –

(i) to the placing of the embryo in the woman after his death, and

(ii) to his being treated as the father of any resulting child for the purpose specified in sub-paragraph (1);

(f) the woman has elected in writing, not later than the end of the period of 21 days beginning with the day on which the child was born, for the man to be treated for the purpose specified in sub-paragraph (1) as the child's father; and

(g) no-one else is to be treated –

(i) as the child's father under paragraph 2 or 3,

(ii) as the child's second parent under paragraph 6, 7 or 9, or

(iii) as the child's parent by virtue of adoption or a parental order.

13 Embryo transferred after death of man who consented to be recorded as father in register of births

(1) If the conditions set out in sub-paragraph (2) are fulfilled, a deceased man is treated in law as a child's father for the purpose only of enabling the man's particulars to be entered as the particulars of the child's father in a register of births.

(2) The conditions are that –

(a) the child was borne by a woman as a result of the placing in her of an embryo, whether the woman was in Jersey or elsewhere at the time the embryo was placed in her;

(b) the embryo was not created at a time when the woman was married or in a civil partnership but was created in the course of relevant fertility treatment services provided to the woman;

(c) a man consented in writing (and did not withdraw the consent) –

(i) to the placing of the embryo in the woman after his death, and

(ii) to his being treated as the father of any resulting child for the purpose specified in sub-paragraph (1);

(d) the embryo was not created with the man's sperm;

(e) the man died before the embryo was placed in the woman;

(f) immediately before the man's death, the agreed fatherhood conditions set out in paragraph 5 were fulfilled in relation to relevant fertility treatment services proposed to be provided to the woman;

(g) the woman has elected in writing, not later than the end of the period of 21 days beginning with the day on which the child was born, for the man to be treated for the purpose specified in sub-paragraph (1) as the child's father; and

(h) no-one else is to be treated –

(i) as the child's father under paragraph 2 or 3,

(ii) as the child's second parent under paragraph 6,7 or 9, or

(iii) as the child's parent by virtue of adoption or a parental order.

14 Embryo transferred after death of female spouse or civil partner who consented to be recorded as second parent in register of births

(1) If the conditions in sub-paragraph (2) are fulfilled, the woman referred to in that sub-paragraph as B is treated as a child's second parent for the purpose only of enabling B's particulars to be entered as the particulars of the child's second parent in a register of births.

(2) The conditions are that –

(a) the child was borne by a woman ("A") as a result of the placing in her of an embryo, whether she was in Jersey or elsewhere at that time;

(b) the embryo was created at a time when the woman was married to, or the civil partner of, another woman ("B");

(c) B died before the embryo was placed in A;

(d) B consented in writing (and did not withdraw that consent) –

(i) to the placing of the embryo in A after B's death, and

(ii) to being treated, for the purpose specified in sub-paragraph (1), as the second parent of any resulting child;

(e) A has elected in writing, not later than the end of the period of 21 days from the day on which the child was born, for B to be treated for the purpose specified in sub-paragraph (1) as the child's second parent; and

(f) no-one else is to be treated –

(i) as the child's father under paragraph 2 or 3,

(ii) as the child's second parent under paragraph 6, 7 or 9, or

(iii) as the child's parent by virtue of adoption or a parental order.

15 Embryo transferred after death of woman who consented to be recorded as second parent in register of births

(1) If the conditions in sub-paragraph (2) are fulfilled, the woman referred to in that sub-paragraph as B is treated as a child's second parent for the purpose only of enabling B's particulars to be entered as the particulars of the child's second parent in a register of births.

(2) The conditions are that –

(a) the child was borne by a woman ("A") as a result of the placing in her of an embryo, whether she was in Jersey or elsewhere at that time;

(b) the embryo was not created at a time when A was married or in a civil partnership but was created in the course of relevant fertility treatment services provided to A;

(c) another woman ("B") consented in writing (and did not withdraw the consent) –

(i) to the placing of the embryo in A after B's death, and

(ii) to being treated, for the purpose specified in sub-paragraph (1) as the second parent of any resulting child;

(d) B died before the embryo was placed in A;

(e) immediately before B's death, the agreed female parenthood conditions set out in paragraph 8 were met in relation to relevant fertility treatment services proposed to be provided to A;

(f) A has elected, in writing not later than the end of the period of 21 days from the day on which the child was born, for B to be treated for the purpose specified in sub-paragraph (1) as the child's second parent; and

(g) no-one else is treated –

(i) as the child's father under paragraph 2 or 3,

(ii) as the child's second parent under paragraph 6, 7 or 9, or

(iii) as the child's parent by virtue of adoption or a parental order.

16 Woman not to be parent merely because of egg donation

A woman is not to be treated for any purpose as the parent of a child whom she is not bearing and has not borne, unless she is treated as the child's parent –

(a) under paragraph 6, 7 or 9;

(b) for the purpose specified under paragraph 14(1) or 15(1); or

(c) by virtue of adoption or a parental order.

SCHEDULE 1[77]

(Article 15)

FINANCIAL PROVISION FOR CHILDREN

1 Orders for financial relief against parents

(1) On an application made by a parent or guardian of a child, or by any person in whose favour a residence order is in force with respect to the child, the court may at any time make an order requiring one or more of the following –

(a) either or both parents of a child –

(i) to make such periodical payments and for such term,

(ii) to secure such periodical payments and for such term,

(iii) to pay such lump sum, and

(iv) to transfer such property to which the parent is or the parents are entitled,

as may be specified in the order to the applicant for the benefit of the child or to the child personally; and

(b) a settlement to be made for the benefit of the child and to the satisfaction of the court of property to which either parent is entitled and which is specified in the order.

(2) An order under sub-paragraph (1)(a)(i) or (ii) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.

(3) If the court makes an order under this paragraph –

(a) it may at any time make a further such order under sub-paragraph (1)(a)(i), (ii) or (iii) with respect to the child concerned if he or she has not reached full age; and

(b) it may not make more than one order under sub-paragraph (1)(a)(iv) or (b) against the same person in respect of the same child.

(4) On making, varying or discharging a residence order the court may exercise any of its powers under this Schedule even though no application has been made to it under this Schedule.

2 Orders for financial relief for persons over 16 years

(1) If, on an application made with leave of the court by a person who has reached the age of 16, it appears to the court –

(a) that the applicant is, will be or (if an order were made under this paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

(b) that there are special circumstances which justify the making of an order under this paragraph,

the court may at any time make an order requiring either or both of the applicant's parents to pay to the applicant such periodical payments, for such term as may be so specified, such lump sum as may be so specified or both periodical payments and a lump sum.

(2) An order for periodical payments under sub-paragraph (1) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.

(3) If the court makes an order under this paragraph it may from time to time while that order remains in force make a further such order.

3 Duration of orders for financial relief

(1) The term to be specified in an order for periodical payments made under paragraph 1(1)(a)(i) or (ii) in favour of a child may begin with the date of the making of an application for the order in question or any later date but –

(a) shall not in the first instance extend beyond the child's 17th birthday unless the court thinks it right in the circumstances of the case to specify a later date; and

(b) shall not in any event extend beyond the child's 18th birthday.

(2) Sub-paragraph (1)(b) shall not apply in the case of a child if it appears to the court that –

(a) the child is, or will be or (if an order were made without complying with that paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

(b) there are special circumstances which justify the making of an order without complying with that paragraph.

(3) An order for periodical payments shall, notwithstanding anything in the order, cease to have effect on the death of the person liable to make payments under the order.

(4) If an order is made under paragraph 1(1)(a)(i) or (ii) requiring periodical payments to be made or secured to the parent of a child, the order shall cease to have effect if the parent making or securing the payments and the parent receiving such payments have lived together for more than 6 months.

4 Matters to which court is to have regard in making orders for financial relief

(1) In deciding whether to exercise its powers under paragraph 1 or 2, and if so in what manner, the court shall have regard to all the circumstances including –

(a) the income, earning capacity, property and other financial resources which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;

(b) the financial needs, obligations and responsibilities which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;

(c) the financial needs of the child;

(d) the income, earning capacity (if any), property and other financial resources of the child;

(e) any physical or mental disability of the child; and

(f) the manner in which the child was being, or was expected to be, educated or trained.

(2) In deciding whether to exercise its powers under paragraph 1 against a person who is not the mother, father or second parent of the child, and if so in what manner, the court shall in addition have regard to –

(a) whether that person had assumed responsibility for the maintenance of the child and, if so, the extent to which and basis on which the person assumed that responsibility and the length of the period during which he or she met that responsibility;

(b) whether the person did so knowing that the child was not his or her child; and

(c) the liability of any other person to maintain the child.

(3) An order under paragraph 1 against a person who is not the child's father or second parent must record the fact that the person is not the child's father or second parent.

(4) The persons mentioned in sub-paragraph (1) are –

(a) in relation to a decision whether to exercise its powers under paragraph 1, any parent of the child;

(b) in relation to a decision whether to exercise its powers under paragraph 2, the mother, father and second parent of the child;

(c) the applicant for the order; and

(d) any other person in whose favour the court proposes to make the order.

5 Provisions relating to lump sums

(1) Without prejudice to the generality of paragraph 1, an order under that paragraph for the payment of a lump sum may be made for the purpose of enabling any liabilities or expenses reasonably incurred before the making of the order to be met which were incurred in connection with the birth of the child or in maintaining the child.

(2) The power of the court under paragraph 1 –

(a) to vary or discharge an order for the making or securing of periodical payments by a parent shall include power to make an order under that provision for the payment of a lump sum by that parent; and

(b) for the payment of a lump sum may provide for the payment of that sum by instalments.

(3) If the court provides for the payment of a lump sum by instalments, the court, on an application made either by the person liable to pay or the person entitled to receive that sum, shall have power to vary that order by varying the number and amount of any instalments payable and the date on which any instalment becomes payable.

6 Exercise of powers to make orders for periodical payments

(1) In exercising its powers under paragraph 1 or 2 to vary or discharge an order for the making or securing of periodical payments the court shall have regard to all the circumstances of the case, including any change in any of the matters to which the court was required to have regard when making the order.

(2) The power of the court under paragraph 1 or 2 to vary an order for the making or securing of periodical payments shall include power to suspend any provision of the order temporarily and to revive any provision so suspended.

(3) If on an application under paragraph 1 or 2 for the variation or discharge of an order for the making or securing of periodical payments the court varies the payments required to be made under that order, the court may provide that the payments as so varied shall be made from such date as the court may specify, not being earlier than the date of the making of the application.

(4) An application for the variation of an order made under paragraph 1 for the making or securing of periodical payments to or for the benefit of a child may, if the child has reached the age of 16, be made by the child personally.

(5) If an order for the making or securing of periodical payments under paragraph 1 ceases to have effect on the date on which the child reaches the age of 16, or at any time after that date but before or on the date on which the child reaches full age, the child may apply to the court which made the order for an order for its revival or revival and variation in accordance with sub-paragraph (6).

(6) If on an application under sub-paragraph (5) it appears to the court that –

(a) the child is, will be or (if an order were made under this sub-paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not in gainful employment; or

(b) there are special circumstances which justify the making of an order under this paragraph,

the court shall have power by order to revive the order or revive and vary it so that it is made against a parent other than the parent against whom it is made, from such date as the court may specify, not being earlier than the date of the making of the application.

(7) Any order which is revived or revived and varied by an order under sub-paragraph (5) may be varied or discharged under that provision, on the application of any person by whom or to whom payments are required to be made under the revived or revived and varied order.

(8) An order for the making or securing of periodical payments made under paragraph 1 may be varied or discharged, after the death of either parent, on the application of a guardian of the child concerned.

7 Financial relief under other enactments

(1) This paragraph applies if a residence order is made with respect to a child at a time when there is in force an order (the "financial relief order") made under any enactment other than this Law and requiring a person to contribute to the child's maintenance.

(2) If this paragraph applies, the court may, on the application of –

(a) any person required by the financial relief order to contribute to the child's maintenance; or

(b) any person in whose favour a residence order with respect to the child is in force,

make an order revoking the financial relief order, or varying it by altering the amount of any sum payable under that order or by substituting the applicant for the person to whom any such sum is otherwise payable under that order.

8 Interim orders

(1) If an application is made under paragraph 1 or 2 the court may, at any time before it disposes of the application, make an interim order –

(a) requiring either or both parents to make such periodical payments, at such times and for such term as the court thinks fit; and

(b) giving any direction which the court thinks fit.

(2) An interim order made under this paragraph –

(a) may provide for payments to be made from such date as the court may specify, not being earlier than the date of the making of the application under paragraph 1 or 2; and

(b) shall cease to have effect when the application is disposed of or, if earlier, on the date specified for the purposes of this paragraph in the interim order.

(3) An interim order in which a date has been specified for the purposes of sub-paragraph (2)(b) may be varied by substituting a later date.

9 Alteration of maintenance agreements

(1) An application to the court for the alteration of a maintenance agreement which is for the time being subsisting may, if both parties to the agreement are for the time being domiciled or resident in Jersey, be made by either party.

(2) The court may, if it is satisfied that –

(a) by reason of a change in the circumstances in the light of which any financial arrangements contained in the agreement were made (including a change foreseen by the parties when making the arrangement), the agreement should be altered so as to make different financial arrangements; or

(b) the agreement does not contain proper financial arrangements with respect to the child,

by order make such alterations in the agreement by varying or revoking any financial arrangements contained in it as may appear to it to be just having regard to all the circumstances.

(3) If a maintenance agreement is altered by an order under this paragraph it shall have effect thereafter as if the alteration had been made by agreement between the parties and for *cause*.

(4) If the court decides to make an order under this paragraph altering a maintenance agreement by –

(a) inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of the child; or

(b) increasing the rate of periodical payments required to be made or secured by one of the parties for the maintenance of the child,

it shall apply the provisions of paragraph 3(1) or (2) in determining the term for which the payments or additional payments are to be made or secured, as if the order were an order under paragraph 1(1)(a)(i) or (ii).

(5) Nothing in this paragraph shall affect any power of a court before which any proceedings between the parties to a maintenance agreement are brought under any other enactment to make an order concerning financial arrangements or any right of either party to apply for such an order in such proceedings.

(6) In this paragraph –

"financial arrangements" means provision with respect to the making or securing of payments, or the disposition or use of any property, for the maintenance or education of a child; and

"maintenance agreement" means any financial arrangements made in writing between the parents of a child with respect to a child of theirs, whether before or after the commencement of this paragraph.

10 Notification of change of address

(1) Any person for the time being under an obligation to make payments in pursuance of any order for the payment of money made by the court under this Law shall give notice of any change of address to such person (if any) as may be specified in the order.

(2) Any person failing without reasonable excuse to give such notice shall be guilty of an offence and liable to a fine of level 2 on the standard scale.

11 Financial provision for child resident outside Jersey

(1) If one parent of a child lives in Jersey and the child lives outside Jersey with another parent, a guardian or a person in whose favour a residence order is in force with respect to the child, the court shall have power, on an application made by the person with whom the child lives, to make one or both of the orders mentioned under paragraph 1(1)(a)(i) or (ii) against the parent living in Jersey.

(2) Any reference in this Law to the powers of the court under paragraph 1(1) or to an order made under that sub-paragraph shall include a reference to the powers which the court has or to an order made by virtue of sub-paragraph (1) of this paragraph.

12 Contribution to child's maintenance by Minister

If a child lives, or is to live, with a person as the result of a residence order who is not the child's parent or married to, or in a civil partnership with, the child's parent, the Minister may make contributions to that person towards the cost of the accommodation and maintenance of the child.

13 Interpretation

In this Schedule –

(a) "child" includes any person in relation to whom an application is made under paragraph 2 or 6; and

(b) except in paragraphs 2 and 12, "parent" includes any party to a marriage or civil partnership (whether or not subsisting) in relation to whom the child concerned is a child of the family, and any reference to either parent or both parents shall be construed as references to any parent of the child and to all of the child's parents.

SCHEDULE 2[78]

(Article 20)

MINISTERIAL SUPPORT FOR CHILDREN AND FAMILIES

PART 1

ARRANGEMENTS FOR CHILDREN LOOKED AFTER BY MINISTER

1 Regulations

(1) Regulations under Article 20(1)(a) may, in particular, make provision –

(a) with regard to the welfare of children placed with appointed foster parents;

(b) as to the arrangements to be made by the Minister in connection with the health and education of such children;

(c) as to the records to be kept by the Minister;

(d) for securing that a child is not placed with an appointed foster parent unless that person is for the time being approved by the Minister;

(e) for securing that where possible the appointed foster parent with whom a child is to be placed is –

(i) of the same religious persuasion as the child, or

(ii) gives an undertaking that the child will be brought up in that religious persuasion;

(f) for securing that children placed with appointed foster parents, and the premises in which they are accommodated, will be supervised and inspected by the Minister and that the children will be removed from those premises if their welfare appears to require it; and

(g) as to the circumstances in which the Minister may make arrangements for duties imposed on them by the Regulations to be discharged on their behalf.

(2) Regulations under Article 20(1)(c) may, in particular, make provision as to –

(a) the persons to be notified of any proposed arrangements;

(b) the opportunities such persons are to have to make representations in relation to the arrangements proposed;

(c) the persons to be notified of any proposed changes in arrangements;

(d) the records to be kept by the Minister; and

(e) the supervision by the Minister of any arrangements made.

(3) Regulations under Article 20(2) may, in particular, impose requirements on the Minister as to –

(a) the making of any decision by the Minister to allow a child to live with any person described in Article 20(2)(a) or (c) (including requirements as to those who must be consulted before the decision is made, and those who must be notified when it has been made);

(b) the supervision or medical examination of the child concerned;

(c) the removal of the child, in such circumstances as the Regulations may prescribe, from the care of the person with whom he or she has been allowed to live; and

(d) the records to be kept by the Minister.

2 Promotion and maintenance of contact between child and family

(1) Where a child is being looked after by the Minister, the Minister shall, unless it is not reasonably practicable or consistent with the child's welfare, endeavour to promote contact between the child and –

(a) the child's parents;

(b) any person who is not a parent but who has parental responsibility for the child; and

(c) any relative, friend or other person connected with the child.

(2) Where a child is being looked after by the Minister –

(a) the Minister shall take such steps as are reasonably practicable to secure that the child's parents and any other person other than a parent who has parental responsibility for the child are kept informed of where the child is being accommodated; and

(b) every such person shall secure that the Minister is kept informed of his or her address.

(3) Nothing in this paragraph requires the Minister to inform any person of the whereabouts of a child if the child is in the care of the Minister and the Minister has reasonable cause to believe that informing the person would prejudice the child's welfare.

(4) Any person who, without reasonable excuse, fails to comply with sub-paragraph (2)(b) shall be guilty of an offence and liable to a fine of level 2 on the standard scale unless he or she proves that –

(a) he or she was residing at the same address as another person who was the child's parent or had parental responsibility for the child; and

(b) he or she had reasonable cause to believe that the other person had informed the Minister that both of them were residing at that address.

3 Appointment of visitor for child who is not being visited

(1) Where it appears to the Minister in relation to any child the Minister is looking after that –

(a) communication between the child and a parent or person other than a parent who has parental responsibility for the child has been infrequent; or

(b) the child has not visited, been visited by or lived with any such person during the preceding 12 months,

and that it would be in the child's best interests for an independent person to be appointed to be the child's visitor for the purposes of this paragraph, it shall appoint such a visitor.

(2) A person so appointed shall –

(a) have the duty of visiting, advising and befriending the child; and

(b) be entitled to recover from the Minister any reasonable expenses incurred by the person for the purposes of his or her functions under this paragraph.

(3) A person's appointment as a visitor in pursuance of this paragraph shall be determined if –

(a) the person resigns by giving notice in writing to the Minister; or

(b) the Minister terminates the person's appointment by giving the person notice in writing,

and such determination shall not prejudice any duty under this paragraph to make further appointments.

(4) Where the Minister proposes to appoint or have appointed a visitor for a child under this paragraph, the appointment shall not be made or, if made, shall be determined if –

(a) the child objects to it or to its continuing; and

(b) the Minister is satisfied that the child has sufficient understanding to make an informed decision.

(5) The States may make Regulations as to the circumstances in which a person appointed as a visitor under this paragraph is to be regarded as independent of the Minister.

4 Arrangements to assist children to live outside Jersey

(1) The Minister may –

(a) with the approval of the court arrange for, or assist in arranging for, any child in the Minister's care to live outside Jersey; and

(b) with the approval of every person who has parental responsibility for the child arrange for, or assist in arranging for, any child not in the care of the Minister but looked after by the Minister to live outside Jersey.

(2) The court shall not give its approval under sub-paragraph (1)(a) unless it is satisfied that –

(a) it would be in the child's best interests to live outside Jersey;

(b) suitable arrangements have been, or will be, made for the child's reception and welfare in the country in which the child will live;

(c) the child has consented to living in that country except where the court is satisfied that the child does not have sufficient understanding to give or withhold consent; and

(d) every person who has parental responsibility for the child has consented to the child living in that country except for a person whom the court is satisfied cannot be found, is incapable of consenting or is withholding his or her consent unreasonably.

(3) Article 40 of the Adoption (Jersey) Law 1961 (which restricts the removal of infants for adoption outside the British Islands) shall not apply in the case of any child who is to live outside the British Islands with the approval of the court given under this paragraph.

(4) Where the court gives its approval under this paragraph it may order that its decision is not to have effect –

(a) where an appeal is made against the decision, during the period between the making of the decision and the determination of the appeal; and

(b) otherwise, during the period in which an appeal may be made against the decision.

(5) Sub-paragraph (7) applies where, before the coming into force of the Amendment Law, the court gives its approval under sub-paragraph (1)(a), and sub-paragraph (4) applies where an appeal is made against the court's decision –

(a) after the coming into force of the Amendment Law; or

(b) before the coming into force of the Amendment Law but that appeal does not fall to be determined until after the coming into force of the Amendment Law.

(6) Sub-paragraph (7) also applies where, before the coming into force of the Amendment Law, the court gives its approval under sub-paragraph (1)(a) but does not make an order under sub-paragraph (4) and an appeal is made against the court's decision –

(a) after the coming into force of the Amendment Law; or

(b) before the coming into force of the Amendment Law but that appeal does not fall to be determined until after the coming into force of the Amendment Law.

(7) In the cases described in sub-paragraphs (5) and (6), the court's decision in relation to the appeal is to be made on the basis of sub-paragraph (2) (as amended by the Amendment Law).

(8) Where, before the coming into force of the Amendment Law, the Minister has made an application for approval under sub-paragraph (1)(a) but that application does not fall to be determined until after the coming into force of the Amendment Law, the court's decision in relation to that application is to be made on the basis of sub-paragraph (2) (as amended by the Amendment Law).

(9) In this paragraph, "Amendment Law" means the Children (Arrangements to Assist Children to Live Outside Jersey) (Amendment) (Jersey) Law 2022.

5 Death of children being looked after by the Minister

(1) Where a child who is being looked after by the Minister dies, the Minister –

(a) shall, so far as is reasonably practicable, notify the child's parents and every person who is not a parent of the child but who has parental responsibility for the child; and

(b) may, with the consent, so far as it is reasonably practicable to obtain it, of every person who has parental responsibility for the child arrange for the child's body to be buried, or, provided it accords with the practice of the child's religious persuasion, cremated.

(2) Where the Minister has exercised the Minister's power under sub-paragraph (1)(b) with respect to a child who was under 16 when the child died, the Minister may recover from any parent of the child any expenses incurred by the Minister and any sums so recoverable shall, without prejudice to any other method of recovery, be recoverable as a civil debt.

(3) Nothing in this paragraph affects any enactment regulating or authorizing the burial, cremation or anatomical examination of the body of a deceased person.

PART 2

CONTRIBUTIONS

6 Liability to contribute

(1) Where the Minister is looking after a child (other than under Article 18 or an interim care order), the Minister may recover contributions towards the child's maintenance –

(a) where the child is under full age, from each of the child's parents; and

(b) where the child has reached the age of 16, the child personally,

if the Minister considers it reasonable to do so (having regard to that person's means and such other circumstances as the Minister considers relevant).

(2) A person is not liable to contribute towards a child's maintenance –

(a) in the case of a parent, if he or she is in receipt of Parish Welfare payments or benefit under the Social Security (Jersey) Law 1974; and

(b) except as agreed or determined in accordance with this Part.

(3) Where a child is in the care of the Minister but is living with one of his or her parents, that parent may recover contributions towards the child's welfare from the parent with whom the child is not living.

7 Agreed contributions

(1) Contributions towards a child's maintenance may only be recovered if the Minister, having made such enquiries as the Minister considers necessary to ascertain the contributor's means, has served on the contributor a contribution notice in writing and dated specifying –

(a) the weekly sum which it considers that he or she should contribute (having regard to his or her means and such other circumstances as the Minister considers relevant); and

(b) arrangements for payment which shall, in particular, include the date on which –

(i) liability to contribute begins (which must not be earlier than the date of the notice),

(ii) liability under the notice will end (if the child has not before that date ceased to be looked after by the Minister), and

(iii) the first payment is to be made.

(2) The Minister may specify in a contribution notice a weekly sum which is a standard contribution determined by the Minister for all children looked after by the Minister.

(3) The Minister may not specify in a contribution notice a weekly sum greater than that which the Minister considers he or she would normally be prepared to pay if the Minister had placed a similar child with appointed foster parents.

(4) Where a contributor fails to supply sufficient evidence of his or her means the Minister may specify in a contribution notice a weekly sum up to the maximum sum allowed in accordance with in sub-paragraph (3).

(5) The Minister may at any time withdraw a contribution notice (without prejudice to the Minister's power to serve another).

(6) Without prejudice to any other method of recovery, where –

(a) the Minister and the contributor agree the sum which the contributor is to contribute and arrangements for payment (whether as specified in the contribution notice or otherwise); and

(b) the contributor notifies the Minister in writing that he or she so agrees,

the Minister may recover summarily as a civil debt any contribution which is overdue and unpaid.

(7) A contributor may, by serving a notice in writing on the Minister, withdraw his or her agreement in relation to any period of liability falling after the date of service of the notice.

8 Contribution orders

(1) Where a contributor has been served with a contribution notice and has –

(a) failed to reach agreement with the Minister as mentioned in paragraph 7(6) within the period of one month beginning with the day on which the contribution notice was served; or

(b) served a notice under paragraph 7(7) withdrawing his or her agreement,

and provided that the notice has not been withdrawn, the Minister may apply to the court for an order under this paragraph.

(2) On such an application the court may make a contribution order requiring the contributor to contribute a weekly sum towards the child's maintenance in accordance with arrangements for payment specified by the court.

(3) A contribution order shall be made with due regard to the contributor's means.

(4) A contribution order shall not –

(a) specify a weekly sum greater than that specified in the contribution notice;

(b) take effect before the date specified in the contribution notice;

(c) have effect while the contributor is not liable to contribute (by virtue of paragraph 6); or

(d) remain in force after the child has ceased to be looked after by the Minister.

(5) Where a contribution order is in force, the Minister serves another contribution notice and the contributor and the Minister reach an agreement under paragraph 7(6) in respect of that other contribution notice –

(a) the order shall be automatically discharged from the date on which it is agreed that the agreement shall take effect; and

(b) the Minister shall notify the court of the agreement and the date on which it took effect.

(6) A contribution order may be varied or revoked on the application of the contributor or the Minister.

(7) In proceedings for the variation of a contribution order, the Minister shall specify –

(a) the weekly sum which, having regard to paragraph 7, the Minister proposes that the contributor should contribute under the order as varied; and

(b) the proposed arrangements for payment.

(8) Where a contribution order is varied, the order –

(a) shall not specify a weekly sum greater than that specified by the Minister in the proceedings for variation; and

(b) shall be made with due regard to the contributor's means.

9 Enforcement of agreements and orders made in other parts of the British Islands

(1) Where a local authority in any other part of the British Islands has an agreement or order requiring a person to contribute to the maintenance of a child which that authority is looking after, the Minister may –

(a) at the request of that other authority; and

(b) subject to agreement as to any sum to be deducted in respect of services rendered,

collect from that person any contribution due on behalf of that authority and (subject to any agreed deduction) pay it to the authority.

(2) The power to collect sums under sub-paragraph (1) includes the power to –

(a) receive and give a discharge for any contributions due; and

(b) enforce, if necessary, payment of any contributions,

even though those contributions may have fallen due at a time when the person liable to make such contribution was living outside Jersey.

(3) In any proceedings under this paragraph –

(a) a document purporting to be a copy of an order certified by the clerk of the court which made it shall be evidence of the order; and

(b) a certificate purporting to be signed by the clerk or some other duly authorized officer of the local authority who obtained the order and stating that any sum due to the authority under the order is overdue and unpaid, shall be evidence that the sum is overdue and unpaid.

(4) In this paragraph "local authority" includes –

(a) in relation to England and Wales, the council of a county, a metropolitan district, a London Borough or Common Council of the city of London;

(b) in relation to Scotland, a local authority within the meaning of section 1(2) of the Social Work (Scotland) Act 1968;

(c) in relation to Northern Ireland, a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972;

(d) in relation to the Bailiwick of Guernsey, the Children Board; and

(e) in relation to the Isle of Man, the Department of Health and Social Security of the Isle of Man.

SCHEDULE 3[79]

(Article 28)

SUPERVISION ORDERS

1 Power of supervisor to give directions to supervised child

(1) A supervision order may confer power on a supervisor to give directions to a supervised child from time to time –

(a) specifying where the child is to live;

(b) requiring the child to present himself or herself to a person specified in the directions at and such time and place as may be so specified; and

(c) to participate in such activities on such dates as may be so specified.

(2) Sub-paragraph (1) does not confer power on a supervisor to give directions in respect of any medical or psychiatric examination or treatment.

2 Obligations on responsible person

(1) Where a responsible person consents, a supervision order may require that person to –

(a) take all reasonable steps to ensure that the supervised child complies with any direction given by the supervisor under paragraph 1;

(b) take all reasonable steps to ensure that the supervised child complies with any requirement included in the order under paragraph 3 or 4; and

(c) comply with any directions given by the supervisor requiring him or her to attend at a place specified in the directions for the purpose of taking part in activities so specified.

(2) A direction given under sub-paragraph (1)(c) may specify the time at which the responsible person is to attend and whether or not the supervised child is required to attend with the person.

(3) A supervision order may require a responsible person who has a different address from that of the child to keep the supervisor informed of his or her address.

3 Psychiatric and medical examinations

(1) A supervision order may require the supervised child to submit to a medical or psychiatric examination or to submit to such examination from time to time as directed by the supervisor –

(a) by or under the direction of such registered medical practitioner as may be specified in the order;

(b) at a place specified in the order and at which the supervised child is to attend as a non-resident patient; or

(c) in the case of –

(i) a medical examination, at a hospital; or

(ii) a psychiatric examination, at a hospital at which the supervised child is, or is to attend as, a resident patient.

(2) A requirement of a kind mentioned in sub-paragraph (1)(c) shall not be included unless the court is satisfied, on the evidence of a registered medical practitioner, that –

(a) the child may be suffering from a physical or mental condition that requires, and may be susceptible to, treatment; and

(b) a period as a resident patient is necessary if the examination is to be carried out properly.

(3) The court shall not include a requirement under this paragraph in a supervision order unless it is satisfied that –

(a) where the child has sufficient understanding to make an informed decision, the child consents to its inclusion; and

(b) satisfactory arrangements have been, or can be, made for the examination.

4 Psychiatric and medical treatment

(1) Where the court is proposing to make or vary a supervision order and is satisfied, on the evidence of a registered medical practitioner having special experience in the diagnosis or treatment of mental disorder, that the mental condition of the supervised child –

(a) is such as requires, and may be susceptible to, treatment; but

(b) is not such as to warrant the child's detention under Part 3 of the Mental Health (Jersey) Law 2016,

the court may include in the order a requirement that the supervised child shall, for a period specified in the order, submit to such treatment as is so specified.

(2) The treatment specified in accordance with sub-paragraph (1) must be –

(a) by or under the direction of such registered medical practitioner as may be specified in the order;

(b) as a non-resident patient at such a place as may be so specified; or

(c) as a resident patient in a hospital.

(3) Where the court is proposing to make or vary a supervision order and is satisfied, on the evidence of a registered medical practitioner, that the physical condition of the supervised child is such as requires, and may be susceptible to, treatment, the court may include in the order a requirement that the supervised child shall, for a period specified in the order, submit to such treatment as is so specified.

(4) The treatment specified in accordance with sub-paragraph (3) must be –

(a) by or under the direction of such registered medical practitioner as may be specified in the order;

(b) as a non-resident patient at such a place as may be so specified; or

(c) as a resident patient in a hospital.

(5) The court shall not include a requirement under this paragraph in a supervision order unless it is satisfied –

(a) where the child has sufficient understanding to make an informed decision, that the child consents to its inclusion; and

(b) that satisfactory arrangements have been, or can be, made for the treatment.

(6) If a medical practitioner by whom or under whose direction a supervised person is being treated in pursuance of a requirement included in a supervision order by virtue of this paragraph is unwilling to continue to treat or direct the treatment of the supervised child or is of the opinion that –

(a) the treatment should be continued beyond the period specified in the order;

(b) the supervised child needs different treatment;

(c) the child is not susceptible to treatment; or

(d) the child does not require further treatment,

the practitioner shall make a report in writing to that effect to the supervisor.

(7) On receiving a report under this paragraph the supervisor shall refer it to the court, and on such a reference the court may make an order cancelling or varying the requirement.

5 Duration of a supervision order

(1) Subject to Article 66, a supervision order shall cease to have effect at the end of the period of one year beginning with the date on which it was made.

(2) Where the supervisor applies to the court to extend, or further extend, a supervision order the court may extend the order for such period as it may specify.

(3) A supervision order may not be extended so as to run beyond the end of the period of 3 years beginning with the day on which it was made.

6 Requirements in relation to supervision order

(1) A supervision order may require the supervised child –

(a) to keep the supervisor informed of any change in his or her address; and

(b) to allow the supervisor to visit the child at the place where he or she is living.

(2) The responsible person in relation to any child with respect to whom a supervision order is made shall –

(a) if asked by the supervisor, inform the supervisor of the child's address (if it is known to the responsible person); and

(b) if the responsible person is living with the child, allow the supervisor reasonable contact with the child.

7 Selection of supervisor

(1) A supervision order shall not designate the Minister unless the Minister agrees.

(2) The court shall not place a child under the supervision of a probation officer unless –

(a) the Minister so requests; and

(b) a probation officer is already exercising or has exercised, in relation to another member of the household to which the child belongs, duties imposed on probation officers by the Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée.

(3) Where a supervision order places a person under the supervision of a probation officer, the officer shall be selected in accordance with arrangements made by the Probation Board.

(4) If the selected probation officer is unable to carry out his or her duties, or dies, another probation officer shall be selected in the same manner.

8 Effect of supervision order on earlier orders

The making of a supervision order with respect to any child brings to an end any earlier care or supervision order which was made with respect to that child and would otherwise continue in force.

SCHEDULE 4[80]

(Article 54(2) and 62)

DISQUALIFICATION FOR CARING FOR CHILDREN

1. A person is disqualified for the purposes of Article 62 if –

(a) he or she is the parent of a child who has at any time been made the subject of a care order under Article 24(1)(a);

(b) an order has been made under –

(i) Article 24(1)(a), or

(ii) Part 4 of the 1969 Law,

so as to remove a child from the person's care or prevent the child living with the person;

(c) an order has been made at any time for the purposes of removing a child who was being kept, or was about to be received by the person under –

(i) Article 36 of the 1969 Law, or

(ii) Article 37 of the Adoption (Jersey) Law 1961;

(d) the person's rights and powers with respect to a child had at any time been vested in the Minister under Article 57 of the 1969 Law;

(e) the person has been convicted of any offence specified in paragraph 2;

(f) the person carried on, or was otherwise concerned in the management of, or had any financial interest in –

(i) a care home service which provides services to children as well as adults or a children's home service which the Commission has refused to register under Article 5 of the Regulation of Care (Jersey) Law 2014, or the registration of which the Commission has cancelled under Article 20 of that Law, or

(ii) a voluntary home which the Minister has –

(A) refused to register under Article 54(4) of this Law or Article 52(3) of the 1969 Law, or

(B) removed from the register under Article 54(5) of this Law or Article 52(4) of the 1969 Law;

(g) the person has been prohibited from fostering a child privately under –

(i) Article 60(3) of this Law, or

(ii) Article 33(5) of the 1969 Law; or

(h) the person has been refused registration under Article 2(4) of the Day Care of Children (Jersey) Law 2002 or Article 42(5) of the 1969 Law or such registration has been cancelled under Articles 7 or 72 respectively of those Laws.

2. The offences referred to in paragraph 1(e) are –

(a) the murder or manslaughter of a child;

(b) infanticide;

(c) an offence against a child under the Sexual Offences (Jersey) Law 2018;

(d) an offence against a child under any provision of an enactment or of customary law that was repealed by the Sexual Offences (Jersey) Law 2018;

(e) any other offence that is a relevant offence within the meaning of the Sex Offenders (Jersey) Law 2010;

(f) stealing a child or receiving a stolen child;

(g) assault on a child;

(h) an offence under Article 35 of this Law or Article 9 of the 1969 Law;

(i) any other offence involving bodily injury to a child;

(j) an offence under Article 2(1)(a) of the Protection of Children (Jersey) Law 1994;

(k) an offence under Article 38(1)(b) or (c) of the Adoption (Jersey) Law 1961;

(l) an offence under Article 9K(2), Article 37(12), Article 44 or Article 45(7);

(m) an offence under Article 12 of the Day Care of Children (Jersey) Law 2002 or Article 45 of the 1969 Law; and

(n) an offence under Article 54(6) of this Law or Article 52(5) of the 1969 Law.

3. In this Schedule "the 1969 Law" means the Children (Jersey) Law 1969.

SCHEDULE 5[81]

(Article 82(1))

TRANSITIONAL PROVISIONS AND SAVINGS

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9 [82]

10 Foster children

Any requirement or prohibition imposed under Article 33 of the Children (Jersey) Law 1969 shall, on and after commencement of Part 8, have effect as a requirement or prohibition, as the case may be, imposed under Article 60 of this Law.

11 Active proceedings, etc

The amendment of Articles 67(2)(g) and 68(1)(a) by the Family Division Registrar (Change of Status and Title) (Jersey) Law 2025 (the "amending Law") does not invalidate any proceedings that have commenced but have not been concluded when the amending Law comes into force, and does not affect anything done or any right of appeal arising before that time in respect of any proceedings.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Children (Jersey) Law 2002	L.50/2002	1 August 2005 (R&O.74/2005)	P.200/2001
Criminal Law (Child Abduction) (Jersey) Law 2005	L.27/2005	8 November 2005 (R&O.148/2005	P.106/2005
States of Jersey (Amendments and Construction Provisions No. 5) (Jersey) Regulations 2005	R&O.45/2005	9 December 2005	P.59/2005
Children and Day Care (Amendment) (Jersey) Law 2005	L.36/2005	23 December 2005	P.73/2005
Civil Partnership (Jersey) Law 2012	L.4/2012	2 April 2012	P.85/2011
Control of Housing and Work (Transitional and Consequential Provisions) (Jersey) Regulations 2013	R&O.30/2013	1 July 2013 (R&O.63/2013)	P.3/2013
States of Jersey Police Force Law 2012	L.37/2012	1 August 2014 (R&O.87/2014)	P.182/2011
Children's Property and Tuteurs (Jersey) Law 2016	L.13/2016	22 August 2016	P.156/2015
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	L.1/2016	20 September 2016 (R&O.98/2016)	P.87/2015
Criminal Justice (Young Offenders) (Jersey) Law 2014	L.27/2014	23 November 2016 (R&O.114/2016)	P.93/2014
Criminal Justice (Young Offenders) (No. 2) (Jersey) Law 2016	L.19/2016	23 November 2016	P.33/2016
Children and Adoption (Amendment) (Jersey) Law 2016	L.25/2016	2 December 2016	P.76/2016
Marriage and Civil Status (Amendment No. 4) (Jersey) Law 2018	L.19/2018	1 July 2018 (R&O.68/2018)	P.91/2017
Mental Health and Capacity (Consequential Amendment and Transitional Provision) (Jersey) Regulations 2018	R&O.49/2018	1 October 2018 (R&O.51/2018)	P.48/2018
Sexual Offences (Consequential Amendments) (Jersey) Regulations 2018	R&O.110/2018	23 November 2018	P.106/2018
Regulation of Care (Regulated Activities) (Jersey) Regulations 2018	R&O.118/2018	1 January 2019	P.126/2018

Legislation	Year and No	Commencement	◦Projet No (where applicable)
States of Jersey (Transfer of Responsibilities and Functions) (Health and Social Services to Children and Housing) Order 2019	R&O.100/2019	9 October 2019	
Children and Education (Amendment) (Jersey) Law 2020	L.3/2020	24 April 2020	P.112/2019
States of Jersey (Minister for Children and Education, Minister for Housing and Communities and Minister for External Relations and Financial Services) (Jersey) Order 2021	R&O.29/2021	2 March 2021	
Legislation (Jersey) Law 2021	L.8/2021	28 September 2021 (R&O.112/2021)	P.26/2021
Criminal Procedure (Consequential and Supplementary Amendments) (Jersey) Regulations 2021	R&O.94/2021	1 October 2021	P.59/2021
Children (Arrangements to Assist Children to Live Outside Jersey) (Amendment) (Jersey) Law 2022	L.9/2022	23 April 2022	P.9/2022
Regulation of Care (Regulated Activities) (Amendment of Law) (Jersey) Regulations 2022	R&O.55/2022	1 January 2023 (R&O.117/2022)	P.45/2022
Changes to Ministerial Offices (Jersey) Amendment Order 2024	R&O.10/2024	9.30 a.m. on 27 February 2024	
Children and Young People (Jersey) Law 2022	L.14/2022	26 March 2024 (R&O.14/2024)	P.107/2021
Family Division Registrar (Change of Status and Title) (Jersey) Law 2025	L.1/2025	14 April 2025 (R&O.20/2025)	P.56/2024
Children and Civil Status (Amendments) (Jersey) Law 2024	L.8/2024	24 November 2025 (R&O.63/2025)	P.104/2023
Civil Status (Abolition of Legitimacy Etc.) (Jersey) Law 2025	L.16/2025	24 November 2025	P.44/2025
Children and Civil Status (Parental Responsibility) (Jersey) Amendment Regulations 2025	R&O.82/2025	27 November 2025	P.105/2025
Children and Young People (Place of Police Detention) (Jersey) Amendment Law 2025	L.21/2025	19 December 2025	P.40/2025
Regulation of Care (Jersey) Amendment Law 2026	L.4/2026	6 April 2026 (R&O.37/2026)	P.57/2025

◦Projets available at statesassembly.gov.je

Table of Renumbered Provisions

Original	Current
1(9) to (11)	omitted in reliance on Interpretation (Jersey) Law 1954
82(2)	Spent, omitted
82(3)	82(2)
82(4)	Spent, omitted
82(5)	82(3)
83(1)	83
83(2)	Spent, omitted
Schedule 6	Spent, omitted

Table of Endnote References

[1] *This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 5) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*

[2] *Article 1(1)* — *amended by L.4/2012, L.37/2012, L.19/2016, R&O.49/2018, L.19/2018, R&O.118/2018, R&O.100/2019, R&O.29/2021, R&O.55/2022, R&O.10/2024, L.1/2025, L.8/2024, L.21/2025, L.4/2026*

[3] *Article 1(2)* — *substituted by L.8/2024, L.16/2025*

[4] *Article 1(2A)* — *inserted by L.8/2024, deleted by L.16/2025*

[5] *Article 1(3A)* — *inserted by L.8/2024*

[6] *Article 1(4)* — *deleted by L.19/2016*

[7] *Article 1(9)* — *inserted by L.8/2024*

[8] *Article 1(10)* — *inserted by L.8/2024*

[9] *Article 1A* — *inserted by L.19/2016, amended by L.8/2024*

[10] *Article 1A(1)* — *renumbered and amended by L.21/2025*

[11] *Article 1A(2)* — *inserted by L.21/2025*

[12] *Article 1B* — *inserted by L.8/2024*

[13] *Article 2(2A)* — *inserted by L.8/2024*

[14] *Article 2(2B)* — *inserted by L.8/2024*

[15] *Article 3* — *deleted by L.8/2024*

[16] *Article 4* — *deleted by L.8/2024*

[17] *Article 5* — *deleted by L.8/2024*

[18] *Article 7(12)* — *repealed by L.13/2016*

[19] *Article 7(13)* — *repealed by L.13/2016*

[20] *Article 8(4A)* — *inserted by L.4/2012*

[21] *Part 1A* — *inserted by L.8/2024*

[22] *Article 9C(2)* — *substituted by R&O.82/2025*

[23] *Article 9C(3)* — *amended by L.16/2025*

[24] *Article 10(4)* — *amended by L.4/2012*

[25] *Article 13(1)* — *substituted by L.8/2024*

[26] *Article 13(2)* — *amended by L.8/2024*

[27] *Article 13(3)* *amended by L.8/2024*
[28] *Article 13(4)* *amended by L.8/2024*
[29] *Article 14(1)* *amended by L.8/2024*
[30] *Article 16(7)* *amended by L.36/2005*
[31] *Article 17(5)* *amended by L.14/2022*
[32] *Article 19(1)* *substituted by L.14/2022*
[33] *Article 20(A1)* *inserted by L.19/2016, amended by L.21/2025*
[34] *Article 20(1)* *amended by R&O.118/2018, R&O.55/2022*
[35] *Article 21* *substituted by L.14/2022*
[36] *Article 21(1)* *amended by L.4/2026*
[37] *Article 21(4)* *amended by L.4/2026*
[38] *Article 22* *heading substituted by L.19/2016*
[39] *Article 22(A1)* *inserted by L.19/2016, substituted by L.21/2025*
[40] *Article 22(1)* *amended by L.19/2016*
[41] *Article 22(1A)* *added by L.27/2014, deleted by L.21/2025*
[42] *Article 22(1B)* *added by L.27/2014, deleted by L.21/2025*
[43] *Article 22A* *inserted by L.19/2016, substituted by L.21/2025*
[44] *Article 22B* *inserted by L.21/2025*
[45] *Article 24(3)* *amended by L.4/2012*
[46] *Article 35(5)* *deleted by L.3/2020*
[47] *Article 41(2)* *amended by L.37/2012*
[48] *Article 43(2)* *amended by L.4/2012*
[49] *Article 44* *amended by L.1/2016*
[50] *Article 45(8)* *amended by L.4/2012*
[51] *Article 46(1)* *amended by R&O.118/2018, R&O.55/2022*
[52] *Article 46(4)* *amended by L.27/2005*
[53] *Article 48(6)* *amended by R&O.30/2013*
[54] *Part 7* *repealed by R&O.118/2018*
[55] *Article 58(2)* *amended by R&O.49/2018, R&O.118/2018, L.8/2024, L.4/2026*
[56] *Article 59(4)* *amended by L.8/2024*
[57] *Article 59(6)* *amended by L.8/2024*
[58] *Article 66(4)* *amended by L.8/2024*
[59] *Article 66(4A)* *inserted by L.8/2024*
[60] *Article 66(5)* *substituted by L.8/2024*
[61] *Article 66(6)* *substituted by L.8/2024*
[62] *Article 67(1)* *substituted by R&O.94/2021*
[63] *Article 67(2)* *amended by L.1/2025*
[64] *Article 68(1)* *amended by L.1/2025*
[65] *Article 72(5)* *amended by R&O.49/2018*
[66] *Article 72(6)* *amended by R&O.49/2018*
[67] *Article 72(10)* *amended by R&O.49/2018*
[68] *Article 74(1)* *amended by L.4/2012*
[69] *Article 74(2)* *amended by L.4/2012*
[70] *Article 78(1)* *amended by L.36/2005*
[71] *Article 79* *substituted by L.3/2020*
[72] *Article 80* *substituted by L.36/2005*
[73] *Article 81(2)* *deleted by L.8/2021*
[74] *Article 82(3)* *deleted by L.8/2024*
[75] *Article 82A* *inserted by L.8/2024*
[76] *Schedule A1* *inserted by L.8/2024*
[77] *Schedule 1* *amended by L.4/2012, L.19/2018, L.8/2024*

[78] *Schedule 2*	*amended by L.9/2022*
[79] *Schedule 3*	*amended by R&O.49/2018, L.4/2026*
[80] *Schedule 4*	*amended by R&O.110/2018, R&O.118/2018, R&O.55/2022, L.8/2024*
[81] *Schedule 5*	*amended by L.1/2025, L.8/2024*
[82] *Schedule 5(9)*	*deleted by R&O.118/2018, editorial change, heading deleted*