



Jersey

CHILDREN (CONVENTION RIGHTS) (JERSEY) LAW 2022

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Jersey

CHILDREN (CONVENTION RIGHTS) (JERSEY) LAW 2022

A LAW to make provision for and in connection with giving further effect in Jersey to the rights and obligations set out in the United Nations Convention on the Rights of the Child; to amend the [Commissioner for Children and Young People \(Jersey\) Law 2019](#) in connection with the Standing Orders of the States of Jersey; and for connected purposes.

<i>Adopted by the States</i>	<i>30th March 2022</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>8th June 2022</i>
<i>Registered by the Royal Court</i>	<i>17th June 2022</i>
<i>Coming into force</i>	<i>in accordance with Article 16</i>

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

(1) In this Law –

“Article 6 duty-bearer” means Ministerial duty-bearers, Elected Member duty-bearers and Assembly Body duty-bearers;

“child” means an individual who has not reached the age of 18;

“children’s rights impact assessment” means an assessment for the purposes described in Article 12(5)(a);

“Children’s Rights Scheme” and “Scheme” is construed in accordance with Article 12;

“Commissioner” has the definition given in the [Commissioner for Children and Young People \(Jersey\) Law 2019](#);

“Committee” means the Committee on the Rights of the Child established under Article 43(1) of the Convention;

“Convention” means the United Nations Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20th November 1989 (General Assembly resolution 44/25), ratified by the United Kingdom on 16th December 1991 and extended to Jersey on 29th April 2014 (including any Optional Protocols to that Convention which are in force in relation to the United Kingdom), subject to any

reservations, objections or interpretative declarations by the United Kingdom for the time being in force;

“duty-bearer” is construed in accordance with Article 4;

“duty to have due regard” is construed in accordance with Article 3;

“functions” means powers or obligations whether derived under customary law, or conferred under an enactment or under any other form of written authority, and include such responsibilities as are calculated to facilitate, or are incidental or conducive to, the discharge of those functions;

“government plan” has the definition given in the Public Finances Law;

“lodge” means lodge au Greffe in accordance with standing orders;

“Minister” means the Minister for Children and Education;

“present” in relation to a report is construed in accordance with standing orders;

“proposition” is construed in accordance with standing orders;

“public authority” is construed in accordance with Article 5;

“Public Finances Law” means the [Public Finances \(Jersey\) Law 2019](#);

“publish” in Articles 10, 12 and 13 means publish online or in any other manner appearing to the person publishing to be likely to bring the matter published to the attention of the public or those whom it concerns;

“Social Security Law” means the [Social Security \(Jersey\) Law 1974](#);

“standing orders” means the Standing Orders of the States of Jersey including any amendments to them;

“States” means the States of Jersey constituted under Article 2 of the States of Jersey Law;

“States of Jersey Law” means the [States of Jersey Law 2005](#);

“taxation draft” has the definition given in the Public Finances Law.

- (2) The Optional Protocols mentioned in the definition “Convention” are –
- (a) the Optional Protocol on the sale of children, child prostitution and child pornography, adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25th May 2000 and entered into force on 18th January 2002; and
 - (b) the Optional Protocol on the involvement of children in armed conflict, adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25th May 2000 and entered into force on 12th February 2002.

2 Miscellaneous references

References in this Law to –

“Ministerial duty-bearers”, “Elected Member duty-bearers”, “Assembly Body duty-bearers” and “Public Authority duty-bearers” are construed in accordance with Article 4;

“absolutely exempt information” and “qualified exempt information” have the definition given in the [Freedom of Information \(Jersey\) Law 2011](#);

“personal data” and “data subject” have the same meaning as in Article 2 of the [Data Protection \(Jersey\) Law 2018](#), and “pseudonymization” has the same meaning as in Article 3 of that Law.

3 Duty to have due regard to the Convention on the Rights of the Child

Whenever decisions falling under Article 6, 8 or 9 are to be taken which may have a direct or indirect impact on children, duty-bearers are required in accordance with this Law to have due regard –

- (a) to the requirements of –
 - (i) Part 1 of the Convention,
 - (ii) Articles 1 to 10 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, and
 - (iii) Articles 1 to 7 of the Optional Protocol to the Convention on the involvement of children in armed conflict; and
- (b) where relevant, to the general comments on the Convention issued by the Committee from time to time.

4 Duty-bearers

- (1) The persons listed in first column of the table are duty-bearers.
- (2) The second column of the table gives duty-bearers the title by which they are referred to in this Law.

1 Duty-bearers	2 Title
Chief Minister, Council of Ministers, Ministers, Assistant Ministers and officers exercising delegated functions under Article 28 (power of Ministers to delegate functions) of the States of Jersey Law	Ministerial duty-bearers
Elected members	Elected Member duty-bearers
Any committee or panel established by standing orders (apart from a committee of inquiry) or any other committee, panel, board or body, whether established under an enactment or otherwise, that is permitted under standing orders to lodge a proposition	Assembly Body duty-bearers
Public authorities	Public Authority duty-bearers

5 Meaning of “public authority” and related provisions

- (1) A public authority is a person specified in Schedule 1 that performs functions in relation to children and their families and has any of the following characteristics –

- (a) is established under an enactment, or is an incorporated or unincorporated body or a natural person;
 - (b) is a registered charity as defined in the [Charities \(Jersey\) Law 2014](#);
 - (c) is in receipt of funding from the States;
 - (d) performs functions of a public nature;
 - (e) provides a regulated activity as defined in the [Regulation of Care \(Jersey\) Law 2014](#); or
 - (f) provides services under a contract made with another duty-bearer, the provision of those services being a function of that other duty-bearer.
- (2) The Minister may, by Order, amend –
 - (a) the characteristics set out in paragraph (1); or
 - (b) Schedule 1 –
 - (i) for the purpose of adding or removing a Public Authority duty-bearer, or
 - (ii) for the purpose of re-naming a Public Authority duty-bearer who changes their name.
- (3) Before making an Order under paragraph (2)(b)(i), the Minister must consult and obtain the consent of –
 - (a) any Public Authority duty-bearer the Minister proposes to remove from Schedule 1; or
 - (b) any person who meets the criteria set out in paragraph (1) that the Minister proposes to make a Public Authority duty-bearer and insert into Schedule 1.
- (4) Before making an Order under paragraph (2)(b)(i) for the purposes of making a person referred to in paragraph (5) a Public Authority duty-bearer, the Minister must consult the Chief Minister or any other Minister for the time being responsible for liaison with a relevant Department.
- (5) A person mentioned in paragraph (4) is a person that is discharging functions in relation to the administration of justice under a relevant Department.
- (6) No Order may be made under paragraph (2)(b)(i) for the purposes of making the Law Officers' Department (referred to in Article 1(1)(b) of the 1965 Law) a Public Authority duty-bearer.
- (7) Where a Public Authority duty-bearer proposes to change its name –
 - (a) the Public Authority duty-bearer must notify the Minister of the name-change not less than 6 weeks before the change is to take effect; and
 - (b) the Minister must, before making an Order under paragraph (2)(b)(ii), obtain the Public Authority duty-bearer's consent.
- (8) In this Article –

“1965 Law” means the [Departments of the Judiciary and the Legislature \(Jersey\) Law 1965](#);

“relevant Department” means a Department referred to in Article 1(1) of the 1965 Law in respect of which functions relating to the administration of justice are discharged by a person referred to in paragraph (5).

6 Duty to have due regard – Ministerial, Elected Member and Assembly Body duty-bearers

- (1) Ministerial duty-bearers must exercise the duty to have due regard when making any decision about the formulation of policy in respect of a government plan relating to –
 - (a) proposed increases or decreases of States’ expenditure in the next financial year under an existing or new head of expenditure proposed in a government plan;
 - (b) proposed new or revised revenue raising measures, including allowances and reliefs, for introduction in the next financial year; or
 - (c) proposed measures, for introduction in the next financial year, which will have the effect of changing the amount of contributions paid in accordance with the Social Security Law.
- (2) Ministerial duty-bearers, Elected Member duty-bearers and Assembly Body duty-bearers must exercise the duty to have due regard when making any decision about the formulation of a proposition or an amendment to a proposition.
- (3) Whenever the duty to have due regard is exercised in respect of decisions falling under this Article, the Article 6 duty-bearers must, unless Schedule 2 applies and subject to the requirements of Article 7, prepare a children’s rights impact assessment and publish it in accordance with Article 7.
- (4) In relation to children’s rights impact assessments that, in any financial year, are required in connection with decisions falling under paragraph (1), Ministerial duty-bearers must determine what those assessments must focus upon, their scope and how many of them must be prepared.
- (5) A children’s rights impact assessment is not required under this Article if it is in respect of a decision falling under paragraph (2) that is exempted under Schedule 2.
- (6) The States may, by Regulations, amend Schedule 2.
- (7) Despite paragraph (5), an Article 6 duty-bearer may prepare a children’s rights impact assessment in respect of an exempted decision, should that duty-bearer wish to do so.
- (8) A children’s rights impact assessment prepared under paragraph (7) must be published in accordance with Article 7.
- (9) In this Article –

“allowances and reliefs” include any allowances or reliefs referred to in the [Income Tax \(Jersey\) Law 1961](#);

“amendment to a proposition” includes an amendment to an amendment and any subsequent amendment to an amendment to a proposition;

“contributions” means the contributions described in Article 4 of the Social Security Law;

“head of expenditure” has the definition given in the Public Finances Law and “existing”, in relation to a head of expenditure, means expenditure set out in a government plan approved by the States in accordance with the Public Finances Law;

“financial year” means a year starting on 1st January;

“next financial year” means a year starting on 1st January immediately following approval by the States of the government plan in accordance with the Public Finances Law.

7 Children’s rights impact assessments in respect of decisions under Article 6

- (1) For the purposes of this Article a children’s rights impact assessment is comprised of a preliminary assessment and a full assessment.
- (2) An Article 6 duty-bearer must, in respect of a decision falling under Article 6(1) or (2) (a “relevant decision”) prepare a preliminary assessment to determine whether the relevant decision is likely to have a direct or indirect impact on children.
- (3) If a preliminary assessment determines that the relevant decision is not likely to have a direct or indirect impact on children, a full assessment need not be completed.
- (4) In the case of a decision falling under Article 6(2) that relates to the formulation of an amendment to a proposition, an Article 6 duty-bearer is not required to complete a full assessment even if the preliminary assessment determines that the decision is likely to have a direct or indirect impact on children, but an Article 6 duty-bearer may, nevertheless, complete a full assessment should that duty-bearer wish to do so.
- (5) In the case of a decision falling under Article 6(2) that relates to the formulation of a proposition, paragraph (6) applies where the preliminary assessment determines that the decision is likely to have a direct or indirect impact on children.
- (6) In a case described in paragraph (5), an Article 6 duty-bearer need not complete a full assessment prior to lodging the proposition provided the Article 6 duty-bearer –
 - (a) has determined that there is insufficient time to complete a full assessment; and
 - (b) lodges the proposition with the intention –
 - (i) where the proposition is listed for debate, of seeking the agreement of the States to reduce the minimum lodging period applicable to that proposition under standing orders, or
 - (ii) where the proposition is not listed for debate –
 - (A) of giving notice, in accordance with standing orders, to propose during a meeting of the States that the States debate the proposition at that meeting, and
 - (B) of seeking the agreement of the States to reduce the minimum lodging period applicable to that proposition under standing orders.

- (7) But an Article 6 duty-bearer under paragraph (6) must complete a full assessment if –
 - (a) that duty-bearer does not carry out the intention referred to in paragraph (6)(b)(i) or (ii); or
 - (b) the States do not agree to reduce the minimum lodging period sought under paragraph (6)(b)(i) or (ii)(B).
- (8) Where paragraph (7) applies, the Article 6 duty-bearer must publish the full assessment before the date upon which the proposition is to be debated.
- (9) If the States agree to reduce the minimum lodging period sought under paragraph (6)(b)(i) or (ii)(B), the Article 6 duty-bearer must complete the full assessment and publish it not later than 6 weeks after the proposition was debated and adopted by the States.
- (10) Any preliminary or full assessment carried out under this Article must, subject to paragraphs (11) and (12), be published in accordance with arrangements established under the Children’s Rights Scheme.
- (11) If data or information of the type described in paragraph (12) is contained in a preliminary or full assessment, that data or information is prohibited from publication.
- (12) The following data and information is prohibited from publication –
 - (a) personal data about a data subject which despite pseudonymization is capable of being attributed to that data subject; and
 - (b) absolutely exempt information or qualified exempt information.
- (13) In this Article “listed for debate” is construed in accordance with standing orders.

8 Duty to have due regard – Ministerial duty-bearers

- (1) In addition to the decisions falling under Article 6, Ministerial duty-bearers must exercise the duty to have due regard when making any decision in respect of –
 - (a) the discharge of any of their functions; or
 - (b) the formulation of any policy including policy in relation to the making of subordinate legislation.
- (2) The preparation of a children’s rights impact assessment is not a requirement for the purpose of fulfilling the duty to have due regard in respect of any decision under this Article, but a Ministerial duty-bearer may prepare a children’s rights impact assessment should that duty-bearer wish to do so.
- (3) If a children’s rights impact assessment is prepared under this Article, it must, subject to paragraphs (4) and (5), be published in accordance with arrangements established under the Children’s Rights Scheme.
- (4) If the children’s rights impact assessment contains personal data about a data subject which despite pseudonymization is capable of being attributed to that data subject, that children’s rights impact assessment is prohibited from publication.

- (5) If the children’s rights impact assessment contains absolutely exempt information or qualified exempt information, that information is prohibited from publication.
- (6) In this Article –
 - “policy” includes the formulation of policy in respect of a government plan that does not relate to the proposals set out in Article 6(1);
 - “formulation of any policy” includes a review of, or change to, any existing policy;
 - “subordinate legislation” means any Order made by a Minister or other instrument that is not an enactment that is required to be passed or made by the States, having legislative effect in Jersey that is made in Jersey under any Jersey legislation as defined in the [Legislation \(Jersey\) Law 2021](#).

9 Duty to have due regard – Public Authority duty-bearers

- (1) Public Authority duty-bearers must exercise the duty to have due regard when making any decision concerning –
 - (a) the discharge of any of their functions; or
 - (b) the provision of a regulated activity or services respectively mentioned in Article 5(1)(e) and (f).
- (2) The preparation of a children’s rights impact assessment is not a requirement for the purpose of fulfilling the duty to have due regard in respect of any decision under this Article, but a Public Authority duty-bearer may prepare a children’s rights impact assessment should that duty-bearer wish to do so.
- (3) If a children’s rights impact assessment is prepared under this Article, it must, subject to paragraphs (4) and (5), be published in accordance with arrangements established under the Children’s Rights Scheme.
- (4) If the children’s rights impact assessment contains personal data about a data subject which despite pseudonymization is capable of being attributed to that data subject, that children’s rights impact assessment is prohibited from publication.
- (5) If the children’s rights impact assessment contains absolutely exempt information or qualified exempt information, that information is prohibited from publication.

10 General obligations of duty-bearers

- (1) In order to demonstrate fulfilment of the duty to have due regard whenever decisions falling under Article 6, 8 or 9 are made, duty-bearers must –
 - (a) take such steps as are appropriate and proportionate to promote knowledge and understanding of the Convention amongst persons within the duty-bearer’s own sphere of influence, or operation;
 - (b) in relation to complaints arising in respect of a decision which directly or indirectly impacts children, take such steps as are reasonably practicable to ensure –

- (i) that complaints are handled in a child-friendly manner including publicising how complaints may be made, and to whom, and
 - (ii) that complainants are provided with information as to how and to whom, if anyone, unresolved complaints may be escalated;
 - (c) have due regard to the views of any children who may be directly or indirectly impacted by any decision; and
 - (d) apart from Elected Member duty-bearers, in every 12 month period or such other timescale as the Children's Rights Scheme may specify prepare a report –
 - (i) on how they have fulfilled the duty to have due regard over the previous 12 month period, or such other timescale as may be specified in the Scheme, and
 - (ii) publish that report not later than 6 months after the end of the 12 month period or timescale to which the report relates, or period of such other length as may be specified in the Children's Rights Scheme.
- (2) A report mentioned in paragraph (1)(d) may be published either separately, or as part of, any other report or document.

11 Minister's general obligations in respect of implementation of the Law and promotion of Convention obligations

It is the Minister's general duty to –

- (a) oversee and co-ordinate the implementation of this Law and the operation (including revision) of the Children's Rights Scheme; and
- (b) promote the States fulfilment of its obligations as a State party to the Convention.

12 Children's Rights Scheme

- (1) The Minister must, as soon as is reasonably practicable after the commencement of this Article, make a Children's Rights Scheme setting out arrangements for facilitating the fulfilment of the duty to have due regard.
- (2) As soon as is reasonably practicable after making the Children's Rights Scheme the Minister must present the Scheme as a report to the States and publish it.
- (3) The Children's Rights Scheme must be revised in accordance with Article 13.
- (4) The arrangements mentioned in paragraph (1) must include arrangements –
 - (a) for the provision of training and support to assist duty-bearers in fulfilling the duty to have due regard; and

- (b) for establishing and maintaining systems and procedures for the completion and publication of children's rights impact assessments subject to the prohibitions mentioned in –
 - (i) Article 7(11) and (12),
 - (ii) Article 8(4) and (5), and
 - (iii) Article 9(4) and (5).
- (5) The Children's Rights Scheme must also –
 - (a) make provision about the preparation of children's rights impact assessments for the purposes of –
 - (i) analysing the impact on children of making any decisions under Article 6, 8 or 9,
 - (ii) assessing how making any of those decisions support and promote the Convention,
 - (iii) advising and informing duty-bearers as to the impact, if any, of making of any of those decisions,
 - (iv) recording and communicating the findings and outcome of the children's rights impact assessment, and
 - (v) monitoring, reviewing and evaluating whether or not any of those decisions resulted in the likely impact determined by the children's rights impact assessment, or resulted in a different or unexpected impact; and
 - (b) contain guidance for the purpose of assisting duty-bearers in –
 - (i) preparing children's rights impact assessments,
 - (ii) fulfilling the duty to have due regard where no children's rights impact assessment is required, and
 - (iii) fulfilling their obligations under Article 10.
- (6) The Children's Rights Scheme may contain such other matters as the Minister considers appropriate.

13 Revision of Children's Rights Scheme

- (1) The Minister must revise the Children's Rights Scheme first made under Article 12(1) not later than one year after the Committee publishes its concluding observations.
- (2) On every subsequent occasion the Committee publishes its concluding observations, the Children's Rights Scheme must be revised not later than one year after the publication of those observations.
- (3) The Minister may revise the Children's Rights Scheme at any time before the concluding observations are published.
- (4) Every time the Children's Rights Scheme is revised –
 - (a) the Minister must consult –
 - (i) duty-bearers,
 - (ii) children,
 - (iii) the Commissioner,

- (iv) any scrutiny panel established under standing orders to which is assigned scrutiny of matters relating to children, and
- (v) any other persons the Minister considers appropriate; and
- (b) the Minister must publish the revised Scheme and present it as a report to the States.
- (5) The requirements under paragraph (4) do not apply if the Children’s Rights Scheme is revised simply for the purposes of making minor corrections or updating factual information and provided neither amounts to any substantive change to the scope of the Scheme.
- (6) In this Article “concluding observations” means the Committee’s observations, suggestions and general recommendations made, under Article 45 of the Convention, in relation to Jersey after consideration of information contained in a report submitted by the United Kingdom as required under Article 44 of the Convention.

14 General provision as to Orders and Regulations

A power under this Law to amend a provision of this Law by Order or Regulations, includes the power to make such transitional, consequential, incidental or supplementary provision as appears to the Minister to be necessary or expedient for the purposes of the Law.

15 Amendment of the [Commissioner for Children and Young People \(Jersey\) Law 2019](#)

- (1) This Article amends the [Commissioner for Children and Young People \(Jersey\) Law 2019](#).
- (2) In Article 1(1) –
 - (a) for the definition “chairman of the Public Accounts Committee” there is substituted –

“ “chair of the Public Accounts Committee” means the individual appointed as chair of the committee of that name established by the [Standing Orders of the States of Jersey](#).”;
 - (b) for the definition “president of the chairmen’s committee” there is substituted –

“ “president of the scrutiny liaison committee” means the individual appointed as president of the committee of that name established by the [Standing Orders of the States of Jersey](#).”.
- (3) In Article 27(4) for “chairman” there is substituted “chair”.
- (4) In Articles 17(2)(c), 26(3), 27(4) and 28(4) and (5), for “chairmen’s committee” there is substituted “scrutiny liaison committee”.
- (5) In the Schedule, in paragraphs 2(3), 4(2), (4) and (5), 6(1)(a), (2), (3) and (9), 7(1) and (5) and 12(1)(c), for “chairmen’s committee” there is substituted “scrutiny liaison committee”.

16 Citation and commencement

- (1) This Law may be cited as the Children (Convention Rights) (Jersey) Law 2022.
- (2) Article 15 and this Article come into force 7 days after this Law is registered.
- (3) The remainder of this Law comes into force on a day to be specified by the States by Act.

SCHEDULE 1

(Article 5(1))

PUBLIC AUTHORITIES

Andium Homes Limited

Autism Jersey

Family Nursing and Home Care (Jersey) Incorporated

Jersey Cares Limited, also known as “Jersey Cares”

Jersey Child Care Trust

Jersey Society for the Provision of a Children's Resources Centre, also known as “Centre Point Trust” and “Centrepont”

Jersey Sport Limited

The parishes

SCHEDULE 2

(Article 6(5))

EXEMPT DECISIONS

A decision falling under Article 6(2) is exempt from the requirement under Article 6(3) to prepare a children's rights impact assessment if it is in relation to any of the following propositions –

- (a) an Act of the States specifying a day for the commencement of a Law or Regulations;
- (b) an Act of the States giving a taxation draft immediate effect under Article 12 of the Public Finances Law;
- (c) an Act of the States under Article 2 of the [Public Holidays and Bank Holidays \(Jersey\) Law 1951](#);
- (d) a proposition to amend standing orders;
- (e) a proposition in respect of which a minimum lodging period of 2 weeks applies under standing orders;
- (f) a proposition lodging a government plan under Article 9 of the Public Finances Law;
- (g) a proposition lodging draft legislation containing a taxation draft to implement a proposal of a lodged government plan referred to in Article 11(1) of the Public Finances Law;
- (h) a proposition lodging draft legislation amending the Social Security Law or [Health Insurance Fund \(Miscellaneous Provisions\) \(Jersey\) Law 2011](#) which will give effect to proposals contained in a government plan;
- (i) a proposition to approve a statement of the Council of Ministers' common strategic policy lodged under Article 18(2)(e) of the States of Jersey Law; and
- (j) a proposition for the appointment of any person to any tribunal, public body or office.