



Jersey

MEDICAL PRACTITIONERS (REGISTRATION) (AMENDMENT No. 4) (JERSEY) LAW 2011

Arrangement

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MEDICAL PRACTITIONERS (REGISTRATION) (AMENDMENT No. 4) (JERSEY) LAW 2011

A LAW to amend further the Medical Practitioners (Registration) (Jersey) Law 1960.

Adopted by the States

20th July 2011

Sanctioned by Order of Her Majesty in Council

12th October 2011

Registered by the Royal Court

21st October 2011

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

1 Interpretation

In this Law “principal Law” means the Medical Practitioners (Registration) (Jersey) Law 1960¹.

2 Article 1 amended

In Article 1 of the principal Law –

(a) for paragraph (1) there shall be substituted the following paragraph –

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

‘Minister’ means the Minister for Health and Social Services;

‘prescribed’ means prescribed by Order of the Minister;

‘register’ means the register kept under Article 3(1);

‘registered’ means registered as a medical practitioner under this Law;

‘registration fee’ means the registration fee determined under Article 5(3).”;

(b) paragraphs (3) and (4) shall be deleted.

3 Articles 2, 3, 4 and 5 substituted

For Articles 2, 3, 4 and 5 of the principal Law there shall be substituted the following Articles –

“2 Restrictions on practice of medicine

- (1) A person shall not –
 - (a) represent himself or herself as being registered unless he or she is registered and his or her registration is not suspended;
 - (b) represent himself or herself as having any qualification or authority to practise as a medical practitioner that is a qualification or authority prescribed under Article 5A(1)(a) as a requirement for registration, unless he or she has such qualification or authority and, in the case of authority to practise, the authority is not suspended;
 - (c) use the title ‘registered medical practitioner’ unless he or she is registered and his or her registration is not suspended;
 - (d) represent himself or herself as having a specialist title or specialization unless –
 - (i) he or she is permitted, by a qualification or authority to practise as a medical practitioner conferred in another country or territory, being a qualification or authority prescribed under Article 5A(1)(a) as a requirement for registration, to hold himself or herself out, in that country or territory, as having that specialist title or specialization, and
 - (ii) the permission is not suspended in that country or territory;
 - (e) practise medicine unless he or she is registered and his or her registration is not suspended; or
 - (f) practise medicine otherwise than in accordance with the conditions (if any) imposed on his or her registration.
- (2) A person who contravenes paragraph (1) is guilty of an offence and liable to a fine of level 4 on the standard scale.

3 Register

- (1) The Minister shall keep a register of persons registered as medical practitioners.
- (2) Upon registering a person as a medical practitioner, the Minister shall enter in the register the prescribed information in respect of the person.
- (3) The Minister shall remove from the register the name of a person –
 - (a) who has died;
 - (b) who has requested the cancellation of his or her registration under Article 8; or

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- (c) whose registration has been cancelled under Article 9.

4 List of registered medical practitioners to be kept

The Minister shall ensure that a list of the names of registered medical practitioners, showing such information regarding their qualification for registration as may be prescribed, is published or made available for viewing at all reasonable times by members of the public, without charge, at a place or in a manner determined by the Minister.

5 Application for registration as a medical practitioner

- (1) A person may apply to the Minister for registration under this Law as a medical practitioner.
- (2) An application for registration as a medical practitioner shall –
- (a) contain the prescribed particulars; and
 - (b) be accompanied by –
 - (i) the prescribed proof that the applicant fulfils the requirements prescribed under Article 5A(1)(a), and
 - (ii) the registration fee.
- (3) The Minister may determine a registration fee for the purposes of paragraph (2)(b)(ii).

5A Registration

- (1) The Minister shall, after receiving an application for registration that complies with the requirements of Article 5(2), register the applicant as a medical practitioner if the Minister is satisfied that –
- (a) the applicant fulfils the prescribed requirements for registration; and
 - (b) the application is not made within a period specified in a direction under Article 9(3) that is in force in relation to the applicant.
- (2) The Minister shall, before refusing to register an applicant as a medical practitioner by reason of the application not complying with the requirements of Article 5(2), give the applicant an opportunity to make his or her application compliant with the requirements of that provision.
- (3) The Minister shall not register an applicant as a medical practitioner if the Minister is not satisfied as to the matters described in sub-paragraph (a) and (b) of paragraph (1).
- (4) The Minister shall, upon refusing an application for registration –
- (a) serve notice on the applicant of his or her decision to refuse the application and the reasons for it; and
 - (b) refund the registration fee paid by the applicant.

5B Conditions of registration

- (1) The Minister may, if he or she thinks it necessary to do so –
 - (a) to protect members of the public;
 - (b) because it is otherwise in the public interest; or
 - (c) in the interests of the person,impose a condition on the registration of a person as a medical practitioner.
- (2) A condition may be imposed under paragraph (1) at the time of, or after, registration.
- (3) A condition imposed under paragraph (1) shall remain in force for the period specified in the registration of the person as the period for which the condition shall remain in force.
- (4) A period specified under paragraph (3) shall not exceed 18 months.
- (5) The Minister may, on the expiry of the period specified under paragraph (3), make a further decision under paragraph (1) to impose the condition.
- (6) Before the Minister makes a decision to impose a condition under paragraph (1), the Minister shall give the person the opportunity to make representations.
- (7) The Minister shall impose any mandatory condition of registration that is prescribed.
- (8) The Minister shall serve notice on the practitioner of any condition imposed in the practitioner's case, the reasons for its imposition and, in the case of a condition imposed under paragraph (1), the period for which it shall remain in force.

5C Certificate of registration

- (1) The Minister shall issue a certificate of registration to a person who is registered as a medical practitioner.
- (2) The Minister may issue a further certificate of registration to a person who is registered as a medical practitioner if the Minister is satisfied that the certificate of registration formerly issued to the person has been lost, stolen or damaged.

5D Requirement to make return

A registered medical practitioner shall provide to the Minister, at such intervals and by such dates as may be prescribed, a return in such form and containing such information as may be prescribed.”

4 Article 7 amended

In Article 7(1) of the principal Law for sub-paragraph (a) there shall be substituted the following sub-paragraph –

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- “(a) with intent to deceive, forges or uses, or lends to or allows to be used by any other person, a certificate or other document that is required, under Article 5(2)(b), to accompany an application for registration, or makes or has in his or her possession any certificate or document so closely resembling the required certificate or document as to be calculated to deceive; or”.

5 Articles 8, 9 and 10 substituted

For Articles 8, 9 and 10 of the principal Law there shall be substituted the following Articles –

“8 Request for cancellation of registration

- (1) A person registered as a medical practitioner may, at any time, request the Minister to cancel the person’s registration.
- (2) A request under paragraph (1) shall be made in writing.
- (3) The Minister shall, upon receiving a request under paragraph (1), cancel the person’s registration.

9 Cancellation of registration otherwise than on request

- (1) The Minister shall cancel a person’s registration as a medical practitioner if –
 - (a) the person ceases to fulfil the requirements for registration prescribed under Article 5A(1)(a);
 - (b) the person’s registration under this Law was obtained by fraudulent means; or
 - (c) the person has not, within 60 days of having been requested to do so by the Minister, by notice in writing, provided to the Minister the return required by Article 5D.
- (2) The Minister may cancel a person’s registration as a medical practitioner if the person –
 - (a) is convicted (whether or not in Jersey) of an offence of a kind that, in the opinion of the Minister, makes the person unfit to be a medical practitioner;
 - (b) has failed to comply with a condition imposed under Article 5B(1) or (7) on his or her registration;
 - (c) is found by the Minister to have engaged in behaviour that constituted a contravention of, or a failure to comply with, any term or condition of any authority to practise as a medical practitioner by virtue of which authority the person fulfils the requirements for registration prescribed under Article 5A(1)(a); or

- (d) is found by the Minister to have engaged in conduct of a kind that, in the opinion of the Minister, makes the person unfit to be a medical practitioner.
- (3) The Minister may, if he or she has cancelled a person's registration under paragraph (1)(b) or (2), direct that the person shall not be registered under Article 5A within a period, not exceeding 5 years, specified by the Minister in the direction.
- (4) The Minister shall, before cancelling a person's registration under paragraph (1) or (2), give the person an opportunity to make representations.
- (5) The Minister shall serve on a person whose registration is cancelled under this Article notice of –
 - (a) the Minister's decision to cancel the person's registration;
 - (b) the Minister's reasons for the decision; and
 - (c) the period, if any, during which, in accordance with a direction under paragraph (3), the person shall not be registered under Article 5A.
- (6) The cancellation of a person's registration under this Article takes effect on the service on the person under paragraph (5) of the notice of the cancellation.
- (7) If an appeal is lodged under Article 10B against the cancellation of a person's registration, the Minister shall restore the person's registration –
 - (a) until the determination of the appeal under Article 10B(4)(a) or (c); or
 - (b) where the appeal is determined by referring the matter back to the Minister under Article 10B(4)(b), until the Minister has dealt with the referred matter.
- (8) Paragraph (7) does not apply if –
 - (a) in the opinion of the Minister, the grounds on which the registration was cancelled are so serious that the cancellation should continue in effect –
 - (i) until the appeal in relation to it is determined under Article 10B(4)(a) or (c), or
 - (ii) where the appeal is determined by referring the matter back to the Minister under Article 10B(4)(b), until the Minister has dealt with the referred matter; and
 - (b) the notice of cancellation under paragraph (5) specifies that sub-paragraph (a) of this paragraph applies in relation to the cancellation.

10 Suspension

- (1) The Minister shall –
 - (a) suspend a person's registration as a medical practitioner upon becoming aware that the authority to practise by virtue

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- of which the person fulfils the requirements for registration prescribed under Article 5A(1)(a) has been suspended; and
 - (b) end a person's suspension upon becoming aware that the person's authority to practise, described in subparagraph (a), is no longer suspended.
- (2) If the Minister is satisfied that there may be grounds for cancellation of a person's registration as a medical practitioner and that the circumstances are such that, while enquiries are conducted into those grounds, the person should not practise as a medical practitioner, the Minister may suspend the person's registration for a period not exceeding 3 months.
 - (3) The Minister may extend a suspension under paragraph (2) on one or more occasions for, on each occasion, a period not exceeding 3 months.
 - (4) The Minister shall serve on a person whose registration is suspended, or whose suspension is extended, notice of –
 - (a) the Minister's decision to suspend, or extend the suspension of, the person's registration;
 - (b) the Minister's reasons for the decision; and
 - (c) the period for which the suspension has effect.
 - (5) A period of suspension commences on the service on the person, under paragraph (4), of the notice of suspension.

10A Application for amendment of direction

- (1) A person whose registration is cancelled under Article 9 may apply to the Minister to amend a direction given under Article 9(3) in relation to the person.
- (2) The Minister may, after receiving an application under paragraph (1) from a person, amend a direction given under Article 9(3) in relation to the person.
- (3) The Minister shall serve on a person notice of the Minister's decision in relation to an application by the person under paragraph (1) and the Minister's reasons for the decision.

10B Appeals

- (1) A person may appeal to the Royal Court against a decision of the Minister to –
 - (a) refuse under Article 5A to register the person;
 - (b) impose under Article 5B(1) a condition on the registration of the person;
 - (c) cancel under Article 9 the person's registration;
 - (d) give a direction under Article 9(3) in relation to the person;

- (e) suspend, or continue the suspension of, the person's registration under Article 10; or
 - (f) refuse, under Article 10A, to amend a direction given in respect of the person or to amend the direction in terms other than those sought by the person.
- (2) An appeal under this Article against a decision may only be made by a person within 28 days after notice of the decision is served on the person, unless the Royal Court determines that the period should be extended.
- (3) If the Minister has not, within the 60 day period beginning on the day after an application is made to the Minister under Article 5A or 10A by a person, served a notice under Article 5A(4) or 10A(3), as the case requires, in relation to the application, the Minister shall be taken for the purposes of this Article –
- (a) to have decided to refuse the application; and
 - (b) to have served notice of the decision on the person on the day after the end of that period.
- (4) The Royal Court may determine an appeal under this Article by –
- (a) confirming the decision to which the appeal relates;
 - (b) quashing the decision to which the appeal relates and referring the matter back to the Minister for the Minister's decision in accordance with the law; or
 - (c) making any decision that the Minister could have made under Article 5A, 5B(1), 9, 10 or 10A, as the case may be.
- (5) The Royal Court may make the additional orders it thinks appropriate, including ancillary orders and orders as to costs.

10C Fitness to practise

- (1) The Minister may by Order, for the purpose of facilitating the continuance, in another country or territory, of any authority to practise by virtue of which medical practitioners are registered, make arrangements for the evaluation of the fitness to practise of all or any class of registered medical practitioners.
- (2) Before making an Order under this Article, the Minister shall consult with such bodies or organizations in Jersey as appear to the Minister to be representative of any class of registered medical practitioners to which the Order would apply.
- (3) An Order made under paragraph (1) may in particular, but not by way of limitation –
- (a) classify registered medical practitioners for the purposes of the arrangements described in paragraph (1);
 - (b) provide for the appointment of one or more persons to direct the arrangements described in paragraph (1) in relation to all or any class of registered medical practitioners and specify the name by which a person appointed shall be known;

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- (c) specify the responsibilities of a person appointed in relation to the evaluation of the fitness to practise of a class of registered medical practitioners;
 - (d) require a person appointed to co-operate with any authority or organization outside Jersey that has responsibility for the issuing, suspension or withdrawal of any authority to practise by virtue of which a person is registered, or eligible to be registered, in Jersey;
 - (e) require a person appointed to have regard to guidance issued by a body specified in the Order; and
 - (f) confer on a person appointed such powers as are appropriate to enable that person to discharge the responsibilities imposed on him or her by the Order.
- (4) An Order made under paragraph (1) may –
- (a) create offences punishable by a fine of up to level 4 on the standard scale; and
 - (b) create other procedures or apply, with modifications, existing procedures in other enactments for enforcing any provision of the Order.
- (5) In particular, an Order made under paragraph (1) may, pursuant paragraph (4)(b), apply Article 30 of the Health Insurance (Jersey) Law 1967², with modifications, for the purposes of the Order.
- (6) An Order made under paragraph (1) may, subject to paragraphs (7) to (11) –
- (a) enable a person appointed to require another person to supply information or produce any document which appears relevant to the discharge of the responsibilities of the person appointed; and
 - (b) enable a person appointed to apply to the Royal Court for an order requiring the information to be supplied or the document produced.
- (7) An Order made under paragraph (1) shall not confer any power for a person appointed to require another person to supply information or produce any document, the supply or production of which is prohibited by any enactment.
- (8) However, if a prohibition in another enactment operates only because information that is capable of identifying an individual is contained in the document, or forms part of the information, referred to in paragraph (6), the Order may empower a person appointed to require that the information be put into such a form as to prevent identification of the individual.
- (9) An Order made under paragraph (1) may further provide that, for the purpose of determining whether a disclosure is not prohibited, by reason that it is a disclosure of personal data which is exempt from the non-disclosure provisions of the Data Protection (Jersey)
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Law 2005³, by virtue of Article 35(1) of that Law, there shall be an assumption that the disclosure is required by the Order.

- (10) An Order made under paragraph (1) shall not confer any power for a person appointed to require another person to supply information or produce a document that the person could not be compelled to supply or produce in civil proceedings before the Royal Court.
- (11) An Order made under paragraph (1) that confers power for a person appointed to require another person to supply information or produce a document –
 - (a) shall –
 - (i) specify the uses to which the information or documents so obtained may be put, and
 - (ii) restrict the persons to whom the information or documents so obtained may be released; and
 - (b) may, subject to sub-paragraph (a), require a person appointed to release the information or documents in such circumstances, for such purposes and to such persons, as are specified in the Order.
- (12) A reference in this Article to a person appointed is a reference to a person appointed for the purposes described in paragraph (3)(b).”.

6 Article 11 amended

In Article 11(1) of the principal Law for the words “if he or she is duly registered as a provisionally registered medical practitioner in pursuance of section 15 or 21 of the 1983 Act” there shall be substituted the words “if he or she satisfies such requirements and complies with such conditions as may be prescribed for the purposes of this Article”.

7 Article 12A inserted

After Article 12 of the principal Law there shall be inserted the following Article –

“12A Orders

The Minister may, by Order –

- (a) prescribe any matter that shall or may be prescribed under this Law;
- (b) make provision as to the documents that may be admitted in proceedings under this Law as proof that a person –
 - (i) fulfils the prescribed requirements for registration under Article 5A, or
 - (ii) is permitted to hold himself or herself out as having a specialist title or specialization;

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- (c) make provision as to the manner in which any notice to be served under this Law shall or may be served; and
 - (d) make transitional provisions and savings for the purposes of the commencement of any amendment to this Law.”.

8 Citation and commencement

This Law may be cited as the Medical Practitioners (Registration) (Amendment No. 4) (Jersey) Law 2011 and shall come into force on such day or days as the States may by Act appoint.

A.H. HARRIS

Deputy Greffier of the States

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- ¹ *chapter 20.600*
² *chapter 26.500*
³ *chapter 15.240*