



Jersey

## REGULATION OF CARE (TRANSFER OF FUNCTIONS) (JERSEY) REGULATIONS 2018

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## **REGULATION OF CARE (TRANSFER OF FUNCTIONS) (JERSEY) REGULATIONS 2018**

*Made*

*20th November 2018*

*Coming into force*

*1st January 2019*

**THE STATES**, in pursuance of Article 37(2) and (3) of the Regulation of Care (Jersey) Law 2014<sup>1</sup> have made the following Regulations –

### **1 Interpretation**

In these Regulations –

“Commission” means the Health and Social Care Commission established by Article 35 of the Regulation of Care (Jersey) Law 2014<sup>2</sup>;

“Minister” means the Minister for Health and Social Services;

“transferring entity” means the Minister or the Medical Officer of Health, as the case may be.

### **2 Functions of Minister for Health and Social Services transferred**

(1) Subject to paragraph (2) there are transferred from the Minister to the Commission the functions under the following enactments (as, in the case of those mentioned in sub-paragraphs (f) and (g), they are amended by Schedule 2 to the Regulation of Care (Regulated Activities) (Jersey) Regulations 2018<sup>3</sup>) –

(a) the Dentistry (Jersey) Law 2015<sup>4</sup>;

(b) the Health Care (Registration) (Jersey) Law 1995<sup>5</sup>;

(c) the Medical Practitioners (Registration) (Jersey) Law 1960<sup>6</sup>;

(d) the Medical Practitioners (Registration) (General Provisions) (Jersey) Order 2014<sup>7</sup>;

(e) the Medical Practitioners (Registration) (Responsible Officers) (Jersey) Order 2014<sup>8</sup>;

(f) the Nursing Homes (Jersey) Law 1994<sup>9</sup>;

(g) the Nursing Homes (General Provisions) (Jersey) Order 1995<sup>10</sup>;

(h) the Opticians (Registration) (Jersey) Law 1962<sup>11</sup>;

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- (i) the Piercing and Tattooing (Jersey) Law 2002<sup>12</sup>.
  - (2) The functions of the Minister with respect to the making of Orders are not transferred.
  - (3) The Schedule has effect for the purposes of amendment of the enactments listed in paragraph (1).

### **3 Functions of the Medical Officer of Health transferred**

- (1) As a consequence of Regulation 2(1)(b), there are transferred from the Medical Officer of Health to the Commission the functions of the Medical Officer of Health under the Health Care (Registration) (Jersey) Law 1995<sup>13</sup> (which functions are administrative functions that supported the Minister's regulatory functions).
- (2) As a consequence of paragraph (1) the Health Care (Registration) (Jersey) Law 1995<sup>14</sup> is amended as follows –
  - (a) the definition "Medical Officer of Health" in Article 1(1) is deleted;
  - (b) in Articles 7(1) and (2), 8(2) and (3) and 11 (wherever occurring) for the words "Medical Officer of Health" there is substituted the word "Commission";
  - (c) for Article 8(1) there is substituted the following paragraph –

"(1) Where the Commission has reason to believe that a registered person has ceased to practise the Commission may send to the registered person by registered post to the person's address appearing in the register, or to the person's last known place of abode, an inquiry as to whether or not the person wishes to have his or her name retained in the register.";
  - (d) for Article 12(1) there is substituted the following paragraph –

"(1) Where the Commission registers or renews the registration of any person it shall issue to the registered person, free of charge, a certificate of registration.";
  - (e) In Article 15 –
    - (i) for paragraph (1) there is substituted the following paragraph –

"(1) The Commission may require the production of such documents as the Commission thinks necessary in order to ensure that the provisions of this Law are being complied with.";
    - (ii) for paragraph (3) there is substituted the following paragraph –

"(3) A person who obstructs or impedes the Commission in the execution of its duties shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.".

#### **4 Connected rights, liabilities and records transferred**

- (1) All rights enjoyed and liabilities incurred by the transferring entity in connection with the functions transferred by Regulations 2 and 3 are transferred to the Commission and become the rights and liabilities of the Commission.
- (2) A provision of a contract or other instrument that specifies that a right or liability of the transferring entity is incapable of transfer is, to the extent that it applies to a right or liability transferred by paragraph (1), of no effect.
- (3) The operation of paragraph (1) is not regarded –
  - (a) as a breach of contract or confidence or otherwise as a civil wrong;
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities; or
  - (c) as giving rise to any remedy by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship.
- (4) Any records held by the Minister in relation to any services under any of the enactments listed in Regulation 2(1) and any records held by the Medical Officer of Health in relation to any services under the Health Care (Registration) (Jersey) Law 1995<sup>15</sup> are transferred to the Commission, with the Minister continuing to have the right to access the records.

#### **5 Transitional provisions**

- (1) The transfers effected by Regulations 2 and 3 do not prejudice the operation of any appointment, approval, authorization, consent, delegation, determination, direction, instruction, requirement or other thing that is, before these Regulations come into force, made, given or done by the transferring entity in relation to the functions, rights and liabilities so transferred, but such matter, if then in force, continues in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the Commission.
- (2) Anything commenced before these Regulations come into force by or under the authority of the transferring entity may, so far as it relates to any of the functions, rights and liabilities transferred by Regulations 2 to 4, be carried on and completed by or under the authority of the Commission.
- (3) Where, on commencement of these Regulations, any legal proceeding is pending to which the transferring entity is a party and the proceeding has reference to any of the functions, rights and liabilities transferred by Regulations 2 to 4, the Commission is substituted in the proceeding for the transferring entity and the proceeding does not abate by reason of the substitution.

**6 Citation and commencement**

These Regulations may be cited as the Regulation of Care (Transfer of Functions) (Jersey) Regulations 2018 and shall come into force on 1st January 2019.

**L.-M. HART**

*Deputy Greffier of the States*

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**SCHEDULE**

(Regulation 2)

**AMENDMENT OF ENACTMENTS**

**1 Dentistry (Jersey) Law 2015**

- (1) The Dentistry (Jersey) Law 2015<sup>16</sup> is amended as follows.
- (2) In Article 1 –
  - (a) before the definition “Court” there is inserted the following definition –

“ “Commission” means the Health and Social Care Commission established by Article 35 of the Regulation of Care (Jersey) Law 2014<sup>17</sup>;”;
  - (b) the definition “Minister” is deleted.
- (3) In the following places for the word “Minister” (wherever occurring) there is substituted the word “Commission” –
  - (a) in Article 7(1), (3)(e), (4) and (5);
  - (b) in Article 8;
  - (c) in Article 9;
  - (d) in Article 10(3), (4) and (5);
  - (e) in Article 11(1), (5), (6) and (7);
  - (f) in Article 12 (including the heading);
  - (g) in Article 13(1) and (2);
  - (h) in Article 15(1) and (3);
  - (i) in Article 16(1) and (3);
  - (j) in Article 17(1), (2), (3), (4), (5), (7) and (8);
  - (k) in Article 18(1) and (2);
  - (l) in Article 19;
  - (m) in Article 20(1) and (3)(b) and (c).
- (4) In Article 9(4) for the words “his or her” there is substituted the word “its”.
- (5) In Article 11(1), 13(1) and 17(3) for the words “he or she” there is substituted the word “it”.
- (6) In Articles 17(5)(a) and (b), 18(2)(a) and (b), 19(3) and 20(3)(b) for the words “the Minister’s” there is substituted the word “its”.

**2 Health Care (Registration) (Jersey) Law 1995**

- (1) The Health Care (Registration) (Jersey) Law 1995<sup>18</sup> is amended as follows.

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- (2) In Article 1 –
- (a) after the definition “applicant” there is inserted the following definition –  
“ “Commission” means the Health and Social Care Commission established by Article 35 of the Regulation of Care (Jersey) Law 2014<sup>19</sup>;”;
  - (b) the definition “Minister” is deleted;
- (3) In the following places for the word “Minister” (wherever occurring) there is substituted the word “Commission” –
- (a) Article 2(4)(b);
  - (b) Article 3(1);
  - (c) Articles 5 and 6;
  - (d) Article 8(4);
  - (e) Article 9(1);
  - (f) Article 14(1).
- (4) In Article 6(2) for the words “he or she” there is substituted the word “it” and for the word “Minister’s” there is substituted the word “Commission’s”.

### **3 Medical Practitioners (Registration) (Jersey) Law 1960**

- (1) The Medical Practitioners (Registration) (Jersey) Law 1960<sup>20</sup> is amended as follows.
- (2) In Article 1(1) before the definition “Minister” there is inserted the following definition –
- “ “Commission” means the Health and Social Care Commission established by Article 35 of the Regulation of Care (Jersey) Law 2014<sup>21</sup>;”.
- (3) In the following places, for the word “Minister” (wherever occurring) there is substituted the word “Commission” –
- (a) in Articles 3 and 4;
  - (b) in Article 5(1) and (3);
  - (c) in Article 5A;
  - (d) in Article 5B(1), (5), (6), (7) and (8);
  - (e) in Articles 5C and 5D;
  - (f) in Article 8;
  - (g) in Article 9(1), (2), (3), (4), (5), (7) and (8)(a);
  - (h) in Article 10(1), (2), (3) and (4);
  - (i) in Article 10A;
  - (j) in Article 10B(1), (3) and (4).
- (4) In Article 5B and 9(3) for the words “he or she” there is substituted the word “it”.



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- (5) In Articles 9(5)(a) and (b), 10(4)(a) and (b), 10A(3), 10B(4)(b) for the words “the Minister’s” there is substituted the word “its”.

**4 Medical Practitioners (Registration) (General Provisions) (Jersey)  
Order 2014**

- (1) The Medical Practitioners (Registration) (General Provisions) (Jersey) Order 2014<sup>22</sup> is amended as follows.
- (2) In the following places for the word “Minister” (wherever occurring) there is substituted the word “Commission” –
- (a) in Article 4(1)(a) and (d) and (2);
  - (b) in Article 6(3), (4) and (5);
  - (c) in Article 7 (including the heading);
  - (d) in Article 8(1).
- (3) In the heading to Article 8 for the word “Minister’s” there is substituted the word “Commission’s”.

**5 Medical Practitioners (Registration) (Responsible Officers) (Jersey)  
Order 2014**

- (1) The Medical Practitioners (Registration) (Responsible Officers) (Jersey) Order 2014<sup>23</sup> is amended as follows.
- (2) In the following places for the word “Minister” (wherever occurring) there is substituted the word “Commission” –
- (a) in Article 4(2), (3) and (4);
  - (b) in paragraph 2(2)(c)(ii) of Schedules 1, 2, 3 and 4;
  - (c) in paragraph 2(d) of Schedule 5;
  - (d) in paragraph 3(2)(c) of Schedule 6.
- (3) In paragraph 2(2)(c)(ii) of Schedules 1, 2, 3 and 4 and paragraph 3(2)(c) of Schedule 6 for the words “his or her” there is substituted the word “its”.
- (4) In paragraph 2(d) of Schedule 5 for the word “Minister’s” there is substituted the word “Commission’s”.

**6 Nursing Homes (Jersey) Law 1994**

- (1) The Nursing Homes (Jersey) Law 1994<sup>24</sup> is amended as follows.
- (2) In Article 1(1) –
- (a) after the definition “certified” there is inserted the following definition –  
  
“ “Commission” means the Health and Social Care Commission established by Article 35 of the Regulation of Care (Jersey) Law 2014<sup>25</sup>;”;

- 
- (b) the definition “Minister” is deleted.
  - (3) In the following places for the word “Minister” (wherever occurring) there is substituted the word “Commission” –
    - (a) in Article 1A(3)(f);
    - (b) in Article 4(1), (5)(a), (6), 8(b) and (10);
    - (c) in Article 6(2), (3) and (4);
    - (d) in Article 7;
    - (e) in Article 8(1);
    - (f) in Article 9;
    - (g) in Article 10(1) and (3) and in the heading;
    - (h) in Article 11(1), (2) and (6);
    - (i) in Article 12;
    - (j) in Article 13(1);
    - (k) in Article 14;
    - (l) in Article 15(2)(d) and (i);
    - (m) in Article 19(1).
  - (5) In Article 9(1) and (4)(a), 11(3) for the word “Minister’s” there is substituted the word “Commission’s”.
  - (6) In Article 10(1) for the words “he or she” there is substituted the word “it” and for the words “his or her” there is substituted the word “its”.

## **7 Nursing Homes (General Provisions) (Jersey) Order 1995**

- (1) The Nursing Homes (General Provisions) (Jersey) Order 1995<sup>26</sup> is amended as follows.
- (2) In the following places for the word “Minister” (wherever occurring) there is substituted the word “Commission” –
  - (a) in Article 2(2);
  - (b) in Articles 5 and 7;
  - (c) in Article 8(1);
  - (d) in Articles 9(1), (2) and (4);
  - (e) in Article 10(1)(t) and (2)(d);
  - (f) in Article 11;
  - (g) in Article 13(1);
  - (h) in Article 14;
  - (i) in Article 16(1)(b), (3)(a) and (4);
  - (j) in paragraphs 1, 2 and 4 of Part 2 of Schedule 1;
  - (k) in the sub-heading to Schedule 3.
- (3) In Article 16(3)(a)(i), (ii) and (iii) for the words “the Minister’s” there is substituted the word “its”.

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**8 Opticians (Registration) (Jersey) Law 1962**

- (1) The Opticians (Registration) (Jersey) Law 1962<sup>27</sup> is amended as follows.
- (2) In Article 1(1) –
  - (a) before the definition “Court” there is inserted the following definition –

“ “Commission” means the Health and Social Care Commission established by Article 35 of the Regulation of Care (Jersey) Law 2014<sup>28</sup>;”;
  - (b) the definition “Minister” is deleted.
- (3) In the following places for the word “Minister” (wherever occurring) there is substituted the word “Commission” –
  - (a) in Article 6;
  - (b) in Article 7(1)(b);
  - (c) in Article 15(1) and (3);
  - (d) in Article 17.
- (4) In Articles 15(3) and 17 (wherever occurring) for the words “he or she” there is substituted the word “it”.
- (5) In Article 17(1) for the words “his or her” there is substituted the word “its”.

**9 Piercing and Tattooing (Jersey) Law 2002**

- (1) The Piercing and Tattooing (Jersey) Law 2002<sup>29</sup> is amended as follows.
- (2) In Article 1 –
  - (a) after the definition “body piercing” there is inserted the following definition –

“ “Commission” means the Health and Social Care Commission established by Article 35 of the Regulation of Care (Jersey) Law 2014<sup>30</sup>;”;
  - (b) the definition “Minister” is deleted.
- (3) In the following places for the word “Minister” (wherever occurring) there is substituted the word “Commission” –
  - (a) in Article 2(1) and (2);
  - (b) in Article 3(a) and (c);
  - (c) in Article 4;
  - (d) in Article 7(1);
  - (e) in Article 9;
  - (f) in Article 10(2);
  - (g) in Article 11.
- (4) In Articles 4(3) and 11(1) for the words “he or she” there is substituted the word “it”.

- (5) In Article 11(1)(a), (2) and (6) for the word “Minister’s” there is substituted the word “Commission’s”.

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1	<i>chapter 20.820</i>
2	<i>chapter 20.820</i>
3	<i>R&amp;O.118/2018</i>
4	<i>chapter 20.100</i>
5	<i>chapter 20.300</i>
6	<i>chapter 20.600</i>
7	<i>chapter 20.600.30</i>
8	<i>chapter 20.600.80</i>
9	<i>chapter 20.725</i>
10	<i>chapter 20.725.30</i>
11	<i>chapter 20.750</i>
12	<i>chapter 20.900</i>
13	<i>chapter 20.300</i>
14	<i>chapter 20.300</i>
15	<i>chapter 20.300</i>
16	<i>chapter 20.100</i>
17	<i>chapter 20.820</i>
18	<i>chapter 20.300</i>
19	<i>chapter 20.820</i>
20	<i>chapter 20.600</i>
21	<i>chapter 20.820</i>
22	<i>chapter 20.600.30</i>
23	<i>chapter 20.600.80</i>
24	<i>chapter 20.725</i>
25	<i>chapter 20.820</i>
26	<i>chapter 20.725.30</i>
27	<i>chapter 20.750</i>
28	<i>chapter 20.820</i>
29	<i>chapter 20.900</i>
30	<i>chapter 20.820</i>