



Jersey

MENTAL HEALTH, CAPACITY AND SELF- DETERMINATION (JERSEY) AMENDMENT LAW 202-

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Jersey

MENTAL HEALTH, CAPACITY AND SELF- DETERMINATION (JERSEY) AMENDMENT LAW 202-

A LAW to amend the [Mental Health \(Jersey\) Law 2016](#) and the [Capacity and Self-Determination \(Jersey\) Law 2016](#).

<i>Adopted by the States</i>	<i>26 March 2026</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

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

PART 1

[MENTAL HEALTH \(JERSEY\) LAW 2016](#) AMENDED

1 [Mental Health \(Jersey\) Law 2016](#) amended

Articles 2 to 49 amend the [Mental Health \(Jersey\) Law 2016](#).

2 **Article 1 (interpretation) amended**

(1) In Article 1(1) –

- (a) after the definition “admission application” there is inserted –
 - “AMHP” refers to an approved mental health professional within the meaning of Article 6;
 - “approved clinician” means a person approved by the Minister under Article 16;
- (b) the definition “approved practitioner” is deleted;
- (c) the definition “authorized officer” is deleted;
- (d) after the definition “Court” there is inserted –
 - “electronic” and “electronic communication” have the meaning given in the [Electronic Communications \(Jersey\) Law 2000](#);

- (e) after the definition “function” there is inserted –
“Health Care Law” means the [Health Care \(Registration\) \(Jersey\) Law 1995](#);
 - (f) after the definition “patient” there is inserted –
“postal item” means a letter, parcel, packet or other article transmissible by post and includes the contents;
 - (g) for the definition “responsible medical officer” there is substituted –
“responsible clinician” has the meaning given in Article 1A;
- (2) After Article 1 there is inserted –

1A Responsible clinician

- (1) In this Law, “responsible clinician” means –
 - (a) the approved clinician with overall responsibility for the following cases –
 - (i) a patient liable to be detained under Part 3;
 - (ii) a defendant remanded under Article 62;
 - (iii) a defendant remanded under Article 63;
 - (iv) a defendant admitted and detained under Article 64;
 - (v) a defendant admitted and detained under Article 65;
 - (vi) a defendant whose sentence of imprisonment has additional directions under Article 67;
 - (vii) a person who is transferred from prison or secure accommodation and detained under Article 69;
 - (b) in relation to a patient subject to guardianship under this Law, an approved clinician authorised by the Minister to act, either generally or in a particular case, as the responsible clinician.
- (2) But if the person described in paragraph (1)(a) or (b) is unable to perform their functions as responsible clinician, an approved clinician may exercise those functions whilst that person is unable to perform them.
- (3) If, before the commencement of the Mental Health, Capacity and Self-Determination (Jersey) Amendment Law 202-, the Minister authorises a registered medical practitioner to act as a responsible medical officer in relation to a patient subject to guardianship under this Law, that authorisation is treated as an authorisation of the responsible medical officer as a responsible clinician.

3 Article 4 (appointment of administrator) amended

In Article 4(2), for “Mental Health Review Tribunal” there is substituted “Tribunal”.

4 Article 6 (authorized officers) substituted

For Article 6 there is substituted –

6 Approved mental health professionals

- (1) The Minister may approve a person to carry out functions under this Law, including, if appropriate, functions conferred on the Minister under this Law.
- (2) That person is referred to as an approved mental health professional (an “AMHP”).
- (3) The Minister must not approve a person as an AMHP unless –
 - (a) they are registered in respect of a registrable occupation under the Health Care Law; and
 - (b) the Minister is satisfied, on the production of evidence that may be prescribed, that the person is experienced and trained in the field of mental health practice and in the operation of legislation relating to mental health.
- (4) The Minister may approve a person as an AMHP subject to the terms and conditions that the Minister thinks fit.
- (5) An AMHP must perform their functions –
 - (a) with fairness and impartiality; and
 - (b) in the best interests of each patient in whose care or treatment they are involved.
- (6) The Minister may revoke an approval under this Article, and may vary the terms and conditions upon which an approval is granted.

5 Part 2 heading amended

For the heading to Part 2 there is substituted –

NEAREST PERSON

6 Article 8 (definition of ‘nearest relative’) amended

In Article 8 –

- (a) for the heading there is substituted “Nearest relative”;
- (b) in paragraph (2), for “for treatment” there is substituted “to an approved establishment”;
- (c) in paragraph (5)(a), for “paragraph (1)(b) to (h)” there is substituted “paragraph (3)(b) to (h)”.

7 Article 9 (‘nearest relative’ of certain patients aged under 18) amended

In Article 9, for the heading there is substituted “Nearest relative of certain patients aged under 18”.

8 Article 10 (nomination of nearest person) amended

(1) For Article 10(1) there is substituted –

- (1) A patient who is aged 18 or over may nominate a person as their nearest person –
 - (a) in the prescribed form; or

- (b) in writing by giving substantially the same information as is required to be given in the prescribed form.
- (1A) The nomination form must be provided to the person nominated, and a copy of it provided to the Minister.
- (2) For Article 10(3) there is substituted –
 - (3) A nomination under paragraph (1) or (2) cannot take effect unless the person nominated (“R”) has given their consent to acting as the patient’s nominated nearest person.
 - (3A) R’s consent must be –
 - (a) in the prescribed form; or
 - (b) in writing by giving substantially the same information as is required to be given in the prescribed form.
 - (3B) A nomination under paragraph (1) or (2) may be revoked or varied by further written notice given by the patient or the Minister.

9 Article 13 (rights of nearest person to receive information as to patient’s case or treatment) amended

In Article 13 –

- (a) in paragraphs (1)(a), (2) and (4), for “responsible medical officer” there is substituted “responsible clinician or managers of the approved establishment, if applicable,”;
- (b) in paragraphs (1)(b) and (c), and (3)(b) and (c), for “responsible medical officer” there is substituted “responsible clinician”.

10 Article 13A (interpretation) inserted

Before Article 14 there is inserted –

13A Interpretation

In this Part, “M” means the managers of the approved establishment.

11 Article 15 (emergency admissions) amended

For Article 15 there is substituted –

15 Emergency admissions

- (1) This Article applies if a patient –
 - (a) is brought to, or presents themselves at, an approved establishment; or
 - (b) has been admitted to an approved establishment under the arrangements mentioned in Article 14(1)(a), but no longer consents to remain.
- (2) A registered medical practitioner who has a minimum of 3 years’ post-foundation training experience or an approved clinician may authorize the immediate admission of the patient, if they are of the opinion that there is an

urgent necessity for the patient to be admitted for assessment on the grounds that –

- (a) it is likely that the patient is suffering from mental disorder; and
 - (b) allowing the patient to remain at liberty would endanger either the patient's safety or that of other people.
- (3) The registered medical practitioner or approved clinician must record their authorization under paragraph (2) in writing and send a copy as soon as practicable to the Minister.
- (4) A patient admitted under paragraph (2) may be detained for a period that expires on whichever of the following occurs first –
- (a) the end of the period of 72 hours beginning with the time when the opinion mentioned in paragraph (2) is formed;
 - (b) an approved clinician forms the opinion that the grounds in paragraph (2) no longer apply in respect of the patient;
 - (c) the patient is admitted for assessment or treatment under Article 21 or 22.
- (5) For the purposes of paragraph (2), there is no urgent necessity if an application for assessment or treatment authorization under Article 21 or 22 could be made without undue delay.
- (6) The approved clinician must record their opinion under paragraph (4)(b) in writing and send a copy as soon as practicable to the Minister.

12 Article 16 (approved practitioners) substituted

For Article 16 there is substituted –

16 Approved clinicians

- (1) The Minister may approve the following individuals as an approved clinician if the Minister is satisfied, on the production of evidence that may be prescribed, that the individual has sufficient experience and training in the field of mental health and in the operation of legislation relating to mental health –
 - (a) a registered medical practitioner;
 - (b) a person registered in respect of a registrable occupation under the Health Care Law.
- (2) The Minister may –
 - (a) approve an individual on the terms and conditions that the Minister thinks fit;
 - (b) revoke the approval; and
 - (c) vary the terms and conditions of the approval.
- (3) The Minister's approval of a registered medical practitioner as an approved practitioner before the commencement of the Mental Health, Capacity and Self-Determination (Jersey) Amendment Law 202- is treated as an approval of the registered medical practitioner as an approved clinician.

13 Article 20 (effect of admission application) amended

In Article 20(1)(b), for “the managers of the approved establishment (“M” in this Part)” there is substituted “M”.

14 Article 22 (treatment authorization) amended

In Article 22 –

- (a) for paragraph (1)(b) there is substituted –
 - (b) it is necessary that the patient is detained in an approved establishment for treatment –
 - (i) in the interests of the patient’s health or safety; or
 - (ii) for the protection of other persons.
- (b) in the introductory words of paragraph (4) and paragraph (6), for “responsible medical officer” there is substituted “responsible clinician”;
- (c) for paragraph (4)(a) there is substituted –
 - (a) the renewal of the treatment authorization, if it appears to the responsible clinician that –
 - (i) the patient continues to be suffering from mental disorder of a nature or degree that warrants the detention of the patient in an approved establishment for treatment; and
 - (ii) it is necessary that the patient continues to be liable to be detained in an approved establishment for treatment –
 - (A) in the interests of the patient’s health or safety; or
 - (B) for the protection of other persons; or

15 Article 39 (treatment not requiring consent) amended

In Article 39(b), for “patient’s responsible medical officer” there is substituted “approved clinician in charge of the patient’s treatment”.

16 Article 40 (treatment requiring both consent and a second opinion) amended

- (1) In Article 40(3)(a), for “patient’s responsible medical officer” there is substituted “approved clinician in charge of the treatment that is to be given to the patient”.
- (2) For Article 40(3)(b) there is substituted –
 - (b) 1 other person who must be a mental health professional who is or has been professionally concerned with the treatment of the patient,

17 Article 41 (treatment requiring either consent or a second opinion) amended

In Article 41 –

- (a) for paragraph (1)(a) there is substituted –
 - (a) the patient has consented to the treatment, and the following has certified in writing that the patient is capable of understanding the nature, purpose and likely effects of the proposed treatment and has consented to receive it –

- (i) the approved clinician in charge of the treatment that is to be given to the patient;
 - (ii) an approved clinician who is a registered medical practitioner; or
 - (iii) a SOAD; or
- (b) for paragraph (4) there is substituted –
- (4) A SOAD must not give a certificate in writing as required by paragraph (1)(b) unless, in accordance with any further provision made by a code of practice on consultation, the SOAD has consulted –
- (a) the approved clinician in charge of the treatment to be given to the patient; and
 - (b) 1 other person who must be a mental health professional who is or has been professionally concerned with the treatment of the patient.

18 Article 44 (emergency treatment) amended

In Article 44(2), for “responsible medical officer” there is substituted “approved clinician in charge of the treatment”.

19 Article 47 (establishment of Panel and appointment of qualified persons) amended

In Article 47(3)(b), for “approved practitioner” there is substituted “registered medical practitioner who is an approved clinician”.

20 Article 50 (principal functions of the Tribunal) amended

For the text of Article 50 there is substituted –

- (1) The principal functions of the Tribunal are to –
 - (a) determine applications made under Part 2 of the Schedule;
 - (b) determine references made by the Minister or the Attorney General under Article 51; and
 - (c) review authorizations for removal under Article 85.
- (2) The Tribunal must also discharge other functions that are conferred on it under this Law or under another enactment.

21 Article 50A (application to Tribunal for review or discharge) inserted

After Article 50 there is inserted –

50A Application to Tribunal for review or discharge

- (1) An applicant may apply to the Tribunal, in the form and manner prescribed, for –
 - (a) a review of a decision or exercise of a power; and
 - (b) the discharge of a patient if the patient is liable to be detained for the time being.

- (2) Part 2 of the Schedule makes further provision about an application under this Article.
- (3) In this Article, “applicant” means a person listed in the table in the Schedule, Part 2, paragraph 7.

22 Article 51 (reference to Tribunal by Minister or Attorney General) amended

For the text of Article 51 there is substituted –

- (1) The Minister or the Attorney General may, if they think fit, refer the case of any of the following to the Tribunal –
 - (a) a patient liable to be detained under Part 3;
 - (b) a patient subject to guardianship under Part 4; or
 - (c) a patient liable to be detained under Article 65 if no restriction order has been made under Article 68.
- (2) The Tribunal must deal with a reference under paragraph (1) as if it were an application made by the patient under Article 50A.

23 Article 60 (interpretation and application of Part 9) amended

In Article 60(1)(c), before the definition “place of safety” there is inserted –

“mental condition report” means a report on the defendant’s mental condition;

24 Article 61 (remand on bail for report) amended

For Article 61(1) there is substituted –

- (1) A court may remand the defendant on bail for the purpose of obtaining a mental condition report and in doing so may order that the person attend an approved establishment, at times and on conditions that the court may specify, to enable the preparation of the report.

25 Article 62 (remand to approved establishment for report) amended

(1) For Article 62(1) there is substituted –

- (1) The court may remand a defendant to a specified approved establishment for the purpose of obtaining a mental condition report if –
 - (a) it is satisfied of the matters specified in paragraph (2); and
 - (b) it is of the opinion that –
 - (i) the defendant would not comply with an order under Article 61; or
 - (ii) were the defendant remanded on bail under that Article, it would otherwise be impracticable for a mental condition report to be prepared.

(2) In Article 62(2) –

- (a) in sub-paragraph (a), for “approved practitioner” there is substituted “approved clinician”;

- (b) in sub-paragraph (b), for “the approved practitioner who would be responsible for making the report, or some other” there is substituted “a”.
- (3) In Article 62(3) –
 - (a) for “approved practitioner” there is inserted “approved clinician”;
 - (b) after “making the” there is inserted “mental condition”;
 - (c) for “the assessment of the defendant’s medical condition” there is substituted “that report”.
- (4) In Article 62(5)(a), before “medical practitioner” there is inserted “registered”.

26 Article 63 (remand to approved establishment for treatment) amended

- (1) In Article 63(2) –
 - (a) in sub-paragraph (a), for “approved practitioner” there is substituted “approved clinician”;
 - (b) in sub-paragraph (b), for “the responsible medical officer, or some other” there is substituted “a”.
- (2) In Article 63(3), for “approved practitioner responsible for making the report” there is substituted “responsible clinician”.

27 Article 64 (interim orders) amended

- (1) In Article 64(2) –
 - (a) in sub-paragraph (a), for “approved practitioner” there is substituted “approved clinician”;
 - (b) in sub-paragraph (b), for “the responsible medical officer, or some other” there is substituted “a”.
- (2) In Article 64(4) and (5)(b), for “responsible medical officer” there is substituted “responsible clinician”.

28 Article 65 (treatment orders) amended

- (1) In Article 65(1)(a) –
 - (a) after “2” there is inserted “registered”;
 - (b) for “approved practitioner” there is substituted “approved clinician”.
- (2) In Article 65(1)(c), for “the approved practitioner or some other” there is substituted “a”.

29 Article 66 (guardianship orders) amended

- In Article 66(1)(a) –
 - (a) after “2” there is inserted “registered”;
 - (b) for “approved practitioner” there is substituted “approved clinician”.

30 Article 67 (directions where sentence of imprisonment to be served in approved establishment) amended

- (1) In Article 67(1)(a) –
 - (a) after “2” there is inserted “registered”;
 - (b) for “approved practitioner” there is substituted “approved clinician”.
- (2) In Article 67(1)(b), for “the responsible medical officer or some other” there is substituted “a”.
- (3) In Article 67(7)(b), for “responsible medical officer” there is substituted “responsible clinician”.

31 Article 69 (transfer and detention orders) amended

- (1) In Article 69(2)(a), for “approved practitioner” there is substituted “approved clinician”.
- (2) In Article 69(2)(c), for “the approved practitioner responsible for giving the evidence under sub-paragraph (a), or another” there is substituted “a”.
- (3) In Article 69(7) and (11), for “responsible medical officer” there is substituted “responsible clinician”.

32 Article 73 (offence of wilful neglect) amended

- (1) In Article 73(1), for the introductory words there is substituted “A manager or member of staff of an approved establishment commits an offence if they ill-treat or wilfully neglect”.
- (2) In Article 73(2), for the introductory words there is substituted “An individual commits an offence if the individual ill-treats or wilfully neglects”.
- (3) For Article 73(3) there is substituted –
 - (3) A person who commits an offence under this Article is liable to imprisonment for a term of 5 years and to a fine.

33 Article 74 (sexual offences: prohibited acts) amended

In Article 74(1), for “It is an offence for any person (“A”) to commit” there is substituted “A person (“A”) commits an offence if A commits”.

34 Article 75 (sexual offences: relationship of care) amended

For Article 75(1) there is substituted –

- (1) A person (“A”) involved in the care of a person (“B”) who is suffering from a mental disorder in a way described in paragraph (3) or (4) commits an offence if A –
 - (a) commits a prohibited act with, towards or in relation to B; or
 - (b) procures by inducement, threat or deception B’s participation in a prohibited act.

35 Article 76 (sexual offences: coercion) amended

In Article 76, for “It is an offence for any person (“A”) to procure” there is substituted “A person (“A”) commits an offence if A procures”.

36 Article 77 (sexual offences: penalties) amended

In Article 77(1) and (2) for “guilty of” there is substituted “who commits”.

37 Article 80 (forgery and false statements) substituted

For Article 80 there is substituted –

80 Offences: forgery and false statements

- (1) A person commits an offence if the person, with intent to deceive –
 - (a) forges a document required or authorised to be made under or for the purposes of this Law; or
 - (b) uses, allows another person to use, or makes or has in their possession a document that the person knows to be forged or to so closely resemble a document listed in paragraph (2) as to be calculated to deceive.
- (2) The documents mentioned in paragraph (1)(b) include –
 - (a) an application under Part 3;
 - (b) a medical recommendation, report or information required to be made, given or provided under this Law; or
 - (c) another document required or authorised to be made under or for a purpose of this Law.
- (3) A person commits an offence if the person –
 - (a) knowingly makes a false entry or statement in a document listed in paragraph (2); or
 - (b) with intent to deceive, makes use of that false entry or statement knowing it to be false.
- (4) A person who commits an offence under this Article is liable to imprisonment for a term of 2 years and to a fine.

38 Article 82 (restrictions on access to electronic media and communications etc.) amended

(1) For Article 82(1) there is substituted –

- (1) The managers of an approved establishment may restrict the access of a patient detained in that establishment to the following means of communication (“restriction on communication”) –
 - (a) electronic media or electronic communications;
 - (b) a telephone (including any form of personal mobile device).
- (1A) A restriction on communication must not be imposed unless, in the opinion of the managers, it is necessary to do so on the following grounds –
 - (a) that it is in the interests of the health or safety of the patient; or

- (b) that it is for the protection of other persons.
- (2) For Article 82(2) there is substituted –
 - (2) A restriction on communication may, in particular, include –
 - (a) restriction of the ability of a patient to contact a specified person by any means mentioned in paragraph (1), if the person has requested that restriction by notice in writing to the managers or to the responsible clinician; and
 - (b) confiscation of an article or device that may be used for the purposes of accessing electronic media or electronic communications.
- (3) For Article 82(3) there is substituted –
 - (3) If a restriction on communication is imposed –
 - (a) the managers must, no later than 7 days after it is imposed, notify the patient in writing of the restriction and of the right to review under Article 84; and
 - (b) the managers must record in writing the fact and nature of the restriction.
- (4) In Article 82(4) –
 - (a) for “Paragraph (1) shall not apply so as to” there is substituted “A restriction imposed under paragraph (1) does not”;
 - (b) in sub-paragraph (i), for “Mental Health Review Tribunal” there is substituted “Tribunal”.

39 Article 83 (restrictions on postal correspondence) amended

- (1) For Article 83(1) there is substituted –
 - (1) The managers of an approved establishment may withhold a postal item addressed to a patient detained in that establishment.
 - (1A) A decision to withhold under paragraph (1) must not be imposed unless, in the opinion of the managers, it is necessary to do so on the following grounds –
 - (a) in the interests of the health or safety of the patient; or
 - (b) for the protection of other persons.
- (2) For Article 83(2) there is substituted –
 - (2) The managers of an approved establishment may withhold a postal item addressed by a patient detained in that establishment from dispatch on the following grounds –
 - (a) that the addressee has given notice in writing to the managers or the responsible clinician that any communications addressed to the addressee by the patient should be withheld; or
 - (b) that it appears to the managers that the communication –
 - (i) would be likely to cause distress to the addressee; or
 - (ii) might cause danger to any person.
- (3) In Article 83(3) –
 - (a) for “Paragraphs (1) and (2) shall not apply so as to” there is substituted “Restrictions imposed under this Article must not”;

- (b) in sub-paragraph (i), for “Mental Health Review Tribunal” there is substituted “Tribunal”.
- (4) In Article 83(4) –
 - (a) for “packet” there is substituted “item”;
 - (b) for “(1)” there is substituted “(1A)”.
- (5) For Article 83(5) there is substituted –
 - (5) If a postal item is withheld under this Article –
 - (a) the managers must, no later than 7 days after the postal item is withheld, give notice in writing of the fact and of the right to review under Article 84 –
 - (i) to the patient;
 - (ii) if paragraph (1) applies, to the person who sent the postal item (if that person can be identified from the item or its contents); and
 - (iii) if paragraph (2) applies, to the addressee; and
 - (b) the managers must record in writing the fact of, and reason for, the withholding.
- (6) Article 83(6) is deleted.

40 Article 84 (review of restrictions, and offence where restriction unlawful) substituted

For Article 84 there is substituted –

84 Review of restrictions, and offence if restriction unlawful

- (1) A person given notice under Article 82(3)(a) or Article 83(5)(a) may apply to the Tribunal, in the prescribed form and manner, for a review of a decision under Article 82 (restrictions on access to electronic media and communications etc.) or Article 83 (restrictions on postal correspondence).
- (2) An application for review must be made within the period of 6 months beginning with the date of receipt of the notice.
- (3) On an application for review, the Tribunal must determine whether the grounds specified in Article 82(1A), 83(1A) or 83(2) continue to exist in respect of the decision –
 - (a) to impose a restriction on communication under Article 82(1); or
 - (b) to withhold a postal item under Article 83(1) or (2).
- (4) If the Tribunal determines that the grounds no longer exist, it must order the managers of the approved establishment –
 - (a) to lift the restriction on communication; or
 - (b) to release the postal item to the patient or dispatch it.
- (5) If the Tribunal determines that grounds continue to exist, it must uphold the decision and may direct the managers of the approved establishment –
 - (a) in a case falling under Article 82(1), to modify the restriction on communication in whatever manner the Tribunal directs; or

- (b) in a case falling under Article 83, to release some of the contents of the postal item if continuing to withhold that content would not meet the grounds for withholding the postal item under Article 83(1A) or 83(2).
- (6) Unless a person imposes the restriction under Article 82 or 83, a person commits an offence if they restrict –
 - (a) a patient’s access to electronic media or to electronic communications or to a telephone (including any form of personal mobile device); or
 - (b) the receipt or dispatch of a postal item by a patient.
- (7) A person who commits an offence under this Article is liable to a fine of level 3 on the standard scale.

41 Article 91 (offence of assisting patient to abscond) substituted

For Article 91 there is substituted –

91 Offences related to absconding patient

- (1) A person commits an offence if they induce or knowingly assist –
 - (a) a patient who is liable to be detained under this Law to absent themselves without leave from an approved establishment; or
 - (b) a patient who is subject to guardianship under this Law to absent themselves without leave from their guardian’s custody.
- (2) A person commits an offence if they –
 - (a) knowingly harbour a patient who is –
 - (i) absent without leave; or
 - (ii) otherwise at large and liable to be retaken under Part 5 or Part 9;
 - (b) give assistance to a patient with intent to prevent, hinder or interfere with them being retaken into custody or returned to an approved establishment.
- (3) A person who commits an offence under this Article is liable to imprisonment for a term of 2 years and to a fine.

42 Article 92 (offence of obstruction) substituted

For Article 92 there is substituted –

92 Offences of obstruction

- (1) A person commits an offence if they –
 - (a) refuse to allow the inspection of the whole or part of –
 - (i) an approved establishment; or
 - (ii) premises within the definition “place of safety” under Article 34(1);
 - (b) without reasonable excuse, refuse to allow a visit, interview or examination of a patient by a person authorised to do so under this Law (the “authorised person”);

- (c) refuse to produce a document or record that the authorised person requires for inspection; or
 - (d) otherwise obstruct the authorised person in the exercise of their functions under this Law.
- (2) A person who commits an offence under this Article is liable to imprisonment for a term of 3 months and to a fine of level 3 on the standard scale.

43 Article 97 (saving) deleted

Article 97 is deleted.

44 Schedule heading amended

In the Schedule heading, for “50” there is substituted “50A”.

45 Schedule, Part 1 (constitution and proceedings of mental health review tribunal) amended

In the Schedule, Part 1, for paragraph 6 there is substituted –

6 Offence of disclosure of information

- (1) A member of the Panel commits an offence if the member discloses a document or other information –
- (a) relating to the business or affairs of a person; and
 - (b) that is acquired by the member in the course of exercising their functions as a member of the Panel.
- (2) But no offence is committed if the disclosure is made –
- (a) with the consent of (or with consent lawfully given on behalf of) –
 - (i) the person to whom the disclosure relates; and
 - (ii) if different, the person from whom the document or information was acquired; or
 - (b) to the extent that the disclosure is necessary –
 - (i) to enable the member to exercise functions as a member of the Panel;
 - (ii) in the interests of the investigation, detection, prevention or prosecution of crime; or
 - (iii) to comply with an order of a court.
- (3) A person who commits an offence under this Article is liable to a fine.

46 Schedule, Part 2 (applications to the Tribunal) amended

For Part 2 there is substituted –

PART 2**APPLICATIONS TO THE TRIBUNAL****7 Application to Tribunal for review or discharge under Article 50A**

Only 1 application may be made in respect of a decision or exercise of power within the time limit specified in the table below, unless a previous application made within the time limit has been withdrawn.

Decision or exercise of power	Person who may make application	Time limit for making application
Detention under an assessment authorisation (including detention during the initial period (as defined in Article 20(1)(b))	(a) the patient to whom the authorisation relates; or (b) the patient's nearest person	14 days beginning with the day on which notice is given under Article 20(2) that the patient is admitted to an approved establishment
First detention under a treatment authorisation (including detention during the initial period (as defined in Article 20(1)(b))	(a) the patient to whom the authorisation relates; or (b) the patient's nearest person	6 months beginning with the day on which notice is given under Article 20(2) that the patient is admitted to an approved establishment
First renewal of detention under a treatment authorisation	(a) the patient to whom the authorisation relates; or (b) the patient's nearest person	6 months beginning with the day on which the authorisation is first renewed
Subsequent renewal of detention under a treatment authorisation	(a) the patient to whom the authorisation relates; or (b) the patient's nearest person	12 months beginning with the day on which the authorisation is renewed
Exercise of power to recall from absence	(a) the patient in respect of whom the power is exercised; or (b) the patient's nearest person	14 days beginning with the day on which the power is exercised
Detention in custody following absence without leave	(a) the patient who is taken into custody; or (b) the patient's nearest person	28 days beginning with the day on which the patient is detained
Reception into guardianship	(a) the patient to whom	6 months beginning with the

Decision or exercise of power	Person who may make application	Time limit for making application
	<p>the guardianship authorisation relates; or</p> <p>(b) the patient's nearest person</p>	day on which the guardianship authorisation is made
The making or renewal of a treatment order	<p>(a) the patient to whom the order relates; or</p> <p>(b) the patient's nearest person</p>	6 months beginning with the day on which the order is made or renewed
Decision by managers of an approved establishment to restrict access to electronic media, electronic communications or a telephone	<p>(a) the patient whose access is restricted; or</p> <p>(b) the patient's nearest person</p>	6 months beginning with the day on which the applicant received notice under Article 82(3) that access is restricted
Decision by managers of an approved establishment to withhold a postal item	<p>(a) the patient whose postal item is withheld;</p> <p>(b) the patient's nearest person;</p> <p>(c) the person (other than the patient) who sent the postal item to the patient; or</p> <p>(d) the addressee of the postal item</p>	6 months beginning with the day on which the applicant receives notice under Article 83(5) that the postal item has been withheld

47 Amendments consequential to Article 2 of this Law

- (1) In the following provisions, for “approved practitioner” there is substituted “approved clinician” –
 - (a) Article 17(1)(b)(iii) and (3);
 - (b) Article 18(3);
 - (c) Article 19(2);
 - (d) Article 28(5);
 - (e) Article 29(4);
 - (f) Article 45(1) and (2).
- (2) In Article 19(2), for “approved practitioners” there is substituted “approved clinicians”.

- (3) In the following provisions, for “responsible medical officer” there is substituted “responsible clinician” –
 - (a) Article 14(1)(b);
 - (b) Article 24(1), (2)(b), (4), (6) in the 2 places it appears, (7) and (8), and (10) in the 2 places it appears;
 - (c) Article 27(1), (2) in the 2 places it appears, (4), and (5) in the 3 places it appears;
 - (d) Article 28(5)(b);
 - (e) Article 33(4) in the 2 places it appears;
 - (f) Article 45(2)(b);
 - (g) Article 68(6).
- (4) in the following provisions, for “that officer” there is substituted “the responsible clinician” –
 - (a) Article 24(6) and (7);
 - (b) Article 27(5)(a).

48 Amendments consequential to Article 4 of this Law

- (1) In the following provisions, for “authorized officer” there is substituted “AMHP” –
 - (a) Article 11(2)(b) and (3);
 - (b) Article 18(2)(a) and (c);
 - (c) Article 19(3)(a);
 - (d) Article 29(2)(a);
 - (e) Article 30(2)(c);
 - (f) Article 31(1)(d);
 - (g) Article 35(1), (2)(a), (5) and (6)(a);
 - (h) Article 37(2)(c).
- (2) In Article 12(2)(b), for “a duly authorized officer” there is substituted “an AMHP”.
- (3) In Article 79(5)(c), for “authorized officers” there is substituted “AMHPs”.

49 Amendments consequential to Article 20 of this Law

- (1) In the following provisions, for “the rights conferred on a patient by Article 50(1)” there is substituted “the right to make an application to the Tribunal under Article 50A” –
 - (a) Article 20(5);
 - (b) Article 21(5);
 - (c) Article 22(9);
 - (d) Article 24(7);
 - (e) Article 25(3);
 - (f) Article 30(3).

- (2) In Article 53(1), for “under Article 50 or 51 to apply to the Tribunal” there is substituted “to apply to the Tribunal under Article 50A or refer a patient’s case to the Tribunal under Article 51”.

50 Consequential amendments

Schedule 1 contains amendments consequential to this Part.

PART 2

CAPACITY AND SELF-DETERMINATION (JERSEY) LAW 2016 AMENDED

51 Capacity and Self-Determination (Jersey) Law 2016 amended

Articles 52 to 61 amend the Capacity and Self-Determination (Jersey) Law 2016.

52 Article 9 (certain acts of restraint etc. which are not permitted) amended

In Article 9(2)(a), for “and” there is substituted “or”.

53 Article 34 (qualifications of and general provisions concerning delegates) amended

In Article 34(10), “or upon the delegate’s resignation,” is deleted.

54 Article 37 (interpretation and application of Part 5) amended

For Article 37(3) there is substituted –

- (3) In this Part, a “relevant place” means –
- (a) a hospital (except its emergency department);
 - (b) an approved care home;
 - (c) premises on which the conditions of a person’s registration under the Regulation of Care (Jersey) Law 2014 permit them to carry on a regulated activity; or
 - (d) an establishment designated by the Minister for the purposes of providing health or social care, or both health and social care.

55 Article 38 (circumstances permitting significant restriction on liberty) amended

For Article 38(1) there is substituted –

- (1) The manager (“M”) of a relevant place in which P is residing must not impose on P a significant restriction on P’s liberty unless 1 of the criteria in paragraph (2) is fulfilled in respect of P.

56 Article 41 (arrangements to be made by Minister: requirement for authorization) amended

In Article 41(1) –

- (a) for “deprivation of” there is substituted “restriction on”;
- (b) in sub-paragraph (b), for “such a deprivation” there is substituted “the restriction”.

57 Article 44 (manner of assessment) amended

(1) For Article 44(2) there is substituted –

(2) An assessor must carry out the assessment by –

- (a) conducting 1 or more interviews with P; and
- (b) obtaining medical evidence that confirms that, at the date of the assessment, P suffers from an impairment or a disturbance in the functioning of their mind or brain.

(2) After Article 44(2) there is inserted –

(2A) The assessor must obtain the medical evidence –

- (a) by consulting the registered medical practitioner who has assessed P immediately before the assessor’s first interview with P under paragraph (2)(a); or
- (b) by means of a written copy of the opinion of a registered medical practitioner who assessed P in the 12-month period immediately before the assessor’s first interview with P under paragraph (2)(a) (the “previous opinion”).

(2B) The assessor can rely on the previous opinion only if satisfied that, at the time of the assessor’s own assessment, the previous opinion continues to be accurate.

(3) In Article 44(3) –

- (a) for “paragraph (2)(b),” there is substituted “paragraph (2A)”;
- (b) in sub-paragraph (a), after “who” there is inserted “, at the time of the assessment,”.

58 Article 48 (standard authorizations) amended

For Article 48 there is substituted –

48 Standard authorizations

(1) The Minister may authorize the imposition of significant restrictions on P’s liberty (a “standard authorization”) if the Minister is satisfied that –

- (a) an assessment of P has been duly completed in accordance with Articles 44 and 45; and
- (b) the report of the assessment is affirmative.

(2) A standard authorization must not authorize the imposition of significant restrictions on P’s liberty for a period of longer than 12 months beginning with the date the standard authorization takes effect.

- (3) The Minister must give notice in writing of the standard authorization to the assessor and to M as soon as practicable after the authorization was given.
- (4) A standard authorization must specify –
 - (a) P’s name;
 - (b) M’s name and the name of any other registered person concerned;
 - (c) the date (or if applicable, the event) on which, and the period during which, the authorization is to take effect;
 - (d) having regard to Article 45(2)(e), the nature and extent of the significant restrictions on P’s liberty that are authorized to be imposed; and
 - (e) any conditions or directions relating to the imposition of those restrictions.
- (5) The Minister may make further provision in the code of practice issued under Article 68 about the form and content of a standard authorization.
- (6) Despite paragraph (4)(d) the Minister may authorize significant restrictions to be imposed on P’s liberty that are different (whether in specific respects or by their nature) to a restriction that has been recommended by the assessor.
- (7) If the Minister considers it is in P’s best interests to do so, the Minister may authorize a significant restriction that conflicts with a decision of –
 - (a) a person on whom P has conferred a lasting power of attorney under Part 2; or
 - (b) a delegate appointed by the Court under Part 4.
- (8) Nothing in this Article is to be taken to permit the Minister to authorize a significant restriction on P’s liberty that conflicts or would conflict with a valid advance decision made by P under Part 3.
- (9) Paragraph (10) applies if an assessor’s report under Article 45 made before the commencement of the Amendment Law contained recommendations for the application of restraints (“recommended restraints”).
- (10) A standard authorization given further to the assessor’s report before the commencement of the Amendment Law –
 - (a) for the avoidance of doubt, is not taken to have authorized recommended restraints; but
 - (b) from the commencement of the Amendment Law only, the recommended restraints are taken to be authorized by that standard authorization.
- (11) In this Article –

“Amendment Law” means the Mental Health, Capacity and Self-Determination Amendment (Jersey) Law 202-;

“restraints” means restraints within the meaning of Article 9(2) as at the date of commencement of the Amendment Law.
- (12) This paragraph and paragraphs (9) to (11) expire 12 months after the Amendment Law is registered.

59 Article 55 (review of authorizations by Tribunal) amended

In Article 55 –

- (a) after paragraph (2) there is inserted –
- (2A) Paragraph (2B) applies if, in accordance with Article 48(10)(b), P is subject to recommended restraints taken to be authorized in a standard authorization from the commencement of the Amendment Law.
- (2B) A request for a review of that standard authorization may be made by application to the Tribunal –
 - (a) by a person listed in paragraph (1)(b); and
 - (b) no more than once during the period for which that standard authorization remains in effect.
- (2C) In paragraph (2A) –
 - “Amendment Law” has the meaning given in Article 48(11);
 - “recommended restraints” has the meaning given in Article 48(9);
 - “restraints” has the meaning given in Article 48(11).
- (2D) This paragraph and paragraphs (2A), (2B) and (2C) expire 12 months after the Amendment Law is registered.
- (b) in paragraph (3)(a), for “paragraph (1)” there is substituted “this Article”;
- (c) in paragraph (3)(b), “such” is deleted;
- (d) in paragraph (3)(c), for “the application” there is substituted “an application”;
- (e) in paragraph (4), for “under paragraph (1)” there is substituted “for review under this Article”.

60 Article 59 (temporary restriction of liberty for purpose of life-sustaining treatment) amended

In Article 59(2), for “health and safety” there is substituted “health or safety”.

61 Article 72 (repeal) amended

In Article 72, for “*curatelles* shall cease” there is substituted “curatorship ceases”.

62 Consequential amendments

Schedule 2 contains amendments consequential to this Part.

PART 3

CITATION AND COMMENCEMENT

63 Citation and commencement

This Law may be cited as the Mental Health, Capacity and Self-Determination (Jersey) Amendment Law 202- and comes into force on a day to be specified by the Minister for Health and Social Services by Order.

SCHEDULE 1

(Article 50)

AMENDMENTS CONSEQUENTIAL TO PART 1 OF THIS LAW**1 [Capacity and Self-Determination \(Independent Capacity Advocates\) \(Jersey\) Regulations 2018](#)**

In the [Capacity and Self-Determination \(Independent Capacity Advocates\) \(Jersey\) Regulations 2018](#) –

- (a) in Regulation 6(5)(a) (cessation of services of ICA), for “responsible medical officer” there is substituted “responsible clinician”;
- (b) in Regulation 7(2)(c) (termination of appointment of ICA), for “responsible medical officer” there is substituted “responsible clinician”.

2 [Capacity and Self-Determination \(Jersey\) Law 2016](#)

In Article 26(2)(b) (application in case of person admitted to approved establishment) of the [Capacity and Self-Determination \(Jersey\) Law 2016](#), for “responsible medical officer” there is substituted “responsible clinician”.

3 [Children \(Jersey\) Law 2002](#)

In Article 72(5)(c)(ii) and (10) (power of court to order scientific tests in cases of disputed parentage) of the [Children \(Jersey\) Law 2002](#), for “responsible medical officer” there is substituted “responsible clinician”.

4 [Commissioner for Standards \(Jersey\) Law 2017](#)

For Article 6(2)(f) (vacancy in office) of the [Commissioner for Standards \(Jersey\) Law 2017](#) there is substituted –

- (f) is detained or subject to guardianship under the [Mental Health \(Jersey\) Law 2016](#);

5 [Mental Health and Capacity \(Review Tribunal\) \(Procedure\) \(Jersey\) Order 2018](#)

In the [Mental Health and Capacity \(Review Tribunal\) \(Procedure\) \(Jersey\) Order 2018](#), for “responsible medical officer” there is substituted “responsible clinician” in –

- (a) Article 5(5)(b)(ii) (notification by Tribunal to responsible authority and others);
- (b) Article 6(4)(a) (statement to be supplied by responsible authority to Tribunal);
- (c) the Schedule (statement by responsible authority), Part B (reports and observations), in the 2 places it appears.

6 [Mental Health \(Guardianship\) \(Jersey\) Regulations 2018](#)

In the [Mental Health \(Guardianship\) \(Jersey\) Regulations 2018](#) –

- (a) for “authorized officer” there is substituted “AMHP” in –
 - (i) Regulation 4(1) (transfer of patient into guardianship from approved establishment);
 - (ii) Regulation 5(2)(a) and (b) and (4)(b) (transfer of patient into approved establishment from guardianship);
- (b) for “approved practitioner” there is substituted “approved clinician” in –
 - (i) Regulation 4(2)(a) (transfer of patient into guardianship from approved establishment);
 - (ii) Regulation 4(2)(b);
 - (iii) Regulation 4(4)(a);
- (c) for “responsible medical officer” there is substituted “responsible clinician” in –
 - (i) Regulation 2(5) (general duties of private guardians);
 - (ii) Regulation 2(6) in the 2 places it appears;
 - (iii) Regulation 3(6) (duties arising upon, and arrangements for, transfer of patient between guardians);
 - (iv) Regulation 3(7)(a);
 - (v) Regulation 5(2)(a)(ii) (transfer of patient into approved establishment from guardianship).

7 [Mental Health \(Independent Mental Health Advocates\) \(Jersey\) Regulations 2018](#)

In the [Mental Health \(Independent Mental Health Advocates\) \(Jersey\) Regulations 2018](#) –

- (a) in Regulation 7(6)(c) (nature of services to be provided by IMHAs), for “approved practitioner” there is substituted “approved clinician”;
- (b) for “responsible medical officer” there is substituted “responsible clinician” in –
 - (i) Regulation 7(6)(b) (nature of services to be provided by IMHAs);
 - (ii) Regulation 8(5) (cessation of services of IMHA);
 - (iii) Regulation 9(2)(c) (termination of appointment of IMHA).

8 [Prison \(Independent Prison Monitoring Board\) \(Jersey\) Regulations 2017](#)

In Regulation 4(2)(e) (membership of the monitoring board) of the [Prison \(Independent Prison Monitoring Board\) \(Jersey\) Regulations 2017](#), for “under Article 14 of the Mental Health (Jersey) Law 1969” there is substituted “under Article 29 of the [Mental Health \(Jersey\) Law 2016](#)”.

SCHEDULE 2

(Article 62)

AMENDMENTS CONSEQUENTIAL TO PART 2 OF THIS LAW**1 [Agriculture \(Guaranteed Prices and Financial Assistance\) \(Jersey\) Law 1965](#)**

In Article 1(1) (interpretation) of the [Agriculture \(Guaranteed Prices and Financial Assistance\) \(Jersey\) Law 1965](#), in the definition “owner”, for “the curator of a person under interdiction” there is substituted “the delegate of a person appointed under Article 24 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#)”.

2 [Commissioner for Standards \(Jersey\) Law 2017](#)

For Article 6(2)(g) (vacancy in office) of the [Commissioner for Standards \(Jersey\) Law 2017](#) there is substituted –

- (g) has a delegate appointed under the [Capacity and Self-Determination \(Jersey\) Law 2016](#);

3 [Prison \(Independent Prison Monitoring Board\) \(Jersey\) Regulations 2017](#)

In Regulation 4(2)(e) (membership of the monitoring board) of the [Prison \(Independent Prison Monitoring Board\) \(Jersey\) Regulations 2017](#), for “has a curator appointed under Article 43 of the Mental Health (Jersey) Law 1969 to manage and administer his or her property and affairs” there is substituted “a person who has a delegate appointed under Article 24 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#) to manage their property and affairs or health or welfare”.