



Jersey

HEALTH INSURANCE (AMENDMENT No. 14) (JERSEY) LAW 2012

Arrangement

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A LAW to amend further the Health Insurance (Jersey) Law 1967

Adopted by the States

2nd November 2011

Sanctioned by Order of Her Majesty in Council

11th April 2012

Registered by the Royal Court

27th April 2012

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 Health Insurance (Jersey) Law 1967¹.

2 Long title amended

In the long title to the principal Law –

- (a) for the words “and ophthalmic services” there shall be substituted the words “, ophthalmic and other health services”;
- (b) for the word “therewith,” there shall be substituted the words “therewith; to establish systems of governance of, and minimum standards for, persons providing a service for which the recipient is entitled to a benefit under the Law; to enable the funding, out of the system of insurance, of contracts for the provision of health services, in accordance with standards, or at levels of performance, determined by the contracts;”.

3 Article 1 amended

(1) In Article 1(1) of the principal Law –

- (a) after the definition “determining officer” there shall be inserted the following definition –

- “ ‘employee’ means –
- (a) a person who works for another person under a contract of service; or
 - (b) a person who performs personally work for another person under a contract for services, either between the first-mentioned person and the other person, or between a third person and the other person;”;
- (b) after the definition “entry into insurance” there shall be inserted the following definitions –
- “ ‘general medical practice’ shall be construed in accordance with paragraph (4);
- ‘health care professional’ means a person registered under the Health Care (Registration) (Jersey) Law 1995²;”;
- (c) after the definition “Order” there shall be inserted the following definition –
- “ ‘performers list’ means the list for medical practitioners practising as general practitioners, established by Regulations made under Article 27A;”;
- (d) after the definition “person lawfully conducting a retail pharmacy business” there shall be inserted the following definition –
- “ ‘personal data’ has the same meaning as in the Data Protection (Jersey) Law 2005³;”;
- (e) after the definition “Pharmaceutical Benefit Advisory Committee” there shall be inserted the following definition –
- “ ‘pharmacist’ means a person registered as a pharmacist under the Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 2010⁴;”;
- (f) after the definition “prescribed” there shall be inserted the following definitions –
- “ ‘processing’ has the same meaning as in the Data Protection (Jersey) Law 2005⁵;
- ‘registrable occupation’ has the same meaning as in the Health Care (Registration) (Jersey) Law 1995⁶;
- ‘responsible officer’ means the person appointed pursuant to an Order made under Article 10C of the Medical Practitioners (Registration) (Jersey) Law 1960⁷, to direct the arrangements described in paragraph (1) of that Article in relation to general medical practitioners;
- ‘sensitive personal data’ has the same meaning as in the Data Protection (Jersey) Law 2005⁸;”.
- (2) After Article 1(3) of the principal Law there shall be added the following paragraph –
- “(4) For the purposes of this Law, a general medical practice is –

- (a) an approved medical practitioner practising as a sole practitioner;
- (b) approved medical practitioners practising in partnership; or
- (c) an entity of a prescribed description or class which provides the services of approved medical practitioners.”.

4 Article 9A inserted

After Article 9 of the principal Law there shall be inserted the following Article –

“9A Registration with general medical practice

- (1) The Minister may, by Order, make it a condition of entitlement to medical benefit that the person to whom the medical services are provided is, at the time the services are provided, registered with one general medical practice as his or her main practice.
- (2) A condition imposed by an Order under this Article for a person to be registered with one general medical practice as his or her main practice shall not, of itself, prevent the payment of medical benefit for medical services provided by a general medical practice which is not the person’s main practice.
- (3) An Order under this Article may further –
 - (a) specify circumstances in which a person is deemed to be registered with a general medical practice as his or her main practice; and
 - (b) make transitional and supplementary provisions.
- (4) This Article is without prejudice to the power to prescribe conditions, under Article 3(1), of becoming an insured person.”.

5 Article 10 amended

In Article 10 of the principal Law –

- (a) at the beginning of the Article there shall be inserted the paragraph number “(1)”;
- (b) after paragraph (1) there shall be inserted the following paragraph –
 - “(2) The States may by Regulations amend this Law, in particular, this Article and Article 20A, to define what is or is not, for the purposes of this Law, or for the purposes of different provisions of this Law, a ‘medical service’.”.

6 Part 3A inserted

After Part 3 of the principal Law there shall be inserted the following Part –

**“PART 3A
CONTRACTS**

20A Extended meaning of “medical service”

In this Part, ‘medical service’ includes –

- (a) a service that may be performed by a health care professional engaged in his or her registrable occupation as an employee of a general medical practice; and
- (b) a service that may be performed by a pharmacist practising as such in his or her own right or as an employee of a person lawfully conducting a retail pharmacy business.

20B Performance and governance of medical services - contracts

- (1) This Article is without prejudice to the generality of the Minister’s power to enter into agreements, conferred by Article 26 of the States of Jersey Law 2005⁹.
- (2) The Minister may enter into contracts with general medical practices, pharmacists or persons lawfully conducting retail pharmacy businesses –
 - (a) for the provision of a medical service;
 - (b) for purposes associated with the delivery of a medical service.
- (3) The terms of a contract may in particular –
 - (a) provide for payments to be made to the contractor by reference to compliance with standards or the achievement of levels of performance;
 - (b) provide for the making of payments in respect of the provision, by the contractor, of the services of persons approved under Part 5 or health care professionals;
 - (c) provide that the whole or any part of a payment is subject to conditions, and that payments are payable to the contractor only if the Minister is satisfied as to certain conditions;
 - (d) require the contractor to comply with directions published by the Minister as to the drugs, medicines or other substances that may or may not be ordered for patients in the provision of a medical service to which the contract applies;
 - (e) require the contractor to make returns to the Minister of specified information relating to patients for medical purposes, as defined in paragraph 8(2) of Schedule 3 to the Data Protection (Jersey) Law 2005¹⁰;
 - (f) require that any information required to be provided relating to patients is anonymised;
 - (g) specify –

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- (i) the manner in which and the standards to which a medical service must be provided,
 - (ii) the descriptions or classes of persons who may perform a medical service,
 - (iii) the descriptions or classes of patients to whom a medical service will be provided,
 - (iv) the power of the Minister to vary the terms of a contract (including a power to suspend or terminate any obligation of the contractor under a contract),
 - (v) rights of entry and inspection of the contractor's premises and rights of inspection of –
 - (A) documents (other than clinical records) that are in the possession or control of the contractor; and,
 - (B) subject to paragraph (7), clinical records that are in the possession or control of the contractor,by an officer authorized by the Minister for the purpose,
 - (vi) the circumstances in which and the manner in which the contract may be terminated,
 - (vii) arrangements for and powers of enforcement, and
 - (viii) arrangements for the adjudication of disputes.
- (4) The provisions referred to in paragraph (3)(g)(iii) may make provision as to the circumstances in which a contractor or contractors –
- (a) must or may accept a person as a patient to whom a medical service is provided under the contract;
 - (b) may decline to accept a person as a patient to whom a medical service is provided under the contract; or
 - (c) may terminate the contractor's responsibility for a patient to whom a medical service is provided under the contract.
- (5) A contract may make provision as to the rights of patients to choose the persons from whom they receive a medical service provided under the contract.
- (6) Information obtained in the exercise of rights of entry and inspection referred to in paragraph (3)(g)(v) that raises an issue regarding the fitness to practise of an approved medical practitioner shall be passed to –
- (a) the Minister for Social Security, for use only for the purposes of the discharge of his or her functions in connection approved medical practitioners under Part 5;
 - (b) the responsible officer, for use only for the purposes of the discharge of that officer's functions under an Order made
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- under Article 10C of the Medical Practitioners (Registration) (Jersey) Law 1960¹¹;
- (c) a person maintaining and governing the performers list, for use only for the purposes of the discharge of that person's functions under Regulations made under Article 27A; and
 - (d) the Minister for Health and Social Services, for use only for the purposes of the discharge of his or her functions under the Medical Practitioners (Registration) (Jersey) Law 1960¹².
- (7) Information obtained in the exercise of rights of entry and inspection referred to in paragraph (3)(g)(v) that raises an issue regarding the fitness to practise of a pharmacist shall be passed to the Minister for Health and Social Services, for use only the purposes of the discharge of his or her functions under the Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 2010¹³.
- (8) Information obtained in the exercise of rights of entry and inspection referred to in paragraph (3)(g)(v) that raises an issue regarding the fitness to practise of a health care professional shall be passed to the Minister for Health and Social Services, for use only for the purposes of the discharge of his or her functions under the Health Care (Registration) (Jersey) Law 1995¹⁴.
- (9) Nothing in a contract made under this Article requires or empowers any person to process personal data, including sensitive personal data, in a manner that is inconsistent with the Data Protection (Jersey) Law 2005¹⁵ and the enactments made under it.
- (10) For the purposes of this Article information relating to a patient is anonymised if the identity of the patient is not ascertainable –
- (a) from the information; or
 - (b) from the information and other information which is in the possession of, or is likely to come into the possession of, the person processing it.
- (11) In this Article 'payments' includes fees, allowances, reimbursements, loans and repayments."

7 Article 21 amended

After Article 21(1) of the principal Law there shall be inserted the following paragraph –

- "(1A) In addition to the sums specified in paragraph (1) there shall be paid out of the Health Insurance Fund –
- (a) all sums payable under contracts entered into pursuant to Article 20B and all expenses incurred by the Minister for Social Security in connection with such contracts, including, but not by way of limitation, such expenses as are incurred by the Minister for Social Security and, with the prior agreement of the Minister for Social Security, by the

- Minister for Health and Social Services, in connection with the governance and enforcement of such contracts;
- (b) such amounts as the Minister for Social Security and the Minister for Health and Social Services agree in respect of the expenses incurred by the Minister for Health and Social Services in connection with –
 - (i) the maintenance and governance of the performers list, whether by the Minister for Health and Social Services or by a person appointed by that Minister for the purpose, and
 - (ii) the implementation, administration and enforcement of the requirements of an Order made under Article 10C of the Medical Practitioners (Registration) (Jersey) Law 1960¹⁶, to the extent that the requirements apply to general medical practitioners.”.

8 Article 26 amended

In Article 26 of the principal Law –

- (a) in paragraph (1), the words “Every medical practitioner,” shall be deleted;
- (b) after paragraph (1) there shall be inserted the following paragraphs –
 - “(1A) Every medical practitioner who –
 - (a) is included in the performers list and not suspended from that list;
 - (b) is not disqualified by reason of his or her approval having been withdrawn under Article 27(2);
 - (c) complies with such conditions (if any) as the States may by Regulations specify; and
 - (d) applies to the Minister for approval in the prescribed manner,shall be approved by the Minister for the purposes of this Law.
 - (1B) The Minister shall suspend a medical practitioner’s approval upon the practitioner being suspended from the performers list.
 - (1C) The Minister shall restore a medical practitioner’s approval upon the practitioner’s suspension from the performers list being ended.
 - (1D) The Minister shall withdraw a medical practitioner’s approval upon the practitioner being removed from the performers list.”.

9 Part 5A inserted

After Part 5 of the principal Law there shall be inserted the following Part –

“PART 5A
PERFORMERS LISTS

27A Performers list for general medical practitioners

- (1) The States shall by Regulations provide for the establishment, maintenance and governance of a performers list for general medical practitioners.
- (2) The Regulations shall include provision for –
 - (a) the preparation, maintenance and publication of a performers list;
 - (b) eligibility for inclusion in the performers list;
 - (c) the procedure for applying for inclusion in the performers list and the documentation to be supplied in support of an application;
 - (d) the grounds on which an application for inclusion in the performers list may be granted or refused;
 - (e) the requirements with which a person included in the performers list must comply (which may include a requirement to declare financial interests and gifts and other benefits);
 - (f) suspension or removal of a person from the performers list (including provision for the grounds for, and the consequences of, suspension or removal and the procedure for suspension or removal);
 - (g) the criteria to be applied in making decisions under the Regulations;
 - (h) appeals against decisions made under the Regulations; and
 - (i) disclosure of information about applicants for inclusion in the performers list, the grant or refusal of applications for inclusion in the performers list and the suspension of persons on, or removal of persons from, the performers list.
- (3) The Regulations may, in particular, also provide for –
 - (a) circumstances in which a person included in the performers list may not withdraw from it;
 - (b) a person’s inclusion in the performers list to be subject to conditions specified by a person maintaining and governing the list;
 - (c) a person maintaining and governing the performers list to vary the conditions of a person’s inclusion in the list, or impose different conditions;
 - (d) the consequences of failing to comply with a condition of inclusion in the performers list (which may include suspension or removal from the performers list); and
 - (e) the review of decisions made, by virtue of the Regulations, by a person maintaining and governing the performers list.

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- (4) The Regulations may also limit the number of persons who, at any time, may be included in the performers list and, for that purpose, specify how the number of hours that a person works in any specified period is to be determined and how persons are to be counted for the purposes of the limit, according to the number of hours that they work in a specified period.
 - (5) Regulations making provision as to the matter referred to in paragraph (2)(h) may confer the right to hear appeals upon –
 - (a) a court; or
 - (b) a person, board or tribunal appointed under this Law or another enactment and, for that purpose –
 - (i) specify a procedure for the appointment of a person to hear appeals, or
 - (ii) establish a board or tribunal to hear appeals and provide for its constitution, powers, staff, accommodation and funding and for the appointment and remuneration of its members and any matter ancillary or supplemental to its establishment.
 - (6) Regulations making provision as to the matters referred to in paragraph (2)(i) may require the disclosure of information or supply of any document that raises an issue regarding the fitness to practise of a person included in the performers list by a person maintaining and governing the performers list to –
 - (a) the Minister for Social Security, for use only for the purposes of the discharge of that Minister's functions in connection with approved medical practitioners under Part 5;
 - (b) the Minister for Health and Social Services, for use only for the purposes of the discharge of that Minister's functions under the Medical Practitioners (Registration) (Jersey) Law 1960¹⁷;
 - (c) the responsible officer for use only for the purposes of the discharge of that officer's functions under an Order made under Article 10C of the Medical Practitioners (Registration) (Jersey) Law 1960¹⁸.
 - (7) The Regulations may make provision for the disclosure of such information as is specified in the Regulations by any of the following persons to a person maintaining and governing the performers list, for use only for the purposes of the discharge of that person's functions in respect of the performers list –
 - (a) the Minister for Social Security;
 - (b) the Minister for Health and Social Services; and
 - (c) the responsible officer.
 - (8) The Regulations may provide for the inclusion, subject to such conditions as may be specified, of any specified class of medical practitioners in the performers list upon its establishment.
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- (9) The Regulations may not make provision for or in connection with the processing of personal data, including sensitive personal data, in a manner that is inconsistent with the Data Protection (Jersey) Law 2005¹⁹ and any enactment made under it.
- (10) The Minister for Health and Social Services may appoint one or more persons to maintain and govern the performers list.
- (11) If, at any time, the Minister for Health and Social Services has not appointed a person to maintain and govern the performers list, the Minister for Health and Social Services shall maintain and govern the list.
- (12) Only the Minister for Health and Social Services may lodge draft Regulations under this Article.
- (13) Before lodging draft Regulations under this Article the Minister for Health and Social Services shall –
 - (a) consult with such body or bodies of persons as appear to the Minister to be representative of general medical practitioners; and
 - (b) consider any representations made in respect of the proposed Regulations.

27B Regulations – establishment of further performers lists

- (1) The States may, by Regulations, amend this Part to provide for the establishment, maintenance and governance of performers lists for dentists, opticians, pharmacists, suppliers of pharmaceutical benefit and health care professionals.
- (2) Regulations made under paragraph (1) may also amend Part 3A and Article 21, and make ancillary and supplemental amendments to other provisions of this Law and to the Dentists Registration) (Jersey) Law 1961²⁰, the Health Care (Registration) (Jersey) Law 1995²¹, the Medicines (Jersey) Law 1995²², the Opticians (Registration) (Jersey) Law 1962²³ and the Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 2010²⁴.’.

10 Article 30 amended

In Article 30 of the principal Law –

- (a) in paragraph (1) for the words “Any officer in an administration of the States for which the Minister is assigned responsibility generally or specially authorized in writing in that behalf (in this Article referred to as an “inspector”)” there shall be substituted the words “An inspector”;
- (b) after paragraph (4) there shall be added the following paragraphs –
 - “(5) In this Article –
 - (a) ‘inspector’ means a person who is generally or specially authorized, in writing, by –

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- (i) the Minister for Health and Social Services, where the powers conferred by this Article are to be exercised for the purposes of Regulations made under Part 5A,
 - (ii) the Minister for Social Security, where the powers conferred by this Article are to be exercised for the purposes of this Law, apart from Part 5A;
- (b) except in sub-paragraph (a), a reference to ‘this Law’ is –
 - (i) in relation to an inspector appointed by the Minister for Health and Social Services, a reference to Regulations made under Part 5A, and
 - (ii) in relation to an inspector appointed by the Minister for Social Security, a reference to this Law, apart from Part 5A.
- (6) A person may, under paragraph (5), be authorized by, at the same time, the Minister for Health and Social Services and the Minister for Social Security.
 - (7) Nothing in this Article authorizes the processing of personal data, including sensitive personal data, in a manner that is inconsistent with the Data Protection (Jersey) Law 2005²⁵ or any enactment made under it.”

11 Revocation

The Health Insurance (Conditions for Approval of Medical Practitioners) (Jersey) Regulations 1993²⁶ are revoked.

12 Citation and commencement

This Law may be cited as the Health Insurance (Amendment No. 14) (Jersey) Law 2012 and shall come into force on such day or days as the States by Act appoint.

A.H. HARRIS

Deputy Greffier of the States

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- 1 *chapter 26.500*
 - 2 *chapter 20.300*
 - 3 *chapter 15.240*
 - 4 *chapter 20.770*
 - 5 *chapter 15.240*
 - 6 *chapter 20.300*
 - 7 *chapter 20.600*
 - 8 *chapter 15.240*
 - 9 *chapter 16.800*
 - 10 *chapter 15.240*
 - 11 *chapter 20.600*
 - 12 *chapter 20.600*
 - 13 *chapter 20.770*
 - 14 *chapter 20.300*
 - 15 *chapter 15.240*
 - 16 *chapter 20.600*
 - 17 *chapter 20.600*
 - 18 *chapter 20.600*
 - 19 *chapter 15.240*
 - 20 *chapter 20.100*
 - 21 *chapter 20.300*
 - 22 *chapter 20.625*
 - 23 *chapter 20.750*
 - 24 *chapter 20.770*
 - 25 *chapter 15.240*
 - 26 *R&O.8562 (chapter 26.500.04)*