



Jersey

## HEALTH INSURANCE (AMENDMENT No. 15) (JERSEY) LAW 2016

### Arrangement

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## HEALTH INSURANCE (AMENDMENT No. 15) (JERSEY) LAW 2016

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

*Adopted by the States*

*12th July 2016*

*Sanctioned by Order of Her Majesty in Council*

*16th November 2016*

*Registered by the Royal Court*

*25th November 2016*

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

### 1 Interpretation

In this Law (except Article 18) a reference to an Article or a Part, or to a Schedule, is a reference to the Article or Part of that number in, or the Schedule of that number to, the Health Insurance (Jersey) Law 1967<sup>1</sup>.

### 2 Article 1 amended

In Article 1(1) –

- (a) after the definition “approved optician” there shall be inserted the following definition –  
“ ‘approved prescribing practitioner’ means a prescribing practitioner for the time being approved under Article 26;”;
- (b) for the definition “dentist” there shall be substituted the following definition –  
“ ‘dentist’ has the same meaning as ‘registered dentist’ in the Dentistry (Jersey) Law 2015<sup>2</sup>;”;
- (c) in the definition “Health Services Disciplinary Tribunal” for the words “Schedule 2 to this Law” there shall be substituted the words “Article 27AA”;
- (d) in the definition “Pharmaceutical Benefit Advisory Committee”, for the words “Schedule 1” there shall be substituted the words “Article 15A”;

- (e) after the definition “prescribed” there shall be inserted the following definition –

“ ‘prescribing practitioner’ means a person of a class specified by Order made under Article 57(1) of the Medicines (Jersey) Law 1995<sup>3</sup>, but does not include a veterinary surgeon;”.

### **3 Article 10 amended**

In Article 10(2) the words “and Article 20A” shall be deleted.

### **4 Article 15 amended**

In Article 15 –

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

“(1) For the purposes of this Law ‘pharmaceutical benefit’ means, in relation to an approved medical practitioner, an approved dentist or an approved prescribing practitioner, any medicine, drug, appliance or material for the time being approved under this Article.”;

- (b) in paragraph (2) for the words “an approved medical practitioner, an approved dentist or a registered dentist.” there shall be substituted the words “an approved medical practitioner, an approved dentist or an approved prescribing practitioner.”;

- (c) after paragraph (2) there shall be inserted the following paragraph –

“(2A) A prescription for pharmaceutical benefit must only be given for treatment that is proper and necessary.”;

- (d) in paragraph (3) for the words “An approved medical practitioner, an approved dentist or a registered dentist” there shall be substituted the words “An approved medical practitioner, an approved dentist or an approved prescribing practitioner”;

- (e) paragraph (4) shall be deleted;

- (f) for paragraph (9) there shall be substituted the following paragraph –

“(9) The Minister shall by Order make provision for the remuneration of approved suppliers in respect of pharmaceutical benefit supplied by them in accordance with this Law and any such Order may –

- (a) specify the terms and conditions subject to which pharmaceutical benefit shall be supplied;
- (b) specify the terms and conditions subject to which payment for pharmaceutical benefit supplied by approved suppliers will be made; and
- (c) without prejudice to the generality of the power to prescribe terms and conditions under Article 26(2) and (3), require an approved supplier to make returns of information to the Minister, for the purposes of the administration of this Law, regarding the supply of pharmaceutical benefit.”;

- (g) for paragraph (11)(b) there shall be substituted the following subparagraph –
- “(b) in so approving them, may make different provision for the medicines, drugs, appliances and materials that may be prescribed by, respectively, approved medical practitioners, approved dentists and approved prescribing practitioners as items of pharmaceutical benefit; and”;
- (h) for paragraphs (13) and (14) there shall be substituted the following paragraphs –
- “(13) The Minister shall keep a list of items of pharmaceutical benefit.
- (14) The Minister shall –
- (a) keep the list of items of pharmaceutical benefit open, at all reasonable times, to the inspection of any person, without fee; and
- (b) publish that list in such manner as makes it generally accessible to the public.”;
- (i) paragraph (15) shall be deleted.

## 5 Article 15A inserted

After Article 15 there shall be inserted the following Article –

### “15A Pharmaceutical Benefit Advisory Committee

- (1) The Minister shall, by Order, establish a Pharmaceutical Benefit Advisory Committee.
- (2) An Order made under this Article shall provide for –
- (a) the constitution of the Committee;
- (b) the appointment, term of office, retirement and removal of its members, including its chairman and any deputy chairmen;
- (c) the eligibility of persons for appointment as a member;
- (d) the circumstances in which persons are disqualified for being a member.
- (3) An Order made under this Article may provide for the conduct of proceedings of the Committee.
- (4) An Order made under this Article may contain savings and transitional provisions.
- (5) Subject to the requirements of an Order made under this Article and the requirements of any other enactment, the Committee shall determine its own proceedings.
- (6) The Minister shall provide secretarial support to the Committee.”.

**6 Article 16 amended**

- (1) In the heading to Article 16 for the words “or approved dentists” there shall be substituted the words “approved dentists or approved prescribing practitioners”.
- (2) In Article 16 for the words “and approved dentists” there shall be substituted the words “, approved dentists and approved prescribing practitioners”.

**7 Article 20A amended**

In Article 20A(a) after the words “a general medical practice” there shall be inserted the words “or of a person lawfully conducting a retail pharmacy business”.

**8 Article 20B amended**

After Article 20B(3)(d) there shall be inserted the following sub-paragraph –

“(da) require the contractor to use vaccines supplied under a contract entered into under Article 20C, where a medical service to which the contract applies is the administration of vaccines;”.

**9 Articles 20C and 20D inserted**

After Article 20B there shall be inserted the following Articles –

**“20C Supply of vaccines – contracts**

The Minister may enter into contracts for the supply of vaccines.

**20D Regulations**

The States may, by Regulations, amend this Part.”.

**10 Article 21 amended**

In Article 21(1A)(a) for the words “Article 20B” there shall be substituted the words “Part 3A”.

**11 Heading to Part 5 amended**

In the heading to Part 5 after the word “OPTICIANS” there shall be inserted the words “, PRESCRIBING PRACTITIONERS”.

**12 Article 26 amended**

- (1) In the heading to Article 26 after the word “opticians” there shall be inserted the words “, prescribing practitioners”.

- (2) In Article 26 –
- (a) paragraph (1) shall be deleted;
  - (b) after paragraph (1D) there shall be inserted the following paragraphs –
    - “(1E) The Minister shall approve, for the purposes of this Law, every dentist, every optician and every prescribing practitioner who –
      - (a) applies for such approval in the prescribed manner; and
      - (b) satisfies the prescribed conditions for such approval.
    - (1F) The conditions for approval prescribed under paragraph (1E)(b) may relate to any matter including (by way of example and not by way of limitation) –
      - (a) the terms on which the dentist, optician or prescribing practitioner is working;
      - (b) the nature of the entity in which or for which he or she is working;
      - (c) the nature of the work being undertaken, or service provided, by him or her; and
      - (d) whether he or she is approved for the purposes of this Law in another capacity.
    - (1G) The Minister may further prescribe –
      - (a) conditions with which any dentist, optician or prescribing practitioner must comply whilst approved for the purposes of this Law;
      - (b) circumstances in which such approval shall be restricted, suspended, withdrawn or restored.
    - (1H) An Order made under paragraph (1G)(b) prescribing mandatory grounds for restricting, suspending, withdrawing or restoring approval does not derogate from the discretionary powers conferred by Article 27.”;
  - (c) in paragraph (4) for the words “dentists, opticians and suppliers” there shall be substituted the words “approved dentists, approved opticians, approved prescribing practitioners and approved suppliers”.

### 13 Article 27 amended

In Article 27 –

- (a) in paragraph (1) –
  - (i) after the words “approved optician” there shall be inserted the words “, approved prescribing practitioner”,
  - (ii) for the words beginning “if of the opinion that the representation is well-founded,” and ending “the conduct aforesaid.” there shall be substituted the words “if of the opinion that the representation is well founded, shall make a recommendation to the Minister.”;

- (b) after paragraph (1) there shall be inserted the following paragraph –
- “(1A) The Health Services Disciplinary Tribunal may make a recommendation –
- (a) in every case, that the approval of the practitioner is withdrawn, restricted or made subject to conditions in addition to any imposed under or by virtue of Article 26; and
  - (b) in the case of a representation that the conduct of the practitioner has been such as to create an unreasonable charge on the Health Insurance Fund, that the practitioner be required to pay into the Fund an amount not exceeding the amount estimated by the said Tribunal to be that of the additional charges imposed on the Fund by reason of the conduct aforesaid.”;

(c) for paragraph (2) there shall be substituted the following paragraphs –

“(2) Where the Health Services Disciplinary Tribunal recommends to the Minister that the approval of a practitioner should be withdrawn, restricted or made subject to additional conditions, the Minister may withdraw or restrict such approval, or make it subject to additional conditions, either for a definite or an indefinite period.

(2A) The Minister may, at any time, if of the opinion that it is proper and equitable to do so –

    - (a) restore an approval withdrawn under paragraph (2);
    - (b) remove a restriction imposed on an approval under paragraph (2);
    - (c) remove any additional condition imposed under paragraph (2).”;

(d) in paragraph (4) for the word “withdrawn” there shall be substituted the words “withdrawn, restricted or made subject to additional conditions”.

#### 14 Article 27AA inserted

After Article 27 there shall be inserted the following Article –

##### **“27AA Health Services Disciplinary Tribunal**

- (1) The Minister shall, by Order, establish a Health Services Disciplinary Tribunal.
- (2) An Order made under this Article shall provide for –
  - (a) the constitution of the Tribunal;
  - (b) the appointment, term of office, retirement and removal of its members, including its chairman and any deputy chairmen;
  - (c) the eligibility of persons for appointment as a member;
  - (d) the circumstances in which persons are disqualified for being a member.



- (3) Subject to the requirements of an Order made under Article 27(7) and the requirements of any other enactment, the Tribunal shall determine its own proceedings.
- (4) An Order made under this Article may contain savings and transitional provisions.
- (5) The Minister shall provide secretarial support to the Tribunal.”.

#### **15 Article 27B amended**

In Article 27B –

- (a) in paragraph (1) after the word “pharmacists,” there shall be inserted the words “prescribing practitioners,”;
- (b) in paragraph (2) after the words “Dentists (Registration) (Jersey) Law 1961<sup>4</sup>,” there shall be inserted the words “the Medical Practitioners (Registration) (Jersey) Law 1960<sup>5</sup>,”.

#### **16 Schedules 1 and 2 repealed**

- (1) Schedule 1 is repealed.
- (2) Schedule 2 is repealed.

#### **17 Long title amended – governance**

In the long title to the Health Insurance (Jersey) Law 1967<sup>6</sup>, after the words “providing a service” there shall be inserted the words “or writing a prescription for pharmaceutical supplies”.

#### **18 Citation, commencement and transitional arrangement**

- (1) This Law may be cited as the Health Insurance (Amendment No. 15) (Jersey) Law 2016.
- (2) Article 16(1) shall come into force on the same day as the first Order made under Article 15A of the Health Insurance (Jersey) Law 1967.
- (3) Article 16(2) shall come into force on the same day as the first Order made under Article 27AA of the Health Insurance (Jersey) Law 1967.
- (4) The remaining provisions of this Law shall come into force 7 days after this Law is registered.
- (5) Notwithstanding the amendments made by this Law removing provision from the Health Insurance (Jersey) Law 1967 for the payment of pharmaceutical benefit for a prescription given by a dentist who is registered, but not approved, under that Law –
  - (a) pharmaceutical benefit shall continue to be paid for such a prescription; and
  - (b) such a dentist who gives such a prescription shall continue to be liable to disciplinary proceedings, in accordance with Article 15(4)

of the Health Insurance (Jersey) Law 1967 as it was in force immediately before the commencement of Article 4 of this Law, until the expiry of 3 months following the commencement of an Order made under Article 26 of the Health Insurance (Jersey) Law 1967 in respect of the approval of dentists.

**L.-M. HART**

*Deputy Greffier of the States*

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- 1* chapter 26.500
  - 2* L.17/2015
  - 3* chapter 20.625
  - 4* chapter 20.100
  - 5* chapter 20.600
  - 6* chapter 26.500