



Jersey

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CHILDREN (SECURE ACCOMMODATION) (JERSEY) ORDER 2005

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SCHEDULE

AMENDMENTS CONSEQUENTIAL UPON MOVE TO MINISTERIAL
GOVERNMENT



Jersey

CHILDREN (SECURE ACCOMMODATION) (JERSEY) ORDER 2005

*Made**21st July 2005**Coming into force**1st August 2005*

THE HEALTH AND SOCIAL SERVICES COMMITTEE, in pursuance of Articles 22 and 81 of the Children (Jersey) Law 2002, orders as follows –

1 Interpretation

In this Order “Law” means the Children (Jersey) Law 2002.¹

2 Maximum period in secure accommodation without court authority

- (1) Subject to paragraphs (2) and (3), the maximum period beyond which a child to whom Article 22 of the Law applies may not be kept in secure accommodation without the authority of the court, is an aggregate of 72 hours (whether or not consecutive) in any period of 28 consecutive days.
- (2) Where authority of the court to keep a child in secure accommodation has been given, any period during which the child has been kept in such accommodation before the giving of that authority shall be disregarded for the purpose of calculating the maximum period in relation to any subsequent occasion on which the child is placed in such accommodation after the period authorized by the court has expired.
- (3) Where a child is in secure accommodation –
 - (a) at any time between 12 midday on the day before and 12 midday on the day after a holiday or a Sunday;
 - (b) during that period the maximum period specified in paragraph (1) expires; and
 - (c) the child had, in the 27 days before the day on which the child was placed in secure accommodation, been placed and kept in such accommodation for an aggregate of more than 48 hours,

the maximum period does not expire until 12 midday on the first day that is not a holiday or a Sunday after the holiday or Sunday mentioned in sub-paragraph (a).

3 Maximum period of authorization by a court

- (1) Subject to paragraphs (2) and (3), the maximum period for which the court may authorize a child to whom Article 22 of the Law applies to be kept in secure accommodation is 3 months.
- (2) The court may from time to time authorize a child to whom Article 22 of the Law applies to be kept in secure accommodation for a further period not exceeding 6 months at any one time.
- (3) The maximum period for which the court may from time to time authorize a child who has been remanded to a remand centre under Article 16 of the of the Criminal Justice (Young Offenders) (Jersey) Law 1994² to be kept in secure accommodation (whether the period is an initial period or a further period) is the period of the remand and any period of authorization in respect of such a child shall not exceed 28 days on any occasion without further court authorization.

4 Applications to the court

Applications to the court under Article 22 of the Law shall be made only by the Committee.

5 Children to whom Article 22 of the Law shall not apply

- (1) Article 22 of the Law shall not apply to a child who is detained under any provision of the Mental Health (Jersey) Law 1969³ or in respect of whom an order has been made under Article 5(2) or (4) of the Criminal Justice (Young Offenders) (Jersey) Law 1994.
- (2) Article 22 of the Law shall not apply to a child –
 - (a) to whom Article 17(5) of the Law applies who is being accommodated in a children's home under that provision; or
 - (b) in respect of whom a child assessment order has been made and who is kept away from home pursuant to that order.

6 Detained and remanded children to whom Article 22 of the Law shall have effect subject to modifications

- (1) Subject to Article 5, Article 22 of the Law shall have effect subject to the modification specified in paragraph (2) in relation to children who are being looked after by the Committee and who have been –
 - (a) detained under Article 36(6) of the Police Procedures and Criminal Evidence (Jersey) Law 2003;⁴ or
 - (b) remanded to a remand centre under Article 16 of the Criminal Justice (Young Offenders) (Jersey) Law 1994 and who –
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- (i) have been charged with an offence that, in the case of a person aged 21 or over, carries a term of imprisonment of 14 years or more, or
 - (ii) have a recent history of absconding while remanded to a remand centre and who have been charged with or convicted of an offence alleged or found to have been committed while so remanded.
- (2) The modification referred to in paragraph (1) is that in Article 22(1) of the Law for the words “unless it appears” to the end of the paragraph there shall be substituted the following words –

“unless it appears that any accommodation other than that provided for the purpose of restricting liberty is inappropriate because –

 - (a) the child is likely to abscond from such other accommodation; or
 - (b) the child is likely to injure himself or herself or other people if he or she is kept in any other accommodation.”.

7 Children to whom Article 22 of the Law shall apply and have effect subject to modifications

- (1) Subject to Article 5 and to paragraphs (2) and (3), Article 22 of the Law shall apply (in addition to children looked after by the Committee) to children other than those looked after by the Committee who are accommodated –
 - (a) by the Education, Sport and Culture Committee; and
 - (b) in any class of premises to which the Nursing and Residential Homes (Jersey) Law 1994^s applies.
- (2) In relation to the children specified in paragraph 1(a), Article 22 of the Law shall have effect as if in paragraph (1) for the words “who is being looked after by the Committee” there were substituted the words “who is being provided with accommodation by the Education, Sport and Culture Committee”.
- (3) In relation to the children specified in paragraph (1)(b), Article 22 of the Law shall have effect as if in paragraph (1) for the words “who is being looked after by the Committee” there were substituted the words “who is being provided with accommodation in any class of premises to which the Nursing and Residential Homes (Jersey) Law 1994 applies”.

8 Duty to inform parents and others in relation to children in secure accommodation

If a child to whom Article 22 of the Law applies is kept in secure accommodation and it is intended that an application will be made to a court to keep the child in that accommodation, the Committee shall, if practicable and as soon as possible, inform –

- (a) the child’s parents;
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- (b) any person who is not the child's parent but who has parental responsibility for the child; and
- (c) the child's independent visitor, if one has been appointed under paragraph 3 of Schedule 2 to the Law; and
- (d) any other person whom the Committee considers should be informed.

9 Appointment of persons to review placement in secure accommodation

The Committee shall appoint at least 3 persons, at least one of whom must not be an officer of the Committee, who shall review the keeping of the child in secure accommodation for the purposes of securing his or her welfare, within one month of the inception of the placement and then at intervals not exceeding 3 months if the child continues to be kept in such accommodation.

10 Review of placement in secure accommodation

- (1) The persons appointed under Article 9 to review the keeping of a child in secure accommodation shall satisfy themselves as to whether or not –
 - (a) the criteria for keeping the child in secure accommodation continue to apply;
 - (b) the placement in such accommodation continues to be necessary; and
 - (c) any other description of accommodation would be appropriate for the child,and in doing so shall have regard to the welfare of the child whose case is being reviewed.
- (2) In undertaking the review the person appointed shall, if practicable, ascertain and take into account the wishes and feelings of –
 - (a) the child;
 - (b) any parent of the child;
 - (c) any person not being a parent of the child but who has parental responsibility for the child;
 - (d) any other person who has had the care of the child, whose views the persons appointed consider should be taken into account; and
 - (e) the child's independent visitor if one has been appointed under paragraph 3 of Schedule 2 to the Law.
- (3) The Committee shall, if practicable, inform all those whose views are required to be taken into account under paragraph (2) of the outcome of the review and what action, if any, the Committee decides to take in relation to the child in the light of the review, and the reasons for the decision.

11 Amendments consequential upon move to Ministerial government

The Schedule shall have effect for the purpose of amending this Order in the event of the commencement of Article 42(3) of the States of Jersey Law 2005.⁶

12 Citation and commencement

- (1) This Order may be cited as the Children (Secure Accommodation) (Jersey) Order 2005.
- (2) This Order, apart from the Schedule, shall come into force on 1st August 2005.
- (3) The Schedule shall come into force on the same day that Article 42(3) of the States of Jersey Law 2005 comes into force.

M.N. DE LA HAYE

Greffier of the States.

SCHEDULE

(Article 11)

AMENDMENTS CONSEQUENTIAL UPON MOVE TO MINISTERIAL GOVERNMENT

- (1) In the following provisions of this Order for the word “Committee” in each place where it appears there shall be substituted the word “Minister” –
 - (a) Article 4;
 - (b) Article 6(1);
 - (c) Article 7(3);
 - (d) Article 8; and
 - (e) Article 10(3).
- (2) For Article 7(1) and (2) there shall be substituted the following paragraphs –
 - “(1) Subject to Article 5 and to paragraphs (2) and (3), Article 22 of the Law shall apply (in addition to children looked after by the Minister) to children other than those looked after by the Minister who are accommodated –
 - (a) by the Minister for Education, Sport and Culture; and
 - (b) in any class of premises to which the Nursing and Residential Homes (Jersey) Law 1994 applies.
 - (2) In relation to the children specified in paragraph 1(a), Article 22 of the Law shall have effect as if in paragraph (1) for the words ‘who is being looked after by the Minister’ there were substituted the words ‘who is being provided with accommodation by the Minister for Education, Sport and Culture’ ”.
- (3) In Article 9 for the words “The Committee shall appoint at least 3 persons, at least one of whom must not be an officer of the Committee” there shall be substituted the words “The Minister shall appoint 3 persons, at least one of whom must not be an officer of an administration of the States for which the Minister is assigned responsibility”.

¹ L.50/2002.

² Chapter 08.380.

³ Chapter 20.650.

⁴ Chapter 23.750.

⁵ Chapter 20.725.

⁶ L.8/2005.