



Jersey

LONG-TERM CARE (JERSEY) LAW 2012

Official Consolidated Version

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A **LAW** to make provision for the long-term health care of Jersey residents.

Commencement [[see endnotes](#)]

PART 1

INTRODUCTORY

1 Interpretation¹

In this Law, unless the context otherwise requires –

- “approved care home” shall be construed in accordance with Article 6;
- “approved home care service” shall be construed in accordance with Article 6A;
- “approved care package” shall be construed in accordance with Article 7;
- “benefit” shall be construed in accordance with Article 4;
- “determining officer” means a person appointed as determining officer under Article 8;
- “Fund” means the Long-Term Care Fund established under Article 2;
- “home care service” has the same meaning as in paragraph 5 of Schedule 1 to the [Regulation of Care \(Jersey\) Law 2014](#);
- “long-term care” means such care as a person is assessed as needing under Article 5;
- “Minister” means the Minister for Social Security;
- “prescribed” means prescribed by Order;
- “registered person” means a registered medical practitioner under the [Medical Practitioners \(Registration\) \(Jersey\) Law 1960](#) or a person in a registrable occupation under the [Health Care \(Registration\) \(Jersey\) Law 1995](#);
- “Social Security Law” means the [Social Security \(Jersey\) Law 1974](#);
- “tribunal” means the Social Security Tribunal established under Article 33A of the [Social Security \(Jersey\) Law 1974](#) or the Medical Appeal Tribunal established under Article 9 of the [Income Support \(Jersey\) Law 2007](#), as the case requires.

PART 2

SOURCE OF FUNDS

2 Long-Term Care Fund

- (1) For the purposes of this Law, there shall be a fund called the “Long-Term Care Fund” which shall be under the control and management of the Minister.
- (2) There shall be paid into the Fund –
 - (a) the appropriate Long-Term Care Fund allocation specified in Article 30 of the Social Security Law; and
 - (b) such other sums as the States may by Regulations determine.
- (3) There shall be paid out of the Fund –
 - (a) benefits payable under this Law;
 - (b) such expenditure as the Minister may determine related to the cost of long-term care, including the purchase and maintenance of equipment for long-term care; and
 - (c) all expenses of whatever nature incurred by the Minister in carrying this Law into effect, including any Regulations and Orders made under this Law.
- (4) Draft Regulations to be made by the States under this Article may be lodged only by the Minister.

PART 3

ENTITLEMENT TO BENEFITS

3 Persons entitled to benefits

- (1) Subject to the provisions of this Law, every person who has attained the age of 18 years and who, after the date this Article comes into force, meets the conditions set out in paragraph (2) is entitled to such benefit under this Law as may be determined in accordance with the provisions of this Law.
- (2) Those conditions are that –
 - (a) the person has been assessed as being in need of long-term care under Article 5;
 - (b) the person –
 - (i) is a resident of an approved care home, or
 - (ii) is in receipt of an approved care package,
and the person would incur a charge imposed by the approved care home or provider of the approved care package were it not for any benefit payable to the person under this Law;
 - (c) the person meets any such conditions as may be prescribed with respect to the person making a payment towards the costs of long-term care;
 - (d) the person is not subject to any proceedings (whether civil or criminal) brought against the person under the Social Security Law or under this Law; and

- (e) the person meets such other conditions as are applicable to the person, including conditions as to residency, that the States may specify by Regulations.
- (3) An Order under paragraph (2)(c) –
- (a) shall make provision for –
 - (i) determining, whether generally or by description or with reference to some other matter, the persons required to make a payment,
 - (ii) determining the amount of any payment that may be required with reference to such of a person’s means as may be specified in the Order,
 - (iii) determining the times at which such a payment must be made,
 - (iv) determining the circumstances in which such payment may be deducted from such benefits payable under the Social Security Law as may be specified in the Order;
 - (b) may make such provision as the Minister thinks necessary or expedient relating to the extent to which the divesting of a person’s assets may be taken into account for the purpose of determining a person’s means where the purpose, or a primary purpose, of the divesting was to obtain a benefit payable under this Law or to increase the amount of such a benefit; and
 - (c) shall not, in specifying a person’s means for the purposes of subparagraph (a)(ii), specify any means of such description as the States may specify in Regulations.
- (4) In paragraphs (3)(a)(ii) and (3)(b) –
- (a) “person” means the person entitled to benefit and may include the person’s spouse or civil partner, or any individual living in a marriage-like relationship or civil partnership-like relationship with the person; and
 - (b) “means” includes any assets, financial or otherwise, available to a person.²

4 Benefits

- (1) The Minister shall, by Order, determine the rate for –
- (a) a benefit in respect of the costs of long-term care, to be known as a “long-term care benefit”;
 - (b) a benefit to meet all or part of the cost of a payment prescribed under Article 3(2)(c);
 - (c) any other benefit as may be prescribed.
- (2) An Order may provide –
- (a) for different rates of benefit to be payable in respect of different types or levels of long-term care;
 - (b) for the minimum and maximum rates of benefit;
 - (c) for the rate of any benefit to be subject to such of a person’s means as may be specified in the Order.
- (3) For the purposes of paragraph (2)(c), “person” and “means” have the same meaning as in Article 3(4).

5 Long-term care assessment

- (1) A person may be assessed as being in need of long-term care if the person needs permanent help with activities that are an essential part of normal daily living (such as bathing, dressing, grooming, eating).
- (2) An assessment under this Article must be carried out by a registered person.
- (3) The Minister shall, by Order, make provision as respects all such matters as he or she thinks fit for assessments including, without limiting the generality of the foregoing –
 - (a) specifying the descriptions of registered person who may make assessments for the purposes of this Article or Article 7, or both;
 - (b) the appointment and removal of such persons;
 - (c) the criteria to be taken into account in making assessments;
 - (d) procedures for assessments, including subsequent reviews;
 - (e) provisions for appeals against removal of registered persons from appointment and appeals against assessments.
- (4) The Minister may require the needs of a person assessed as being in need of long-term care under this Article to be reviewed at any time.
- (5) In this Article “permanent” means continuing, or likely to continue, for the rest of the person’s life.

6 Approved care home

- (1) This Article applies to an establishment for the residence and care of persons who are or may be assessed as being in need of long-term care.
- (2) An establishment to which this Article applies may be approved by the Minister for the purposes of this Law, such establishment being known as an “approved care home”.
- (3) The Minister shall, by Order, make provision as respects all such matters as he or she thinks fit concerning approval under paragraph (2) including, without limiting the generality of the foregoing –
 - (a) conditions subject to which approval may be given;
 - (b) procedures for approval and subsequent reviews;
 - (c) the form and manner of an application for approval, including any application fee;
 - (d) revocation or suspension of approval;
 - (e) provision for appeals against revocation or suspension of approval.

6A Approved home care service³

- (1) A home care service may be approved by the Minister for the purposes of this Law (an “approved home care service”).
- (2) The Minister shall, by Order, make provision as respects all such matters as he or she thinks fit concerning approval under paragraph (1) including, without limiting the generality of the foregoing –
 - (a) conditions subject to which approval may be given;

- (b) procedures for approval and subsequent reviews;
- (c) the form and manner of an application for approval, including any application fee;
- (d) revocation or suspension of approval;
- (e) provision for appeals against revocation or suspension of approval.

7 Approved care package

- (1) This Article applies to arrangements for providing care for a person assessed as being in need of long-term care under Article 5, such care being provided in the person's home or in other premises not being an approved care home.
- (2) Arrangements to which this Article applies may be approved by a registered person for the purposes of this Article, such arrangements to be known as an "approved care package".
- (3) The Minister shall, by Order, make such provision as he or she thinks fit concerning approval under paragraph (2) including, without limiting the generality of the foregoing –
 - (a) descriptions of registered persons who may give approval;
 - (b) conditions subject to which approval may be given;
 - (c) procedures for approval and subsequent reviews;
 - (d) revocation or suspension of approval;
 - (e) provision for appeals against revocation or suspension of approval.

PART 4

CLAIMS AND PAYMENT OF BENEFITS

8 Procedures in relation to claims and payment of benefits

- (1) A claim for benefit, or any question or matter arising in relation to such a claim, shall be determined by one or more persons, to be known as "determining officers" appointed by the Minister.
- (2) If a person in respect of whom a claim is made is dissatisfied with any determination of a determining officer under this Law, the matter shall be redetermined by a second determining officer.
- (3) The Minister shall, by Order, make such provision as he or she thinks fit in relation to consideration by a determining officer or a tribunal of any matter concerning a claim and payment of a benefit, including without prejudice to the generality of the foregoing, provisions for –
 - (a) procedures for claims, including forms to be used, the evidence which is required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence;
 - (b) when, by whom and in what circumstances notice must be given of any change of circumstances affecting the continuance of entitlement to a benefit or to a particular rate of benefit;
 - (c) determining the frequency and manner of payment of benefits;

- (d) the appointment of a person (which may include the Minister) to act on behalf of a person making a claim or for the receipt of benefits, including provision for determining when benefits shall be made directly to a person acting for an approved care home or providing an approved care package;
 - (e) the procedure for appeals to a tribunal;
 - (f) time limits for any claim or appeal or for producing any evidence or other information;
 - (g) the reference to the Royal Court for a decision of any question of law arising in connection with the determination of a question by a determining officer or by a tribunal;
 - (h) appeals to the Royal Court from a decision of a tribunal on any question of law;
 - (i) summoning persons to attend and give evidence or produce documents and for authorizing the administration of oaths to witnesses;
 - (j) for the representation of one person, at any hearing of a case, by another person, whether or not that other person has professional representation;
 - (k) for adjustment of benefit following a determination or appeal and for repayment where necessary.
- (4) Where, in any proceedings for an offence under this Law or for the recovery of any sums due to the Fund, any question arises that is required to be determined in accordance with an Order under this Article, provision may be made by Order –
- (a) that the decision relating to that question shall be conclusive for the purpose of those proceedings;
 - (b) for obtaining such a decision when it has not been given; and
 - (c) for adjourning the proceedings until such a decision has been given.

9 Expenses of persons required to attend proceedings

- (1) The Minister may pay such travelling and other allowances, including compensation for loss of remunerative time, as the Minister may determine to any member of a tribunal in connection with any reference or appeal to the tribunal under this Law.
- (2) The Minister may also pay to any such member of a tribunal any other expenses incurred in connection with the member's work as appear to the Minister to be reasonable.

10 Offences in relation to claims for benefit

If a person for the purpose of obtaining any benefit, whether for the person or some other person –

- (a) knowingly makes any false statement or false representation or withholds any material information;
- (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which the person knows to be false in a material particular; or
- (c) fails to notify a change of circumstances as required by an Order under this Law, the person shall be liable to imprisonment for a term of 7 years and to a fine.

PART 5

ADMINISTRATION OF THE FUND

11 Accounts

- (1) Annual accounts shall be prepared in accordance with the accounting standards referred to in the Public Finances Manual issued under the [Public Finances \(Jersey\) Law 2019](#).⁴
- (2) Any monies forming part of the Fund may from time to time be paid over to –
 - (a) the Treasurer of the States; or
 - (b) an investment manager,and may, by either of them, be invested in accordance with such directions as may be given by the Minister for Treasury and Resources.
- (3) The Minister for Treasury and Resources may, after consultation with the Minister, appoint one or more investment managers.
- (4) The Minister for Treasury and Resources shall not appoint an investment manager under paragraph (3) unless, having considered the value of the fund monies from the Fund to be managed by such investment manager, he or she is satisfied that such value will not be excessive having regard to –
 - (a) proper advice;
 - (b) the desirability of securing diversification of management of the Fund; and
 - (c) the value of the Fund.
- (5) The terms of appointment of an investment manager shall –
 - (a) provide for its termination without notice;
 - (b) require the investment manager to provide the Minister for Treasury and Resources, at least once every 3 months or such other period as may be specified in the terms of appointment, with a report setting out the action taken by the investment manager under the appointment;
 - (c) require the investment manager to comply with such instructions as the Minister for Treasury and Resources may give;
 - (d) require the investment manager to have regard to the need for diversification of investment of monies from the Fund and to the suitability of investments of any description.
- (6) The Minister for Treasury and Resources, on consideration of each report provided to him or her under paragraph (5) and any other information he or she thinks relevant, shall, having regard to –
 - (a) the need for diversification of investment of monies from the Fund;
 - (b) the suitability of investments of any description; and
 - (c) proper advice,consider the desirability of continuing or terminating the investment manager's appointment.
- (7) In this Article –

- (a) “investment manager” means a person or persons reasonably believed by the Minister to be suitably qualified by ability in, and practical experience of, financial matters to make investment decisions on his or her behalf;
 - (b) “proper advice” means the advice of a person or persons reasonably believed by the Minister for Treasury and Resources to be qualified by his or her ability in, and practical experience of, financial matters to give such advice.
- (8) ⁵

12 Actuarial reports

- (1) An actuary, appointed for the purpose by the Minister, shall review the operation of this Law during the period ending 31st December in the year following the year that this Article comes into force and thereafter during the period ending with 31st December in every 3rd year and, on each such review, make a report to the Minister on the financial condition of the Fund and the adequacy or otherwise of the contributions payable to the Fund to support the benefits under this Law having regard to its liabilities under this Law.
- (2) The Minister may at any time reduce the period to be covered by a review and report under paragraph (1) and accelerate the making of that and subsequent reviews and reports accordingly.
- (3) A copy of every report under this Article shall be laid before the States as soon as practicable after it is made.

13 Civil proceedings to recover sums due to the Fund

Proceedings for the recovery of sums due to the Fund may be instituted by the Treasurer of the States and, notwithstanding any enactment or rule of law to the contrary, any such proceedings may be brought at any time within 10 years from the time when the matter complained of arose.

14 Recovery of sums due to Fund by deductions from earnings

- (1) Where judgment has been obtained for the payment of any sum due to the Fund by any individual (in this Article referred to as the “judgment debtor”) then, notwithstanding any enactment or rule of law to the contrary and without prejudice to any other means of recovery, the sum payable under the judgment together with the recoverable costs (in this Article referred to as the “judgment debt”) may be recovered in accordance with the provisions of this Article.
- (2) Where it is desired to recover any judgment debt under this Article –
 - (a) the Minister may serve notice on the employer for the time being of the judgment debtor requiring the employer to furnish the Minister, within such time (not being less than 7 days) as may be specified in the notice, with a certificate of the amount earned by the judgment debtor in the employ of the employer during such past period or periods as may be so specified; and
 - (b) subject to paragraph (3), whether or not such a certificate as aforesaid has been required to be furnished, the Minister may serve notice on the employer for the time being of the judgment debtor requiring the employer to make such deductions from the earnings of the judgment debtor as may, having regard to all the circumstances of the case, appear to the Minister to be

reasonable and to pay the amounts so deducted to the Minister at such times as may be specified in the notice, and the amount so paid shall be applied towards the satisfaction of the judgment debt.

- (3) Where the judgment debt has been ordered to be paid by instalments, the Minister shall not require such deductions to be made as would at any date reduce the judgment debt by a greater amount than that by which it would have been reduced had the instalments been paid.
- (4) An employer who refuses or without lawful excuse fails to furnish a certificate which, under paragraph (2)(a), the employer is required to furnish within such time as may be so required is guilty of an offence and is liable to a fine of level 2 on the standard scale.
- (5) An employer who furnishes a certificate under paragraph (2)(a) which is false in a material particular is guilty of an offence and is liable to a fine of level 3 on the standard scale.⁶
- (6) Any notice under paragraph (2)(b) may at any time be varied by a subsequent notice under that sub-paragraph.
- (7) A copy of every notice served under paragraph (2)(b) or (6) shall be served also on the judgment debtor.
- (8) Where an employer fails to deduct any amount which the employer is required by virtue of paragraph (2)(b) to deduct, or to pay to the Minister any amount so deducted, the amount may be recovered from the employer as a debt due to the Fund.
- (9) Service of any notice under this Article may be effected by sending it by registered post to the person on whom it is to be served at his or her usual or last known place of abode or his or her principal place of business or, in the case of a company, at its registered office.

15 Recovery in bankruptcy, etc.

In the event of any *dégrévement, réalisation, désastre*, bankruptcy or composition with creditors, any amount due to the Long-Term Care Fund shall rank for payment *pari passu* with other privileged debts and in priority to all other debts.

PART 6

MISCELLANEOUS AND CLOSING

16 Regulations and Orders

- (1) The States may, by Regulations, amend any enactment, including this Law, for the purpose of making such transitional, consequential incidental, supplementary and savings provisions as they consider necessary or expedient in respect of any provision of this Law.
- (2) The Minister may, by Order –
 - (a) make such transitional, consequential, incidental, supplementary and savings provisions (other than amending any enactment) as he or she considers necessary or expedient in respect of any provision of this Law; and
 - (b) prescribe any matter that shall or may be prescribed under this Law.

- (3) Any Regulations or Order under this Law may contain such transitional, consequential, incidental or supplementary provisions as appear to the States or the Minister, as the case requires, to be necessary or expedient for the purposes of the Regulations or Order.

17 Citation

This Law may be cited as the Long-Term Care (Jersey) Law 2012.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	°Projet No (where applicable)
Long-Term Care (Jersey) Law 2012	L.21/2012	Parts 1, 2 and 5 and Articles 16 and 18 - 12 December 2013; Parts 3 and 4 and Article 17, but only to the extent that it gives effect to paragraphs 1, 2, 3(a) and 4 of the Schedule – 1 July 2014 (R&O.160/2013)	P.108/2011
Civil Partnerships (Consequential Amendments) (No. 2) (Jersey) Regulations 2013	R&O.16/2013	1 July 2014	P.128/2012
Social Security (Amendment of Law No. 6) (Jersey) Regulations 2013	R&O.157/2013	1 July 2014	P.138/2013
Comptroller and Auditor General (Jersey) Law 2014	L.25/2014	17 November 2014	P.98/2014
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	L.1/2016	20 September 2016 (R&O.98/2016)	P.87/2015
Regulation of Care (Regulated Activities) (Jersey) Regulations 2018	R&O.118/2018	1 January 2019	P.126/2018
Public Finances (Jersey) Law 2019	L.10/2019	23 July 2019 (R&O.67/2019)	P.28/2019
Regulation of Care (Regulated Activities) (Amendment of Law) (Jersey) Regulations 2022	R&O.55/2022	1 January 2023 (R&O.117/2022)	P.45/2022

°Projets available at www.statesassembly.gov.je

Table of Renumbered Provisions

Original	Current
17	spent, omitted
18	17
Schedule	spent, omitted

Table of Endnote References

¹ Article 1 amended by R&O.118/2018, R&O.55/2022

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- ² *Article 3(4)* *amended by R&O.16/2013*
- ³ *Article 6A* *inserted by R&O.118/2018*
- ⁴ *Article 11(1)* *substituted by L.25/2014, L.10/2019*
- ⁵ *Article 11(8)* *deleted by L.10/2019*
- ⁶ *Article 14(5)* *amended by L.1/2016*