

**DRAFT NURSING AND RESIDENTIAL HOMES
(No. 2) (JERSEY) LAW 199**

**Lodged au Greffe on 18th March 1997
by the Health and Social Services Committee**



STATES OF JERSEY

STATES GREFFE

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Explanatory Note

The purpose of this Law is to provide for the registration of nursing and residential homes which, prior to the commencement of the Nursing and Residential Homes (Jersey) Law 1994 ("the 1994 Law"), were registered under Laws repealed by that enactment.

The Law also -

- (a) provides that such homes are deemed to have been registered under the 1994 Law since its commencement;
- (b) validates the actions of the Committee taken pursuant to the 1994 Law in respect of such homes; and
- (c) makes it clear that registrations under it have effect as though they were registrations under the 1994 Law and that the provisions of that Law apply to them.

**NURSING AND RESIDENTIAL HOMES (No. 2)
(JERSEY) LAW 199**

A LAW to make provision for the registration of nursing homes and residential nursing homes registered prior to the commencement of the 1994 Law and for connected purposes, sanctioned by Order of Her Majesty in Council of the

(Registered on the _____ day of _____ 199)

STATES OF JERSEY

The _____ day of _____ 199_____

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

ARTICLE 1

Interpretation

(1) In this Law -

“the 1950 Law” means the Nursing Homes (Registration) (Jersey) Law 1950;¹

“the 1964 Law” means the Old Persons’ Homes (Registration) (Jersey) Law 1964;²

¹ Tome VII, page 653, and Volume 1982-1983, page 147.

² Volume 1963-1965, page 341, Volume 1975-1978, page 93, and Volume 1982-1983, page 151.

“the 1969 Law” means the Mental Health (Jersey) Law 1969;³

“the 1994 Law” means the Nursing and Residential Homes (Jersey) Law 1994;⁴

“the appointed day” means the first day of April 1995;

“the Committee”, “mental nursing home”, “nursing home” and “residential care home” have the respective meanings given by paragraph (1) of Article 1 of the 1994 Law.

(2) Where any person other than the person registered as mentioned in paragraph (1) of Article 3, paragraph (1) of Article 4 or paragraph (1) of Article 5 would by virtue of Article 4 of the 1994 Law be required to be registered in respect of a home, any reference in this Law to the person so registered or licensed shall be construed as; or as including, a reference to that person.

(3) A reference in this Law to an enactment is a reference to that enactment as amended from time to time.

(4) A reference in this Law to an Article by number only and without further identification is a reference to the Article of that number contained in this Law.

(5) A reference in any Article of this Law to a paragraph, sub-paragraph or clause by number or letter only, and without further identification, is a reference to the paragraph, sub-paragraph or clause of that letter or number contained in the Article of this Law in which the reference occurs.

3 Volume 1968-1969, page 345, Volume 1970-1972, page 549, and R & O 5838.

4 Volume 1994-1995, page 85.

ARTICLE 2**Application**

This Law applies to persons who immediately prior to the appointed day were registered under the 1950 Law, the 1964 Law or the 1969 Law.

ARTICLE 3**Nursing homes**

(1) Where any person was immediately before the appointed day registered under Article 2 of the 1950 Law in respect of any premises, he shall not, until he is registered under paragraph (2), be required to be registered in the register of nursing homes in respect of those premises.

(2) The Committee shall, not later than three months after the commencement of this Law, register each such person as is mentioned in paragraph (1) in the register of nursing homes in respect of those premises, as if he had applied for registration under the 1994 Law.

(3) Before the Committee registers any person in respect of any premises under paragraph (2), the Committee shall in writing request that person to state whether or not the premises are used or intended to be used for the reception of pregnant women or women immediately after childbirth.

(4) Where a statement in reply to a request under paragraph (3) is in the affirmative, paragraph (8) of Article 4 of the 1994 Law shall apply as if the statement had been made in an application for such registration.

ARTICLE 4**Old persons' homes and mental nursing homes**

(1) Where any person was immediately before the appointed day registered under Article 2 of the 1964 Law in respect of any premises, he shall not, until he is registered under paragraph (3) or the Committee has declined to register him under paragraph (3), be required to be registered in the register of residential care homes in respect of those premises.

(2) The Committee shall, not later than three months after the commencement of this Law -

- (a) determine whether or not premises in respect of which a person is registered as mentioned in paragraph (1) are, in their opinion, a residential care home; and
- (b) pursuant to that determination, serve on that person a notice stating whether or not it proposes to register him in respect of the premises in the register of residential care homes.

(3) On the expiration of twenty-eight days from the service on any such person of a notice of the Committee's decision on a proposal under paragraph (2) or, if an appeal is made against the decision, on the determination or abandonment of the appeal, the Committee shall, subject to any direction made on appeal, either register or decline to register him in accordance with that decision, as if he had applied for such registration under the 1994 Law.

ARTICLE 5**Mental nursing homes**

(1) Where any person was immediately before the appointed day registered under Article 5 of the 1969 Law in respect of any premises, he shall not, until he has been registered under paragraph (2), be required to be registered in the register of mental nursing homes in respect of those premises.

(2) The Committee shall, not later than three months after the commencement of this Law, register each such person as is mentioned in paragraph (1) in the register of mental nursing homes in respect of those premises, as if he had applied for such registration under the 1994 Law.

(3) Before the Committee registers any person in respect of any premises under paragraph (2), the Committee shall in writing request that person to state whether or not there are kept, or it is proposed to receive, in the premises patients who would have been liable to be detained under the provisions of the 1969 Law.

(4) Where a statement in reply to a request under paragraph (3) is, in the affirmative, paragraph (7) of Article 4 of the 1994 Law shall apply as if the statement had been made in an application for such registration.

ARTICLE 6

Effect of registration

A registration under paragraph (2) of Article 3, paragraph (3) of Article 4 or paragraph (2) of Article 5 shall have effect as though it were a registration under the 1994 Law, and, subject to the provisions of this Law, the provisions of that Law shall apply to it.

ARTICLE 7

Conditions, etc.

(1) Article 6 of the 1994 Law shall not apply to a registration effected under paragraph (1) of Article 3, paragraph (3) of Article 4 or paragraph (2) of Article 5 until -

- (a) the number of persons to be specified in the certificate of registration under paragraph (1) of Article 6; and
- (b) any conditions subject to which the registration is to be effected under paragraph (2) of Article 6;

have been determined in accordance with this paragraph.

(2) The Committee shall, as soon as may be after the commencement of this Law, serve on each person registered or proposed to be registered under this Law in respect of any premises a notice specifying its proposals as to the said matters.

- (3) On the happening of the last of the following events -
- (a) the expiration of twenty-eight days from the service on such a person of the Committee's decision on its proposals under paragraph (2); or
 - (b) if an appeal is made against the decision, the determination or abandonment of the appeal; or
 - (c) the registration of that person under paragraph (2) of Article 3, paragraph (3) of Article 4 or paragraph (2) of Article 5;

the Committee shall, subject to any direction made on appeal, issue a certificate of registration specifying the said matters decided upon, and any certificate of registration previously issued shall cease to have effect.

ARTICLE 8

Representations, appeals, etc.

Paragraphs (4) and (5) of Article 9 and Articles 10 and 12 of the 1994 Law apply to a proposal under paragraph (2) of Article 4 or paragraph (2) of Article 6 as they apply to a proposal mentioned in paragraph (1), (2) or (3) of Article 9 of the 1994 Law.

ARTICLE 9**Application of Article 16 of the 1994 Law**

Article 16 of the 1994 Law shall not apply to any premises in respect of which a person is not required to be registered by virtue of paragraph (1) of Article 3, paragraph (1) of Article 4 or paragraph (1) of Article 5.

ARTICLE 10**Validation**

(1) A person to whom this Law applies who was carrying on a home during the period between the appointed day and the commencement of this Law is deemed to have been carrying on that home as though it were registered under the 1994 Law and any action of the Committee during that time in respect of that home pursuant to its powers under the 1994 Law is deemed to have been lawfully taken.

(2) Any fee levied or paid pursuant to any provision of the 1994 Law is deemed to have been validly levied and paid.

ARTICLE 11**Short title and citation**

This Law may be cited as the Nursing and Residential Homes (No. 2) (Jersey) Law 199 and this Law and the 1994 Law may be together cited as the Nursing and Residential Homes (Jersey) Laws 1994 to 199 .