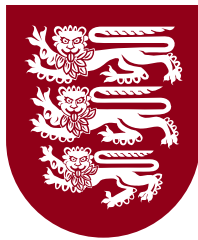


STATES OF JERSEY



Jersey

DRAFT CHILDREN AND CIVIL STATUS (PARENTAL RESPONSIBILITY) (JERSEY) AMENDMENT REGULATIONS 202-

**Lodged au Greffe on 21st November 2025
by the Minister for Children and Families
Earliest date for debate: 20th January 2026**

STATES GREFFE

REPORT

Introduction

These two amendments introduce targeted refinements to the Children and Civil Status framework, aimed at promoting equality for all families. They address a recently identified legal technicality affecting a specific group of fathers whose registrations occurred prior to the enactment of the [Children and Adoption \(Amendment\) \(Jersey\) Law 2016](#) (“the 2016 Law”). This issue concerns unmarried fathers recorded on their child’s birth certificate before 2 December 2016. Some unmarried fathers registered prior to 2 December 2016 have subsequently gained parental responsibility by marrying the child’s mother. Under the [Legitimacy \(Jersey\) Law 1973](#) (“the 1973 Law”) this resulted in the legitimisation of the child through *subsequens matrimonium*, which under the previous framework of the [Children \(Jersey\) Law 2002](#) (“the 2002 Law”) conferred parental responsibility.

For children registered on or after 2 December 2016, the majority of unmarried fathers have acquired parental responsibility by virtue of being named on the birth certificate, following the legislative change introduced by the 2016 Law. Unmarried fathers who were not registered at the time of their child’s birth can also obtain parental responsibility by re-registering and being added to the birth certificate, even if the child was born before 2 December 2016. Alternatively, they may gain parental responsibility through an agreement with the mother or by obtaining a court order.

On 5th November, the Minister for Children and Families signed a Commencement Order to bring the following pieces of legislation into effect on 24th November:

- [Children and Civil Status \(Amendments\) \(Jersey\) Law 2024](#)
- [Children and Civil Status \(Consequential Amendments\) \(Jersey\) Amendment Regulations 2025](#)
- [Children and Civil Status \(Consequential Amendments\) \(Jersey\) Amendment No. 2 Regulations 2025](#)
- [Civil Status \(Abolition of Legitimacy Etc.\) \(Jersey\) Law 2025](#)

The development of this legislation has been highly complex and a substantial piece of work. During final preparations, despite extensive prior review, an unforeseen technical legal consequence was identified. This related to the interaction between the parental responsibility provisions for fathers registered prior to the commencement of the 2016 Law and the new legislation to abolish legitimacy.

Once this issue was identified, urgent work was undertaken to resolve it and to ensure that the removal of legitimacy would not disadvantage unmarried fathers who were registered prior to 2 December 2016. Unfortunately, in seeking to establish equality by abolishing legitimacy, the legal position for some individuals within this group was inadvertently impacted. This was not an intended policy outcome of repealing legitimacy; however, the repeal unintentionally removed elements of the legislative framework that had previously supported these fathers in acquiring parental responsibility. This is, by its nature, a transitional issue, affecting children born to unmarried fathers prior to the 2016 Law. The Minister, supported by officers, acted swiftly upon discovery of the issue less than a week prior to lodging, recognising the importance of ensuring equality for all parents.

Resolving Impact of Repealing Legitimacy on Parental Responsibility

It was identified that fathers who had been registered as the father of children born before 2 December 2016 who subsequently married the mother had previously acquired parental responsibility through the mechanism of legitimacy under Article 4 of the 1973 Law. This provision, when read alongside the former Article 1(2) of the 2002 Law, treated a child legitimated *per subsequens matrimonium* ‘as if’ their parents had been married at the time of birth. In conjunction with the former Article 3 of the 2002 Law, this framework enabled an unmarried father to obtain parental responsibility by subsequently marrying the child’s mother.

Once the new Children and Civil Status (Amendments) (Jersey) Law 2024 (“the 2024 Law”) and the Civil Status (Abolition of Legitimacy Etc.) (Jersey) Law 2025 (“the 2025 Law”) are enacted and the legitimacy provisions are repealed, the legal basis for this cohort of fathers to hold parental responsibility will be removed. There is no alternative mechanism for these fathers to gain parental responsibility through registration alone, as the new Article 9C(2) of the 2002 Law, to be inserted by the 2024 Law, expressly excludes fathers registered before 2 December 2016 from acquiring parental responsibility by virtue of registration.¹

To address this issue, an amendment to the 2025 Law will introduce a saving provision ensuring that any person who held parental responsibility immediately prior to the commencement of the 2025 Law does not lose that status. This means that, although the legislative framework underpinning parental responsibility for this cohort will be repealed, they would retain parental responsibility through the mechanism of the new saving provision in Article 3(3A) of the 2025 Law, on the basis that they held such responsibility immediately prior to commencement.

While the legitimacy framework will be removed, parental responsibility is now safeguarded within the saving provisions of the 2025 Law, which create exceptions to the effect of abolishing legitimacy. The new Article 3(3A) will, in practice, remain in force until all children registered before 2 December 2016 to unmarried fathers who were subsequently legitimated reach the age of 18, namely until 2 December 2034.

It has been possible to implement this amendment promptly because Article 82A of the 2002 Law, amended by the 2024 Law, was drafted with broad regulation-making powers, providing the necessary *vires* to effect changes efficiently. During the development of the 2025 Law, an extensive review was undertaken to identify areas of policy and legislation that would be impacted, and parental responsibility was among those identified. However, the precise legal mechanism affecting this specific cohort was not established during that process or in subsequent reviews of the draft legislation.

Parental responsibility was anticipated to be primarily driven and evidenced by the registration of fathers going forward. It has always been emphasised that this legislation is highly complex, and the detailed interrelationship between various Articles has been subject to diligent and extensive review. Nevertheless, due to this complexity, certain effects have only become apparent during the operational rollout phase. This issue is one such effect, which has an opposing impact, and the Minister, supported by officers, took a firm decision to swiftly rectify the matter.

Future Position: Unmarried Fathers of children born before December 2016 gaining Parental Responsibility via legal union

For fathers of children registered before 2 December 2016 who marry the child’s mother after 24 November 2025, following the abolition of legitimacy, the route to parental responsibility via legitimation *per subsequens matrimonium* will no longer be available. The new Article 9C(2) of the 2002 Law excludes fathers registered before 2 December 2016 from acquiring parental responsibility by registration alone. As a result, any father registered before the 2016 Law came into force would need to obtain parental responsibility through a separate Parental Responsibility

¹ Note that Article 9C(2) is a restatement of the existing Article 5(1A) of the 2002 Law.

Agreement with the mother or parental responsibility via a court order, regardless of whether he marries or enters a civil partnership with the child's mother.

This outcome represents an unintended technical consequence for this cohort of unmarried fathers registered before the 2016 Law, due to the historic prevention of them gaining parental responsibility via registration and the interaction with the 2025 Law to abolish legitimacy. This means there is now an additional legislative requirement to gain parental responsibility via a Parental Responsibility Agreement or court order, even if these fathers have entered a legal union with the mother. This introduces unnecessary barriers for these fathers; creating complexity at what should be a positive occasion, on the formalisation of the parents' legal union. The primary policy objective of repealing legitimacy was to promote equality for all families, not to impose additional obstacles on certain groups. The result was equality but not equity.

To address this issue for future cases, it is necessary to amend the new Article 9C(2) of the 2002 Law to allow fathers of children registered before 2nd December 2016 to gain parental responsibility automatically upon marrying or entering a civil partnership with the mother.² This has the dual effect of allowing fathers to gain parental responsibility in the same manner as if legitimacy had not been abolished, and also equalising marriage and civil partnership. This means that these fathers will be able to acquire parental responsibility under Article 9C(1)(a) of the 2002 Law if they enter into a legal union with the mother. Other fathers registered before the 2016 Law, who do not enter into legal union with the mother, will need to enter into a Parental Responsibility Agreement or gain a court order. This position remains unchanged.

The amendment seeks to reintroduce a mechanism enabling unmarried fathers of children registered prior to 2 December 2016 to acquire parental responsibility by marrying the child's mother in circumstances where the removal of legitimation has eliminated this route. This mechanism will also now be extended to cover civil partnerships between the father and the mother. Under the current law, these fathers will already have been recorded as the child's father on the birth register, and Article 9C(2) of the 2002 Law continues to provide that registration alone does not confer parental responsibility. The proposed change is to qualify Article 9C(2) so that, for this cohort, parental responsibility will be conferred upon the father where he subsequently marries or enters into a civil partnership with the child's mother.

The extension of this provision to civil partnerships will be enabled by the regulation-making power contained in the new Article 82A of the 2002 Law, as inserted by the 2024 Law, which provides the necessary *vires* to amend Article 9C(2) accordingly.

Conclusion

It is important to note that these are two discrete, specific, and time-limited amendments are designed to address the position of fathers whose children were born and registered prior to the commencement of the 2016 Law. The purpose is to align the rights of these unmarried fathers by providing pathways to acquire parental responsibility in a similar manner as the routes available via the traditional legitimation *per subsequens matrimonium*. These targeted amendments will ensure that this cohort of fathers is appropriately covered where they have chosen to marry, or will enter into a legal union, with the mother of their child.

It is intended that these Regulations be scheduled for debate at the earliest opportunity and come into force on the day following their adoption. This approach will ensure that they take effect as soon as possible after 24 November, in alignment with the commencement of the new Children and Civil Status legislative package.

² For unmarried fathers who were unregistered before 2 December 2016, they will be able to re-register the birth of their child and obtain parental responsibility, as Article 9C(2) of the 2002 Law does not apply to them. Re-registration will serve as a legal mechanism by which they may acquire parental responsibility. The removal of legitimation as a route to parental responsibility does not affect this group. These unregistered fathers will gain parental responsibility in the same way as unmarried fathers whose children were born on or after 2 December 2016.

While it is regrettable that this situation has arisen, it reflects the complexity of the legislative framework. The package as a whole represents a significant and positive step forward, but its breadth and technical detail have necessitated careful and staged legislative development, which has come with challenges of multiple amendments across the statute book.

Financial and staffing implications

There are no additional financial or staffing implications.

Children's Rights Impact Assessment

A Children's Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

EXPLANATORY NOTE

The Draft Children and Civil Status (Parental Responsibility) (Jersey) Amendment Regulations 202- will amend the Civil Status (Abolition of Legitimacy Etc.) (Jersey) Law 2025 to introduce a further savings provision. The new savings provision will provide that a person who had parental responsibility immediately before the commencement of that Law will retain parental responsibility despite the operation of that Law. It also amends the Children (Jersey) Law 2002 to provide that a person who was registered as the father of a child before the commencement of the Children and Adoption (Amendment) (Jersey) Law 2016 on 2 December 2016 has parental responsibility for the child under Article 9C(1)(a) of the Children (Jersey) Law 2002 if he later married or entered into a civil partnership with the child's mother.

The Regulations will come into force on the day after they are made.



Jersey

DRAFT CHILDREN AND CIVIL STATUS (PARENTAL RESPONSIBILITY) (JERSEY) AMENDMENT REGULATIONS 202-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES make these Regulations under Article 82A of the [Children \(Jersey\) Law 2002](#) –

1 [Civil Status \(Abolition of Legitimacy Etc.\) \(Jersey\) Law 2025](#) amended

After Article 3(3) (savings) of the [Civil Status \(Abolition of Legitimacy Etc.\) \(Jersey\) Law 2025](#) there is inserted –

- (3A) A person who, immediately before the commencement of this Law, had parental responsibility for a child continues to have parental responsibility despite the provisions of this Law.

2 [Children \(Jersey\) Law 2002](#) amended

For Article 9C(2) (acquisition of parental responsibility by father) of the [Children \(Jersey\) Law 2002](#) there is substituted –

- (2) A father who was registered under the Civil Status Law before the commencement of the Children and Adoption (Amendment) (Jersey) Law 2016 acquires parental responsibility under paragraph (1)(a) only if, after that registration, he has married or entered into a civil partnership with the child's mother.

3 Citation and commencement

These Regulations may be cited as the Children and Civil Status (Parental Responsibility) (Jersey) Amendment Regulations 202- and come into force on the day after they are made.