



Jersey

**CAPACITY AND SELF-  
DETERMINATION (CAPACITY AND  
LIBERTY – ASSESSORS) (JERSEY)  
REGULATIONS 2018**

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Jersey

## **CAPACITY AND SELF-DETERMINATION (CAPACITY AND LIBERTY – ASSESSORS) (JERSEY) REGULATIONS 2018**

### **Contents**

#### **Regulation**

1	Interpretation .....	5
2	Assessors – criteria for appointment.....	5
3	Assessors – conflicts of interest.....	6
4	Assessors’ powers to interview persons, inspect records etc. ....	7
5	Form of assessors’ reports.....	7
6	Citation.....	7

#### **ENDNOTES** **8**

Table of Legislation History .....	8
Table of Renumbered Provisions .....	8
Table of Endnote References .....	8





Jersey

## **CAPACITY AND SELF-DETERMINATION (CAPACITY AND LIBERTY – ASSESSORS) (JERSEY) REGULATIONS 2018**

**THE STATES**, in pursuance of Articles 40(3), 44(8) and 69 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#), have made the following Regulations –

Commencement [[see endnotes](#)]

### **1 Interpretation**

In these Regulations –

- (a) the “Law” means the [Capacity and Self-Determination \(Jersey\) Law 2016](#);
- (b) a reference to an “assessor” is to a registered person designated by the Minister, under Article 40 of the Law, for the purposes of carrying out assessments in accordance with Part 5 of the Law;
- (c) a reference to “P” is a reference to the person in respect of whom Part 5 of the Law applies so as to permit significant restrictions on that person’s liberty.

### **2 Assessors – criteria for appointment**

- (1) The Minister shall not appoint a person to act as an assessor in relation to P, if that person –
  - (a) is a relative of P or a relative of a person who has a financial interest in the care of P;
  - (b) has a financial interest in the care of P; or
  - (c) is a person involved in carrying out P’s care or treatment or in making decisions about P’s care or treatment.
- (2) For the purposes of paragraph (1)(a), “relative” means, in relation to P –
  - (a) a spouse, former spouse, civil partner or former civil partner;
  - (b) a person living with P as though the person were P’s spouse or civil partner;
  - (c) a parent or child;
  - (d) a brother or sister;

- (e) a child of a person falling within sub-paragraphs (a), (b) or (d);
  - (f) a grandparent or grandchild;
  - (g) an uncle or aunt;
  - (h) a first cousin; and
  - (i) a person mentioned in sub-paragraph (c), (d), (e), (f) or (g) whose relationship is to the person mentioned in sub-paragraph (a) or (b),
- and for these purposes a relationship of the half-blood shall be treated as a relationship of the whole blood and the stepchild or adopted child of a person as his or her child.
- (3) For the purposes of paragraph (1)(a) and (b), a person has a financial interest in a case where that person is a partner, director, other office-holder or major shareholder of a relevant place or of a person who is M in relation to that place, and “major shareholder” means –
- (a) where the owner of, or M in relation to, a relevant place is a company limited by shares, a person holding one tenth or more of the issued shares in that company; and
  - (b) in any other case, any owner of, or person who is M in relation to, the relevant place.
- (4) Where –
- (a) P is from a cultural or ethnic group forming a minority among the population of Jersey; or
  - (b) P has a physical or sensory impairment, learning disability or autistic spectrum disorder,
- the Minister must ensure that, so far as practicable and as the Minister considers reasonable, there is appointed an assessor with appropriate understanding of P’s case and the ability to communicate appropriately with P.

### **3 Assessors – conflicts of interest**

- (1) Where a person appointed as an assessor is aware, or becomes aware, of any fact or matter (including but not limited to such a fact or matter as described in Regulation 2(1)) that –
- (a) gives rise to a conflict of interest; or
  - (b) otherwise prevents, or may prevent, that person from acting in P’s best interests,
- the assessor must immediately inform the Minister of that fact or matter.
- (2) On receiving information under paragraph (1) the Minister must consider, having regard to all the circumstances including in particular P’s best interests, whether the assessor may continue to act as such or whether another person should be appointed to act as assessor in P’s case.
- (3) The Minister must inform the assessor of his or her decision following consideration under paragraph (2), and, if the Minister so decides, must appoint another person to act as assessor in P’s case.

#### **4 Assessors' powers to interview persons, inspect records etc.**

- (1) Without prejudice to the generality of the powers conferred by Article 44(4) of the Law, an assessor may, upon reasonable notice being given, interview or take representations from such persons, other than those listed in Article 44(5) of the Law, as the assessor may consider necessary or appropriate.
- (2) Without prejudice to the generality of powers conferred by Article 44(7)(a)(iii) of the Law, an assessor may, upon reasonable notice in writing being given to the holder of the document, inspect and take copies of any document which –
  - (a) the assessor considers relevant to the care and treatment of P; and
  - (b) is held by a person in any place (including but not limited to a relevant place) where P resides or has resided.
- (3) In exercising powers under this Regulation an assessor must have regard to any guidance, whether or not contained in a code of practice under Article 68 of the Law, which the Minister may issue as to the exercise of such powers.

#### **5 Form of assessors' reports**

A report of an assessment to be provided under Article 45 of the Law must be provided in the form specified for the purpose by the Minister.

#### **6 Citation**

These Regulations may be cited as the Capacity and Self-Determination (Capacity and Liberty – Assessors) (Jersey) Regulations 2018.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	Project No (where applicable)
Capacity and Self-Determination (Capacity and Liberty – Assessors) (Jersey) Regulations 2018	<a href="#">R&amp;O.44/2018</a>	1 October 2018 ( <a href="#">R&amp;O.50/2018</a> )	<a href="#">P.43/2018</a>

Projects available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

### Table of Renumbered Provisions

Original	Current
None	

### Table of Endnote References

*There are currently no endnote references*