

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

CIVIL CONTINGENCIES AUTHORITY

**THE EMERGENCY POWERS (CORONAVIRUS) (GENERAL PROVISION) (BAILIWICK OF
GUERNSEY) (NO. 11) REGULATIONS, 2021**

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled "The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 11) Regulations, 2021" dated 7th October, 2021 they are of the opinion:-

1. To approve the "Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 11) Regulations, 2021", made by the Civil Contingencies Authority on 30th September, 2021.

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THE EMERGENCY POWERS (CORONAVIRUS) (GENERAL PROVISION) (BAILIWICK OF
GUERNSEY) (NO. 11) REGULATIONS, 2021

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port
Guernsey

7th October, 2021

Dear Sir

1. Executive Summary

- 1.1 The purpose of this policy letter is to lay the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 11) Regulations, 2021 made by the Civil Contingencies Authority (“the Authority”) on 30th September, 2021 and to seek approval of the regulations in pursuance of section 16 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012 (“the Law”).
- 1.2 Section 16(1) of the Law requires that emergency regulations are laid before the States of Deliberation as soon as is reasonably practicable after being made.

2. Background

- 2.1 On 12th March, 2020, the Authority, having considered advice from the Director of Public Health on the likely impact of the Severe Acute Respiratory Syndrome Coronavirus 2 to human welfare in the Bailiwick confirmed that this virus represented an event threatening damage to human welfare, including loss of human life and human illness. The Authority concluded that the effects and the risk of the spread of the Severe Acute Respiratory Syndrome Coronavirus 2 constituted an emergency within the meaning set out in section 2 of the Law.
- 2.2 Since then, the Authority has regularly considered advice provided by the Director of Public Health and, further to such advice, the Authority concluded at

its meeting on 30th September 2021, that the emergency posed by the Severe Acute Respiratory Syndrome Coronavirus 2 continued to exist. However, the Authority believed that the risk to human welfare was such that it was no longer proportionate for the then current travel restrictions to remain in place. Consequently, it decided to further ease the requirements for persons travelling from within the Common Travel Area to self-isolate and/or agree to testing on arrival in the Bailiwick for both vaccinated and unvaccinated travellers.

2.3 In reaching that decision, the Authority noted that:

- (a) The number of positive cases within the Bailiwick remained stable;
- (b) The majority of the Bailiwick's adult population had been fully vaccinated with an approved COVID vaccine;
- (c) 16 and 17-year olds were now being vaccinated; and
- (d) The programme was about to be extended to 12 to 15-year olds.

It further noted, given the success of the programme and the effectiveness of travel restrictions in preventing the spread of COVID, that the risk of the Bailiwick's medical services being unable to cope with the health and care needs of the population as a consequence of the emergency was low.

2.4 Against the above background, the Authority made the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 11) Regulations, 2021.

2.5 Section 14(1) of the Law provides for the Authority to make emergency regulations where it is satisfied it is appropriate for the purpose of preventing, controlling or mitigating an emergency or an aspect or effect of the emergency in respect of which the regulations are made. Further, section 14(2) provides that the Authority may make regulations for a number of purposes, including to protect human life (section 14(2)(a)); treating human illness or injury (section 14(2)(b)); and protecting or restoring the performance of a public function (section 14(2)(k)).

2.6 Section 16 of the Law provides as follows for the duration and scrutiny of emergency regulations:

"Duration and scrutiny of emergency regulations."

- 16.** (1) Emergency regulations shall be laid before the States as soon as is reasonably practicable after being made.
- (2) Emergency regulations shall lapse at the end of the period of seven days beginning with the date of laying, unless during that period –
- (a) a proposition is put before the States to approve the regulations which is not carried, in which case the regulations shall lapse immediately, or
 - (b) the States pass a Resolution approving them.

- (3) Emergency regulations which have not lapsed under subsection (2) shall lapse –
 - (a) at the end of the period of 30 days beginning with the date on which they are made, or
 - (b) at such earlier time as may be specified in the regulations.
- (4) If the States pass a Resolution that emergency regulations shall cease to have effect, the regulations shall cease to have effect –
 - (a) at such time, after the passing of the Resolution, as may be specified in it, or
 - (b) if no time is specified in the Resolution, on the passing of the Resolution.
- (5) If the States pass a Resolution that emergency regulations shall have effect with a specified amendment, the regulations shall have effect as amended, with effect from –
 - (a) such time, after the passing of the Resolution, as may be specified in them, or
 - (b) if no time is specified in the Resolution, at the beginning of the day after that on which the Resolution was passed.
- (6) Nothing in this section –
 - (a) shall prevent the making of new regulations, or
 - (b) shall affect anything done by virtue of regulations before they lapse, cease to have effect or are amended under this section.”.

3. Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 11) Regulations, 2021

- 3.1 The Explanatory Note to the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 11) Regulations, 2021 includes the following summary of the provisions of the Regulations:

“These Regulations are emergency regulations made by the Civil Contingencies Authority under Part 3 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012 ("the Law"). They are made on the occurrence of an emergency, within the meaning of the Law, in the Bailiwick, arising from the urgent need to prevent, control or mitigate the spread of the virus Severe Acute Respiratory Syndrome Coronavirus 2 and the disease caused thereby, COVID-19 (referred to together in these regulations as coronavirus). They are prefaced with a statement by the Civil Contingencies Authority, as required by section 12(2) of the Law. COVID-19 was made a notifiable disease for the purposes of the Public Health Ordinance, 1936 on 10th February 2020.

These Regulations revoke and re-enact (with modifications) regulations previously made by the Civil Contingencies Authority in respect of the coronavirus pandemic.

Part I - screening, assessment and powers to detain etc.

This Part places a requirement to self-isolate on persons arriving in the Bailiwick, enables the Medical Officer of Health to place restrictions and requirements on other persons who are or who may be infected with coronavirus, and makes provision in respect of related matters, including powers for the Medical Officer of Health to impose screening requirements, to detain people and to require people to self-isolate.

The provisions also create criminal offences and confer powers of enforcement on police officers, and provide for appeals against requirements or restrictions imposed under this Part by the Medical Officer of Health (as well as in respect of determinations concerning vaccination status and decisions in respect of specific conditions imposed on Critical Workers) to be made to the Royal Court.

Regulation 4 gives effect to Schedule 1, which makes provision in respect of Critical Workers. A person who has been granted a Critical Worker Exemption will have to self-isolate in accordance with, and otherwise comply with, the provisions of Schedule 1.

Schedule 2 to these regulations, which is given effect by regulation 5, provides for reduced, or no, self-isolation to be undertaken by persons who arrive from a place specified as a Green List Country or a Red List Country on the States of Guernsey website, and who elect to comply with the testing requirements set out therein.

Green List Countries and Red List Countries replace the numbered Country Categories in previous iterations of these Regulations, and arrivals from Green List Countries are treated differently depending on whether they have a full vaccination history within the meaning of the Regulations.

This Part also provides for "Blue Arrivals" – that is, persons (including children) arriving in the Bailiwick from within the Common Travel Area - to be free from self-isolation on arrival, and imposes a requirement on Blue Arrivals to take self-administered lateral flow tests for COVID-19 provided to them on arrival, to report any positive test results to Public Health, and to comply with any direction given to them on so doing. It makes a failure (without reasonable excuse) to comply with these requirements a criminal offence. The Regulations also impose a requirement to pay a fee for the provided tests before travel.

Finally, this Part provides that a person (other than a child under 5) who does not wish to undergo any testing on arrival has to self-isolate for 10 days on arrival.

Part II – miscellaneous and final

Schedule 3 to these Regulations, which is given effect by regulation 22, sets out the modifications to be made to mental health legislation having effect in the Bailiwick.

Paragraphs 4 and 5 modify the Mental Health Review Tribunal Procedure Rules, 2012 to provide that the Mental Health Review Tribunal may properly be constituted according to specified criteria.

Regulation 23 provides for the deemed variance of Long Term Employment Permits, Medium Term Employment Permits and Short Term Employment Permits, to allow the holder to be resident without being employed and to be employed by a different employer from that specified in the Permit; and for the modification of the Population Management (Guernsey) Law, 2016 and other legislation to the extent necessary to give effect to this.”

- 3.2 The Regulations revoke (and replace) the Emergency Powers (Coronavirus) (General Provision) (No. 10) (Bailiwick of Guernsey) Regulations, 2021, as amended.

4. Duration of Emergency Powers Regulations

- 4.1 The Regulations came into force on the 4th October, 2021 and have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law (see paragraph 2.5 above).
- 4.2 Under section 16, the Regulations will lapse at the end of the period of seven days beginning with the date of laying unless, during that period, a proposition is put before the States to approve them which is not carried, in which case the regulations shall lapse, or the States pass a resolution approving them.

5. Compliance with Rule 4

- 5.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 5.2 The Propositions are in accordance with Rule 4(1):
 - (a) The Propositions contribute to the States’ objectives and policy plans in that managing the public health risks associated with the COVID-19 pandemic in an effective way is a key priority of the Government Work Plan and there is a statutory requirement under section 16(1) of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012 for the emergency regulations to be laid before the States of Deliberation as soon as is reasonably practicable after being made;

- (b) The Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications; and
- (c) There are no new or additional financial implications to the States associated with the making of these emergency regulations.

5.3 In accordance with Rule 4(2), the Propositions relate to the duties of the Civil Contingencies Authority under the provisions of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012 and have the unanimous support of the Authority.

5.4 In accordance with Rule 4(3), the Committee's preferred date when this item should be considered by the States is at the meeting commencing on 13th October, 2021, the reason being to comply with section 16(1) of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012.

Yours faithfully

P T R Ferbrache
Chairman

P R Prow
Permanent Member

H L de Sausmarez
Permanent Member

A H Brouard
Permanent Member

W Abel
Temporary Member

J Guille
Temporary Member

H J R Soulsby
Advisor to the Civil Contingencies Authority