

Proposition in pursuance of Rule 18 submitted by the Chairman of the Civil Contingencies Authority

The States are asked to decide whether they are of the opinion to approve the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 3) Regulations, 2021.

EMERGENCY POWERS (CORONAVIRUS) (GENERAL PROVISION) (BAILIWICK OF GUERNSEY) (NO. 3) REGULATIONS, 2021

In pursuance of section 16 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012, the "Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 3) Regulations, 2021", made by the Civil Contingencies Authority on 4th March, 2021, are intended to be laid before the States on 24th March, 2021. Under that section they 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.

EXPLANATORY NOTE

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.

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 applications to vary or revoke requirements or restrictions imposed under this part to be made to the Royal Court.

This Part also prohibits non-essential travel into the Bailiwick. Further provision in respect of essential travel, and the granting of Essential Travel Permits, is set out in

Schedule 1. The effect of this prohibition is that it is unlawful for a person to travel into the Bailiwick from outside unless he or she has been granted either an Essential Travel Permit or a Critical Worker Exemption. A person who has been granted an Essential Travel Permit will have to self-isolate on arrival in accordance with regulations 5 and 6, and 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 2. Finally, this Part also provides that a person of 12 years or over who chooses not to take both a day of arrival test for COVID-19 and a test on day 13 after arrival will have to self-isolate for 21 days; otherwise, a person who does undergo those tests is required to self-isolate until receipt of a negative result for the day 13 test. A child under 12 has to self-isolate for 14 days after arrival.

Part II - control of premises, gatherings etc., and movement of persons

This Part enables the Civil Contingencies Authority to impose restrictions in relation to licensed (and other non-residential) premises, and empowers the Committee to impose restrictions in relation to events, gatherings and meetings, and the movement of people outside their homes. The regulations in this Part also create criminal offences, and confer powers of enforcement on police officers. The Authority must consult the Medical Officer of Health before exercising the powers under the regulations, and in addition must consult Her Majesty's Procureur when issuing a direction imposing restrictions in relation to the movement of persons outside their homes; and when exercising powers in relation to premises in Alderney and Sark, the relevant Committees on those islands must also be consulted.

Parts III and IV - registration of deaths and still-births, and cremations in Guernsey

These Parts temporarily modify procedures in relation to registration of deaths and still births in Guernsey and Sark and in Alderney (Part III) and in relation to cremations in Guernsey (Part IV). These amendments are to remove requirements for things to be done in person and to simplify procedures relating to registration of deaths and still-births and cremations during the current emergency situation.

The modifications in relation to registration of deaths and still-births are to remove requirements to make declarations of death in person, for a doctor signing a medical certificate of death to certify that he or she had attended the deceased during his or her last illness and to disapply requirements limiting the time a body is kept provided it is in the custody of the States of Guernsey (where the body is in Guernsey), the States of Alderney (where the body is in Alderney) or the relevant funeral director.

The modifications in relation to cremations are to remove the requirements for an application for cremation to be verified by being countersigned or by the applicant giving a declaration made on oath and for a confirmatory medical certificate to be given (Form C in the Cremation Ordinance, 1972).

Part V - the States of Deliberation and the Chief Pleas of Sark

The regulations relating to the States of Deliberation provide that the Reform (Guernsey) Law, 1948 shall apply as if modified by the insertion of a new Article enabling the States of Deliberation to meet remotely. It also empowers the States' Assembly & Constitution Committee to make Rules of Procedure governing remote meetings of the States held pursuant to the inserted Article. The regulations relating to the Chief Pleas of Sark temporarily modify the application of the Sark (Reform) Law, 2008 to allow Committees of the Chief Pleas to meet remotely.

Part VI - parochial meetings, etc.

Part VI makes provision enabling parish business to be conducted despite the inability to hold parish meetings. For all normal parish business, including approval of the expenditure to be incurred by each parish, and the rates to be levied in order to meet that expenditure, decisions will be made by the Constables and Douzaine in respect of all matters, but after consultation with the Rector and Churchwardens where the decision concerns ecclesiastical matters. Notice of the matters to be determined and the proposed decision in each case will be published in La Gazette Officielle and further information and documents will be made available on a specified website; and ratepayers will be given an opportunity to make representations. Meetings of the Constables and Douzaine may be held remotely, in line with the provisions for States' Committees already agreed. The Constables and Douzaine must take into account of any representations received. Their decision must be notified to the ratepayers who will then have the opportunity to oppose the application to the Royal Court for confirmation of the decision in relation to the "remède", having given prior notification to the Greffe and the parish of their intention to object. Any necessary elections during the emergency period may be substituted by appointments by the Dean of the Douzaine, after consultation with the Rector and Churchwardens where appropriate. Such appointments will expire one month after the regulations cease to have effect when an election will need to be held in order to fill any vacancy in the normal way.

Part VII – schools

Part VII empowers the Medical Officer of Health to exercise her powers to require schools to take measures to prevent the spread of infection in Sark, and provide, for the avoidance of doubt, that such measures may include the immediate closure of any school.

Part VIII – miscellaneous and final

Schedule 3 to these Regulations, which is given effect by regulation 36, sets out the modifications to be made to mental health legislation having effect in the Bailiwick. Paragraph 4 of the Schedule modifies the Mental Health (Bailiwick of Guernsey) Law, 2010 to permit an approved medical practitioner (rather than only a second opinion

approved doctor) to provide a certificate for the purposes of section 56 of the Law where the practitioner is of the opinion that it is not reasonably practicable or would involve unreasonable delay to comply with the unmodified requirement of that section. Paragraphs 5 to 6 of the Schedule 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 37 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. It also amends the Population Management (Guernsey) Law, 2016 to impose a duty on the Administrator of Population Management to consult a determining officer appointed under Schedule 1 before granting an Employment Permit.

Regulation 38 temporarily modifies the Offences (Fixed Penalties) (Guernsey) Law, 2009. The modification enables fixed penalty notices in the sum of £100 to be issued by police officers to persons who fail, without reasonable excuse, to comply with a direction or requirement of a police officer to wear a face covering, where the Regulations and any Direction made under them require the wearing of a face covering.

Regulation 39 makes provision in relation to Senior Decision Makers ("SDMs") appointed by the Guernsey Financial Services Commission, including providing for SDMs to hold oral hearings remotely.

Regulation 40 enables the Court of Appeal to conduct its proceedings remotely.

These Regulations came into force on the 5th March, 2021 and shall have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law.

LAYING OF URGENT PROPOSITIONS UNDER RULES OF PROCEDURES FOR THE STATES OF DELIBERATION AND THEIR COMMITTEES

Further, Rule 18 of the Rules of Procedures for the States of Deliberation and their Committees prescribes as follows:

Urgent propositions

18. A proposition as regards which an immediate decision is necessary or desirable may, with the permission of the Presiding Officer, be submitted to the States on behalf of a Committee or by the Presiding Officer in his or her own right at any Meeting, and may be debated and decided upon, with or without

amendment, at that Meeting. Such proposition shall be in writing and shall be headed "Proposition in pursuance of Rule 18 submitted by the [President of the ... Committee / Presiding Officer]", and copies thereof shall be delivered beforehand to the Presiding Officer, Her Majesty's Procureur and the President of the Policy & Resources Committee;

Provided that:

- (a) if the postponement of the debate, or of the taking of a decision, on the proposition be moved and be supported by not less than one third of the Members voting on the motion, the debate, or the taking of a decision, on the proposition, as the case may be, shall be postponed until a date to be fixed by the Presiding Officer; and
- (b) on any such postponement, a motion for the immediate publication or circulation, in such manner as the Presiding Officer shall decide, of all relevant material shall have effect if supported by not less than one third of the Members voting on the motion.