

GUERNSEY STATUTORY INSTRUMENT

2020 No. 24

**The Emergency Powers (Coronavirus) (Bailiwick of  
Guernsey) Regulations, 2020**

<i>Made</i>	18 <sup>th</sup> March, 2020
<i>Coming into operation</i>	18 <sup>th</sup> March, 2020
<i>Laid before the States</i>	, 2020

WHEREAS there are one or more persons within the Bailiwick who are or may be infected with Severe Acute Respiratory Syndrome Coronavirus 2, resulting in the occurrence of an emergency within the meaning of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012<sup>a</sup> ("the Law");

AND WHEREAS the Civil Contingencies Authority ("the Authority") (having consulted the Medical Officer of Health in respect of the risk to public health created thereby and by the spread of Severe Acute Respiratory Syndrome Coronavirus 2, the virus causing the disease COVID-19, and in respect of the measures necessary to prevent or slow the spread of infection) is satisfied that the conditions set out in section 13 of the Law are satisfied, and that the following regulations contain only provisions which are appropriate for and proportionate to the purpose of preventing, controlling or mitigating the emergency referred to above;

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<sup>a</sup> Order in Council No. XIV of 2012; amended by Ordinance No. IX of 2016; No. II of 2017.

**AND WHEREAS** the Authority is satisfied that the effect of the following regulations is in due proportion to that emergency, and that they are compatible with the Convention rights within the meaning of section 1 of the Human Rights (Bailiwick of Guernsey) Law, 2000<sup>b</sup>;

**NOW THEREFORE THE AUTHORITY**, in exercise of the powers conferred upon it by sections 12(1), 14 and 19 of the Law, and of all other powers enabling it in that behalf, hereby makes the following regulations: -

**Decisions of MOH to impose restrictions and requirements.**

1. (1) Subject to paragraph (2), the Medical Officer of Health ("the MOH") may not impose a restriction or requirement under these Regulations unless the MOH has sought the advice of Her Majesty's Procureur in relation to the appropriateness and proportionality of the proposed requirement or restriction, and has taken account of that advice.

(2) The requirement in paragraph (1) does not apply where the MOH considers that, in all the circumstances, it would be impracticable to comply with it.

(3) Where the MOH imposes a restriction or requirement under these Regulations without seeking the advice of Her Majesty's Procureur, in reliance on paragraph (2), the MOH shall, as soon as reasonably practicable, give notice that he or she has done so to Her Majesty's Procureur.

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<sup>b</sup> Order in Council No. XIV of 2000; amended by No. I of 2005; Ordinance No. XXXVII of 2001; No. XXXIII of 2003; No. XX of 2015; No. IX of 2016; No. XXVI of 2018; G.S.I. No. 27 of 2006.

**Detention of persons by the MOH.**

2. (1) This regulation applies where the MOH has reasonable grounds to believe that a person ("P") –

- (a) is, or may be, infected or contaminated with Severe Acute Respiratory Syndrome Coronavirus 2, or is suspected or confirmed to be suffering from the disease COVID-19 ("coronavirus"), and there is a risk that P might infect or contaminate others, or
- (b) has arrived in the Bailiwick by air or sea and has left an infected area within the 14 day period immediately preceding the date of P's arrival in the Bailiwick.

(2) Where paragraph (1)(a) or (b) is met in relation to P, the MOH may, for the purposes of screening, assessment or the imposition of any restriction or requirement under regulation 3, impose on P a requirement to be detained until the later of –

- (a) the end of the period of 48 hours beginning with the time from which P's detention under this regulation begins,
- (b) such time as any screening requirements imposed on or in relation to P under regulation 3 have been complied with and the assessment referred to in that regulation carried out in relation to P.

**Imposition of restrictions and requirements.**

3. (1) Where regulation 2(1)(a) or (b) is met in relation to a person ("P"), the MOH may –

- (a) (orally or in writing) impose on or in relation to P one or more screening requirements to inform an assessment by the MOH of whether P presents, or could present, a risk of infecting or contaminating others,
  - (b) carry out such an assessment in relation to P, and
  - (c) following such an assessment, (orally or in writing) impose on or in relation to P any other restriction or requirement which the MOH considers necessary for the purposes of removing or reducing the risk referred to in subparagraph (a), including (without limitation) the restrictions or requirements set out in paragraph (2).
- (2) The restrictions or requirements are –
- (a) that P submit to medical examination,
  - (b) that P be removed to a hospital or other suitable establishment,
  - (c) that P be detained in a hospital or other suitable establishment,
  - (d) that P be kept in isolation,
  - (e) that P be disinfected or decontaminated,
  - (f) that P wear protective clothing,

- (g) that P provide information or answer questions about P's health or other circumstances,
- (h) that P's health be monitored and the results reported,
- (i) that P attend training or advice sessions on how to reduce the risk of infecting or contaminating others,
- (j) that P be subject to restrictions on where P goes or with whom P has contact,
- (k) that P abstain from working or trading.

(3) Where regulation 2(1)(b) is met in relation to P, the MOH may impose a requirement that P isolates himself or herself for such period not exceeding 14 days as the MOH may specify (either generally or in relation to any particular case).

(4) A restriction or requirement imposed under paragraph (1) or paragraph (3) may be varied (orally or in writing) by the MOH.

(5) Where a restriction or requirement is imposed on or in relation to a child, a person who is a responsible adult in relation to the child must secure that the child complies with the restriction or requirement, insofar as that person is reasonably able to do so.

(6) Where a restriction or requirement is imposed orally on a person under this regulation, or a restriction or requirement is orally varied, the person (or, in the case of a child, a person who is a responsible adult in relation to the child) must be provided with a written notification of the restriction or requirement that has been imposed or varied as soon as reasonably practicable.

(7) Neither paragraph (1) nor paragraph (3) affects the exercise of any powers under regulation 6.

**Screening requirements.**

4. (1) For the purposes of these Regulations, the screening requirements in relation to a person ("P") are requirements to the effect that P must –

- (a) answers questions about P's health or other relevant circumstances (including travel history and information about other individuals with whom P may have had contact),
- (b) produce any documents which may assist the MOH in assessing P's health,
- (c) at such a time as the MOH may specify, allow a biological sample of P to be taken, including a biological sample of P's respiratory secretions or blood, by appropriate means including by swabbing P's nasopharyngeal cavity, or provide such a sample, and
- (d) provide sufficient information to enable P to be contacted immediately by the MOH during such period as the MOH may specify, where the MOH considers that such provision of information is necessary in order to reduce or remove the risk of P infecting or contaminating others.

(2) Where P is a child who is accompanied by a responsible adult, the responsible adult must –

- (a) secure that P answers questions in accordance with paragraph (1)(a),
- (b) answer the questions if P is unable to do so or cannot reliably do so,
- (c) produce any documents, required under paragraph (1)(b), on P's behalf,
- (d) allow a biological sample of P to be taken, including a sample of P's respiratory secretions or blood, by appropriate means including by swabbing P's nasopharyngeal cavity, or provide such a sample, and
- (e) provide information where required by the MOH under paragraph (1)(d).

**Imposition of further restrictions and requirements.**

5. (1) Where regulation 2(1)(a) or (b) is met in relation to a person ("P") -

- (a) following an assessment by the MOH of the risk presented by P in accordance with regulation 3(1), or
- (b) following P's release from detention under regulation 2, or from isolation under regulation 6,

the MOH may (orally or in writing) impose on P any one or more of the requirements specified in paragraph (2) where the MOH considers that it is necessary to do so in order to reduce or remove the risk of P infecting or contaminating others.

(2) The requirements specified for the purposes of paragraph (1) are for P to –

- (a) provide P's contact details to the MOH,
- (b) supply information to the MOH which may assist in assessing P's health,
- (c) at such time as the MOH may specify, allow a biological sample of P to be taken, including a sample of P's respiratory secretions or blood, by appropriate means including by swabbing P's nasopharyngeal cavity, or provide such a sample,
- (d) comply with any other specified condition or to take any other specified measure.

(3) The conditions or measures which may be specified under paragraph (2)(d) include –

- (a) a restriction on P's travel,
- (b) a restriction on P's activities,
- (c) a restriction on P's contact with specified persons.

(4) The period for which a restriction is imposed under paragraph (3) may not exceed 14 days beginning with the day on which the restriction is imposed.

(5) The MOH may (orally or in writing) –

- (a) vary any requirement imposed under this regulation,  
and

(b) impose on P any additional requirements specified in paragraph (3).

(6) Before imposing or varying a requirement under this regulation, the MOH must –

(a) inform P (or, where P is a child, a person who is a responsible adult in relation to P) of the requirement or variation that the MOH is minded to impose or make, and

(b) have regard to any relevant representations by P (or, where P is a child, a person who is a responsible adult in relation to P), as to its suitability.

(7) Where a requirement under this regulation is imposed on or in relation to a child, or varied in relation to a child, a person who is a responsible adult in relation to the child must secure that the child complies with the requirement, insofar as that person is reasonably able to do so.

(8) Where the MOH orally imposes a requirement on P under this regulation, or orally varies such a requirement, the MOH must provide P (or where P is a child, a person who is a responsible adult in relation to P) with a written notification of the requirement that has been imposed or varied.

(9) Paragraph (1) does not affect the exercise of any powers under regulation 3(1)(c).

**Isolation of persons suspected to be infected with coronavirus.**

6. (1) This regulation applies where regulation 2(1)(a) or (b) is met in relation to a person ("P").

- (2) The MOH may require P to be kept in isolation if the MOH –
- (a) has reasonable grounds to believe that P is, or may be, infected or contaminated with coronavirus, and
  - (b) considers that it is necessary to do so in order to reduce or remove the risk of P infecting or contaminating others.

(3) Where the MOH has reasonable grounds to believe that P is, or may be, infected or contaminated with coronavirus, the MOH may detain P pending the decision of the MOH under paragraph (2).

(4) Where paragraph (2) applies, the MOH may impose on or in relation to P one or more screening requirements.

(5) Paragraph (1) does not affect the exercise of any powers under regulation 3(1)(c).

**Detention or isolation: additional provisions.**

7. (1) Where a person ("P") is required to be detained or kept in isolation under regulation 3 or 6 or subjected to restrictions or requirements under regulation 5, the MOH must have due regard to P's well-being.

(2) Where P is detained or kept in isolation under regulation 3 or 6 or subjected to restrictions or requirements under regulation 5 for a period exceeding 14 days, the MOH must review the continuation of P's detention by reference to the provisions of those regulations.

(3) After each subsequent interval of 24 hours during which P is detained or kept in isolation under regulation 3 or 6 or subjected to restrictions or

requirements under regulation 5, the MOH must review the continuation of P's detention by reference to the provisions of those regulations.

(4) Where P is detained or kept in isolation under regulation 3 or 6 or subjected to restrictions or requirements under regulation 5, the MOH may require P to comply with screening requirements if the MOH considers that it is necessary and proportionate to do so in order to reduce or remove the risk of P infecting or contaminating others.

(5) Where P is detained under regulation 2, the MOH may require P to move to a suitable place.

(6) The MOH must notify P (or, where P is a child, a person who is a responsible adult in relation to P), as soon as P's detention under regulation 3 starts, or as soon as it is decided to keep P in isolation under regulation 6, of –

- (a) the fact of P's detention or isolation,
- (b) the powers under which P is detained or kept in isolation,
- (c) the reason for P's detention or isolation,
- (d) the next steps that may be taken and by whom,
- (e) the obligation to keep the need for P's detention or isolation under review,
- (f) the penalty for obstructing a person carrying out a function under these Regulations under regulation 11(2), and

- (g) the right to apply for revocation or variation under regulation 9, where applicable.

**Restrictions or requirements in respect of groups.**

8. (1) The powers in regulations 2, 3 and 6 include powers to impose a restriction or requirement in relation to a group of persons and, for this purpose, those regulations have effect as follows.

- (2) In regulation 2, the references to "a person" and to P –
  - (a) as they apply in subparagraph (1)(a) are to each person in the group,
  - (b) as they apply in subparagraph (1)(b) are to each person in the group who has arrived on the same aircraft or ship and left the same area,

and the power to impose a requirement to be detained in subparagraph (2) is to be read as a power to impose that requirement on any one or more of the persons in the group in question.

- (3) In regulation 3 –
  - (a) in paragraph (1), the reference to "a person" is to be read in accordance with paragraph (2) of this regulation,
  - (b) in the rest of that regulation, the references to P are to one or more persons in the group in question.

- (4) In regulation 6 –

- (a) in paragraph (1), the reference to "a person" is to be read in accordance with paragraph (2) of this regulation,
- (b) in the rest of that regulation, references to P are to one or more of the persons in the group in question.

**Variation and revocation of restrictions and requirements.**

9. (1) A requirement or restriction imposed under these Regulations may be varied or revoked by the Royal Court on the application of an affected person.

(2) The following persons are affected persons –

- (a) P,
- (b) a person having parental responsibility (within the meaning of the Children (Guernsey and Alderney) Law, 2008<sup>c</sup>, the Children (Sark) Law, 2016<sup>d</sup>, or the Child Protection (Sark) Law, 2020<sup>e</sup>, (as the case may be) for P,
- (c) a person who has been appointed Guardian of P,
- (d) P's spouse or civil partner, and
- (e) a person living with P as P's spouse.

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<sup>c</sup> Order in Council No. XIV of 2009; amended by No. IV of 2018; Ordinance Nos. XI and XLVIII of 2009; Nos. IX and XX of 2016; No. VI of 2017.

<sup>d</sup> Order in Council No. VIII of 2016.

<sup>e</sup> Approved by the Chief Pleas of Sark on 22<sup>nd</sup> January, 2020.

(3) For the avoidance of doubt, an application under this regulation may be made in such manner as the court thinks fit.

**Initial detention of persons to enable screening and assessment.**

10. (1) This regulation applies if a police officer has reasonable grounds to suspect that –

- (a) a person (P) is, or may be, infected or contaminated with coronavirus,
- (b) there is a risk that P might infect or contaminate others, and
- (c) it is necessary to direct, remove or detain P in the interests of P, for the protection of other persons or for the maintenance of public safety.

(2) This regulation also applies if a police officer has reasonable grounds to suspect that P is in breach of a requirement to isolate himself or herself.

(3) A police officer may –

- (a) direct P to go immediately to a hospital or other suitable place for the purposes of the imposition of any restrictions or requirements under regulation 4,
- (b) remove P to a hospital or other suitable place for the purposes of the imposition of any restrictions or requirements under regulation 4, or
- (c) if P is already at a hospital or other suitable place, keep P at that place or remove P to another hospital or other

suitable place for the purpose of the imposition of any restrictions or requirements under regulation 4.

(4) The power in paragraph (3) may be exercised when P is at any place.

(5) For the purpose of exercising the power in paragraph (3), a police officer may enter any place.

(6) Before exercising the power in paragraph (3), the police officer must –

(a) so far as is reasonably practicable, consult the MOH and have due regard to the views of the MOH and any information provided by the MOH in relation to P,

(b) have due regard to any guidance issued by the MOH and the Chief Officer of the Island Police Force,

(c) where consultation has not been carried out under subparagraph (a) –

(i) consult the MOH as soon as reasonably practicable after the power in paragraph (3) has been exercised, and

(ii) have due regard to the views of the MOH and information provided by the MOH in relation to P.

(7) A person removed to or kept in a hospital or other suitable place under this regulation may be detained there for a period not exceeding the permitted period of detention.

(8) A police officer or the MOH, or a person authorised by either of them for the purposes of this paragraph, may, before the end of the permitted period of detention, take a person detained in a hospital or other suitable place to one or more other hospitals or other suitable places.

(9) A person taken to a hospital or other suitable place under paragraph (8) may be detained there for a period ending no later than the permitted period of detention.

(10) A police officer may use reasonable force, if necessary, in the exercise of a power under this regulation.

(11) The MOH may, at any time before the expiry of the initial period, authorise the detention of a person for a further period not exceeding 24 hours (beginning immediately at the end of the initial period).

(12) An authorisation under paragraph (11) may be given only if the MOH considers that the authorisation is necessary because it is not reasonably practicable for the imposition of any restrictions or requirements under regulation 3 to be completed before the end of the initial period.

(13) In this regulation –

**"authorised extended period"** means such further period as is specified in an authorisation under paragraph (11),

**"initial period"** means the period of 24 hours beginning with –

- (a) in a case where the person is removed to a hospital or other suitable place, the time when the person arrives at that place, or

- (b) in a case where the person is kept at a hospital or other suitable place, the time when the police officer decides to keep the person at that place, and

"permitted period of detention" means the initial period of detention and the authorised extended period.

**Offences and enforcement.**

11. (1) A person commits an offence if the person –

- (a) fails, without reasonable excuse, to comply with a restriction or requirement imposed under regulation 2(2), 3(1), 3(3), 5(1) or 7(4) or (5), or a direction under regulation 10(3)(a),

- (b) fails, without reasonable excuse, to comply with a requirement that the person be detained under regulation 10(7), 10(9) or 10(11).

(2) A person who obstructs, without reasonable excuse, any person carrying out a function under these Regulations commits an offence.

(3) A responsible adult who fails without reasonable excuse to comply with regulation 3(5), 4(2) or 5(7) commits an offence.

(4) A person guilty of an offence under paragraph (1), (2) or (3) is liable on conviction to a fine not exceeding level 3 on the uniform scale.

**Interpretation.**

12. (1) In these Regulations, unless the context otherwise requires –

"coronavirus" means Severe Acute Respiratory Syndrome Coronavirus 2 and/or COVID-19,

**"child"** means a person under the age of 18 years,

**"hospital"** means –

- (a) any hospital regulated or operated by the States Committee for Health & Social Care (including, for the avoidance of doubt, Le Mignot Memorial Hospital in Alderney), or
- (b) the Sark Medical Centre,

**"infected area"** means an area specified as an infected area for the purposes of these Regulations on the States of Guernsey website, or otherwise reasonably considered by the MOH to be an area where there is sustained human-to-human transmission of coronavirus, or from which there is a high risk of importation of infection or contamination (with coronavirus) via travel from that area to the Bailiwick or any part thereof,

**"isolation"** in relation to a person means the separation of that person from any other person in such a manner as to prevent infection or contamination,

**"Medical Officer of Health"** means the Medical Officer of Health appointed by the States of Guernsey Policy & Resources Committee and includes the Deputy or Acting Medical Officer of Health for the time being, and any officer authorised by the Medical Officer of Health to exercise the Medical Officer of Health's functions under these regulations,

**"the MOH"**: see regulation 1,

**"police officer"** includes a customs officer,

"responsible adult" means, in relation to a child, a person with parental responsibility for the child, within the meaning of the Children (Guernsey and Alderney) Law, 2008, the Children (Sark) Law, 2016, or the Child Protection (Sark) Law, 2020 as the case may be, or a person who has the care or charge of the child for the time being,

"requirement" means a requirement imposed under these Regulations,

"restriction" means a restriction imposed under these Regulations,

"Royal Court" means the Royal Court sitting as an Ordinary Court, which shall be constituted by the Bailiff sitting alone, and

"screening requirements" means the requirements set out in regulation 4(1).

(2) In these Regulations, a reference to infection or contamination, however expressed, is a reference to infection or contamination with coronavirus, and related expressions are to be construed accordingly.

#### **Citation and extent.**

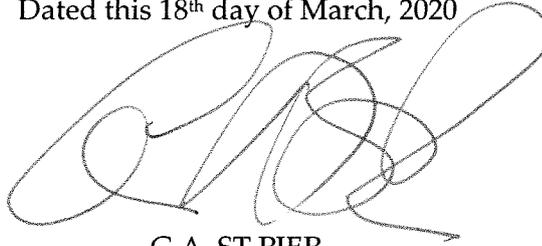
13. (1) These Regulations may be cited as the Emergency Powers (Coronavirus) (Bailiwick of Guernsey) Regulations, 2020.

(2) These Regulations shall have force in the Bailiwick of Guernsey.

#### **Commencement**

14. These Regulations shall come into force on being made.

Dated this 18<sup>th</sup> day of March, 2020

A handwritten signature in black ink, consisting of several large, overlapping loops and flourishes, positioned above the printed name G.A. ST PIER.

G.A. ST PIER

Chairman of the Civil Contingencies Authority

For and on behalf of the Authority

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EXPLANATORY NOTE

*(This note is not part 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 the spread of the virus Severe Acute Respiratory Syndrome Coronavirus (SARS-CoV-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. They enable the Medical Officer of Health to place restrictions and requirements on persons who are or who may be infected with coronavirus, and related matters. They are adapted from regulations applicable in England made under Part IIA of the Public Health (Control of Disease) Act 1984. COVID-19 was made a notifiable disease for the purposes of the Public Health Ordinance, 1936 on 19<sup>th</sup> February 2020.

These Regulations will come into force on the day they are made, 18<sup>th</sup> March 2020.