

GUERNSEY STATUTORY INSTRUMENT

2020 No.

**The Prison (Guernsey) (Amendment) (No. 2)
Regulations, 2020**

<i>Made</i>	<i>14th April, 2020</i>
<i>Coming into operation</i>	<i>14th April, 2020</i>
<i>Laid before the States</i>	<i>, 2020</i>

THE COMMITTEE FOR HOME AFFAIRS, in exercise of the powers conferred on it by sections 13, 15, 49 and 51 of the Prison (Guernsey) Ordinance, 2013^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Amendment of Regulations of 2013.

1. The Prison (Guernsey) Regulations, 2013^b ("**the principal Regulations**") are amended as follows.

2. In regulation 67, immediately after paragraph (a), insert the following paragraph –

"(aa) must include a report on the exercise of powers –

^a Ordinance No. XXIX of 2013; as amended by No. XXVII of 2015; and Nos. IX and XXXVI of 2016.

^b G.S.I. No. 58 of 2013; as amended by No. 39 of 2016; No. 28 of 2017; No. 57 of 2018; No. 37 of 2020.

- (i) under regulation 140A, including the number of prisoners certified and directed to be removed from association or (as the case may be) confined to a cell under that regulation, the reasons for the certification, and the periods for which the prisoners were removed from association or (as the case may be) confined to a cell, and
- (ii) under regulation 140B, including the number of certificates issued, the reasons for the certification, and the periods of suspension for which the certificates were issued,".

3. Immediately after regulation 140 of the principal Regulations, insert the following regulations –

"Governor may direct quarantine where necessary to prevent, control or mitigate serious threat to health.

140A. (1) This regulation applies where a member of the healthcare team certifies that –

- (a) a specified infectious or contagious disease or illness ("**the specified disease**") poses a serious threat to the health of prisoners, authorised persons or the wider community outside the prison, and
- (b) in order to prevent, control or mitigate the spread of the specified disease within the prison or the wider

community outside the prison, it is necessary to quarantine a specified prisoner for a specified period of time, either –

- (i) by removing the prisoner from association, or
- (ii) where the Healthcare Manager confirms that it is strictly necessary to isolate the prisoner, by confining the prisoner to a certified cell.

(2) The Governor may issue a written direction for the specified prisoner –

- (a) in the case of a certificate under paragraph (1)(b)(i), to be removed from association for the period specified in the certificate, and
- (b) in the case of a certificate under paragraph (1)(b)(ii), to be confined to a certified cell for the period specified in the certificate and, if necessary, to be physically removed to the cell.

(3) A certificate under paragraph (1) and a direction under paragraph (2) may apply to a prisoner whether or not the prisoner is newly-admitted to the prison.

(4) A direction under paragraph (2)(a) must not result in removal of the prisoner from association for a period exceeding 14 continuous days or 14 days in total in any one calendar month, but the Governor may order this period to

be extended for a period ("**the extended period**") of up to 14 continuous days at a time if a member of the healthcare team certifies that it is necessary to keep the prisoner removed from association for the extended period.

(5) A direction under paragraph (2)(b) must not result in cellular confinement of the prisoner for a period exceeding four continuous days or four days in total in any one calendar month, but the Governor may order this period to be extended for a period of up to four continuous days at a time if a member of the healthcare team certifies that the prisoner is in a fit condition of health to sustain the longer term of cellular confinement.

(6) If recommended by a member of the healthcare team on medical grounds, the Governor must revoke or amend -

(a) a direction under paragraph (2), or

(b) an order under paragraph (4) or (5).

(7) As soon as practicable after issuing a direction under paragraph (2), the Governor must promptly notify -

(a) a member of the healthcare team,

(b) the Panel, and

(c) in the case of a direction under paragraph (2)(b), the Committee.

(8) In this regulation -

"**certified cell**" means a cell certified under regulation 12(2)(b) as suitable for temporary confinement or cellular confinement of prisoners, and

"**removing a prisoner from association**" means removing the prisoner from associating with other prisoners either generally or in relation to any specified activity."

Governor may direct prolonged suspension of activities where necessary to prevent, control or mitigate serious threat to health.

140B. (1) This regulation applies where a member of the healthcare team certifies that –

- (a) a specified infectious or contagious disease or illness ("**the specified disease**") poses a serious threat to the health of prisoners and authorised persons, and
- (b) in order to prevent, control or mitigate the spread of the specified disease within the prison, it is necessary for a specified period of time to suspend –
 - (i) specified entitlements of prisoners,
 - (ii) specified activities in which one or more prisoners would normally participate, or

- (iii) both the specified entitlements and specified activities referred to in subparagraphs (i) and (ii) respectively.

(2) The Governor may issue a written direction to suspend for the specified period of time the specified entitlements, the specified activities or (as the case may require) both the specified entitlements and the specified activities certified under paragraph (1)(b).

(3) A direction under paragraph (2) must not result in suspension of those entitlements or activities for a period exceeding 14 continuous days or 14 days in total in any one calendar month, but the Governor may order this period to be extended for a specified period ("**the extended period**") of up to 14 continuous days at a time if a member of the healthcare team certifies that it is necessary to maintain the suspension for the extended period.

(4) The Governor must not issue a direction under paragraph (2) or make an order under paragraph (3) unless, in the Governor's opinion, the direction or (as the case may be) order is proportionate to the threat and purpose certified under paragraph (1)(a) and (b) respectively.

(5) As soon as practicable after issuing a direction under paragraph (2), the Governor must promptly notify –

- (a) a member of the healthcare team,
- (b) the Panel, and

(c) the Chief Officer of the Committee.

4. In regulation 148(1) of the principal Regulations –

- (a) in the definition of "**removal from association**", for "or 137", substitute ", 137 or 140A", and
- (b) in the definition of "**temporary confinement**", for "under an order made under regulation 138", substitute "or cellular confinement under an order made under regulation 138 or a direction issued or order made under regulation 140A".

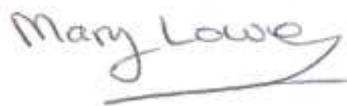
Citation.

5. These Regulations may be cited as the Prison (Guernsey) (Amendment) (No. 2) Regulations, 2020.

Commencement.

6. These Regulations come into force on the 14th April, 2020.

Dated this 14th day of April, 2020

A handwritten signature in cursive script that reads "Mary Lowe". The signature is written in black ink and is positioned above a horizontal line.

Deputy Mary M. Lowe
President
Committee for Home Affairs
For and on behalf of the Committee.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Prison (Guernsey) Regulations, 2013 ("**the principal Regulations**") to deal with the threat of serious infectious or contagious diseases.

The new regulation 140A inserted into the principal Regulations authorises the Governor to direct a prisoner to be quarantined within the prison either by removal from association, or where strictly necessary, by cellular confinement, upon a certificate issued by a member of the healthcare team. This is in order to prevent, control or mitigate the spread of a serious infectious or contagious disease within the prison or the wider community outside the prison. The Independent Monitoring Panel as well as a member of the healthcare team must be notified of any direction issued under the new regulation 140A. If a direction for cellular confinement is issued, the Committee for Home Affairs must also be notified.

The new regulation 140B inserted into the principal Regulations authorises the Governor to direct the suspension of prisoner entitlements or activities in the prison, upon a certificate issued by a member of the healthcare team. This is in order to prevent, control or mitigate the spread of a serious infectious or contagious disease within the prison. The Independent Monitoring Panel, a member of the healthcare team and the chief officer of the Committee for Home Affairs must be notified of any direction issued under the new regulation 140B.

The need for these powers became apparent in the current Covid-19 emergency, although the new regulations 140A and 140B could be used for any similarly serious threat to health in the prison posed by any serious infectious or contagious disease.

These Regulations come into force on the 14th April, 2020.