

No.56/2020

**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. 2) Regulations, 2020.

**EMERGENCY POWERS (CORONAVIRUS) (GENERAL PROVISION) (BAILIWICK OF GUERNSEY) (No. 2) REGULATIONS, 2020**

In pursuance of section 16 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012, the "Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 2) Regulations, 2020", made by the Civil Contingencies Authority on 14th May 2020, are intended to be laid before the States on 20th May 2020. 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.

These Regulations revoke and re-enact (with minor 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 enables the Medical Officer of Health to place restrictions and requirements on 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 keep people in isolation, and to impose

self-isolation on people. They 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.

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

This Part enables the States Committee for Health & Social Care ("**the Committee**") to impose restrictions in relation to licensed (and other non-residential) premises, and empower 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 Committee 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.

### *Part III – medical and health professionals, mental health and pharmacists*

#### Temporary registration etc. of medical and health professionals

Schedule 1 to these Regulations sets out modifications to the application of various enactments relating to the regulation and registration of health professionals to enable the Committee for Health & Social Care to register medical and health professionals to allow them to practise in Guernsey, Alderney or Sark, even if those professionals are not registered in the relevant UK register. They are adapted from provisions applicable in England and Wales, Scotland and Northern Ireland, enacted in the Coronavirus Act 2020.

#### Temporary modification of legislation relating to mental health

Schedule 2 to these Regulations sets out the modifications to be made to mental health legislation having effect in the Bailiwick.

Paragraphs 4 to 10 modify the Mental Health (Bailiwick of Guernsey) Law, 2010 ("the Law") to permit any approved medical practitioner (rather than only the patient's responsible medical officer) to discharge a patient under section 35. For the purposes of section 56, an approved medical practitioner (rather than only a second opinion approved doctor) will be permitted to provide a certificate and, in doing so, that practitioner will only be required to consult with one person, where the practitioner is of the opinion that is not reasonably practicable or would involve unreasonable delay to comply with the unmodified requirements. Listed sections in Part IX will have effect so that the person may be conveyed or admitted within the specified period or as soon as reasonably practicable thereafter. The definition of "mental health practitioner" in section 99 is widened to permit the Committee for Health and Social Care to approve persons as mental health practitioners to carry out the functions of approved social

workers, in addition to those of approved medical practitioners.

Paragraphs 11 to 13 modify the Mental Health (Treatment and Forms) Regulations, 2013 to permit an application for a treatment order under section 23 of the Law to be accompanied by a single medical recommendation where an approved social worker (or other person specified in section 39 of the Law) is of the opinion that it is not reasonably practicable or would involve unreasonable delay for the application to be accompanied by the medical recommendations of two approved medical practitioners.

Paragraphs 14 to 16 modify the Mental Health Review Tribunal Procedure Rules, 2012 to provide that the Mental Health Review Tribunal ("the Tribunal") may properly be constituted according to specified criteria and to omit rule 28(1) which requires the hearing of an application regarding an assessment order under section 21 of the Law to start within 10 days of the date on which the Tribunal received the application notice. Paragraphs 17 to 19 are transitional provisions.

#### Temporary modification of legislation relating to pharmacists

Schedule 3 to these Regulations makes modifications to the application of the Health Service (Benefit) (Guernsey) Law, 1990 and the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008, to authorise pharmacists to provide remote, intermittent, occasional or otherwise limited supervision, control or management of activities involving pharmaceutical benefits or medicinal products that would otherwise require direct, personal or more 'hands-on' supervision, control or (as the case may be) management in order to be lawful under those Laws. The Chief Pharmacist is given the power to authorise any method or technique of supervision, control or management if the Chief Pharmacist considers it necessary and proportionate to do so with regard to the emergency.

#### Parts IV and V - 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 IV) and in relation to cremations in Guernsey (Part V). 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 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 - health and safety*

Part VII allows the Chief Health and Safety Officer ("the Chief Officer") to grant a certificate disapplying the requirements for examination, testing and inspection set out in regulation 8 and the Schedule in respect of equipment, occupier's installation or gas appliance and flue (as the case may be) specified in an application. A certificate may only be given where the Chief Officer is of the opinion that the disapplication will not prejudice the safety of any person operating the equipment etc. or any other person likely to be affected by its operation. The certificate may only disapply the relevant requirement for a period of up to 30 days, and may not disapply any other health and safety requirement (and, in particular, the requirement to keep the equipment etc. in a safe condition and good working order).

#### *Part VIII – the Court of Appeal, and the registration of legislation*

The provisions in Part VIII enable the Court of Appeal to conduct its proceedings remotely, and enable a Judge of Appeal to be sworn into office by the Royal Court constituted by the Bailiff sitting alone. They also make clear, for the avoidance of doubt, that to avoid the need for the Jurats to gather together, the Bailiff sitting alone may

register Orders in Council and other instruments on the Register of the Island.

#### *Part IX - schools*

Part IX 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 X - the States of Deliberation, the States of Alderney and the Chief Pleas of Sark*

##### States of Deliberation

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. This Part also empowers the States' Assembly & Constitution Committee to make Rules of Procedure governing remote meetings of the States held pursuant to the inserted Article, and includes provision modifying the application of the Reform (Guernsey) Law, 1948 and the States Reform (Guernsey) Law, 2015 to enable the terms of office of People's Deputies elected in 2016 (and at any subsequent election to fill any casual vacancy) to extend beyond 30<sup>th</sup> June 2020, and the General Election to be held in June 2021 instead of June 2020.

##### States of Alderney

The regulations relating to the States of Alderney apply the Government of Alderney Law, 2004 as if modified by adding a new Part relating to emergency procedures in relation to meetings of the States of Alderney and committees of the States of Alderney, including provision allowing meetings of the States of Alderney to take place remotely during the current emergency. The Part only applies where the President of the States of Alderney has made a determination, following representations from the Civil Contingencies Authority, that it is appropriate for it to apply in the light of the circumstances in Alderney in relation to coronavirus. The Part will cease to apply when the President makes a determination, following representations from the Civil Contingencies Authority in the light of circumstances in Alderney in relation to coronavirus, that it is appropriate for it to cease to apply.

The emergency procedures include special arrangements so that public meetings do not need to be held, to allow for proxy voting in the States of Alderney, to reduce the quorum of the States of Alderney and to allow members of committees of the States of Alderney to take part in meetings remotely.

##### Chief Pleas of Sark

The regulations relating to the Chief Pleas of Sark make special arrangements for the

procedures of the Chief Pleas and its committees by removing the obligation to hold meetings in public, allowing for proxy voting in the Chief Pleas, reducing the quorum for meetings of the Chief Pleas and allowing members of the committees of the Chief Pleas to take part in meetings remotely. They also make provision for meetings of the Chief Pleas to be held remotely if the Speaker, upon representations of the Civil Contingencies Authority, considers that it might not be possible to convene or maintain a quorate physical meeting of the Chief Pleas. The regulations make provision for the procedure to be followed when a remote meeting, as defined, is held, including modifications to the existing Chief Pleas of Sark Rules of Procedure.

#### *Part XI - miscellaneous and final provisions*

The provisions in Part XI include regulations providing 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.

They also include regulations providing for the Committee for the Environment & Infrastructure to permit the cutting and collecting of seaweed when this would otherwise be prohibited (so facilitating the on-Island manufacture of sanitising gels).

Finally they include regulations permitting the holder of a Category C or C1 driving licence which is restricted to automatic transmission to drive a vehicle with manual transmission which is approved for use as an ambulance under the Driving Licences (Amendment) Regulations, 2020 where (a) that licence holder also holds a category B licence which is not restricted to automatic transmission and (b) the Committee for the Environment and Infrastructure approves that licence holder to do so.

These Regulations will come into force on the 15th, May 2020 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 REGULATIONS MADE UNDER SECTIONS 12 AND 13 OF THE CIVIL CONTINGENCIES (BAILIWICK OF GUERNSEY) LAW, 2012

Section 16 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012 states:

##### **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

#### 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.