

GUERNSEY STATUTORY INSTRUMENT

2020 No.

**The Emergency Powers (Coronavirus) (Parochial Matters  
and Miscellaneous Provisions) (Guernsey) Regulations,  
2020**

<i>Made</i>	2 <sup>nd</sup> April, 2020
<i>Coming into operation</i>	2 <sup>nd</sup> April, 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>;

**AND WHEREAS** one or more persons within the Bailiwick have died after being infected with Severe Acute Respiratory Syndrome Coronavirus 2;

**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

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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.

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;

**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 them in that behalf, hereby makes the following regulations: -

#### PART 1

#### PAROCHIAL MEETINGS, ETC.

#### **Application of this Part.**

1. (1) This Part shall apply, despite the provisions of any other enactment, upon being made and shall cease to apply in the circumstances set out in paragraph (2).

(2) This Part shall cease to apply if the Dean of the Douzaine of a parish makes a determination, upon representations from the Civil Contingencies Authority, in the light of circumstances prevailing in the Bailiwick in relation to Severe Acute Respiratory Syndrome Coronavirus 2, that it is appropriate for them to cease to apply.

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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.

**Determination of parish matters.**

2. (1) Parish meetings attended by the ratepayers of the parish, whether in relation to ecclesiastical matters or to secular matters, need not be held.

(2) For the purpose of determining matters which would, but for the provisions of paragraph (1), be determined at a parish meeting, the following provisions of this regulation shall apply.

(3) Where a decision is required in relation to ecclesiastical or secular matters in any parish, including, but not limited to, the amount to be raised by means of parochial taxation for the purposes set out in Article I of the 1923 Law ("**parochial tax**"), or the parish waste rate to be levied under the Parochial Collection of Waste (Guernsey) Ordinance, 2018<sup>c</sup> ("**parish waste rate**"), such decision shall be made at a meeting of the Constables and Douzaine, after consultation with the Rector and Churchwardens in the case of ecclesiastical matters, subject to the following conditions being fulfilled.

(4) A notice shall be published on one occasion in La Gazette Officielle, setting out -

- (a) a summary of the matters requiring determination,
- (b) details of the proposed decision of the Constables and Douzaine in relation to such matters,
- (c) the address of a website on which the details of any proposed expenditure, accounts and other information necessary for a proper understanding of the matters requiring determination shall be published, and

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<sup>c</sup> Ordinance No. XXIV of 2018.

notification of such other means by which such accounts and other information may be made available to ratepayers of the parish, as the Constables and Douzaine may think fit, and

- (d) the date of the meeting of the Constables and Douzaine at which the decision will be made, and the date, being not earlier than seven days after the date of the notice, before which any representations by parishioners should be received,

and stating that any representations received by the Constables and Douzaine before the date specified in the notice will be taken into account by them in reaching any decision.

(5) On the date of the meeting specified in the notice published under paragraph (4), the Constables and Douzaine may, having considered any representations received, make a decision in respect of each of the matters requiring determination.

(6) The person presiding at a meeting held in accordance with this regulation shall make a note of the decisions made at such meeting, which note shall be made available for inspection by, or notified to, the ratepayers of the relevant parish by such means as the Constables and Douzaine may decide.

**Application to Royal Court for confirmation of parochial tax or parish waste rate.**

3. (1) Where, at a meeting of the Constables and Douzaine under regulation 2, a decision has been made to raise a parochial tax, whether ecclesiastical or secular in nature, or a parish waste rate, notice of such decision must be published on one occasion in La Gazette Officielle, together with a notification of the date and

time when application will be made to the Royal Court for confirmation of the decision.

(2) Any person intending to oppose an application for confirmation of a decision to raise a parochial tax or a parish waste rate should give written notification of such intention to the Greffe, sending a copy of such notification to the relevant Constables and Douzaine, prior to the date of the application to the Royal Court.

**Parish elections.**

4. (1) Where there is a vacancy in any parish office, including without limitation the offices of -

- (a) Churchwarden, or member of the Management Board of an ancient parish under section 6 of the Parochial Church Property (Guernsey) Law, 2015<sup>d</sup>,
- (b) Constable or Douzenier of a parish, or
- (c) member of a cemeteries committee,

the following provisions of this regulation shall apply.

(2) The Dean of the Douzaine of the relevant parish, after consultation with the Constables and other members of the Douzaine, and with the Rector and Churchwardens where appropriate, may appoint a person to hold an office in relation to which there is a vacancy, and such person shall hold office until the expiration of one month after these regulations, or any re-enactment thereof, cease to apply in accordance with regulation 1(2).

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<sup>d</sup> Order in Council No. III of 2015.

(3) A person may not be appointed to the office of Constable or Douzenier unless the person is eligible for office in accordance with Article 51 of the Reform (Guernsey) Law, 1948<sup>e</sup> and a person so appointed must take an oath of office in accordance with Article 61 of the said Law.

**Meetings of Constables and Douzaine.**

5. (1) A Constable or Douzenier ("**parish official**") who is in communication with the other parish officials by telephone, live television link or any other means of telecommunications or electronic communications, so that each parish official can hear or read what is being said or communicated by each of the others, is deemed, subject to paragraph (2), to be present at a meeting of the Constables and Douzaine for all purposes relating to that meeting.

(2) In the event that a means of communication referred to in paragraph (1) fails or is corrupted, or the Dean or other person presiding at a meeting of the parish officials ("**person presiding**") considers that confidentiality is compromised, the person presiding shall have the discretion at any time during the meeting to determine that a parish official who is affected by that failure, corruption or compromise of confidentiality is no longer deemed to be present at the meeting.

(3) For the avoidance of doubt, a determination under paragraph (2) does not affect the validity of the proceedings of the meeting for any purpose prior to the making of that determination.

(4) For the purposes of these regulations, the Dean or, in the Dean's absence the Vice-Dean, shall preside at a meeting of the Constables and Douzaine, and in the absence of both the Dean and Vice-Dean, any parish official present at the

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<sup>e</sup> Ordres en Conseil Vol. XIII, p. 288.

meeting who is appointed by the other parish officials present at the meeting, shall preside, and the person presiding shall have an original and a casting vote.

**Revocations.**

6. The Parochial Elections (St Peter Port) Regulations, 2020<sup>f</sup> and the Parochial Elections (St Pierre du Bois) Regulations, 2020<sup>g</sup> are revoked.

**Interpretation.**

7. In this Part, unless the context otherwise requires -

"**1902 Law**" means the Loi relative aux Assemblées Paroissiales, registered on the 29<sup>th</sup> November, 1902<sup>h</sup>,

"**1923 Law**" means the Loi relative à la Taxation Paroissiale, registered on the 27<sup>th</sup> October, 1923<sup>i</sup>,

"**Dean**", relation to any parish, means the Dean of the Douzaine and includes the Vice-Dean,

"**ecclesiastical matters**" means "Les Affaires Ecclésiastiques" within the meaning of Article 3 of the 1902 Law,

"**parish waste rate**": see regulation 2(3),

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<sup>f</sup> G.S.I. No. 31 of 2020.

<sup>g</sup> G.S.I. No. 32 of 2020.

<sup>h</sup> Ordres en Conseil Vol. III, p. 274; amended by Vol. VI, p. 115; Vol. VII, p. 481; Vol. XIX, p. 155; Order in Council No. III of 2017.

<sup>i</sup> Ordres en Conseil Vol. VII, p. 146; amended by Vol. VII, p. 392; Vol. XIX, p. 152; Order in Council No. III of 2017.

"**parochial tax**": see regulation 2(3),

"**secular matters**" means "Les Affaires Séculières" within the meaning of Article 4 of the 1902 Law.

## PART 2

### MISCELLANEOUS AND FINAL PROVISIONS

#### *Health and safety*

#### **Disapplication of requirement to thoroughly examine etc.**

8. (1) Where a provision of the Safety of Employees (Miscellaneous Provisions) Ordinance, 1952<sup>j</sup> set out in the Schedule to these Regulations requires any type of equipment to be -

- (a) thoroughly examined at least once in a specified period,
- (b) tested and examined in a specified manner before being taken into use,
- (c) inspected at least once in a specified period, within a specified period of use or in specified conditions,

(as the case may be) a person who owns or operates such equipment may apply to the Chief Officer to disapply the requirement in relation to that equipment.

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<sup>j</sup> Recueil d'Ordonnances Tome X, p. 194.

(2) Where section 18(1) of the Safety of Employees (Electricity) Ordinance, 1956<sup>k</sup> requires an occupier's installation to be tested at least once in every period of 12 months, the occupier, or a person who owns, controls or operates such an installation, may apply to the Chief Officer to disapply the requirement in relation to that installation.

(3) Where section 36(3) of the Health and Safety (Gas) (Guernsey) Ordinance, 2006<sup>l</sup> requires a gas appliance and flue to be checked for safety at least once in any 12 month period, the landlord or any agent of the landlord may apply to the Chief Officer to disapply the requirement in relation to that gas appliance and flue.

(4) An application under paragraph (1), (2) or (3) may be made in writing and, for the avoidance of doubt, this includes by electronic means.

(5) On an application made under paragraph (1), (2) or (3), the Chief Officer may disapply that requirement by granting a certificate to that person, where the Chief Officer is of the opinion that the disapplication will not prejudice the safety of -

- (a) any person operating the equipment, occupier's installation or gas appliance and flue (as the case may be), and

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<sup>k</sup> Recueil d'Ordonnances Tome XI, p. 201.

<sup>l</sup> Ordinance No. XIV of 2006.

(b) any other person likely to be affected by the operation of the equipment, occupier's installation or gas appliance and flue (as the case may be).

(6) A certificate granted under paragraph (5) shall be in writing and-

(a) may only disapply the requirement for a period stated in the certificate which may not exceed 30 days, and

(b) may be revoked by the Chief Officer prior to the expiry of the certificate where that Officer is satisfied that it is no longer necessary.

(7) For the avoidance of doubt, where a certificate has been granted under paragraph (5), no criminal or civil proceedings may be instituted for contravention of any requirement set out in or under any enactment set out in any of paragraphs (1), (2) or (3) against any person in relation to the equipment, occupier's installation or gas appliance and flue (as the case may be) subject to the certificate.

(8) Nothing in this regulation exempts the person subject to any requirement set out in or under any enactment set out in any of paragraphs (1), (2) or (3) from any other health and safety requirement, and especially (but not limited to) the requirement to keep the equipment, occupier's installation or gas appliance and flue (as the case may be) in a safe condition and good working order.

### **Interpretation.**

9. In regulation 8, "**the Chief Officer**" -

- (a) means the inspector appointed under section 15 of the Health and Safety at Work (General) (Guernsey) Ordinance, 1987<sup>m</sup> for the time being holding the title "the Chief Health and Safety Officer", and
- (b) includes any inspector acting by or under the authority of the inspector mentioned in subparagraph (a).

*Cutting and collection etc of seaweed*

**Cutting and collection of seaweed.**

10. (1) Notwithstanding the provisions of any enactment or customary law which prohibits, restricts or otherwise regulates the cutting or collecting of seaweed, the States of Guernsey Committee for the Environment & Infrastructure ("**the Committee**") may issue a notice authorising a person to cut, collect, land, lift and carry seaweed for the purpose set out in the notice, and, to the extent necessary for that cutting, collecting, landing, lifting and carrying only, temporarily to deposit seaweed on slips or coastal walls.

(2) A notice issued under this regulation may contain such conditions, and be valid for such period, as the Committee thinks fit.

(3) The Committee may vary or revoke a notice issued under this regulation, and the power to vary or revoke a notice is without prejudice to the power to issue a new notice in respect of the same person.

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<sup>m</sup> Recueil d'Ordonnances Tome XXIV, p. 162.

(4) For the avoidance of doubt, in this regulation "seaweed" includes (but is not limited to) –

(a) drift weed, and

(b) the sea alga *Chondus crispus*.

*Court of Appeal*

**Court of Appeal.**

11. (1) Section 7 (Venue) of the Court of Appeal (Guernsey) Law, 1961<sup>n</sup> is disapplied.

(2) The Court of Appeal may sit for the hearing of appeals in or outside the Bailiwick.

(3) For the avoidance of doubt, the Bailiff or presiding judge may give directions as to how the proceedings of the Court of Appeal shall be conducted, including (but not limited to) a direction that the proceedings, or part thereof, shall be conducted by way of telephone, live television link or any other means of telecommunications or electronic communications.

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<sup>n</sup> Ordres en Conseil Vol. XVIII, p. 315; there are amendments not relevant to these Regulations.

**Citation and extent.**

12. (1) These Regulations may be cited as the Emergency Powers (Coronavirus) (Parochial Matters and Miscellaneous Provisions) (Guernsey) Regulations, 2020.

(2) These Regulations shall have force in Guernsey, except for regulations 8 and 9 which shall have force in Guernsey, Herm and Jethou for the purposes of the Health and Safety (Gas) (Guernsey) Ordinance, 2006.

**Commencement.**

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

Dated this 2<sup>nd</sup> day of April, 2020

A handwritten signature in black ink, appearing to read 'G.A. St Pier', with a small dot at the end.

G.A. ST PIER

Chairman of the Civil Contingencies Authority

For and on behalf of the Authority

## SCHEDULE

Regulation 8(1)

### PROVISIONS OF THE SAFETY OF EMPLOYEES

#### (MISCELLANEOUS PROVISIONS) ORDINANCE, 1952

1. Section 8(2).
2. Section 15(6).
3. Section 16(4).
4. Section 17(4).
5. Section 19(2).
6. Section 24(2)(a).
7. Section 24(2)(b).
8. Section 38.

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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 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.

Part 1 of the Regulations make 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 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. Two sets of regulations already made setting dates for elections in St Peter Port and St Pierre du Bois are revoked.

Part 2 of the Regulations 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, but does 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 2 also provides 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), and makes provision to enable the Court of Appeal to conduct its proceedings remotely.

These Regulations will come into force on the day they are made, 2<sup>nd</sup> April 2020, and shall have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law.