

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 5) Regulations, 2020.

EMERGENCY POWERS (CORONAVIRUS) (GENERAL PROVISION) (BAILIWICK OF GUERNSEY) (NO 5) 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 5) Regulations, 2020”, made by the Civil Contingencies Authority on 6th, August 2020, are intended to be laid before the States on 18th August, 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 1 - 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 keep people in isolation. 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.

Part II – mental health and health and safety

Schedule 1 to these Regulations sets out the modifications to be made to mental health legislation having effect in the Bailiwick.

Paragraphs 4 to 6 modify the Mental Health (Bailiwick of Guernsey) Law, 2010 ("the Law") to permit an approved medical practitioner (rather than only a second opinion approved doctor) to provide a certificate for the purposes of section 56 and, in doing so, that practitioner will only be required to consult with one person, where the practitioner is of the opinion that it is not reasonably practicable or would involve unreasonable delay to comply with the unmodified requirements.

Paragraphs 7 to 8 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 14 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 14 and Schedule 2 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 III – miscellaneous and final

Regulation 16 enables 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.

These Regulations came into force on the 7th August, 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
- (b) shall affect anything done by virtue of regulations before they lapse, cease to have effect or are amended under this section.

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.