

**The Emergency Powers (Coronavirus)**  
**(General Provision) (Bailiwick of Guernsey) (No. 10)**  
**Regulations, 2020**

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<i>Made</i>	14 <sup>th</sup> December, 2020
<i>Coming into operation</i>	15 <sup>th</sup> December, 2020
<i>Laid before the States</i>	, 2020

**WHEREAS** there are one or more persons within the Bailiwick, or who may enter the Bailiwick, who 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 section 13 of the Law are satisfied, and that the following regulations contain only provisions which are appropriate for and proportionate to

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

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 I

#### SCREENING, ASSESSMENT, AND POWERS TO DETAIN ETC.

##### **Decisions of MOH and the Authority to impose restrictions and requirements.**

1. (1) Subject to paragraph (3), the Medical Officer of Health ("the MOH") may not impose a restriction or requirement under this Part 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) Subject to paragraph (3), the Civil Contingencies Authority ("the Authority") may not impose a requirement under regulation 4(3) unless the Authority has sought the advice of the MOH in relation to the appropriateness of the proposed requirement and has taken account of that advice.

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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; and G.S.I. No. 27 of 2006.

(3) Neither the requirement in paragraph (1) nor the requirement in paragraph (2) applies where the MOH or the Authority (as the case may be) considers that, in all the circumstances, it would be impracticable to comply with it.

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

(5) Where the Authority imposes a requirement under regulation 4(3) without seeking the advice of the MOH, in reliance on paragraph (3), the Authority shall, as soon as reasonably practicable, give notice that it has done so to the MOH.

**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, or is suspected or confirmed to be suffering from, 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: general.**

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 self-isolate,
- (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) A restriction or requirement imposed under paragraph (1) may be varied by the MOH orally or in writing.

(4) Neither paragraph (1) nor regulation 4 affects the exercise of any powers under regulation 9; and nothing in this regulation (or in any other provision in these Regulations) affects the MOH's powers under any other enactment.

(5) In this regulation and regulation 4, a power to vary a requirement or restriction includes a power to revoke it.

**Requirement to self-isolate on arrival in the Bailiwick.**

4. (1) Subject to provision made in or under the Schedules given effect by regulation 5(1), a person who has arrived in the Bailiwick by air or sea and who has left an infected area within the 14 day period immediately preceding the date of his or her arrival in the Bailiwick must self-isolate for 14 days.

(2) On arrival in the Bailiwick from any place outside the Bailiwick, a person must, if required –

(a) answer any question put to him or her by a relevant officer relating to his or her travel, and the travel of any child travelling with that person, during the 14 day period immediately preceding the date of his or her arrival in the Bailiwick,

- (b) provide any travel document specified by a relevant officer relating to that person, or a child travelling with that person, for inspection, and
- (c) answer any question put to him or her by a relevant officer relating to that travel document.

(3) The Authority may, by publication on the relevant States of Guernsey website, impose a requirement that any person who has arrived in one Island in the Bailiwick from another Island in the Bailiwick must self-isolate for 14 days.

(4) The requirement to self-isolate under paragraph (1) and a requirement to self-isolate imposed under paragraph (3) may be varied by the MOH in relation to a particular case, orally or in writing.

(5) The powers of the MOH under paragraph (4) to vary the requirement under paragraph (1) or a requirement imposed under paragraph (3) include (but are not limited to) powers to –

- (a) specify exceptions to the requirement to self-isolate, and
- (b) shorten the duration of the requirement to self-isolate, either unconditionally or on the MOH being satisfied that one or more specified conditions have been met.

(6) For the avoidance of doubt, and without prejudice to the generality of paragraphs (4) and (5), in any case where the MOH varies the

requirement to self-isolate under paragraph (1) or a requirement to self-isolate imposed under paragraph (3), that variation may be amended in accordance with paragraph (7), and if so amended shall be treated for all purposes as continuing to have effect in accordance with its terms.

(7) In any case where the MOH has varied such a requirement to self-isolate, the MOH may amend or revoke that variation orally or in writing (in a case where the requirement was varied orally), and in writing (in a case where the requirement was varied in writing); and the amendment or revocation (as the case may be) shall have effect from such time as the MOH may specify.

(8) Where a restriction or requirement is imposed on or in relation to a child under regulation 3 or this regulation (including the requirement to self-isolate under paragraph (1)), a person who is a responsible adult in relation to the child must ensure that the child complies with the restriction or requirement, insofar as that person is reasonably able to do so.

(9) Where a restriction or requirement is imposed orally on a person under regulation 3 or 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.

**Exceptions to requirement to self-isolate on arrival in the Bailiwick.**

5. (1) Schedules 1 and 2 have effect.

(2) Schedules 1 and 2 set out exceptions to the requirement to self-isolate on arrival in the Bailiwick imposed under regulation 4(1) in specified circumstances, and in respect of specified persons and categories of person, and

make associated provision, including (but not limited to) -

- (a) imposing and providing for the imposition of, requirements, conditions and restrictions in respect of those exceptions, and
- (b) creating associated criminal offences, and prescribing relevant penalties.

(3) Words and expressions used in Schedules 1 and 2 have the meanings given in these Regulations, unless contrary provision is made.

**Screening requirements.**

6. (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) answer 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) ensure 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.**

7. (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 self-isolation under regulation 8,

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 MOH may (orally or in writing) revoke or vary any requirement or restriction imposed under this regulation, including by imposition of a restriction specified in paragraph (3).

(5) Subject to paragraph (6), the period for which a restriction set out in paragraph (3) is imposed may not exceed 14 days beginning with the day on which the restriction is imposed.

(6) Where a restriction set out in paragraph (3) is imposed, or the period of a restriction is extended under this paragraph, the MOH may (orally or in writing) extend the period of the restriction for a further specified period not exceeding 14 days if the MOH considers that the restriction is still necessary and proportionate.

(7) Before imposing or varying a requirement or restriction 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.

(8) When imposing or varying a requirement or restriction under this regulation, the MOH must inform P that it is an offence to fail to comply with the requirement.

(9) Where a requirement or restriction 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 ensure that the child complies with the requirement or restriction, insofar as that person is reasonably able to do so.

(10) Where the MOH orally imposes a requirement or restriction on P under this regulation, or orally varies such a requirement or restriction, 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 or restriction that has been imposed or varied.

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

**Self-isolation of persons suspected to be infected with coronavirus.**

8. (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 self-isolate 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 whether to require P to self-isolate under paragraph (2).

(4) Where the MOH has detained P under paragraph (3) or has required P to self-isolate under paragraph (2), the MOH may impose on or in relation to P one or more screening requirements.

(5) When imposing a requirement under this regulation, the MOH must inform P that it is an offence to fail to comply with the requirement.

(6) Where a requirement under paragraph (2) is imposed on or in relation to a child, a person who is a responsible adult in relation to the child must ensure that the child complies with the requirement, insofar as that person is reasonably able to do so.

(7) This regulation does not affect the exercise of any powers

under regulation 3(1)(c).

**Detention or self-isolation: additional provisions.**

9. (1) Where a person ("P") is required to be detained or to self-isolate under regulation 3 or 8 or subjected to restrictions or requirements under regulation 7, the MOH must have due regard to P's well-being.

(2) Where P is detained or required to self-isolate under regulation 3 or 8 or subjected to restrictions or requirements under regulation 7 for a period exceeding 14 days, the MOH must review the continuation of P's detention or self-isolation by reference to the provisions of those regulations.

(3) After each subsequent interval of 24 hours during which P is detained or required to self-isolate under regulation 3 or 8 or subjected to restrictions or requirements under regulation 7, the MOH must review the continuation of P's detention or self-isolation by reference to the provisions of those regulations.

(4) Where P is detained or required to self-isolate under regulation 3 or 8 or subjected to restrictions or requirements under regulation 7, 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 require P to self-isolate under regulation 8, of –

- (a) the fact of P's detention or requirement to self-isolate,
- (b) the powers under which P is detained or required to self-isolate,
- (c) the reason for P's detention or self-isolation,
- (d) the next steps that may be taken and by whom,
- (e) the obligation to keep the need for P's detention or self-isolation under review,
- (f) the penalty for obstructing a person carrying out a function under these Regulations under regulation 13(4), and
- (g) the right to apply for revocation or variation under regulation 11, where applicable.

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

10. (1) The powers in regulations 2, 3 and 8 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 paragraph (1)(a) are to each person in the group,

- (b) as they apply in paragraph (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 paragraph (2) of regulation 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 8 –

- (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.**

11. (1) A requirement, restriction or condition imposed under this

Part or Schedule 1 or 2 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,
- (e) a person living with P as P's spouse,
- (f) a Relevant Person within the meaning of Schedule 1, and
- (g) a person in respect of whom a Critical Worker

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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; and No. VI of 2017.

<sup>d</sup> Order in Council No. VIII of 2016; amended by Ordinance No. IX of 2016; and Sark Ordinance No. I of 2017.

<sup>e</sup> Order in Council No. XIII of 2020.

Exemption has been granted under, and within the meaning of, Schedule 2;

and for the purposes of this paragraph, P includes a person subject to the requirement under regulation 4(1) or to a requirement imposed under regulation 4(3).

(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.**

12. (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 the requirement to self-isolate under regulation 4(1) or a requirement to self-isolate imposed under regulation 4(3).

(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 3,
  - (b) remove P to a hospital or other suitable place for the purposes of the imposition of any restrictions or requirements under regulation 3, 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 3.
- (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.**

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

- (a) fails, without reasonable excuse, to comply with a restriction, condition or requirement imposed under regulation 2(2), 3(1), 4(2), 7(1), 8(2), 8(4) or 9(4) or 9(5), or a direction under regulation 12(3)(a),
- (b) fails, without reasonable excuse, to comply with a requirement that the person be detained under regulation 8(3), 12(7), 12(9) or 12(11).

(2) A person (D), and subject to paragraph (3), any person who is D's employer, commits an offence if D fails, without reasonable excuse, to comply with the requirement to self-isolate under regulation 4(1) or a requirement imposed under regulation 4(3); including, for the avoidance of doubt, a requirement to self-isolate for any specified period of less than 14 days, or until a specified event occurs—

- (a) imposed by a variation of the requirement under regulation 4(1), or of a requirement under regulation 4(3)), by the MOH in relation to a particular case, or
- (b) imposed by or under Schedule 1 or 2.

(3) It is a defence for an employer charged with an offence under paragraph (2) to prove that he or she has taken all reasonable precautions to avoid the commission of an offence.

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

(5) A responsible adult who fails without reasonable excuse to

comply with regulation 4(8), 6(2), 7(9) or 8(6) commits an offence.

(6) A person guilty of an offence under paragraph (1), (4) or (5) is liable on conviction to a fine not exceeding level 3 on the uniform scale.

(7) A person guilty of an offence under paragraph (2) is liable on conviction to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding 14 days, or to both.

(8) The investigation of an offence under this Part shall be treated as an assigned matter within the meaning of section 1 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972<sup>f</sup> (including, for the avoidance of doubt, for the purposes of paragraph 1(a) of Schedule 5 to PPACE, and consequently the provisions of PPACE which relate to the investigation of offences conducted by police officers apply to the investigation of offences under this Part conducted by customs officers).

**False or misleading information.**

14. (1) If a person to whom paragraph (2) applies –

(a) makes a statement which he or she knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,

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<sup>f</sup> Ordres en Conseil Vol. XXIII, p. 573; amended by Ordres en Conseil Vol. XXIV, p. 87; Vol. XXXI, p. 278; Vol. XXXIII, p. 217; Order in Council No. X of 2004; No. II of 2010; No. XIV of 2007; No. XV of 2012; No. VI of 2019; Ordinance No. XXXIII of 2003; No. XXIX of 2004; Nos. XLVIII and XXXV of 2007; No. VII of 2008; No. XLIII of 2013; No. XL of 2014; and No. IX of 2016.

- (b) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (c) produces or furnishes, or causes or permits to be produced or furnished, any information or document which he or she knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (d) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,

he or she is guilty of an offence.

(2) This paragraph applies to a person who –

- (a) makes any statement or provides any information or document to a relevant officer, when acting in the exercise of his or her functions under this Part, or
- (b) otherwise than as mentioned in paragraph (a) makes any statement or provides any information or document to a relevant officer in circumstances in which he or she knows or could reasonably be expected to know that the statement, information or document would or might be used by a relevant

officer for the purpose of exercising his or her functions under this Part.

(3) A person guilty of an offence under this regulation is liable on conviction to a fine not exceeding level 3 on the uniform scale.

**Interpretation of this Part: general.**

15. (1) In this Part, unless the context otherwise requires –

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

"**customs officers**" has the meaning given by section 89(6) of PPACE, and "**customs officer**" shall be construed accordingly,

the "**employer**" of a person (A) includes (but is not limited to) a person who has engaged the services of A by way of a contract or other arrangement entered into with a third party (and for the avoidance of doubt, that third party may be resident or established outside Guernsey),

"**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 by the MOH as an infected

area for the purposes of these Regulations on the relevant 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,

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

**"PPACE"** means the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003<sup>g</sup>,

**"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,

**"relevant officer"** means a police officer, the MOH, and any other person or category of person authorised by the Chief Officer of Customs and Excise to exercise functions under regulation 4(2),

**"requirement"** means a requirement imposed under this Part (including the requirement to self-isolate under regulation 4(1)),

**"restriction"** means a restriction imposed under this Part,

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<sup>g</sup> Order in Council No. XIV of 2009; amended by Order in Council No. XVI of 2009; No. XV of 2011; Ordinance No. XXXIII of 2003; No. XXIX of 2011; No. XXXIX of 2015; No. IX of 2016; and No. XXVI of 2018.

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

**"screening requirements"** means the requirements set out in regulation 6(1), and

**"travel document"** means anything that is or appears to be –

- (a) a passport,
- (b) an identity card, or
- (c) a ticket or other document that permits a person to make a journey, including such a ticket or document that is in wholly electronic form.

(2) In this Part, 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.

**Definition of "self-isolate".**

16. (1) In these regulations, **"self-isolate"** in relation to a person ("P") means for P to keep himself or herself separated from any other person in such a manner as to prevent infection or contamination, in accordance with such directions as may be given by the MOH from time to time; and such directions may be given both generally (by publication on the relevant States of Guernsey website) and in respect of any particular case (in such manner as the MOH thinks fit).

(2) For the avoidance of doubt, a direction by the MOH given under paragraph (1) may include, amongst other things, a requirement that P remain within and not leave notified premises other than in accordance with –

(a) the terms of the direction, or

(b) a permission granted by the MOH to P,

and a permission under paragraph (b) may be granted in such manner as the MOH thinks fit.

(3) For the avoidance of doubt, a direction including a requirement of the type referred to in paragraph (2) may, amongst other things, specify that P may not enter a garden, yard, passage, outhouse or other appurtenance of such notified premises, or may do so only for a specified period of time each day, where the MOH considers that such a restriction is necessary to protect P, or other persons, from the risk of infection.

(4) In paragraph (2), "notified premises" means premises at an address to be notified by P to the States of Guernsey at such time, and in such manner, as the MOH may from time to time require; and for the avoidance of doubt, the MOH may require such an address to be notified before, or on, P's arrival in the Bailiwick.

## PART II

### MISCELLANEOUS AND FINAL

#### **Modification of legislation relating to mental health.**

17. Schedule 3 modifies –

- (a) the Mental Health (Bailiwick of Guernsey) Law, 2010<sup>h</sup>,  
and
- (b) the Mental Health Review Tribunal Procedure Rules,  
2012<sup>i</sup>,

which modifications shall have effect for the period of validity of these Regulations.

**Guernsey Financial Services Commission: officers appointed as Senior Decision Makers.**

18. (1) This regulation applies when a Senior Decision Maker is undertaking work in connection with deciding whether sanctions, proposed against an individual or person, should be imposed, including, but not limited to -

- (a) the publication of a public statement under section 11C of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987<sup>j</sup> (the "**Financial Services Commission Law**"),

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<sup>h</sup> Order in Council No. XV of 2011; amended by Ordinance No. IX of 2016; and No. I of 2017.

<sup>i</sup> O.R.C. No. I of 2012; as amended by O.R.C. No. III of 2018.

<sup>j</sup> Ordres en Conseil Vol. XXX, p. 243; amended by Ordres en Conseil Vol. XXXI, p. 278; Vol. XXXII, p. 471; Vol. XXV(1), p. 271; Vol. XXXVII, p. 24; Order in Council No. XVII of 2002; Nos. III of XXII of 2003; Nos. XIX, XXIII and XXIV of 2008; No. XIX of 2010; No. III of 2013; No. I of 2015; No. XIII of 2017; Ordinance No. XXXIII of 2003; Nos. XII, XX, XXXIV and XXIX of 2015; Nos. IX and XXII of 2016; Nos. III, XIX and XXVII of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; No. XXVI of 2018; G.S.I. No. 29 of 2009; and G.S.I. No. 49 of 2017.

- (b) the imposition of a discretionary financial penalty under section 11D of the Financial Services Commission Law, and
- (c) the imposition of a prohibition order under -
  - (i) section 34E of the Protection of Investors (Bailiwick of Guernsey) Law, 1987<sup>k</sup>,
  - (ii) section 17A of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000<sup>l</sup>,

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<sup>k</sup> Ordres en Conseil Vol. XXX, p. 281; amended by Ordres en Conseil Vol. XXX, p. 243; Vol. XXXII, p. 324; Vol. XXXV(1), p. 271; Vol. XXXVII, p. 264; Vol. XXXVII, p. 24; Order in Council No. XVII of 2002; Nos. XV and XXXII of 2003; Nos. XVIII and XX of 2008; No. XIII of 2010; Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Tome XXVIII, p. 51; Tome XXVIII, p. 87; Ordinance No. XXXIII of 2003; No. XXXI of 2008; No. VII of 2009; Nos. XII, XX and XXXIX of 2015; Nos. IX and XXIX of 2016; Nos. III and XXVII of 2017; Sark Ordinance No. X of 2017; Nos. XXVI and XXVII of 2018; G.S.I. No. 83 of 2010; and G.S.I. No. 50 of 2017.

<sup>l</sup> Order in Council No. I of 2001; amended by Order in Council No. I of 2000; No. XIV of 2003; No. XVI of 2007; Nos. VIII and XXV of 2008; Nos. XIII and XIX of 2010; No. I of 2013; Ordinance No. XXXVII of 2001; No. XXXIII of 2003; No. VII of 2009; Nos. XII and XXXIX of 2015; Nos. II and IX of 2016; No. XXVII of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; Nos. XXVI and XXVII of 2018; G.S.I. No. 3 of 2018; G.S.I. No. 83 of 2010; G.S.I. No. 4 of 2013; G.S.I. No. 50 of 2017; G.S.I. No. 56 of 2017; and G.S.I. No. 72 of 2017.

- (iii) section 28A of the Insurance Business (Bailiwick of Guernsey) Law, 2002<sup>m</sup>,
- (iv) section 18A of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002<sup>n</sup>, and
- (v) section 17A of the Banking Supervision (Bailiwick of Guernsey) Law, 1994<sup>o</sup>,

and in this regulation, a "**Senior Decision Maker**" means an officer, appointed by the Guernsey Financial Services Commission ("**the Commission**") to fulfil the role of Senior Decision Maker, and exercising powers delegated by the Commission in relation to the same under section 19 of the Financial Services Commission Law.

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<sup>m</sup> Order in Council No. XXI of 2002; amended by Order in Council No. I of 2000; No. XIII of 2010; Ordinance No. XXXIII of 2003; No. XII of 2008; Nos. VIII and XXXI of 2010; No. XXXVI of 2011; No. LV of 2014; Nos. XII and XXXIX of 2015; No. IX of 2016; No. III and XXVII of 2017; Sark Ordinance No. X of 2017; No. XXVI of 2018; G.S.I. No. 33 of 2004; G.S.I. No. 4 of 2008; G.S.I. No. 15 of 2010; G.S.I. No. 83 of 2010; G.S.I. No. 68 of 2014; G.S.I. No. 121 of 2015; and G.S.I. No. 50 of 2017.

<sup>n</sup> Order in Council No. XXII of 2002; amended by Order in Council No. I of 2000; No. XIII of 2010; Ordinance No. XXXIII of 2003; No. XIII of 2008; No. IX of 2010; Nos. XII and XXXIX of 2015; Nos. II and IX of 2016; No. XXVII of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; No. XXVI of 2018; G.S.I. No. 2 of 2008; G.S.I. No. 16 of 2010; G.S.I. No. 83 of 2010; and G.S.I. No. 50 of 2017.

<sup>o</sup> Ordres en Conseil Vol. XXXV(1), p. 271 of 2001; amended by Order in Council Nos. XVII and XXI of 2002; No. XVI of 2003; No. XVI of 2008; No. IV of 2009; Nos. XIII and XXI of 2010; Ordinance No. XXXIII of 2003; Nos. XII, XX and XXXIX of 2015; Nos. II and IX of 2016; No. XXVII of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; No. XXVI of 2018; G.S.I. No. 3 of 2000; G.S.I. No. 1 of 2008; G.S.I. No. 35 of 2010; and G.S.I. No. 50 of 2017.

(2) A Senior Decision Maker undertaking work described in paragraph (1) may undertake some or all of that work outside the Bailiwick, including, but not limited to –

- (a) the consideration of representations,
- (b) the preparation of reports, Minutes to Notices, final decisions,
- (c) the acceptance of written representations, and
- (d) the holding of oral hearings.

(3) An oral hearing may be held by a Senior Decision Maker who is outside the Bailiwick by telephone, live television link or any other means of telecommunications or electronic communications, and for the purposes of such a hearing, a Senior Decision Maker, party or other person who is in communication with other persons at the hearing so that each person at the hearing can hear or read what is being said or communicated by each of the others, is deemed, subject to paragraph (4), to be present at the oral hearing for all purposes.

(4) In the event that a means of communication referred to in paragraph (3) fails or is corrupted, or the Senior Decision Maker considers that confidentiality is compromised, the Senior Decision Maker shall have the discretion at any time during the hearing to determine that a person who is affected by that failure, corruption or compromise of confidentiality is no longer deemed to be present at the hearing.

(5) For the avoidance of doubt, a determination under paragraph (4) does not affect the validity of the proceedings of the hearing for any purpose prior to the making of that determination.

**Power of MOH to close schools.**

19. (1) The powers of the MOH under Article VIII(8) of the Public Health Ordinance, 1936<sup>1</sup>, to require measures to be taken by any school in order to prevent the spread of infection, shall apply in respect of Sark.

(2) For the avoidance of doubt, the measures that the MOH may require to be taken under the above enactment (including as it applies in Sark under paragraph (1)) include, but are not limited to, the immediate closure, partial closure, or closure subject to conditions, of any school for any period.

**Court of Appeal.**

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

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

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<sup>1</sup> Recueil d'Ordonnances Tome VIII, p. 315; amended by Ordres en Conseil Vol. XXXI, p. 278; Order in Council No. XIV of 2012; No. VI of 2015; Recueil d'Ordonnances Tome X, pp. 35 and 61; Tome XIII, p. 264; Tome XV, p. 239; Tome XV, p. 387; Tome XIX, p. 91; Tome XX, p. 163; Tome XXIII, p. 427; Tome XXVIII, p. 80; Ordinance No. XXXIII of 2003; No. XXXVIII of 2006; No. XLI of 2010; No. XLII of 2014; Nos. IX and XXI of 2016. This Ordinance is applied to the Island of Alderney by the Alderney (Application of Legislation) Ordinance, 1948 and to the Islands of Herm and Jethou by the Public Health (Amendment) Ordinance, 1963.

<sup>P</sup> Ordres en Conseil Vol. XVIII, p. 315. There are other amendments not material to these Regulations.

(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.

**Offences by legal persons and unincorporated bodies.**

21. (1) Where a legal person is guilty of an offence under these Regulations, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

(a) any director, manager, secretary or other similar officer, or any foundation official, of the legal person,  
or

(b) any person purporting to act in any such capacity,

he or she as well as the legal person is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a legal person are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director.

(3) Where an offence under these Regulations is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) in the case of a partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in subparagraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where an offence under these Regulations is alleged to have been committed by an unincorporated body, proceedings for the offence must be brought in the name of that body and not in the name of any of its members.

(5) A fine imposed on an unincorporated body on its conviction of an offence under these Regulations must be paid from the funds of that body.

**Revocation and savings.**

22. (1) The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 9) Regulations, 2020<sup>9</sup> ("the (No. 9) Regulations") are revoked.

(2) Anything done under or for the purposes of the (No. 9)

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<sup>9</sup> G.S.I. No. 115 of 2020.

Regulations before the commencement of these Regulations shall, to the extent that the same is required or authorised to be done under or for the purposes of these Regulations, have effect as if done under or for the purposes of the equivalent provision of these Regulations; and for the avoidance of doubt, the revocation of the revoked regulations does not affect any restriction, requirement, condition, prohibition, or penalty, imposed thereunder.

(3) Anything in the process of being done under or for the purposes of the (No. 9) Regulations before the commencement of these Regulations may, to the extent that the same is required or authorised to be done under or for the purposes of these Regulations, be continued to be done under or for the purposes of the equivalent provision of these Regulations.

(4) Notwithstanding the revocation of the (No. 9) Regulations, the variation of the requirement to self-isolate on arrival in the Bailiwick made by the Authority and previously published on the States of Guernsey website entitled "Critical Workers" shall continue to have effect in respect of those persons in respect of whom the (No. 9) Regulations provided for that variation to continue to have effect, notwithstanding the revocation of the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 8) Regulations, 2020<sup>r</sup>, to the extent provided for in the (No. 9) Regulations; that is, persons who, on commencement of the (No. 9) Regulations were persons to whom an exemption under the "Critical Workers" variation had been granted and was in force, for so long as that exemption is expressed to be in force, or until it is brought to an end or otherwise ceases to have effect, whichever is earlier.

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<sup>r</sup> G.S.I. No. 105 of 2020.

(5) Any reference howsoever expressed in any enactment or subordinate legislation to a revoked regulation which is re-enacted (with or without modification) by or under these Regulations shall (unless the contrary intention appears) be construed as a reference to the provision as re-enacted.

(6) In so far as any subordinate legislation made or other thing done (or having effect as if made or done) under or for the purposes of a revoked regulation could be made or done under or for the purposes of these Regulations, it shall (unless the contrary intention appears) have effect as if made or done under or for the purposes of these Regulations.

**Interpretation: general.**

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

"**the Authority**": see regulation 1(2),

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

"**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, and

"**the MOH**": see regulation 1(1).

(2) Other terms used in these Regulations in provisions modifying an enactment have the same meaning as in that enactment.

(3) For the avoidance of doubt, the powers of police officers under these Regulations are exercisable in addition to all other powers which police officers may exercise.

**Citation.**

24. These Regulations may be cited as the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 10) Regulations, 2020.

**Extent.**

25. These Regulations shall have effect throughout the Bailiwick.

**Commencement.**

26. These Regulations shall come into force on 15<sup>th</sup> December, 2020.

Dated this 14<sup>th</sup> day of December, 2020



P. T.R. FERBRACHE  
Chairman of the Civil Contingencies Authority  
For and on behalf of the Authority

## SCHEDULE 1

### Regulation 5

#### EXCEPTION TO THE REQUIREMENT TO SELF-ISOLATE ON ARRIVAL IN THE BAILIWICK: 7 DAY SELF-ISOLATION OPTION

##### Introductory.

1. (1) This Schedule provides for an exception to the requirement to self-isolate set out in regulation 4(1) –

(a) in respect only of –

(i) persons who have been assessed to be eligible for, and have elected to take part in, the 7 day self-isolation option, within the meaning of that term in this Schedule, and

(ii) persons who undergo a Day 13 test within the meaning of paragraph 6, and

(b) to the extent only set out in this Schedule.

(2) A person who is assessed to be eligible in, and has elected to take part in, the 7 day self-isolation option is referred to herein as a "**Relevant Person**".

(3) If a Relevant Person fails to comply with any of the conditions and restrictions which apply to him or her in respect of the 7 day self-isolation option, the 7 day self-isolation option shall cease to apply to that person, and he or she may be liable to prosecution under these Regulations.

(4) Under regulation 13(2), the employer of a Relevant Person may be liable to prosecution if the Relevant Person fails to comply with any of the conditions and restrictions which apply to him or her in respect of the 7 day self-isolation option.

(5) Failure without reasonable excuse to comply with the requirement to self-isolate under regulation 4(1) (as it has effect under this Schedule) is an offence under regulation 13(2), and this Schedule shall be construed accordingly.

(6) In this Schedule, "the 14 day period" in respect of a person means the period of 14 days starting from the day of that person's arrival in the Bailiwick; and references to a Category 2, 3 or 4 country are references to a Category 2, 3 or 4 country as specified on the relevant States of Guernsey website for the purposes of this Schedule.

**Eligibility.**

2. (1) To be eligible to take part in the 7 day self-isolation option, a person ("P") must not have spent any of the period of 7 days immediately before P's arrival in the Bailiwick in a place that is a Category 4 country<sup>s</sup> at the time of P's arrival in the Bailiwick.

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<sup>s</sup> A town, city, area or region can constitute a Category 4 country.

(2) For the avoidance of doubt, and subject to paragraph 5 (direct transit), if P has spent any of the previous 7 days (or any part thereof) in a place that is, at the relevant time, so specified as a Category 4 country, P will not be eligible to take part in the 7 day self-isolation option - even if that place was not so specified as a Category 4 country when the person was in it.

(3) For the avoidance of doubt –

(a) a person not wishing to take part in the 7 day self-isolation option or assessed to be ineligible to do so must self-isolate for 14 days pursuant to, and in accordance with, the requirement imposed by regulation 4(1) of the Regulations, and

(b) a person who –

(i) elects to take part in the 7 day self-isolation option, and

(ii) subsequently decides that he or she does not wish to take a test for COVID-19,

will not be required to undertake that test, but he or she will be required to self-isolate for the remainder of the 14 day period in accordance with the Regulations;

and references (however expressed) in paragraphs 3 and 4 to a Relevant Person being required, or not being required, to take a test for COVID-19, shall be construed accordingly.

(4) In this paragraph and paragraphs 3 and 4, "**the relevant time**" means when P provides the information as to his or her travel history (which may be 48 hours before travel) or, if the information is not provided before, on P's arrival in the Bailiwick.

**Category 3 country arrivals.**

3. (1) A Relevant Person who has spent any of the period of 7 days immediately before his or her arrival in the Bailiwick in a place that is a Category 3 country<sup>t</sup> at the relevant time (and who has not spent any time in that period in a Category 4 country) will be required to take a test for COVID-19 immediately on arrival in the Bailiwick (in this Schedule, a "**day of arrival test**").

(2) If the result of that day of arrival test is positive, the Relevant Person must self-isolate in accordance with instructions from the MOH and to comply with all other restrictions and requirements imposed on him or her by the MOH.

(3) If the result of that day of arrival test is negative, the Relevant Person must self-isolate and will be required to take another test for COVID-19 seven days after his or her date of arrival (or at such other time as the MOH may direct) (in this Schedule, a "**Day 7 test**").

(4) If the result of that Day 7 test is positive, the Relevant Person must self-isolate in accordance with instructions from the MOH, and comply with all other restrictions and requirements imposed on him or her by the MOH.

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<sup>t</sup> A town, city, area or region can constitute a Category 3 country.

(5) If the result of that Day 7 test is negative, the Relevant Person will not be required to self-isolate for the remainder of the 14 day period, subject to him or her complying with the conditions and restrictions specified in paragraph 10 (Conditions and restrictions: Enhanced Passive Follow-Up).

#### **Category 2 country arrivals**

4. (1) A Relevant Person who has spent any of the period of 7 days immediately before his or her arrival in the Bailiwick in a place that is a Category 2 country<sup>u</sup> at the relevant time (and who has not spent any time in that period in a Category 4 country or a Category 3 country) will be required to take a day of arrival test.

(2) If the result of that day of arrival test is positive, the Relevant Person will be required to self-isolate in accordance with instructions from the MOH and to comply with all other restrictions and requirements imposed on him or her by the MOH.

(3) If the result of that day of arrival test is negative, the Relevant Person will be required to take a Day 7 test; and in the period from receipt of a negative day of arrival test result until receipt of the result of the Day 7 test, the Relevant Person will not be required to self-isolate – subject to the Relevant Person complying with the conditions and restrictions specified in paragraph 10 (Conditions and restrictions: Enhanced Passive Follow-Up).

(4) If the result of that Day 7 test is positive, the Relevant Person will be required to self-isolate in accordance with instructions from the MOH and to comply with all other restrictions and requirements imposed on him or her by the

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<sup>u</sup> A town, city, area or region can constitute a Category 2 country.

MOH. If the result of that Day 7 test is negative, the Relevant Person will not be required to self-isolate for the remainder of the 14 day period - subject to the Relevant Person complying with the conditions and restrictions specified in paragraph 9 (Conditions and restrictions: Passive Follow-Up).

**Direct Transit.**

5. (1) Direct transit–

(a) in a private vehicle, or

(b) in public transport,

through a Category 4 country is not spending time in that Category 4 country for the purposes of this Schedule.

(2) In this paragraph, a "**private vehicle**" includes a taxi, and references to a private vehicle stopping are to such a vehicle stopping in circumstances where one or more persons alight from, or get into, the vehicle.

(3) In this paragraph, "**direct transit in a private vehicle**" means –

(a) travel in a private vehicle that does not stop at all in the Category 4 country, or

(b) travel in a private vehicle that only stops in the Category 4 country in circumstances where –

(i) no new people get into the vehicle, and

- (ii) no-one in the vehicle gets out, comes within two metres of any other person (other than another occupant of the vehicle), and then gets back in again.

(4) In this paragraph, "**direct transit in public transport**" means travel on any form of public transport that does not stop at all in the Category 4 country.

**Day 13 test.**

6. (1) A person ("P") who is not eligible or who has chosen not to take part in the 7 days self-isolation option is not required to self-isolate for all of the 14 day period in the circumstances set out, and only to the extent provided for, in this paragraph.

(2) If P undergoes a test for COVID-19 13 days after his or her date of arrival (or at such other time as the MOH may direct under this paragraph) (in this Schedule, a "**Day 13 test**"), and the result of that Day 13 test is negative, P will not be required to self-isolate for the remainder of the 14 day period.

(3) If the result of that Day 13 test is positive, P will be required to self-isolate in accordance with instructions from the MOH and to comply with all other restrictions and requirements imposed on him or her by the MOH.

**Children.**

7. (1) Subject to advice and any contrary direction from the MOH in particular cases, and to the provisions of this paragraph, a child may take part in the 7 day self-isolation option, and may undergo a Day 13 test for the purposes of paragraph 6.

(2) Where a child takes part in the 7 day self-isolation option, the person with parental responsibility for the child or who has the care or charge of the child for the time being (the child's "**responsible adult**") is responsible for ensuring that the child complies with the restrictions and conditions set out herein so far as he or she is reasonably able to do so; and a person who fails so to ensure may be liable to prosecution under the Regulations.

(3) For the avoidance of doubt, a child's responsible adult must, in respect of that child –

- (a) provide the information required under paragraph 8(2),
- (b) so far as reasonably practicable, keep the record of people referred to at paragraph 9(9) (including paragraph 9(9) as it applies pursuant to paragraph 10(2)), and
- (c) ensure the child does not return to school in accordance with paragraph 10(10), where that restriction applies.

**Conditions and restrictions: general, and offences.**

8. (1) A Relevant Person must remain in self-isolation for the 14 day period unless and until that requirement is lifted in accordance with the provisions of paragraphs 3 and 4 above; and so a Relevant Person who fails to undergo a day of arrival test or a Day 7 test must self-isolate for the remainder of the 14 day period.

(2) A Relevant Person must provide such information to officers from the MOH, the Guernsey Border Agency and Guernsey Police, and to any other persons authorised in this behalf by the Chief Officer of Customs & Excise, as those officers and persons may require in connection with the operation and enforcement of the 7 day self-isolation option, and must comply with any other direction from those officers in that connection.

(3) For the avoidance of doubt, failure to comply, without reasonable excuse, with the requirement to self-isolate set out in subparagraph (1) is a criminal offence under regulation 13(2).

(4) Failure to comply, without reasonable excuse, with any of the conditions and restrictions set out in –

(a) in subparagraph (2), and

(b) paragraphs 9(2) to (10) and 10(3) to (10),

is a criminal offence, punishable by a fine not exceeding level 5 on the uniform scale.

**Conditions and restrictions: Passive Follow-Up.**

9. (1) Where the requirement to self-isolate has been lifted in relation to a Relevant Person following a negative Day 7 test under and in accordance with paragraph 3 or 4, that Relevant Person must comply with each of the following restrictions during that period.

(2) The Relevant Person must at all times be vigilant for symptoms, however mild, of COVID-19; must report any such symptoms immediately to the MOH; and must comply with any instructions given by the MOH

thereafter (which may, for the avoidance of doubt, include an immediate resumption of self-isolation).

(3) Subject to subparagraph (4), the Relevant Person must not enter a nursing, care or residential home without the prior agreement of the manager of the home, received after having informed the manager of the home of his or her status as being subject to these restrictions.

(4) If the Relevant Person is a worker at a nursing, care or residential home and the manager of the home agrees, the Relevant Person may enter that home to work, but such work may be carried out only in accordance with a method statement that has been agreed with the MOH.

(5) Subject to subparagraphs (6) and (7), the Relevant Person must not, other than in an emergency, enter the Princess Elizabeth Hospital, and in an emergency must give prior notification of his or her status as being subject to these restrictions before entering the Princess Elizabeth Hospital, if reasonably practicable in all the circumstances.

(6) The Relevant Person may enter the Princess Elizabeth Hospital to visit a patient who is seriously ill if the management of the hospital agrees, but such a visit may be undertaken only in accordance with a method statement that has been agreed with the management of the Hospital and the MOH.

(7) If the Relevant Person is a worker at the Princess Elizabeth Hospital and his or her line manager agrees, the Relevant Person may enter the hospital to work, but such work may be undertaken only in accordance with a method statement that has been agreed with the MOH.

(8) The Relevant Person must inform any other healthcare provider of his or her status as being subject to these restrictions when making any appointment for care.

(9) The Relevant Person must, so far as reasonably practicable, keep a record of people met and places visited (to assist with contact tracing if necessary).

(10) The Relevant Person must comply with any additional conditions and restrictions imposed from time to time by the MOH.

**Conditions and restrictions: Enhanced Passive Follow-Up.**

10. (1) A Relevant Person in relation to whom the requirement to self-isolate has been lifted subject to the person complying with the Enhanced Passive Follow-Up conditions and restrictions, under and in accordance with paragraph 3 or 4, must comply with each of the following restrictions during the period in which those conditions and restrictions apply in accordance with that section.

(2) The Relevant Person must comply with each of the Passive Follow-Up conditions and restrictions set out at paragraphs 9(2) to (10); and in this regard the reference to "these restrictions" at paragraph 9(8) is to be construed as a reference to these Enhanced Passive Follow-Up conditions and restrictions.

(3) The Relevant Person must not enter a pub, nightclub, members' club, café or restaurant (including a café or restaurant al fresco dining area), cinema, theatre or sports or leisure centre.

(4) The Relevant Person must not enter a shop other than to buy food, medicines, or any other essential item, and must not stay in the shop for any longer than is necessary to make his or her purchases.

(5) The Relevant Person must not enter a bus.

(6) The Relevant Person must not enter a taxi unless measures are in place that conform with guidance issued for this purpose by the MOH to protect the driver from the risk of infection.

(7) The Relevant Person must not travel by a scheduled air service or a scheduled sailing unless he or she is an Alderney or Sark resident travelling home from Guernsey to Alderney or Sark (as the case may be), and that service or sailing departs within 24 hours of the Relevant Person receiving a negative test result for COVID-19.

(8) The Relevant Person must not travel in a private aircraft or vessel unless he or she is an Alderney or Sark resident travelling home from Guernsey to Alderney or Sark (as the case may be), and measures are in place that conform with guidance issued for this purpose by the MOH to protect the pilot or captain, any other crew, and any other passenger, from the risk of infection.

(9) The Relevant Person must not return to work unless his or her work does not involve interaction with the public; and for the purposes of this subparagraph, jobs that involve interaction with the public include, but are not limited to, teachers, retail assistants, waiters, receptionists, bus and taxi drivers, and GPs. In relation to workers at nursing, care or residential homes, or at the Princess Elizabeth Hospital, the provisions of the Passive Follow-Up conditions and restrictions at paragraphs 9(4) and 9(7) (respectively) apply.

(10) If the Relevant Person is a child or otherwise in full-time or part-time education, he or she must not return to school or college.

## SCHEDULE 2

### Regulation 5

#### EXCEPTION TO THE REQUIREMENT TO SELF-ISOLATE ON ARRIVAL IN THE BAILIWICK: CRITICAL WORKERS

##### **Introductory.**

1. (1) This Schedule provides for the granting of exemptions from the requirement to self-isolate at regulation 4(1) to Critical Workers, within the meaning of that term in this Schedule and only to the extent set out in this Schedule, and such an exemption is referred to in this Schedule as a "**Critical Worker Exemption**".

(2) Subject to paragraph 2, for the purposes of this Schedule, a Critical Worker means a person whose presence in the Bailiwick is required to keep a critical service running, as further provided for in paragraph 3.

(3) A Critical Worker Exemption may only be granted to a person in respect of whom an application under and in accordance with this Schedule has been made to an officer authorised by the Authority to determine applications under this Schedule (a "**determining officer**").

(4) Other than in exceptional circumstances to be assessed at the absolute discretion of the determining officer determining the application, a Critical Worker Exemption will not be granted to a person requiring to stay within the Bailiwick for a period greater than eight weeks, and this Schedule shall be construed accordingly.

(5) A person in respect of whom a Critical Worker Exemption has been granted does not have to self-isolate in accordance with the requirement at regulation 4(1), but only if that person complies with the conditions that apply to him or her.

(6) If a person in respect of whom a Critical Worker Exemption has been granted fails to comply with the conditions which apply to him or her in respect of the Critical Worker Exemption, the Critical Worker Exemption shall lapse as it applies to that person, and he or she may be liable to prosecution under the Regulations.

(7) Under regulation 13(2), the employer of a person ("P") in respect of whom a Critical Worker Exemption has been granted may be liable to prosecution if P fails to comply with any of the conditions and restrictions which apply to him or her in respect of this exception.

(8) When considering whether to grant a Critical Worker Exemption, a determining officer shall consider all the circumstances of the case, and in particular shall assess and take into account –

- (a) the risk to public health in the Bailiwick or any part thereof that granting the Critical Worker Exemption would create, and
- (b) if the Critical Worker Exemption were not granted, the damage (if any) that would be suffered by –

- (i) the business by or on behalf of which the application has been made, and any other potentially affected business based in the Bailiwick, and
- (ii) the economy of the Bailiwick or any part or sector thereof.

**Existential risk to a Bailiwick business.**

2. (1) A Critical Worker Exemption may be granted in respect of a person if the determining officer is of the view that either of the conditions set out in subparagraphs (2) and (3) is satisfied.

(2) The condition in this subparagraph is that if the Critical Worker Exemption is not granted, there is a significant risk that, as a consequence, a business based in the Bailiwick will cease trading.

(3) The condition in this subparagraph is that –

- (a) the application has been made by or on behalf of a business based in the Bailiwick that operates transport links into and out of the Bailiwick ("**the applicant business**"),
- (b) the application is in respect of a particular journey or journeys into or out of the Bailiwick, to be undertaken for a commercial, or primarily commercial, purpose, and

- (c) the undertaking of journeys of the type in respect of which the application is being made is necessary for the continued operation of the applicant business.

*Categories of Critical Worker*

**Categories of Critical Worker.**

3. Subject to paragraph 2, a Critical Worker Exemption may only be granted in respect of a person who –

- (a) satisfies the definition of Critical Worker in paragraph 1(2), and
- (b) falls into one of the following categories (subject to the additional eligibility conditions in respect of business stability and recovery, and technical specialist contractors, specified in paragraphs 4 and 5) -

BUSINESS CATEGORY	INDIVIDUALS
<b>Air and Sea Links</b>	Those individuals directly involved in maintaining the Islands' air and sea links.
<b>Critical National Infrastructure</b>	Those individuals directly involved in maintaining and protecting the Islands' critical national infrastructure.
<b>Frontline Health and Care and Veterinary Services</b>	Those individuals providing, or directly facilitating, critical front line health and care, and veterinary, services.
<b>Emergency Services and Justice Administration</b>	Those individuals delivering emergency services or the administration of justice.

<b>Education</b>	Education professionals delivering critical activity within the Islands' schools.
<b>Business Stability and Recovery</b>	Those individuals involved in business continuity and/or business recovery.
<b>Technical Specialist Contractors</b>	Those skilled individuals required for construction projects to continue or begin.
<b>Financial Stability</b>	Those individuals involved in ensuring financial stability and resilience.

**Categories of Critical Workers: business stability and recovery.**

4. (1) A person ("P") falls into the business stability and recovery category of Critical Workers –

- (a) only if both of the following conditions would be satisfied if a Critical Worker Exemption were granted in respect of P -
  - (i) P would provide professionally qualified technical or specialist expertise that is not currently available or accessible on-island, and
  - (ii) P would fill a designated role, or undertake a designated set of tasks, that would be completed during a fixed term and would be time-critical, and
- (b) only if any of the following conditions would be satisfied if a Critical Worker Exemption were not granted in respect of P –

- (i) a business would not be able to continue in operation, or
- (ii) a business' continuity plan would be undermined in a way that meant it could not comply with regulatory, health and safety or other essential statutory standards, and that this would mean it could not continue to operate some critical functions fully, or
- (c) a business would be unable to resume a project or commercial contract that would either (a) prevent the return to employment of on-island works, or (b) lead to the curtailing of employment for current on-island workers.

**Categories of Critical Workers: technical specialist contractors.**

5. A person falls into the technical specialist contractor category of Critical Worker only if there is a specified start and end to the period of work required by the person under the Critical Worker Exemption, and he or she -

- (a) provides a service or set of skills that cannot feasibly be secured on-island,
- (b) performs a role that is critical to the progression of the project,

- (c) has relevant formal professional qualifications to undertake their role, and
- (d) has health insurance which covers COVID-19 related matters.

*Risk mitigation conditions: general and sector-specific*

**Risk mitigation conditions: general**

6. (1) Each successful applicant for a Critical Worker Exemption must -

- (a) not travel to the Bailiwick if they have any symptoms of Covid-19, no matter how mild,
- (b) self-isolate as directed by the MOH,
- (c) undertake tests for COVID-19 as directed by MOH. If the result of any test is positive, the applicant must self-isolate in accordance with instructions from the MOH and comply with all other restrictions and requirements imposed by the MOH,
- (d) not attend the place of work if he or she has any symptoms of COVID-19, no matter how mild,
- (d) stop working immediately and withdraw from the workplace if any symptoms of COVID-19, no matter

how mild, develop whilst working and arrange for testing for COVID-19,

- (e) adhere to good standards of hygiene and respiratory etiquette,
- (f) wear a mask within two metres of other people,
- (g) if staying overnight, have a confirmed address at which they are staying,
- (h) use only pre-arranged transport where the details of the driver are fully recorded or a hire car to move between the workplace and their place of residence,
- (i) remain on-island for the duration of their work, and
- (j) comply with any direction given or requirement imposed by the MOH.

(2) Further specific conditions may be imposed in particular cases.

**Additional risk mitigation conditions: business stability and recovery**

7. (1) The conditions in this paragraph apply to a person falling into the business stability and recovery category of Critical Workers.

(2) For the avoidance of doubt, when these conditions apply they apply in addition to the general risk mitigation conditions set out in paragraph 6.

(3) The conditions in this paragraph are that the Critical Worker's business must –

- (a) provide a method statement of how it will meet social distancing and hygiene standards, and
- (b) meet the cost of any testing undertaken and any associated medical treatment that is required, including hospital treatment for Covid-19.

**Additional risk mitigation conditions: technical specialist contractors in the construction sector.**

8. (1) The conditions in this paragraph apply to the following subcategory of persons falling into the technical specialist contractor category of Critical Workers (and referred to in the table at subparagraph (3) as "**workers**"): specialist technical consultants required *in situ* on-island to support projects considered necessary to support business recovery work in the construction sector, where there is a clear requirement to augment on-island capacity and capability for a designated period.

(2) For the avoidance of doubt, when these conditions apply they apply in addition to the general risk mitigation conditions set out in paragraph 6.

(3) The conditions in this paragraph are those set out in the following table –

<i>Movement on-island</i>	<ul style="list-style-type: none"><li>• Any worker who is not resident in the Bailiwick may</li></ul>
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	<p>only travel between their place of work and a specified place of residence.</p> <ul style="list-style-type: none"> <li>• The worker must be able to self-isolate at the specified place of residence when not at work.</li> </ul>
<i>Site precautions</i>	<ul style="list-style-type: none"> <li>• During works the site must be zoned, i.e. the areas of work must be isolated using fencing and barriers, with a separate vehicular entrance for the worker.</li> <li>• The name of a designated contact person for the site must be provided to the States of Guernsey.</li> <li>• All elements of work must be an outside activity and a distance of over 10 metres from all other persons must be maintained at all times.</li> <li>• Dedicated toilet and hand washing facilities must be provided to each of the work areas for the sole use of workers. Spray disinfectant must be supplied for use on handles for before and after each use. Running water and hand washing points must be located in each of the work areas. Hand sanitiser must be provided to be used regularly throughout the day.</li> </ul>
<i>Accommodation</i>	<ul style="list-style-type: none"> <li>• Workers on a single project must stay in one hotel or set of self-catering units.</li> <li>• Food must be supplied either via the hotel as cooked meals or groceries delivered to the door of the self-catering unit. The cooked food must be supplied on a 'closed tray' system. Collection of the used plates will be at pre-arranged times.</li> <li>• Towelling and bedding must be left outside self-catering units if used in a sealed bag to all direct</li> </ul>

	<p>loading into a washing machine.</p> <ul style="list-style-type: none"> <li>• At the end of the self-isolation period a specialist cleaner must be employed to complete a deep clean using a ULV Microbial fogging method.</li> </ul>
<i>Health requirements</i>	<ul style="list-style-type: none"> <li>• No-one in the worker's household has, nor has had during the previous 14 days, any of the symptoms of COVID-19.</li> <li>• Workers must undertake testing at an accredited testing centre 72 hours prior to travel.</li> <li>• Workers must undertake a test for COVID-19 on the 5<sup>th</sup> day and the 13<sup>th</sup> day after arrival in the Bailiwick, or on such other days as the MOH may require.</li> <li>• The business meets the cost of all testing in Guernsey.</li> </ul>

### *Applications and reviews*

#### **Application process.**

9. An applicant for a Critical Worker Exemption must make an application in such form and providing such information as may from time to time be required, including (but not limited to) information sufficient to allow a determination to be made as to whether -

- (a) the person named in the application meets the definition of a Critical Worker as set out in this Schedule,
- (b) the resource the applicant represents is not already available in the Bailiwick, and

- (c) the person named in the application does not have, and has not had during the previous 14 days, any of the symptoms of COVID-19, however mild.

**Review.**

10. (1) An applicant for a Critical Worker Exemption who is aggrieved by a decision to refuse the application, or to grant the application subject to the imposition of further specific conditions under paragraph 6(2), may make written representations to an officer authorised by the Authority to review the determination of applications under this Schedule (a "reviewing officer") concerning the outcome of his her application within 14 days of being notified of that decision, by emailing those representations to [critical.travel@gov.gg](mailto:critical.travel@gov.gg).

(2) If an applicant exercises his or her right under subparagraph (1), the reviewing officer must consider those representations and shall –

- (a) uphold the decision of the determining officer, or
- (b) make a different decision (including the imposition of different, or no, specific conditions),

and must, within 14 days of receipt of the applicant's written representations, inform the applicant in writing of -

- (i) his or her decision,
- (ii) the reasons for that decision, and

- (iii) if the decision is to impose different specific conditions, the applicant's right to make an application to the Royal Court under regulation 11 to vary or revoke those conditions.

## SCHEDULE 3

Regulation 17

### MODIFICATION OF LEGISLATION RELATING TO MENTAL HEALTH

#### Interpretation.

1. References in this Schedule to –
  - (a) sections are to sections of the Mental Health (Bailiwick of Guernsey) Law, 2010 ("the 2010 Law"), and
  - (b) rules are to rules of the Mental Health Review Tribunal Procedure Rules, 2012 ("the 2012 Rules").

2. Expressions in this Schedule and in the 2010 Law or the 2012 Rules shall have the same meaning as in that Law or those Rules (as the case may be).

#### Forms.

3. Where any form prescribed in the Mental Health (Treatment and Forms) Regulations, 2013 or under the 2012 Rules is inconsistent with a modification made by these Regulations, the form –

- (a) may, in connection with that modification, be used with appropriate amendments, and
- (b) is otherwise, for use in that connection, to be read with such amendments as are necessary to reflect that modification.

**Modification of the 2010 Law.**

4. Where section 56(1)(b) applies (administration of medicine for more than three months), an approved medical practitioner (other than the responsible medical officer of the patient) may give a certificate under section 56(3)(b) (appropriateness of treatment without understanding or consent) if the responsible medical officer is of the opinion that complying with the requirement under that provision for the certificate to be given by a second opinion approved doctor is not reasonably practicable or would involve unreasonable delay.

**Modification of the 2012 Rules.**

5. For the purposes of any hearing subject to the 2012 Rules –

- (a) the Tribunal is deemed to be properly constituted by the members of the Tribunal sitting within or without the Bailiwick, or a combination thereof,
  - (b) where the legally qualified member is of the opinion that it is not reasonably practicable or would involve unreasonable delay for one, or both, of the other members of the Tribunal to participate in the hearing, the Tribunal is deemed to be properly constituted by the legally qualified member –
    - (i) sitting with the other member able to participate, or
    - (ii) sitting alone,
- (as the case may be),

- (c) notwithstanding subparagraph (b), where, after hearing from the patient's legal representative or the patient (if unrepresented), the legally qualified member is of the opinion that it is in the patient's interests that the hearing takes place before a single member of the Tribunal (including, but not limited to, where the patient's mental disorder might be adversely affected by the participation of multiple members of the Tribunal by telephone), the Tribunal is deemed to be properly constituted by the legally qualified member sitting alone, and that member may consult with the other members of the Tribunal where it is in the interests of justice to do so, and
- (d) for the avoidance of doubt, the Tribunal may exercise any or all of its powers under the 2010 Law where it is constituted in accordance with this paragraph.

6. Any hearing which takes place in accordance with paragraph 5 shall be deemed for all purposes (including that of determining the *lex fori*) to have taken place in Guernsey and the courts of Guernsey accordingly have jurisdiction in accordance with Part VI of the Law, and sections 46 and 47 have effect accordingly.

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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, 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.

These Regulations will come into force on the 15<sup>th</sup> December, 2020 and shall have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law.

### *Part I - 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 require people to self-isolate. 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.

Schedules 1 and 2 to these Regulations set out exceptions to the requirement to self-isolate on arrival in the Bailiwick, in respect of critical workers and persons eligible to take part in the 7 day self-isolation option and who take a day 13 test.

### *Part II – miscellaneous and final*

Schedule 3 to these Regulations sets out the modifications to be made to mental health legislation having effect in the Bailiwick.

Paragraph 4 modifies the Mental Health (Bailiwick of Guernsey) Law, 2010 to permit an approved medical practitioner (rather than only a second opinion approved doctor) to provide a certificate for the purposes of section 56 where the practitioner is of the opinion that is not reasonably practicable or would involve unreasonable delay to comply with the unmodified requirement of that section.

Paragraphs 5 to 6 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 18 makes provision in relation to Senior Decision Makers ("SDMs") appointed by the Guernsey Financial Services Commission, including providing for SDMs to hold oral hearings remotely. Regulation 19 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. Regulation 20 enables the Court of Appeal to conduct its proceedings remotely.