

GUERNSEY STATUTORY INSTRUMENT

2021 No.

**The Emergency Powers (Coronavirus) (General Provision)
(Bailiwick of Guernsey) (No. 13) (Amendment) Regulations,
2021**

<i>Made</i>	<i>30th November, 2021</i>
<i>Coming into operation</i>	<i>1st December, 2021</i>
<i>Laid before the States</i>	<i>, 2021</i>

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^a;

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

AND WHEREAS there has been a recent surge of infections of several different variants of Severe Acute Respiratory Syndrome Coronavirus 2 in Europe and beyond, including the new Omicron variant;

AND WHEREAS there is evidence of community transmission of Severe Acute

^a Order in Council No. XIV of 2012; amended by Ordinance No. IX of 2016; and No. II of 2017.

Respiratory Syndrome Coronavirus 2 within the Bailiwick;

AND WHEREAS while the people of the Bailiwick are increasingly protected against infection with Severe Acute Respiratory Syndrome Coronavirus 2 as a result of the Bailiwick's vaccination programme and vaccination programmes implemented by other countries and territories, the effectiveness of that programme and those programmes against the Omicron variant is still being assessed;

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 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^b;

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 it in that behalf, hereby makes the following regulations: –

^b 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.

Amendment of the General Provision (No. 13) Regulations.

1. (1) The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 13) Regulations, 2021^c are amended as follows.

(2) After regulation 18 (Meaning of "Blue Arrival"), insert –

"Blue Arrivals: post-arrival testing requirements.

18A. (1) A Blue Arrival of 5 years of age or over (P) must comply with the post-arrival testing requirements.

(2) Subject to paragraph (3), the post-arrival testing requirements are that –

(a) before P's arrival in the Bailiwick, P (or a person on P's behalf if P is a child) has paid such fee not exceeding £40 as the Authority may specify by publication on the States of Guernsey website in respect of equipment for lateral flow tests for COVID-19 to be provided to Blue Arrivals on arrival in the Bailiwick by a relevant officer under, and for the purposes of, this regulation,

(b) after P's arrival in the Bailiwick, P must take a test for COVID-19 using the equipment provided under subparagraph (a) –

(i) on the day of P's arrival,

(ii) three days after P's date of arrival,

^c G.S.I. No. 150 of 2021.

- (iii) five days after P's date of arrival,
- (iv) seven days after P's date of arrival, and
- (v) nine days after P's date of arrival,

(together, the "**required post-arrival tests**"), and

- (c) if the result of any of the required post-arrival tests is positive, P must immediately notify the MOH thereof, and comply with all restrictions and requirements imposed on P by the MOH, including, but not limited to, a requirement to self-isolate.

(3) A Blue Arrival of 12 years of age and over who fails, without reasonable excuse –

- (a) to take one or more of the required post-arrival tests, in accordance with paragraph (2)(b),
- (b) immediately to notify the MOH of a positive result of one or more of the required post-arrival tests, or
- (c) to comply with all restrictions and requirements imposed on him or her by the MOH under paragraph (2)(c) in the circumstances set out therein,

commits an offence.

(4) A person guilty of an offence under paragraph (3)(a) or (b) is liable on conviction to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding 3 months, or both.

(5) A person guilty of an offence under paragraph (3)(c) of failing, without reasonable excuse, to comply with a requirement to self-isolate is liable on conviction to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding 3 months, or both.

(6) A person guilty of any other offence under paragraph (3)(c) is liable on conviction to a fine not exceeding level 3 on the uniform scale.

(7) Where a child of between 5 and 15 years of age is a Blue Arrival, a person who is a responsible adult in relation to the child must ensure that the child complies with the post-arrival testing requirements, insofar as that person is reasonably able to do so.

(8) A responsible adult who fails without reasonable excuse to comply with paragraph (7) commits an offence, and is liable on conviction to a fine not exceeding level 3 on the uniform scale."

(3) After regulation 19, insert –

"Face coverings, and modification of Fixed Penalties Law.

19A. (1) Schedule 1A (Compulsory wearing of face coverings) shall have effect.

(2) The Offences (Fixed Penalties) (Guernsey) Law, 2009 shall apply as if modified as follows.

(3) In the Schedule, immediately after the entry relating to Offences

against sections 4(1) and 5(1) of the Road Traffic (Guernsey) Ordinance, 2019, insert –

"Offences against paragraph 1(1) of Schedule 1A to the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 13) Regulations, 2021	Entering or remaining, without reasonable excuse, within relevant premises without wearing a face covering	C	£100	£90
Offences against paragraph 3(1) of Schedule 1A to the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 13) Regulations, 2021	Using, without reasonable excuse, a public transport service without wearing a face covering	C	£100	£90"".

(4) After Schedule 1, insert the Schedule 1A set out in the Schedule to these Regulations.

(5) In paragraph 1 (Introductory: general, and offences) of Schedule 2 (Country Categories) –

- (a) in subparagraph 1(1)(a)(ii), for "paragraph 6" substitute "paragraphs 3A or 6",
- (b) in subparagraph (4)(b)(i), after "option" insert "(or, if the person is a child of between 5 and 11 years of age in the case of paragraph 3A, on whose behalf such an election is made by his or her responsible adult)",
- (c) in subparagraphs (4) and (5), after "Relevant Person" insert "or child", and
- (d) at the start of subparagraph (8), insert "Without prejudice to paragraph 3A,".

(6) For paragraph 2 (Green List Country arrivals who have a full vaccination history) of Schedule 2, substitute –

"Green List Country arrivals who have a full vaccination history.

2. (1) A Relevant Person who has not spent any time in the period of 10 days immediately before his or her arrival in the Bailiwick in a place that is a Red List Country at the relevant time, and who has a full vaccination history, will be required to self-isolate on arrival and to take a test for COVID-19 directly 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 continue 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 is no longer required to self-isolate."

(7) In paragraph 3 (Green List Country Arrivals who do not have a full vaccination history) of Schedule 2, in subparagraph (1) for "test for COVID-19 directly on arrival in the Bailiwick (in this Schedule, a "**day of arrival**" test)" substitute "day of arrival test".

(8) After paragraph 3 of Schedule 2, insert –

"Green List Country arrivals of between 5 and 11 years of age.

3A. (1) The responsible adult (RA) of any child of between 5 and 11 years of age who is not a Blue Arrival and who has not spent any time in the period of 10 days immediately before his or her arrival in the Bailiwick in a place that it is a Red List Country at the relevant time (C) must –

- (a) comply with the post-arrival testing requirements that apply to RA, and
- (b) ensure that C complies with the post-arrival testing requirements that apply to C, insofar as RA is reasonably able to do so.

(2) Subject to paragraph (3), the post-arrival testing requirements are that –

- (a) after C's arrival in the Bailiwick, C must take a test for COVID-19 using equipment for lateral flow tests for COVID-19 to be provided on arrival in the Bailiwick by a relevant officer under, and for the purposes of, this Schedule –

- (i) on the day of C's arrival,
- (ii) three days after C's date of arrival,
- (iii) five days after C's date of arrival,
- (iv) seven days after C's date of arrival, and
- (v) nine days after C's date of arrival,

(together, the "**required post-arrival tests**"), and

- (b) if the result of any of the required post-arrival tests is positive, RA must on C's behalf immediately notify the MOH thereof, and ensure that C complies with all

restrictions and requirements imposed on C by the MOH, including, but not limited to, a requirement to self-isolate.

- (3) Paragraph (4) applies if C fails, without reasonable excuse –
 - (a) to take one or more of the required post-arrival tests, in accordance with paragraph (2)(a),
 - (b) immediately to notify the MOH of a positive result of one or more of the required post-arrival tests, or
 - (c) to comply with all restrictions and requirements imposed on him or her by the MOH under paragraph (2)(b) in the circumstances set out therein.

(4) In the circumstances set out in subparagraph (3), RA commits an offence if RA was reasonably able to ensure that C did not fail–

- (a) to take one or more of the required post-arrival tests, in accordance with paragraph (2)(a),
- (b) immediately to notify the MOH of a positive result of one or more of the required post-arrival tests, or
- (c) to comply with all restrictions and requirements imposed on him or her by the MOH under paragraph (2)(b) in the circumstances set out therein,

as the case may be.

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

(6) The requirements set out in this paragraph are in addition to, and without prejudice to, the requirement on C to self-isolate in accordance with paragraph 6(1)(b)."

(9) In paragraph 6 of Schedule 2, at the start of subparagraph (1) insert "Subject to the provision made in respect of children between 5 and 11 years of age in paragraph 3A,".

Citation.

2. These Regulations may be cited as the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 13) (Amendment) Regulations, 2021.

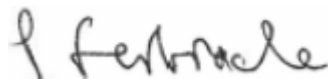
Extent.

3. These Regulations shall have effect throughout the Bailiwick.

Commencement.

4. These Regulations come into force on 1st December, 2021.

Dated this 30th day of November, 2021



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

SCHEDULE

Regulation 1(4)

"SCHEDULE 1A

Regulation 19A

COMPULSORY WEARING OF FACE COVERINGS

Whilst entering or remaining on relevant premises

Requirement to wear a face covering whilst entering or remaining on relevant premises.

1. (1) Subject to subparagraph (2), a person who, without reasonable excuse, enters or remain within relevant premises without wearing a face covering, commits an offence.

(2) The requirement in subparagraph (1) does not apply –

- (a) to a child who is under the age of 12,
- (b) to a person responsible for relevant premises or an employee of that person acting in the course of their employment,
- (c) to any other person providing services in the relevant premises under arrangements made with the person responsible for the relevant premises, or
- (d) to an essential worker who has entered or remained in the relevant premises for the purpose of discharging their work functions or whilst acting in the course of their duties.

(3) The exceptions from the requirement to wear a face covering provided in paragraph 2(b) and (c) do not apply to any person who, when acting in the course of their employment or providing services under arrangements made with the person responsible for any relevant premises, is in any part of the relevant premises which are open to the public, and comes or is likely to come into close contact of any member of the public.

(4) In this Schedule, a "**face covering**" means a covering of any type which covers a person's nose and mouth and complies with any guidance issued by the MOH and published on the States of Guernsey website, and "**relevant premises**" means –

- (a) shops (including, but not limited to, supermarkets and pharmacies),
- (b) banks,
- (c) post offices,
- (d) petrol stations,
- (e) any indoor part of any premises (other than a nursery or pre-school, school or place of further education) in or from which the States of Guernsey (including for this purpose Guernsey Police and the Guernsey Border Agency), the States of Alderney or the Chief Pleas of Sark offers services or facilities to the public (or a section of them), and to which the public (or a section of them) have access, including but not limited to –
 - (i) the Airport Terminals,
 - (ii) Harbour Terminals,

- (iii) the Princess Elizabeth Hospital and the Mignot Memorial Hospital, Alderney,
- (iv) Beau Sejour Leisure Centre,
- (v) Sir Charles Frossard House,
- (vi) the Island Hall, Alderney, and
- (vii) Edward T. Wheadon House.

(5) The Authority may make further provision as to the meaning of "**relevant premises**" for these purposes by publication on the States of Guernsey website, including, but not limited to, by –

- (a) specifying exemptions to premises otherwise falling within subparagraph (e), and
- (b) adding to the list of example premises at subparagraph (e).

Reasonable excuse for the purposes of paragraph 1.

2. For the purposes of paragraph 1(1), the circumstances in which a person ("P") has a reasonable excuse include those where -

- (a) P cannot put on, wear or remove a face covering -
 - (i) because of any physical or mental illness or impairment, or disability, or
 - (ii) without severe distress,

- (b) P is accompanying, or providing assistance to, another person ("B") and B relies on lip reading to communicate with P,
- (c) P removes their face covering to avoid harm or injury, or the risk of harm or injury, to themselves or others,
- (d) P is entering or within relevant premises to avoid injury, or to escape a risk of harm, and does not have a face covering with them,
- (e) it is reasonably necessary for P to eat or drink and P removes their face covering to eat or drink,
- (f) P has to remove their face covering for the purpose of medical treatment or to take medication,
- (g) a person responsible for relevant premises or an employee of that person acting in the course of his or her employment, requires that P remove their face covering in order to verify P's identity,
- (h) in a pharmacy, an employee of that pharmacy acting in the course of his or her employment, requires that P remove their face covering in order to assist in the provision of healthcare or healthcare advice to P, and
- (i) a relevant person requests that P remove their face covering.

Where using a public transport system

Requirement to wear a face covering whilst on public transport.

3. (1) Subject to subparagraph (2), a person who, without reasonable excuse,

uses a public transport service without wearing a face covering commits an offence.

(2) For the purposes of subparagraph (1), a person is using a public transport service at any time when -

(a) they are boarding any vehicle by means of which a public transport service is provided, or

(b) they are (whether or not for the purposes of travel) on board any vehicle by means of which a public transport service is provided.

(3) The requirement in subparagraph (1) does not apply -

(a) to a child who is under the age of 12,

(b) to an employee of the operator of the relevant public transport service acting in the course of his or her employment,

(c) to any other person providing services under arrangements made with the operator of the relevant public transport service who is providing those services,

(d) to an essential worker discharging their work functions or whilst acting in the course of their duties.

(4) In this paragraph, "**public transport service**" means -

(a) in relation to Guernsey, a public transport service consisting of motor vehicles which are licenced under the Public Transport Ordinance, 1986,

- (b) in relation to Alderney, a public transport service consisting of public vehicles which are licensed under the Alderney Road Traffic and Public 6 Highways Ordinance, 1966, and
- (c) in relation to Sark, horse or vehicle drawn carriages which members of the public are carried on for reward.

Reasonable excuse for the purposes of paragraph 3(1).

4. For the purposes of paragraph 3(1), the circumstances in which a person ("P") has a reasonable excuse include those where -

- (a) P cannot put on, wear or remove a face covering -
 - (i) because of any physical or mental illness or impairment, or disability, or
 - (ii) without severe distress,
- (b) P is travelling with, or providing assistance to, another person ("B") and B relies on lip reading to communicate with P,
- (c) P removes their face covering to avoid harm or injury, or the risk of harm or injury, to themselves or others,
- (d) P is travelling to avoid injury, or to escape a risk of harm, and does not have a face covering with them,
- (e) it is reasonably necessary for P to eat or drink and P removes their face covering to eat or drink,

- (f) P has to remove their face covering to take medication, and
- (g) a relevant person requests that P remove their face covering.

Interpretation.

5. In this Schedule –

"**essential workers**": see paragraph 6,

"**face covering**": see paragraph 1(4),

"**relevant person**" means –

- (a) a police officer, and
- (b) in relation to a public transport service, includes -
 - (i) the operator of the service, or
 - (ii) any employee or agent of the operator who is authorised by the operator for the purpose of this Schedule, and

"**relevant premises**": see paragraph 1(4).

Interpretation: essential workers.

6. In this Schedule, "**essential workers**" means –

- (a) workers in the public service essential to the delivery of critical services, and,
- (b) workers essential to the functioning of any activity necessary –

- (i) to ensure the continuing supply and accessibility of food and other essential goods,
- (ii) for the provision of health and community care services,
- (iii) for the administration of justice, including advocates,
- (iv) for the provision of public transport, including bus operators, and
- (v) for the provision of branch-based banking services to enable cash and other financial transactions."

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 amend the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 13) Regulations, 2021. The amendments impose a requirement on Blue Arrivals of 5 years of age and over to take self-administered lateral flow tests for COVID-19 provided to them on arrival, to report any positive test results to Public Health, and to comply with any direction given to them on so doing. It makes a failure (without reasonable excuse) to comply with these requirements a criminal offence. The Regulations also impose a requirement to pay a fee for the provided tests before travel.

The amendments also require fully vaccinated arrivals from Green List Countries to take a day of arrival test, and to self-isolate until a positive result is received, and for all arrivals from Green List Countries of between 5 and 11 years of age to take lateral flow tests in the same way as Blue Arrivals, in addition to the existing isolation requirements in respect of such children. Finally, the amendments make the wearing of face-coverings mandatory (subject to certain specified exceptions) for persons of 12 years and over in shops, pharmacies, banks, and post offices, on public transport, and in the parts of government-owned premises, such as Beau Sejour and Sir Charles Frossard House, to which the public have a right of access.

These Regulations come into force on 1st December, 2021, and shall have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law.