

ISLAND OF SARK

**EXTRAORDINARY MEETING of the CHIEF PLEAS to be held on Tuesday the 25th
AUGUST 2020**

At 7.00 PM in the ASSEMBLY ROOM

AGENDA

1. QUESTIONS Not Related to the Business of the Day.
2. COMMITTEE ELECTONS: To Elect Conseillers to Committees as required:
Development Control Law Special Committee – 1 x Conseiller
3. COMMITTEE and PANEL ELECTIONS: To Elect Non-Chief Pleas Members and Panel Members to Committees and Panels as required:
4. To CONSIDER a Report with Propositions from the DOUZAINÉ entitled “**The Constable – New Role**” (copy enclosed).
5. To CONSIDER a Report with Propositions from the POLICY and FINANCE COMMITTEE entitled “**Isle of Sark Shipping Company**”. (See Note 3).

REGULATIONS LAID BEFORE

**The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey)
(No. 4) Regulations, 2020**

(Came into operation on the 10th July 2020)

**The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey)
(No. 4) (Amendment) Regulations, 2020**

(Came into operation on the 23rd July 2020)

**The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey)
(No. 5) Regulations, 2020**

(Came into operation on the 7th August 2020)

**The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey)
(No. 5) (Amendment) Regulations, 2020**

(Came into operation on the 17th August 2020)

Lt Col RJ Guille MBE
Speaker of Chief Pleas

20th August 2020

1. This Meeting has been summoned, under Section 32 (2) (b) of The Reform (Sark) Law, 2008 by the Speaker, with the consent of the Seigneur, at the request of the Douzaine.
2. Under the provision of Rule 12 (11) of the Rules of Procedure of the Chief Pleas of Sark the Speaker of Chief Pleas has waived the notice required and allowed this Meeting to be called at short notice.
3. The Report and supporting papers will not be available until PM Tuesday 25 August.

Anyone wishing to see any of the Reports, see Note 3 above, and Supporting Papers may do so at the Committee Offices, Monday to Friday, 11 am to 3 pm; copies may be obtained from the Committee Office. The Agenda, Reports and Supporting Papers may also be seen on the Sark Government Website at www.sarkgov.co.uk

DOUZAINE

Report with Proposition to Extraordinary Chief Pleas, 25th August 2020

THE CONSTABLE – NEW ROLE

Sark has always placed great reliance upon volunteers to fulfil a variety of roles, including its three emergency services. The willingness of its residents to step up to the mark, continues today. The world however has changed, and in its own way, Sark has changed too. Sark's Fire & Rescue Service today is different to what it was just ten or fifteen years ago. Similarly, the Ambulance Service continues to evolve with the introduction of first aid responders later this year. The Constable and Vingtenier roles however were set out in the section 52 of the **Reform (Sark) Law, 2008**, and were based up the 'customary law of Sark'. Since 2008 there has been a less than subtle shift in the work expected of the Constable, away for what previously had been 'parochial duties' to something more akin to law enforcement as the outside world intrudes ever more into Sark's way of life.

It is time that the role of the Constable be revised to better reflect the duties the holder of the office is expected to fulfil. The Douzaine is not proposing a sudden shift to a full-time, fully employed, police service on Sark, though acknowledges such a move may still lie in Sark's future. For the present the proposal is for the role to be filled by more than one person, one appointed Constable and three appointed Assistant Constables. In accordance with The **Reform Law (Sark) 2008 section 53 (2)** the appointed Constable will authorise one Assistant Constable to fulfil all the duties of a Constable. All appointees will receive appropriate training and a salary more in line with the workload they will face rather than the present 'honoraria'. The proposed salary of £10,000 pa for each Constable and £7,500 for the two Assistant Constables will be offered to the successful candidates when the positions are advertised. The successful candidates will sign a contract allowing them to reapply for the position annually thus providing continuity.

At the Easter Meeting, 22nd April 2020 (Item 08) the first draft of the new proposal was presented to Chief Pleas in which the 'bare bones' were put to the vote and approved. It had been hoped to have all the relevant material completed in time to present a full report at Midsummer, however as reported under Item 11 of the Midsummer Meeting, 8th July 2020 the Douzaine explained that due to the COVID-19 situation only a verbal update was available. The report and supplementary material before Chief Pleas today need to be approved so that the remaining steps may be taken ahead of the Michaelmas Meeting on 30th September, when the new role is set to commence.

Proposition 1

That Chief Pleas approves the replacement of the honoraria paid to the Constable and Assistant Constables with a salary as outlined in this report.

Proposition 2

That Chief Pleas approves the new term of office for the role of Constable and Assistant Constable from the current 1 year to a renewable annual contract.

**Conseiller Alan Blythe
Chairman, Douzaine**

**POLICY & FINANCE AND HARBOURS SHIPPING AND PILOTAGE
COMMITTEES**

Report with propositions to Extraordinary Chief Pleas, 25th August, 2020

Report with Propositions regarding Isle of Sark Shipping Limited

Background

Isle of Sark Shipping Limited ("**the company**") owns four passenger vessels, the Bon Marin de Sark ("**the Bon**"), the Sark Venture, the Sark Belle, and the Corsaire des Isles. The Sark Viking is primarily a freight vessel.

The company has two employed executive directors and four non-executive directors ("**the Board**"). The two employed executive directors (who also hold office as director) are Mr Yan Milner, Managing Director, and Mr Paul Burnard, Finance Director. The four non-executive directors are Mr Mark Dunster, Mr Richard Graham, Mr Andrew Cook, and Mr Peter Gill.

During 2018, the Committee was advised by the Board that the Bon Marin did not meet UK classification standards as a passenger vessel due to her construction (wooden decks). The Board turned its focus to identifying a replacement vessel. The Board identified two potential replacements, both built in France and both of which had classification issues. Whilst it was unfeasible to reclassify the first identified replacement (MV Star Riviera), the Board was able to confirm after enquiries from Policy & Finance that the second identified replacement, the Corsaire des Isles, could be reclassified.

On 31 March 2020 the company purchased the Corsaire des Isles using its cash reserves, overdraft facility of £150,000 (guaranteed by Chief Pleas), a further unsecured overdraft of £50,000 and deductions made and held as provisions for employee tax and social security payments.

A guarantee for a secured loan in the sum of £300,000 was signed by Chief Pleas on 6 April 2020. The company's bankers indicated that, if they were to advance funds on the guarantee, they required a letter of comfort signed by Chief Pleas to the effect that the guarantee would no longer be against a secured loan, but against an unsecured overdraft to fund general expenses.

A guarantee for unsecured lending of £450,000 (ie £300,000 plus the existing secured overdraft facility of £150,000) was unacceptable to Policy & Finance and the letter was not signed.

On Sunday 3 May 2020 the Chair of the Committee received an email from the company's Managing Director. The email was concerned with the company's financial position and

how it would look in the next four days (ie by Wednesday 6 May 2020) without the applied for loan arrangement being in place. The recommendation of the company's Finance Director was included in the email, which was "*Absent any funding by next Weds (sic) he would be recommending to the Board that we apply to the Court to – at the very least – place the Company in administration*". The Committee worked with the bank urgently to establish a financial package to enable the company to continue trading.

Between 24 March 2020 and 28 May 2020, as a consequence of the pandemic, the passenger service between Guernsey and Sark had to be suspended with a resultant material loss in revenue. The company was informed of the States of Guernsey guarantee support scheme ("**GSS**") on 3 April. The Committee made repeated requests of the Board to put in an application for support under the GSS. On 17 April the company wrote to its bankers, in accordance with the terms of the GSS, stating that the amount required to be guaranteed was £775,000 which was in excess of the upper limit of £500,000 under the scheme.

A final application for support under the GSS was submitted on 29 April with an expected turnaround time of 4/5 working days. On 3 May 2020 (within the timeframe for an expected reply) the company's managing director wrote an email to the Committee stating that, without funds, the company would be placed in administration within 4 days. On enquiry Policy & Finance was told that there were no creditors pressing and no outstanding judgments.

In May 2020, the company's worsening financial position eventually led the Board and the Committee to agree a redundancy exercise. The projected cost of the redundancy exercise was more than £50,000 (in excess of the unsecured overdraft facility). This led to the company's bankers requiring a further financial injection from Chief Pleas into the Company of £30,000. This additional funding was approved on 7 May 2020.

The provision for redundancies was almost immediately removed from the company's financial reports. The Committee was given to understand that redundancies were not implemented at the request of the States of Guernsey, although this remains unverified.

On 28 May 2020, the company recommenced passenger sailings between Guernsey and Sark on a very restricted schedule, a major factor in the reduced schedule being lack of available vessels. The Corsaire des Isles remains in France, awaiting confirmation of a delivery date. The Sark Venture is out of service and has been since January 2020 when it was withdrawn from service for refurbishment, with a timeframe for return to service of 4 – 6 weeks. Initial delays in the contractor completing the works have subsequently been compounded by a delay in the MCA inspection of the works as a result of the pandemic. The Bon is no longer operational. Only the Sark Belle is sailing.

On 18 August 2020, Mr Burnard gave six months' notice of termination of his employment to expire on 18 February 2021. Mr Burnard remains an employee and office holder of the company for the time being. Mr Milner remains an employee and office holder. The non-executive directors continue to hold office as directors.

Loss of trust and confidence

The events described in this report have led the Committee to:

- 1) Lose trust and confidence in the executive directors to manage the business of the Company, in particular, but with limitation, by reason of:
 - a. their failure to ensure the timely completion of the work required to return the Sark Venture to service in February 2020.
 - b. managing the company's finances in a manner that may have led to the company being placed in administration.
 - c. the executive directors using all available company funds to purchase the Corsaire des Isles without informing the Committee (as Shareholder representative) in advance of doing so, thereby placing an unjustifiable financial risk on Chief Pleas
 - d. failure to adapt the business model to reflect demand and changing service requirements.

- 2) Lose trust and confidence in the ability of the non-executive directors to supervise the management of the business.

Notwithstanding the loss of trust and confidence, the Committee has been mindful of the terms of the Memorandum of Understanding between Chief Pleas and the company dated 24 January 2019. The Memorandum of Understanding envisages "*no surprises for either party*" and anticipates that both the Board and the Committee will apply principles of good corporate governance

In consequence, the Committee met with the non-executive directors on 10 August 2020 to discuss the reasons for its loss of trust and confidence in the executive directors and, more widely, the Board, and to give the non-executive directors the opportunity to respond to its concerns.

The Committee's concerns were not allayed by anything said by the non-executive directors at the meeting.

Powers of Chief Pleas

Chief Pleas has the power under article 33 of the company's articles of association to remove a director, as follows:

"The Authority may appoint and remove a Director and appoint a substitute at any time by written notice to the Company signed by the Chairman of the Finance & Resources Committee of the Authority (or the Committee which shall succeed to the current functions of the Finance & Resources Committee). Any appointment or removal shall take effect as from the time of delivery of, or at such later time as may be specified in the notice."

Chief Pleas does not have the power to dismiss an executive director from his employment; that power lies with the Board and is exercisable by reference to the terms of the contract of employment between the executive director and the company.

Conclusion

It is the Committee's view that, to establish good communications between the Committee and the Board, restore trust and confidence and secure the lifeline service provided by the company, the Board should be replaced immediately with the minimum number of directors required to comply with the company's articles (being not less than two directors and not more than six under article 32) and the employment of the Managing Director and the Finance Director should be terminated by the company with immediate effect.

If Chief Pleas agrees with the Committee's view, this will require:

- all the directors to resign in writing from office, with immediate effect;
- in the event of any director failing to resign, that director to be removed from office with the approval of Chief Pleas;
- the Finance Director's termination date to be brought forward by the company;
- the Managing Director to be given immediate notice of termination by the company;
- the appointment of interim executive and non-executive directors to replace the current Board immediately upon their resignation / removal / termination, in relation to which the Committee proposes Ms Julie Mann and Conseiller John Guille as executive directors and Mr Richard Wickins as a non-executive director.

See supporting appendices attached for more detail.

Proposition 1 –

That Chief Pleas agree to remove such of the following directors of Isle of Sark Shipping Limited who have not already resigned from office.

Mr Mark Dunster; Mr Richard Graham; Mr Andrew Cook; Mr Peter Gill; Mr Yan Milner; and Mr Paul Burnard.

Proposition 2 –

That Chief Pleas agree to appoint of Ms Julie Mann, Conseiller John Guille and Mr Richard Wickins to the office of director (on an interim basis) to take effect immediately upon the cessation of office of the current directors in consequence of their resignation or removal from office .

Proposition 3 –

That Chief Pleas approves the Committee's proposal that the company be requested to bring forward the termination date of Mr Paul Burnard's employment as Finance Director (following his written notice) to 25 August 2020.

Proposition 4 –

That Chief Pleas approves the Committee's proposal that the company be requested to terminate the employment of Mr Yan Milner as Managing Director with effect from 25 August 2020.

Proposition 5 –

That Chief Pleas approves the Committee's proposal that the company be requested to enter into terms and conditions of employment for Ms Mann and Mr Guille as executive directors on terms to be agreed with each of them as soon as practicable.

**Conseiller Peter La Trobe-Bateman
Chairman, Policy & Finance Committee**

APPENDIX A

Supporting information regarding the Isle of Sark Shipping Company.

The Bon Marin de Sark.

During recent years, the operational certificate had been extended on the basis that the vessel was due to be replaced. Committees were advised by the Board that the vessel has wooden decks and cannot meet current standards.

Numerous reports from Yan Milner re extending the license for the Bon during 2019, no indication that this may not happen until the 1st July 2019, when IoSS notified Policy & Finance and Harbours & Shipping Committees that the Bon would be withdrawn from service on the 21st August 2019. The possibility of a further engine inspection with a view to a license extension was tabled, Peter Gill noted that this was no longer possible and the estimated cost of 50K was not considered prudent.

M.V. Star Riviera:

In January 2019, the Star Riviera was proposed to be a replacement for the Bon and possibly the Sark Belle. Protracted discussions over the next eight months culminated in P&F stepping in to insist an appropriately qualified surveyor be appointed to carry out a mechanical and structural survey.

In March 2019 IoSS stated that they had approval in principle from their bank for a marine mortgage in the region of 2 million pounds.

Despite one of the Non-executives being a past Harbour master, until October 2019 there was no understanding that a vessel constructed in France was able to operate in UK waters or meet MCA construction standards. This was only revealed when documentation requested from the owners was not forthcoming. The age of the vessel and the construction specification was found to be unacceptable to the UK licensing authorities.

M.V. Corsaire des Isles:

Late in 2019 another replacement vessel was identified; this was cheaper and of more recent construction and although UK certification was not guaranteed it was considered achievable and the offer was made and accepted.

In order to purchase the vessel, IoSS required a secured loan guarantee from Chief Pleas in the amount of £300,000. This was agreed by Chief Pleas on the 19th February 2020. Subsequently and after advice to Chief Pleas from St James Chambers the guarantee documentation was approved and was finally signed on the 6th April 2020.

Despite IoSS not having received the loan guarantee paperwork and after the COVID 19 lockdown in France, the company purchased the vessel using all the company reserves, including employees' funds being held against Income Tax and Social Security, to do so. This was without the knowledge of the Policy & Finance Committee and despite France having closed their borders. IoSS also extended the agreed overdraft facility by 50K, again without the knowledge of P&F.

16th April 2020 Natwest, IoSS bankers, declined to allow IoSS to draw down the 300K loan unless a letter of comfort was signed by Chief Pleas. This document had the effect of converting the loan to an unsecured loan and the extension to the overdraft of 70K and a loan facility of 350K are both secured on the company vessels.

This subsequently led to an extraordinary Chief Pleas meeting to allow a further guarantee of an extension to the overdraft in the amount of £70,000 and a loan facility of 350K.

COVID 19 saw the suspension of passenger services between Sark & Guernsey with resulting loss of revenue. Attempts to instruct the Board of IoSS to make redundancies/staff reductions met with absolute resistance. Forecasts of redundancies costing over 50K giving rise to an excess position on the overdraft which the bankers required Chief Pleas to cover by an injection of 30K. Within a matter of days, upon enquiry, P&F received further financial projections which showed that the redundancy provision had been removed and would not now take place. Given the lack of serviceable vessels the staffing levels are a matter of major concern. The company eventually approached the SOG for payroll support and business. After an email, on the 3rd May 2020, from the managing director indicating that the directors intended to place the company into administration, P&F worked with the Bank to establish a financial package to enable the company to continue trading. The company have stated that it was the wish of the SOG that the redundancies did not take place, this statement has not, despite attempts, been verified by the SOG.

The Sark Venture:

The Sark Venture was withdrawn from service during the first week of January to be refurbished and re-engined and with a turnaround time of 4-6 weeks. The works ran over schedule and budget by 50K into the COVID 19 lockdown. The vessel is awaiting MCA inspection before it can resume service, however very little, if any work has been carried out on the vessel since early February and the only passenger vessel currently in service is the Sark Belle. IoSS advised on several occasions that the new engines require inspection by the French manufacturers, any attempt to move the vessel will invalidate the warranty.

The newly purchased vessel is stranded in France with no delivery date available.

APPENDIX B

Corsaire des Isles purchase/loSS report timetable	COVID 19 global lockdown timetable	Guernsey lockdown timetable re loSS
	23 rd Jan Wuhan in lockdown	
	30 th WHO global public health emergency	
	1 st Feb first death outside China	9 th March first case in Gsy
	9 th Feb deaths exceed SARS	19 th March Gsy imposes 14 isolation for all travellers
23 rd Jan 2020 - loSS notified P&F that purchase of Corsaire des Isles was going ahead, requested guarantee from CPs for loan of 300K to fund purchase of boat.	26 th Feb first death in USA	23 rd March last passenger sailing loSS
24 th Jan report & survey	8 th March Italy regional lockdown	24 th March Gsy enters lockdown
2 nd Feb – purchase update to Policy & Finance.	13 th March WHO Europe now centre of pandemic	29 th May - first passenger sailing with social distancing
6 th Feb email from Natwest confirming early loan repayments without penalty	16 th March France imposes nationwide lockdown and closes borders	1 st June passenger sailings resume with timetable.
7 th Feb loSS agree purchase delay (due to pending Chief Pleas approval) with 20% deposit. Due delivery date 18-31 st March. Deposit 148,000 euro paid.	17 th March EU ban on non- essential incoming travel	
17 th Feb CPs agree guarantee		
13 th March loSS notify Dr of awareness re service levels and poss staff reductions		w/c 29 th June passengers circa 499
16 th March CPs notify loSS Gsy now classify France as Group A country		
16 th March - after advice re guarantee documentation, Committee waiting for correct paperwork from Natwest		
17 th March passenger on Gsy- Sk testing for Covid 19		
18 th March loSS chasing hard for loan guarantee to be signed. Committee unable to sign until documentation corrected.		
19 th March funds transferred from loSS to vendors agent 592,000 euro. Additional funds paid for fuel 2,148 euro.		
20 th March loSS request service level reduction for duration of Covid 19		
24 th March first stage of purchase completed through transfer of funds to marine agent in France		
26 th March - request for financial forecast		
26 th March - email from PB noting that without purchase cash flow would be much better.		
27 th March financial report - no cash flow report		
31 st March purchase formally concluded 15 days after France closed borders		
3 rd April request to P&F for financial support		
3 rd April copy of letter from loSS to SOG ? ever sent		
3 rd April company cease trading 30 June without 550K		
3 rd April email from YM stating loSS had approached Gsy.		

3rd April email from Sarah re SOG loan scheme				
6th April guarantee signed by P&F.				
7th April PB notes 1.5M balance in CPs a/c at y/e				
7th April guarantee received by Natwest				
7th April PB states forecasts have gone to Natwest				
7th April email from WR to PB outlining CPs commitments and inability to underwrite IoSS				
8th April PB continue to pursue Natwest for assistance.				
8th April cease trading without support end April.				
8th April YM states they have approached Gsy.				
8th April PB chasing Natwest loan drawdown				
8th April email from SH to PB asking if loandraw down has gone through				
9th April- Natwest request sanction(letter of comfort) from CPs to allow partial drawdown of 200K and reduction in overdraft of 50K.				
9th April PB noting CPs y/e balance again				
9th April PB notes vessel is marooned in France, therefore mortgage cannot be registered. Boat needs to leave France and get MCA approval before mortgage.				
9th April SH asks PB why IoSS haven't approached SOG for help				
9th April PB notes Natwest need shareholder support				
9th April - IoSS indicate that IoSS are OK until end of August with 150K O/D				
10th April. Email from PB, bank will allow partial drawdown 200K but with CPs agreement through letter of comfort.				
15th April - further emails re LOC and wages payments				
15th April P&F unhappy re forecasts, no real effort to reduce costs				
15th April Email to PB asking for IoSS to make further cost savings				
17th April - email to IoSS stating that CPs cannot sign the LOC.				
17th April conference call with IoSS re LOC and cashflow. IoSS to go away and revisit figures showing more acceptable savings				
17th April CPs agree to pay wages with supporting figures				
17th April, request for creditor lists deemed matter of distrust between CPs & IoSS				
20th April Natwest notes disconnect between IoSS & CPs. Payday support now in place with SOG, Bank unwilling to allow drawdown without LOC.				
24th April Natwest awaiting further figures from IoSS				
24th April IoSS suggest changing wording of LOC to reflect repayment of vessel purchase				
28th April CPs request for figures prior to remote meeting.				
28th April cashflow, forecast and funding requirements submitted.				

28th April email from SLTB requesting update on Venture				
29th April reply from IoSS. <i>Engines have been fitted including all peripherals (cooling piping exhausts, fuel piping) .</i> <i>The engines have been tested. Venture could be started up and moved if required. However, except in an emergency clearance would need to be obtained from the engine supplier to comply with warranties it currently could not be used for service.</i> <i>All the main engineering work is complete bar some further welding work on the stack</i>				
<i>We have put the project on hold to minimise any further cash outgoings (Electronics need to be fitted, cabin needs to be finished & paintwork needs to be completed)and to comply with the direction to cease any non-essential work.</i>				
<i>We are unable to get the suppliers over for commissioning, or the MCA for certification. The certification will involve us undertaking a lightship and incline test to the vessel.</i>				
<i>We have the MCA and suppliers booked for when travel restrictions are lifted but will be in a waiting list for surveyors.</i>				
29th April IoSS acknowledge potential point of failure with one vessel.				
29th April P&F confirm money from CPs is to be used to pay salaries NOT SS or Tax				
30th April - IoSS confirm that they have finally asked for support under the SOG scheme.				
3rd May - email from Yan Milner advising that the Directors intend to put IoSS into administration, citing CPs failure to sign LOC and subsequent inability to access funds. Also noting that SS & ETI monies are fund held from employees and not company funds, however IoSS are unable to pay these returns without support.				
5th May email from IoSS to Natwest noting maturity of deposit, P&F were previously unaware of this account/funds				
7th May extraordinary CPS meeting, revised guarantee for 350K loan and 70K overdraft extension. AGREED. CPs to inject 30K and retrospectively agree to previous loan amounts. AGREED.				
12th May no redundancies actioned, IoSS revised forecasts and hoping to avoid redundancies.				
18th May final forecast from IoSS to Natwest				
CPs request return of funds (20K) to underwrite redundancy costs.				
1st June sailing resume with social distancing/restricted schedule.				
5th June <i>In light of the revised cash-flow, the Bank has agreed that</i>				

· <i>the total sum of £30,000 is no longer required;</i>				
· <i>the sum of £20,000 may be repaid to Chief Pleas as part of the initial drawdown of the loan facility</i>				
<i>subject to a written undertaking from Chief Pleas that the sum of £30,000 will be injected into the Company during the course of 2020 if deemed necessary by the Bank.</i>				
<i>We certainly hope that this will not be required. The on-going trading activity, staffing levels and future cash-flow movement (to budget), will be key factors in this respect</i>				
3rd June - update from IoSS. MCA still refusing to travel, work on Venture not complete, awaiting external contractors. IoSS state financial position does not support continuing to work on the Venture. All sailings are below capacity, no passengers have been turned away. Schedule wil reviewed following week.				
<i>15th June work due to recommence on Venture, priority electronics and exhaust stacks. Corsaire owners indicate they are prepared to deliver vessel to Guernsey.</i>				
IoSS note they also trying to ensure that we have a cushion to maintain services at their current level if we lose the SOG co-funding. In overall terms the loss of the co-funding would add over £4,000 to our current weekly salary cost and we would also need to pay for the lay-offs at this stage. At the current yield this would require us to find an additional 220 passengers per week to reach break-even operating the core schedule. We are carrying ALL the current demand at present and are adding sailings (additional early or late rotations) where there is additional demand or specific requests from customers.				
22nd June new timetables published				
6th July - update re staffing levels				
10th August meeting with non-executive Directors. No progress on Venture, Corsaire still in France. Failure point with Sark Belle now of critical concern.				

GUERNSEY STATUTORY INSTRUMENT

2020 No. 64

**The Emergency Powers (Coronavirus)
(General Provision) (Bailiwick of Guernsey) (No 4)
Regulations, 2020**

ARRANGEMENT OF REGULATIONS

PART I

SCREENING, ASSESSMENT, AND POWERS TO DETAIN ETC.

1. Decisions of MOH and the Authority to impose restrictions and requirements.
2. Detention of persons by the MOH.
3. Imposition of restrictions and requirements.
4. Screening requirements.
5. Imposition of further restrictions and requirements.
6. Isolation of persons suspected to be infected with coronavirus.
7. Detention or isolation: additional provisions.
8. Restrictions or requirements in respect of groups.
9. Variation and revocation of restrictions and requirements.
10. Initial detention of persons to enable screening and assessment.
11. Offences and enforcement.
12. Interpretation of this Part.

PART II

MENTAL HEALTH AND HEALTH AND SAFETY

13. Modification of legislation relating to mental health.
14. Disapplication of requirement to thoroughly examine etc.
15. Interpretation of this Part.

PART III

MISCELLANEOUS AND FINAL

16. Court of Appeal.
17. Power of MOH to close schools.

18. Cutting and collection of seaweed.
19. Offences by legal persons and unincorporated bodies.
20. Revocation and savings.
21. Interpretation: general.
22. Citation.
23. Extent.
24. Commencement.

SCHEDULE 1: Modification of legislation relating to mental health.

SCHEDULE 2: Provisions of the Safety of Employees (Miscellaneous Provisions) Ordinance, 1952.

The Emergency Powers (Coronavirus)
(General Provision) (Bailiwick of Guernsey) (No. 4)
Regulations, 2020 No. 6A

<i>Made</i>	9 th July, 2020
<i>Coming into operation</i>	10 th July, 2020
<i>Laid before the States</i>	, 2020

WHEREAS there are one or more persons within 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 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

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

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 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 3(4) or vary a requirement under regulation 3(6) unless the Authority has sought the advice of the

^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.

MOH in relation to the appropriateness of the proposed requirement or variation and has taken account of that advice.

(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 3(4) or varies a requirement under regulation 3(6) 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.

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 be kept in isolation,
 - (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 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.

(4) 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.

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

(6) The requirement to self-isolate under paragraph (3) and a requirement to self-isolate imposed under paragraph (4) may be varied –

(a) by the MOH in relation to a particular case, orally or in writing,

(b) by the Authority in relation to or to one or more categories of case, or in relation to all cases, by publication on the relevant States of Guernsey website.

(7) Where a restriction or requirement is imposed on or in relation to a child (including the requirement to self-isolate under paragraph (3)), 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.

(8) The powers of the MOH and the Authority under paragraph (6) to vary the requirement under paragraph (3) or a requirement imposed under paragraph (4) 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,

and such powers may be exercised either in relation to a particular case (as regards the powers of the MOH), or one or more categories of case, or all cases (as regards the powers of the Authority).

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

(10) Neither paragraph (1) nor paragraph (3) affects the exercise of any powers under regulation 6; and nothing in this regulation (or in any other provision in these Regulations) affects the MOH's powers under any other enactment.

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

Screening requirements.

4. (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.

5. (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 isolation under regulation 6,

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).

Isolation of persons suspected to be infected with coronavirus.

6. (1) This regulation applies where regulation 2(1)(a) or (b) is met in relation to a person ("P").

(2) The MOH may decide to require P to be kept in isolation 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 under paragraph (2).

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

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

Detention or isolation: additional provisions.

7. (1) Where a person ("P") is required to be detained or kept in isolation under regulation 3 or 6 or subjected to restrictions or requirements under regulation 5, the MOH must have due regard to P's well-being.

(2) Where P is detained or kept in isolation under regulation 3 or 6 or subjected to restrictions or requirements under regulation 5 for a period exceeding 14 days, the MOH must review the continuation of P's detention by reference to the provisions of those regulations.

(3) After each subsequent interval of 24 hours during which P is detained or kept in isolation under regulation 3 or 6 or subjected to restrictions or requirements under regulation 5, the MOH must review the continuation of P's detention by reference to the provisions of those regulations.

(4) Where P is detained or kept in isolation under regulation 3 or 6 or subjected to restrictions or requirements under regulation 5, 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 keep P in isolation under regulation 6, of –

- (a) the fact of P's detention or isolation,
- (b) the powers under which P is detained or kept in isolation,
- (c) the reason for P's detention or isolation,
- (d) the next steps that may be taken and by whom,
- (e) the obligation to keep the need for P's detention or isolation under review,
- (f) the penalty for obstructing a person carrying out a function under these Regulations under regulation 11(2), and
- (g) the right to apply for revocation or variation under regulation 9, where applicable.

Restrictions or requirements in respect of groups.

8. (1) The powers in regulations 2, 3 and 6 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 6 –
 - (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.

9. (1) A requirement or restriction imposed under this Part 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^c, the Children (Sark) Law, 2016^d, or the Child Protection (Sark) Law, 2020^e, (as the case may be) for P,
- (c) a person who has been appointed Guardian of P,
- (d) P's spouse or civil partner, and
- (e) a person living with P as P's spouse,

^c 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.

^d Order in Council No. VIII of 2016; amended by Ordinance No. IX of 2016; and Sark Ordinance No. I of 2017.

^e Approved by the Chief Pleas of Sark on 22nd January, 2020 and received Royal Sanction on the 3rd April, 2020.

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

(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.

10. (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 3(3) or a requirement to self-isolate imposed under regulation 3(4).

(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.

11. (1) A person commits an offence if the person –
- (a) fails, without reasonable excuse, to comply with a restriction or requirement imposed under regulation 2(2), 3(1), 5(1) or 7(4) or (5), or a direction under regulation 10(3)(a),

(b) fails, without reasonable excuse, to comply with a requirement that the person be detained under regulation 10(7), 10(9) or 10(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 3(3) or a requirement imposed under regulation 3(4).

(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) An offence under paragraph (2) is an arrestable offence for the purposes of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^f, and consequently the powers of summary arrest conferred by subsections (3) to (6) of section 28 of that Law apply to such an offence.

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

(6) A responsible adult who fails without reasonable excuse to comply with regulation 3(7), 4(2) or 5(9) commits an offence.

^f 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.

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

(8) A person guilty of an offence under paragraph (2) is liable on conviction to a fine not exceeding level 5 on the uniform scale.

Interpretation of this Part.

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

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

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 as an infected area for the purposes of these Regulations on the 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,

"isolation" in relation to a person means the separation of that person from any other person in such a manner as to prevent infection or contamination, and **"self-isolate"** means to remain in isolation from others,

"police officer" includes a customs officer,

"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,

"requirement" means a requirement imposed under this Part (including the requirement to self-isolate under regulation 3(3)),

"restriction" means a restriction imposed under this Part,

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

"screening requirements" means the requirements set out in regulation 4(1).

(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.

PART II
MENTAL HEALTH AND HEALTH AND SAFETY

Modification of legislation relating to mental health.

13. Schedule 1 modifies –

- (a) the Mental Health (Bailiwick of Guernsey) Law, 2010^g,
and
- (b) the Mental Health Review Tribunal Procedure Rules,
2012^h,

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

Disapplication of requirement to thoroughly examine etc.

14. (1) Where a provision of the Safety of Employees (Miscellaneous Provisions) Ordinance, 1952ⁱ set out in Schedule 2 to these Regulations requires any type of equipment to be –

- (a) thoroughly examined at least once in a specified period,

^g Order in Council No. XV of 2011; amended by Ordinance No. IX of 2016; and No. I of 2017.

^h O.R.C. No. I of 2012; as amended by O.R.C. No. III of 2018.

ⁱ Recueil d'Ordonnances Tome X, p. 194.

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

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

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

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

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

^j Recueil d'Ordonnances Tome XI, p. 201; as amended by Ordres en Conseil Vol. XXXI, p. 278; Order in Council No. XIII of 2001; Recueil d'Ordonnances Tome XXIV, p. 162; Tome XXV, p. 328; Tome XXVII, p. 139; Ordinance No. XXXIII of 2003; and No. IX of 2016.

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

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

and –

- (a) may only disapply the requirement for a period stated in the certificate which may not exceed 30 days, and
- (b) may be revoked by the Chief Officer prior to the expiry of the certificate where that Officer is satisfied that it is no longer necessary.

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

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

Interpretation of this Part.

15. In this Part, "the Chief Officer" –
- (a) means the inspector appointed under section 15 of the Health and Safety at Work (General) (Guernsey) Ordinance, 1987^k for the time being holding the title "the Chief Health and Safety Officer", and
 - (b) includes any inspector acting by or under the authority of the inspector mentioned in subparagraph (a).

PART III
MISCELLANEOUS AND FINAL

Court of Appeal.

16. (1) Section 7 (Venue) of the Court of Appeal Law is disapplied.
- (2) The Court of Appeal may sit for the hearing of appeals in or outside the Bailiwick.
- (3) For the avoidance of doubt, the Bailiff or presiding judge may give directions as to how the proceedings of the Court of Appeal shall be conducted, including (but not limited to) a direction that the proceedings, or part thereof, shall be conducted by way of telephone, live television link or any other means of telecommunications or electronic communications.

^k Recueil d'Ordonnances Tome XXIV, p. 162; as amended by Recueil d'Ordonnances Tome XXV, p. 328; Tome XXVII, p. 139; Ordinance No. XXXIII of 2003; No. LII of 2012; and No. IX of 2016.

Power of MOH to close schools.

17. (1) The powers of the MOH under Article VIII(8) of the Public Health Ordinance, 1936¹, 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.

(3) This Regulation shall cease to have effect on 18th July, 2020.

Cutting and collection of seaweed.

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

¹ 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.

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

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

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

(a) drift weed, and

(b) the sea alga *Chondus crispus*.

(5) This Regulation shall cease to have effect on 16th July, 2020.

Offences by legal persons and unincorporated bodies.

19. (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, subsection (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 paragraph (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.

20. (1) The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 3) Regulations, 2020^m and the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 3) (Amendment) Regulations, 2020ⁿ are revoked.

(2) Anything done under or for the purposes of regulations revoked under paragraph (1) ("**the revoked 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 revoked 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; and for the avoidance of doubt, the revocation of the revoked regulations does not affect any variation of the requirement to self-isolate under regulation 3(3) of the revoked regulations -

(a) by the MOH, in relation to a particular case, under regulation 3(6)(a) of those regulations, and

^m G.S.I. No. 59 of 2020.

ⁿ G.S.I. No. 61 of 2020.

(b) by the Authority, in relation to one or more categories of case or to all cases, under regulation 3(6)(b) of those regulations.

(4) 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.

(5) 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.

21. (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.

22. These Regulations may be cited as the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 4) Regulations, 2020.

Extent.

23. (1) Subject to paragraph (2), these Regulations shall have effect throughout the Bailiwick.

(2) Regulation 14 shall have effect in Guernsey only.

Commencement.

24. These Regulations shall come into force on 10th July, 2020.

Dated this 9th day of July, 2020



G.A. ST PIER
Chairman of the Civil Contingencies Authority
For and on behalf of the Authority

SCHEDULE 1

Regulation 13

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.

SCHEDULE 2

Regulation 14

PROVISIONS OF THE SAFETY OF EMPLOYEES (MISCELLANEOUS
PROVISIONS) ORDINANCE, 1952

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

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 10th July, 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 keep people in isolation. The provisions also create criminal offences and confer powers of enforcement on police officers, and provide for applications to vary or revoke requirements or restrictions imposed under this part to be made to the Royal Court.

Part II – mental health and health and safety

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

Paragraph 4 modifies the Mental Health (Bailiwick of Guernsey) Law, 2010 ("the Law") to permit an approved medical practitioner (rather than only a second opinion approved doctor) to provide a certificate for the purposes of section 56 of the Law.

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 14 allows the Chief Health and Safety Officer ("the Chief Officer") to grant a certificate disapplying the requirements for examination, testing and inspection set out in regulation 14 and Schedule 2 in respect of equipment or occupier's installation (as the case may be) specified in an application. A certificate may only be given where the Chief Officer is of the opinion that the disapplication will not prejudice the safety of any person operating the equipment etc. or any other person likely to be affected by its operation. The certificate may only disapply the relevant requirement for a period of up to 30 days, and may not disapply any other health and safety requirement (and, in particular, the requirement to keep the equipment etc. in a safe condition and good working order).

Part III – miscellaneous and final

Regulation 16 enables the Court of Appeal to conduct its proceedings remotely, and enable a Judge of Appeal to be sworn into office by the Royal Court constituted by the Bailiff sitting alone.

Regulation 17 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. The Regulation will cease to have effect on 18th July – the day after the last day of the summer term.

Regulation 18 provides for the Committee for the Environment & Infrastructure to permit the cutting and collecting of seaweed when this would otherwise be prohibited (so facilitating the on-Island manufacture of sanitising gels). The Regulation will cease to have effect on 16th July – the day on which the permanent statutory seasonal prohibition expires.

GREFFE
ROYAL COURT

24 JUL 2020

JA
GUERNSEY

**The Emergency Powers (Coronavirus)
(General Provision) (Bailiwick of Guernsey) (No. 4)
(Amendment) Regulations, 2020 No. 66**

<i>Made</i>	23 rd July, 2020
<i>Coming into operation</i>	<i>On being made.</i>
<i>Laid before the States</i>	, 2020

WHEREAS there are one or more persons within 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 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

^a 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^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 them in that behalf, hereby makes the following regulations: –

Amendment of the (No.4) Regulations.

1. (1) The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 4) Regulations, 2020^c are amended as follows.

(2) In regulation 11(4), after "the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003" insert "(**"PPACE"**)", and after regulation 11(8), insert –

"(9) 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 (including, for the avoidance of doubt, for the purposes of paragraph 1(a) of

^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.

^c G.S.I. No. 64 of 2020.

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).".

(3) In regulation 12(1) in the appropriate places insert –

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

""PPACE": see regulation 11(4),".

(4) Regulations 17 (Power of MOH to close schools) and 18 (cutting and collection of seaweed) are revoked.

Citation.

2. These Regulations may be cited as the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 4) (Amendment) Regulations, 2020.

Commencement.

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

Dated this 23rd day of July, 2020



G.A. ST PIER
Chairman of the Civil Contingencies Authority
For and on behalf of the Authority

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. 4) Regulations, 2020. They provide for offences under the Regulations to be assigned matters (within the meaning of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972), including for the purposes of Schedule 5 to the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003. This means that the provisions of that latter Law relating to the investigation of offences conducted by police officers shall apply to investigations of those offences conducted by customs officers.

These Regulations also revoke provisions relating to schools and the cutting of seaweed, the effect of which has expired.

These Regulations will come into force on the 23rd July, 2020 and shall have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law.

GUERNSEY STATUTORY INSTRUMENT

2020 No. 72

**The Emergency Powers (Coronavirus)
(General Provision) (Bailiwick of Guernsey) (No. 5)**

Regulations, 2020

ARRANGEMENT OF REGULATIONS

PART I

SCREENING, ASSESSMENT, AND POWERS TO DETAIN ETC.

1. Decisions of MOH and the Authority to impose restrictions and requirements.
2. Detention of persons by the MOH.
3. Imposition of restrictions and requirements.
4. Screening requirements.
5. Imposition of further restrictions and requirements.
6. Isolation of persons suspected to be infected with coronavirus.
7. Detention or isolation: additional provisions.
8. Restrictions or requirements in respect of groups.
9. Variation and revocation of restrictions and requirements.
10. Initial detention of persons to enable screening and assessment.
11. Offences and enforcement.
12. Interpretation of this Part.

PART II

MENTAL HEALTH AND HEALTH AND SAFETY

13. Modification of legislation relating to mental health.
14. Disapplication of requirement to thoroughly examine etc.
15. Interpretation of this Part.

PART III

MISCELLANEOUS AND FINAL

16. Court of Appeal.

17. Offences by legal persons and unincorporated bodies.
18. Revocation and savings.
19. Interpretation: general.
20. Citation.
21. Extent.
22. Commencement.

SCHEDULE 1: Modification of legislation relating to mental health.

SCHEDULE 2: Provisions of the Safety of Employees (Miscellaneous Provisions) Ordinance, 1952.

The Emergency Powers (Coronavirus)
(General Provision) (Bailiwick of Guernsey) (No. 5)
Regulations, 2020

<i>Made</i>	6 th August, 2020
<i>Coming into operation</i>	7 th August, 2020
<i>Laid before the States</i>	, 2020

WHEREAS there are one or more persons within 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 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

^a 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^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 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 3(4) or vary a requirement under regulation 3(6) unless the Authority has sought the advice of the

^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.

MOH in relation to the appropriateness of the proposed requirement or variation and has taken account of that advice.

(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 3(4) or varies a requirement under regulation 3(6) 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.

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 be kept in isolation,
 - (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 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.

(4) 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.

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

(6) The requirement to self-isolate under paragraph (3) and a requirement to self-isolate imposed under paragraph (4) may be varied –

- (a) by the MOH in relation to a particular case, orally or in writing,
- (b) by the Authority in relation to or to one or more categories of case, or in relation to all cases, by publication on the relevant States of Guernsey website.

(7) Where a restriction or requirement is imposed on or in relation

to a child (including the requirement to self-isolate under paragraph (3)), 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.

(8) The powers of the MOH and the Authority under paragraph (6) to vary the requirement under paragraph (3) or a requirement imposed under paragraph (4) 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,

and such powers may be exercised either in relation to a particular case (as regards the powers of the MOH), or one or more categories of case, or all cases (as regards the powers of the Authority).

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

(10) Neither paragraph (1) nor paragraph (3) affects the exercise of any powers under regulation 6; and nothing in this regulation (or in any other provision in these Regulations) affects the MOH's powers under any other enactment.

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

Screening requirements.

4. (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.

5. (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 isolation under regulation 6,

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).

Isolation of persons suspected to be infected with coronavirus.

6. (1) This regulation applies where regulation 2(1)(a) or (b) is met in relation to a person ("P").

(2) The MOH may decide to require P to be kept in isolation 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 under paragraph (2).

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

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

Detention or isolation: additional provisions.

7. (1) Where a person ("P") is required to be detained or kept in isolation under regulation 3 or 6 or subjected to restrictions or requirements under regulation 5, the MOH must have due regard to P's well-being.

(2) Where P is detained or kept in isolation under regulation 3 or 6 or subjected to restrictions or requirements under regulation 5 for a period exceeding 14 days, the MOH must review the continuation of P's detention by reference to the provisions of those regulations.

(3) After each subsequent interval of 24 hours during which P is detained or kept in isolation under regulation 3 or 6 or subjected to restrictions or requirements under regulation 5, the MOH must review the continuation of P's detention by reference to the provisions of those regulations.

(4) Where P is detained or kept in isolation under regulation 3 or 6 or subjected to restrictions or requirements under regulation 5, 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 keep P in isolation under regulation 6, of –

- (a) the fact of P's detention or isolation,
- (b) the powers under which P is detained or kept in isolation,
- (c) the reason for P's detention or isolation,
- (d) the next steps that may be taken and by whom,
- (e) the obligation to keep the need for P's detention or isolation under review,
- (f) the penalty for obstructing a person carrying out a function under these Regulations under regulation 11(2), and

- (g) the right to apply for revocation or variation under regulation 9, where applicable.

Restrictions or requirements in respect of groups.

8. (1) The powers in regulations 2, 3 and 6 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 6 –
 - (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.

9. (1) A requirement or restriction imposed under this Part 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^c, the Children (Sark) Law, 2016^d, or the Child Protection (Sark) Law, 2020^e, (as the case may

^c 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.

^d Order in Council No. VIII of 2016; amended by Ordinance No. IX of 2016; and Sark Ordinance No. I of 2017.

^e Order in Council No. XIII of 2020.

be) for P,

- (c) a person who has been appointed Guardian of P,
- (d) P's spouse or civil partner, and
- (e) a person living with P as P's spouse,

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

(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.

10. (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 3(3) or a requirement to self-isolate imposed under regulation 3(4).

(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.

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

(a) fails, without reasonable excuse, to comply with a restriction or requirement imposed under regulation 2(2), 3(1), 5(1) or 7(4) or (5), or a direction under regulation 10(3)(a),

(b) fails, without reasonable excuse, to comply with a requirement that the person be detained under regulation 10(7), 10(9) or 10(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 3(3) or a requirement imposed under regulation 3(4).

(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) An offence under paragraph (2) is an arrestable offence for the purposes of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law,

2003^f ("PPACE"), and consequently the powers of summary arrest conferred by subsections (3) to (6) of section 28 of that Law apply to such an offence.

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

(6) A responsible adult who fails without reasonable excuse to comply with regulation 3(7), 4(2) or 5(9) commits an offence.

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

(8) A person guilty of an offence under paragraph (2) is liable on conviction to a fine not exceeding level 5 on the uniform scale.

(9) 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^g (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

^f 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.

^g 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.

conducted by customs officers).

Interpretation of this Part.

12. (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 as an infected area for the purposes of these Regulations on the 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,

"isolation" in relation to a person means the separation of that person from any other person in such a manner as to prevent infection or contamination, and **"self-isolate"** means to remain in isolation from others,

"police officer" includes a customs officer,

"PPACE": see regulation 11(4),

"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,

"requirement" means a requirement imposed under this Part (including the requirement to self-isolate under regulation 3(3)),

"restriction" means a restriction imposed under this Part,

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

"screening requirements" means the requirements set out in regulation 4(1).

(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.

PART II
MENTAL HEALTH AND HEALTH AND SAFETY

Modification of legislation relating to mental health.

13. Schedule 1 modifies –

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

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

Disapplication of requirement to thoroughly examine etc.

14. (1) Where a provision of the Safety of Employees (Miscellaneous Provisions) Ordinance, 1952^j set out in Schedule 2 to these Regulations requires any type of equipment to be –

- (a) thoroughly examined at least once in a specified period,

^h Order in Council No. XV of 2011; amended by Ordinance No. IX of 2016; and No. I of 2017.

ⁱ O.R.C. No. I of 2012; as amended by O.R.C. No. III of 2018.

^j Recueil d'Ordonnances Tome X, p. 194.

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

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

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

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

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

^k Recueil d'Ordonnances Tome XI, p. 201; as amended by Ordres en Conseil Vol. XXXI, p. 278; Order in Council No. XIII of 2001; Recueil d'Ordonnances Tome XXIV, p. 162; Tome XXV, p. 328; Tome XXVII, p. 139; Ordinance No. XXXIII of 2003; and No. IX of 2016.

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

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

- (a) may only disapply the requirement for a period stated in the certificate which may not exceed 30 days, and
- (b) may be revoked by the Chief Officer prior to the expiry of the certificate where that Officer is satisfied that it is no longer necessary.

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

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

Interpretation of this Part.

15. In this Part, "the Chief Officer" –

- (a) means the inspector appointed under section 15 of the Health and Safety at Work (General) (Guernsey) Ordinance, 1987¹ for the time being holding the title "the Chief Health and Safety Officer", and
- (b) includes any inspector acting by or under the authority of the inspector mentioned in subparagraph (a).

PART III

MISCELLANEOUS AND FINAL

Court of Appeal.

16. (1) Section 7 (Venue) of the Court of Appeal Law is disapplied.

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

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

¹ Recueil d'Ordonnances Tome XXIV, p. 162; as amended by Recueil d'Ordonnances Tome XXV, p. 328; Tome XXVII, p. 139; Ordinance No. XXXIII of 2003; No. LII of 2012; and No. IX of 2016.

Offences by legal persons and unincorporated bodies.

17. (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, subsection (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 paragraph (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.

18. (1) The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) No. 4) Regulations, 2020^m and the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 4) (Amendment) Regulations, 2020ⁿ are revoked.

(2) Anything done under or for the purposes of regulations revoked under paragraph (1) ("**the revoked 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

^m G.S.I. No. 64 of 2020.

ⁿ G.S.I. No. 66 of 2020.

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 revoked 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; and for the avoidance of doubt, the revocation of the revoked regulations does not affect any variation of the requirement to self-isolate under regulation 3(3) of the revoked regulations -

(a) by the MOH, in relation to a particular case, under regulation 3(6)(a) of those regulations, and

(b) by the Authority, in relation to one or more categories of case, under regulation 3(6)(b) of those regulations.

(4) 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.

(5) 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.

19. (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.

20. These Regulations may be cited as the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 5) Regulations, 2020.

Extent.

21. (1) Subject to paragraph (2), these Regulations shall have effect

throughout the Bailiwick.

- (2) Regulation 14 shall have effect in Guernsey only.

Commencement.

22. These Regulations shall come into force on 7th August, 2020.

Dated this 6th day of August, 2020

A handwritten signature in black ink, appearing to read 'G.A. ST PIER', is centered on the page.

G.A. ST PIER
Chairman of the Civil Contingencies Authority
For and on behalf of the Authority

SCHEDULE 1

Regulation 13

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.

SCHEDULE 2

Regulation 14

PROVISIONS OF THE SAFETY OF EMPLOYEES (MISCELLANEOUS
PROVISIONS) ORDINANCE, 1952

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

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 7th August, 2020 and shall have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law.

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 keep people in isolation. The provisions also create criminal offences and confer powers of enforcement on police officers, and provide for applications to vary or revoke requirements or restrictions imposed under this part to be made to the Royal Court.

Part II – mental health and health and safety

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

Paragraphs 4 to 6 modify the Mental Health (Bailiwick of Guernsey) Law, 2010 ("the Law") to permit an approved medical practitioner (rather than only a second opinion approved doctor) to provide a certificate for the purposes of section 56 and, in doing so, that practitioner will only be required to consult with one person, where the

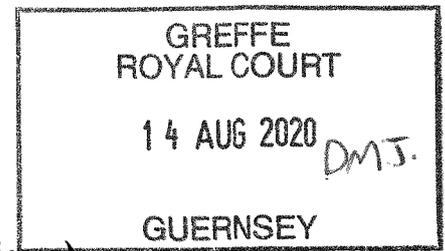
practitioner is of the opinion that is not reasonably practicable or would involve unreasonable delay to comply with the unmodified requirements.

Paragraphs 7 to 8 modify the Mental Health Review Tribunal Procedure Rules, 2012 to provide that the Mental Health Review Tribunal ("the Tribunal") may properly be constituted according to specified criteria.

Regulation 14 allows the Chief Health and Safety Officer ("the Chief Officer") to grant a certificate disapplying the requirements for examination, testing and inspection set out in regulation 14 and Schedule 2 in respect of equipment, occupier's installation or gas appliance and flue (as the case may be) specified in an application. A certificate may only be given where the Chief Officer is of the opinion that the disapplication will not prejudice the safety of any person operating the equipment etc. or any other person likely to be affected by its operation. The certificate may only disapply the relevant requirement for a period of up to 30 days, and may not disapply any other health and safety requirement (and, in particular, the requirement to keep the equipment etc. in a safe condition and good working order).

Part III – miscellaneous and final

Regulation 16 enables the Court of Appeal to conduct its proceedings remotely, and enable a Judge of Appeal to be sworn into office by the Royal Court constituted by the Bailiff sitting alone.



The Emergency Powers (Coronavirus)
(General Provision) (Bailiwick of Guernsey) (No. 5)
(Amendment) Regulations, 2020 No. 74

<i>Made</i>	13 th August, 2020
<i>Coming into operation</i>	17 th August, 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^a;

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

^a 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^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 them in that behalf, hereby makes the following regulations: –

Amendment of the (No.5) Regulations.

1. (1) The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 5) Regulations, 2020^c are amended as follows.

(2) In regulation 3, after paragraph (3) insert –

"(3A) On arrival in the Bailiwick from any place outside the Bailiwick, if required a person must –

(a) answer any question put to him or her by a relevant officer relating to his or her travel

^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.

^c G.S.I. No. 72 of 2020.

during the 7 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) In regulation 3, after paragraph (8) insert –

"(8A) Without prejudice to the generality of paragraphs (6) and (8), in any case where the Authority varies, under paragraph (6)(b), the requirement to self-isolate under paragraph (3), failure without reasonable excuse to comply with a condition or restriction set out in, and applicable to, that variation of the requirement is an offence if the condition in paragraph (8B) is met.

(8B) The condition referred to in paragraph (8A) is that the variation of the relevant requirement as published on the relevant States of Guernsey website provides (however expressed) that failure without reasonable excuse to comply with the specified condition or restriction is an offence under this regulation."

(4) In regulation 11 –

(a) in paragraph (1)(a) after "restriction" insert ", condition", and after "3(1)," insert "3(3A), 3(8A)", and

(b) in paragraph (2), at the end insert "(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, imposed by a variation of the requirement under regulation 3(3), or of a requirement under 3(4) -

(a) by the MOH in relation to a particular case, or

(b) by the Authority in relation to one or more categories of case, or in relation to all cases)".

(5) After regulation 11, insert –

"False or misleading information.

11A. (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,

(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."

(6) In regulation 12(1), in the definition of "infected area" after "specified" insert "by the MOH", and in the appropriate place insert –

""**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 3(3A),"

""**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."

Citation.

2. These Regulations may be cited as the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 5) (Amendment)

Regulations, 2020.

Commencement.

3. These Regulations shall come into force on 17th August, 2020.

Dated this 13th day of August, 2020

A handwritten signature in black ink, appearing to read "L.S. Trott". The signature is written in a cursive style with a large initial "L" and "S".

L.S. TROTT
Chairman of the Civil Contingencies Authority
For and on behalf of the Authority

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. 5) Regulations, 2020. They provide for persons arriving in the Bailiwick to be required to answer questions relating to their travel history during the previous 7 days, and to provide travel documents for inspection; and make it a criminal offence to provide false or misleading information in answer to questions put by officers in exercise of their functions under the Regulations. They also provide for a variation by the Civil Contingencies Authority of the requirement to self-isolate for 14 days to include provision making it an offence to fail without reasonable excuse to comply with a condition or restriction relating to that variation.

These Regulations will come into force on the 17th August, 2020 and shall have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law. They were signed by Deputy Trott, the Vice-President of the Policy & Resources Committee, in his capacity as Chairman of the Civil Contingencies Authority in the absence of the President of the Policy & Resources Committee, in accordance with paragraph 4 of Schedule 1 to the Law.