

ADDENDUM

Late Item for the Extraordinary Meeting of Chief Pleas – 19 November 2020

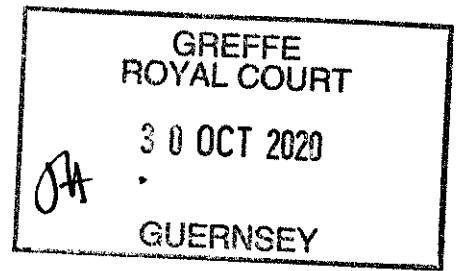
Under the Provisions of Rule 12(11) of the Rules of Procedure of the Chief Pleas of Sark the Speaker of Chief Pleas has waived the notice required under Rule 1(4) and allowed, by request of the Pandemic Emergency Committee, the following Item to be added to the Agenda:

REGULATION LAID BEFORE

The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 8) Regulations, 2020
(Came into Operation on 30th October 2020)

6 November 2020

Lt. Col. RJ Guille MBE
Speaker of Chief Pleas



GUERNSEY STATUTORY INSTRUMENT
2020 No. 105

**The Emergency Powers (Coronavirus)
(General Provision) (Bailiwick of Guernsey) (No. 8)**
Regulations, 2020

ARRANGEMENT OF REGULATIONS

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SCREENING, ASSESSMENT, AND POWERS TO DETAIN ETC.

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SCHEDULE: Modification of legislation relating to mental health.

**The Emergency Powers (Coronavirus)
(General Provision) (Bailiwick of Guernsey) (No. 8)**
Regulations, 2020

Made

29th October, 2020

Coming into operation

30th October, 2020

Laid before the States

, 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

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

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

Detention of persons by the MOH.

2. (1) This regulation applies where the MOH has reasonable grounds to believe that a person ("P") –

(a) is, or may be, infected or contaminated with, or is suspected or confirmed to be suffering from, coronavirus, and there is a risk that P might infect or contaminate others, or

(b) has arrived in the Bailiwick by air or sea and has left an infected area within the 14 day period immediately preceding the date of P's arrival in the Bailiwick.

(2) Where paragraph (1)(a) or (b) is met in relation to P, the MOH may, for the purposes of screening, assessment or the imposition of any restriction or requirement under regulation 3, impose on P a requirement to be detained until the later of –

- (a) the end of the period of 48 hours beginning with the time from which P's detention under this regulation begins,
- (b) such time as any screening requirements imposed on or in relation to P under regulation 3 have been complied with and the assessment referred to in that regulation carried out in relation to P.

Imposition of restrictions and requirements: general.

3. (1) Where regulation 2(1)(a) or (b) is met in relation to a person ("P"), the MOH may –

- (a) (orally or in writing) impose on or in relation to P one or more screening requirements to inform an assessment by the MOH of whether P presents, or could present, a risk of infecting or contaminating others,
- (b) carry out such an assessment in relation to P, and
- (c) following such an assessment, (orally or in writing) impose on or in relation to P any other restriction or requirement which the MOH considers necessary for

the purposes of removing or reducing the risk referred to in subparagraph (a), including (without limitation) the restrictions or requirements set out in paragraph (2).

(2) The restrictions or requirements are –

- (a) that P submit to medical examination,
- (b) that P be removed to a hospital or other suitable establishment,
- (c) that P be detained in a hospital or other suitable establishment,
- (d) that P self-isolate,
- (e) that P be disinfected or decontaminated,
- (f) that P wear protective clothing,
- (g) that P provide information or answer questions about P's health or other circumstances,
- (h) that P's health be monitored and the results reported,
- (i) that P attend training or advice sessions on how to reduce the risk of infecting or contaminating others,
- (j) that P be subject to restrictions on where P goes or with

whom P has contact,

(k) that P abstain from working or trading.

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

(4) Neither paragraph (1) nor regulation 4 affects the exercise of any powers under regulation 8; and nothing in this regulation (or in any other provision in these Regulations) affects the MOH's powers under any other enactment.

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

Requirement to self-isolate on arrival in the Bailiwick.

4. (1) A person who has arrived in the Bailiwick by air or sea and who has left an infected area within the 14 day period immediately preceding the date of his or her arrival in the Bailiwick must self-isolate for 14 days.

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

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

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

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

(4) The requirement to self-isolate under paragraph (1) and a requirement to self-isolate imposed under paragraph (3) may be varied –

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

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

- (a) specify exceptions to the requirement to self-isolate, and
- (b) shorten the duration of the requirement to self-isolate,

either unconditionally or on the MOH being satisfied
that one or more specified conditions have been met,

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).

(6) For the avoidance of doubt, and without prejudice to the generality of paragraphs (4) and (5), in any case where the MOH or the Authority varies the requirement to self-isolate under paragraph (1) or a requirement to self-isolate imposed under paragraph (3), that variation may be amended in accordance with paragraph (7) or (8) (as the case may be), and if so amended shall be treated for all purposes as continuing to have effect in accordance with its terms.

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

(8) In any case where the Authority has varied such a requirement to self-isolate, the Authority may –

(a) amend the variation by publication of the variation in amended form on the relevant States of Guernsey website, and the amendment shall have effect from such time as the Authority may specify on the face of the variation as so amended and published, and

(b) revoke the variation by publication of the revocation, or any replacement variation, on the relevant States of Guernsey website, and such revocation or replacement variation may contain saving and transitional provision (including in respect of persons acting in reliance on the revoked variation) as the Authority thinks fit.

(9) Without prejudice to the generality of paragraphs (4) and (5), in any case where the Authority varies, under paragraph (4)(b), the requirement to self-isolate under paragraph (1), 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 (10) is met.

(10) The condition referred to in paragraph (9) 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.

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

(12) Where a restriction or requirement is imposed orally on a person under regulation 3 or this regulation, or a restriction or requirement is orally varied, the person (or, in the case of a child, a person who is a responsible adult in relation to the child) must be provided with a written notification of the restriction or

requirement that has been imposed or varied as soon as reasonably practicable.

Screening requirements.

5. (1) For the purposes of these Regulations, the screening requirements in relation to a person ("P") are requirements to the effect that P must

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- (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.

- 6. (1) Where regulation 2(1)(a) or (b) is met in relation to a person ("P") –
 - (a) following an assessment by the MOH of the risk presented by P in accordance with regulation 3(1), or
 - (b) following P's release from detention under regulation 2, or from self-isolation under regulation 7,

the MOH may (orally or in writing) impose on P any one or more of the requirements specified in paragraph (2) where the MOH considers that it is necessary to do so in order to reduce or remove the risk of P infecting or contaminating others.

(2) The requirements specified for the purposes of paragraph (1) are for P to –

- (a) provide P's contact details to the MOH,
- (b) supply information to the MOH which may assist in assessing P's health,
- (c) at such time as the MOH may specify, allow a biological sample of P to be taken, including a sample of P's respiratory secretions or blood, by appropriate means including by swabbing P's nasopharyngeal cavity, or provide such a sample,
- (d) comply with any other specified condition or to take any other specified measure.

(3) The conditions or measures which may be specified under paragraph (2)(d) include –

- (a) a restriction on P's travel,
- (b) a restriction on P's activities,
- (c) a restriction on P's contact with specified persons.

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

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

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

(7) Before imposing or varying a requirement or restriction under this regulation, the MOH must –

(a) inform P (or, where P is a child, a person who is a responsible adult in relation to P) of the requirement or variation that the MOH is minded to impose or make, and

(b) have regard to any relevant representations by P (or, where P is a child, a person who is a responsible adult in relation to P), as to its suitability.

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

requirement.

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

(10) Where the MOH orally imposes a requirement or restriction on P under this regulation, or orally varies such a requirement or restriction, the MOH must provide P (or where P is a child, a person who is a responsible adult in relation to P) with a written notification of the requirement or restriction that has been imposed or varied.

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

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

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

(2) The MOH may require P to self-isolate if the MOH –

- (a) has reasonable grounds to believe that P is, or may be, infected or contaminated with coronavirus, and
- (b) considers that it is necessary to do so in order to reduce or remove the risk of P infecting or contaminating others.

(3) Where the MOH has reasonable grounds to believe that P is, or may be, infected or contaminated with coronavirus, the MOH may detain P pending the decision of the MOH whether to require P to self-isolate under paragraph (2).

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

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

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

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

Detention or self-isolation: additional provisions.

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

(2) Where P is detained or required to self-isolate under regulation 3 or 7 or subjected to restrictions or requirements under regulation 6 for a period exceeding 14 days, the MOH must review the continuation of P's detention or self-isolation by reference to the provisions of those regulations.

(3) After each subsequent interval of 24 hours during which P is detained or required to self-isolate under regulation 3 or 7 or subjected to restrictions or requirements under regulation 6, the MOH must review the continuation of P's detention or self-isolation by reference to the provisions of those regulations.

(4) Where P is detained or required to self-isolate under regulation 3 or 7 or subjected to restrictions or requirements under regulation 6, the MOH may require P to comply with screening requirements if the MOH considers that it is necessary and proportionate to do so in order to reduce or remove the risk of P infecting or contaminating others.

(5) Where P is detained under regulation 2, the MOH may require P to move to a suitable place.

(6) The MOH must notify P (or, where P is a child, a person who is a responsible adult in relation to P), as soon as P's detention under regulation 3 starts, or as soon as it is decided to require P to self-isolate under regulation 7, of –

- (a) the fact of P's detention or requirement to self-isolate,
- (b) the powers under which P is detained or required to self-isolate,
- (c) the reason for P's detention or self-isolation,
- (d) the next steps that may be taken and by whom,
- (e) the obligation to keep the need for P's detention or self-isolation under review,

(f) the penalty for obstructing a person carrying out a function under these Regulations under regulation 12(4), and

(g) the right to apply for revocation or variation under regulation 10, where applicable.

Restrictions or requirements in respect of groups.

9. (1) The powers in regulations 2, 3 and 7 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 7 –

- (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.

10. (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

^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.

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,

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

(3) For the avoidance of doubt, an application under this regulation may be made in such manner as the Court thinks fit.

Initial detention of persons to enable screening and assessment.

11. (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

^e Order in Council No. XIII of 2020.

the maintenance of public safety.

(2) This regulation also applies if a police officer has reasonable grounds to suspect that P is in breach of the requirement to self-isolate under regulation 4(1) or a requirement to self-isolate imposed under regulation 4(3).

(3) A police officer may –

(a) direct P to go immediately to a hospital or other suitable place for the purposes of the imposition of any restrictions or requirements under regulation 3,

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

(c) if P is already at a hospital or other suitable place, keep P at that place or remove P to another hospital or other suitable place for the purpose of the imposition of any restrictions or requirements under regulation 3.

(4) The power in paragraph (3) may be exercised when P is at any place.

(5) For the purpose of exercising the power in paragraph (3), a police officer may enter any place.

(6) Before exercising the power in paragraph (3), the police officer must –

- (a) so far as is reasonably practicable, consult the MOH and have due regard to the views of the MOH and any information provided by the MOH in relation to P,
- (b) have due regard to any guidance issued by the MOH and the Chief Officer of the Island Police Force,
- (c) where consultation has not been carried out under subparagraph (a) –
 - (i) consult the MOH as soon as reasonably practicable after the power in paragraph (3) has been exercised, and
 - (ii) have due regard to the views of the MOH and information provided by the MOH in relation to P.

(7) A person removed to or kept in a hospital or other suitable place under this regulation may be detained there for a period not exceeding the permitted period of detention.

(8) A police officer or the MOH, or a person authorised by either of them for the purposes of this paragraph, may, before the end of the permitted period of detention, take a person detained in a hospital or other suitable place to one or more other hospitals or other suitable places.

(9) A person taken to a hospital or other suitable place under

paragraph (8) may be detained there for a period ending no later than the permitted period of detention.

(10) A police officer may use reasonable force, if necessary, in the exercise of a power under this regulation.

(11) The MOH may, at any time before the expiry of the initial period, authorise the detention of a person for a further period not exceeding 24 hours (beginning immediately at the end of the initial period).

(12) An authorisation under paragraph (11) may be given only if the MOH considers that the authorisation is necessary because it is not reasonably practicable for the imposition of any restrictions or requirements under regulation 3 to be completed before the end of the initial period.

(13) In this regulation –

"authorised extended period" means such further period as is specified in an authorisation under paragraph (11),

"initial period" means the period of 24 hours beginning with –

(a) in a case where the person is removed to a hospital or other suitable place, the time when the person arrives at that place, or

(b) in a case where the person is kept at a hospital or other suitable place, the time when the police officer decides to keep the person at that place, and

"permitted period of detention" means the initial period of detention and the authorised extended period.

Offences and enforcement.

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

- (a) fails, without reasonable excuse, to comply with a restriction, condition or requirement imposed under regulation 2(2), 3(1), 4(2), 4(9), 6(1), 7(2), 7(4) or 8(4) or 8(5), or a direction under regulation 11(3)(a),
- (b) fails, without reasonable excuse, to comply with a requirement that the person be detained under regulation 7(3), 11(7), 11(9) or 11(11).

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

- (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.

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

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

(5) A responsible adult who fails without reasonable excuse to comply with regulation 4(11), 5(2), 6(9) or 7(6) commits an offence.

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

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

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

^f 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.

False or misleading information.

13. (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.

Interpretation of this Part: general.

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

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

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

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

"hospital" means –

- (a) any hospital regulated or operated by the States Committee for Health & Social Care (including, for the avoidance of doubt, Le Mignot Memorial Hospital in Alderney), or
- (b) the Sark Medical Centre,

"infected area" means an area specified by the MOH as an infected area for the purposes of these Regulations on the relevant States of Guernsey website, or otherwise reasonably considered by the MOH to be an area where there is sustained human-to-human transmission of coronavirus, or from which there is a high risk of importation of infection or contamination (with coronavirus) via travel from that area to the Bailiwick or any part thereof,

"police officer" includes a customs officer,

"PPACE" means the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^s,

"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,

^s 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.

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

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

"restriction" means a restriction imposed under this Part,

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

"screening requirements" means the requirements set out in regulation 5(1), and

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

(a) a passport,

(b) an identity card, or

(c) a ticket or other document that permits a person to make a journey, including such a ticket or document that is in wholly electronic form.

(2) In this Part, a reference to infection or contamination, however expressed, is a reference to infection or contamination with coronavirus, and related

expressions are to be construed accordingly.

Definition of "self-isolate".

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

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

(a) the terms of the direction, or

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

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

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

(4) In paragraph (2), "notified premises" means premises at an

address to be notified by P to the States of Guernsey at such time, and in such manner, as the MOH may from time to time require; and for the avoidance of doubt, the MOH may require such an address to be notified before, or on, P's arrival in the Bailiwick.

PART II
MISCELLANEOUS AND FINAL

Modification of legislation relating to mental health.

16. The Schedule 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.

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

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

^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.

- (a) the publication of a public statement under section 11C of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987^j (the "Financial Services Commission Law"),
- (b) the imposition of a discretionary financial penalty under section 11D of the Financial Services Commission Law, and
- (c) the imposition of a prohibition order under -
 - (i) section 34E of the Protection of Investors (Bailiwick of Guernsey) Law, 1987^k,
 - (ii) section 17A of the Regulation of Fiduciaries, Administration Businesses and Company

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

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

Directors, etc (Bailiwick of Guernsey) Law,
2000^l,

(iii) section 28A of the Insurance Business
(Bailiwick of Guernsey) Law, 2002^m,

(iv) section 18A of the Insurance Managers and
Insurance Intermediaries (Bailiwick of
Guernsey) Law, 2002ⁿ, and

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

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

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

(v) section 17A of the Banking Supervision (Bailiwick of Guernsey) Law, 1994^o,

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

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

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

(3) An oral hearing may be held by a Senior Decision Maker who is outside the Bailiwick by telephone, live television link or any other means of

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

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

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

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

Power of MOH to close schools.

18. (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.

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

Court of Appeal.

19. (1) Section 7 (Venue) of the Court of Appeal (Guernsey) Law, 1961^P 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.

Offences by legal persons and unincorporated bodies.

20. (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

^P Ordres en Conseil Vol. XVIII, p. 315. There are other amendments not material to these Regulations.

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

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

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

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

(a) in the case of a partnership, any partner,

(b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or

(c) any person purporting to act in any capacity described in subparagraph (a) or (b),

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

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

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

Revocation and savings.

21. (1) The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 7) Regulations, 2020^q ("the (No. 7) Regulations") are revoked.

(2) Anything done under or for the purposes of the (No. 7) Regulations before the commencement of these Regulations shall, to the extent that the same is required or authorised to be done under or for the purposes of these Regulations, have effect as if done under or for the purposes of the equivalent provision of these Regulations; and for the avoidance of doubt, the revocation of the revoked regulations does not affect any restriction, requirement, condition, prohibition, or penalty, imposed thereunder.

(3) Anything in the process of being done under or for the purposes of the (No. 7) 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 by the Authority of the requirement

^q G.S.I. No. 84 of 2020.

to self-isolate under regulation 3(3) of the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 5) Regulations, 2020 (as amended)^r, regulation 4(1) of Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 6) Regulations, 2020 (as amended)^s, or regulation 4(1) of the (No. 7) Regulations, which shall continue to have effect as if done under or for the purposes of the equivalent provision of these Regulations unless and until revoked by the Authority.

(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.

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

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

"coronavirus" means Severe Acute Respiratory Syndrome Coronavirus

^r G.S.I. No. 72 of 2020; amended by G.S.I. No. 74 of 2020 and G.S.I. No. 77 of 2020.

^s G.S.I. No. 84 of 2020; amended by G.S.I. No. 94 of 2020.

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.

23. These Regulations may be cited as the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 8) Regulations, 2020.

Extent.

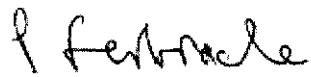
24. (1) Subject to paragraph (2), these Regulations shall have effect throughout the Bailiwick.

(2) Regulation 16 shall have effect in Guernsey only.

Commencement.

25. These Regulations shall come into force on 30th October, 2020.

Dated this 29th day of October, 2020

A handwritten signature in black ink, appearing to read "P. T.R. Ferbrache".

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

SCHEDULE

Regulation 16

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.

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 30th October, 2020 and shall have temporary effect only in accordance with the provisions of section 16 (duration and scrutiny of emergency regulations) of the Law.

Part I - screening, assessment and powers to detain etc.

This Part places a requirement to self-isolate on persons arriving in the Bailiwick, enables the Medical Officer of Health to place restrictions and requirements on other persons who are or who may be infected with coronavirus, and makes provision in respect of related matters, including powers for the Medical Officer of Health to impose screening requirements, to detain people and to require people to self-isolate. The provisions also create criminal offences and confer powers of enforcement on police officers, and provide for applications to vary or revoke requirements or restrictions imposed under this part to be made to the Royal Court.

Part II – miscellaneous and final

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

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

Paragraphs 5 to 6 modify the Mental Health Review Tribunal Procedure Rules, 2012 to provide that the Mental Health Review Tribunal may properly be constituted according to specified criteria.

Regulation 17 makes provision in relation to Senior Decision Makers ("SDMs") appointed by the Guernsey Financial Services Commission, including providing for SDMs to hold oral hearings remotely. Regulation 18 empowers the Medical Officer of Health to exercise her powers to require schools to take measures to prevent the spread of infection in Sark, and provide, for the avoidance of doubt, that such measures may include the immediate closure of any school. Regulation 19 enables the Court of Appeal to conduct its proceedings remotely.

