

STATES OF JERSEY



Jersey

DRAFT COVID-19 (SCHOOLS AND DAY CARE OF CHILDREN) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 25th March 2020
by the Minister for Education**

STATES GREFFE

REPORT

Background

The Draft Covid-19 (Schools and Day Care of Children) (Jersey) Regulations 202- (the “draft Regulations”) make provision for the Minister for Education to require the closure of school premises or day care premises to prevent the spread of Covid-19 coronavirus. They also make provision for the Minister to implement arrangements for the education of compulsory school-age children whilst they are unable to attend school as a result of the closure of school premises.

All Government of Jersey schools have been closed since Monday 23rd March, and will remain closed until the end of the Easter holidays. The earliest estimated return date for students is Monday 20th April. It has been recommended that all private schools, early-years and child care settings also follow this advice.

The Minister for Education is able to direct the closure of Government of Jersey provided schools under the [Education \(Jersey\) Law 1999](#) and may include conditions on the registration of private schools to secure their closure. Moreover, the Minister may attach conditions to the registration of children’s day care premises to require their closure on health and welfare grounds under the [Day Care of Children \(Jersey\) Law 2002](#).

However, these statutory arrangements were not designed for emergency situations. Given the unprecedented nature of the decision to close schools to contain the spread of Covid-19 coronavirus, it is essential that the statutory basis for the Minister’s decision is clear and robust, and provides certainty for children and young people, parents and schools and day care accommodation, especially if the closures are for a prolonged period of time.

The draft Regulations will achieve this by making express provision for the Minister for Education to direct the closure of schools and day care premises during the Covid-19 coronavirus outbreak.

Regulation 2 – power to require closure of schools and day care accommodation

Regulation 2 provides that, during the period of the Covid-19 coronavirus outbreak, the Minister for Education may, by published notice, require Government of Jersey ‘provided’ schools, private ‘non-provided’ schools, and children’s day care accommodation to close their premises in order to contain the spread of the virus. The notice may apply to all schools or day care providers; or to specified schools or day care accommodation.

Regulation 3 – arrangements for the provision of education otherwise than at a provided school

Regulation 3 provides that the Minister for Education may determine and implement alternative arrangements for the education of children who ordinarily attend provided schools, but who are prevented from doing so as a result of the Covid-19 coronavirus outbreak. These arrangements are to be treated as if they are approved by the Minister under Article 13 of the [Education \(Jersey\) Law 1999](#) as ‘*education otherwise than at school*’.

The Regulation provides that, whilst the standard of instruction may not meet the same standard as required by Article 13 (owing to the immediacy and extraordinariness of the circumstances), the Minister will, nonetheless, establish arrangements to ensure that children continue to receive instruction as if they were in full-time attendance at school.

Article 12 of the Education (Jersey) Law 1999 places a duty on a parent to ensure that their child receives full-time education. The Regulation, therefore, makes clear that where a child is subject to alternative education arrangements, a parent is not in breach of that duty provided that they ensure their child receives their education in accordance with those alternative arrangements.

Regulation 4 – duration and suspension

The Regulations will expire on 30th September 2020.

If, on receiving advice from professionals that the threat posed by Covid-19 coronavirus has abated, the Minister for Education may suspend the Regulations before that date.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of these draft Regulations.

Plans for the provision of alternative arrangements for the education of children for the period of the Covid-19 coronavirus outbreak are being prepared by the Department for Children, Young People, Education and Skills in consultation with schools. The resource implications associated with these arrangements will be considered as part of the development of these plans.

EXPLANATORY NOTE

These Regulations, if made, make provision for the Minister to require –

- (a) the closure of school premises or day care accommodation (as defined in the Day Care of Children (Jersey) Law 2002) including day carer premises, to prevent the infection by, and spread of Covid-19 (coronavirus); and
- (b) provided schools, as listed in Schedule 1 to the Education (Jersey) Law 1999 (“Education Law”), to implement arrangements for the education of compulsory school age children whilst those children are unable to attend school by reason of the closure of school premises.

Regulation 1 is an interpretation provision.

Regulation 2 enables the Minister for Education (“Minister”) to publish a notice requiring provided and non-provided schools (within the meaning of the Education Law), and day care accommodation to close their premises to prevent the infection and spread of Covid-19. The notice must be published in such a way as to bring it to the attention of those affected and may be framed so as to apply to all schools or day care accommodation, or just to specified schools or day care accommodation. Exceptions may be specified in the notice and the period of the closure.

Regulation 3 enables the Minister to determine and direct the implementation of alternative arrangements for the education of children who ordinarily attend provided schools but are prevented from so doing by reason of the closure of school premises because of the Covid-19 outbreak. Any such arrangements are to be treated as if they are arrangements approved by the Minister under Article 13 (education otherwise than at school) of the Education Law. A parent of a child subject to these alternative education arrangements is not in breach of their duty to ensure that their child receives full time education (Article 12 of the Education Law) if the parent ensures that the child receives their education in accordance with those alternative arrangements. This Regulation does not affect the provisions of Article 13 of the Education Law which would continue regardless of whether or not the Minister exercises her powers under this Regulation.

Regulation 4 provides for the title by which these Regulations may be cited and for them to expire on 30th September 2020. These Regulations may be suspended before that date if the Minister declares that the threat posed by Covid-19 has abated.



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Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES make these Regulations under the Order in Council dated 28th March 1771¹ –

1 Interpretation

- (1) In these Regulations –
 - “Covid-19” means the notifiable contagious and infectious disease set out in the Schedule to the Notifiable Diseases (Jersey) Order 1988²;
 - “day care accommodation” includes day carer premises;
 - “Education Law” means the Education (Jersey) Law 1999³;
 - “published” means published online or in any other manner appearing likely to the Minister to bring the item to the attention of those likely to be affected by it, or of the public generally, and “publish” is construed accordingly.
- (2) Words and phrases used in these Regulations and not otherwise defined, have the same meanings as in the Education Law and the Day Care of Children (Jersey) Law 2002⁴ in whichever the word or phrase occurs.

2 Power to require closure of schools and day care accommodation

- (1) The Minister may, by published notice, require the closure of school premises or day care accommodation to prevent the contamination by, and spread of, Covid-19.
- (2) A notice under paragraph (1) may –
 - (a) apply in respect of all schools or day care accommodation;
 - (b) apply in respect of specified schools or day care accommodation;
 - (c) specify the persons in respect of whom the school premises are, or day care accommodation is, closed;
 - (d) specify circumstances and exceptions where the school premises are, or day care accommodation is, not closed in respect of specified persons;

- (e) specify the period for which the school premises are, or day care accommodation is, closed.

3 Arrangements for the provision of education otherwise than at a provided school

- (1) This Regulation applies where a child of compulsory school age is not able to receive full-time education by regular attendance at a provided school by reason of those school premises being closed to prevent the contamination by, and spread of, Covid-19.
- (2) Where this Regulation applies, the Minister may, in respect of a provided school, determine the arrangements to be made for the education of a child otherwise than on provided school premises.
- (3) Despite the generality of paragraph (2), the Minister may determine arrangements which include arrangements that may not meet the standard of instruction satisfying the Minister under Article 13(2) of the Education Law, but which will nevertheless enable a child to continue to receive instruction of the Jersey Curriculum as if that child were receiving full-time education by regular attendance at school.
- (4) Where the Minister determines arrangements under this Regulation, the Minister may direct a provided school to implement such arrangements and those arrangements are to be taken as arrangements approved under Article 13 of the Education Law.
- (5) Where a provided school implements arrangements under this Regulation, a parent of a child of compulsory school age is taken as having discharged his or her duty under Article 12(1) of the Education Law by ensuring his or her child receives instruction in accordance with those arrangements.
- (6) The Minister may publish guidance as to the arrangements determined under paragraph (3), and as to their implementation.
- (7) A determination made, or direction given under this Regulation must be published by the Minister.
- (8) Nothing in this Regulation is to be taken as derogating from the provisions of Article 13 of the Education Law.

4 Citation, duration and suspension

- (1) These Regulations may be cited as the Covid-19 (Schools and Day Care of Children) (Jersey) Regulations 202-.
- (2) These Regulations come into force on the day after they are made.
- (3) These Regulations expire on 30th September 2020.
- (4) The effect of these Regulations is suspended for any period during which there is in effect a notice published by the Minister declaring that the threat from Covid-19 is no longer sufficient to justify the use of the powers conferred by these Regulations.
- (5) The notice published under paragraph (4) must state the period during which it is in effect, which may be until the expiry of these Regulations, an indefinite period, a specified period or a period to be determined in any manner specified in the notice.

ENDNOTES

Table of Endnote References

<i>1</i>	<i>chapter 15.120</i>
<i>2</i>	<i>chapter 20.875.50</i>
<i>3</i>	<i>chapter 10.800</i>
<i>4</i>	<i>chapter 10.700</i>