

# STATES OF JERSEY



Jersey

## **DRAFT COVID-19 (CIVIL PARTNERSHIP AND MARRIAGE No. 2) (JERSEY) REGULATIONS 202-**

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**Lodged au Greffe on 11th June 2020  
by the Minister for Home Affairs**

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**STATES GREFFE**



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## REPORT

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### 1. Introduction

- 1.1 The Draft Covid-19 (Civil Partnership and Marriage No. 2) (Jersey) Regulations 202- (the “draft Regulations”) would amend the [Marriage and Civil Status \(Jersey\) Law 2001](#) (the “2001 Law”), the [Civil Partnership \(Jersey\) Law 2012](#) (the “2012 Law”), the [Marriage and Civil Status \(Jersey\) Order 2018](#) (the “2018 Order”) and the [Civil Partnership \(Approved Premises\) \(Jersey\) Order 2012](#) (the “2012 Order”).
- 1.2 The draft Regulations temporarily amend provisions governing the solemnization of marriages and registration of civil partnerships.
- 1.3 The aim of the draft Regulations is to allow the ceremonies where a marriage is solemnized or a civil partnership is registered to resume in a way that minimises the risk to couples, guests and officials from the potential transmission of and subsequent infection from Covid-19.
- 1.4 The ceremonies where a marriage is solemnised or a civil partnership is registered will not begin to take place until the 1st July, however it is important to enable couples who want to be married or civil partnered after the 1st July to make arrangements to do so, it is therefore necessary for the States Assembly to consider these draft Regulations now so that if they are approved couples can be informed and provided with guidance well before the ceremonies begin to take place.
- 1.5 It is worth noting that these draft Regulations form the second part of a set of required legislative amendments that enable marriages and civil partnerships to take place safely during this period of Covid-19. The first set of draft Regulations focused on the administrative processes that are required usually 6 to 8 weeks prior to any marriage or civil partnerships taking place. It was felt that bringing forward the draft Regulations in two phases was a pragmatic solution to the short timescales we face.
- 1.6 The draft Regulations propose temporary measures which if approved will expire on 30th September 2020.

### 2. Legislation

- 2.1 The Marriage and Civil Status (Jersey) Law 2001 and the Civil Partnership (Jersey) Law 2012 provides a legislative framework for Marriage and Civil Partnerships to take place in Jersey.
- 2.2 The draft Regulations propose four changes that if approved would provide temporary measures to enable marriages and civil partnerships to restart in a safe way whilst the Island is still having to take necessary steps to mitigate the risks posed by Covid-19.

#### *Temporary suspension of the right for the public to attend ceremonies*

- 2.3 Both the 2001 Law and the 2012 Law currently allow members of the public to freely attend the solemnization of a marriage or registration of a civil partnership. This permitted presence of the public does present a public health risk and could lead to the ceremony not complying with public health guidance on maximum numbers permitted. However, raising a lawful objection to a marriage or civil partnership is an important safeguard that should continue to be enabled.

- 2.4 The draft Regulations would, if adopted, suspend the right for the public to attend the ceremony, but would temporarily require that all notices placed outside the location of the ceremony contain a telephone number that would enable a member of the public to contact the Superintendent Registrar and register a lawful objection to the marriage or civil partnership.

*Duty on marriage celebrants and civil partnership registrars to adhere to guidance*

- 2.5 It is important that all ceremonies adhere to public health guidance to minimise the risk of Covid-19 being transmitted amongst the couple, guests and celebrants. As such it is proposed that the Superintendent Registrar can issue guidance based on the current public health advice that outlines parameters that will need to be adhered to for a marriage or civil partnership to take place.
- 2.6 The draft Regulations will if approved make a temporary provision stating that a marriage celebrant or civil partnership registrar must not permit any marriage to be solemnized by them where any aspect of the ceremony contravenes the guidance that has been issued by the Superintendent Registrar.
- 2.7 If despite reasonable steps being taken, the marriage celebrant or civil partnership registrar believes that the arrangements for the ceremony will not or do not comply with the guidance, then they must not begin or continue with the ceremony until the necessary action has been taken so that the ceremony is able to comply with the guidance.
- 2.8 The draft Regulations also require that the registrar or celebrant must inform the Minister for the Environment of any circumstances relating to the ceremony that might constitute a statutory nuisance under Regulation 1A of the [Statutory Nuisances \(Jersey\) Regulations 2017](#).

*Approval of Locations during a period of Covid-19*

- 2.9 Due to the impact of Covid-19 on the hospitality sector couples have been left with significant uncertainties over location bookings. It is therefore necessary to make temporary modifications to the approval of premises process to ensure that the approvals process is responsive, timely and able to suitably service the changing demands required at short notice during the Covid-19 period.
- 2.10 The draft Regulations will if approved amend the approving authority to consist of the Superintendent Registrar, this is different to the current approving authority which is the Connétable of the relevant parish. This is to relieve the Connétables of a duty during a time when they may be required to function with significantly limited staffing and resources. Furthermore, is necessary to temporarily restrict the types of premises which could be newly approved to private dwellings, however, renewals of existing approved locations would continue. This is to ensure that applications for approval of locations can be processed with the required speed to enable new locations (e.g. gardens on private property) to be approved at shorter than usual notice. It also enables a request for a change the intended location of a ceremony to align with an approval of a new intended location of a ceremony.
- 2.11 Due to the widespread closures of hospitality venues it is also reasonable to temporarily shorten the notice period required by law to allow parties to a marriage more flexibility to change the location of their intended marriage given the current circumstances. As such if the draft Regulations are approved the 25-day notice period would be shortened to 10 days.

2.12 The draft Regulations would also if approved provide that a location made available for use by the Superintendent Registrar by the States of Jersey to be deemed as an approved location. As the Office of the Superintendent Registrar is to remain closed to the public it is necessary to locate an alternative space to function as a registry office where solemnization of marriages can take place. Therefore, when a suitable space is found and provided the draft Regulations, if approved, will designate it an approved location for a temporary period until the 30th September.

*Searches*

2.13 As all civil registry activity has been centralised to the Office of the Superintendent Registrar during the pandemic period all registers and indexes are currently kept by the Superintendent Registrar. The Office of the Superintendent Registrar remains closed as a mitigation to safeguard the Island's civil registration function, however, the draft Regulations will if approved temporarily provide that the Superintendent Registrar inspect or search a register or index as instructed by members of the public on their behalf upon payment of the prescribed fee for the temporary period.

**3. Financial and manpower implications**

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



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## EXPLANATORY NOTE

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These Regulations temporarily amend the Civil Partnership (Jersey) Law 2012, the Marriage and Civil Status (Jersey) Law 2001, the Civil Partnership (Approved Premises) (Jersey) Order 2012 and the Marriage and Civil Status (Jersey) Order 2018. The amendments are in response to the Covid-19 outbreak and add to amendments made by the Covid-19 (Civil Partnership and Marriage) (Jersey) Regulations 2020.

*Regulation 1* inserts *new Articles 26D to 26I* into the Civil Partnership (Jersey) Law 2012.

*New Article 26D* requires civil partnership ceremonies to comply with guidance issued by the Superintendent Registrar in response to the outbreak of Covid-19. A civil partnership registrar who reasonably believes that the arrangements for a ceremony the civil partnership registrar is to solemnize do not comply with the guidance must take reasonable steps to bring the arrangements into compliance with the guidance. If the arrangements will still not comply with the guidance, the civil partnership registrar must not start or continue the ceremony.

*New Article 26E* suspends Article 14(3) of the Civil Partnership (Jersey) Law 2012. That Article gives the public the right to freely attend civil partnership ceremonies.

*New Article 26F* allows the Superintendent Registrar to publish guidance for any purpose connected with the Civil Partnership (Jersey) Law 2012 in response to the outbreak of Covid-19.

*New Article 26G* allows the Superintendent Registrar, rather than the Connétable, to approve premises to be used for civil partnership ceremonies. *New Article 26G* also declares a premises provided by the States for use by the Superintendent Registrar to be an approved premises.

*New Article 26H* removes the ability of members of the public to search any register or index kept by the Superintendent Registrar. However, the Superintendent Registrar must, upon payment of the prescribed fee, search a register or index on behalf of a member of the public.

*New Article 26I* provides that Part 2A of the Civil Partnership (Jersey) Law 2012 (which contains the provisions inserted by these Regulations as well as provisions inserted by the Covid-19 (Civil Partnership and Marriage) (Jersey) Regulations 2020) expires on 30th September 2020.

*Regulation 2* inserts *new Article 23(1A)*, *new Article 23(4)(c)*, *new Articles 24M to 24R* and *new Articles 80E and 80F* into the Marriage and Civil Status (Jersey) Law 2001.

*New Article 23(1A)* declares a location provided by the States for use by the Superintendent Registrar to be an approved location.

*New Article 23(4)(c)* allows a premises to be approved for use for specified marriage ceremonies.

*New Article 24M* suspends Article 17(6) of the Marriage and Civil Status (Jersey) Law 2001. That Article gives the public the right to freely attend marriage ceremonies.

*New Article 24N* requires a notice of solemnization to contain a telephone number that would enable a member of the public to contact the Superintendent Registrar to register a lawful objection to the marriage taking place.

*New Article 24O* allows the parties to an intended marriage to change the location of the marriage by notifying the Superintendent Registrar of the new location at least 10 days

before the date of the marriage, rather than the 25 days required by Article 18(2) of the Marriage and Civil Status (Jersey) Law 2001.

*New Article 24P* removes the ability of members of the public to search any register or index kept by the Superintendent Registrar. However, the Superintendent Registrar must, upon payment of the prescribed fee, search a register or index on behalf of a member of the public.

*New Article 80E* requires marriage ceremonies to comply with guidance issued by the Superintendent Registrar in response to the outbreak of Covid-19. A marriage celebrant who reasonably believes that the arrangements for a ceremony the celebrant is to solemnize do not comply with the guidance must take reasonable steps to bring the arrangements into compliance with the guidance. If the arrangements will still not comply with the guidance, the celebrant must not start or continue the ceremony.

*New Article 80F* provides that the provisions inserted into the Marriage and Civil Status (Jersey) Law 2001 by these Regulations and by the Covid-19 (Civil Partnership and Marriage) (Jersey) Regulations 2020 expire on 30th September 2020.

*Regulation 3* inserts *new Articles 2A, 4A and 9A* into the Civil Partnership (Approved Premises) (Jersey) Order 2012.

*New Article 2A* limits approvals of premises to be used for civil partnership ceremonies to renewals of existing approvals and to new approvals for private homes and gardens. An application for a new approval of a private home or garden must be made to the Superintendent Registrar, who must consider and grant or refuse the application.

*New Article 4A* contains a change to the standard conditions that must be attached to the approval of a premises. Rather than requiring a notice at the premises to contain directions to the room in which a civil partnership ceremony will take place, the notice must contain a telephone number that would enable a member of the public to contact the Superintendent Registrar to register a lawful objection to the civil partnership taking place.

*New Article 9A* removes the ability of members of the public to search the register of approved premises. However, the Superintendent Registrar must, on request, search the register on behalf of a member of the public.

*New Articles 2A, 4A and 9A* expire on 30th September 2020.

*Regulation 4* inserts *new Article 20A* and *new Part 3A* into the Marriage and Civil Status (Jersey) Order 2018.

*New Article 20A* requires marriage celebrants to ensure that all guidance issued by the Superintendent Registrar in response to the Covid-19 outbreak is complied with, and to ensure that the details of the solemnization of marriage include a telephone number that would enable a member of the public to contact the Superintendent Registrar to register a lawful objection to the marriage taking place. *New Article 20A* expires on 30th September 2020.

*New Part 3A* consists of *new Articles 24A to 24C*.

*New Article 24A* limits approvals of locations to be used for marriage ceremonies to renewals of existing approvals and to new approvals for private homes and gardens.

*New Article 24B* contains further modifications to the scheme for approval of locations. A person must not approve a location unless the person is satisfied that any guidance issued by the Superintendent Registrar in response to the Covid-19 outbreak can be complied with at the location. An application for a new approval of a private home or garden must be made to the Superintendent Registrar, who must consider and grant or refuse the application. Finally, an approved location is not required to be accessible by



the public, but a notice must be displayed at the location that contains a telephone number that would enable a member of the public to contact the Superintendent Registrar to register a lawful objection to the marriage taking place.

*New Article 24C* provides that *new Part 3A* expires on 30th September 2020.

*Regulation 5* states that these Regulations are called the Covid-19 (Civil Partnership and Marriage No. 2) (Jersey) Regulations 202- and come into force on the day after they are made.





Jersey

## **DRAFT COVID-19 (CIVIL PARTNERSHIP AND MARRIAGE No. 2) (JERSEY) REGULATIONS 202-**

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Jersey

## **DRAFT COVID-19 (CIVIL PARTNERSHIP AND MARRIAGE No. 2) (JERSEY) REGULATIONS 202-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES** make these Regulations under Article 2 of the Covid-19 (Enabling Provisions) (Jersey) Law 2020<sup>1</sup> –

### **1 Temporary amendment of Civil Partnership (Jersey) Law 2012**

For Article 26D of the Civil Partnership (Jersey) Law 2012<sup>2</sup> there is substituted –

#### **“26D Ceremonies must comply with guidance**

- (1) This Article applies to a civil partnership registrar who reasonably believes that the arrangements for a civil partnership ceremony that the civil partnership registrar is to solemnize under Article 14 do not or will not comply with any guidance issued by the Superintendent Registrar under Article 26F.
- (2) The civil partnership registrar must take reasonable steps to ensure that the arrangements for the ceremony comply with the guidance.
- (3) If, despite reasonable steps being taken, the civil partnership registrar believes that the arrangements for the ceremony will not comply with the guidance, the civil partnership registrar –
  - (a) must not attend the ceremony;
  - (b) if already in attendance, must not start the ceremony; or
  - (c) if the ceremony has started, must suspend the ceremony (and must not solemnize the civil partnership).
- (4) The civil partnership registrar must inform the Minister for the Environment of any circumstances relating to the ceremony that might constitute a statutory nuisance under Regulation 1A of the Statutory Nuisances (Jersey) Regulations 2017<sup>3</sup>.
- (5) In this Article, “arrangements” includes factors (such as the layout of the venue and the number of guests) that influence whether physical distancing and other safety measures can be achieved as well as the conduct of the people attending the ceremony.

**26E Suspension of right of public to freely attend civil partnership ceremonies**

Article 14(3) does not apply.

**26F Superintendent Registrar may issue guidance**

- (1) The Superintendent Registrar may, in response to the outbreak of Covid-19, publish guidance for any purpose connected with this Law.
- (2) The Superintendent Registrar must publish the guidance in a manner that the Superintendent Registrar considers will be likely to draw the guidance to the attention of any person affected by it.

**26G Change to approval of premises**

- (1) The Superintendent Registrar may approve premises in accordance with Article 13 and any Order made under that Article.
- (2) References in Article 13 to the Connétable must be read as also referring to the Superintendent Registrar.
- (3) A premises provided by the States for use by the Superintendent Registrar is an approved premises.

**26H Searches of register**

Despite Articles 17(2), 21(1) and (2), –

- (a) the Superintendent Registrar is not required to allow a member of the public to inspect or search a register or index kept by the Superintendent Registrar; but
- (b) the Superintendent Registrar must, upon payment of the fee prescribed in relation to Article 21(2)(a), search a register or index on behalf of a member of the public.

**26I Expiry of this Part**

This Part expires on 30th September 2020.”.

**2 Temporary amendment of Marriage and Civil Status (Jersey) Law 2001**

- (1) After Article 23(1) of the Marriage and Civil Status (Jersey) Law 2001<sup>4</sup> there is inserted –

“(1A) A location is an approved location if –

- (a) it is approved under the scheme established by Order made under paragraph (2); or
- (b) it is provided by the States for use by the Superintendent Registrar.”

- (2) After Article 23(4)(b) of the Marriage and Civil Status (Jersey) Law 2001 there is inserted –

“(c) an approval for only a marriage specified in the approval to be solemnized at that location.”.

- (3) For Article 24M of the Marriage and Civil Status (Jersey) Law 2001<sup>5</sup> there is substituted –

**“24M Suspension of right of public to freely attend marriage ceremonies**

Article 17(6) does not apply.

**24N Additional information required in notices of solemnization**

A notice of solemnization of marriage displayed under Article 17(4) must, in addition to the requirements of Article 17(5), contain a telephone number that would enable a member of the public to contact the Superintendent Registrar to register a lawful objection to the marriage taking place.

**24O Change to location of intended marriage**

- (1) If the parties to a marriage intended to take place in Jersey wish to change the location of the intended marriage contained in the notice of intended marriage, both parties must notify the Superintendent Registrar in writing of the new location not later than 10 days before the date of the intended marriage.
- (2) This Article overrides Article 18(2) and is subject to Article 24.

**24P Searches of register**

Despite Article 78(2), –

- (a) the Superintendent Registrar is not required to allow a member of the public to search a register or index kept by the Superintendent Registrar; but
- (b) the Superintendent Registrar must, upon payment of the prescribed fee, search a register or index on behalf of a member of the public.”.
- (4) After Article 80D of the Marriage and Civil Status (Jersey) Law 2001 there is inserted –

**“80E Ceremonies must comply with guidance related to Covid-19**

- (1) This Article applies to a marriage celebrant who reasonably believes that arrangements for a marriage ceremony that the celebrant is to solemnize under Part 2 or 3 do not or will not comply with any guidance issued by the Superintendent Registrar intended to address the outbreak of Covid-19.
- (2) The marriage celebrant must take reasonable steps to ensure that the arrangements for the ceremony comply with the guidance.

- (3) If, despite reasonable steps being taken, the marriage celebrant believes that the arrangements for the ceremony will not comply with the guidance, the marriage celebrant –
  - (a) must not attend the ceremony;
  - (b) if already in attendance, must not start the ceremony; or
  - (c) if the ceremony has started, must suspend the ceremony (and must not solemnize the marriage).
- (4) The marriage celebrant must inform the Minister for the Environment of any circumstances relating to the ceremony that might constitute a statutory nuisance under Regulation 1A of the Statutory Nuisances (Jersey) Regulations 2017<sup>6</sup>.
- (5) In this Article, “arrangements” includes factors (such as the layout of the venue and the number of guests) that influence whether physical distancing and other safety measures can be achieved as well as the conduct of the people attending the ceremony.

#### **80F Expiry of provisions related to temporary Covid-19 measures**

The following provisions expire on 30th September 2020 –

- (a) Article 23(1A);
- (b) Article 23(4)(c);
- (c) the cross-heading above Article 24H;
- (d) Articles 24H to 24P;
- (e) Article 80E; and
- (f) this Article.”.

### **3 Temporary amendment of Civil Partnership (Approved Premises) (Jersey) Order 2012**

- (1) After Article 2 of the Civil Partnership (Approved Premises) (Jersey) Order 2012<sup>7</sup> there is inserted –

#### **“2A Approvals temporarily limited to renewals and certain private residences**

- (1) Despite anything to the contrary in Article 2, an application may be made for the approval of a premises only if –
  - (a) the application is to renew an existing approval; or
  - (b) the location to which the application relates is a home.
- (2) An application to which paragraph (1)(b) relates –
  - (a) must be made to the Superintendent Registrar; and
  - (b) must be considered and granted or refused by the Superintendent Registrar as if all relevant references to the Connétable in this Order are references to the Superintendent Registrar.
- (3) In this Article, “home” –



- (a) means a residential unit, within the meaning of the Residential Tenancy (Jersey) Law 2011<sup>8</sup>, in which a person resides; and
  - (b) includes any associated garden, yard, or other outdoor space to which the public do not have access without permission.
- (4) This Article expires on 30th September 2020.”
- (2) After Article 4 of the Civil Partnership (Approved Premises) (Jersey) Order 2012<sup>9</sup> there is inserted –

#### **“4A Change to conditions in response to Covid-19 outbreak**

- (1) Upon granting an approval the Connétable or Superintendent Registrar must attach to the approval the standard conditions contained in Schedule 1, modified as described in paragraph (2).
  - (2) For paragraph 6(b) of Schedule 1, the following must be substituted –
    - “(b) containing a telephone number that would enable a member of the public to contact the Superintendent Registrar to register a lawful objection to the civil partnership taking place.”.
  - (3) This Article overrides Article 4(1)(a).
  - (4) This Article expires on 30th September 2020.”.
- (3) After Article 9 of the Civil Partnership (Approved Premises) (Jersey) Order 2012 there is inserted –

#### **“9A Register temporarily closed to public inspection**

- (1) Article 9(4) does not apply.
- (2) The Superintendent Registrar must, upon request, search the register of approved premises on behalf of a member of the public.
- (3) This Article expires on 30th September 2020.”.

### **4 Temporary amendment of Marriage and Civil Status (Jersey) Order 2018**

- (1) After Article 20 of the Marriage and Civil Status (Jersey) Order 2018<sup>10</sup> there is inserted –

#### **“20A Additional standard conditions during Covid-19 outbreak**

- (1) A marriage celebrant must ensure that all guidance issued by the Superintendent Registrar in response to the Covid-19 outbreak is complied with.
- (2) A marriage celebrant must ensure that the details of the solemnization of a marriage displayed under Article 20(2)(d) also include a telephone number that would enable a member of the public to contact the Superintendent Registrar to register a lawful objection to the marriage taking place.

- (3) This Article expires on 30th September 2020.”.
- (2) After Part 3 of the Marriage and Civil Status (Jersey) Order 2018<sup>11</sup> there is inserted –

### **“PART 3A**

#### **APPROVAL OF LOCATION FOR SOLEMNIZATION OF MARRIAGE DURING COVID-19 OUTBREAK**

##### **24A Approvals limited to renewals and homes**

- (1) Despite anything to the contrary in Part 3, an application may be made for the approval of a location for the solemnization of marriage only if –
  - (a) the application is to renew an existing approval; or
  - (b) the location to which the application relates is a home.
- (2) In this Article, “home” –
  - (a) means a residential unit, within the meaning of the Residential Tenancy (Jersey) Law 2011<sup>12</sup>, in which a person resides; and
  - (b) includes any associated garden, yard, or other outdoor space to which the public do not have access without permission.

##### **24B Modifications to scheme for approval of locations**

- (1) Applications to which Article 24A applies must not be approved unless the person approving the application is satisfied that any guidance issued by the Superintendent Registrar in response to the Covid-19 outbreak can be complied with at the location to which the application relates.
- (2) For applications to which Article 24A(1)(b) applies, all references to “approving authority” in Part 3 must be read as references to the Superintendent Registrar.
- (3) Despite Article 16(6)(b) –
  - (a) an approved location is not required to be accessible by the public; but
  - (b) it is a condition of approval in respect of an approved location that, during the period commencing at least one hour before the solemnization of a marriage at the location and ending at the end of the marriage ceremony, a notice is displayed at the location that contains a telephone number that would enable a member of the public to contact the Superintendent Registrar to register a lawful objection to the marriage taking place.

##### **24C Expiry of this Part**

This Part expires on 30th September 2020.”.

## **5 Citation and commencement**

These Regulations may be cited as the Covid-19 (Civil Partnership and Marriage No. 2) (Jersey) Regulations 202- and come into force on the day after they are made.

## ENDNOTES

### Table of Endnote References

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<i>1</i>	<i>L.2/2020</i>
<i>2</i>	<i>chapter 12.260</i>
<i>3</i>	<i>chapter 22.900.10</i>
<i>4</i>	<i>chapter 12.600</i>
<i>5</i>	<i>chapter 12.600</i>
<i>6</i>	<i>chapter 22.900.10</i>
<i>7</i>	<i>chapter 12.260.10</i>
<i>8</i>	<i>chapter 18.720</i>
<i>9</i>	<i>chapter 12.260.10</i>
<i>10</i>	<i>chapter 12.600.10</i>
<i>11</i>	<i>chapter 12.600.10</i>
<i>12</i>	<i>chapter 18.720</i>