

# STATES OF JERSEY



Jersey

## **DRAFT COVID-19 (WORKPLACE RESTRICTIONS) (JERSEY) REGULATIONS 202- (P.59/2020): AMENDMENT**

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**Lodged au Greffe on 18th May 2020  
by the Minister for Health and Social Services**

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**STATES GREFFE**



DRAFT COVID-19 (WORKPLACE RESTRICTIONS) (JERSEY) REGULATIONS  
202- (P.59/2020): AMENDMENT

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**1 PAGE 10, REGULATION 2 –**

In Regulation 2(2) after “Culture” insert “and, if reasonably practicable, the Health and Social Security Scrutiny Panel”.

**2 PAGE 10, REGULATION 3 –**

(1) In Regulation 3(1) –

- (a) in sub-paragraph (b)(ii) and (iii) for “workplaces” substitute “specified workplaces or a specified class of workplace”;
- (b) in sub-paragraph (c) after “open” insert “or being open only for, or except for, specified purposes”.

(2) In Regulation 3(2) for “paragraph (1)(b)(i)” substituted “paragraph (1)(b)”.

**3 PAGE 11, REGULATION 5 –**

In Regulation 5 –

(a) for paragraph (1) substitute –

“(1) A person who is an occupier or operator commits an offence, and is liable to a fine, if the person contravenes a restriction Order by –

- (a) opening a workplace that is prohibited from opening;
- (b) opening a workplace other than for purposes for which is it permitted to be open;
- (c) failing to take reasonable steps to prevent any person from entering a workplace that is prohibited from being open; or
- (d) failing to take reasonable steps to comply with a specified condition.”;

(b) in paragraph (4) delete “all”.

MINISTER FOR HEALTH AND SOCIAL SERVICES

## REPORT

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It is proposed that the Draft Covid-19 (Workplace Restrictions) (Jersey) Regulations 202- ([P.59/2020](#)), as lodged, are amended as set out below.

After discussion with Scrutiny, it is proposed that Regulation 2(2) should place a requirement on the Minister for Health and Social Services to consult the Health and Social Security Scrutiny Panel, where reasonably practicable, before making an Order under the Regulations.

This amendment is proposed in order to provide that, in these extraordinary times, the Panel may be provided an opportunity to be consulted about, and provide comments on, the content of an Order before it is made. The reference to ‘reasonably practicable’ is included as it is acknowledged that in some circumstances consultation in advance may not be practicable due to the timeframe involved.

Regulation 3(1)(b) is amended to make it clearer that the Minister may prohibit, by Order, all workplaces from being open and/or specified workplaces, and/or specified classes of workplaces, or the Minister may, conversely allow any or all of these to be open.

This includes making it clear that the Minister may open workplaces that are not subject to guidance or conditions under these Regulations, as opposed to only being able to open workplaces that are subject to guidance or conditions. This provides that, where the Minister is satisfied that appropriate public health controls can be provided for via other routes – most notably via the requirements of the [Health and Safety at Work \(Jersey\) Law 1989](#) (the “1989 Law”) – he does not have to require compliance with further guidance or conditions, but he may if deemed appropriate. For example, he could require staggered opening times, if it was considered necessary to control the numbers of people in any given areas during peak times – a provision which cannot be made via the 1989 Law.

The offences in Regulation 5 are amended to provide that it is an offence –

- to open a workplace which should be shut, or is open for a purpose other than a permitted purpose,
- to fail to take reasonable steps to prevent a person entering a workplace that should be shut, or
- to fail to take reasonable steps to comply with a specified condition, in the event that specified conditions apply.

The amendments provide that a person is only required to take “reasonable steps”, as opposed to “all reasonable steps” to avoid an offence being committed. “Reasonable steps” could include, for example, asking a person to leave a workplace; as opposed to “all reasonable steps”, which could arguably involve physical removal of a person from a workplace. Or it could include instructing employees not to use office pass-keys to enter a workplace, as opposed to requiring them all individually to return pass-keys.

The Regulations, as amended, address the concerns raised by some internal and external stakeholders about the proportionality of the offences set out in the Regulations, and avoid duplication with the provisions made under the 1989 Law.

Importantly, the Regulations still provide powers to restrict opening of those workplaces which present particular risks (for example, tattoo parlours, swimming pools) and to place appropriate controls on others as required (for example, staggered opening hours). This will help support a safe transition “back to business”. In the event of an increase in Covid-19 transmission rates, the Minister may introduce phased restrictions to workplaces, as opposed to requiring people to stay at home – via a restricted movement

Order – which has potentially much more significant implications for business/trade, in addition to the very real impact it has on the wellbeing of individuals.

**Financial and manpower implications**

There are no additional financial or manpower implications for the States arising from the adoption of this amendment.