

# STATES OF JERSEY



## **DRAFT COVID-19 (AMENDMENTS – EXTENSION, SUSPENSION AND REPEAL) (JERSEY) REGULATIONS 202- (P.103/2020): COMMENTS**

---

**Presented to the States on 7th September 2020  
by the Children, Education and Home Affairs Scrutiny Panel**

---

**STATES GREFFE**

## COMMENTS

1. [P.103/2020 Draft Covid-19 \(Amendments – Extension, Suspension and Repeal\) \(Jersey\) Regulations 202-](#) (hereafter ‘the draft Regulations’) was lodged by the Minister for Health and Social Services on 11th August 2020 in order to either extend, suspend or repeal legislation, which has been adopted by the States Assembly to tackle the ongoing Covid-19 outbreak.
2. The Children, Education and Home Affairs Panel (hereafter ‘the Panel’) has undertaken scrutiny of a number of pieces of legislation contained within the draft Regulations during the preceding months. For clarity, the Panel is providing its comments only in relation to legislation, which falls within its remit and has been examined by it during the outbreak to date. In general terms, the Panel agrees with the proposals within the draft Regulations; however, it would like to make the following comments in respect of the following pieces of legislation contained within the draft Regulations for the consideration of States Members.

### **Covid-19 (Schools and Day Care of Children) (Jersey) Regulations 2020**

#### Regulation 4 of the draft Regulations

These Regulations will be **SUSPENDED** on 30th September 2020.

- These Regulations allow for the Minister for Education to require the closure of school premises, or day care premises, to prevent the spread of Covid-19. They also make provision for the Minister to implement arrangements for the compulsory education of school age children whilst they are unable to attend school as a result of the closure of the premises;
- It is noted that any legislation that is suspended by the draft Regulations would remain on the statute book in an inactive form. Furthermore, by suspending this particular piece of legislation, it still retains an expiration date of 30th April 2021 in line with the date being recommended for extensions within the draft Regulations;
- The Panel supports the proposed suspension to these Regulations. Since the Covid-19 pandemic began research has shown that, as children do not transmit the virus in the same way as adults, this, in itself, would make it highly unlikely that schools will need to be closed as they were earlier in the year. Even if there was a change to the advice issued by the Medical Officer for Health (MOH) the Panel would point to the evidence which exists in relation to the extreme harm caused to children by depriving them of an education. It would also highlight the considerable resistance that would occur were school closures to be considered again. The MOH further highlighted this point in a news release in respect of the return of schools:

*“Most children who catch COVID-19 either have mild symptoms, or none at all. Additionally, research is still showing that they seem much less likely than adults to be the source of COVID-19 spread to other people. Locally, we know that the return of children to school before our school summer holidays did not result in any increase in COVID-transmissions. Conversely, being away from school has definite risks. School attendance is one of the most important factors in any child’s health, current and future. School improves health, learning, socialisation and opportunities throughout the life course including employment. Lack of*

*schooling, for whatever reason, is one of the most important factors in perpetuating socioeconomic and health inequalities.”*

- Whilst the Panel supports the proposed suspension, it would state that in light of the evidence presented above further consideration should be given to repeal the legislation prior to the 30th April 2020.

## **Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018**

### Regulation 14 of the draft Regulations

Amendments are made to this Law by the **Regulation of Care (Standards and Requirements) (Covid-19 – Temporary Amendments) (Jersey) Regulations 2020**, which inserts new Regulations 3A, 17A, 32A and 34A. These inserted Regulations will be **REPEALED** on 30th September 2020.

- These amendments were intended to give registered providers of adult day care, care home and home care services greater flexibility to manage the potential impact of the outbreak of Covid-19 if their services were affected. The [Regulation of Care \(Jersey\) Law 2014](#) provides a legislative framework for the independent regulation of health and social care in Jersey. It is underpinned by a series of Regulations, covering each regulated activity listed under the Law. The aforementioned Law established the independent Jersey Care Commission (JCC). The [2018 Regulations](#), which provide for the regulation of home care, adult day care and care home services, including children’s residential homes, were adopted by the States Assembly in October 2018 and came into force on 1st January 2019;
  - The Panel examined part of these Regulations, specifically in relation to the impact it would have on children’s residential homes. At the time, the Panel received significant representation from Jersey Cares on 25th March 2020, outlining their concerns about the message the changes adopted by these Regulations would send out. Whilst it was understood that the need for an agile response was required, it was deemed that loosening the regulation and inspection of children’s residential homes was not in keeping with a number of strategic policies and guidelines of the Government;
  - The Panel held a number of discussions with the Minister for Children and Housing about this matter over April and May 2020. Unfortunately, these discussions, and discussions between the Minister and Jersey Cares, appeared to reach somewhat of an impasse when balancing the requirement of the Regulations against the concerns being raised. Noting now that the Regulations are due to be repealed, the Panel is pleased that this decision has been taken and expects that the regulation and inspection of children’s residential homes will now return to what was in place prior to the Covid-19 outbreak. It will, of course, continue to monitor this particularly important area as things progress.
3. The Panel also agrees with the decisions made in relation to the following pieces of legislation that also fall within its remit:

## **Marriage and Civil Status (Jersey) Law 2001 and the Civil Partnership (Jersey) Law 2012**

### *Regulations 20 and 23 of the draft Regulations*

[The Marriage and Civil Status \(Jersey\) Law 2001](#) is amended by the **Marriage and Civil Status (Amendment of Law) (Covid-19 – Temporary Amendment) (Jersey) Regulations 2020**, which insert a new Article 49A. That Article 49A is partly overwritten by the amendments in the **Marriage and Civil Status (Amendment of Law No. 2) (Covid-19 – Temporary Amendment) (Jersey) Regulations 2020**, and those parts which remain will be **SUSPENDED** on 30th September 2020.

[The Marriage and Civil Status \(Jersey\) Law 2001](#) is further amended by the **Marriage and Civil Status (Amendment of Law No. 2) (Covid-19 – Temporary Amendment) (Jersey) Regulations 2020**, which modifies new Article 49A. All of new Article 49A will be **SUSPENDED** on 30th September 2020.

Both the **Marriage and Civil Status Jersey) Law 2001** and the [Civil Partnership \(Jersey\) Law 2012](#) are amended by the **Covid-19 (Civil Partnership and Marriage) (Jersey) Regulations 2020**.

These amendments resulting from these Regulations will be **EXTENDED** until 30th April 2021 as, according to the proposition, they have proved to be an effective way of managing the process while minimising personal contact requirements.

Both the [The Marriage and Civil Status \(Jersey\) Law 2001](#) and the [Civil Partnership \(Jersey\) Law 2012](#) are further amended by the **Covid-19 (Civil Partnership and Marriage No. 2) (Jersey) Regulations 2020**. The amendments made by these Regulations will be partly **EXTENDED** until 30th April 2021 and partly **SUSPENDED** from 30th September 2020 as detailed below.

### **Orders**

In addition, several Orders under those Laws are amended. These are subordinate changes that must be made to reflect the treatment of the amendments to their primary laws as detailed above.

#### *Civil Partnership (Approved Premises) (Jersey) Order 2012: Regulation 21 of the draft Regulations*

- Amendments are partly **EXTENDED** until 30th April 2021 and partly **SUSPENDED** from 30th September 2020 to give effect to the treatment of the **Covid-19 (Civil Partnership and Marriage No. 2) (Jersey) Regulations 2020**.

#### *Civil Partnership (Forms, Registration and Fees) (Jersey) Order 2012: Regulation 22 of the draft Regulations*

- Amendments are **EXTENDED** until 30th April 2021.

#### *Marriage and Civil Status (Jersey) Order 2018: Regulation 24 of the draft Regulations*

- Amendments are **EXTENDED** until 30th April 2021.

These comments were presented after the 12:00pm deadline on Friday 4th September due to resource implications arising from the Panel's current workload.