

STATES OF JERSEY



DRAFT COVID-19 (SIGNING OF INSTRUMENTS) (JERSEY) REGULATIONS 202- (P.50/2020): COMMENTS

**Presented to the States on 20th April 2020
by the Corporate Services Scrutiny Panel**

STATES GREFFE

COMMENTS

1. [P.50/2020](#) – Draft Covid-19 (Signing of Instruments) (Jersey) Regulations 202- (the “draft Regulations”) have been lodged by the Chief Minister in response to the ongoing Covid-19 outbreak.
2. On 27th March 2020 the States Assembly adopted the [Covid-19 \(Enabling Provisions\) \(Jersey\) Law 2020](#), which came into force on 8th April 2020. This enabled the States Assembly to introduce any emergency legislation that may be required to manage the effects and impact of the Covid-19 outbreak in Jersey, and allowed the States to make Regulations that would have the effect of primary Laws, and thereby ensure the enactment of emergency legislation as quickly as possible.
3. The purpose of the draft Regulations is to maintain the continued ability for individuals to safely witness legal documents such as wills, powers of attorney, and affidavits. Various elements of the probate rules which require face-to-face contact between an applicant and another party are also required to be updated in response to Covid-19. The draft Regulations do this through –
 - i. Updates in procedures when carrying out actions under the [Probate \(General\) Rules 1998](#), relating to application for probate or letters of administration and attestation of documents required to be executed in the matter of a grant; and
 - ii. Adding an additional Article into the [Wills and Successions \(Jersey\) Law 1993](#) to amend that Law in relation to wills of movable or immovable estate.
4. The draft Regulations allow the use of an audio-visual link if Covid-19 has impacted actions needed to carry out the above. Measures will be in place to ensure appropriate practices continue, these include –
 - i. In all cases the relevant parties must be able to see and hear each other.
 - ii. The individual making the oath, signature, or testament, must be positively identified by relevant persons, be that witness, testator, or Judicial Greffier.
 - iii. The relevant persons, be that witness, testator or Judicial Greffier, must be able to see the signature being made.
 - iv. The relevant persons, be that witness, testator or Judicial Greffier, must make themselves satisfied that the document being signed is in fact the document in question.
 - v. As relevant, the witness, testator or appointer, must provide a written declaration that the above has been carried out, usually within 14 days, to the Judicial Greffier, testator or their retained advocate or solicitor.
 - vi. Where necessary, such as in the case of a will of immovables, documents will be read aloud.

- vii. Documents, such as signed forms, must be filed with the relevant bodies, with some being time-restricted, for example providing the Judicial Greffier with documents 3 days before application for probate or letters of administration.
- 5. The Panel is satisfied that the definition of “positively identify” is sound, this being the requirement for the person to be known to the individual identifying, or for that person to display a form of photographic identification which the identifier is able to see over the audio-visual link.
- 6. The Panel is concerned regarding the potential for issues with access to technology, especially with the elderly and disabled. It asks that consideration is given to how this may be addressed, given that these groups are some of the most likely to want to utilise the ability to have documents witnessed remotely, but are also some of the most vulnerable to Covid-19.
- 7. The Panel notes that, as with most legislation related specifically to Covid-19, the draft Regulations are time-limited up to 30th September 2020.
- 8. Should the Covid-19 pandemic continue beyond the end date of these draft Regulations, the Panel recommends that the efficacy of these measures is reviewed at this point rather than just extended, especially in relation to access to technology.
- 9. The Panel has received the views of the Jersey Law Society, which has confirmed that the legal profession supports the proposals outlined in the proposition.
- 10. In conclusion the Panel is, overall, supportive of these draft Regulations.