



Jersey

# **COVID-19 (WORKPLACE RESTRICTIONS) (JERSEY) REGULATIONS 2020**

## **Official Consolidated Version**

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# COVID-19 (WORKPLACE RESTRICTIONS) (JERSEY) REGULATIONS 2020

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## COVID-19 (WORKPLACE RESTRICTIONS) (JERSEY) REGULATIONS 2020

**THE STATES** make these Regulations under Article 2 of the [Covid-19 \(Enabling Provisions\) \(Jersey\) Law 2020](#) –

Commencement [[see endnotes](#)]

### 1 Interpretation

(1) In these Regulations –

“enforcement officer” has the meaning assigned by Regulation 4(1);

“Health and Safety Law” means the [Health and Safety at Work \(Jersey\) Law 1989](#);

“Medical Officer of Health” means a person appointed as such under Article 10 of the [Loi \(1934\) sur la Santé Publique](#);

“Minister” means the Minister for Health and Social Services;

“notice” means an improvement notice or a prohibition notice;

“occupier” in relation to a workplace means –

(a) a person who is entitled to occupy the workplace or part of the workplace to the exclusion of the owner; or

(b) if there is no such person, the owner of the workplace or part of the workplace;

“open” in relation to a workplace means open to access by any person for the purpose of the person’s work;

“publish” means publish online or in any other manner appearing to the person publishing to be likely to bring the matter published to the attention of those whom it concerns;

“relevant guidance” means –

(a) any guidance published for the purpose of these Regulations, by the Minister or by the Medical Officer of Health;

(b) any relevant code of practice approved under Article 10 of the Health and Safety Law; and

(c) any standards produced by any other person or body that is endorsed by the Minister;

“relevant personal data” means –

(a) a person’s name and documentation providing proof of identity;

(b) a person’s contact details;

- (c) the date, time and duration of the person's presence at a workplace;
- (d) where in the workplace the person was present; and
- (e) any other data that the Minister may specify by Order;

"restriction Order" means an Order made under Regulation 2;

"restriction period" means a period specified under Regulation 2(4);

"specified" means specified in a restriction Order;

"workplace" means the part of a building, place, vehicle, vessel or aircraft in which a person carries out work within the meaning of Article 1(2) of the Health and Safety Law other than –

- (a) construction work within the meaning of the [Health and Safety \(Management in Construction\) \(Jersey\) Regulations 2016](#); or
  - (b) work undertaken in a private dwelling, vehicle or vessel by one person alone (with no physical contact with any other person other than a member of the person's household).<sup>1</sup>
- (2) Nothing in these Regulations is to be read as derogating from any provision of or under the Health and Safety Law.
- (3) A power to publish any guidance includes the power to vary or revoke the guidance.

## **2 Period of restricted opening of workplaces**

- (1) The Minister may make a restriction Order if the Minister, after consulting the Medical Officer of Health, is satisfied that, in relation to workplaces, the risk or potential risk to public health caused by Covid-19 is such that it is proportionate and necessary to do so.
- (2) The Minister must, before making a restriction Order, consult the Minister for Economic Development, Tourism, Sport and Culture and, if reasonably practicable, the Health and Social Security Scrutiny Panel.
- (3) A restriction Order may contain any of the provisions set out in Regulation 3.
- (4) The Order must specify a restriction period during which the Order applies by declaring that the period starts on a specified date, being no sooner than the coming into force of the Order, and ends at the end of a specified day, being no later than 31 days after the start of the period.<sup>2</sup>
- (5) Despite Article 17 of the [Interpretation \(Jersey\) Law 1954](#), a provision specifying the end of a period under paragraph (4) may not be amended other than –
- (a) to declare an earlier end; or
  - (b) to declare a later end, being no later than 31 days after the commencement of each Order making such an amendment.<sup>3</sup>

## **3 Provisions that may be included in restriction Order**

- (1) A restriction Order may include provision to –
- (a) prohibit all workplaces or any specified workplace or class of workplace from being open;
  - (b) allow all workplaces to be open, or any specified workplace or class of workplace (by category, area or other characteristic, including the manner of its operation) to be open only –

- (i) for any specified purpose, or
  - (ii) subject to any specified condition.<sup>4</sup>
- (1A) A restriction Order may include a provision (a “mask requirement”) that a person must wear a mask covering the person’s mouth and nose while in a specified workplace during a restriction period.<sup>5</sup>
- (1B) A mask requirement –
  - (a) must specify the workplaces, or classes of workplace in which it applies;
  - (b) does not apply to –
    - (i) a child under the age of 12, or
    - (ii) a person who is in the workplace for the purpose of carrying out work, within the meaning of Article 1(2) of the Health and Safety Law;
  - (c) must include an exemption related to the person’s health or disability;
  - (d) may include an exemption for any other description of person or circumstance;
  - (e) may include a requirement as to the standard to be met by a mask, being a standard that appears reasonable to the Minister for limiting the risk of spread of infection by breath;
  - (f) may include a requirement as to the manner in which a mask must be worn.<sup>6</sup>
- (2) Workplaces, or a class of workplace, may be specified for the purpose of paragraph (1) or (1B)(a) by reference to any or any combination of the following factors –
  - (a) any description of workplace;
  - (b) physical, structural, spatial or other characteristics of workplaces;
  - (c) the location of the workplace;
  - (d) the numbers of people in the workplace;
  - (e) the characteristics of any person who may enter the workplace;
  - (f) the hours of operation of the workplace;
  - (g) the types of work carried on at the workplace.<sup>7</sup>
- (3) A restriction Order may specify the conditions that a workplace must meet in order to be open based on –
  - (a) any of the factors mentioned in paragraph (2)(b) to (g);
  - (aa) any requirement on the occupier or operator of the workplace to do or refrain from doing any action, or to require any other person present at the workplace to do or refrain from doing any action;
  - (ab) taking any other action that may assist in controlling the spread of Covid-19 in the workplace; and
  - (b) any other factor that the Minister considers necessary in the interests of public health.<sup>8</sup>
- (4) The action that may be required to be taken in compliance with a condition specified under paragraph (3) includes the collection of relevant personal data, from any person present at the workplace, for the purpose of assisting in suppressing the spread of Covid-19.<sup>9</sup>
- (5) If a person who has entered or wishes to enter any workplace refuses to comply with any requirement imposed under these Regulations by an occupier or operator of the workplace to do or refrain from doing any action, the occupier or operator must

require the person to leave the workplace or refuse the person entry to the workplace as the case may be.<sup>10</sup>

- (6) If a person refuses to leave a workplace when requested to do so under paragraph (5), a police officer must, if so requested by the occupier or operator, eject the person from the workplace, using reasonable force if necessary.<sup>11</sup>
- (7) For the purposes of paragraph (4) a condition in a restriction Order may do any of the following –
  - (a) limit the workplaces to which and the circumstances in which the condition applies;
  - (b) specify the relevant personal data that may be collected and how it may be used;
  - (c) specify how and for what period that data must be retained.<sup>12</sup>
- (8) Nothing in this Regulation limits any of the following –
  - (a) the application of Article 11(4) of the [Interpretation \(Jersey\) Law 1954](#);
  - (b) the application of Article 16 of the [Licensing \(Jersey\) Law 1974](#);
  - (c) the processing of any data by the occupier or operator of the workplace as controller in accordance with the [Data Protection \(Jersey\) Law 2018](#).<sup>13</sup>

#### 4 Enforcement

- (1) The following are enforcement officers for the purpose of these Regulations –
  - (a) a police officer;
  - (b) an inspector within the meaning of Article 12 of the Health and Safety Law;
  - (c) a health officer within the meaning of Regulation 1(1) of the [Covid-19 \(Screening, Assessment and Isolation\) \(Jersey\) Regulations 2020](#);
  - (d) any other person or class of persons that the Minister may specify by Order.<sup>14</sup>
- (2) An enforcement officer may, for the purpose of ensuring compliance with a restriction Order and subject to the production by the person, if so required, of evidence of the person's authority, exercise the powers set out in paragraph (3).
- (3) The powers are –
  - (a) at any reasonable time to enter a workplace to assess whether or not there is or has been any contravention of a restriction Order;
  - (b) to make the examinations and investigations that are necessary for the purpose mentioned in paragraph (2);
  - (c) to take any measurements and photographs and make any recordings that the enforcement officer considers necessary for the purpose of an examination or investigation under sub-paragraph (b);
  - (d) to require the production of, inspect, and take copies of an entry in a book or document (including any electronic document) that it is necessary for the enforcement officer to see for the purposes of an examination or investigation under sub-paragraph (b);
  - (e) to require any person to provide the enforcement officer with such facilities and assistance as the person is able to provide to enable the enforcement officer to exercise any of the powers conferred by this Regulation;
  - (f) any other power necessary for ensuring compliance with a restriction Order.<sup>15</sup>

- (4) Nothing in this Regulation allows an enforcement officer to make an examination or investigation or to disclose or make use of any information received in the course of such examination or investigation other than for the purposes of these Regulations or a restriction Order.
- (5) For clarity, an enforcement officer may view any relevant personal data collected under Regulation 3(4).<sup>16</sup>
- (6) An enforcement officer who is not a police officer may exercise a power under this Regulation for the purpose of investigating a matter that is the subject of a police inquiry only in conjunction with a police officer conducting the inquiry.<sup>17</sup>
- (7) No person is required under this Regulation to answer any question or to give any evidence tending to incriminate the person.<sup>18</sup>
- (8) Nothing in this Regulation compels the production by any person of a document of which the person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in any proceedings in the Royal Court.<sup>19</sup>

#### **4A Improvement notices<sup>20</sup>**

- (1) An enforcement officer may serve an improvement notice on a person if the enforcement officer believes that the person –
  - (a) is contravening a restriction Order; or
  - (b) has contravened a restriction Order in circumstances that make it likely that the contravention will continue or be repeated.
- (2) An improvement notice must –
  - (a) state the reasons for serving the notice; and
  - (b) require the person to remedy the contravention within such period as may be specified in the notice.

#### **4B Prohibition notices<sup>21</sup>**

- (1) If an enforcement officer believes that there is a risk of spreading Covid-19 arising out of activities carried on in a workplace, the enforcement officer may serve a prohibition notice on the person carrying on the activities or under whose control the activities are being or are likely to be carried on.
- (2) A prohibition notice served under paragraph (1) must –
  - (a) state the reasons for serving the notice; and
  - (b) direct that the activities to which the notice relates must not be carried on unless the matters specified in the notice that give rise to the risk of spreading Covid-19 have been remedied.
- (3) A direction given under paragraph (2)(b) takes effect –
  - (a) at the end of the period specified in the notice; or
  - (b) if the notice so declares, immediately.

#### **4C Provisions supplementary to Regulations 4A and 4B<sup>22</sup>**

- (1) A notice may (but need not) include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates.

- (2) If directions are included in a notice, they may be framed to give the person on whom the notice is served a choice between different ways of remedying the contravention or matter.
- (3) If an improvement notice, or a prohibition notice that is not to take immediate effect, has been served –
  - (a) it may be withdrawn by an enforcement officer at any time before the end of the period specified in the notice under Regulation 4A(2)(b) or 4B(3)(a), as the case may be; and
  - (b) the period so specified may be extended or further extended by an enforcement officer at any time when an appeal against the notice is not pending.

#### **4D Review of improvement or prohibition notice<sup>23</sup>**

- (1) A person on whom a notice is served may within 14 days of its service request a review from the Minister.
- (2) On a review under this Regulation the Minister may either cancel or affirm the notice and, if it is affirmed, may do so either in its original form or with such modification as the Minister may in the circumstances think fit.
- (3) If a review under this Regulation is requested in relation to a notice within the period allowed under paragraph (1), then in the case of –
  - (a) an improvement notice, the requesting of the review has the effect of suspending the operation of the notice until the review is concluded or, if the request is withdrawn, until the withdrawal of the request; or
  - (b) a prohibition notice, the requesting of the review has the same effect if, but only if, on the application of the person requesting the review, the Minister so directs (and then only from the giving of the direction).

#### **5 Offences**

- (1) A person commits an offence, and is liable to a fine, if the person –
  - (a) contravenes a restriction Order by –
    - (i) opening a workplace that is prohibited from opening,
    - (ii) opening a workplace other than for purposes for which it is permitted to be open,
    - (iii) failing to take reasonable steps to prevent a person from entering a workplace that is prohibited from being open, or
    - (iv) failing to take reasonable steps to comply with a specified condition;
  - (b) contravenes any requirement of an enforcement officer imposed under Regulation 4(3);
  - (c) contravenes any requirement or direction imposed by a notice;
  - (d) intentionally obstructs an enforcement officer in the exercise or performance of his or her powers or duties.<sup>24</sup>
- (2) A person commits an offence, and is liable to a fine of level 2 on the standard scale, if the person without reasonable excuse fails, while in a specified workplace during a restriction period, to wear a mask covering the person's mouth and nose in accordance with a mask requirement imposed on that person under Regulation 3(1A).<sup>25</sup>



- (3) A person assessing whether a step is reasonable, for the purpose of paragraph (1)(a)(iii) or (iv) or paragraph (4), must have regard to any relevant guidance.<sup>26</sup>
- (4) It is a defence for a person to prove that he or she took reasonable steps to avoid the commission of an offence under this Regulation or that the offence was due to an act or default of some other person who committed it without the first person's consent, connivance or wilful default.<sup>27</sup>

## **6 Offences by bodies corporate and others**

- (1) In this Regulation –
  - “relevant offence” means an offence under these Regulations that is committed by a limited liability partnership, a separate limited partnership, an incorporated limited partnership or another body corporate;
  - “relevant person” means –
    - (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;
    - (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
      - (i) a general partner, or
      - (ii) a limited partner who is participating in the management of the partnership;
    - (c) if the relevant offence is committed by a body corporate other than an incorporated limited partnership –
      - (i) a director, manager, secretary or other similar officer of the body corporate, and
      - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member's functions of management; and
    - (d) a person purporting to act in any capacity described in sub-paragraphs (a) to (c) in relation to the partnership or body that commits the relevant offence.
- (2) If a relevant offence is proved to have been committed with the consent or connivance of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) Paragraph (4) applies if a relevant offence –
  - (a) is an offence that may be committed by neglect; and
  - (b) is proved to be attributable to any neglect on the part of a relevant person.
- (4) The relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

## **7 Limitation of liability**

- (1) The Minister and any enforcement officer are not liable in damages for anything done or omitted in the discharge or purported discharge of any function under, or authorised by or under, these Regulations unless it is shown that the act or omission was in bad faith.

- (2) Paragraph (1) does not apply to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the [Human Rights \(Jersey\) Law 2000](#).

## **8 Repeal**

The Covid-19 (Restricted Trading) (Jersey) Regulations 2020 are repealed on the coming into force of the first restriction Order.

## **9 Citation, commencement and expiry**

- (1) These Regulations may be cited as the Covid-19 (Workplace Restrictions) (Jersey) Regulations 2020 and come into force on the day after they are made.
- (2) These Regulations expire at the end of 31st October 2021.<sup>28</sup>

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	Project No (where applicable)
Covid-19 (Workplace Restrictions) (Jersey) Regulations 2020	<a href="#">R&amp;O.65/2020</a>	20 May 2020	<a href="#">P.59/2020</a>
Covid-19 (Amendments – Extension, Suspension and Repeal) (Jersey) Regulations 2020	<a href="#">R&amp;O.115/2020</a>	30 September 2020	<a href="#">P.103/2020</a>
Covid-19 (Workplace Restrictions) (Amendment) (Jersey) Regulations 2020	<a href="#">R&amp;O.149/2020</a>	25 November 2020	<a href="#">P.158/2020</a>
Covid-19 (Amendments – Extension and Suspension) (Jersey) Regulations 2021	<a href="#">R&amp;O.52/2021</a>	29 April 2021	<a href="#">P.25/2021</a>

Project available at [statesassembly.gov.je](https://statesassembly.gov.je)

### Table of Endnote References

<sup>1</sup> Regulation 1(1)	amended by R&O.149/2020
<sup>2</sup> Regulation 2(4)	amended by R&O.149/2020
<sup>3</sup> Regulation 2(5)	editorial change, “(4)(b)” omitted, “(4)” inserted instead, amended by R&O.149/2020
<sup>4</sup> Regulation 3(1)	substituted by R&O.149/2020
<sup>5</sup> Regulation 3(1A)	inserted by R&O.149/2020
<sup>6</sup> Regulation 3(1B)	inserted by R&O.149/2020
<sup>7</sup> Regulation 3(2)	amended by R&O.149/2020
<sup>8</sup> Regulation 3(3)	amended by R&O.149/2020
<sup>9</sup> Regulation 3(4)	substituted by R&O.149/2020
<sup>10</sup> Regulation 3(5)	inserted by R&O.149/2020
<sup>11</sup> Regulation 3(6)	inserted by R&O.149/2020
<sup>12</sup> Regulation 3(7)	inserted by R&O.149/2020
<sup>13</sup> Regulation 3(8)	inserted by R&O.149/2020
<sup>14</sup> Regulation 4(1)	amended by R&O.149/2020
<sup>15</sup> Regulation 4(3)	substituted by R&O.149/2020
<sup>16</sup> Regulation 4(5)	inserted by R&O.149/2020
<sup>17</sup> Regulation 4(6)	inserted by R&O.149/2020
<sup>18</sup> Regulation 4(7)	inserted by R&O.149/2020
<sup>19</sup> Regulation 4(8)	inserted by R&O.149/2020
<sup>20</sup> Regulation 4A	inserted by R&O.149/2020
<sup>21</sup> Regulation 4B	inserted by R&O.149/2020
<sup>22</sup> Regulation 4C	inserted by R&O.149/2020
<sup>23</sup> Regulation 4D	inserted by R&O.149/2020
<sup>24</sup> Regulation 5(1)	substituted by R&O.149/2020
<sup>25</sup> Regulation 5(2)	substituted by R&O.149/2020

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- <sup>26</sup> *Regulation 5(3)*                      *amended by R&O.149/2020*  
<sup>27</sup> *Regulation 5(4)*                      *amended by R&O.149/2020*  
<sup>28</sup> *Regulation 9(2)*                      *amended by R&O.115/2020, R&O.52/2021*