



Jersey

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

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Made 19th May 2020

Coming into force 20th May 2020

THE STATES make these Regulations under Article 2 of the Covid-19 (Enabling Provisions) (Jersey) Law 2020¹ –

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 1989²;
 - “Medical Officer of Health” means a person appointed as such under Article 10 of the Loi (1934) sur la Santé Publique³;
 - “Minister” means the Minister for Health and Social Services;
 - “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.
 - “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 2016⁴; 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).
- (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 14 days after the start of the period.
- (5) Despite Article 17 of the Interpretation (Jersey) Law 1954⁵, a provision specifying the end of a period under paragraph (4)(b) may not be amended other than –
- (a) to declare an earlier end; or
 - (b) to declare a later end, being no later than 14 days after the commencement of each Order making such an amendment.

3 Provisions that may be included in restriction Order

- (1) A restriction Order may include provision to –
- (a) prohibit all workplaces from being open;
 - (b) prohibit all workplaces from being open other than –
 - (i) specified workplaces or a specified class of workplace,
 - (ii) specified workplaces or a specified class of workplace complying with any relevant guidance,
 - (iii) specified workplaces or a specified class of workplace complying with any other specified condition; or
 - (c) prohibit only specified workplaces or only a specified class of workplace from being open or being open only for, or except for, specified purposes.

- (2) Workplaces, or a class of workplace, may be specified for the purpose of paragraph (1)(b) or (1)(c) 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.
- (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); and
 - (b) any other factor that the Minister considers necessary in the interests of public health.
- (4) Nothing in this Regulation limits the application of Article 11(4) of the Interpretation (Jersey) Law 1954⁶.

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 2020⁷.
- (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 any workplace which the enforcement officer has reason to believe is open in contravention of a restriction Order or otherwise failing to comply with such an Order; and
 - (b) to make such examination and investigation as may in any circumstances be necessary for the purpose mentioned in paragraph (2).
- (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 Offences

- (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 it is 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.
- (2) In this Regulation “occupier” in relation to the 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.
- (3) A person assessing whether a step is reasonable, for the purpose of paragraph (1)(c) or (d), must have regard to any relevant guidance.
- (4) It is a defence for an occupier or operator 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 occupier or operator’s consent, connivance or wilful default.

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 2000⁸.

8 Repeal

The Covid-19 (Restricted Trading) (Jersey) Regulations 2020⁹ 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 on 30th September 2020.

DR. M. EGAN

Greffier of the States

ENDNOTES**Table of Endnote Reference**

<i>1</i>	<i>L.2/2020</i>
<i>2</i>	<i>chapter 05.300</i>
<i>3</i>	<i>chapter 20.875</i>
<i>4</i>	<i>chapter 05.300.61</i>
<i>5</i>	<i>chapter 15.360</i>
<i>6</i>	<i>chapter 15.360</i>
<i>7</i>	<i>R&O.33/2020</i>
<i>8</i>	<i>chapter 15.350</i>
<i>9</i>	<i>R&O.48/2020</i>