

Subsidiary Legislation made under s.11.

**CIVIL CONTINGENCIES EMERGENCY (CORONAVIRUS) (HEALTH
PROTECTION MEASURES) (70S AND OVER) (NO.3) REGULATIONS
2021**

LN.2021/098

Commencement **1.2.2021**

ARRANGEMENT OF REGULATIONS.

Regulation

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In exercise of the powers conferred on her by section 11 of the Civil Contingencies Act 2007, and all other enabling powers, the Minister with responsibility for Civil Contingencies, acting with the consent of the Chief Minister, has made these Regulations-

Title.

1. These Regulations may be cited as the Civil Contingencies Emergency (Coronavirus) (Health Protection Measures) (70s and Over) (No.3) Regulations 2021.

Commencement and expiry.

2. These Regulations come into operation on 1st February 2021 and cease to have effect on 15th February 2021.

Statement in accordance with section 11(2) of the Act.

3. The Minister declares that –

- (a) there is an outbreak of Coronavirus which on the 11th March 2020 the World Health Organisation (WHO) declared to be a pandemic; at the time of publication of these Regulations there are more than 101,917,147 confirmed cases globally and more than 2,205,515 people have died; Coronavirus has, to date, reached 235 countries, areas or territories, and it is therefore necessary to take measures to prevent, mitigate and control the spread of Coronavirus in Gibraltar;
- (b) she is satisfied, in accordance with section 11 of the Act, that there exists a situation which threatens serious damage to human welfare in Gibraltar and which involves, causes or may cause loss of human life and human illness or injury;
- (c) on the advice of the Attorney General the measures contained in these Regulations are proportionate and compatible with the Gibraltar Constitution;
- (d) the measures provided for are directed at protecting persons aged 70 years and older who, on medical advice, are considered to be a class of persons who are particularly vulnerable to Coronavirus;
- (e) the conditions in section 12 of the Act are met;
- (f) these Regulations contain only provisions which are appropriate for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the Regulations are made; and

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- (g) the effect of these Regulations is in due proportion to that aspect or effect of the said emergency.

Protection of persons aged 70 or over.

4.(1) Any person (P) who is aged 70 or over, for the purposes of the protection of their health from Coronavirus, is prohibited from leaving their place of residence except for any of the following purposes-

- (a) to purchase food, beverages, pharmaceutical products or such other essential items;
- (b) to attend a medical or care facility of any kind and howsoever described or an essential services provider, for accessing services provided therein;
- (c) if they are in employment or self-employed, to go to their place of work;
- (d) to provide care to a person where P is the carer of a person with a disability or who is a vulnerable person;
- (e) to go to a bank or other financial institution;
- (f) to exercise provided that P is alone or accompanied by no more than one other person from the same household and provided that each person practices social distancing from other persons not from the same household;
- (g) to exercise a dog outdoors provided that P is during that time not accompanied by any other person;
- (h) the exercise of any ministerial or parliamentary duties;
- (i) any case where P is at risk of injury or death; or
- (j) any other activity that is absolutely necessary.

(2) A person who fails to comply with or contravenes this regulation commits an offence and is liable on summary conviction to a fine up to level 5 on the standard scale.

Disapplication of exceptions.

5.(1) The exceptions in paragraphs (a) and (c) to (h) of regulation 4(1) shall not apply to-

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(a) a person (P) who is diagnosed as having the Coronavirus or who has been advised by the Gibraltar Health Authority or the Director of Public Health to self-isolate; or

(b) a member of P's household to whom these Regulations apply,

for the period that P is required or advised by the Gibraltar Health Authority or the Director of Public Health to self-isolate.

(2) For the purposes of these Regulations, "Coronavirus" means SARS-CoV-2 or Covid-19.

Police Powers.

6.(1) This regulation applies if a police officer has reasonable grounds to suspect that a person ("P") is in breach of the provisions of regulation 4.

(2) A police officer may-

(a) require P to answer any questions to enable the police officer to ascertain who P is and whether P falls within the exceptions set out in regulation 4; and

(b) direct P to go immediately to P's residence; or

(c) detain and convey P to P's residence.

(3) The power in subregulation (2) may be exercised where P is at any place other than P's residence.

(4) For the purpose of exercising the power in subregulation (2), a police officer may enter any place other than a residence.

(5) A police officer may use reasonable force, if necessary, in the exercise of a power under this regulation.

Fixed penalty notice.

7.(1) An authorised officer may issue a fixed penalty notice to anyone that the authorised officer reasonably believes has committed an offence under these Regulations.

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(2) The fixed penalty notice shall offer the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the clerk of the Magistrates' Court.

(3) Where a person is issued with a notice under this regulation in respect of an offence-

- (a) no proceedings may be taken for the offence before the end of the period of 28 days following the date of the notice;
- (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(4) A fixed penalty notice must-

- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
- (b) state that proceedings cannot be brought against a person for the offence to which the notice relates before the end of the period of 28 days following the date of the notice;
- (c) specify the amount of the fixed penalty;
- (d) state the address of the clerk of the Magistrates' Court to whom the fixed penalty may be paid.

(5) The amount specified under subregulation (4)(c) shall be £100.

(6) In any proceedings, a certificate which-

- (a) purports to be signed by or on behalf of the clerk of the Magistrates' Court; and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate, shall be conclusive evidence of the facts stated.

(7) For the purposes of this regulation, "authorised officer" means a police officer or an officer of HM Customs.

Consultation where practicable.

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8. Unless it is not practicable to do so, the Chief Minister will consult with the Leader of the Opposition prior to the Minister for Civil Contingencies making new regulations extending or replacing the effect of these Regulations.