

Subsidiary Legislation made under s.11.

**Civil Contingencies Emergency (Coronavirus Infection
Risks Mitigation and Control Measures No.35)
Regulations 2022**

LN.2022/337

Commencement **23.12.2022**

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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-

**Part 1
Preliminary**

Title.

1. These Regulations may be cited as the Civil Contingencies Emergency (Coronavirus Infection Risks Mitigation and Control Measures No.35) Regulations 2022.

Commencement.

2. These Regulations come into operation on 23rd December 2022 and cease to have effect on 20th January 2023.

Interpretation.

3.(1) In these Regulations-

“child” means a person under the age of 18 years;

“Coronavirus” means the coronavirus (SARS-CoV-2) also known as the coronavirus disease (Covid-19);

“isolation” in relation to a person means the separation of that person from any other person in such a manner as to prevent infection or contamination (with Coronavirus)-

(a) at a facility appointed by the Minister for the purpose of these Regulations;

(b) in that person’s home;

(c) in a hospital; or

(d) at another suitable place;

“Minister” means the Minister for Civil Contingencies, the Minister for Public Health or the Minister for Health;

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“responsible adult” means, in relation to a child, a person with parental responsibility for the child (within the meaning of the Children Act 2009) or a person who has custody or charge of the child for the time being;

“screening requirements” means the requirements set out in regulation 8(1);

“special restriction or requirement” means the restrictions or requirements specified in regulation 14(2).

(2) In these Regulations, a reference to infection or contamination, however expressed, is a reference to infection or contamination with Coronavirus, and related expressions are to be construed accordingly.

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

4. 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 the publication of the Civil Contingencies Emergency (Coronavirus Infection Risks Mitigation and Control Measures No.34) Regulations 2022 there were approximately 635,229,101 confirmed cases globally and around 6,602,552 people had died; at the time of the publication of these Regulations there are more than 649,753,806 confirmed cases globally and more than 6,648,457 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) the conditions in section 12 of the Act are met;
- (c) on the advice of the Attorney General the measures contained in these Regulations are proportionate and compatible with the Gibraltar Constitution;
- (d) 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
- (e) the effect of these Regulations is in due proportion to that aspect or effect of the said emergency.

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Part 2

Requirement to self-isolate

Requirement to self-isolate.

5.(1) A person (“P”) who-

- (a) is diagnosed as having Coronavirus; or
- (b) has been—
 - (i) given a direction; or
 - (ii) advised to self-isolate,

by the Gibraltar Health Authority or the Director of Public Health must follow the direction or self-isolate for such period as the Gibraltar Health Authority or Director of Public Health requires, and in determining the length of the period of the direction or self-isolation the Gibraltar Health Authority or Director of Public Health must not require a length of time attached to a direction or period of self-isolation longer than that which is reasonably required to avoid the transmission of the coronavirus.

(2) A person who is required to self-isolate must remain in that person’s place of residence at all times except for any of the following purposes-

- (a) to attend a medical or care facility of any kind and howsoever described or an essential services provider, for accessing services provided therein;
- (b) to avoid injury or escape a risk of harm; or
- (c) for any other purpose that is absolutely essential.

(3) Where a requirement under subregulation (1) is imposed on or in relation to a child, a person who is a responsible adult in relation to the child must secure that the child complies with the restriction or requirement, in so far as that person is reasonably able to do so.

Part 3

Screening and detention

Detention of persons.

6.(1) Where the Condition is met in relation to a person (“P”), the Minister may, on the advice of the Director of Public Health, for the purposes of screening, assessment and the imposition of any restrictions or requirements under regulation 7, impose on P a requirement to be detained until the later of-

- (a) the end of the period of 96 hours beginning with the time from which P’s detention under this regulation begins;
 - (b) such time as any screening requirements imposed on or in relation to P under regulation 7(1) have been complied with and the assessment referred to in that regulation carried out in relation to P (including confirmation of the results of such assessment).
- (2) The Condition is that-
- (a) the Minister has reasonable grounds to believe that P is, or may be, infected or contaminated with Coronavirus; and
 - (b) the Minister considers that there is a risk that P might infect or contaminate others.

Imposition of restrictions and requirements.

7.(1) Where the Condition (as set out in regulation 6) is met in relation to a person (“P”), the Minister may, on the advice of the Director of Public Health-

- (a) (orally or in writing) impose on or in relation to P one or more screening requirements to inform an assessment by the Minister of whether P presents or could present a risk of infecting or contaminating others;
 - (b) carry out such an assessment in relation to P; and
 - (c) following such an assessment, (orally or in writing) impose on or in relation to P any other restriction or requirement which the Minister considers necessary for the purposes of removing or reducing the risk referred to in subregulation (a), including a special restriction or requirement.
- (2) A decision to impose a restriction or requirement under subregulation (1) may only be taken if the Minister considers, when taking the decision, that the restriction or requirement is proportionate to what is sought to be achieved by imposing it.

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(3) A restriction or requirement imposed under subregulation (1) may be varied (orally or in writing) by the Minister.

(4) Where a restriction or requirement under subregulation (1)(c) is imposed on or in relation to a child, a person who is a responsible adult in relation to the child must secure that the child complies with the restriction or requirement, in so far as that person is reasonably able to do so.

(5) Where a restriction or requirement is imposed orally on a person under this regulation, or a restriction or requirement imposed under this regulation is orally varied, the person (or, in the case of a child, a person who is a responsible adult in relation to the child) must be provided with a written notification of the restriction or requirement that has been imposed or varied as soon as reasonably practicable.

(6) Subregulation (1) does not affect the exercise of any powers by virtue of regulation 10.

Screening requirements.

8.(1) For the purposes of these Regulations, the screening requirements, in relation to a person (“P”) are requirements to the effect that P must-

- (a) answer questions about P’s health or other relevant circumstances (including travel history and information about other individuals with whom P may have had contact);
- (b) produce any documents which may assist in assessing P’s health;
- (c) undergo monitoring and observation at a suitable place;
- (d) at such time as the Minister may, on the advice of the Director of Public Health, specify—
 - (i) allow a registered nurse or medical practitioner to take a biological sample of P, including a sample of P’s respiratory secretions, saliva or blood, by appropriate means including by swabbing P’s nasopharyngeal cavity or provide such a sample to a registered nurse or medical practitioner; or

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- (ii) allow a person authorised in writing by the Director of Public Health to take a sample of P's saliva by appropriate means or provide such a sample to the authorised person; and

- (e) provide sufficient information to enable P to be contacted immediately by the Minister during such period as the Minister may specify, where the Minister, on the advice of the Director of Public Health, considers that such provision of information is necessary in order to reduce or remove the risk of infecting or contaminating others.

(2) Where P is-

- (a) a child; and
- (b) accompanied by a responsible adult,

subregulation (3) applies.

(3) The responsible adult must-

- (a) secure that P answers questions in accordance with subregulation (1)(a);
- (b) answer the questions if P is unable to do so or cannot reliably do so;
- (c) produce any documents, required under subregulation (1)(b), on P's behalf;
- (d) at such time as the Minister may, on the advice of the Director of Public Health, specify—
 - (i) allow a registered nurse or medical practitioner to take a biological sample of P, including a sample of P's respiratory secretions, saliva or blood, by appropriate means including by swabbing P's nasopharyngeal cavity or provide such a sample to a registered nurse or medical practitioner; or
 - (ii) allow a person authorised in writing by the Director of Public Health to take a sample of P's saliva by appropriate means or provide such a sample to the authorised person; and
- (e) provide information where required under subregulation (1)(e).

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Imposition of further restrictions and requirements.

9.(1) In a case where the Condition (set out in regulation 6) is met in relation to a person (“P”)-

- (a) following an assessment by the Minister of risk presented by P in accordance with regulation 7(1); or
- (b) following P’s release from detention under regulation 7, or from isolation under regulation 10,

the Minister may, on the advice of the Director of Public Health, (orally or in writing) impose on P any one or more of the requirements specified in subregulation (2) where the Minister considers that it is necessary and proportionate to do so in order to reduce or remove the risk of P infecting or contaminating others.

(2) The requirements specified in this subregulation are for P to-

- (a) provide P’s contact details to a registered nurse or medical practitioner;
- (b) supply information to a registered nurse or medical practitioner which may assist in assessing P’s health;
- (c) at such time as the Minister may, on the advice of the Director of Public Health, specify—
 - (i) allow a registered nurse or medical practitioner to take a biological sample of P, including a sample of P’s respiratory secretions, saliva or blood, by appropriate means including by swabbing P’s nasopharyngeal cavity or provide such a sample to a registered nurse or medical practitioner; or
 - (ii) allow a person authorised in writing by the Director of Public Health to take a sample of P’s saliva by appropriate means or provide such a sample to the authorised person; and

(d) comply with any other specified condition or to take any other specified measure.

(3) The conditions or measures which may be specified under subregulation (2)(d) include-

- (a) a restriction on P’s travel;

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- (b) a restriction on P's activities;
 - (c) a restriction on P's contact with specified persons.
- (4) The period for which a restriction is imposed under subregulation (3) may not exceed 14 days beginning with the day on which the restriction is imposed.
- (5) The Minister may, on the advice of the Director of Public Health, (orally or in writing)-
- (a) vary any requirement imposed under this regulation; and
 - (b) impose on P any additional requirements specified in subregulation (2).
- (6) Before imposing or varying a requirement under this regulation, the Minister must-
- (a) inform P (or where P is a child, a person who is a responsible adult in relation to P) of the requirement or variation that the Minister is minded to impose or make; and
 - (b) have regard to any relevant representations by P (or, where P is a child, a person who is a responsible adult in relation to P), as to its suitability.
- (7) Where a requirement under this regulation is imposed on or in relation to a child, or varied in relation to a child, a person who is a responsible adult in relation to the child must secure that the child complies with the requirement, insofar as that person is reasonably able to do so.
- (8) Where the Minister orally imposes a requirement on P under this regulation, or orally varies such a requirement, the Minister must provide P (or where P is a child, a person who is a responsible person in relation to P) with a written notification of the requirement that has been imposed or varied.
- (9) Subregulation (1) does not affect the exercise of any powers by virtue of regulation 7(1)(c).

Isolation of persons suspected to be infected with Coronavirus.

10.(1) This regulation applies where the Condition (set out in regulation 6) is met in relation to a person ("P").

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(2) The Minister, on the advice of the Director of Public Health, may require P to be kept in isolation, if the Minister-

- (a) has reasonable grounds to believe that P is, or may be, infected or contaminated with Coronavirus; and
- (b) considers that it is necessary and proportionate to do so in order to reduce or remove the risk of P infecting or contaminating others.

(3) Where the Director of Public Health has reasonable grounds to believe that P is, or maybe, infected or contaminated with Coronavirus, he may detain P pending the decision of the Minister under subregulation (2).

(4) Where subregulation (2) applies, the Minister may impose on or in relation to P one or more screening requirements.

(5) Subregulation (1) does not affect the exercise of any powers by virtue of regulation 7(1)(c).

Detention or isolation: additional provisions.

11.(1) Where P is detained or kept in isolation under regulation 7 or 10 or subjected to restrictions or requirements under regulation 9, the Minister must have due regard to P's well-being.

(2) Where P is detained or kept in isolation under regulation 7 or 10 or subjected to restrictions or requirements under regulation 9 for a period exceeding 14 days, the Minister must review the continuation of P's detention as soon as reasonably practicable by reference to the provisions of those regulations.

(3) After each subsequent interval of 24 hours during which P is detained or kept in isolation under regulation 7 or 10 or subjected to restrictions or requirements under regulation 9, the Minister must review the continuation and conditions of P's detention by reference to the provisions of those regulations.

(4) Where P is detained or kept in isolation under regulation 7 or 10 or subjected to restrictions or requirements under regulation 9, the Minister, on the advice of the Director of Public Health, may require P to comply with screening requirements if the Minister considers that it is necessary and proportionate to do so in order to reduce or remove the risk of P infecting or contaminating others.

(5) Where P is detained under regulation 6, the Minister may require P to move to a suitable place.

(6) The Minister must notify P (or, where P is a child, a person who is a responsible adult in relation to P), as soon as P's detention under regulation 6 or 7 starts, or as soon as it is decided to keep P in isolation under regulation 10 of-

- (a) the fact of P's detention or isolation;
- (b) the powers under which P is detained or kept in isolation;
- (c) the reason for P's detention or isolation;
- (d) the next steps that may be taken and by whom;
- (e) the obligation to keep the need for P's detention or isolation under review; and
- (f) the penalty for-
 - (i) absconding, or attempting to abscond, from detention or isolation under regulation 21(1)(b);
 - (ii) providing false or misleading information intentionally or recklessly under regulation 21(2);
 - (iii) obstructing a person carrying out a function under these Regulations under regulation 21(3);
- (g) the right to appeal to the magistrates' court under regulation 19 where applicable.

Restrictions or requirements: groups.

12.(1) The powers in regulations 6, 7 and 10 include powers to impose a restriction or requirement in relation to a group of persons, including a special restriction or requirement.

(2) For those purposes those regulations have effect as follows.

(3) In regulation 6-

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- (a) in subregulation (2), references to P are to each person in the group;
 - (b) in subregulation (1)(insofar as it relates to those subregulations), the reference to “a person” is to be read accordingly, and the power to impose a requirement to be detained is to be read as a power to impose that requirement on any one or more of the persons in the group in question.
- (4) In regulation 7-
- (a) in subregulation (1), the reference to “a person” is to be read in accordance with subregulation (3) of this regulation;
 - (b) in the rest of that subregulation, references to P are to one or more of the persons in the group in question.
- (5) In regulation 10-
- (a) in subregulation (1), the reference to “a person” is to be read in accordance with subregulation (3) of this regulation;
 - (b) in the rest of that subregulation, references to P are to one or more of the persons in the group in question.

Initial detention of persons to enable screening and assessment.

13.(1) This regulation applies if a constable has reasonable grounds to suspect that-

- (a) a person (“P”) is, or may be, infected or contaminated with Coronavirus;
 - (b) there is a risk that P might infect or contaminate others; and
 - (c) it is necessary to direct, remove or detain P in the interests of P, for the protection of other persons or for the maintenance of public safety.
- (2) A constable may-
- (a) direct P to go immediately to a hospital or other suitable place specified in the direction for the purposes of screening, assessment and the imposition of any restrictions or requirements under regulation 7;

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- (b) remove P to a hospital or other suitable place for the purposes of the imposition of any restrictions or requirements under regulation 7; or
 - (c) if P is already at a hospital or other suitable place, keep P at that place or remove P to another hospital or other suitable place for the purposes of the imposition of any restrictions or requirements under regulation 7.
- (3) The power in subregulation (2) may be exercised where P is at any place.
- (4) For the purpose of exercising the power in subregulation (2), a constable may enter any place.
- (5) Before exercising the power in subregulation (2) the constable must-
 - (a) so far as reasonably practicable, consult the Director of Public Health and have due regard to the views of the Director of Public Health and any information provided by the Director of Public Health in relation to P;
 - (b) have due regard to any guidance issued by Government; and
 - (c) where consultation has not been carried out under paragraph (a)-
 - (i) consult the Director of Public Health as soon as reasonably practicable after the power in subregulation (2) has been exercised; and
 - (ii) have due regard to the views of the Director of Public Health and any information provided by the Director of Public Health in relation to P.
- (6) A person removed to or kept in a hospital or other suitable place under this regulation may be detained there for a period not exceeding the permitted period of detention.
- (7) A constable or the Director of Public Health or person authorised by either of them for the purposes of this subregulation, may, before the end of the permitted period of detention, take a person detained in a hospital or other suitable place to another hospital or other suitable place.
- (8) A person taken to a hospital or other suitable place under subregulation (7) may be detained there for a period ending no later than the permitted period of detention.

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

(10) In this regulation-

“the authorised extended period” means such further period as is specified in an authorisation under subregulation (11);

“the initial period” means the period of 24 hours beginning with-

- (a) in a case where the person is removed to a hospital or other suitable place, the time when the person arrives at that place, or
- (b) in a case where the person is kept at a hospital or other suitable place, the time when the constable decides to keep the person at that place; and

“the permitted period of detention” means the initial period of detention and the authorised extended period.

(11) A constable or registered medical practitioner may, at any time before the expiry of the initial period, authorise the detention of a person for a further period not exceeding 24 hours (beginning immediately at the end of the initial period).

(12) An authorisation under subregulation (11) may be given only if the person giving the authorisation considers that the extension is necessary because it is not reasonably practicable for the imposition of any restrictions or requirements under regulation 7 to be completed before the end of the initial period.

Power to order health measures in relation to persons.

14.(1) A justice of the peace may, upon application by the Gibraltar Health Authority, make an order under subregulation (2) in relation to a person (“P”) if satisfied that-

- (a) P is or may be infected or contaminated with the Coronavirus;
- (b) the infection or contamination is one which presents or could present significant harm to human health;
- (c) there is a risk that P might infect or contaminate others; and

- (d) it is necessary to make the order in order to remove or reduce that risk.
- (2) The order may impose on or in relation to P one or more of the following restrictions or requirements-
- (a) that P submit to medical examination;
 - (b) that P be removed to a hospital or other suitable establishment;
 - (c) that P be detained in a hospital or other suitable establishment;
 - (d) that P be kept in isolation or quarantine;
 - (e) that P be disinfected or decontaminated;
 - (f) that P wear protective clothing;
 - (g) that P provide or answer questions about P's health or other circumstances;
 - (h) that P's health be monitored and the results reported;
 - (i) that P attend training or advice sessions on how to reduce the risk of infecting or contaminating others;
 - (j) that P be subject to restrictions on where P goes or whom P has contact with;
 - (k) that P abstain from working or trading.
- (3) The order may impose on or in relation to P a requirement that P provide information or answer questions about P's health or other circumstances (including, in particular, information or questions about the identity of a related party).
- (4) "Related party" means-
- (a) a person who has or may have infected or contaminated P; or
 - (b) a person whom P has or may have infected or contaminated.

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(5) An order under this regulation may also order a person with parental responsibility (within the meaning of the Children Act 2009) for P to secure that P submits to or complies with restrictions or requirements imposed by the order.

(6) An order under this regulation must specify the period for which any restriction or requirement imposed by or required by or under the order is to remain in force but such period may not exceed 14 days.

(7) An order under this regulation is sufficient authority for the Gibraltar Health Authority, or any person authorised by it, to do such things as may be necessary to give effect to the order.

(8) An order under this regulation may be varied or revoked by a justice of the peace on the application of P or the Gibraltar Health Authority.

(9) A reference in this regulation to a person who is infected or contaminated includes a reference to a person who carries that source of an infection or contamination, and any reference to infecting or contaminating others includes a reference to passing that source to others.

Duty to provide information to persons.

15. The Gibraltar Health Authority must take all reasonable steps to ensure that the person who is the subject of an order under regulation 14 understands-

- (a) the effect of the order, the reason it has been made, the power under which it has been made and his right to apply for a variation or revocation of the order.
- (b) the relevant support services available to him and how to access them.

**Part 4
Appeals**

Appeals.

16.(1) A person in relation to whom a restriction or requirement is imposed under these Regulations, or is the subject of an order under regulation 14, may appeal to the magistrates' court against the decision to impose that requirement or restriction.

(2) A person with parental responsibility for a child in relation to whom a restriction or requirement is imposed under these Regulations, or who is subject to an order under regulation

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14, may appeal to the magistrates' court against the decision to impose that restriction or requirement.

(3) A person 'A' who is required to self-isolate by virtue of regulation 5 may appeal to the magistrates' court.

(4) On hearing an appeal under subregulation (3), the court must determine whether A falls within the scope of regulation 5 and-

- (a) if A does not fall within the scope of that regulation make an order that A is not bound by the restrictions in that regulation; or
- (b) if A does fall within the scope of that regulation order A to comply with that regulation.

Part 5 Miscellaneous

Enforcement.

17.(1) Where a requirement is imposed on a person to be detained or kept in isolation under regulation 6, 7 or 10 or by virtue of an order under regulation 14, a constable may do any of the following-

- (a) take the person to a suitable place, specified by the Minister, for the person's detention or isolation;
- (b) keep the person in detention or isolation.

(2) Where a person absconds from detention or isolation imposed under regulation 6, 7 or 10 or by virtue of an order under regulation 14, a constable may take the person into custody and return the person to the place of detention or isolation, or take the person to another suitable place specified by the Minister.

(3) If a constable has reasonable grounds to suspect that a person ("X") is in breach of the provisions of regulation 5, he may-

- (a) require X to answer any questions to enable the police officer to ascertain who X is and whether X is a person to whom regulation 5 applies; and

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- (b) direct X to go immediately to X's residence; or
- (c) detain and convey X to X's residence.

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

Offences.

18.(1) A person ("P") commits an offence if P-

- (a) fails, without reasonable excuse, to comply with a restriction or requirement imposed under regulation 5, 6(1), 7(1), 9(1), 11(4) or (5) or an order under regulation 14; or
- (b) absconds, or attempts to abscond, from detention or isolation under regulation 6, 7, 10 or by virtue of an order under regulation 14.

(2) A person who provides false or misleading information intentionally or recklessly to any person carrying out a function under these Regulations commits an offence.

(3) A person who obstructs, without reasonable excuse, any person carrying out a function under these Regulations commits an offence.

(4) A responsible adult who fails without reasonable excuse to comply with regulation 5(3), 7(4), 8(3), 9(7) or 14(5) commits an offence.

(5) An offence specified in this regulation is punishable on summary conviction to a fine not exceeding level 5 on the standard scale.

Fixed Penalty Notices.

19.(1) A police officer may issue a fixed penalty notice to anyone that the authorised officer reasonably believes has committed an offence under regulation 18 for not complying with a direction made under regulation 5.

(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.

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- (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.

Expiry.

20. The expiry of these Regulations does not affect the validity of anything done pursuant to these Regulations.