

Subsidiary Legislation made under s.11.

**CIVIL CONTINGENCIES EMERGENCY (CORONAVIRUS)
(REQUIREMENTS ON ENTRY INTO GIBRALTAR AND TESTING)
(NO.5) REGULATIONS 2021**

LN.2021/388

Commencement

3.9.2021

ARRANGEMENT OF REGULATIONS.

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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) (Requirements on Entry into Gibraltar and Testing) (No.5) Regulations 2021.

Commencement.

2. These Regulations come into operation on 3rd September 2021 and cease to have effect on 1st October 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 the publication of the Civil Contingencies Emergency (Coronavirus) (Requirements on Entry into Gibraltar and Testing) (No.4) Regulations 2021 there were approximately 198,778,175 confirmed cases globally and more than 4,235,559 have died; at the time of the publication of these Regulations there are approximately 217,558,771 confirmed cases globally and around 4,517,240 people have died; the virus has so far reached 235 countries, areas or territories, and it is therefore necessary to take measures to prevent, mitigate and control the spread of the virus 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) conditions in section 12 of the Act are met;
- (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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Interpretation.

4. In these Regulations—

“amber list country” means a country, territory or other area not listed in either Schedule 1 or Schedule 2;

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

“fully vaccinated person” means a person has received –

- (a) two doses of a two dose series vaccine and 14 days have elapsed since the second dose was administered; or
- (b) a single dose vaccine and 14 days have elapsed since it was administered;

“green list country” means a country, territory or other area listed in Schedule 1;

“PCR test” means a polymerase chain reaction test;

“proof of vaccination” means a document that has been approved by the Director of Public Health confirming that a person is a fully vaccinated person;

“red list country” means a country, territory or other area listed in Schedule 2;

“vaccine” means a vaccine that provides inoculation against coronavirus and has regulatory approval from a body listed in Schedule 3.

Duty to report.

5. Any person entering Gibraltar who has been in an amber list country or red list country in the 10 day period preceding their date of arrival into Gibraltar must, at the point of entry into Gibraltar, report this information to-

- (a) an officer of the Borders and Coastguard Agency, if entering by land or by the Gibraltar airport; or
- (b) an officer of the Gibraltar Port Authority, if entering by vessel.

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Requirements for a person entering Gibraltar after being in a green list country.

6.(1) Subject to subregulation (3), a person travelling by air into Gibraltar after being in green list country in the 10 day period preceding their date of arrival must–

- (a) satisfy the requirements in regulation 9 if they are not a fully vaccinated person;
- (b) book a lateral flow test with a registered nurse, medical practitioner or person authorised in writing by the Director of Public Health prior to or on their arrival; and
- (c) take the test referred to in paragraph (b) within 24 hours of their arrival.

(2) A person that intends to remain in Gibraltar for 7 days following their date of arrival must take an additional lateral flow test, provided by a registered nurse, medical practitioner or person authorised in writing by the Director of Public Health, 5 days following the test referred to in subregulation (1)(b).

(3) This regulation does not apply to–

- (a) a person that has been in an amber list country or red list country in the 10 day period preceding their date of arrival into Gibraltar; or
- (b) a person under the age of 12.

Requirements for a person entering Gibraltar after being in an amber list country.

7.(1) Subject to subregulations (3) and (5), a person entering Gibraltar after being in an amber list country in the 10 day period preceding their date of arrival into Gibraltar must–

- (a) satisfy the requirements in regulation 9 if they have travelled into Gibraltar by air;
- (b) book a PCR test with a registered nurse, medical practitioner or person authorised in writing by the Director of Public Health prior to their arrival;
- (c) take the test referred to in paragraph (b) on the day of their arrival;
- (d) self-isolate for 5 days following their arrival into Gibraltar; and

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- (e) take an additional PCR test, provided by a registered nurse, medical practitioner or person authorised in writing by the Director of Public Health, on the fifth day of the self-isolation period referred to in paragraph (d).

(2) The requirement to self-isolate under subregulation (1)(d) is not completed until the requirement in subregulation (1)(d) has been met and a person authorised in writing by the Director of Public Health has confirmed that the self-isolation period has been completed.

(3) Subregulation (1) does not apply to a fully vaccinated person.

(4) A fully vaccinated person entering Gibraltar after being in an amber list country in the 10 day period preceding their date of arrival into Gibraltar must—

- (a) book a lateral flow test, with a registered nurse, medical practitioner or person authorised in writing by the Director of Public Health, prior to their arrival into Gibraltar;
- (b) take the test referred to in paragraph (a) on the day of their arrival; and
- (c) take an additional lateral flow test, provided by a registered nurse, medical practitioner or person authorised in writing by the Director of Public Health, five days following the test referred to in paragraph (a).

(5) This regulation does not apply to

- (a) a person that has been in a red list country in the 10 day period preceding their date of arrival into Gibraltar; or
- (b) a person under the age of 12.

Requirements for a person entering Gibraltar after being in a red list country.

8.(1) Subject to subregulation (2), no person who has been in a red list country in the 10 day period preceding their date of arrival into Gibraltar, may enter Gibraltar.

(2) Subregulation (1) does not apply to a person (P) if P proves to the satisfaction of an immigration officer that P—

- (a) falls within the definition of a Gibraltarian pursuant to section 4 of the Gibraltarian Status Act;
- (b) is a lawful resident of Gibraltar;

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- (c) is a seafarer who-
 - (i) is on transit to a vessel which is berthed or at anchor within British Gibraltar Territorial Waters;
 - (ii) holds a valid seafarer's book; and
 - (iii) has a letter of guarantee from a shipping agent registered in Gibraltar;
- (d) is a Spanish national and is on transit to Spain;
- (e) intends to transit Gibraltar for the purposes of entering Spain and P-
 - (i) is lawfully resident in Spain, and
 - (ii) is or will be allowed to enter Spain from Gibraltar;
- (f) is carrying out a work activity in Gibraltar or who are taking up employment in Gibraltar;
- (g) is a member of the armed forces and P has been issued with a travel order that states that Gibraltar is P's destination;
- (h) has, in exceptional circumstances, been granted permission by the Borders and Coastguard Agency to enter Gibraltar and is the holder of a letter, electronic or otherwise, issued by the Borders and Coast Guard Agency granting P leave to enter Gibraltar.

(3) Subject to subregulations (5) and (7), a person entering Gibraltar after being in a red list country in the 10 day period preceding their date of arrival into Gibraltar and proving to the satisfaction of an immigration officer that they satisfy one of the conditions in subregulation (2) must—

- (a) satisfy the requirements in regulation 9;
- (b) book a PCR test with a registered nurse, medical practitioner or person authorised in writing by the Director of Public Health prior to their arrival;
- (c) take the test referred to in paragraph (b) on the day of their arrival;
- (d) self-isolate for 10 days following their arrival into Gibraltar; and

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- (e) take an additional PCR test, provided by a registered nurse, medical practitioner or person authorised in writing by the Director of Public Health, on the tenth day of the self-isolation period referred to in paragraph (d).

(4) The requirement to self-isolate under subregulation (3)(d) is not completed until the requirement in subregulation (3)(e) has been met and a person authorised in writing by the Director of Public Health has confirmed that the self-isolation period has been completed.

(5) Subregulation (3) does not apply to a fully vaccinated person.

(6) A fully vaccinated person entering Gibraltar after being in a red list country in the 10 day period preceding their date of arrival into Gibraltar after proving to the satisfaction of an immigration officer that they satisfy one of the conditions in subregulation (2) must –

- (a) book a PCR test upon their arrival into Gibraltar with a registered nurse, medical practitioner or person authorised in writing by the Director of Public Health;
- (b) take the test referred to in paragraph (a) on the day of their arrival; and
- (c) take an additional PCR test, provided by a registered nurse, medical practitioner or person authorised in writing by the Director of Public Health, five days following the test referred to in paragraph (a).

(7) This Regulation does not apply to a person under the age of 8.

(8) In these Regulations–

“immigration officer” includes an officer of the Borders and Coast Guard Agency and an officer of the Gibraltar Port Authority.

Pre-departure testing requirements.

9.(1) Subject to subregulation (2), a person (P) who–

- (a) arrives into Gibraltar by air; and
- (b) is not a fully vaccinated person; or
- (c) has been in a red list country 10 day period preceding their date of arrival into Gibraltar,

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must, upon their arrival, provide an immigration officer with a negative coronavirus test result.

(2) Subregulation (1) does not apply where P has completed a passenger locator form in accordance with the Civil Contingencies Emergency (Coronavirus) (Passenger Locator Form) (No.13) Regulations 2021.

(3) The test taken to provide the negative coronavirus test result referred to in subregulation (1) must–

- (a) have been taken by P within the 48-hour period prior to P’s arrival into Gibraltar; and
- (b) meet standards of–
 - (i) 97% specificity or above; and
 - (ii) 80% sensitivity or above at viral loads above 100,000 copies/ml.

(4) The test result referred to in subregulation (1) must include–

- (a) P’s name as it appears on their travel documentation;
- (b) P’s date of birth or age;
- (c) the negative result of the test;
- (d) the date the test sample was collected or received by the company or business administering the test;
- (e) the name and contact details of the company or business that carried out the test;
- (f) the name of the test device.

(5) This regulation does not apply to–

- (a) a person under the age of 12 if they have been in a green list or an amber list country; or
- (b) a person under the age of 8 if they have been in a red list country,

in the 10 day period prior to their arrival in Gibraltar.

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Alternative Requirements.

10. The Civil Contingencies Coordinator, on the advice of the Director of Public Health, may issue alternative requirements in writing to a person and where that person has been issued with said alternative requirements, regulations 6, 7, 8 and 9 do not apply.

Use of public transport.

11.(1) Subject to subregulation (3), a person arriving in Gibraltar after being in an amber list country or a red list country in the 10 day period preceding their date of arrival into Gibraltar may only use public transport that has been approved by the Civil Contingencies Coordinator.

(2) The restriction on a person referred to in subregulation (1) ends when they receive confirmation of the end of their self-isolation period in accordance with regulations 7(2) or 8(4).

(3) This regulation does not apply to a fully vaccinated person.

Requirement to self-isolate.

12.(1) A person who is required to self-isolate under these Regulations must remain in a place of residence at all times except for any of the following purposes-

- (a) to avoid injury or escape a risk of harm; or
- (b) in order to take a PCR test in accordance with these Regulations.

(2) A person who is required to self-isolate under these Regulations must remain in a single place of residence.

(3) For the purposes of this regulation, “place of residence” includes temporary accommodation such as, but not limited to a hotel or hostel.

Proof of vaccination.

13. Upon entry into Gibraltar, a person claiming to be a fully vaccinated person must provide proof of vaccination when requested to do so by an officer of the Borders and Coastguard Agency or an officer of the Gibraltar Port Authority.

Children.

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14.(1) An individual who has responsibility for a child must, so far as reasonably practicable, secure that the child complies with any direction, instruction, requirement or restriction given to or imposed on the child under these Regulations.

(2) An individual who has responsibility for a child must provide to a person exercising a power under these Regulations such information and assistance in relation to the child as is reasonably necessary and practicable in the circumstances.

(3) A power under these regulations to direct or require a child to self-isolate may instead be exercised by directing or requiring an individual who has responsibility for the child to ensure the child self-isolates.

(4) Where a child has a right of appeal under these Regulations, the right may be exercised by an individual who has responsibility for the child.

(5) For the purposes of these Regulations an individual has responsibility for a child—

- (a) if the individual has custody or charge of the child for the time being; or
- (b) if the individual has parental responsibility for the child (within the meaning of the Children Act 2009).

(6) In these regulations—

“adult” means a person aged 18 or over;

“child” means a person under the age of 18.

Appeals.

15. A person in relation to whom a requirement is imposed under these Regulations may appeal to the magistrates’ Court against that requirement.

Offences.

16. A person who—

- (a) provides false or misleading information intentionally or recklessly to any person carrying out a function under these Regulations;

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- (b) obstructs, without reasonable excuse, any person carrying out a function under these Regulations; or
- (c) contravenes these Regulations,

commits an offence and is liable on summary conviction to a fine up to level 5 on the standard scale.

Fixed penalty notice.

17.(1) A police officer may issue a fixed penalty notice to anyone that the police officer reasonably believes has committed an offence under regulation 16 by not complying with regulations 6(1)(b), 6(2), 7(1)(c), 7(1)(e), 7(4)(a), 7(4)(c), 8(3)(c), 8(3)(e), 8(6)(a), 8(6)(c), 9, 13 or 14.

(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 £300.

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(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.

Relationship with Immigration, Asylum and Refugee Act.

18.(1) Where a person "P" has contravened the provisions of regulation 8(1) and 8(2) and irrespective of whether P has been prosecuted for that offence under these Regulations-

- (a) for the purposes of the Immigration, Asylum and Refugee Act, the Principal Immigration Officer is deemed to have declared P to be a prohibited immigrant pursuant to section 52(1); and
- (b) all the powers under that Act are available as regards P.

(2) The provisions in Part IV (EEA Nationals and Family Members, Swiss Posted Workers) of the Immigration, Asylum and Refugee Act are modified to the extent required to give effect to regulation 8(1) or 8(2).

Application.

19. These Regulations do not apply to seafarers that are the subject of any Coronavirus protocol issued by the Captain of the Port.

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SCHEDULE 1

GREEN LIST COUNTRIES

Anguilla
Antarctica/British Antarctic Territory
Antigua and Barbuda
Austria
Australia
The Azores
Barbados
Bermuda
British Indian Ocean Territory
Brunei
Bulgaria
Canada
Cayman Islands
Croatia
Denmark
Dominica
Falkland Islands
Faroe Islands
Finland
Germany
Grenada
Hong Kong
Iceland
Israel
Latvia
Liechtenstein
Lithuania
Madeira
Malta
Montserrat
New Zealand
Norway
Pitcairn, Henderson, Ducie and Oeno Islands
Romania
Singapore
Slovakia
Slovenia

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South Georgia and South Sandwich Islands
St Helena, Ascension and Tristan da Cunha
Spain
Switzerland
Taiwan
The United Kingdom, Jersey, Guernsey and Isle of Man
Turks and Caicos Islands

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SCHEDULE 2

RED LIST COUNTRIES

Afghanistan
Angola
Argentina
Bangladesh
Bolivia
Botswana
Brazil
Burundi
Cape Verde
Chile
Colombia
Congo (Democratic Republic)
Costa Rica
Cuba
Dominican Republic
Ecuador
Egypt
Eritrea
Eswatini
Ethiopia
French Guiana
Georgia
Guyana
Haiti
Indonesia
Kenya
Lesotho
Malawi
Maldives
Mayotte
Mexico
Mongolia
Montenegro
Mozambique
Myanmar
Namibia
Nepal

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Oman
Pakistan
Panama
Paraguay
Peru
Philippines
Réunion
Rwanda
Seychelles
Sierra Leone
Somalia
South Africa
Sri Lanka
Sudan
Suriname
Tanzania
Thailand
Trinidad and Tobago
Tunisia
Turkey
Uganda
Uruguay
Venezuela
Zambia
Zimbabwe

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SCHEDULE 3

RECOGNISED BODIES FOR REGULATORY APPROVAL FOR VACCINES

Medicines and Healthcare products Regulatory Agency (MHRA)
World Health Organisation (WHO)
European Medicines Agency (EMA)
Food and Drug Administration (FDA)