

Subsidiary Legislation made under s.11.

**CIVIL CONTINGENCIES EMERGENCY (CORONAVIRUS)
(BUSINESSES, RESTRICTIONS AND OTHER MATTERS) (NO.9)
REGULATIONS 2021**

LN.2021/446

Commencement

5.11.2021

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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) (Businesses, Restrictions and Other Matters) (No.9) Regulations 2021.

Commencement.

2. These Regulations come into operation on 5th November 2021 and cease to have effect on 3rd December 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) (Businesses, Restrictions and Other Matters) (No.8) Regulations 2021 there were more than 235,673,032 confirmed cases globally and more than 4,814,651 people had died; at the time of the publication of these Regulations there were more than 247,472,724 confirmed cases globally and more than 5,012,337 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) the conditions in section 12 of the Act are met;
- (c) 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
- (d) the effect of these Regulations is in due proportion to that aspect or effect of the said emergency.

Interpretation.

4. In these Regulations-

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“a person responsible for carrying on a business” includes the owner, proprietor, and manager of that business;

“Coronavirus” means SARS-CoV-2 or Covid-19;

“employee” includes a self-employed person;

“fully vaccinated” means having received two doses of a two dose series vaccine or has received a single dose vaccine and 14 days have elapsed since it was administered;

“mask” means a covering of any type which covers a person’s nose and mouth;

“officer” means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity and if the affairs of a corporate body are managed by its members, “director” means a member of that body;

“public service vehicle” has the meaning given in section 2 of the Traffic Act 2005;

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

PART I

Businesses and Restrictions.

Discotheques and nightclubs.

5.(1) A person responsible for carrying on a business of a discotheque or nightclub requires a permit from the Director of Public Health.

(2) A permit issued under subregulation (1) shall be subject to such conditions as may be specified in the permit and any conditions may be varied, added or removed.

(3) A person responsible for carrying on a business referred to in subregulation (1) must ensure that-

(a) employees that are not fully vaccinated wear masks at all times; and

(b) the conditions of a permit issued under subregulation (1) are complied with.

(4) An employee of a business referred to in subregulation (1) that is not fully vaccinated must wear a mask at all times whilst on the premises of such business, including any outdoor area or terrace.

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(5) The duration of a permit issued under subregulation (1) shall be as specified in the permit.

(6) Failure to comply with-

- (a) a condition of a permit issued under subregulation (1); or
- (b) a provision of subregulation (3),

constitutes reasonable grounds for suspension or revocation of the permit by the Director of Public Health.

(7) Failure to comply with a condition of a permit issued under subregulation (1) on three occasions within a period of 14 days shall result in the immediate revocation of the permit by the Director of Public Health.

(8) The Chief Environmental Health Officer and the Environmental Health Officers are responsible for the enforcement of this regulation but this does not preclude a police officer from enforcing this regulation.

(9) The Chief Environmental Health Officer and the Environmental Health Officers shall have all the powers conferred upon them by the Food and Drugs Act for the purposes of subregulation (8).

Retail Shops.

6.(1) A person responsible for carrying on a business as a retail shop must ensure-

- (a) that hand sanitising facilities are provided at the point of entry and exit to the premises;
- (b) so far as it is reasonably practicable, that persons on the premises are able to practice social distancing from each other;
- (c) that employees wear masks at all times;
- (d) that no person, without reasonable excuse, is allowed to enter or to remain on the premises unless such a person is wearing a mask; and
- (e) compliance with any recommendations or instructions from the Director of Public Health.

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(2) An employee of a business referred to in subregulation (1) must wear a mask at all times whilst on the premises of such business.

(3) A person who is not an employee of a business referred to in subregulation (1) must wear a mask at all times whilst on the premises of such business, unless that person has a reasonable excuse for not doing so.

(4) The requirements in subregulations (1)(d) and (3) do not apply–

- (a) to a child who is under the age of 11;
- (b) to a police officer acting in the course of his duty;
- (c) to an emergency responder acting in their capacity as an emergency responder.

(5) For the purposes of subregulations (1)(d) and (3) the circumstances in which a person (“P”) has a reasonable excuse include those where–

- (a) P cannot put on, wear or remove a mask because of any physical or mental illness or impairment or disability;
- (b) P is travelling with, or providing assistance to another person (“B”) and B relies on lip reading to communicate with P;
- (c) P is travelling to avoid injury, or to escape a risk of harm, and does not have a mask with them.

(6) In subregulation (4)(c) “emergency responder” means a person employed for the purposes of providing, or engaging to provide, medical, ambulance or paramedic services.

Medical and Health Services.

7.(1) A person responsible for carrying on a business that provides dental services, opticians, chiropractors, osteopaths or other medical or health services must ensure–

- (a) so far as it is reasonably practicable, that persons on the premises where the services are available are able to practice social distancing from each other;
- (b) that hand sanitising facilities are provided at the point of entry and exit to the premises;

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- (c) that employees wear masks at all times;
 - (d) that no person, without reasonable excuse, is allowed to enter or to remain on the premises unless such person is wearing a mask or they are receiving treatment; and
 - (e) compliance with any recommendations or instructions from the Director of Public Health.
- (2) An employee of a business referred to in subregulation (1) must wear a mask at all times whilst on the premises of such business.
- (3) A person who is not an employee of a business referred to in subregulation (1) must wear a mask at all times whilst on the premises of such business, unless that person—
- (a) has a reasonable excuse for not doing so; or
 - (b) is receiving treatment.
- (4) The requirement in subregulation (3) does not apply—
- (a) to a child who is under the age of 11;
 - (b) to a police officer acting in the course of his duty;
 - (c) to an emergency responder acting in their capacity as an emergency responder.
- (5) For the purposes of subregulation (3) the circumstances in which a person (“P”) has a reasonable excuse include those where—
- (a) P cannot put on, wear or remove a mask because of any physical or mental illness or impairment or disability;
 - (b) P is travelling with, or providing assistance to another person (“B”) and B relies on lip reading to communicate with P;
 - (c) P is travelling to avoid injury, or to escape a risk of harm, and does not have a mask with them.
- (6) In subregulation (4)(c) “emergency responder” means a person employed for the purposes of providing, or engaging to provide, medical, ambulance or paramedic services.

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Restaurants, cafeterias and bars.

8.(1) A person responsible for carrying on a business of a restaurant, cafeteria or bar where food or drink is sold for consumption on the premises requires a permit from the Director of Public Health.

(2) A permit issued under subregulation (1) shall be subject to such conditions as may be specified in the permit and any conditions may be varied, added or removed.

(3) A person responsible for carrying on a business referred to in subregulation (1) must ensure that-

(a) subject to subregulation (10), employees that are not fully vaccinated wear masks at all times; and

(b) the conditions of a permit issued under subregulation (1) are complied with.

(4) Subject to subregulation (10), an employee of a business referred to in subregulation (1) that is not fully vaccinated must wear a mask at all times whilst on the premises of such business, including any outdoor area or terrace.

(5) The duration of a permit issued under subregulation (1) shall be as specified in the permit.

(6) Failure to comply with-

(a) a condition of a permit issued under subregulation (1); or

(b) a provision of subregulation (3) or (8),

constitutes reasonable grounds for suspension or revocation of the permit by the Director of Public Health.

(7) Failure to comply with a condition of a permit issued under subregulation (1) on three occasions within a period of 14 days shall result in the immediate revocation of the permit by the Director of Public Health.

(8) A person referred to in subregulation (1) must-

(a) keep a daily list of the name and contact telephone number of all the customers who have booked a table at the restaurant, cafeteria or bar;

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- (b) keep such list for 10 days from the date for which the table was booked;
- (c) where the Director of Public Health requests a copy of the daily list for a particular day for contact tracing purposes, that list must be provided to the Director of Public Health without undue delay.

(9) The list referred to in subregulation (8) must be destroyed at the end of the 10 days after the date for which the table was booked.

(10) The Director of Public Health may issue an exemption to a person referred to in subregulation (1) exempting them and their employees from the requirement to wear a mask in any kitchen on the premises of the business.

(11) The Chief Environmental Health Officer and the Environmental Health Officers are responsible for the enforcement of this regulation but this does not preclude a police officer from enforcing this regulation.

(12) The Chief Environmental Health Officer and the Environmental Health Officers shall have all the powers conferred upon them by the Food and Drugs Act for the purposes of subregulation (11).

(13) This regulation shall not apply-

- (a) to the restaurant in the Gibraltar International Airport that is located airside, after passport and security controls; and
- (b) in respect of the sale or supply of food or drink to customers for consumption off the premises.

Exceptions to requirement to wear a mask.

9. The requirement in regulations 5, 6, 7 and 8 for an employee (“X”) to wear a mask does not apply–

- (a) if it is reasonably necessary for X to eat or drink;
- (b) where X removes the mask to take medication;
- (c) where X removes the mask to avoid harm or injury or the risk of harm of injury.

Construction, shipbuilding and repairs.

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10.(1) This regulation applies to a person responsible for carrying on a business of -

- (a) construction work; or
- (b) shipbuilding or repair work.

(2) A person to whom this regulation applies must ensure-

- (a) so far as reasonably practicable, that workers at a site can practice social distancing from each other;
- (b) where it is not possible for workers to practice social distancing from each other, that workers are provided with masks which must be worn at all times;
- (c) where construction work is being carried out inside a dwelling, office or any other building, that masks are worn at all times;
- (d) that workers are screened at the point of entry to a site by taking their temperature; and
- (e) any recommendations and instructions given by the Director of Public Health are complied with.

(3) If following the screening of a worker it appears that the worker has a temperature of more than 37.8 degrees Celsius, or is otherwise unwell, the person to whom this regulation applies must inform the Director of Public Health immediately and follow any instructions given by him.

(4) The inspectors appointed under the Factories Act shall be responsible for the enforcement of this regulation and shall have all the powers conferred upon them under that Act for the purposes of this regulation.

Public Service Vehicles.

11.(1) No person may, without reasonable excuse, drive or use a public service vehicle without wearing a mask.

(2) The requirement in subregulation (1) does not apply-

- (a) to a child under the age of 11;
- (b) to a police officer acting in the course of his duty;

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(c) to an emergency responder acting in their capacity as an emergency responder.

(3) For the purposes of subregulation (1), the circumstances in which a person (“P”) has a reasonable excuse include those where-

- (a) P cannot put on, wear or remove a mask because of any physical or mental illness or impairment or disability;
- (b) P is travelling with, or providing assistance to another person (“B”) and B relies on lip reading to communicate with P;
- (c) P is travelling to avoid injury, or to escape a risk of harm, and does not have a mask with them.

(4) In this regulation, “emergency responder” means a person employed for the purposes of providing, or engaged to provide, medical, ambulance or paramedic services.

Temperature screening.

12. Where the Director of Public Health issues a recommendation or instruction regarding the taking of the temperature of any person for the purposes of protecting public health from the effects of the Coronavirus, any data shall be deemed to have been processed under their legitimate interest to protect their employees and anyone attending their premises-

- (a) if a notice is placed at the entrance to the premises informing persons that their temperature is to be taken; and
- (b) no record is kept of the person’s temperature.

PART II Other Matters.

Enclosed and substantially enclosed premises.

13.(1) For the purposes of this Part, premises are enclosed if they–

- (a) have a ceiling or roof; and
- (b) except for doors, windows and passageways, are wholly enclosed either permanently or temporarily.

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(2) For the purposes of this Part, premises are substantially enclosed if they have a ceiling or roof but there is—

- (a) an opening in the walls; or
- (b) an aggregate area of openings in the walls,

which is less than half of the area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premises.

(3) In determining the area of an opening or an aggregate area of openings for the purposes of subregulation (2), no account is to be taken of openings in which there are doors, windows or other fittings that can be opened or shut.

(4) In this Part “roof” includes any fixed or moveable structure or device which is capable of covering all or part of the premises as a roof, including, for example, a canvas awning.

Requirement to wear a mask.

14.(1) A person must wear a mask when—

- (a) attending a funeral in a place of worship that is an enclosed or substantially enclosed premises, or
- (b) subject to subregulation (2), in the area of Gibraltar International Airport that is shaded in green in the plan found in Schedule 4 of the Civil Aviation Act 2009,

unless that person has a reasonable excuse for not doing so.

(2) The requirement in subregulation (1)(b) does not apply—

- (a) to areas that are not open to the public; or
- (b) where a person is consuming food or drink.

(3) Premises are “open to the public” if the public or a section of the public has access to them, whether by invitation or not and whether on payment or not.

Applicability and reasonable excuses.

15.(1) The requirement in regulation 14 does not apply—

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- (a) to a child who is under the age of 11;
- (b) to a police officer acting in the course of his duty;
- (c) to an emergency responder acting in their capacity as an emergency responder.

(2) For the purposes of regulation 14 the circumstances in which a person (“P”) has a reasonable excuse include those where–

- (a) P cannot put on, wear or remove a mask because of any physical or mental illness or impairment or disability;
- (b) P is travelling with, or providing assistance to another person (“B”) and B relies on lip reading to communicate with P;
- (c) P is travelling to avoid injury, or to escape a risk of harm, and does not have a mask with them.

(3) In subregulation (1)(c) “emergency responder” means a person employed for the purposes of providing, or engaging to provide, medical, ambulance or paramedic services.

Offences and penalties.

16.(1) A person who contravenes the provisions of these Regulations commits an offence and is liable on summary conviction to a fine up to level 5 on the standard scale.

(2) If an offence under this regulation committed by a corporate body is proved–

- (a) to have been committed with the consent or connivance of; or
- (b) to be attributable to any neglect on the part of,

an officer, the officer as well as the corporate body commits the offence and is liable to be proceeded against and punished accordingly.

Fixed penalty notice.

17.(1) An authorised person 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) In this regulation "authorised person" means-

- (a) a police officer;

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- (b) the Chief Environmental Health Officer, an Environmental Health Officer or an Assistant Environmental Health Officer.

Validity of permits.

18. Any permit issued under the Civil Contingencies Emergency (Coronavirus) (Businesses, Restrictions and Other Matters) (No.8) Regulations 2021 is deemed to have been issued under these Regulations and continues to have effect including as to the period of validity and any restrictions or conditions that may have been imposed.

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Medicines and Healthcare products Regulatory Agency (MHRA)

European Medicines Agency (EMA)