

Subsidiary Legislation made under s.11.

**CIVIL CONTINGENCIES EMERGENCY (CORONAVIRUS) (HEALTH PROTECTION MEASURES NO.5) REGULATIONS 2021**

**LN.2021/063**

*Commencement*

**16.1.2021**

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**ARRANGEMENT OF REGULATIONS.**

Regulation

1. Title.
2. Commencement and expiry.
3. Statement in accordance with section 11(2) of the Act.
4. Protection of persons.
5. Disapplication of exceptions.
6. Police powers.
7. Fixed penalty notice.
8. Consultation where practicable.

**2007-14**

## Civil Contingencies

**2021/063**

### **Civil Contingencies Emergency (Coronavirus) (Health Protection Measures No.5) Regulations 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) (Health Protection Measures No.5) Regulations 2021.

**Commencement and expiry.**

2. These Regulations come into operation on 16<sup>th</sup> January 2021 and cease to have effect on 23<sup>rd</sup> January 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 the Civil Contingencies Emergency (Coronavirus) (Health Protection Measures No.4) Regulations 2021 there were more than 81,947,503 confirmed cases globally and more than 1,808,041 people had died; at the time of the publication of these Regulations there are more than 91,492,398 confirmed cases globally and more than 1,979,507 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 conditions in section 12 of the Act are met;
- (e) the measures provided for are directed at the protection of public health in order to protect and prevent persons from contracting or spreading Coronavirus;
- (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

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

**Protection of persons.**

4. (1) Subject to subregulations (2) and (5), a person (P), for the purposes of the protection of the health of P and others from Coronavirus, is prohibited from leaving their place of residence except-

- (a) to purchase food, beverages, pharmaceutical products or such other essential items in Gibraltar;
- (b) to take food, beverages, pharmaceutical products or such other essential items to a person over the age of 60 or to a person referred to in regulation 5;
- (c) to attend a medical or care facility of any kind and howsoever described or an essential services provider, for accessing services provided therein;
- (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) where P is on the autism spectrum or has a learning disability and may need to temporarily leave their place of residence on account of said disability;
- (f) to exercise a dog outdoors;
- (g) to exercise;
- (h) to exercise children, where P is a parent, guardian or carer;
- (i) where P is a non-resident parent, to collect a child from, or go back to, the child's residence;
- (j) when taking a child to an official activity, a childcare facility (other than at a school- whether at a private residential place or otherwise) or a school and returning from that activity or place, provided that in the case of a school the child falls within the category of children for whom the facility is available;
- (k) if P is in employment or self-employed or is the holder of a public office, to go to work, and P may be required to provide evidence of such employment or self-employment being registered in Gibraltar;
- (l) in the exercise of any ministerial or parliamentary duties;

**2007-14**

## Civil Contingencies

**2021/063**

### **Civil Contingencies Emergency (Coronavirus) (Health Protection Measures No.5) Regulations 2021**

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- (m) if P is employed or self-employed in the written or audio-visual media, to go to work;
- (n) to travel by vessel;
- (o) for essential travel to or from the frontier, airport or port in order to enter into or depart from Gibraltar;
- (p) to go to a bank or other financial institution;
- (q) where required to go to court, to file any court documents or for purposes relating to it;
- (r) in doing so with the prior approval of the Office of the Civil Contingencies Coordinator and subject to such conditions as may be specified in writing;
- (s) any case where P is at risk of injury or death; (t) any other activity that is absolutely necessary.

(2) Subject to subregulations (3), (4) and (7), where P pursues any of the exceptions set out in paragraphs (a), (b), (c), (d), (h), (i), (j), (k), (m), (o) and (p), of subregulation (1), P must do so alone or accompanied by no more than one other person from the same household and any children, provided that each person practises social distancing from other persons not from the same household.

(3) P may use a public service vehicle in order to pursue any of the exceptions referred to in subregulation (2) provided that the public service vehicle is occupied by only P, no more than one other person from the P's household, any children and the driver.

(4) P may share a vehicle with one person from another household in order to pursue the exception listed under subregulation (1)(c).

(5) Subject to subregulation (6), where P pursues any of the exceptions set out in paragraphs (f), (g) and (n) of subregulation (1), P must do so alone or accompanied by other persons from the same household, provided that each person practises social distancing from other persons not from the same household.

(6) Subregulation (5) shall not apply to an official vehicle of the Government or to emergency services.

(7) Subregulation (2) shall not apply in the exception set out in subregulation (1)(h), where the child being cared for has a disability or is vulnerable and the care includes accompanying that person or child outdoors.

(8) Where subregulation (7) applies, P may accompany the person to whom P provides care provided that each person practises social distancing from other persons.

(9) 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.

(10) For the purposes of these Regulations–

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

“Public service vehicle” has the meaning given in section 2 of the Traffic Act 2005.

**Disapplication of exceptions.**

5. The exceptions in paragraphs (a), (b) and (d) to (r) of subregulation (1) shall not apply to–

- (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,

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

**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.

**2007-14**

## Civil Contingencies

**2021/063**

### **Civil Contingencies Emergency (Coronavirus) (Health Protection Measures No.5) Regulations 2021**

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(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.

(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.

Civil Contingencies

2007-14

**Civil Contingencies Emergency (Coronavirus) (Health  
Protection Measures No.5) Regulations 2021**

---

**2021/063**

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

**Consultation where practicable.**

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 amending, extending or replacing the effect of these Regulations.