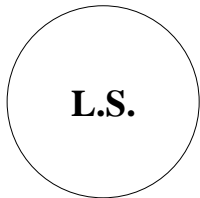


Legal Notice No. 26 of 2020

ST HELENA



**PUBLIC HEALTH ORDINANCE, 1939**

***PUBLIC HEALTH (PREVENTION OF FORMIDABLE DISEASES)  
(CORONAVIRUS NO. 2) REGULATIONS, 2020***

In exercise of the powers conferred by section 49 of the Public Health Ordinance, 1939, the Governor in Council makes the following Regulations:

**Citation and expiry**

1. (1) These Regulations may be cited as the Public Health (Prevention of Formidable Diseases) (Coronavirus No. 2) Regulations, 2020.

(2) These Regulations cease to have effect at the end of the period of six months beginning on the day on which the Regulations come into force, unless further extended by the Governor in Council.

(3) Subsection (2) does not affect the validity of anything done pursuant to these Regulations before the Regulations cease to have effect.

**Interpretation**

2. (1) In these Regulations—  
 “**child**” means a person who is under 18 years of age;  
 “**coronavirus**” means—

- (a) Coronavirus disease 2019 (COVID-19 or 2019-nCoV);
- (b) Acute Respiratory Disease ((2019-nCoV ARD);
- (c) Novel Coronavirus Pneumonia (NCP); or
- (d) a known viral respiratory disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

“**health care practitioner**” includes a medical practitioner, nurse or pharmacist who is in the employ of the Government of St Helena;

“**isolation**” in relation to a person, means the separation of the person from any other person in such a manner as to prevent infection or contamination with coronavirus;

“**proper officer**” means a person appointed as such pursuant to section 3A of the Port and Aerodrome Ordinance, 2018, and for the purpose of these Regulations, includes the Director of Health and any health care practitioner;

“**responsible adult**”, in relation to a child, means a person who is 18 years of age or over who has parental, custodial or legal responsibility for the child.

### **Isolation upon entry**

**4. (1)** A person who arrives in St Helena by air, must upon entry stay in isolation at Bradleys Camp for a period of 14 days, unless directed by a proper officer to isolate elsewhere for that period.

**(2)** A person who arrives in St Helena by sea—

*(a)* must remain in isolation for a period of 14 days aboard the vessel on which the person arrived; or

*(b)* if a proper officer is satisfied that it is not possible or practical for the person to remain aboard the vessel for the full period as required by paragraph *(a)*, must isolate at Bradleys Camp (or such other place as directed by the proper officer) for that period or remainder of that period.

**(2A)** In determining the period of 14 days in sub-regulation (2), the proper officer may take into account the period during which the person was aboard the vessel after its departure from the last port of embarkation of passengers or crew.

**(3)** A direction under sub-regulation (1) or (2) may be made by a proper officer orally or in writing and, if made orally, must as soon as is practicable thereafter be reduced into writing.

**(4)** The Director of Health may direct that the period specified for isolation under this regulation be increased in respect of a person, and may decide the location and conditions for such further isolation, if the Director—

*(a)* has reasonable grounds to suspect that the person is, or may be, infected or contaminated with coronavirus; and

*(b)* considers that it is necessary and proportionate in order to reduce or remove the risk of that person infecting or contaminating others.

**(5)** The Director of Health may direct that the period specified for isolation under sub-regulation (1) or (2) be decreased with respect to a person, if the Director is satisfied that the person is not infected or contaminated with coronavirus.

**(6)** The Governor in Council may by Order exempt a person or category of person from the requirement for isolation under regulation 4(1) or (2), subject to such conditions as the Governor in Council may determine.

### **Isolation: order and direction**

**5. (1)** The Director of Health may order a person to remain in isolation at such location and subject to such conditions set out in the order, if the Director—

- (a) has reasonable grounds to suspect that the person is, or may be, infected or contaminated with coronavirus; and
  - (b) considers that it is necessary and proportionate in order to reduce or remove the risk of that person infecting or contaminating others.
- (2) The Director of Health may orally or in writing give directions for the purpose of identifying persons who may be infected with coronavirus, including—
- (a) the symptoms of coronavirus of which a person should be aware to facilitate the detection and control of the spread of coronavirus; and
  - (b) the procedure to be followed by a person who is experiencing any symptoms under paragraph (a), or who has or may have had contact with or been exposed to a person who is infected, or is suspected to be infected, with coronavirus.
- (3) A direction under sub-regulation (2) may be disseminated to the public by whatever means the Director of Health considers appropriate, and must be—
- (a) published in the Gazette; and
  - (b) announced by way of a radio broadcast when possible.

**Isolation: additional provisions**

6. (1) The Director of Health must notify a person (or, in the case of a child, the responsible adult in relation to the child) who is to remain in isolation under regulation 4(1), 4(2), 4(4) or 5(1) of—
- (a) the fact of the isolation;
  - (b) the powers under which the person is kept in isolation;
  - (c) the reason for the person's isolation;
  - (d) the next steps that may be taken and by whom;
  - (e) the obligation to keep the need for the person's isolation under review; and
  - (f) the penalty for breach of the requirement to remain in isolation,
- and if made orally, must be reduced into writing as soon as is reasonably possible.
- (2) Any order for isolation, or an increase in the period of isolation, which has the effect of the isolation period extending beyond 14 days, must be approved by the Governor.
- (3) The requirement for isolation under regulation 4 or 5 will be deemed not to have been completed by a person until that person has been tested for coronavirus and is confirmed to be negative, unless the Director of Health directs otherwise.

**Isolation: review and appeal**

7. (1) The Director of Health must review the continuation of isolation under regulations 4(4) and 5(1) at least every seven days.
- (2) A person may appeal to the Magistrate's Court against a decision of the Director of Health—
- (a) to increase the period of isolation under regulations 4(4);
  - (b) to order a person to remain in isolation under regulation 5(1); or

- (c) with respect to the period that the person is to remain in isolation under regulation 4(4) or 5(1).

(3) On an appeal under sub-regulation (2), the Magistrates' Court may confirm the order or direction of the Director, or may uphold the appeal and revoke or substitute any such order or direction and may vary the period of isolation with respect to the isolation.

(4) The appellant is not entitled to appear in person at the proceedings before the Magistrates' Court and he or she may attend such proceedings telephonically or by way of electronic media, if available.

(5) The appellant's legal representative is not required to consult with the appellant in person and any such consultation or representation in court may be conducted telephonically or by way of electronic media, if available.

#### **Isolation: offences**

8. (1) A person commits an offence if he or she—
- (a) breaches or attempts to breach the requirement to remain in isolation as required under regulation 4(1) or (2);
  - (b) breaches or attempts to breach an order or direction made pursuant to regulation 4 or regulation 5, or any condition imposed pursuant to these regulations;
  - (c) knowingly assists or attempts to assist another person to breach or attempt to breach any such regulation, order, direction or condition; or
  - (d) refuses to submit to testing as required by regulation 6(3).

Maximum penalty: A fine of £5,000 or imprisonment for six months, or both.

(2) If, at the time of committing the offence under sub-regulation (1), the person knew that he or she was infected or contaminated with coronavirus, the maximum period of imprisonment under sub-regulation is increased to 12 months.

#### **Detention for purposes of medical assessment**

9. (1) A person who refuses to submit to a medical examination when requested to do so by a proper officer may, on the instructions of the Director of Health, be detained by a police officer accompanied by the proper officer, for a period up to 48 hours for the purpose of undergoing a medical examination by a medical practitioner, if the Director of Health—

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

(2) A person who is so detained must be released as soon as the medical examination has been completed, if the medical practitioner establishes that the person is not infected or contaminated with coronavirus.

(3) If, following the medical examination, the medical practitioner concludes that the person is, or may likely be, infected or contaminated with coronavirus, the medical practitioner

must, notwithstanding any legal duty with respect to confidentiality of patient information, notify the Director of Health who may make an order under regulation 5(1).

### **Detention**

**10. (1)** A proper officer or police officer may detain a person who breaches or attempts to breach, or who the proper officer or police officer has reason to believe will breach or attempt to breach—

- (a) the requirement to remain in isolation as required under regulation 4(1) or (2); or
- (b) an order or direction made pursuant to regulation 4 or regulation 5, or any condition imposed pursuant to these regulations,

**(2)** A proper officer detaining a person under sub-regulation (1) must be accompanied by a police officer.

**(3)** A person detained must immediately on being detained or as soon as circumstances permit, the person being capable of comprehension, be informed by a proper officer or a police officer—

- (a) that the person has been detained;
- (b) of the authority under which the person has been detained;
- (c) of the reason for the person's detention;
- (d) that the person is entitled to obtain legal advice;
- (e) of the procedure that obtains in respect of detention in the circumstances;
- (f) that the condition of the person in detention will be periodically reviewed by a proper officer and the identity of the proper officer with responsibility for review; and
- (g) that if the proper officer with responsibility for review under paragraph (f) changes, that the person will be informed of the identity of the replacement proper officer, and if made orally, must be reduced into writing as soon as is reasonably possible.

**(4)** If a person detained is a child, a responsible adult must be contacted on behalf of the child by a proper officer or a police officer and informed as provided under sub-regulation (3) by the proper officer or the police officer.

**(5)** Within 48 hours of the commencement of the detention of a person under sub-regulation (1), the proper officer or police officer, as the case may be, must cause an application to be made to the Magistrate's Court for an order for the detention of the person detained.

**(6)** The person detained is not entitled to appear in person at the proceedings before the Magistrates' Court and he or she may attend such proceedings telephonically or by way of electronic media, if available.

**(7)** The legal representative of the detained person is not required to consult with him or her in person and any such consultation or representation in court may be conducted telephonically or by way of electronic media, if available.

**(8)** An order may be made by the Magistrate's Court for detention for a maximum of 14 days inclusive of the 48 hours during which the application is made.

**(9)** An order may be made pursuant to sub-regulation (8) only if the Magistrate's Court is satisfied that—

- (a) there are reasonable grounds to suspect that the person is, or may be, infected or contaminated with coronavirus;
- (b) it is necessary and proportionate to isolate the person in order to reduce or remove the risk of that person infecting or contaminating others; and
- (c) there are reasonable grounds to suspect that the person will breach a requirement, order or direction under these regulations to remain in isolation.

**(10)** The court may, in an order made pursuant to sub-regulation (8), specify the location where the person is to be detained and may impose conditions with respect to such detention.

### **Detention: offences**

**11. (1)** A person commits an offence if he or she—

- (a) breaches or attempts to breach a court order made pursuant to these Regulations;
- (b) breaches or attempts to breach a condition of a court order made pursuant to these Regulations; or
- (c) knowingly assists or attempts to assist another person to breach or attempt to breach such court order or condition.

Maximum penalty: A fine of £5,000 or imprisonment for 12 months, or both.

**(2)** If, at the time of committing the offence under sub-regulation (1), the person knew that he or she was infected or contaminated with coronavirus, the maximum period of imprisonment under sub-regulation is increased to 18 months.

### **Social and business restrictions**

**12. (1)** The Governor in Council, after consultation with the Director of Health, may by Order, for the purpose of minimising the risk of the spread of coronavirus—

- (a) specify the number of persons to which public or social gatherings are limited;
- (b) the distance to be maintained between a person and another person where persons are required to be in any public setting;
- (c) cancel or postpone a public or social event;
- (d) specify—
  - (i) the closure of a business or a type of business;
  - (ii) the closure of an institution or a type of institution;
  - (iii) the number of persons who may be present in a specified business or institution at the same time;
  - (iv) the number of persons who may travel in a public service vehicle at the same time; or
  - (v) the period during which a business or institution is permitted to be open to members of the public; or
- (e) limit any activity or place any restriction on the movement of persons to ensure the prevention of the risk of the infection of persons with coronavirus.

(2) An Order made pursuant to sub-regulation (1) must specify the period during which the Order is in effect.

(3) A person who breaches or attempts to breach, or knowingly assists or attempts to assist another person to breach or attempt to breach, an Order made pursuant to sub-regulation (1) commits an offence.

Maximum penalty: A fine of £5,000 or imprisonment for 6 months, or both.

### **Offence of obstruction or wasteful employment of officers**

**13.** A person commits an offence if he or she—

(a) resists or wilfully obstructs a police officer or proper officer, or a person assisting such officers, in the execution of their duty; or

(b) causes wasteful employment of the police or proper officers by knowingly making to any person a false report.

Maximum penalty: A fine of £5,000 or imprisonment for 6 months, or both.

Made by the Governor in Council this 7<sup>th</sup> day of October 2020.

Connie Johnson  
Clerk of Councils

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#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These regulations make new provision for isolation of persons who travel to St Helena and also persons who are, or may be, infected or contaminated with coronavirus, and apply for a further period of six months following lapse of the Public Health (Prevention of Formidable Diseases) (Coronavirus) Regulations, 2020, which ceased to have effect on 3 October 2020.