

STATES OF JERSEY



Jersey

DRAFT COVID-19 (ENABLING PROVISIONS) (AMENDMENT No. 4) (JERSEY) LAW 202-

**Lodged au Greffe on 15th February 2022
by the Minister for Health and Social Services
Earliest date for debate: 29th March 2022**

STATES GREFFE



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European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Health and Social Services has made the following statement –

In the view of the Minister for Health and Social Services, the provisions of the Draft Covid-19 (Enabling Provisions) (Amendment No. 4) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy R.J. Renouf of St. Ouen**
Minister for Health and Social Services

Dated: 14th February 2022

REPORT

Introduction

On 28th January, Competent Authority Ministers announced a [phased approach to the de-escalation of Jersey's COVID-19 measures](#). The approach includes a commitment to review all COVID legislation. The legislation has been reviewed under the principles of:

- only retaining the powers necessary within the current public health risk context; and
- preventing disruption to essential community services.

Having undertaken a review of the legislation, the Minister for Health and Social Services believes that some legislation should be retained, but not necessarily utilised, at this juncture in the pandemic. The Minister, with the support of the Council of Ministers, is proposing an extension to the expiry date of the [Covid-19 \(Enabling Provisions\) \(Jersey\) Law 2020](#) (the “Enabling Law”).

If approved by the States Assembly, the Enabling Law will be extended from its present expiry date on 1st August up to the end of 16th December 2022.

Jersey has come a long way since the start of the COVID-19 pandemic in March 2020. The introduction of the vaccination has led to a significant reduction in severe illness and minimised disruption to critical services. This has made it possible to remove most COVID-19 restrictions. However, the pandemic has not ended. Given the remaining level of uncertainty about the trajectory of the pandemic, the Minister believes that it is reasonable to retain the Enabling Law so that action can be taken quickly should the COVID-19 situation deteriorate significantly – for example, if there were an urgent need to control the spread of a new Variant of Concern and provide time for a further vaccine booster.

Background

On 27th March 2020, the States Assembly approved the [Covid-19 \(Enabling Provisions\) \(Jersey\) Law 2020](#), which enabled the States Assembly to make any provision necessary or expedient as a direct or indirect result of the outbreak of COVID-19 in Jersey; the aftermath of that outbreak; and the need to prepare for the possibility of subsequent outbreaks. The Enabling Law has been implemented on a time-limited basis to manage the effects and impact of the pandemic, with appropriate review points to ensure that the legislation remains proportionate and necessary to the level of public health risk.

When first adopted, the Enabling Law was set to expire on 31st December 2020, but it has been extended by the Assembly several times since:

- In September 2020, the Enabling Law was extended to 31st July 2021.
- In April 2021, the Enabling Law was extended to 31st March 2022.
- In November 2021, the Enabling Law was extended to 31st July 2022.

The ongoing extension of the Enabling Law is considered desirable because, unlike Regulations, before a draft Law can come into force, it must receive the approval of the Privy Council and be registered by the Royal Court. This is a standard process during ordinary times, which can take between a few weeks and a few months. However, the process does not lend itself to the need to pass critical legislation on an expedited basis,

which was crucial during the extraordinary circumstances in which the Island found itself during the initial response and subsequent waves of the pandemic.

The context of the pandemic has changed significantly due to the Omicron variant and the majority of the population being fully vaccinated, which has made it possible to remove most legislative measures. Nevertheless, it is considered reasonable, in the short- to medium-term, to retain the Enabling Law as a contingency measure. This will ensure that the Assembly can implement legislation quickly to address any challenges related to the pandemic.

Proposed Extension

The duration of the Enabling Law will be extended from 1st August up to the end of 16th December 2022.

The proposed extension of the Law reflects the planning assumption that COVID-19 measures will de-escalate in line with the phased approach agreed by Competent Authority Ministers, but that the next Assembly and Council of Ministers should, if deemed necessary, be able to draw on the legislative tools available to manage the continuing risks from the COVID-19 pandemic. This will also enable the next Council of Ministers to review the need for legislation once the de-escalation strategy has had time to embed and its impact is better understood, and to bring any potential changes to the Assembly.

Change of Government

The Enabling Law will be in place during the purdah period and after the election.

If the COVID-19 situation were to deteriorate significantly, and the risk to public health had reached a level at which it was proportionate and necessary to implement legislative measures, then it would be possible to call an emergency States sitting to debate new legislation.

During a change of Government, Ministers will continue to hold their COVID-related powers. Article 19(7) of the [States of Jersey Law 2005](#) provides that outgoing Ministers hold their powers, if they remain members of the States Assembly, until the new Council of Ministers is appointed to office. Article 27(2) also provides that, when there is a vacancy in the office of a Minister, the Chief Minister may personally discharge the functions of that Minister or designate another Minister to discharge those functions. As such, Ministers will retain the ability to respond quickly to any change in the COVID-19 situation.

Financial and manpower implications

There are no direct financial or manpower implications arising from the adoption of the draft Law.

Details of expenditure on the COVID-19 response and economic recovery measures are outlined in the [2022-2025 Government Plan](#).

Human Rights notes

No human rights notes are included in this proposition as the Law Officers have confirmed that the draft Covid-19 (Enabling Provisions) (Amendment No. 4) (Jersey) Law 202- raises no issues of compliance with the European Convention on Human Rights.

EXPLANATORY NOTE

This Law if passed will amend Article 3(3) of the Covid-19 (Enabling Provisions) (Jersey) Law 2020 for the fourth time.

Article 1 extends, to the end of 16th December 2022, the deadline after which no fresh provision can be made by Regulations or Orders under that Law. (New Regulations and Orders can still be made after the deadline, but only to repeal existing Regulations and Orders).

In the Law as originally enacted the deadline was the end of 2020. But the Assembly has passed 3 amending Laws so far to extend the deadline, first to the end of July 2021, then to the end of March 2022, and most recently to the end of July 2022.

Article 2 gives the citation for the Law and brings it into force on the day after its registration by the Royal Court.



Jersey

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A LAW to amend further the [Covid-19 \(Enabling Provisions\) \(Jersey\) Law 2020](#)

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Amendment of Article 3 (citation, commencement and cessation of powers) of [Covid-19 \(Enabling Provisions\) \(Jersey\) Law 2020](#)

For Article 3(3) of the [Covid-19 \(Enabling Provisions\) \(Jersey\) Law 2020](#) there is substituted –

“(3) No Regulations under this Law, and no Order under any such Regulations, may be made on or after 17th December 2022, other than to repeal such Regulations, or such an Order, made before that date.”.

2 Citation and commencement

This Law may be cited as the Covid-19 (Enabling Provisions) (Amendment No. 4) (Jersey) Law 202- and comes into force on the day after it is registered.