

STATES OF JERSEY



Jersey

DRAFT COVID-19 (CIVIL PARTNERSHIP AND MARRIAGE) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 14th May 2020
by the Minister for Home Affairs**

STATES GREFFE

REPORT

1. Introduction

- 1.1 The Draft Covid-19 (Civil Partnership and Marriage) (Jersey) Regulations 202- (the “draft Regulations”) would amend the [Marriage and Civil Status \(Jersey\) Law 2001](#) (the “2001 Law”), the [Civil Partnership \(Jersey\) Law 2012](#) (the “2012 Law”), the [Marriage and Civil Status \(Jersey\) Order 2018](#) (the “2018 Order”) and the [Civil Partnership \(Forms, Registration and Fees\) \(Jersey\) Order 2012](#) (the “2012 Order”).
- 1.2 The draft Regulations temporarily amend the administration processes required before a marriage is solemnized or a civil partnership is registered. The solemnization of marriages, registration of civil partnerships and the associated administration processes are currently suspended until 1st July 2020.
- 1.3 The aim of the draft Regulations is to allow those administration processes to restart in a way that protects couples and staff from potential infection, by removing the face-to-face contact and allowing interactions to be conducted over audio-visual link.
- 1.4 The administrative processes associated with marriage or civil partnership ceremonies require a 6-week lead-in time. Therefore, if ceremonies are to proceed from 1st July, the Superintendent Registrar needs to commence administration from late May, and needs to be able to do so in a way that minimises the potential risk of spreading Covid-19 amongst staff and members of the Public. It should be noted that the Office of the Superintendent Registrar discharges vital civil registration functions related to birth and deaths, as well as marriage, so we need to make sure staff are able to continue to provide these functions.
- 1.5 It is worth noting that these draft Regulations form the first part of a set of required legislative amendments that enable marriages and civil partnerships to take place safely during this period of Covid-19. The second set of draft Regulations will focus on legislative amendments required to ensure that ceremonies take place in a safe and appropriate way during this period of infectious disease. As marriage and civil partnership ceremonies are not due to recommence until 1st July it was felt that bringing forward the draft Regulations in 2 phases was a pragmatic solution to the short timescales we face.
- 1.6 The draft Regulations propose temporary measures which will expire on 30th September 2020.

2. Civil Partnership administration legislation changes

- 2.1 The [Civil Partnership \(Jersey\) Law 2012](#) provides a legislative framework for Civil Partnerships to take place in Jersey.
- 2.2 Currently under the 2012 Law, when a couple give notice of civil partnership to the Superintendent Registrar, Article 7(7) requires the Superintendent Registrar to display in the entrance to or outside the Office of the Superintendent Registrar a list of notices of civil partnership. The Office of the Superintendent Registrar is currently closed to the Public, and as such it is not possible for the Public to access notices displayed there. The draft Regulations would, if passed, require the notices to be displayed on the Government of Jersey website This would be similar to the arrangements that are being proposed for notices of marriage. The amendment would also remove the

requirement for the notices to be displayed outside or in the entrance of the Office of the Superintendent Registrar.

- 2.3 Article 9(2) and 12(2) of the 2012 Law currently requires, where a person requests a licence of a certificate of civil partnership, for them to make a solemn declaration before the Superintendent Registrar. The draft Regulations, if passed, would introduce a temporary modification that enables these declarations to be made via audio-visual link if: (i) the Superintendent Registrar positively identifies the person, (ii) is able to see and hear the person make the declaration, and (iii) sees them sign the declaration.
- 2.4 Once the declaration has been returned to the Superintendent Registrar, she will be able to certify the declaration and issue the licence or certificate dependent on the stage of the application.
- 2.5 The [Civil Partnership \(Forms, Registration and Fees\) \(Jersey\) Order 2012](#) prescribes the forms that are required for the administration of the civil partnership process. There is a need to allow the Superintendent Registrar to annotate these forms to confirm that the declarations were not made before them as would be usual in normal times. The draft Regulations would, if passed, allow the Superintendent Registrar to annotate the forms to state that the process was carried out via audio-visual link, and as a result would still permit the Superintendent Registrar to sign the forms.

3. Marriage administration legislation changes

- 3.1 The [Marriage and Civil Status \(Jersey\) Law 2001](#) provides a legislative framework for civil registration and solemnization of marriage in Jersey.
- 3.2 Currently, under the 2001 Law, the Superintendent Registrar is required to publish the notice of an intended marriage at the Office of the Superintendent Registrar. However, as previously mentioned it has been agreed to keep the Office of the Superintendent Registrar closed for the foreseeable future to allow it to function as the Island's centralised civil registration hub. Therefore, it is proposed to temporarily suspend the requirement for a notice of intended marriage to be displayed at the office of the Superintendent Registrar. Notices will continue to be published on the Government of Jersey website.
- 3.3 Article 10(5) of the 2001 Law requires that if parties to the intended marriage attend upon the Office of the Superintendent Registrar to give notice of their intended marriage, they must in the presence of the Superintendent Registrar both sign the notice of intended marriage and sign a 'freedom to marry' declaration. Article 10(6) allows the parties to give notice and not attend the Office of the Superintendent Registrar – it is proposed to override Article 10(5) with a new Article 24H so that all notices of intended marriage are given by post as per the current Article 10(6).
- 3.4 Both the issuing of the marriage schedule and the issuing of a certificate of no impediment currently require the Superintendent Registrar to witness documents being signed by the applicants in person when they attend the Office of the Superintendent Registrar. It is proposed to temporarily modify these requirements to: (i) change the requirement for parties of the intended marriage to attend the Office of the Superintendent Registrar, and (ii) allow the Superintendent Registrar to witness the signing of the signature verification form or certificate of no impediment by audio-visual link after positively identifying the applicants. The temporary signing process will also require that the Superintendent Registrar sees the parties sign the relevant document. Once the document has been signed, the parties are required to return the documents

to the Superintendent Registrar and, when they are received, the Superintendent Registrar is required to certify that the correct process has been complied with.

- 3.5 Article 21 of the 2001 Law currently requires a couple converting their civil partnership to a marriage to request a conversion declaration form and to sign a signature verification form as part of the conversion application process. Rather than attend the Office of the Superintendent Registrar, the draft Regulations would, if passed: (i) change the requirement for parties of the intended marriage to attend the Office of the Superintendent Registrar, and (ii) allow the Superintendent Registrar to witness the signing of the signature verification form whilst on an audio-visual link with the parties. The signed form must then be sent to the Superintendent Registrar, who must certify compliance with these new requirements.
- 3.6 Article 32 of the [Marriage and Civil Status \(Jersey\) Order 2018](#) sets out the required particulars of a signature verification form. One of the required particulars is the applicant's signature, which must be signed in the presence of the Superintendent Registrar. The draft Regulations, if passed, would temporarily modify Article 32(c) so that any signature verification form is deemed to be signed in the presence of the Superintendent Registrar if Article 24J or 24L of these draft Regulations has been complied with. This is again to allow signature verification forms to be signed via audio-visual link, thereby minimising contact between the Superintendent Registrar and the Public. This corresponds with the other proposed changes in these draft Regulations.
- 4. Financial and manpower implications**
- 4.1 There are no financial or manpower implications for the States arising from the adoption of these draft Regulations.

EXPLANATORY NOTE

These Regulations temporarily amend the Civil Partnership (Jersey) Law 2012, the Marriage and Civil Status (Jersey) Law 2001, the Civil Partnership (Forms, Registration and Fees) (Jersey) Order 2012 and the Marriage and Civil Status (Jersey) Order 2018. The amendments are in response to the Covid-19 outbreak.

Regulation 1 inserts *new Part 2A* into the Civil Partnership (Jersey) Law 2012. *New Part 2A* contains *new Articles 26A to 26D*.

New Article 26A changes the publication requirements for notices of civil partnerships to require the Superintendent Registrar to publish those notices, along with particulars of notices for which the Superintendent has not yet granted a licence or certificate, on the States of Jersey website. The Superintendent Registrar is not required to comply with Article 7(7) of the Civil Partnership (Jersey) Law 2012 (which requires the Superintendent Registrar to display those notices and particulars in the entrance to or outside the Superintendent Registrar's office).

New Articles 26B and 26C remove the requirements in Article 9(2) and 12(2) of the Civil Partnership (Jersey) Law 2012 for a person who requests a licence or a certificate of civil partnership to make a solemn declaration or affirmation in the presence of the Superintendent Registrar. Instead, the person must make and sign a declaration while on an audio-visual link with the Superintendent Registrar. The person must then send the signed declaration to the Superintendent Registrar, who must certify that the declaration was made in compliance with the new requirements.

New Article 26D ensures that the amendments made by *Regulation 1* expire on 30th September 2020.

Regulation 2 inserts *new Articles 24H to 24M* into the Marriage and Civil Status (Jersey) Law 2001.

New Article 24H requires parties of an intended marriage to use the process in Article 10(6) of the Marriage and Civil Status (Jersey) Law 2001 to give notice of the intended marriage, rather than the process in Article 10(5) of that Law. This means that the parties cannot attend the office of the Superintendent Registrar to give notice of the intended marriage.

New Article 24I overrides Article 11(1)(a) of the Marriage and Civil Status (Jersey) Law 2001 by removing the requirement for the Superintendent Registrar to publish a notice of intended marriage at the Office of the Superintendent Registrar. The Superintendent Registrar must still publish a notice of intended marriage on the States of Jersey website.

New Article 24J changes the process by which parties requesting a marriage schedule sign a signature verification form. Rather than attending the Office of the Superintendent Registrar and signing the form in the presence of the Superintending Registrar (as required by Article 15(3)(a) of the Marriage and Civil Status (Jersey) Law 2001), the parties must sign the form while on an audio-visual link with the Superintendent Registrar. The parties must then send the signed form to the Superintendent Registrar, who must certify that the form was signed in compliance with the new requirements.

New Article 24K changes the process by which a person requesting a certificate of no impediment to marriage signs the certificate. Rather than attending the Office of the Superintendent Registrar and signing the certificate in the presence of the Superintending Registrar (as required by Article 16(3)(b) of the Marriage and Civil Status (Jersey) Law 2001), the person must sign the certificate while on an audio-visual

link with the Superintendent Registrar. The person must then send the signed certificate to the Superintendent Registrar, who must certify that the certificate was signed in compliance with the new requirements.

New Article 24L changes the process by which parties requesting a conversion declaration form sign a signature verification form. Rather than attending the Office of the Superintendent Registrar with the required documents and signing the form in the presence of the Superintending Registrar (as required by Article 21(3)(a) of the Marriage and Civil Status (Jersey) Law 2001), the parties must send the required documents to the Superintendent Registrar and then sign the form while on an audio-visual link with the Superintendent Registrar. The parties must then send the signed form to the Superintendent Registrar, who must certify that the form was signed in compliance with the new requirements.

New Article 24M ensures that the amendments made by *Regulation 2* expire on 30th September 2020.

Regulation 3 amends the Civil Partnership (Forms, Registration and Fees) (Jersey) Order 2012. That Order currently requires that certain forms are signed in the presence of the Superintendent Registrar. The amendment allows the Superintendent Registrar to sign those forms even if they were not signed in the Superintendent Registrar's presence, but requires the Superintendent Registrar to indicate that the forms were not signed in their presence.

Regulation 3 also inserts *new Article 10A* into the Civil Partnership (Forms, Registration and Fees) (Jersey) Order 2012 to ensure that the amendments made to that Order by these Regulations expire on 30th September 2020.

Regulation 4 inserts *new Article 32A* into the Marriage and Civil Status (Jersey) Order 2018. Article 32(c) of that Order requires a signature verification form to be signed in the presence of the Superintendent Registrar. *New Article 32A* deems this to occur if Article 24J or 24L of the Marriage and Civil Status (Jersey) Law 2001 (as inserted by *Regulation 2* of these Regulations) is complied with. *New Article 32A* expires on 30th September 2020.

Regulation 5 states that these Regulations are called the Covid-19 (Civil Partnership and Marriage) (Jersey) Regulations 202- and come into force on the day after they are made.



Jersey

DRAFT COVID-19 (CIVIL PARTNERSHIP AND MARRIAGE) (JERSEY) REGULATIONS 202-

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DRAFT COVID-19 (CIVIL PARTNERSHIP AND MARRIAGE) (JERSEY) REGULATIONS 202-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES make these Regulations under Article 2 of the Covid-19 (Enabling Provisions) (Jersey) Law 2020¹ –

1 Temporary amendment of Civil Partnership (Jersey) Law 2012

After Article 26 of the Civil Partnership (Jersey) Law 2012² there is inserted –

“PART 2A

TEMPORARY MEASURES DUE TO COVID-19 OUTBREAK

26A Change to publication requirements for notices of civil partnerships

- (1) The Superintendent Registrar must publish on the States of Jersey website –
 - (a) a list of notices of civil partnership; and
 - (b) particulars of a notice of civil partnership for which he or she has not yet granted a licence or certificate.
- (2) The Superintendent Registrar is not required to display those notices or particulars in the entrance to or outside the office of the Superintendent Registrar.
- (3) This Article overrides Article 7(7).

26B Change to process for declarations and affirmations for licences

- (1) A person requesting a licence –
 - (a) is not required to comply with Article 9(2); but
 - (b) must comply with this Article.
- (2) This Article is complied with if, –

- (a) over an audio-visual link in which the Superintendent Registrar and the person can see and hear each other, the Superintendent Registrar –
 - (i) positively identifies the person,
 - (ii) sees and hears the person make a solemn declaration that the person believes there is no lawful impediment to the civil partnership being formed, and
 - (iii) sees the person sign the declaration;
 - (b) the person sends the signed declaration to the Superintendent Registrar; and
 - (c) the Superintendent Registrar certifies, on the signed declaration, that sub-paragraph (a) was complied with.
- (3) For the purpose of Article 9(3), a request is deemed to be made in accordance with Article 9 if Article 9(1) and this Article are complied with.

26C Change to process for declarations and affirmations for certificates of civil partnerships

- (1) A person requesting a certificate of civil partnership –
 - (a) is not required to comply with Article 12(2); but
 - (b) must comply with this Article.
- (2) This Article is complied with if, –
 - (a) over an audio-visual link in which the Superintendent Registrar and the person can see and hear each other, the Superintendent Registrar –
 - (i) positively identifies the person,
 - (ii) sees and hears the person make a solemn declaration that the person believes there is no lawful impediment to the civil partnership being formed, and
 - (iii) sees the person sign the declaration;
 - (b) the person sends the signed declaration to the Superintendent Registrar; and
 - (c) the Superintendent Registrar certifies, on the signed declaration, that sub-paragraph (a) was complied with.
- (3) For the purpose of Article 12(3), a request is deemed to be made in accordance with Article 12 if Article 12(1) and this Article are complied with.

26D Expiry of this Part

This Part expires on 30th September 2020.”.

2 Temporary amendment of Marriage and Civil Status (Jersey) Law 2001

After Article 24G of the Marriage and Civil Status (Jersey) Law 2001³ there is inserted –

“Temporary measures due to Covid-19 outbreak

24H Change to process to give notice of intended marriage

- (1) Parties to an intended marriage must use the process in Article 10(6) to give notice of their intended marriage.
- (2) This Article overrides Article 10(5).

24I Change to publication requirements for notices of intended marriage

- (1) The Superintendent Registrar is not required to publish a notice of intended marriage at the Office of the Superintendent Registrar.
- (2) This Article overrides Article 11(1)(a).

24J Change to signature verification process for issue of marriage schedule

- (1) The Superintendent Registrar must not issue a marriage schedule unless –
 - (a) the requirements in Article 15(3)(b) to (d) are satisfied; and
 - (b) this Article is complied with.
- (2) This Article is complied with if, –
 - (a) over an audio-visual link in which the Superintendent Registrar and the parties (either together or separately) can see and hear each other, the Superintendent Registrar –
 - (i) positively identifies the parties,
 - (ii) sees the parties sign the signature verification form, and
 - (iii) is satisfied (by whatever means the Superintendent Registrar considers practical) that the document signed by the parties is the signature verification form;
 - (b) the parties send the signed signature verification form to the Superintendent Registrar;
 - (c) the Superintendent Registrar is satisfied that the signatures on the freedom to marry declarations are the signatures of the parties; and
 - (d) the Superintendent Registrar certifies, on the signed signature verification form, that sub-paragraph (a) was complied with.
- (3) This Article overrides Article 15(3).
- (4) Any provision that is subject to Article 15(3) (in whole or in part) is subject to this Article.

24K Change to process for signing certificate of no impediment

- (1) The Superintendent Registrar must not issue a certificate of no impediment to marriage unless –
 - (a) the requirements in Article 16(3)(a) and (c) are satisfied; and
 - (b) this Article is complied with.
- (2) This Article is complied with if, –
 - (a) over an audio-visual link in which the Superintendent Registrar and the person can see and hear each other, the Superintendent Registrar –
 - (i) positively identifies the person,
 - (ii) sees the person sign the certificate of no impediment to marriage, and
 - (iii) is satisfied (by whatever means the Superintendent Registrar considers practical) that the document signed by the person is the certificate;
 - (b) the parties send the signed certificate to the Superintendent Registrar; and
 - (c) the Superintendent Registrar certifies, on the signed certificate, that sub-paragraph (a) was complied with.
- (3) This Article overrides Article 16(3).

24L Change to signature verification process for issue of conversion declaration form

- (1) The Superintendent Registrar must not issue a conversion declaration form unless –
 - (a) the requirements in Article 21(3)(b) and (c) are satisfied; and
 - (b) this Article is complied with.
- (2) This Article is complied with if –
 - (a) the parties send to the Superintendent Registrar the original or certified copy of the documents required under Articles 19(3)(c) and 20(2);
 - (b) after the Superintendent Registrar has received the required documents, over an audio-visual link in which the Superintendent Registrar and the parties (either together or separately) can see and hear each other, the Superintendent Registrar –
 - (i) positively identifies the parties,
 - (ii) sees the parties sign the signature verification form, and
 - (iii) is satisfied (by whatever means the Superintendent Registrar considers practical) that the document signed by the parties is the signature verification form;
 - (c) the parties send the signed signature verification form to the Superintendent Registrar; and

(d) the Superintendent Registrar certifies, on the signed signature verification form, that sub-paragraphs (a) and (b) were complied with.

(3) This Article overrides Article 21(3).

(4) Any provision that is subject to Article 21(3) (in whole or in part) is subject to this Article.

24M Expiry of provisions related to temporary Covid-19 measures

This Article, Articles 24H to 24L and the cross-heading above Article 24H expire on 30th September 2020.”.

3 Temporary amendment of Civil Partnership (Forms, Registration and Fees) (Jersey) Order 2012

(1) After Article 2(1) of the Civil Partnership (Forms, Registration and Fees) (Jersey) Order 2012⁴ there is inserted –

“(1A) If the notice of civil partnership is not signed in the presence of the Superintendent Registrar, the Superintendent Registrar must indicate that fact on the notice but may sign the notice.”.

(2) After Article 2(2) of the Civil Partnership (Forms, Registration and Fees) (Jersey) Order 2012⁵ there is inserted –

“(2A) If the declaration required under Article 7(5)(b) of the Law is not signed in the presence of the Superintendent Registrar, the Superintendent Registrar must indicate that fact on the notice but may sign the notice.”.

(3) After Article 10 of the Civil Partnership (Forms, Registration and Fees) (Jersey) Order 2012⁶ there is inserted –

“10A Expiry of temporary Covid-19 measure

This Article, Article 2(1A) and Article 2(2A) expire on 30th September 2020.”.

4 Temporary amendment of Marriage and Civil Status (Jersey) Order 2018

After Article 32 of the Marriage and Civil Status (Jersey) Order 2018⁷ there is inserted –

“32A Change to signature verification process during Covid-19 outbreak

(1) A signature verification form is deemed to be signed in the presence of the Superintendent Registrar if Article 24J or 24L of the Law (as appropriate) is complied with.

(2) This Article expires on 30th September 2020.”.

5 Citation and commencement

These Regulations may be cited as the Covid-19 (Civil Partnership and Marriage) (Jersey) Regulations 202- and come into force on the day after they are made.

ENDNOTES

Table of Endnote References

<i>1</i>	<i>L.2/2020</i>
<i>2</i>	<i>chapter 12.260</i>
<i>3</i>	<i>chapter 12.600</i>
<i>4</i>	<i>chapter 12.260.40</i>
<i>5</i>	<i>chapter 12.260.40</i>
<i>6</i>	<i>chapter 12.260.40</i>
<i>7</i>	<i>R&O.69/2018</i>