

STATES OF JERSEY



Jersey

DRAFT COVID-19 (ENABLING PROVISIONS) (AMENDMENT No. 2) (JERSEY) LAW 202-

**Lodged au Greffe on 26th March 2021
by the Minister for Health and Social Services
Earliest date for debate: 11th May 2021**

STATES GREFFE



Jersey

DRAFT COVID-19 (ENABLING PROVISIONS) (AMENDMENT No. 2) (JERSEY) LAW 202-

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. 2) (Jersey) Law 202- are compatible with the Convention Rights.

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

Dated: 24th March 2021

REPORT

Overview

The coronavirus pandemic has now been a part of our lives for over a year, and while the situation appears to be currently under control, and the vaccination programme is proceeding at pace, Jersey is not yet free from the threat of Covid-19. It is essential that the tools to manage the pandemic are retained, although not necessarily used, until the pandemic situation is over. This extension to the [Enabling Law](#) is intended to continue to underpin a legislative framework that enables decisive action when it is needed but which restricts Islanders' liberties as little as possible.

Background

On 27th March 2020, the Assembly approved the Draft Covid-19 (Enabling Provisions) (Jersey) Law 202- ([P.29/2020](#)), which enabled the Assembly to introduce the emergency legislation required "*to make any provision necessary or expedient as a direct or indirect result of the outbreak of Covid-19 in Jersey or its aftermath.*"¹, to manage the effects and impact of the pandemic in Jersey. For a time-limited period, initially to 31st December 2020, this allowed the Assembly to make Regulations in this specific area which have the effect of primary law. On 9th September 2020, the Enabling Provisions Law was extended by the Assembly to 1st August 2021, with minor amendments.

This was 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 anything between a few weeks and a few months. The process does not, however, lend itself to the need to pass critical legislation on an expedited basis to deal with the extraordinary circumstances in which the Island still finds itself. It remains crucial to ensure that the States Assembly has the powers that it needs to be able to pass any legislation required to address additional challenges related to the Covid-19 pandemic, and that this can be implemented quickly.

Extension

If adopted, the associated proposition to extend the duration of much of the emergency legislation (suspended or active) to 31st August 2021 will take its duration beyond the current period of the special legislative arrangements under the Enabling Law.

If those arrangements were to expire, no new emergency Regulations, and no Order under the existing Regulations, could be made on or after 1st August 2021. This would have immediate effects on the control of Covid-19 if Orders are still being used to apply controls at that time, as these could not be renewed. In addition, there would be no scope to modify or add to the emergency legislation. (However, due to the improvements made by [P.104/2020](#), the Assembly would no longer be precluded from repealing those emergency Regulations without recourse to primary law.)

As in September 2020, it is therefore essential to ensure that the position of the Enabling Law remains aligned with the emergency Regulations. Thus, this draft Law will amend the Enabling Law to extend its operation to 31st March 2022.

While it is earnestly hoped that the pandemic and associated restrictions will be over by 31st March 2022, that date reflects a planning assumption that further extension might

¹ Covid-19 (Enabling Provisions) (Jersey) Law 2020, long title.

be required. If so, then the date will allow a decision to be taken on that further extension with knowledge of the conditions prevailing in winter 2021/2022.

Financial and manpower implications

There are no financial or manpower implications arising from the lodging of this draft Law.

Human Rights

No human rights notes are included in this proposition as the Law Officers' Department have confirmed that the Draft Covid-19 (Enabling Provisions) (Amendment No. 2) (Jersey) Law 202- raises no issues of compliance with the European Convention on Human Rights.

For reference, the human rights notes in respect of the Enabling Law itself form part of the original proposition [P.29/2020](#).

EXPLANATORY NOTE

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

Article 1 extends, to the end of March 2022, the deadline (currently the end of July 2021) 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 in September 2020 the Assembly passed the Covid-19 (Enabling Provisions) (Amendment) (Jersey) Law 2020 to extend it to the end of July 2021.

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



Jersey

DRAFT COVID-19 (ENABLING PROVISIONS) (AMENDMENT No. 2) (JERSEY) LAW 202-

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

In Article 3(3) of the Covid-19 (Enabling Provisions) (Jersey) Law 2020¹, for “on or after 1st August 2021” there is substituted “on or after 1st April 2022”.

2 Citation and commencement

This Law may be cited as the Covid-19 (Enabling Provisions) (Amendment No. 2) (Jersey) Law 202- and comes into force on the day after it is registered.

ENDNOTES

Table of Endnote References

1 *L.2/2020*