

STATES OF JERSEY



DRAFT COVID-19 (SCHOOLS AND DAY CARE OF CHILDREN) (JERSEY) REGULATIONS 202- (P.30/2020): COMMENTS

**Presented to the States on 27th March 2020
by the Education and Home Affairs Scrutiny Panel**

STATES GREFFE

COMMENTS

1. The Draft Covid-19 (Schools and Day Care of Children) (Jersey) Regulations 202- (hereafter the ‘draft Regulations’) have been lodged by the Minister for Education in response to the ongoing Covid-19 pandemic. The draft Regulations, if adopted by the States Assembly, would make provision for the Minister for Education to require the closure of school premises or day care premises to prevent the spread of Covid-19. They also make provision for the Minister to implement arrangements for the compulsory education of school-age children whilst they are unable to attend school as a result of the closure of the premises.
2. The Minister for Education does have the power to direct the closure of Government of Jersey provided schools (a list of provided schools can be found in Schedule 1 of the Education (Jersey) Law 1999) and may include conditions on private schools to secure their closure. The Minister may also apply conditions on the registration of children’s day care premises to secure their closure under the Day Care of Children (Jersey) Law 2002 to require them to close on the grounds of health and welfare.
3. The Education and Home Affairs Panel (hereafter ‘the Panel’) notes that whilst these powers exist, they are not designed for emergency situations. The purpose of the draft Regulations is therefore to create an express provision that allows the Minister to direct the closure of schools and day care premises during the Covid-19 outbreak. It is noted that the powers created under the draft Regulations are due to expire on 30th September 2020; however, they can be suspended in the event that professional advice surrounding the abatement of Covid-19 is received.
4. The Panel would like to thank the Department for Children, Young People, Education and Skills (CYPES) for sharing the draft Regulations with it prior to formal lodging. The Panel was able to consider the draft Regulations and questioned whether the changes would give the Minister power to change the role and pay of teaching staff. The following response was received –

The requirement for the Minister to determine alternative arrangements could include a requirement for teachers to undertake tasks different from their normal activities. In many cases, this is taking place already with teachers working differently from home and school as part of the effort to tackle the COVID-19 coronavirus outbreak. However, the purpose of the legislation is to provide clarity with regard to the closure of schools and children’s day care premises due to the coronavirus outbreak, and the provision of education during this period. It does not enable, or specifically require, changes to teachers’ roles or pay. The Department for Children, Young People, Education and Skills is currently working with schools to determine alternative arrangements, recognising the importance of ensuring that students’ education continues whilst maintaining appropriate standards in terms of health, safety and welfare.

5. The Panel has observed that Regulation 3 references Article 12(1) of the Education (Jersey) Law 1999 (hereafter ‘the Law’) which provides that a parent of a school-age child must ensure that their child receives full-time education appropriate to their age, ability, aptitude and special educational needs. This is met either by regular attendance at school, or in accordance with any alternative arrangements made by the Minister under Article 13(2). In the context of these changes, it will be taken that the parent has discharged their duties under Article 12(1) by ensuring their child receives instruction in accordance with any alternative arrangements made by the Minister. Regulation 3(6) states that the Minister may publish guidance as to any arrangements determined under Regulation 3(3). Noting the exceptional circumstances, and the potential for confusion and concern amongst parents about what was required of them, the Panel asked the following questions in relation to this matter –
- (i) Whether the guidance on alternative arrangements would include advice to parents on how to fulfil their obligation under the Law, i.e. What exactly is meant by ensuring his or her child in Regulation 3(5) below?
 - *3(5) Where a provided school implements arrangements under this Regulation, a parent of a child of compulsory school age is taken as having discharged his or her duty under Article 12(1) of the Education Law by ensuring his or her child receives instruction in accordance with those arrangements.*
 - (ii) Whether parents were ultimately in conflict and liable under Article 12 of the Law if their child(ren) did not deliver the full requirements of any alternative arrangements set out by the Minister.
 - (iii) What exemptions and considerations would be given to parents where personal circumstances did not permit for them to fulfil the expectations (e.g. not having sufficient access to online learning resources or parents being required to work and not having time to fulfil the requirements with their children)?
 - (iv) What forms the alternative arrangements would be available in (e.g. online access, hard copies, etc.)?
 - (v) How any learning undertaken during this period would be followed up with students by schools. The Panel also requested details as to whether the current rules and checks in place for home-schooled children would still continue as normal.
 - (vi) What steps the Minister would take to minimise the inequalities which may arise between families who have resources to effectively home-school their children at this time, and those who do not.
6. The Panel notes that CYPES is currently working to determine the alternative arrangements which will be enforced by Regulation 3 of the draft Regulations. It was also explained that as the school holidays are due to start as of 3rd April 2020, the guidance will be produced in time for the start of the following term (if deemed necessary for schools to remain closed) on

20th April 2020. A copy of this guidance has been requested by the Panel as soon as it is completed and available.

7. Whilst it is acknowledged that this work is being undertaken at pace and in a short timeframe, the Panel would state that consideration must be given to the matters raised above. The Panel is in the process of arranging regular meetings with the Ministers under its remit and will continue to raise this matter with the Minister for Education in order to assist in any deliberations around the guidance.
8. The Panel is aware that it is of vital importance that Regulation 2 is put in place to give the Minister for Education the power to close school and day care premises in order to combat the spread of the Covid-19 virus. The concerns in relation to the alternative arrangements for children's education and the impact on parents as set out above do however remain. Until such time as the guidance and expectation on fulfilling the alternative arrangements are provided and examined, the Panel will continue to hold these concerns. Depending on the nature and contents guidance, the Panel considers that further amendments may be required to the draft Regulations to alleviate some of the issues raised.
9. In the meantime, however, given the exceptional circumstances, the Panel supports the introduction of the draft Regulations, with the caveat that the guidance must take in to account and address the issues raised above.