



CORONAVIRUS

LOCKDOWN MEASURES:

Restriction of business and restriction of movement of persons

INTRODUCTION

This is a digest of the various lockdown measures announced by the Government of Gibraltar as they affect businesses and the restriction of movement of persons.

This update forms part of TSN's series of notes relating to the Covid-19 crisis. Please visit <https://www.tsnlaw.com/covid-19/> to view all of our guides relating to Gibraltar Covid-19 matters.

These notes are current as of the date of publication and may be subject to changes.

SUMMARY

The Government of Gibraltar has introduced various Civil Contingencies Emergency Regulations which derive from powers provided under the Civil Contingencies Act 2007. These measures set out a number of restrictions of the operation of businesses, the freedom of movement of persons and also sets out powers for the detention of persons for the purposes of screening, assessment and the imposition of any restrictions under the regulations. The main regulations here include:

- The Civil Contingencies Emergency (Coronavirus) (Catering and Other Establishments) (Construction and Shipbuilding and Repair) (No.2) Regulations 2020 ("Establishment Restriction Regulations");
- The Civil Contingencies Emergency (Coronavirus No.3) Regulations 2020 ("Covid 3 Regulations");
- The Civil Contingencies Emergency (Coronavirus) (Health Protection Measures No.2) (Under 70s) Regulations 2020 ("HPMU70");
- The Civil Contingencies Emergency (Coronavirus) (Health Protection Measures (70s and Over) Regulations 2020 ("HMPO70").

Restrictions on catering and other establishments (businesses)

The Government of Gibraltar on the 24th March 2020 announced that various businesses will be mandated to cease operations or severely limit their operations in order to prevent, control and mitigate the effects of Covid-19 on the Gibraltar community. These announcements were accompanied by the Establishment Restriction Regulations.

The Establishment Restriction Regulations effectively require that the following establishments must at all times remain closed to any member of the public:

- (a) Restaurants;
- (b) bars;
- (c) cafeterias;
- (d) discotheques/nightclubs;
- (e) gymnasiums (those open to any member of the public and/or accessible to members);
- (f) retail shops;
- (g) any other establishments that the Minister by notice in the Gazette includes within these Regulations.

Exceptions

There are exceptions to the above where an establishment may operate a kitchen for the purposes of the sale or supply of food and beverages to consumers for consumption off the premises (such as a takeaway meal) or through a home delivery service provider.

However, there are exceptions to these restrictions such as:

- (a) where a restaurant in a hotel only serves food and beverages to the guests of that hotel;
- (b) the restaurant in the Gibraltar International Airport;
- (c) supermarkets, grocery stores, bakers, confectioneries, butchers, fishmongers, health shops and pharmacies;
- (d) petrol stations, port and bunkering activities;
- (e) Wholesalers or other businesses providing supplies to the above.

Offences

Those who may be found to be in breach of the provisions of the Establishment Restriction Regulations will be liable on conviction to a fine of up to £10,000.

Restrictions on movement of persons under 70 years old

Under the HPMU70 introduced on the 24th March, regulation 4 effectively restricts persons from leaving their place of residence except for any of the following purposes:

- a) to purchase food, beverages, pharmaceutical products or such other essential items;
- b) to take food, beverages, pharmaceutical products or such other essential items to a

- person over the age of 60 or to a person referred to in regulation 5;
- c) to attend a medical or care facility of any kind and howsoever described or an essential services provider, for accessing services provided therein;
- d) if a person ("P") is in employment or self-employed or is the holder of a public office, to go to work;
- e) if P is a member of an essential service, to report to duty;
- f) to provide care to a person where P is the carer of a person with a disability or who is a vulnerable person;
- g) to go to a bank or other financial institution;
- h) to exercise a dog outdoors;
- i) the exercise of any ministerial or parliamentary duties;
- j) where P is a public servant and is acting under the instructions of the Chief Secretary;
- k) where P is a volunteer and is acting under the instructions of the Civil Contingencies Coordinator or the Director of Public Health.
- l) any case where P is at risk of injury or death;
- m) to exercise;
- n) to exercise children, accompanying them as a parent or guardian;
- o) where P is a non-resident parent, to pick up a child from, or go back to, the child's residence;
- p) taking a child to an official activity, a childcare facility (other than at a school whether at a private residential place or otherwise) or a school and returning from that activity or place, provided that in the case of a school the child falls within the category of children for whom the facility is available;
- q) to travel by vessel or car;
- r) to travel to or from the frontier, airport or port in order to enter into or depart from Gibraltar;
- s) where required to go to court, to file any court documents or for purposes relating to it;
- t) if P is employed or self-employed in the written or audio-visual media, to go to work;
- u) for such other purpose as may be notified by the Minister by notice in the Gazette;
- v) any other activity that is absolutely necessary.

Depending on the activity being carried out, HPMU70 also sets out that other members of the same household can accompany individuals. However, this depends on the activity being carried out. It is also a requirement that those individuals who are not at their place of residence must practice social distancing from other persons not from the same household.

The HPMU70 also provide for police to have particular powers to question individuals, direct that individuals return to their residence or to detain and convey individuals to their place of residence.

Not adhering these measures may mean that a person is guilty of an offence and if convicted may be liable for a fine of up to £10,000.

Powers of detention, screening and testing of persons

The Covid 3 Regulations set out various powers for individuals to be detained, screened, tested and isolated. Included in these Regulations are powers for the relevant minister to require individuals to be screened, detained, tested and/or isolated in particular circumstances. Included in these regulations are requirements for individuals to allow for samples or tests to be carried out on them. Failure to abide by certain requirements of these regulations leaves you liable to a fine of up to £1,000.

Restrictions on movement of persons over 70 years old

The Government introduced the HMPO70 regulations on the 15th April 2020 and prohibit individuals aged 70 or over from leaving their place of residence except for any of the following purposes:

- (a) to purchase food, beverages, pharmaceutical products or such other essential items;
- (b) to attend a medical or care facility of any kind and howsoever described or an essential services provider, for accessing services provided therein;
- (c) if they are in employment or self-employed, to go to their place of work;
- (d) to provide care to a person where they are the carer of a person with a disability or who is a vulnerable person;
- (e) to go to a bank or other financial institution;
- (f) to exercise a dog outdoors provided that they are not accompanied by any other person;
- (g) the exercise of any ministerial or parliamentary duties;
- (h) any case where they may be at risk of injury or death; or any other activity that is absolutely necessary.

The effective difference between the HMPU70 regulations and the HMPO70 regulations is that people aged over 70, compared to those aged under 70, should be leaving their place of residence less as there are less exceptions to the prohibition and should not be leaving their place of residence for exercise.

When do the regulations expire?

The Covid 3 Regulations are set to expire on the 2 May 2020.

The HMPU70 expires on the 22nd May 2020.

The HMPO70 ceases to have effect after the 15th May unless the Government prescribes otherwise.

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DISCLAIMER

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