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COUNCIL OF MINISTERS

(57th Meeting)

(Business conducted by electronic mail)7th April 2020**PART A (Non-Exempt)**

All members were present, with the exception of Senator T.A. Vallois, Minister for Education, Senator I.J. Gorst, Minister for External Relations, Deputy R.J. Renouf of St. Ouen, Minister for Health and Social Services, Deputy C.F. Labey of Grouville, Minister for International Development and Deputy S.J. Pinel of St. Clement, Minister for Treasury and Resources, from whom apologies had been received.

Senator J.A.N Le Fondré, Chief Minister
 Senator L.J. Farnham, Deputy Chief Minister and Minister for Economic Development, Tourism, Sport and Culture
 Senator S.Y. Mézec, Minister for Children and Housing
 Deputy J. H. Young of St. Brelade, Minister for the Environment
 Connétable L. Norman of St. Clement, Minister for Home Affairs
 Deputy K.C. Lewis of St. Saviour, Minister for Infrastructure
 Deputy J.A. Martin of St. Helier, Minister for Social Security

In attendance -

P. Bradbury, Head of Ministerial Support, Office of the Chief Executive
 M. Clark, Clerk to the Council of Ministers

Note: The Minutes of this meeting comprise Part A only.

Emergency legislation relating to Covid-19; decision to lodge 'au Greffe.'

A1. The Council, with reference to its Minute No. A1 of 1st April 2020, considered the following proposed legislative amendments, designed to provide additional public protection, as a consequence of the Covid-19 outbreak in Jersey:

Draft Regulation of Care (Amendment of Law) (Covid-19 – Temporary Amendment No. 2) (Jersey) Regulations 202-

It was noted that the Regulations, to be lodged by the Chief Minister, were designed to make further temporary changes to Schedule 1 to the Regulation of Care (Jersey) Law 2014 (Law), which described the activities to be regulated under the Law. The Council recalled that an initial amendment to the Law had created an exception for new care home services that were not previously recognised as regulated activities (but were being provided as a direct or indirect result of the outbreak of Covid-19 in Jersey). These Regulations added additional requirements to this exception:

- the Minister of Health and Social Services would need to be satisfied that the care home service was required; and
- before commencing the service, the provider must have sought advice from the Health and Social Care Commission about the best means of providing it.

Similar provisions, relating to Adult Day Care Services, were also included and the Regulations were noted to expire on 30th September 2020;

Draft Children (Placement) (Covid-19 – Temporary Amendment) (Jersey) Regulations 202-

To be lodged by the Minister for Children and Housing, the Regulations if passed, would temporarily modify the operation of the Children (Placement) (Jersey) Regulations 2005, by extending the current maximum 12 week period during which a child could be placed with a person (such as a relative) who had not been approved as a foster carer, to a period ending not later than 30th September 2020, or not later than 8 weeks after that date, should the child be placed at any time in the 12 weeks preceding 30th September 2020.

The Regulations were noted to address the anticipated additional need for immediate placements with family and friends as a result of increased pressures on foster care. It was also recognised that the possibility that illness or self-isolation requirements could impact upon the ability of Children's Services and Court staff to make alternative arrangements before the existing statutory 12 week period had elapsed;

Draft Covid-19 (Emergency Provisions – Courts) (Jersey) Regulations 202-

To be lodged by the Chief Minister, the Regulations sought to ensure that Jersey's courts remained operational throughout the Covid-19 pandemic. Designed to maintain social distancing requirements within the Court system wherever possible, the objective of the Regulations was to protect the health of the Judiciary, court staff and everyone who came into contact with the court system. In particular, the draft Regulations acknowledged the likelihood that certain members of the Judiciary, for numerous reasons, would not be able to fulfil their duties to the same extent as they would in ordinary times.

If adopted, the Regulations would allow for the Royal Court to be constituted if its members were present by way of a live television link, telephone link or another appropriate electronic means, provided all parties were able to both follow and participate in the proceedings of the Court. It was also proposed to temporarily reduce the quorum required to constitute the Superior Number of the Royal Court to a minimum of 2 Jurats (in addition to the presiding judge) and to permit the Bailiff, in certain limited circumstances and subject to safeguards, to determine certain civil and criminal matters sitting alone.

It was also acknowledged that conducting jury trials would be problematic during the present outbreak, given the need to both minimise personal interaction and comply with social distancing requirements, and in view of the limited facilities available in the Royal Court. The Regulations accordingly proposed that relevant cases (which would otherwise have been tried by jury, either because the defendant had elected a jury trial or where a jury trial was prescribed in law) should be heard by the Inferior Number of the Royal Court, provided the judge considered that it was not practicable to assemble a jury, nor to adjourn the matter to a later date.

It was noted that advice had been taken from the Law Officers' Department in connexion with the Human Rights implications of the temporary suspension of jury trials. The Council was content to note that the European Court of Human Rights had confirmed that trial by the Inferior Number would remain compatible with the European Convention on Human Rights (ECHR), in particular, the right to a fair trial. It followed, therefore, that the temporary limit being placed on the right to jury trials due to Covid-19 did not infringe the rights of defendants under the ECHR and the Royal Court would need to consider any representations by the parties when

deciding whether to proceed with an Inferior Number trial during this period.

Finally, it was also proposed that the Licensing Assembly should be constituted by the Bailiff, Deputy Bailiff or Lieutenant Bailiff and 2 (rather than the usual 5) Jurats, with provisions for Assembly proceedings to be conducted remotely, for the duration of the pandemic; and

Covid-19 (Residential Tenancy) (Temporary Amendment of Law) (Jersey) Regulations 202-

To be lodged by the Minister for Children and Housing, the Regulations introduced measures designed to enable tenants to remain in their homes, protect their health and reduce the spread of Covid-19. The changes proposed would:

- prevent tenants from being evicted due to financial hardship either caused by, or associated with, Covid-19;
- introduce a suspension on rent increases to protect tenants from additional financial hardship; and
- enable tenants to extend their tenancies during the outbreak, should they wish.

The measures would apply until 30th September 2020 to all tenancy agreements covered by the Residential Tenancy (Jersey) Law 2011, including tenancies relating to Qualified and non-Qualified accommodation. Tenants would still have a duty to make every effort to pay rent and fulfil the obligations of their tenancy agreement. Landlords, in turn, would need to provide security of tenure to tenants. It was noted that the Minister for Children and Housing would publish guidance in relation to the operation of the Regulations.

The Council accordingly noted the position and endorsed the decision of the respective Ministers to lodge the draft Regulations ‘au Greffe,’ for consideration by the States Assembly on 9th April 2020.