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Infectious Diseases Control (Coronavirus: Transmission Control Period) Regulations 2022 (SR&O No 4 of 2022).

SUBSIDIARY LEGISLATION

Infectious Diseases Control (Coronavirus: Transmission Control Period) Regulations 2022

(No. 4 OF 2022)

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SUBSIDIARY LEGISLATION

Infectious Diseases Control (Coronavirus: Transmission Control Period) Regulations 2022

(Made: 30 March 2022)

(Published: 5 April 2022)

(Coming into force: 4 May 2022)

I make these Regulations under section 27(1) and (3) of the Infectious Diseases Ordinance 2003 and section 27(1) of the Public Health Ordinance 1894 on the advice of Executive Council.

PART 1 - Introductory

1. Title

These Regulations are the Infectious Diseases Control (Coronavirus: Transmission Control Period) Regulations 2022.

2. Commencement

These Regulations come into force on 4 May 2022.

3. Interpretation

(1) In these Regulations —

“**coronavirus**” means the severe acute respiratory syndrome 2 (SARS-CoV-2);

“**infected area**” means an area that has been declared an infected area under regulation 4;

“**medical officer**” means —

(a) a medical practitioner who is —

(i) registered under the Medical Practitioners, Midwives and Dentists Ordinance 1914;
and

(ii) employed by the Falkland Islands Government (including the Chief Medical Officer); or

(b) any other person designated as a medical officer for the purposes of these Regulations by the Chief Medical Officer;

“**place suitable for screening and assessment**” means a place which, in the view of a medical officer, is a suitable place for screening and assessment;

“**screening and assessment**” includes —

- (a) assessment of the extent to which a person has been exposed to coronavirus;
- (b) determining whether the person is infected or contaminated with coronavirus;
- (c) assessment of the person’s symptoms and state of health; and
- (d) determining what measures to take in relation to a person to mitigate the risk that the person might infect or contaminate others with coronavirus;

“**transmission control period**” means a period which —

- (a) begins when the Governor makes a declaration under regulation 5(1); and
 - (b) ends when the declaration is revoked or these Regulations expire, whichever is the first to occur.
- (2) For the purposes of these Regulations a person is “**potentially infectious**” at any time if—
- (a) the person is, or may be, infected or contaminated with coronavirus and there is a risk that the person might infect or contaminate others with coronavirus; or
 - (b) the person has, within the 14 days preceding that time, been in an infected area.

PART 2 - Declarations

4. Declaration of infected area

The Governor may declare any country, territory or other area outside the Falkland Islands to be an infected area, if the area is one —

- (a) where there is known or thought to be human to human transmission of coronavirus; or
- (b) from which there is a high risk that coronavirus will be transmitted to the Falkland Islands.

5. Declaration of serious and imminent threat to public health

(1) If at any time the Governor is of the view that —

- (a) the incidence or transmission of coronavirus constitutes a serious and imminent threat to public health in the Falkland Islands; and
- (b) the powers conferred by these Regulations will be an effective means of preventing significant further transmission of coronavirus in the Falkland Islands,

the Governor may make a declaration to that effect.

(2) If, having made a declaration, the Governor ceases to be of the view referred to in subregulation (1), the Governor must revoke that declaration.

(3) Before making or revoking a declaration, the Governor must consult the Chief Medical Officer.

6. Declarations: further provision

A declaration or revocation of a declaration under regulations 4 and 5 —

- (a) is made by being published online; and
- (b) must be published in the *Gazette* as soon as reasonably practicable after it is made.

PART 3 - Directions, instructions, restrictions and requirements

7. Direction or removal of persons to a place suitable for screening and assessment – powers of medical officers

(1) This regulation applies if, during a transmission control period, a medical officer has reasonable grounds to suspect that a person in the Falkland Islands is potentially infectious.

(2) The medical officer may, subject to subregulation (3) —

- (a) direct the person to go immediately to a place specified in the direction which is suitable for screening and assessment;
- (b) remove the person to a place suitable for screening and assessment; or
- (c) request a police officer to remove the person to a place suitable for screening and assessment (and the police officer may then do so).

(3) A medical officer may exercise the powers conferred by subregulation (2) only if the officer considers that it is necessary and proportionate to do so —

- (a) in the interests of the person;
- (b) for the protection of other people; or
- (c) for the maintenance of public health.

(4) Where a medical officer exercises the powers conferred by subregulation (2), the officer must inform the person —

- (a) of the reason for directing or removing them; and
- (b) in each particular case, that it is an offence —
 - (i) where a person is directed, to fail without reasonable excuse to fail to comply with the direction; or
 - (ii) where a person is removed, to abscond.

8. Screening and assessment - powers of medical officers

- (1) This regulation applies where, during a transmission control period —
 - (a) a person is at a place which is suitable for screening and assessment (whether or not the person is at that place as a result of the exercise of powers under these Regulations); and
 - (b) a medical officer has reasonable grounds to suspect that the person is potentially infectious.
- (2) A medical officer may exercise a power conferred by this regulation only if the officer considers that it is necessary and proportionate to do so —
 - (a) in the interests of the person;
 - (b) for the protection of other people; or
 - (c) for the maintenance of public health.
- (3) A medical officer may require the person referred to in subregulation (1) to remain at the place for screening and assessment for a period not exceeding 48 hours.
- (4) Where a medical officer requires a person to remain at a place under subregulation (3), the officer must inform that person —
 - (a) of the reason for imposing the requirement;
 - (b) of the maximum period of 48 hours for which they may be required to remain;
 - (c) of their rights under section 5(4) of the Constitution; and
 - (d) that it is an offence to fail to comply with the requirement without reasonable excuse.
- (5) A requirement imposed on a person under subregulation (3) may be enforced by a medical officer or a police officer keeping the person at the place.
- (6) A medical officer may —
 - (a) require the person referred to in subregulation (1) to be screened and assessed; and
 - (b) impose other requirements on the person in connection with their screening and assessment.
- (7) Requirements under subregulation (6)(a) may include requirements on a person —
 - (a) at such times as the medical officer may specify —
 - (i) to provide a biological sample, including a sample of blood or respiratory secretions (including a sample of such secretions taken by a swab of the nasopharyngeal cavity); or

- (ii) to allow a medical officer, nurse or other person authorised by the Chief Medical Officer to take a biological sample by appropriate means; and
 - (b) to answer questions and provide information about their health or other relevant matters (including their travel history, and individuals whom they have had contact with).
- (8) Requirements under subregulation (6)(b) may include requirements on a person —
 - (a) to produce any documents which may assist in screening and assessment; and
 - (b) to provide details by which they may be contacted during such subsequent period as the medical officer may specify.
- (9) If a medical officer considers it appropriate for the purposes of screening and assessing the person, the officer may —
 - (a) direct the person referred to in subregulation (1) to go immediately to another place which is specified in the direction and is suitable for those purposes;
 - (b) remove the person to another place suitable for those purposes; or
 - (c) request a police officer to remove the person to another place suitable for those purposes (and the police officer may then do so).
- (10) Where a medical officer exercises the powers under subregulation (9), the officer must inform the person —
 - (a) of the reason for directing or removing them; and
 - (b) in each particular case, that it is an offence —
 - (i) where a person is directed, to fail without reasonable excuse to comply with the direction; or
 - (ii) where a person is removed, to abscond.

9. Requirements and restrictions - powers available after screening and assessment

- (1) This regulation applies where, during a transmission control period —
 - (a) a person has been screened and assessed by a medical officer and —
 - (i) the medical officer has determined that the person is infected or contaminated with coronavirus; or
 - (ii) the screening and assessment was inconclusive; or
 - (b) a medical officer has reasonable grounds to suspect that the person is potentially infectious.

(2) A medical officer may at any time during the transmission control period impose such requirements and restrictions on the person as the officer considers necessary and proportionate—

- (a) in the interests of the person;
- (b) for the protection of other people; or
- (c) for the maintenance of public health.

(3) Requirements under subregulation (2) may include requirements —

- (a) to provide information to the medical officer or to any specified person;
- (b) to provide details by which the person may be contacted during a specified period;
- (c) to go for the purpose of screening and assessment to a specified place suitable for those purposes and do anything that may be required in regulation 8(6);
- (d) to remain at a specified place (which may be a place suitable for screening and assessment) for a specified period;
- (e) to remain at a specified place in isolation from others for a specified period.

(4) Restrictions on a person under subregulation (2) may include restrictions, for a specified period on the person's —

- (a) movements or travel (within or outside the Falkland Islands);
- (b) activities (including their work or business activities);
- (c) contact with other persons or with other specified persons.

(5) Where a medical officer imposes a requirement or restriction under subregulation (2), the officer must inform the person —

- (a) of the reason for doing so;
- (b) of their rights under section 5(4) of the Constitution; and
- (c) that it is an offence to fail to comply with the requirement or restriction.

(6) In deciding whether to impose a requirement on a person referred to in subregulation (3)(d) or (e), the medical officer must have regard to the person's wellbeing and personal circumstances.

(7) A medical officer may vary or revoke a requirement or restriction imposed on a person, subject to subregulation (8).

(8) The period to which —

- (a) a requirement referred to in subregulation (3)(d) or (e); or

- (b) a restriction,

relates, may only be extended in accordance with regulation 10.

10. Duration of requirements or restrictions

(1) The period specified in relation to a requirement referred to in regulation 9(3)(d) or (e) (a “**requirement to remain**”), or in relation to any other restriction under regulation 9, must not exceed 14 days.

(2) After the imposition of a requirement to remain or a restriction under regulation 9, a medical officer must —

- (a) screen and assess the person within 48 hours; and
- (b) in the light of the screening and assessment reconsider which requirements or restrictions it is necessary and proportionate to impose on that person under regulation 9 for the purposes referred to in regulation 9(2).

(3) The medical officer may, following reconsideration under subregulation (2) —

- (a) revoke a requirement to remain or restriction, or specify a different period not exceeding 14 days in relation to the requirement or restriction; or
- (b) substitute a different requirement or restriction under regulation 9.

(4) Where a person is required to remain at a place under regulation 9(3)(d) or (e) the requirement may be enforced —

- (a) by a police officer removing the person to the place;
- (b) by a police officer keeping the person at the place; or
- (c) if the person absconds, by a police officer taking the person into custody and returning them to that place or another place a medical officer may specify.

11. Appeals

(1) A person on whom a requirement or restriction is imposed under regulation 9 may appeal against it (or against any variation of it) to the Magistrate’s Court.

(2) On appeal under this regulation, the court may —

- (a) confirm the requirement or restriction (or variation), with or without modification; or
- (b) quash the requirement or restriction (or variation).

12. Children

(1) Under this regulation, an individual has responsibility for a child —

- (a) if the individual is not a child and has custody or charge of the child for the time being (but is not a person on whom powers are conferred by these Regulations); or
- (b) if the individual has parental responsibility for the child (within the meaning of the Children Ordinance 2014).

(2) An individual who has responsibility for a child must, so far as reasonably practicable, ensure that the child complies with any direction, instruction, requirement or restriction given to or imposed on the child under these Regulations.

(3) An individual who has responsibility for a child must provide to a person exercising power under these Regulations such information and assistance in relation to the child as is reasonably necessary and practicable in the circumstances.

(4) A power under these regulations to direct or require a child to go to a place may instead be exercised by directing or requiring an individual who has responsibility for the child to take the child to the place.

(5) A power under regulation 8 or 9 may only be exercised in relation to a child in the presence of —

- (a) an individual who has responsibility for the child; or
- (b) if the child is not accompanied by such an individual, another person (not being a child or a person on whom powers are conferred under these Regulations) that the person exercising the power considers to be appropriate, having regard to any views of the child.

(6) Where a power under regulation 8(3) or 9(3)(d) or (e) is exercised in relation to a child and the child is not in the company of their parent or guardian, the child must be afforded reasonable opportunity to communicate with a parent or guardian in accordance with section 5(4) of the Constitution.

(7) Where a power under these Regulations is exercisable in relation to a child but the child is not accompanied by an individual who has responsibility for the child, the person by whom the power is exercisable must —

- (a) if practicable, contact an individual who has responsibility for the child before the power is exercised; or
- (b) if that is not practicable, take reasonable steps after the power is exercised to contact such an individual and inform them of any exercise of the power in relation to the child.

(8) Where a child has a right of appeal under regulation 11, the right may be exercised by an individual who has responsibility for the child.

(9) In this regulation, “**child**” means a person under the age of 18.

13. Formalities

(1) A direction, instruction, requirement or restriction under these Regulations may be given or imposed orally or in writing.

(2) Where a requirement or restriction under regulation 9 is given to a person orally by a medical officer, the officer must as soon as reasonably practicable thereafter give the person notice setting it out in writing.

14. Ancillary powers

(1) A medical or police officer may give reasonable instructions to a person in connection with—

- (a) a direction given to that person under a power conferred by these Regulations; or
- (b) removing the person or keeping the person at a place under a power conferred by these Regulations.

(2) Where a medical or police officer gives a reasonable instruction to a person under subregulation (1), the officer must inform the person —

- (a) of the reason for the instruction; and
- (b) that it is an offence to fail to comply with it without reasonable excuse.

(3) A power conferred by these Regulations to remove a person to a place includes a power to keep the person for a reasonable period pending their removal.

(4) A police officer may use reasonable force, if necessary, in the exercise of a power conferred under these Regulations.

(5) A police officer may enter any place for the purpose of the exercise of a power under these Regulations.

15. End of transmission control period

When the transmission control period comes to an end, any requirement or restriction imposed under these Regulations ceases to have effect.

PART 4 - Offences and other matters

16. Offences

(1) A person commits an offence if the person —

- (a) fails without reasonable excuse to comply with any direction, instruction, requirement or restriction given to or imposed on the person under these Regulations;
- (b) fails without reasonable excuse to comply with a duty under regulation 12(2) or (3) (duties of individuals who have responsibility for a child);
- (c) absconds, or attempts to abscond, whilst being removed or kept at a place under these Regulations;

- (d) knowingly provides false or misleading information in response to a requirement to provide information under these Regulations or otherwise in connection with the exercise of any power under these Regulations; or
- (e) obstructs a person who is exercising or attempting to exercise a power conferred by these Regulations.

(2) A person guilty of an offence under subregulation (1) is liable on conviction to a fine not exceeding level 3 on the standard scale.

17. Expiry of Regulations

(1) These Regulations and any declaration made under regulations 4 or 5 cease to have effect on 4 May 2023.

(2) This regulation does not affect the validity of anything done under these Regulations before they cease to have effect.

18. Infectious Diseases Control (Coronavirus, Restrictions and Requirements during an Emergency Period) Regulations 2021 amended

(1) This regulation amends the Infectious Diseases Control (Coronavirus, Restrictions and Requirements during an Emergency Period) Regulations 2021.

(2) Replace regulation 16(1) with —

“(1) These Regulations and any declaration made under regulation 5 cease to have effect on 4 May 2023.”.

19. Infectious Diseases Control (Coronavirus: International Travel, Operator Liability and Quarantine) Regulations 2021 revoked

The Infectious Diseases Control (Coronavirus: International Travel, Operator Liability and Quarantine) Regulations 2021 are revoked.

Made 30 March 2022

N. J. PHILLIPS C.B.E.,
Governor.

EXPLANATORY NOTE
(not forming part of these Regulations)

These Regulations are the Infectious Diseases Control (Transmission Control Period) Regulations 2022 and are made under section 27 of the Infectious Diseases Ordinance 2003. The Regulations come into force on 4 May 2022.

The Regulations provide powers for the Governor to declare a transmission control period where the Governor is of the view that the incidence or transmission of coronavirus constitutes a serious and imminent threat to the public health of the Falkland Islands (*regulation 5*).

During a transmission control period a medical officer has the power to direct a person who is potentially infectious to undergo screening and assessment at, or remove a person to, a place that is suitable for that purpose (*regulation 7*). A medical officer may request the help of a police officer to enforce the direction or removal.

A person is potentially infectious if the person is or may be infected with coronavirus and there is a risk that they may infect others; or if they have been in an area that has been declared infected (*regulation 3(2)*). An area may be declared infected (*regulation 4*) if it is a place where coronavirus is known to be transmitted between humans or if there is a high risk of transmitting coronavirus from that area to the Falkland Islands.

Once a person is at a place of screening and assessment, a medical officer may require the person to stay there for up to 48 hours for the purpose of obtaining blood samples or swab tests or other information that may assist with screening and assessment (*regulation 8*).

If it is established that the person is infectious or there are ground for considering the person to be potentially infectious, a medical officer may impose requirements (for example, the wearing of face masks or to undergo further testing) or restrictions (for example, self-isolation) for a specified period (*regulation 9*), which must not exceed 14 days (*regulation 10(1)*) unless further screening and assessment is undertaken and the medical officer is satisfied that extending the period is necessary and proportionate.

Any direction given or requirement or restriction imposed on a person by a medical officer may be given orally or in writing but if given orally must be given in writing as soon as reasonably practicable (*regulation 13*). The person must in each case be informed of the reason for the direction, restriction or requirement, of their rights under section 5(4) of the Constitution (right of a person who is detained to legal representation) and that failure to comply is an offence (*regulations 8(10) and 9(5)*).

Regulation 11 provides for appeals against requirements and restrictions to the Magistrate's Court.

Regulation 12 makes provision for children (defined as persons under the age of 18) and sets out the duties of the adults who have charge of the child or parental responsibility for the child.

Regulation 14 deals with enforcement powers of police officers and *regulation 15* clarifies that when a transmission control period ends, any requirements or restrictions also cease to have effect.

Regulation 16 provides for offences which include failure to comply with a direction etc without reasonable excuse, absconding from a place to which the person has been removed or at which the person is kept, knowingly providing false or misleading information and obstructing a person who is exercising a power conferred by the Regulations. The maximum penalty in each case is a fine not exceeding £1000.

Regulation 17 provides that the Regulations expire on 4 May 2023.

Regulation 18 extends the expiry date of Infectious Diseases Control (Coronavirus, Restrictions and Requirements during an Emergency Period) Regulations 2021, which provide powers for mandatory lockdown to the same date.

Regulation 19 revokes the quarantine and other requirements imposed on persons arriving in the Falkland Islands by air or sea under the Infectious Diseases Control (Coronavirus: International Travel, Operator Liability and Quarantine) Regulations 2021.

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