



COVID-19: Police Guidance

Infectious Diseases Control (Coronavirus) (No.2) Regulations 2020

The Chief Police Officer

EXCEPTIONAL POWERS FOR EXCEPTIONAL CIRCUMSTANCES ONLY

What is COVID-19?

Covid-19 or coronavirus is an infectious and contagious disease which is caused by the SARS-CoV-2 virus. The virus has never been encountered before and there is currently no vaccine. The virus has rapidly spread across the globe and the World Health Organisation has identified the coronavirus as a public health emergency of international concern and characterised it as a pandemic.

What guidance is available?

The purpose of this document is to provide guidance to police officers on the use of the powers contained in the Infectious Diseases Control (Coronavirus) (No.2) Regulations 2020 which impose restrictions on businesses, premises, gatherings and movement.

This document should be read together with 'AGG23 - The Attorney General's Guidance on the Infectious Diseases Control (Coronavirus) (No.2) Regulations 2020'.

When do the police powers come into force?

The police powers contained in Part 2 of the Infectious Diseases Control (Coronavirus)(No.2) Regulations 2020 ("the Regulations") come into force when an 'emergency period' is declared by the Falkland Islands Government. An 'emergency period' can be declared when the incidence or transmission of coronavirus constitutes a serious and imminent threat to public health.

During an 'emergency period' there are requirements placed on premises and businesses and restrictions on movement and gatherings.

A declaration can bring into force one or more of the requirements and restrictions set out in Part 2 of the Regulations and apply those requirements and restrictions to the whole of the Falkland Islands or to specified areas within the Falkland Islands. Depending on the circumstances existing at the time this allows requirements and restrictions to be brought into force in a gradual or targeted manner so as to ensure that their use remains reasonable and proportionate.

During an 'emergency period' police officers will be briefed as to which requirements and restrictions are in force and to which locations they apply.

THE APPROACH TO ENFORCEMENT DURING AN 'EMERGENCY PERIOD'

The approach to enforcement during an 'emergency period' will be to follow the four-step escalation procedure

1. Engage

Where there are reasonable grounds to suspect that a person may not be complying with a restriction or requirement, officers should engage the person with an open and enquiring mind.

2. Explain

Where a person appears not to be complying with a requirement or restriction the requirement or restriction should be carefully explained. Officers should stress that non-compliance puts people's lives at risk and threatens the health service.

3. Encourage

People who are not complying with a requirement or restriction should be encouraged to comply voluntarily. This step should not be rushed and officers should exercise patience and perseverance.

4. Enforce

Enforcement is the absolute last resort and should only be used where a person continuously refuses to comply with a requirement or restriction and where the person has been given a full and proper opportunity to comply on a voluntary basis.

THERE IS NO POWER TO 'STOP AND ACCOUNT'

Police officers should only commence the four-step escalation procedure where there are reasonable grounds to suspect that a person may not be complying with a restriction or requirement.

POWERS RELATING TO CLOSURE OF RETAIL BUSINESSES AND PREMISES

Enforcement will only be by use of prohibition notices (reg 14(2)). Before a prohibition notice is served officers should consult a member of Government Legal Services to ensure that it is appropriate to serve a prohibition notice.

What is allowed

- The sale of food and drink for consumption off premises.
- Workplace canteens where there is no practical alternative.
- Room service.
- Using premises for broadcast to people outside.
- Using premises for blood donation.
- Providing accommodation for the homeless.
- Place of worship for funerals, broadcasts and essential voluntary services.
- Food retailers
- Homeware, building supplies and hardware stores.
- Fuel stations.
- Car repair
- Taxi or vehicle hire businesses.
- Banks, other places providing financial services and Post Offices.
- Laundrettes and dry cleaners.
- Medical or health services including veterinary services.
- Car parks.
- Public toilets.
- Agricultural supply shops.

What is not allowed

- Serving food or drink to be consumed on premises.
- Licensed premises, pubs, bars and nightclubs.
- Museums and galleries.
- Spas and massage parlours
- Barbers and nail, beauty and hair salons.
- Car showrooms.
- Indoor fitness studios, gyms, swimming pools, bowling alleys, soft-play areas and other indoor leisure centres or facilities.
- Playgrounds, sports courts and outdoor gyms.
- Outdoor markets (except for stalls selling food and livestock markets).
- The provision of holiday accommodation, unless the accommodation is being used:
 - By someone who was resident before the regulations came into force and they are unable to go home;
 - as someone's main residence;
 - to support services to the homeless;
 - to host blood donation sessions;
 - for any other authorised purpose.

It will not be a reasonable and proportionate to direct that businesses or premises close immediately. If enforcement is considered to be necessary then it will be undertaken by serving a prohibition notice.

RESTRICTIONS ON MOVEMENT AND GATHERINGS

When a restriction on movement is in place people must not leave the place where they are living unless they have a reasonable excuse to do so.

Reasonable excuses include:

- Food and medical supplies.....obtaining food and medical supplies for those in the same household (including pets and animals in the household)
- Other essential supplies.....obtaining supplies for the essential upkeep, maintenance and functioning of the household
- Supplies for a vulnerable person.....obtaining food, medical supplies and other essential household supplies for a vulnerable person
- Obtaining and depositing money
- Exercising.....to take exercise, either alone or with other members of their household
- Seeking medical assistance.....including to access dental or veterinary services or any other medical services
- Providing care or assistance.....including personal care to a vulnerable person
- Providing emergency assistance
- Donating blood
- Travelling to work and being at work.....where it is not reasonably possible to work from the place where a person is living (includes voluntary/charitable work)
- Attending a funeral.....where the funeral is for a close family member (or a friend where there is no close family)
- Visiting a burial ground etc.....to pay respects to a member of the person's household, a family member or friend;
- Fulfilling a legal obligation.....including attending court or answering bail
- Accessing critical public services.....including childcare, educational facilities, social services, services provided to victims (such as victims of crime)
- Contact with children.....in relation to a child who does not live in the same household to continue existing arrangements for access and contact
- Religion.....a minister of religion or worship leader, may go to their place of worship
- Moving house.....where reasonably necessary
- Avoiding harm.....to avoid injury or illness or to escape risk of harm.

This list is NOT EXHAUSTIVE and there may be other reasonable excuses for a person to have left their home.

Where people are unable to work from home they should still go to work

Police officers should apply the law in a way that is flexible, discretionary and pragmatic to make sensible decisions.

RESTRICTIONS ON MOVEMENT AND GATHERINGS

The Regulations do not explicitly confer any powers on police officers to stop vehicles or enter premises.

Stopping Vehicles

Where there are reasonable grounds to suspect that the occupants of a vehicle may not be complying with a requirement or restriction a police officer in uniform may stop the vehicle using the general power contained in section 45 of the Road Traffic Ordinance 1948.

There is no power and no need to stop every vehicle.

There is no power to establish road blocks because road checks on every vehicle would be disproportionate.

Entering Premises

Restrictions on gatherings only relate to gatherings in a public place.

The Regulations do not confer on officers any additional powers of entry. As per the Criminal Procedure and Evidence Ordinance 2014 Officers require a warrant to enter premises unless sections 22 and 23 of the Ordinance apply.

It will be an exceptional set of circumstances that make it reasonable and proportionate to seek to enter premises on the basis that an officer is seeking to arrest a person for an imprisonable offence contrary to the Regulations. The reason for this is that the objective of the Regulations is to manage public spaces.

Vulnerable People and Child Safeguarding

Police officers must be aware that there may be hidden reasons why a person appears to be in contravention of the Regulations.

A person may be the victim of domestic abuse but be too frightened to explain to an officer that they fear to return to their home.

People may have mental health issues that are not readily apparent.

Children may be escaping abusive behaviour or they may be being groomed by a sexual offender who has encouraged them to engage in activity that places them in breach of the Regulations.

Police officers must not allow enforcement of the Regulations to prevent the detection of more serious criminal offending.

Extra care must be taken to ensure that vulnerable people are not victimised twice over.

RESTRICTIONS ON MOVEMENT AND GATHERINGS

No gatherings in a public place of more than two people are permitted

Exceptions:

- the people live together
- the gathering is essential for a work purpose
- the gathering is a funeral
- the people are, where necessary: - moving house - helping a vulnerable person - participating legal proceedings - helping in an emergency

Breaching the Regulations is a criminal offence for which the penalty is imprisonment for 3 months or a level 4 fine or both
If enforcement action is required police officers should take the following action in order of escalation

Direct	Police officers should give a formal direction for a person to return to the place where they are living.
Warn	Police officers should warn the person that if they fail to comply with the direction then they can be removed to the place where they are living.
Remove	Police officers should remove the person to the place where they are living. If necessary reasonable force can be used to ensure compliance. Removal will be sufficient to prevent the spread of infection and reporting for prosecution is unlikely to be required.
Arrest (Bail)	Officers should only arrest a person where the contravention of the Regulations is particularly serious and it is likely that the contravention justifies reporting for prosecution. Where an arrest is necessary then a person should be given “street bail”.
Arrest (Detain)	It will be an exceptional set of circumstances that justifies the arrest of a person and their detention in police custody. The objective of the Regulations is to prevent the spread of infection. Detaining a person in custody will have the direct opposite effect because it will bring the person into contact with an even wider sphere of people.

**Police officers should remember that the objective is not to criminalise people but to prevent the spread of infection.
Enforcement action should be proportionate to achieving this objective.**

PERSONAL SAFETY

Wash your hands frequently

Regularly and thoroughly clean your hands with an alcohol-based hand rub or wash them with soap and water. Wash hands or use sanitiser before going into any address and after exiting.

Maintain social distancing

Maintain a distance of at least two metres (six feet) between yourself and anyone.

Avoid touching your eyes, nose and mouth

This will reduce the risk of infection.

Practice respiratory hygiene

Make sure that you, and the people around you, follow good respiratory hygiene. This means covering your mouth and nose with your bent elbow or a tissue when you cough or sneeze. Dispose of the used tissue immediately.

Use PPE equipment

Make use of the PPE equipment that has been provided.