

Explanatory Memorandum to Tynwald Members

Issued by the Cabinet Office

To the Hon Laurence Skelly MLC, President of Tynwald and the Hon Council and Keys in Tynwald assembled

1. Title of measure

Public Health Protection (Coronavirus) (Amendment) (No.18) Regulations 2021 [*SD No. 2021/0296*]

2. Changes in policy

These Regulations represent a continuation of the policy of protecting the people of the Island from COVID-19 whilst balancing the impact any restrictions have on society, the economy and the health and care systems.

3. Effects of the measure

These Regulations are made under the Public Health Act 1990 to further amend the Public Health Protection (Coronavirus) Regulations 2020 [SD2020/0551] ("the principal regulations") from 00:01 on 16 September 2021.

The amendments made by these Regulations are as follows:

- Regulation 4 amends regulation 4 of the principal regulations to change the expiry date of the principal regulations to 20 January 2022.
- Regulation 5 amends the definition of "registered resident" in regulation 5 of the principal regulations to reflect the move away from the concept of "registered residents" of the Isle of Man within the principal regulations to just "residents" of the Island, i.e. residents who wish to travel will not need to be registered with the Chief Secretary for their return to the Island.
- Regulation 6 amends inserts regulation 5C into the principal regulations. This new regulation provides for an additional exemption in certain circumstances where it is considered that a person is likely to have acquired some natural immunity after having had Coronavirus. To qualify for this exemption a person must:
 - have had a positive Coronavirus PCR test result within the common travel area (CTA) in not more than 180 and not less than 11 days prior to arrival in Island; and
 - not have travelled outside the CTA in the 10 days prior to arrival in the Island.

When this exemption applies the person is not required to self-isolate or provide a biological sample to test for Coronavirus when they arrive in the Island. They must, however, still complete a landing card no earlier than 48 hours before they arrive in the Island and provide any other information that the Chief Secretary or Director of Public Health may reasonably require for the purposes of the principal regulations.

- Regulation 7 amends regulation 7 (restrictions on private vessels) of the principal regulations so that persons arriving in the Island in private vessels may, in addition to arriving in Douglas harbour, arrive in Peel harbour in accordance with guidance to be issued by the Chief Secretary.

- Regulation 8 omits regulation 8 (restriction on private aircraft) of the principal regulations to remove the requirement for private aircraft arriving in the Island to initially only land at Ronaldsway airport.
- Regulation 9 amends regulation 10 (direction notices and entry certificates) of the principal regulations to make an amendment consequential to the move away from “registered residents” of the Island.
- Regulation 10 amends Regulation 11 (prohibition of entry) of the principal regulations to include persons who qualify for the “natural immunity” exemption under new regulation 5C within those who are permitted to enter the Island.
- Regulation 11 amends regulation 12 (Category A persons) of the principal regulations to exempt certain Category A persons arriving in the Island from self-isolation and testing requirements. The exemption applies to any person who is under the age of 12 and also to any Isle of Man resident who has not travelled outside the CTA in the 10 days prior to their arrival in the Island. A further consequential amendment is also made to regulation 12 in relation to the move away from the use of the term “registered resident”.
- Regulation 12 amends regulation 13A (biological samples) of the principal regulations in respect of the change from a “registered resident” of the Island to just a “resident”.
- Regulation 13 amends regulation 24 (removal and repatriation) of the principal regulations consequential to the move away from the use of the term “registered resident” and to clarify that the regulation applies to persons who are subject to a prohibition on entry to the Island under regulation 11 of the principal regulations.
- Regulation 14 amends regulation 36 (offences and penalties) of the principal regulations consequential to regulation 8 being omitted.
- Regulation 15 makes a number of amendments to Schedule 1 to the principal regulations in respect of Island residents:
 - the requirement for Island residents to register with the Chief Secretary under paragraph 6 in order to be able to enter the Island is removed and the paragraph is amended consequential to this change;
 - new subparagraph (2A) is inserted into paragraph 6 to confirm that where a child age 12 to 17 lives for part of their time with parent or guardian in the Island they are to be treated as Island residents, and as such would not be subject to self-isolation or testing requirements if they have not been outside the CTA in the 10 days prior to their arrival in the Island¹;
 - paragraph 7 is omitted as it is no longer necessary following the other changes made to the principal regulations in respect of Island residents by these Regulations.
- Regulation 16 amends Schedule 2 to the principal regulations in respect of the self-isolation and testing requirements for Island residents. These changes confirm that residents of the Island will not be subject to testing and self-isolation if they have not travelled outside the CTA in the 10 days prior to entering the Island but will be subject to the regimes under rows A and B of Schedule 2 if they have travelled to a Category 1 or Category 2 country or territory respectively.

¹ Children under the age of 12 will also not be subject to self-isolation and testing requirements – see amendment to regulation 12 of the principal regulation by regulation 10.

- Regulation 17 confirms for the avoidance of doubt that the Health Protection (Coronavirus) (Amendment) (No.16) Regulations 2021, which were not moved for approval in Tynwald, are revoked.

4. Reasons for the measure

The amendments by these Regulations represent a further element of the change from the policy of local elimination of COVID-19 to one of mitigation and living in a world with COVID-19.

The Council of Ministers does not consider it is appropriate to fully open the borders as yet. However, given the current transmission rates in the Island and in the rest of the CTA, the Council of Ministers, having taken both Public Health and Clinical advice into consideration, does believe that these changes represent the next steps for the Island to take as part of the collective journey to normality.

The changes to isolation and testing pathways for residents, who may enter the Island having been within the CTA for the preceding 10 days, is an opportunity for residents to travel freely, within limits, removing at the same time a barrier that some may have felt for short visits for social or business reasons. It is another step forward, where the effects can be monitored and will inform the next decisions for the Council of Ministers.

This change in testing and isolation does represent an increased risk of the importing COVID-19, through increased volumes, and the risk of community seeding, through reduced isolation, but given the progress with the Island's vaccination programme the increased risk of people becoming seriously ill or health services becoming overwhelmed is believed to be reduced and these steps on balance are part of the broader plan to move towards unrestricted travel.

The introduction of a 'natural immunity' exemption for eligible people who have recovered from the illness to travel to the Island is informed by science and supported by Public Health. It will provide another pathway for people, residents and non-residents alike, whilst continuing to mitigate the risk of reseeding COVID-19 in the community.

The addition of Peel harbour provides some relief for private vessels, particularly those travelling between Ireland and the Isle of Man in terms of costs and time. The time is not yet right to reopen all harbours but the Council of Ministers believes this to be the first step.

The removal of the requirement for private aircraft to first land at Ronaldsway prior to onward travel within the Isle of Man is a recognition of the additional, strict, measures that already apply to private aircraft landing on the Island, which provide confidence to the Council of Ministers that sufficient safeguards exist for this change to take place.

The Council of Ministers and Public Health will continue to monitor the situation and will consider further changes to the Island's borders arrangements when appropriate with the continuing ambition to fully open the borders when safe to do so.

5. Legal Powers or Legal Advice obtained

The Regulations are made by the Council of Ministers pursuant to powers to make Regulations under sections 51B, 51C and 51F of the Public Health Act 1990 for the following health protection purposes:

- a. preventing danger to public health from vessels or aircraft or any other mode of transport arriving at any place;
- b. preventing the spread of infection or contamination by means of any vessel, aircraft or other mode of transport leaving any place;

- c. for giving effect to any international agreement or arrangement relating to the spread of infection or contamination; and
- d. preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection of contamination in the Island;

Prior to making the Regulations the Council of Ministers has consulted with the Department of Health and Social Care pursuant to section 51PA of the Public Health Act 1990.

In addition, these Regulations were made in reliance on section 51Q(3) of the 1990 Act so that they could come into operation prior to Tynwald approval.

6. Resource implications

Existing resources established as part of Government's response to COVID-19 will be maintained whilst these Regulations are in force to ensure the policy intent is delivered.

7. Tynwald procedure

Where Regulations under the Public Health Act 1990 are made in reliance on section 51Q(3) of the Act they must be laid before Tynwald after they are made.

They cease to have effect at the end of the period of 14 days beginning with the day on which they were made unless, before that time, Tynwald has **approved them with or without amendment**.

If Tynwald is not due to sit during that 14 day period the President of Tynwald must summon Tynwald to meet on a day specified by the President within that period.

If it is not reasonably practicable for Tynwald to sit within the 14 day period, the President of Tynwald must summon Tynwald to sit on the earliest day it is capable of sitting after the period. In that case the Regulations continue in operation until their approval, or otherwise, by Tynwald.