

Statutory Document No. 2020/0224



Emergency Powers Act 1936

EMERGENCY POWERS (CORONAVIRUS) (SPECIAL CONSTABLES) (NO.2) REGULATIONS 2020

Laid before Tynwald: 7 April 2020
Approved by Tynwald: 7 April 2020
Coming into Operation: in accordance with regulation 2

The Governor in Council, by Order¹, makes the following Regulations under section 4 of the Emergency Powers Act 1936.

1 Title

These Regulations are the Emergency Powers (Coronavirus) (Special Constables) (No.2) Regulations 2020.

2 Commencement

These Regulations come into operation immediately after they are made².

3 Interpretation

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

“**the Coronavirus Proclamation period**” means the period for which the Proclamation of Emergency dated 16 March 2020³ is in operation;

“**special constable**” has the meaning given in section 21 of the Police Act 1993.

¹ Section 4(1) specifies that “Where a proclamation of emergency has been made, and so long as such proclamation is in force, it shall be lawful for the Governor in Council, by Order, to make regulations ...”.

² By virtue of section 4(2) of the Emergency Powers Act 1936, these Regulations made by Order of the Governor in Council must be laid before Tynwald within 7 days of being made and continue in force beyond 7 days of being so laid only if Tynwald passes a resolution to that effect.

³ SD 2020/0162

4 General

These Regulations provide for the remuneration and reimbursement of special constables.

5 Expenses and allowances

- (1) A special constable must —
 - (a) be reimbursed any out-of-pocket expenses reasonably incurred by him or her in the execution of his or her duty; or
 - (b) be paid an allowance in lieu of such reimbursement.
- (2) A special constable must be paid an allowance in respect of —
 - (a) loss of remuneration in his or her private employment while required for duty; and
 - (b) such other matters as the Department may from time to time determine.
- (3) An allowance paid under paragraph (1) or (2) of this regulation must be of such amount and subject to such conditions as the Department may from time to time determine.
- (4) A special constable who, having been retained on duty beyond his or her normal period of duty, certifies that, by reason of being so retained, he or she has been unable to obtain a meal in his or her usual way, and that, as a consequence, he or she has incurred additional expenditure to obtain food, must be paid a refreshment allowance and, if the period for which he or she is so retained exceeds 4 hours, be paid a subsistence allowance.
- (5) A special constable who, having been engaged on duty away from his or her usual place of duty, certifies that, by reason of being so engaged, he or she has been unable to obtain a meal in his or her usual way and that, as a consequence thereof, he or she has incurred additional expenditure to obtain food, must —
 - (a) if the period for which he or she is so engaged does not exceed 4 hours, be paid a refreshment allowance;
 - (b) if the period for which he or she is so engaged exceeds 4 hours, be paid a subsistence allowance.
- (6) A special constable who satisfies the Chief Constable that during his or her normal period of duty he or she has, though not away from his or her usual place of duty, been prevented by the exigencies of duty from obtaining a meal in his or her usual way and that he or she has, as a consequence, incurred additional expenditure to obtain food, may be paid a refreshment allowance.
- (7) For the purposes of this regulation, “usual place of duty” means the police station or other police establishment in which the special constable is stationed or, where such place of duty has been temporarily changed,

and after such period from the date of change as the Chief Constable may determine, in which he or she is temporarily stationed, as the case may be.

- (8) For the purposes of this regulation, the length of “normal period of duty” is 4 hours.
- (9) A subsistence or refreshment allowance payable under the foregoing provisions of this regulation must be of an amount determined in accordance with the Schedule to these Regulations.
- (10) Where a special constable is required to do duty away from his or her usual place of duty he or she must, if he or she so requests, be given an advance to cover, as far as practicable, any expenses which he or she will probably incur.
- (11) A special constable must, subject to him or her performing a minimum of 100 hours ordinary duty in the preceding year, be paid an efficiency allowance, payable annually in arrears, at the rate of £30 per annum, or such other rate as may from time to time be determined by the Department.
- (12) A special constable who is not provided with boots or shoes free of charge must, on commencing foot patrol and subsequently, subject to him or her performing a minimum of 100 hours ordinary duty in the preceding year, after the completion of two years’ service and thereafter annually in arrears be paid a boot allowance, at the rate of £45 per annum, or such other rate as may from time to time be determined by the Department.
- (13) For the purposes of paragraph (11) and (12) of this regulation, “year” means the year up to and including 1st November 2020.
- (14) A special constable may be paid a nominal fee for performing patrol duty, at such rate as may from time to time be determined by the Department.
- (15) Except as provided in these Regulations, a special constable is not be entitled to any remuneration of his or her services as such.

6 Travelling expenses

- (1) A special constable must, in respect of any journey made by him or her, at the request of the Chief Constable, in the course of his or her duty, other than in transport provided by the Chief Constable be paid –
 - (a) the actual cost incurred if the journey was made by public transport; or
 - (b) a motor vehicle allowance in the manner and at the rate prescribed in the Police Regulations 2015⁴ for a member of the

⁴ SD 2015/0091

police force who is deemed to be a casual user if he or she uses his or her own motor vehicle for this purpose.

- (2) A motor vehicle allowance is not payable in respect of the authorised use of a motor vehicle unless there was in force in relation thereto a policy of insurance in terms approved by the Department, in relation to the use in question, for the purposes thereof.
- (3) No payment will be made under paragraph (1) in respect of any journey made by a special constable between his or her usual place of residence and his or her usual place of duty.

7 Sick pay

- (1) Where a special constable loses remuneration in his or her private employment as a consequence of an injury received or a disease contracted –
 - (a) in the execution of his or her duty; or
 - (b) while on duty or while on a journey necessary to enable him or her to report for duty or to return home after duty;he or she will be entitled to submit a claim for an allowance from the Department, by way of sick pay, as provided by this regulation.
- (2) If approved by the Department, the sick pay will be payable for so long as the special constable continues to lose remuneration in his or her private employment or for a period of 28 weeks, whichever is the less; and, subject to paragraph (3), the rate of sick pay will be the rate of such loss of remuneration.
- (3) There will be deducted from the sick pay an amount equal to the amount of any of the following to which the special constable is entitled –
 - (a) any of the following benefits provided, under the Social Security Contributions and Benefits Act 1992 (as applied to the Island), due to the injury received or disease contracted –
 - (i) incapacity benefit;
 - (ii) income support; or
 - (iii) any equivalent benefit provided in place of those specified in subparagraphs (i) or (ii);
 - (b) any payment made under an insurance policy providing benefits in connection with the injury received or disease contracted; or
 - (c) any payment made by his or her employer due to an absence from work caused by the injury received or disease contracted.

8 **Revocation**

The Emergency Powers (Coronavirus) (Special Constables) Regulations 2020⁵.

MADE 14:50 2ND APRIL 2020

W GREENHOW
Chief Secretary

⁵ SD 2020/0202

SCHEDULE

SUBSISTENCE AND REFRESHMENT ALLOWANCES

[Regulation 5(9)]

1. (1) Subject as hereafter in this Schedule provided, the amount of a subsistence or refreshment allowance payable under regulation 5(9) must be in accordance with such scale as shall be determined by the Department.
 - (2) The scales of subsistence allowances must provide for the allowance payable in respect of one meal and that payable in respect of two meals.
 - (3) The scales of subsistence allowances must provide for the allowances payable in respect of a period or engagement on duty of –
 - (a) over 4 hours but not exceeding 8 hours;
 - (b) over 8 hours but not exceeding 12 hours;
 - (c) over 12 hours but not exceeding 24 hours;
 - (d) over 24 hours.
2. If the Chief Constable is satisfied in any particular case that the amount of the allowances calculated in accordance with paragraph 1 is not sufficient to cover the actual expenses necessarily incurred, he or she may authorise payment of the difference.
3. A special constable may, in lieu of the subsistence and refreshment allowances payable under the foregoing provisions of these Regulations, be paid a subsistence allowance at such rate as is payable to members of Tynwald and members of the Isle of Man Civil Service.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by the Governor in Council under section 4 of the Emergency Powers Act 1936 and following a proclamation of a state of emergency under section 3 of that Act.

These Regulations are made for the purpose of securing the essentials of life to the community of the Island and for the protection of the economy of the Island.

These Regulations make new provision for the reimbursement of expenses and payment of allowances to special constables. Special constables will be relied on heavily during the Coronavirus Proclamation period to fill a considerable manpower shortage in the Isle of Man Constabulary. The current absence of regulations addressing the issue of their compensation therefore urgently needs to be addressed by means of Emergency Regulations.

Among other things, these Regulations allow a special constable to submit, to the Department of Home Affairs, a claim for sick pay. If the claim is approved by the Department, the sick pay would compensate the special constable for any loss of remuneration, for a period of up to 28 weeks, incurred due to an injury received or disease contracted while on duty. From this sick pay the Department will deduct any incapacity benefit payments; income support payments, insurance policy payments; or payments made by the employer of the special constable; that have been paid to the special constable due to the injury received or disease contracted while on duty.

These Regulation replace and revoke the Emergency Powers (Coronavirus) (Special Constables) Regulations 2020 (SD 2020/0202) which contained an error.