



EMERGENCY POWERS (CORONAVIRUS) (ENTRY RESTRICTIONS) (AMENDMENT NO. 2) REGULATIONS 2020

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Statutory Document No. 2020/0226



Emergency Powers Act 1936

EMERGENCY POWERS (CORONAVIRUS) (ENTRY RESTRICTIONS) (AMENDMENT NO. 2) REGULATIONS 2020

Laid before Tynwald: 14 April 2020
Approved by Tynwald: 14 April 2020¹
Coming into Operation: in accordance with regulation 2

The Governor in Council, by Order², makes the following Regulations under section 4 of the Emergency Powers Act 1936.

1 Title

These Regulations are the Emergency Powers (Coronavirus) (Entry Restrictions) (Amendment No. 2) Regulations 2020.

2 Commencement

These Regulations come into operation immediately after they have been made³.

3 Emergency Powers (Coronavirus) (Entry Restrictions) Regulations 2020 amended

In the Emergency Powers (Coronavirus) (Entry Restrictions) Regulations 2020⁴ —

- (a) in regulation 2 (commencement) delete the words beginning “and have effect” to the end;

¹ But with an amendment to regulation 3(g) – in the inserted regulation 6A, paragraph (3)(c) was omitted.

² 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 ...”.

³ 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 only continue in force beyond 7 days of being so laid if Tynwald passes a resolution to that effect.

SD 2020/0162

⁴ SD 2020/0199, amended by SD 2020/0215

- (b) in regulation 5 (prohibition of entry) after “(exemption)” insert “and 6A (exemption: residents)”;
- (c) for regulation 6(1) and (1A) (exemption) substitute —
- (1) The prohibition in regulation 5 does not apply to a person —
- (a) who —
- (i) the Department of Infrastructure has certified is vital to the Island’s critical national infrastructure;
- (ii) the Department of Health and Social Care has certified is a supplier of goods or services that are essential for the Island’s infrastructure or the health of its community;
- (iii) the Department of Home Affairs has certified is a police officer or a fire officer employed by that Department or in respect of whom an offer of employment as a police officer or a fire officer in that Department has been made; or
- (iv) the Department of Health and Social Care has certified is a medical expert or professional whose skills are essential to the Island’s medical infrastructure and the health of its community; and
- (b) in respect of whom an exemption notice under paragraph (3) applies.
- (1A) For the avoidance of doubt—
- (a) the Department for Infrastructure and the Department of Health and Social Care may certify a person that is a company or other body under paragraph (1)(a)(i) or (ii); and
- (b) the Chief Secretary may specify a person that is a company or other body under paragraph (3),
- and where such person is so certified or specified, the prohibition in regulation 5 does not apply to the entry of an individual acting in the employment or service of that certified or specified person. **22**;
- (d) in regulation 6(2) for “or the Department of Health and Social Care” substitute **23**, the Department of Health and Social Care or the Department of Home Affairs **22**;
- (e) in regulation 6(3) for “Council of Ministers” substitute **23** Chief Secretary **22**;
- (f) in regulation 6(4)-
- (i) for “and the Department of Health and Social Care may certify a person for the purposes of paragraph

- (1) and the Council of Ministers” substitute **6A**, the Department of Health and Social Care and the Department of Home Affairs may certify a person for the purposes of paragraph (1) and the Chief Secretary **6A**; and
- (ii) in sub-paragraph (a) for “Social Care or the Council of Ministers” substitute **6A** Social Care, the Department of Home Affairs or the Chief Secretary **6A**;

(g) after regulation 6 (exemption) insert –

6A Exemption: residents of the Island

- (1) The prohibition in regulation 5 does not apply to an individual –
 - (a) in respect of whom the Department of Health and Social Care has certified is returning to the Island after having undergone essential medical treatment; or
 - (b) in respect of whom the Chief Secretary has issued an exemption notice under paragraph (3).
- (2) The Department of Health and Social Care may certify an individual for the purposes of paragraph (1)(a) only if it is satisfied that such measures are put in place as are reasonably practicable to mitigate any risks associated with the individual’s return to the Island.
- (3) The Chief Secretary may issue an exemption notice to an individual for the purposes of paragraph (1)(b) only if he is satisfied that –
 - (a) the individual is a resident of the Island;
 - (b) the individual did not leave the Island on or after 6 a.m. on 27th March 2020;
 - ~~(c) the individual has not stayed on or after 27th March 2020 anywhere in the world in a dwelling in respect which the individual or a close family member of the individual is the owner;⁵ and~~
 - (d) such measures are put in place as are reasonably practicable to mitigate any risks associated with making an exemption notice in respect of that individual.

⁵ The strikethrough text of paragraph (3)(c) was removed by an amendment approved by Tynwald prior to these Regulations being approved by Tynwald to continue in operation as amended.

- (4) For the purposes of paragraph (2) and (3)(d) a measure is not reasonably practicable if it gives rise to a risk to human life or health.
- (5) An individual is to be regarded as being a resident in the Island if –
- (a) the individual is the owner of a dwelling in the Island and at any time in the period of 6 months before the date on which he or she intends to enter the Isle of Man has resided at that dwelling;
 - (b) the individual has a contract of tenancy (within the meaning of the Landlord and Tenant Act 1954) for a term of at least 6 months in relation to a dwelling and the individual has resided at that dwelling at any time in the period of 6 months ending immediately before the date on which he or she intends to enter the Isle of Man;
 - (c) the individual has otherwise established his or her permanent home in a dwelling in the Island at any time in the period of 6 months ending immediately before the date on which he or she intends to enter the Isle of Man and continues to maintain his or her permanent home there;
 - (d) the individual is a student or has been a student in the period of 9 months ending immediately before the date on which he or she intends to enter the Isle of Man and has available to him or her a dwelling in which he or she may take up occupation upon his or her return to the Island.
- (6) An application for an exemption issued by the Chief Secretary under paragraph (1)(b) must be made –
- (a) in respect of an individual aged 18 years and over, by the individual; and
 - (b) in respect of a child, by a responsible adult.
- (7) For the purpose of enabling the Chief Secretary to consider whether he is satisfied as to the matters in paragraph (3)(a), (b), (c) and (d) –
- (a) the applicant must supply such information to the Chief Secretary or a person acting on behalf of the Chief Secretary as may be reasonably required; and
 - (b) the Chief Secretary or a person acting on behalf of the Chief Secretary may make enquiries to such person as he or she considers necessary for the purpose of verifying the information supplied to him or her under this regulation.
- (8) An exemption notice under paragraph (1) must specify –

- (a) the individual who is exempt from the prohibition in regulation 5 (“an exempt individual”);
 - (b) the time at which the exemption notice takes effect;
 - (c) the date on which, or the dates within which, the individual is permitted to enter the Island;
 - (d) the method of travel by which the exempt individual may travel to the Island;
 - (e) the conditions on which the exempt individual is permitted to travel to the Island and the circumstances when he or she must not travel, despite the issuance of the exemption notice;
 - (f) any arrangements that must be made by the exempt individual or another which are reasonably incidental to the exemption notice in order to minimise the incidence or transmission of Coronavirus; and
 - (g) any other conditions subject to which the exemption notice is made.
- (9) The conditions under paragraph (8)(e) and (g) must include the condition that the exempt individual (or, in the case of a child, the responsible adult for that child) is liable to pay all the costs incurred and associated with his or her re-entry into the Island including (but not limited to) the costs for —
- (a) accommodation or transport outside the Island;
 - (b) any medical assessment outside the island;
 - (c) travel to the Island and any food or accommodation provided during the voyage to the Island; and
 - (d) any food and accommodation costs during a period of quarantine in the Island.
- (10) The arrangements under paragraph (8)(f) must include provision for a person, before the exempt individual commences his or her voyage to the Island, to conduct such health checks upon the exempt individual and ask such questions about the health of the exempt individual as are considered to be necessary to establish whether the exempt individual has contracted, or is suspected of having contracted Coronavirus.
- (11) In this regulation —
- (a) “child” means a person under the age of 18 years;
 - (b) “close family member” in relation to an individual means the spouse or civil partner of the individual or a person living with the individual in a relationship similar to that of spouses or civil partners, or the parent or child of the individual;

- (c) “owner” in relation to a dwelling means an owner of an estate in fee simple in land or the owner of a leasehold estate (within the meaning of the Land Registration Act 1982) or, in relation to a dwelling in another jurisdiction, an owner with a similar right in land under the law of that jurisdiction;
- (d) “residential accommodation” means any dwelling, or any part of a dwelling used for the purposes of human habitation;
- (e) “responsible adult”, in relation to a child, means—
 - (i) a person who has custody or charge of the child for the time being, or
 - (i) a person with parental responsibility for the child;
- (f) the reference to a person with parental responsibility for a child has the same meaning as in Children and Young Persons Act 2001. ~~22~~;
- (h) for regulation 7 (revocation of exemption notice) and 8 (Offences) substitute —

7 Revocation of exemption notice

- (1) The Chief Secretary may at any time —
 - (a) revoke an exemption notice under regulation 6 if he is no longer satisfied that the exemption is appropriate, having regard to regulation 6(4)(a) and (b); and
 - (b) revoke an exemption notice under regulation 6A if he is no longer satisfied that the exemption is appropriate, having regard to regulation 6A(2) and (3)(d).

8 Offences

- (1) A person who fails to comply with —
 - (a) regulation 5; or
 - (b) the exemption notice or any conditions contained in it,commits an offence triable before the High Bailiff and punishable on conviction with a fine not exceeding level 5, 3 months’ custody or both.
- (2) A person who knowingly provides false or misleading information in an application or in response to a requirement to provide information under these Regulations or otherwise in connection with the exercise of any power under these Regulations commits an offence triable before the High Bailiff and

punishable on conviction with a fine not exceeding level 5, 3 months' custody or both. ⁶.

4 Penalties in other enactments made under the Emergency Powers Act 1936 amended

- (1) For regulation 7 of the Emergency Powers (Coronavirus) (Port Operations) Regulations 2020⁶ substitute —

⁶7 Offences

A person who fails without reasonable excuse to comply with a direction under regulation 5 commits an offence triable before the High Bailiff and punishable on conviction with a fine not exceeding level 5, 3 months' custody or both. ⁶.

- (2) For regulation 6 of the Emergency Powers (Coronavirus) (Child Care Services) Regulations 2020⁷ substitute —

⁶6 Offences

A person who fails without reasonable excuse to comply with a temporary closure direction under regulation 5 commits an offence triable before the High Bailiff and punishable on conviction with a fine not exceeding level 5, 3 months' custody or both. ⁶.

- (3) In regulation 18 of the Regulations in the Schedule to the Emergency Powers (Potentially Infectious Persons) Regulations 2020⁸ —

- (a) the sentence beginning “A person commits” is re-numbered as paragraph (1);
- (b) for the words “Maximum penalty” to the end substitute —

⁶(2) An offence under paragraph (1) is triable before the High Bailiff and punishable on conviction with a fine not exceeding level 5, 3 months' custody or both. ⁶.

MADE 15:19 ON 9 APRIL 2020

Signed by the authority of the Chief Secretary

⁶ SD 2020/0176

⁷ SD 2020/0198, amended by SD 2020/0218

⁸ SD 2020/0171, amended by SD 2020/0180

K HEMSLEY

Interim Director of Change & Reform



EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Emergency Powers (Coronavirus) Regulations the effect of which is to permit residents of the Island to return during the Coronavirus Proclamation period but only if such measures are put in place as are reasonably practicable to mitigate any risks associated with permitting the individual to return. A measure is not reasonably practicable if it gives rise to a risk to human life or health.

These Regulations also amend other Regulations made under the Emergency Powers Act 1936 to clarify that offences under those Regulations are triable before the High Bailiff and punishable on conviction with a fine not exceeding level 5, 3 months' custody or both.