

Statutory Document No. 2020/0242



Emergency Powers Act 1936

EMERGENCY POWERS (CORONAVIRUS) (VACATION OF DEPARTMENTAL FACILITIES) REGULATIONS 2020

Laid before Tynwald: 14 April 2020
Approved by Tynwald: 14 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) (Vacation of Departmental Facilities) Regulations 2020.

2 Commencement

These Regulations come into operation immediately after they are made².

3 Interpretation

In these Regulations —

“**authorised person (A)**” means a person who has actual or ostensible authority, from the Department, to communicate to a person or to the person’s representative the decision of the Department requiring that person to vacate a Departmental facility;

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

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.

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

“**the Department**” means the Department of Health and Social Care and “**Departmental**” shall be construed accordingly;

“**Departmental facility**” means any institution, building, structure, room, ward, bed, unit or other place used for, or in connection with, the provision of health and social care services and includes a mobile facility.

4 Requirement to vacate Departmental facilities

- (1) This regulation applies where, during the Coronavirus Proclamation period —
 - (a) a person (P) occupies, is present or accommodated in, any Departmental facility for the purpose of receiving care or treatment;
 - (b) the authorised person (A) considers, having taken and considered the advice of those concerned in the care or treatment of P in a professional capacity, at least one of the following applies —
 - (i) that it is no longer necessary for P to occupy or remain accommodated in that facility for that, or any other, purpose;
 - (ii) that facility is required for some other person who requires care and treatment and P can be removed from it without undue risk of harm to P’s health and wellbeing.
- (2) Before removing P, A must inform P or P’s representative that P is to be removed from the facility and —
 - (a) P must be afforded such time as is reasonable in the circumstances to vacate the facility, or
 - (b) where appropriate, P’s representative must be afforded such time as is reasonable in the circumstances to remove P from the facility.
- (3) Where paragraph (1) applies, A may take all necessary steps to remove P from the facility notwithstanding any refusal on P’s part or on the part of P’s representatives.
- (4) If practicable in all the circumstances, P must be moved to another Departmental facility in the same institution or facility.
- (5) But nothing in these Regulations requires the Department to give effect to, or comply with, P’s wishes as to where P is to be accommodated or re-accommodated where it is impracticable to do so in the circumstances or

³ SD 2020/0162

- would put others (including staff of any Departmental facility) at risk of harm of any kind.
- (6) Where P is removed from a Departmental facility and not moved to another Departmental facility, A must –
- (a) in so far as A is able, ensure that an appropriate care package is in place for P, or
- (b) without undue delay, notify the relevant social services of the need to put one in place.
- (7) A constable may be called upon to assist in the removal of P and may use reasonable force (if necessary) for that purpose.
- (8) A is not liable in damages or otherwise in respect of anything done in good faith for the purposes of, or in connection with, these Regulations.
- (9) P commits an offence if P refuses to vacate a Departmental facility in accordance with these Regulations and is liable on summary conviction before the High Bailiff to a fine not exceeding level 5 on the standard scale.
- (10) A representative of P commits an offence if that representative in any way obstructs the removal of P from a Departmental facility in accordance with these Regulations and is liable on summary conviction before the High Bailiff to a fine not exceeding level 5 on the standard scale.

MADE AT 08:40 ON 9 APRIL 2020

Signed by the authority of the Chief Secretary

K HEMSLEY
Interim Director of Change & Reform

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 provide for the removal of person receiving care or treatment in a Department of Health and Social Care facility from that facility where it is considered that that person no longer needs to be at, or in, the facility or another person has need of it (or both).