



EMERGENCY POWERS (CORONAVIRUS) (ELECTRONIC TRANSMISSION OF INFORMATION - ENTERPRISES) REGULATIONS 2020

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Emergency Powers Act 1936

EMERGENCY POWERS (CORONAVIRUS) (ELECTRONIC TRANSMISSION OF INFORMATION - ENTERPRISES) REGULATIONS 2020

Laid before Tynwald: 28 April 2020
Approved by Tynwald: 28 April 2020
Coming into Operation in accordance with regulation 2

The Governor in Council¹ makes the following Regulations under section 4 and 4A of the Emergency Powers Act 1936

1 Title

These Regulations are the Emergency Powers (Coronavirus) (Electronic Transmission of Information - Enterprises) Regulations 2020.

2 Commencement

These Regulations come into operation immediately after they are made².

3 Interpretation

(1) In these Regulations —

“**Companies Registry**” has the meaning given in section 4(10) of the Central Registry Act 2018;

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

“**the Coronavirus Proclamation period**” means the period for which the following proclamations are in operation —

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 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.

- (a) the Proclamation of Emergency dated 16 March 2020; and
- (b) all subsequent consecutive Proclamations of Emergency that relate to the pandemic of Coronavirus (also known as COVID-19);

“Department” means the Department for Enterprise;

“information”, in the context of a reference to the giving of information, has the meaning given in section 4(6) of the Electronic Transactions Act 2000;

“Registrar” means the Registrar General;

“relevant enterprise provision” means any provision in or under an enactment specified in the 1st column of the table in the Schedule.

- (2) In these Regulations –
 - (a) a reference to giving information includes a reference to filing, lodging, delivering, serving, furnishing, producing, forwarding or sending the information;
 - (b) a reference to signing a document is a reference to signing, sealing or otherwise executing a document in such way as may be required or permitted under a relevant enterprise provision.

4 Application

These Regulations apply in relation to any requirement during the Coronavirus Proclamation period –

- (a) for a document to be signed by one or more persons under a relevant enterprise provision;
- (b) for information (including a document described in paragraph (a)) to be given under a relevant enterprise provision to the Registrar or Department, as the case may be; and
- (c) for the payment of fees payable under a relevant enterprise provision.

5 Electronic Transactions Act 2000 – application (with modification) during the Coronavirus Proclamation period

- (1) During the Coronavirus Proclamation period, despite regulations 4 and 6 of Electronic Transactions (General) Regulations 2017³, a transaction described in regulation 4(1)(i) of those Regulations is not excluded from section 1(1) of the Electronic Transactions Act 2000 if the transaction is required or permitted to be given to the Department or Registrar, as the case may be, mentioned in the 2nd column of the Schedule under a provision of the enactment mentioned in the corresponding entry in the 1st column of the Schedule.

³ SD2017/0103, amended by SD 2019/0141 and 2020/0110.

- (2) Paragraph (1) does not apply in relation to a transaction that concerns the registration of a document in any part of the Central Registry except the Companies Registry.
- (3) In relation to a transaction that, by virtue of paragraph (1) and (2), is not excluded from section 1(1) of the Electronic Transactions Act 2000 –
 - (a) section 4 of that Act (requirement etc. to give information in writing) applies;
 - (b) section 5 of that Act (signature) and, in so far as a document is required to be signed by the hand of one or more person, regulation 6 applies; and
 - (c) section 6 of that Act (production of document) and regulation 7 applies.

6 Signature: additional requirements

- (1) If a document is required to be signed by one person only (“signatory”) and given to the Department or the Registrar and, due to any restriction imposed upon the signatory during the Coronavirus Proclamation period, the signatory is unable to give the document with his or her original signature on it to the Department or the Registrar, as the case may be, the requirement may be satisfied if the signatory sends the document with the image of the person’s signature on it electronically to the Department or the Registrar, as the case may be.
- (2) If a document is required to be signed by more than one person and, due to any restriction imposed upon a person during the Coronavirus Proclamation period, the persons signing are unable to place their signature on the same document, the requirement may be satisfied if –
 - (a) one of the persons signs the document (“1st signatory”) and then sends the signed document by electronic means to the other person who needs to sign it (or if more than one, to one of the other persons who needs to sign it) (“2nd signatory”);
 - (b) the 2nd signatory signs it and then sends it electronically to another person who is required to sign it (if any) (“subsequent signatory”) who signs it;
 - (c) the subsequent signatory sends the document on to another person required to sign it and the process of sending the document to another person continues until all persons who are required to sign the document have done so;
 - (d) the last person signing the document sends, by electronic means, the document containing the image of the signature of every person required to sign it to all persons who have signed it; and
 - (e) the document containing the image of the signature of every person required to sign it is sent to the Department, or Registrar, as the case may be.

- (3) If the signing of a document by a person (signatory) is required to be witnessed by another person (witness), that requirement is satisfied if the signatory and witness establish a method of electronic communication between each other such that the signatory and the witness are able to see and hear each other and while they are able to see and hear each other –
- (a) the signatory signs the document and sends it to the witness electronically; and
 - (b) upon receipt of the document signed by the signatory, the witness –
 - (i) endorses the document with his or her signature and such other details as may be required under the relevant enterprise provision; and
 - (ii) endorses the document with a statement that he or she has witnessed the signing of the document during an electronic communication between the signatory and himself or herself during which the signatory and witness were able to see and hear each other throughout the communication.
- (4) Despite the requirements in paragraph (1), (2) and (3), the Department or the Registrar, as the case may be, may accept a document that has been signed otherwise than in accordance with those requirements.

7 **Production of document: additional requirements**

Every person who signs or witnesses a document in a manner described in regulation 6—

- (a) must keep for 2 years every document sent to him or her under that regulation and any document containing his or her original signature; and
- (b) upon the request of the Department or Registrar, send any such document kept under paragraph (a) to the Department or Registrar, as the case may be.

8 **Offences**

- (1) A person who falsely records or otherwise falsely represents that a document was signed or witnessed in accordance with regulation 6 when it had not been so signed or witnessed commits an offence.
- (2) A person who fails to comply with regulation 7 commits an offence.

Maximum Penalty (summary) - 3 months' custody and a fine not exceeding level 5 on the standard scale.

9 Modification in respect of late filing fees

- (1) This regulation applies until 1 month after the end of the Coronavirus Proclamation period.
- (2) The Companies (Fees and Duties) Order 2013⁴, the Companies (Fees, Duties and Penalties) Regulations 2013⁵, the Limited Liability Companies (Fees and Duties) Order 2013⁶, the Partnership (Fees) Rules 2013⁷ and the Foreign Companies (Fees) Order 2014⁸ are modified so that –
 - (a) any reference to the payment of a fee within the time limit prescribed by the Act is to be treated as a reference to the payment of a fee within 3 months or less of that prescribed time limit;
 - (b) for “1 month and one day to 3 months” in every place where it appears there is substituted “3 months and one day to 5 months”;
 - (c) for “more than 1 month but less than 3 months” in every place where it appears there is substituted “more than 3 months but less than 5 months”; and
 - (d) for “more than 3 months and one day” in every place where it appears there is substituted “more than 5 months and 1 day”.
- (3) The Registration of Business Names (Fees and Duties) Rules 2013⁹ are modified as if for “outside the prescribed time limit” there is substituted “3 months or longer outside the prescribed time limit”.
- (4) The Government Circular No. 41/2013 (which sets fees payable under the Foundations Act 2011) is modified as if –
 - (a) for “1 month and one day to 3 months” wherever it appears there is substituted “3 months and one day to 5 months”; and
 - (b) for “more than 3 months” wherever it appears there is substituted “more than 5 months”.
- (5) This regulation does not affect any duty in any relevant enterprise provision to give information in accordance with that provision and within the time limit imposed under such a provision.

⁴ SD 0242/13

⁵ SD 0243/13

⁶ SD 0244/13

⁷ SD 0246/13

⁸ SD 2014/0215

⁹ SD 0245/13

MADE AT 19:13 ON 23 APRIL 2020

W GREENHOW
Chief Secretary

SCHEDULE

RELEVANT ENTERPRISE PROVISION

[Regulation 3(1)]

Enactment	Department or Person to whom information is to be delivered
Partnership Act 1909	Department for Enterprise
Registration of Business Names Act 1918	Department for Enterprise
Companies Acts 1931 to 2004 (within the meaning of the Companies Act 2006)	Department for Enterprise (and, in the case of section 16A, the Registrar)
Credit Unions Act 1993	Department for Enterprise
Limited Liability Companies Act 1996	Department for Enterprise
Companies Act 2006	Registrar
Foundations Act 2011	Registrar
Foreign Companies Act 2014	Department for Enterprise
Industrial and Building Society Act 1892	Department for Enterprise

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make temporary provision for the electronic filing of documents in the Companies Registry, for companies and the other enterprises established under the enactments referred to in the Schedule, during the Coronavirus Proclamation period (as defined in regulation 3).

They provide that the Electronic Transactions Act 2000 applies in relation to any transaction, as long as the transaction relates to a document that is required to be registered in the Companies Registry. In particular, these Regulations provide that the Electronic Transactions Act 2000 applies in relation to a mortgage, debenture or charge on the undertaking, property or revenues of a company or public authority, subject to the additional requirements contained in regulations 6 and 7 (where documents are required to be signed or witnessed by a person).

These Regulations also provide for the extension of periods by which fees payable under the enactments must be paid before late payment fees are payable. The extended fee period will apply until 1 month after the end of the Coronavirus Proclamation period. However, these Regulations do not extend any period by which any information must be submitted to the Department of Enterprise or to the Registrar General, as the case may be.