

Statutory Document No. 2021/0012



Public Health Act 1990

PUBLIC HEALTH PROTECTION (CORONAVIRUS) (AMENDMENT) REGULATIONS 2021

Laid before Tynwald: 20 January 2021
Approved by Tynwald: 20 January 2021¹
Coming into Operation: in accordance with regulation 2

The Council of Ministers makes the following Regulations under sections 51B, 51C and 51F of the Public Health Act 1990.

In accordance with section 51PA of the Public Health Act 1990 the Council of Ministers has, before making these Regulations, consulted the Department of Health and Social Care.

The Council of Ministers is of the opinion that, by reason of urgency, it is necessary for these Regulations to come into operation before they are approved².

¹ With amendment to regulation 14 – that regulation is marked up to show the amendment.

² Section 51Q of the Public Health Act 1990 states –

“Tynwald control: regulations and orders

(1) This section applies to a public document issued by the Council of Ministers under this Part.

(2) A public document to which this section applies must not come into operation unless – (a) it is approved by Tynwald; or (b) subsection (3) applies.

(3) A public document may come into operation without first being approved by Tynwald if it contains a declaration that the person making it is of the opinion that, by reason of urgency, it is necessary for it to come into operation before it is approved.

(4) A public document that comes into operation in accordance with subsection (3) must be laid before Tynwald after it is made.

(5) A public document to which subsection (3) applies ceases to have effect at the end of the period of 14 days beginning with the day on which it is made unless, before that time, Tynwald has approved it with or without amendment.

(5A) If Tynwald is not due to sit during the period referred to in subsection (5) the President of Tynwald must summon Tynwald to meet on a day specified by the President within that period.

(5B) Where it is not reasonably practicable for Tynwald to sit within the period referred to in subsection (5A), the President of Tynwald must summon Tynwald to sit on the earliest day it is capable of sitting thereafter.

(5C) Where subsection (5B) applies, a public document shall continue in operation pending its approval (or otherwise) by Tynwald.

(6) But if on any day during that period, on proceedings on a motion that (or to the effect that) the public document be so approved, Tynwald comes to a decision rejecting the public document, it ceases to have effect at the end of that day instead.

(7) Subsections (5) and (6) do not – (a) affect anything done in reliance on the public document before it ceased to have effect; or (b) prevent the making of a further public document to the like effect.”

1 Title

These Regulations are the Public Health Protection (Coronavirus) (Amendment) Regulations 2021.

2 Commencement

These Regulations come into operation at 00:01 on Thursday 7 January 2021.

3 Public Health Protection (Coronavirus) Regulations 2020 amended

The Public Health Protection (Coronavirus) Regulations 2020³ (“the principal regulations”) are amended as follows.

4 Regulation 4 (expiry)

In regulation 4(1) (expiry) for “6 months beginning on the day on which they come into operation”, substitute **“one month beginning on the date of the sitting of Tynwald to which the Public Health Protection (Coronavirus) (Amendment) Regulations 2021⁴ are submitted for approval**.

5 Regulation 5 (interpretation) amended

In regulation 5 (interpretation) —

- (a) in the definition of “biological sample”, for “and a second biological sample”, substitute **“a second biological sample and a third biological sample**; and
- (b) in paragraph (a) of the definition of “notified place”, after “suitable” insert **“(as specified in guidance published by the Chief Secretary following its approval of the Council of Ministers)**.

6 Regulation 6 (restrictions and requirements: general) amended

In paragraphs (3) and (4) of regulation 6 (restrictions and requirements: general) for “applies to, or in relation to,” substitute **“applies or relates to**.

7 Regulation 10 (direction notices) amended

In regulation 10 (direction notices) —

- (a) in paragraph (2) —
 - (i) for “may, where the Chief Secretary so decides”, substitute **“, issued by the Chief Secretary**; and
 - (ii) in subparagraph (a), before “direct” insert **“shall**;
- (b) for paragraphs (3) and (4), substitute —

³ SD 2020/0551 as amended by SD 2020/0599 and SD 2020/0601

⁴ SD 2020/0012

- (3) Despite paragraph (2), the Chief Secretary may, by a direction notice, exempt from a requirement to self-isolate or modify a requirement under these Regulations to self-isolate in relation to —
- (a) a Category A person who is a key worker or a person to whom a public interest exception applies (as defined in paragraph A1 of the Schedule), if the Chief Secretary is satisfied that to do so is in the public interest, as specified in guidance published by the Chief Secretary following its approval by the Council of Ministers; or
 - (b) a resident of the Island (within the meaning of paragraph 6 of the Schedule) (“P”), in respect of whom the Chief Secretary is satisfied that exceptional and urgent circumstances (which the Chief Secretary may specify in guidance, for which the approval of the Council of Ministers will be required) relating to P or another resident of the Island apply.
- (3A) For the purpose of enabling the Chief Secretary to consider whether the Chief Secretary is satisfied as to the matters in paragraph (3) —
- (a) the person must supply such information as the Chief Secretary may reasonably require; and
 - (b) the Chief Secretary may make enquiries of any person for the purpose of verifying the information supplied under this paragraph.
- (4) The Chief Secretary —
- (a) must not give a direction notice under paragraph (3) other than in accordance with advice given by the Department of Health and Social Care or the Director of Public Health; and
 - (b) must ensure —
 - (i) when giving the direction notice, that conditions or measures are put in place as are reasonably practicable to mitigate any risks associated with that exemption, modification or direction; and
 - (ii) that the terms of the direction notice and any mitigating conditions and measures are proportionate. **22**; and
 - (c) after paragraph (5), insert —
- 23**(6) A direction notice made under these regulations must be laid before Tynwald as soon as practicable after it is made. **22**.

8 Regulation 12 (paragraph 6 or 7 of the Schedule Category A persons) amended

In regulation 12 (paragraph 6 or 7 of the Schedule Category A persons) —

- (a) in the regulation heading, omit “Paragraph 6 or 7 of the Schedule”;
- (b) omit “, referred to in paragraph 6 or 7 of the Schedule”; and
- (c) for “regulation 13A”, substitute **13A** regulations 10(3) and 13A **13A**.

9 Regulation 13 (Other Category A persons) revoked

Regulation 13 (other Category A persons) is revoked.

10 Regulation 13A (biological samples) substituted

For regulation 13A (biological samples), substitute —

13A Biological samples

- (1) This regulation applies to a Category A person to whom regulation 12 applies who has received an entry certificate which gives the Category A person the option to provide a biological sample in accordance with this regulation.
- (2) A Category A person who elects to provide a biological sample, upon payment of the sum of £150 to the Cabinet Office, within 48 hours of entering the Island, may by arrangement with the Chief Secretary leave the notified place for the purpose of attending, by appointment, a facility the Chief Secretary specifies in order to provide a biological sample (“first biological sample”).
- (3) The requirement to pay the sum of £150 referred to in paragraph (2) does not apply to an eligible patient or the responsible adult or appointed person for the eligible patient and in the case of a person who left the Island before 00:01 on 7 January 2021, a reduced sum payable is £50.
- (4) A Category A person who provides a first biological sample the analysis of which finds the person is not infected or contaminated may, on or after the 6th or 7th day after entering the Island, by arrangement with the Chief Secretary leave the notified place for the purpose of attending, by appointment, a facility the Chief Secretary specifies in order to provide a further biological sample (“second biological sample”).
- (5) If the findings of the analysis of the second biological sample are that the Category A person is not infected or contaminated, the person must continue to comply with the terms of the direction notice referred to in regulation 12 but paragraph (6) applies.
- (6) Where this paragraph applies, a Category A person may leave their notified place alone or with members of that household for the purpose of undertaking exercise for a maximum period of 1 hour per day.

- (7) A Category A person who provides a first biological sample may, on or after the 13th day after entering the Island, by arrangement with the Chief Secretary leave the notified place for the purpose of attending, by appointment, a facility the Chief Secretary specifies in order to provide a further biological sample (“third biological sample”).
- (8) A Category A person must —
- (a) at all times during which any person to whom this regulation applies is not at the Category A person’s notified place or, where applicable, their notified place that person —
 - (i) wear a face mask or other suitable face covering; and
 - (ii) maintain a distance of at least 2 metres from any person who is not a member of that household; and
 - (b) immediately after providing a biological sample return to the notified place and must remain at that place in accordance with paragraph (9).
- (9) A Category A person must remain at the notified place —
- (a) in the case of a person referred to in regulation 10(3), to the extent required to do so under the direction notice given under that paragraph or the entry certificate issued to that person;
 - (b) for the remainder of the 21 day self-isolation period specified in regulation 12 ;
 - (c) where paragraph (11) applies, in accordance with the self-isolation requirements for a Category B person; or
 - (d) where paragraph (12) applies, until the time and day specified in that paragraph.
- (10) Where a Category A person has provided a biological sample, the Chief Secretary must —
- (a) as soon as reasonably practicable analyse it, or arrange for it to be analysed, to ascertain whether it indicates that the person is infected or contaminated; and
 - (b) notify, or arrange for the person to be notified, of the findings of that analysis within 24 hours of the biological sample having been provided, or, if the findings are not known within that time, as soon as reasonably practicable after they are known.
- (11) If the findings of the analysis are that the Category A person is infected or contaminated —
- (a) that person must self-isolate for a period of further self-isolation; and

- (b) the person is a Category B person for the purposes of regulation 14.
- (12) If the findings of the analysis of the biological sample are inconclusive in that they do not confirm whether or not the person is infected or contaminated, the person may provide a further biological sample.
 - (13) If the findings of the analysis of the biological sample are that the person is not infected or contaminated, the person is exempt from complying with the terms of the direction notice referred to in regulation 12 from midday on the 21st day after entering the Island.
 - (14) Where a person who is an eligible patient referred to in paragraph 7 of the Schedule, is a child –
 - (a) the child may be accompanied by a responsible adult for the purpose of providing a biological sample under paragraph (2), (4) and (7);
 - (b) the findings of the analysis of that sample must be notified to the responsible adult; and
 - (c) the responsible adult must take such steps as are reasonably necessary to ensure that the child complies with the requirements of this regulation and any direction notice given under it.
 - (15) Where a Category A person who is an eligible patient referred to in paragraph 7 of the Schedule, is an incapacitated person –
 - (a) that incapacitated person may be accompanied by an appointed person for the purpose of providing a biological sample under paragraph (2), (4) and (7);
 - (b) the findings of the analysis of that sample must be notified to the appointed person; and
 - (c) the appointed person must take such steps as are reasonably necessary to ensure that the incapacitated person complies with the requirements of this regulation and any direction notice given under it. **22**.

9 Regulation 17 (Voluntary biological sample provided during self-isolation) amended

For regulation 17(5) and (6) (voluntary biological sample provided during self-isolation), substitute –

- 23**(5) The further period of self-isolation is a period of 21 days beginning with the day on which the Category B person is given the direction notice under paragraph (4) and ending at midday on the 21st day thereafter unless paragraph (6) applies.

- (6) This paragraph applies where, having received the results referred to in paragraph (4), the Category B person voluntarily complies with the provisions of regulation 13A, provided that —
 - (a) a reference in that regulation to —
 - (i) a Category A person is to be construed as a reference to the Category B person; and
 - (ii) entering the Island is to be construed as a reference to the date on which the Category B person received the results referred to in paragraph (4); and
 - (b) the Category B person is not liable to pay any sum to the Cabinet Office. **22**.

10 Regulation 21 (Category C person member of same household as a Category B person) amended

In regulation 21 (Category C person member of same household as a Category B person) –

- (a) in paragraph (1) for “Cabinet Office”, substitute **23**Director of Public Health **22**; and
- (b) in paragraph (3) for “14th” substitute **23**21st **22**.

11 Part 6A (Prohibitions on movement etc) inserted

After regulation 26 (powers of constables), insert –

23 PART 6A – PROHIBITIONS ON MOVEMENT ETC

26A Part 6A Interpretation

In this Part –

“**appropriate social distancing**” means that persons are at least 2 metres apart from each other;

“**asymptomatic**” means not displaying or suffering from any of the symptoms of Coronavirus (and “**symptomatic**” is to be construed accordingly);

“**emergency or necessary voluntary service**” means a service provided by

–

- (a) the Isle of Man Constabulary;
- (b) the Isle of Man Fire and Rescue Service;
- (c) the Isle of Man Ambulance Service;
- (d) the St. John Ambulance Brigade;
- (e) the Red Cross;

- (f) the Royal National Lifeboat Institution;
- (g) the Royal Voluntary Service⁵; or
- (h) similar body;

“**exempt person**” means a person who is so designated by an instrument in writing under the hand of the Chief Secretary; and

“**home**” means a person’s ordinary place of residence, and in the case of a child whose parents are separated or divorced includes both of their homes.

26B Prohibition on movement

No person, other than an exempt person, may leave his or her home except in accordance with this Part.

26C Exceptions from regulation 26B: general

- (1) Unless otherwise required not to do so under these Regulations a person may leave his or her home, if he or she is asymptomatic, only to –
 - (a) go to a premises (within the meaning of regulation 27) or for a purpose specified in a direction notice given by the Council of Ministers (an “exception notice”)
 - (b) to provide or participate in the provision of an emergency or necessary voluntary service;
 - (c) in order to perform the duties of his or her office or employment in the provision of an essential service as specified in an exception notice given by the Council of Ministers;
 - (d) undertake shopping for basic necessities, including food and medicine and, in circumstances where such shopping is for another household the person must not enter the property of that other household;
 - (e) in order to undertake exercise alone or with one or more members of the person’s household;
 - (f) in order to address any medical need of the person or a member of his or her household (including pets);
 - (g) in order to care for –
 - (i) a child or an adult who would otherwise suffer avoidable harm; or
 - (ii) the child of a person who provides an essential service;

⁵ Formerly the Women’s Royal Voluntary Service.

- (h) in order to accompany a child to the home of another parent or guardian of the child;
 - (i) in order to —
 - (i) in the case of a minister of religion (ordained or lay) to conduct a funeral; or
 - (ii) attend a funeral;
 - (j) for the purposes of his or her office, employment or vocation provided that —
 - (i) his or her place of work is not closed by virtue of Part 7;
 - (ii) his or her attendance at his place of work is necessary for the proper performance of his or her office, employment or vocation; and
 - (iii) in the case of an employment in a business (including the business of government) no more persons are present at any one time than is necessary for the effective operation of the business; or
 - (k) in order to move house and to attend essential appointments in connection with moving house.
- (2) An exception notice given under paragraph (1)(a) or (c) may be —
- (a) general or specific;
 - (b) make different provision for different purposes, or be framed by reference to whatever matters the Council of Ministers considers appropriate; and
 - (c) include such other provision as the Council of Ministers considers appropriate in connection with the giving of the exception notice.
- (3) Before issuing an exception notice under paragraph (1)(a) or (c) the Council of Ministers must have regard to the need to ensure that members of the public have access to essential public services and goods.
- (4) An exception notice must state the date and time on which the exception to the prohibition in regulation 26B comes into effect and may state the date and time on which it ends.
- (5) An exception notice to which more than one person is subject, made under paragraph (1)(a) or (c) must be published on www.gov.im or in a manner that the Council of Ministers considers will bring it to the attention of those likely to be affected by it.

26D Hotels, hostels etc

- (1) Despite regulation 26B a person who is temporarily resident in an hotel, hostel or boarding house, or on a caravan park or a campsite may continue to reside there if —
- (a) the person is unable to return to his or her home because of travel restrictions on his or her movement (other than those contained in these Regulations);
 - (b) the person is unable to move into a new home;
 - (c) the person is a vulnerable adult who cannot safely stay in his or her home.
- (2) Regulation 26C applies to a person falling within paragraph (1) as if the place where he or she is temporarily resident were his or her ordinary place of residence. ⁶²

12 Regulation 27 (interpretation) amended

In regulation 27 (interpretation), for “the public have access”, substitute ⁶³a person has access (other than the person’s principal home) ⁶².

13 Regulation 31 (closure directions relating to individual premises) amended

In regulation 31 (closure directions relating to individual premises) —

- (a) in paragraph (1), omit “set of” in both places; and
- (b) in paragraph (2), for “Cabinet Office and the Department of Environment, Food and Agriculture”, substitute ⁶⁴Director of Public Health ⁶².

14 Part 7A (Events and gatherings) inserted

After regulation 33 (denial of entry etc), insert —

⁶³ PART 7A – EVENTS AND ~~GATHERINGS~~ GATHERINGS⁶

33A Interpretation of Part 7A

In this Part —

“**event**” means a ceremony, celebration, entertainment, conference, exhibition or similar occasion;

“**gathering**” means any meeting or assembly of 2 or more persons;

⁶ The text in ***bold italics*** was substituted for the struck through text by an amendment that was approved by Tynwald when approving these Regulations.

“**household**” means —

- (a) any other person with whom a person ordinarily shares his or her home; or
- (b) any person deemed to be a member of a person’s household under a direction;

“**premises**” includes any place and, in particular, includes —

- (a) any vehicle, train, vessel or aircraft;
- (b) any tent or movable structure; and
- (c) any offshore installation (within the meaning in the Mineral Workings (Offshore Installations) Act 1988);

“**private place**” means a place other than a public place;

“**public place**” includes —

- (a) any land or building or premises where the public is routinely allowed to enter without the need for prior permission (such as parks and beaches) whether on payment or otherwise; and
- (b) any vehicle used in the provision of public transport by the Department of Infrastructure; and

“**responsible person**” means —

- (a) in the case of residential premises, the person who is responsible for the premises including the owner and occupier; and
- (b) in the case of all other premises, the person who is responsible for the premises, for carrying on a business from the premises including, the owner, manager, any other person who is responsible for the premises or business and any other person involved in managing entry to or the location of persons inside the premises or business.

33B Prohibition on events and gatherings

- (1) No event or gathering may take place in a public or private place other than in accordance with this Part.
- (2) No person may enter premises other than —
 - (a) premises which are permitted to be open under Part 7;
 - (b) the person’s home;
 - (c) premises which are business premises and in respect of which the person is the responsible person;
 - (d) in accordance with a direction notice given under regulation 33C.

33C Directions: exemptions and essential services


The Council of Ministers may give a direction notice exempting an event or gathering from the prohibition in regulation 33B.

33D Directions: general

A direction notice may –



- (a) include requirements or restrictions;
- (b) apply to one or more prohibitions or exceptions;
- (c) apply to all or any part of the Island;
- (d) be general or specific;
- (e) make different provision for different purposes, or be framed by reference to whatever matters the Council of Ministers considers appropriate; and
- (f) include such other provision as the Council of Ministers considers appropriate in connection with the giving of the direction notice.

33E Directions: procedure

- (1) The Council of Ministers must consult the Director of Public Health before giving a direction notice under this Part.
- (2) The Council of Ministers may at any time revoke a direction notice to any extent.
- (3) A direction notice must be given in such manner as the Council of Ministers considers appropriate to bring it to the attention of those persons likely to be affected by it. .

15 Regulation 36 (offences and penalties) amended

In regulation 36 –

- (a) in paragraph (1)(b), for “exemption”, substitute  exception ; and
- (b) in paragraph (6), omit “This does not apply” to the end.

16 Regulation 43 (review) revoked

- (1) Regulation 43 (review) is revoked.
- (2) In consequence of paragraph (1) in the heading to Part 12 omit “REVIEW AND”.

17 Schedule (Category A persons) amended

In the Schedule (Category A persons) —

(a) before paragraph 1, insert —

1 A1 Interpretation

In this Schedule —

“key worker” means a person to whom paragraph 3(1)(b) or (c) applies;
and

“person to whom a public interest exception applies” means a person to
whom paragraph 3(1)(n) applies. **12**;

(b) for paragraph 1, substitute —

1 Key workers and persons to whom a public interest exception applies

(1) A person (whether or not a resident of the Island) is a Category A
person where the conditions in paragraphs 2 to 5 are satisfied.

(2) The Chief Secretary may exempt a person that is a company or
other body (“exempt company or other body”).

(3) An exemption under sub-paragraph (2) includes an individual in
the employ or service of an exempt company or other body. **12**;

(c) in paragraph 2 —

(i) for the paragraph heading, substitute **12** First Condition **12**;
and

(ii) in the body of the paragraph, for “non-resident”, substitute
12 person **12**;

(d) in paragraph 3 —

(i) for the paragraph heading, substitute **12** Second
Condition **12**;

(ii) in subparagraph (1)(b), for “non-resident”, substitute
12 person **12**;

(iii) in subparagraph (1)(c), for “non-resident”, substitute
12 person **12** and after “a supplier of”, insert **12** treatment, **12**;

(iv) at the end of subparagraph (c), insert **12** or **12**; and

(v) in subparagraph (n), for “non-resident”, substitute
12 person **12**;

(e) in paragraph (4) —

(i) for the paragraph heading, substitute **12** Third Condition **12**;
and

(ii) in subparagraph (1), omit “non-resident”; and

- (f) in paragraph 5 –
 - (i) for the paragraph heading, substitute “Fourth Condition”; and
 - (ii) in the body of the paragraph, for “non-resident”, in both places, substitute “person” and for “non-resident’s”, substitute “person’s”.

18 Transitional and savings provisions

Despite regulations 4 to 17 a person to whom an exemption, consent, entry certificate or direction notice (“permission”) issued under the principal regulations prior to 00:01 on 7 January, may continue to rely on the permission and in respect of any act done in compliance with the permission, the person does not commit an offence under the principal regulations.

MADE AT 23:59 ON 6TH JANUARY 2021

W GREENHOW
Chief Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Public Health Protection (Coronavirus) Regulations 2020⁷.

The amendments have the following effect –

1. amend the expiry date of the principal regulations;
2. in relation to the “notified place”, guidance will be issued in relation to what is a “suitable” place to self-isolate;
3. changes are made to the persons in respect of whom the Chief Secretary may exempt or modify the self-isolation requirements;
4. insert a requirement for all direction notices made under these the principal regulations to be laid before Tynwald;
5. the distinction under what were regulations 12 and 13 in relation to the treatment of Category A persons is removed;
6. clarifying that a person who enters the Island will be subject to a 21 day period of self-isolation unless they opt to provide biological samples in accordance with substituted regulation 13A and introduces a new 6th day test after which, if the findings of analysis are negative, the person may leave their notified place for the purposes of exercise subject to maintaining a distance of 2 metres from others and wearing a face mask;
7. extends the period of further isolation for a Category B person who tests positive, to 21 days, but permits such a person to opt for to submit 3 further biological samples in accordance with regulation 13A;
8. transfers responsibility for issuing direction notices to a Category C person under regulation 21(1) and closure directions under regulation 31(2) to the Director of Public Health;
9. inserts provisions (new Part 6A) relating to prohibitions on movements;
10. clarifies the places to which a closure direction under Part 7 may apply are not just those to which the public has access;
11. inserts provisions (new Part 7A) relating to events and gatherings;

⁷ SD 2020/0551

12. inserts definitions into the Schedule and removes the distinction between resident and non-resident key workers for the purposes of paragraphs 1 to 5 of the Schedule;
13. makes consequential minor amendments in connection with the above; and
14. clarifies that notwithstanding the amendments made by these Regulations a person who was granted permission to enter the Island prior to 00.01 on 7 January 2021 may continue to rely on the permission
15. as a result of the amendment to the expiry date of the principal regulations, revoke the requirement for them to be reviewed.