



**Isle of Man**

*Ellan Vannin*

**AT 11 of 2016**

**ROAD RACES ACT 2016**





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## ROAD RACES ACT 2016

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**Isle of Man***Ellan Vannin*

## ROAD RACES ACT 2016

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**AN ACT** to make fresh provision about road races; and for connected purposes.

**BE IT ENACTED** by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### PART 1 – INTRODUCTION

#### 1 Short title

The short title of this Act is the Road Races Act 2016.

#### 2 Commencement

- (1) This Act comes into operation on such day or days as the Department may by order appoint.<sup>1</sup>
- (2) An order under subsection (1) may make such consequential, incidental, supplemental, transitional and transitory provision as the Department considers appropriate.

#### 3 Application

This Act applies to the racing of mechanically propelled vehicles with a maximum net engine power which exceeds 2kW.

#### 4 Interpretation

- (1) In this Act —

“**the Clerk of the Course**” means a person appointed by the organiser to take responsibility for the overall conduct of the race, and includes, in that person’s absence, any Deputy Clerk of the Course so appointed;

“**Commonwealth country**” means a country, other than the United Kingdom which is a member of the Commonwealth;

“**the Constabulary**” means the Isle of Man Constabulary;

“**the Department**” means the Department of Infrastructure;

“**land**” includes any building on the land;

“**marshal**” means a person appointed as a marshal under section 9 (but see also section 13 );

“**marshalling**” is to be construed in accordance with section 10(2);

“**organiser**”, in respect of a racing authorisation, means the person or body of persons organising the race and seeking the authorisation;

“**prescribe**” means prescribe by regulations;

“**prohibit**” includes restrict or regulate;

“**race**” includes a trial of speed, and any practice, trial, heat, parade, or display preliminary to or in connection with a race;

“**racing authorisation**” or “**authorisation**” means an authorisation to use a road or roads for a race or races given by the Department under section 5;

“**regulations**” means regulations made by the Department;

“**relevant governing body**” means any of the following bodies—

- (a) the Auto Cycle Union Limited, of ACU House, Wood Street, Rugby;
- (b) the Fédération Internationale de l’Automobile, 8, Place de la Concorde, 75008 Paris, France;
- (c) the Fédération Internationale de Motocyclisme, 11 route Suisse, 1295 Mies, Switzerland;
- (d) the Royal Automobile Club Motor Sports Association Limited, of Motor Sports House, Riverside Park, Colnbrook, Slough;

“**relevant photographic identification**” means, in relation to a marshal—

- (a) photographic identification issued by a relevant governing body which identifies the holder as a marshal;
- (b) a driving licence issued to the marshal—
  - (i) in the Island, the United Kingdom or any of the Channel Islands;<sup>2</sup>
  - (ii) in a member State of the European Union;
  - (iii) in the United States of America;
  - (iv) in any Commonwealth country or British overseas territory; or
  - (v) by a body of a prescribed description; or
- (c) a passport or national identity card issued to the marshal—

- (i) in any of the countries or territories mentioned in paragraph (b); or
- (ii) in a prescribed country or territory;

“**road**” means —

- (a) a road under the *Highways Act 1986*;
- (b) any path, way or verge (whether publicly or privately owned) next to or near to a road;
- (c) a barrier next to or near to a road; and
- (d) any land (whether publicly or privately owned) between the road and such a barrier;

“**supplemental provision**”, in respect of a racing authorisation, means a provision included in the authorisation under section 7 or by virtue of an order made under section 17;

“**traffic**” means any class of traffic, including —

- (a) all forms of transport, whether or not mechanically propelled and whether or not intended for use on roads; and
  - (b) the presence (with or without movement) of people or animals and the passage of people or animals on foot.
- (2) The Department may by order amend the definitions of “relevant governing body” and “relevant photographic identification” in subsection (1).

## PART 2 — ROAD RACES

### 5 Racing authorisations

- (1) The Department may, following receipt of a written application from the organiser of a proposed race, authorise the use of a road or roads for the race.
- (2) An authorisation must be in writing and must specify —
  - (a) the road or roads that may be used for the race;
  - (b) the type or types of vehicles that are to participate in the race;
  - (c) the days and times when the race may take place.
- (3) An authorisation may also include —
  - (a) conditions the organiser must comply with concerning road safety and in particular —
    - (i) signs to be used to indicate that racing is taking place;
    - (ii) signs and other indications to be used to mark diversionary routes;

- (b) any provisions suspending or modifying enactments in accordance with section 16; and
  - (c) any supplemental provisions.
- (4) However, the Department may not authorise the use of a road or roads for a race unless it is satisfied that —
- (a) the organiser is competent to organise the racing that is proposed in the written application given under subsection (1);
  - (b) there is or will be in place in connection with the race such security, or such insurance and indemnity, against risks, liabilities, injuries or damage as may be specified by the Department.
- (5) A racing authorisation is of no effect unless the security or insurance and indemnity required under subsection (4)(b) is in place before the racing which it authorises begins.
- (6) The Department must, before the racing authorised by the authorisation begins, publish a notice, in such a way as it considers appropriate, setting out the authorisation's effect.
- (7) This section is subject to section 6, and section 7 contains supplemental provisions about racing authorisations.
- (8) In this section “security” includes—
- (a) the deposit of an amount of money; and
  - (b) the provision of a bond, guarantee, indemnity or other surety, mortgage or undertaking.

## **6 Racing authorisation: Sunday racing**

- (1) A racing authorisation may authorise racing on a Sunday only if the requirements of this section are complied with (as applicable).
- (2) Subject to subsection (3), a racing authorisation may authorise racing on a Sunday on the whole of the Tourist Trophy Mountain Course only if —
- (a) the Department has published a notice in two newspapers circulating in the Island not more than 12 months before the date on which the proposed Sunday racing is to take place —
    - (i) stating that the Department is proposing to authorise racing on that particular Sunday; and
    - (ii) specifying a period within which representations may be made to the Department about the proposal; and
  - (b) the Department has had regard to any representation made to it within the specified time period.
- (3) Subsection (2) does not apply to a racing authorisation which authorises racing —

- (a) on one Sunday only, for the Isle of Man Tourist Trophy motorcycle races; and
  - (b) on one Sunday only, for the Festival of Motorcycling (previously known as the Manx Grand Prix);
- in the event of the postponement of any race from the preceding week.
- (4) Subject to subsection (5), a racing authorisation may authorise racing on a Sunday on the whole of —
- (a) the Tourist Trophy Mountain course, or
  - (b) the Billown Circuit,
- only between 1.30 p.m. and 5.30 p.m.
- A racing authorisation to which this subsection applies may provide for the closure of roads and the imposition of other requirements outside those times so far as is reasonably necessary to facilitate racing within them.
- (5) Subsection (4) does not apply to a racing authorisation which authorises racing —
- (a) on one Sunday only, for the Southern 100 motorcycle races held on the Billown Circuit;
  - (b) on one Sunday only, for the Pre-TT Classic motorcycle races held on the Billown Circuit; or
  - (c) on one Sunday only, for the motorcycle races held on the Billown Circuit on the Sunday immediately following the Isle of Man Tourist Trophy motorcycle races.
- (6) Before giving a racing authorisation which authorises any racing on a Sunday, the Department must obtain the prior approval of the Council of Ministers to racing taking place on that day.
- (7) Any approval of the Council of Ministers under subsection (6) may be subject to conditions.

## 7 Racing authorisation: supplemental provisions

- (1) A racing authorisation in respect of the use of a road or roads for a race may, or may empower the Department or the organiser to —
- (a) prohibit traffic on, or access to, any roads, including roads not being used for the purpose of the race;
  - (b) require the establishment for the race of a coordination centre;
  - (c) authorise the erection and maintenance on the highway or upon land vested in the Crown, a Department or a Statutory Board, of stands, enclosures, barriers, bridges, decorations or other apparatus; and

- (d) make consequential, incidental, or supplemental arrangements necessary or appropriate for the proper conduct of the race.
- (2) A racing authorisation may also —
- (a) prohibit traffic on, or access to, any land (not being a road) or foreshore specified in the authorisation, or
  - (b) empower the Department or the organiser to do any of those things,
- unless the owner and any other occupier of the land have notified the Department in writing that they object to the proposed authorisation so far as it concerns land they own or occupy (or any part of it) (“the relevant land”).
- (3) A notice given under subsection (2) must be accompanied by such evidence as the Department prescribes demonstrating the owner or occupier’s interest in the relevant land.
- (4) Subsection (5) applies if —
- (a) a notice is given under subsection (2); but
  - (b) the Department considers that the use by race officials or spectators of the relevant land would constitute a hazard to their safety, or the safety of others.
- (5) If this subsection applies, the Department may —
- (a) place signs on the relevant land or elsewhere indicating the hazard, or
  - (b) by notice require the organiser or the owner or occupier of the land—
    - (i) to indicate (whether by placing signs on the relevant land or elsewhere) that, in the Department’s view, use of the relevant land constitutes such a hazard; and
    - (ii) to take such steps as the Department may specify to draw the attention of persons using the land to the Department’s view that the use of the relevant land constitutes a hazard.

For the sake of clarity, this subsection does not limit the power of the Department to impose conditions as part of a racing authorisation.

- (6) In framing a racing authorisation and in determining whether to exercise the powers conferred by subsection (5), the Department must have regard to any risk assessment which appears to it to be relevant.
- (7) Before a racing authorisation is issued, the Department or the organiser must give notice of a proposed prohibition under subsection (2) in such manner as it may determine, to every owner or occupier likely to be affected by it.

An accidental failure on the part of the Department or the organiser to give notice required by this subsection does not invalidate a racing authorisation.

- (8) If, in accordance with subsection (1)(c), a racing authorisation authorises the erection and maintenance of a stand, enclosure or similar facility, it may also authorise a person specified in the authorisation to charge for its use.
- (9) A prohibition having effect by virtue of subsection (1) or (2) does not apply so as to prohibit access with the consent of the Clerk of the Course.
- (10) The Department may, by written or oral notice to the organiser, extend the period of a prohibition having effect by virtue of subsection (1) or (2) if it considers it necessary to do so to deal with an emergency or a serious incident or for the continuance of the race in question.
- (11) The Department must not extend the prohibition for longer than is reasonably necessary to deal with the emergency or incident or for the continuance of the race in question.

## **8 Variation, suspension or revocation of a racing authorisation**

- (1) Whilst racing is taking place in pursuance of a racing authorisation, or within 4 hours of its anticipated start, the Department may by written or oral notice (“a change notice”) to the organiser vary, suspend or revoke a racing authorisation if the Department is satisfied that—
  - (a) there is a significant and serious contravention of the authorisation; or
  - (b) there is an emergency that justifies doing so.
- (2) A variation or suspension has effect until the Department notifies the organiser that it has ceased to apply or (if the change notice so provides) that it will cease to apply from a specified time.
- (3) A variation or suspension of a racing authorisation does not—
  - (a) affect the application of a supplemental provision of the authorisation, or
  - (b) nullify, or change the effect of, a determination made under section 16 (suspension of other enactments),unless the change notice otherwise provides.
- (4) The organiser must publicise the change notice in such manner as it considers appropriate to bring its effect to the attention of the public.
- (5) For the sake of clarity, the provisions of this section only limit the Department’s power to amend or revoke a racing authorisation during the period specified in subsection (1).

## 9 Marshals: appointment

- (1) An organiser to whom a racing authorisation has been given may appoint marshals in accordance with the authorisation for a race to be held pursuant to the authorisation.
- (2) An organiser who appoints a marshal in respect of a race must—
  - (a) ensure that, before the race commences, the marshal has received appropriate training, and is competent, to discharge the functions of a marshal; and
  - (b) give the marshal an identity card evidencing the marshal's authority.
- (3) The identity card must —
  - (a) contain a recent photograph of the marshal, or be accompanied by relevant photographic identification;
  - (b) contain the signature of the individual who authorised its issue;
  - (c) identify the person as a marshal;
  - (d) state the full name of the marshal;
  - (e) state the race or races for which the marshal is appointed; and
  - (f) state the date on which it expires.
- (4) An organiser may revoke a marshal's appointment at any time, and must do so if the Department or the Chief Constable requests its revocation.

## 10 Marshals: powers and functions

- (1) The functions of a marshal are —
  - (a) to marshal the race for which the marshal is appointed; and
  - (b) to administer and enforce the racing authorisation in accordance with any directions given to the marshal by the organiser by whom the marshal was appointed.
- (2) For the purposes of subsection (1)(a), marshalling the race includes taking any reasonable steps to —
  - (a) secure the safety of competitors, officials, spectators or the public; and
  - (b) prevent any person, animal or vehicle from obstructing or otherwise hindering the conduct of the race.
- (3) A marshal, in performing those functions, may —
  - (a) remove, or cause to be removed, a vehicle, person or animal from any road, land or position;
  - (b) detain a person for so long as is necessary to secure the person's safety or public safety or until he or she can be delivered into the custody of a constable;

- (c) remove a person from any road, land or position and thereafter detain that person for so long as is necessary to secure the person's safety or public safety or until he or she can be delivered into the custody of a constable;
  - (d) require any person to stop doing anything which, in the marshal's opinion, puts the safety of competitors, officials, spectators or the public at risk;
  - (e) stop or otherwise control traffic;
  - (f) erect, maintain or remove apparatus to close a road or otherwise control traffic.
- (4) In exercising the powers conferred by this section the marshal may, if necessary, use reasonable force and assistance.
- (5) Any person assisting a marshal in the exercise of the marshal's powers and in the performance of the marshal's functions has the same powers and immunities as the marshal and is subject to the same liabilities as the marshal.
- (6) Before exercising the powers conferred by subsection (3)(a) to (d) in relation to a person, the marshal must —
- (a) warn the person that the marshal considers the person's conduct constitutes an offence; and
  - (b) inform the person of the marshal's power under this section.

## 11 Production of identity card

- (1) When performing the functions of a marshal under section 10, a marshal must, if it is reasonable and safe to do so —
- (a) produce the marshal's identity card for inspection upon request; or
  - (b) have the identity card displayed so that it is clearly visible, and inform any person in relation to whom those functions are to be exercised that the marshal is empowered to exercise them under section 10.
- This is subject to subsections (2) and (3).
- (2) If the marshal's identity card does not contain a recent photograph of the marshal, the marshal must also —
- (a) have relevant photographic identification in his or her possession; and
  - (b) produce that identification for inspection upon request.
- (3) A person assisting a marshal in accordance with section 10(4) does not need to have an identity card (and as a result does not need to comply with the requirements of this section).

## 12 Marshals: liabilities and immunities

- (1) A marshal, in exercising the powers and performing the functions of that appointment, is subject to the same liabilities, and enjoys the same immunities, as a constable.
- (2) Subsection (1) does not affect the vicarious liability of the organiser for anything done by a marshal.

## 13 Constables

- (1) Nothing in this Act is to be taken to limit the powers and duties of a constable under any other enactment.
- (2) A constable in uniform may exercise any power conferred by section 7 or 10 on a marshal.

Accordingly any reference to a marshal —

- (a) in those sections; and
- (b) in section 14 so far as relating to sections 7 and 10,

is to be taken to include a constable.

## 14 Offences

- (1) A person commits an offence, and is liable on summary conviction to a fine not exceeding £5,000, custody for a term not exceeding 6 months, or both, if the person without lawful authority or reasonable excuse —
  - (a) obstructs or otherwise hinders the conduct of a race held pursuant to a racing authorisation;
  - (b) obstructs or otherwise hinders an official performing a function in connection with a race held pursuant to a racing authorisation;
  - (c) fails to comply with a requirement imposed by a marshal under section 10(3)(d);
  - (d) enters, is found or remains on a road or land in contravention of a prohibition having effect by virtue of section 7;
  - (e) removes, defaces or obscures a sign or notice erected for the purpose of, or in connection with, racing authorised by a racing authorisation;
  - (f) fails to comply with a requirement imposed by the Department under section 7(5)(b);
  - (g) otherwise contravenes a racing authorisation or any of its supplemental provisions;
  - (h) keeps an animal, or owns or is in charge of a vehicle, that is found on a road or land the subject of a prohibition having effect by virtue of section 7; or
  - (i) contravenes an alternative provision mentioned in section 16(3).

- (2) In proceedings for an offence —
- (a) under subsection (1)(a) or (b), it is a defence for the defendant to prove that the obstruction or hindrance was not intentional;
  - (b) under subsection (1)(e) it is a defence for the defendant to prove that he or she acted in accordance with authority given by the Department, the organiser or a constable.
- (3) For the purpose of subsection (1)(b) “an official performing a function in connection with a race held pursuant to a racing authorisation” means a person performing that function who is—
- (a) a marshal;
  - (b) a person appointed by the organiser as an official (however described) in respect of the race who is displaying an identity card that is clearly visible and who has been appointed in accordance with the race authorisation; or
  - (c) a person appointed by the Department and notified to the organiser.
- (4) For the purposes of subsection (1)(h) a person “keeps” an animal, if the person —
- (a) owns the animal;
  - (b) has charge or possession of it; or
  - (c) is the head of a household of which a member under the age of 16 owns the animal or has it in the member’s charge or possession.

## 15 Suspension of enactments relating to road traffic etc

No provision of any enactment (other than this Act) —

- (a) prohibiting, restricting or regulating traffic;
- (b) restricting the speed of vehicles;
- (c) regulating the manner of driving vehicles;
- (d) regulating the construction, use, maintenance or lighting of vehicles;
- (e) requiring a policy of insurance or security to be in force in relation to the use of any vehicle;
- (f) relating to the duty chargeable on, and the licensing and registration of, vehicles;
- (g) requiring the driver of a vehicle to hold a licence authorising him to drive the vehicle;
- (h) imposing any penalty for the infringement of any provision referred to in paragraphs (a) to (g);

applies to a vehicle or its driver while engaged in a race held pursuant to a racing authorisation, unless the provision is incorporated in the authorisation.

## 16 Determination suspending other enactments

- (1) The Department may, in connection with the use of a road or roads for a race to be held pursuant to a racing authorisation, make a determination suspending any provision made by or under —
  - (a) the *Road Traffic Act 1985*;
  - (b) the *Road Traffic Regulation Act 1985*; or
  - (c) the *Licensing and Registration of Vehicles Act 1985*; or
  - (d) the *Highways Act 1986*.
- (2) The Department must specify in the determination the period of the suspension, which must not exceed a period starting not more than 4 weeks before the race and ending not more than one week after it.
- (3) In the determination the Department must specify any alternative provisions that are to apply during the period of the suspension.
- (4) The Department must as soon as practicable notify the public of any determination it makes under this section.
- (5) The notice —
  - (a) must be given in a way the Department considers is appropriate to bring the determination to the attention of the public; and
  - (b) must set out details of any alternative provisions that are to apply during the period of the suspension.

## 17 Orders may make generally applicable provisions

- (1) The Department may by order provide that all racing authorisations or those specified in the order are to be taken to include such provisions, as specified in the order, as could be included in an authorisation by the Department by virtue of this Act.
- (2) The Department may by order apply, either to all authorisations or those specified in the order, such provisions or determinations as may be made in respect of a particular race under this Act.

## PART 3 — CLOSING PROVISIONS

### 18 Tynwald control of orders and regulations

- (1) Regulations and orders under this Act must not come into operation unless they are approved by Tynwald.
- (2) Subsection (1) does not apply to an order under section 2, but such an order must be laid before Tynwald as soon as practicable after it is made.

**19** [Repealed]<sup>3</sup>

**20** [Repealed]<sup>4</sup>

**21** [Repealed]<sup>5</sup>

**ENDNOTES****Table of Endnote References**

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<sup>1</sup> ADO – Whole Act in operation 01/01/2017 [SD 2016/0346].

<sup>2</sup> Subpara (i) substituted by SD2018/0296.

<sup>3</sup> S 19 repealed by Road Races Act 2016 s 21, effective 02/01/2017.

<sup>4</sup> S 20 repealed by Road Races Act 2016 s 21, effective 02/01/2017.

<sup>5</sup> S 21 repealed by Road Races Act 2016 s 21, effective 02/01/2017.