EMERGENCY POWERS (POTENTIALLY INFECTIOUS PERSONS) REGULATIONS 2020

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Statutory Document No. 2020/0171

Emergency Powers Act 1936

EMERGENCY POWERS (POTENTIALLY INFECTIOUS PERSONS) REGULATIONS 2020[1]

Laid before Tynwald: *24 March 2020*
Approved by Tynwald: *24 March 2020*
Coming into Operation: in accordance with regulation 2

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

1 Title

These Regulations are the Emergency Powers (Potentially Infectious Persons) Regulations 2020[1].

2 Commencement

These Regulations come into operation immediately after they are made and continue to have effect as long as a proclamation is in operation in respect of the present state of emergency.

3 Regulations

For the purpose of securing the essentials of life to the community in the Island and for the protection of the economic position of the community, the Regulations in the Schedule have effect.

MADE 19TH MARCH 2020

[1] By virtue of section 4(2) of the Emergency Powers Act 1936, the Regulations made under this Order 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.

SCHEDULE

THE EMERGENCY POWERS (POTENTIALLY INFECTIOUS PERSONS) REGULATIONS 2020

These Regulations are made by the Governor in Council in exercise of the powers conferred by section 4 of the Emergency Powers Act 1936.

PART 1

INTRODUCTORY

1 General

These Regulations deal with potentially infectious persons.

2 Transmission containment periods

(1) If at any time the Department of Health and Social Care ("the Department") is of the view that—

(a) the incidence or transmission of coronavirus disease constitutes a serious and imminent threat to public health, and

(b) the powers conferred by these Regulations will be an effective means of delaying or preventing significant further transmission of coronavirus disease,

the Department may make a declaration to that effect.

(2) If, having made a declaration under this regulation, the Department ceases to be of the view mentioned in paragraph (1), the Department must revoke the declaration.

(3) A declaration or the revocation of a declaration under this regulation—

(a) is to be made by being published on www.gov.im, and

(b) must, as soon as reasonably practicable after it is made, also be published in such other manner and at such times as the Department considers appropriate.

(4) The Department must consult the Director of Public Health and such other bodies and persons it considers appropriate before making or revoking a declaration under this regulation.

(5) The Department may make a declaration under this regulation on more than one occasion.

3 "Transmission containment period"

In these Regulations, "transmission containment period" means a period which—

(a) begins when the Department makes a declaration under regulation 2, and

(b) ends when the Department revokes the declaration.

4 Potentially infectious persons

(1) For the purposes of these Regulations, a person is potentially infectious at any time if—

(a) the person is, or may be, infected or contaminated with coronavirus, and there is a risk that the person might infect or contaminate others with coronavirus, or

(b) the person has been in an infected area within the 14 days preceding that time.

(2) For the purposes of this regulation, "infected area" means any country, territory or other area which the Department has declared as a country, territory or area—

(a) where there is known or thought to be sustained human-to-human transmission of coronavirus disease, or

(b) from which there is a high risk that coronavirus disease will be transmitted to the Island.

(3) A declaration under paragraph (2)—

(a) is to be made by being published on www.gov.im, and

(b) must, as soon as reasonably practicable after it is made, also be published in such other manner and at such times as the Department considers appropriate.

5 Other general definitions

In these Regulations—

(a) references to "**assessment**" of a person are to assessment of the risk that the person might infect or contaminate others with coronavirus;

(b) references to "**screening**" a person are to determining whether the person is infected or contaminated with coronavirus;

(c) "**coronavirus**" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

(d) "**coronavirus disease**" means COVID-19;

(e) "**immigration officer**" has the same meaning as in the Immigration Act 1971 (of Parliament)[2];

(f) "**suitable place**" means a place suitable for the screening and assessment of persons.

[2] 1971 c. 77.

PART 2

POWERS OF DEPARTMENT, IMMIGRATION OFFICERS AND CONSTABLES

6 Powers relating to isolation and restrictions on activity etc

(1) This regulation applies where the Department has reasonable grounds to suspect that the person is potentially infectious.

(2) The Department may at any time during a transmission containment period impose such requirements on the person as the Department considers necessary and proportionate—

(a) in the interests of the person,

(b) for the protection of other people, or

(c) for the maintenance of public safety.

(3) The Department may vary or revoke a requirement or restriction imposed under this regulation.

7 Requirements

(1) Requirements under regulation 6(2) may include requirements to—

(a) remain at a specified hospital or other suitable place for a specified period;

(b) remain at a specified address for a specified period;

(c) remain at a specified place in isolation from others for a specified period;

(d) provide information to the Department or any specified person;

(e) provide details by which the person may be contacted during a specified period;

(f) go to a specified hospital or other suitable place for the purposes of screening and assessment.

(2) In deciding whether to impose, vary or revoke a requirement referred to in paragraph (1)(a) to (c) the Department must have regard to a person's wellbeing and personal circumstances.

(3) Where a person is required to remain at a place under paragraph (1), the requirement may be enforced by a constable—

(a) by removing the person to the place;

(b) by keeping the person at the place;

(c) if the person absconds, by taking the person into custody and returning them to that place or another place the Department may specify.

8 Period

(1) The period specified in relation to a requirement to remain at a place or in relation to any restriction under regulation 7, may not exceed 14 days.

(2) Before the end of such a period, the Department may extend the period for a further specified period not exceeding 14 days if—

(a) the Department reasonably suspects that the person will be potentially infectious at the end of the period first specified, and

(b) the Department considers that the requirement or restriction is still necessary and proportionate for the purposes mentioned in regulation 6(2).

(3) If the Department considers that the person is no longer potentially infectious, the Department must revoke the requirement.

9 Appeals

A person on whom a requirement or restriction is imposed under regulation 7 may appeal against it to a summary court.

10 Self-isolation

(1) This regulation applies to a person who is —

(a) required by the Department to self-isolate, and

(b) not a person referred to in regulation 6.

(2) A person is required to self-isolate if that person is a potentially infectious person referred to in a notice, guidance or direction published by the Department in such manner and at such times as it considers appropriate.

(3) Such a notice, guidance or direction may include requirements and restrictions in respect of such a person.

(4) Those requirements may include a requirement that such a person —

(a) remain at a specified place in isolation from others for a specified period;

(b) provide information to the Department or any specified person;

(c) provide details by which the person may be contacted during a specified period.

(4A) [REVOKED][2]

(4B) Without limiting the generality of paragraph (4)(b) a person ("P") who is self-isolating must notify the Department of the identity of every other person who is a member of his or her household and who lives with P by telephoning a telephone number for the time being specified by the Department.[3]

(5) The Department may vary or revoke a requirement or restriction imposed under this regulation.

(6) In deciding whether to revoke such a requirement or restriction the Department must have regard to a person's wellbeing and personal circumstances.

(7) Where a person is required to remain at an place under this regulation, the requirement may be enforced by a constable—

(a) by removing the person to the place;

(b) by keeping the person at the place;

(c) if the person absconds, by taking the person into custody and returning them to that place or another place the Department may specify.

(8) Restrictions on a person under this regulation may include restrictions, for a specified period, on—

(a) the person's movements or travel (within or outside Island);

(b) the person's activities (including their work or business activities);

(c) the person's contact with other persons or with other specified persons.

(9) "**Self-isolation**" —

(a) means in so far as the person (P) is reasonably able to do so, seclusion or segregation from the populace at large and, where P is to remain at a place ("household") where one or other persons (whether family members or otherwise) live, those other persons;

(b) but does not exclude contact with the populace at large or other members of the same household where that is facilitated by persons other than P and cannot be reasonably avoided by P.

11 Exception from self-isolation

(1) Despite any other provision of these Regulations the Chief Secretary may, after consultation with the Department and the Director of Public Health permit a person, or a class of persons, who would otherwise be required to self-isolate not to do so if such conditions (if any) as are specified in the permission are met.

(2) Conditions imposed under paragraph (1) must be notified to the persons affected in such manner as the Chief Secretary thinks appropriate in the circumstances.[4]

12 Children

(1) This regulation applies where a power conferred by these Regulations is exercisable in relation to a child.

(2) A responsible adult must, so far as reasonably practicable, secure that the child complies with any direction, instruction, requirement or restriction given to or imposed on the child.

(3) A responsible adult must provide to the person exercising the power such information and assistance in relation to the child as is reasonably necessary and practicable in the circumstances.

(4) Where the power is a power to direct or require the child to go to a hospital or other suitable place, the power may instead be exercised by directing or requiring the responsible adult to take the child to the hospital or other suitable place and giving reasonable instructions to the responsible adult in connection with that direction.

(5) If at the time the power is exercised the child is not accompanied by a responsible adult, the person exercising the power must use reasonable endeavours to contact a responsible adult and inform the adult where the child is and of any exercise of the power in relation to the child.

(6) The right of appeal referred to in regulation 9 is exercisable by a responsible adult instead of by the child.

(7) In this regulation—

"child" means a person under the age of 18 years;

"responsible adult", in relation to a child, means—

(a) a person who has custody or charge of the child for the time being, or

(b) a person with parental responsibility for the child.

(8) In paragraph (7), the reference to a person with parental responsibility for the child, has the same meaning as in Children and Young Persons Act 2001.

13 Formalities

(1) A direction, instruction, requirement or restriction under these Regulations may be given or imposed orally or in written or electronic form.

(2) But where a requirement under these Regulations is given to a person orally, the Department must as soon as reasonably practicable thereafter give the person a notice in written or electronic form setting out that requirement.

14 Ancillary powers

(1) A constable or immigration officer may use reasonable force, if necessary, in the exercise of a power under these Regulations.

(2) A constable may enter any place for the purpose of the exercise of a power under these Regulations.

15 Guidance and advice

A person exercising a power under these Regulations must have regard to—

(a) any relevant guidance issued by the Department (before or after the making of these Regulations), and

(b) any advice given by the Department in relation to a particular case.

16 General

The powers conferred by these Regulations may be exercised in any place within or outside the Island.

17 End of transmission containment period

Where a transmission containment period comes to an end, a requirement or restriction imposed under these Regulations during that period does not for that reason cease to have effect.

18 Offences

A person commits an offence if the person—

(a) fails without reasonable excuse to comply with any direction, reasonable instruction or requirement given to or imposed on the person under these Regulations,

(b) fails without reasonable excuse to comply with a duty under regulation 12(2) or 12(3) (duties of responsible adults),

(c) absconds or attempts to abscond while being removed to or kept at a place under these Regulations,

(d) knowingly provides false or misleading information in response to a requirement to provide information under these Regulations or otherwise in connection with the exercise of any power under these Regulations,

(e) knowingly or recklessly requires or demands or otherwise unduly pressurises a person (P) who is required to comply with any direction, reasonable instruction or requirement given to or imposed on P under these Regulations to ignore, contravene or otherwise fail to comply with the direction, instruction or requirement, or

(f) obstructs the Department, an immigration officer or a constable in the exercise of a power conferred by these Regulations.

Maximum penalty (summary) – 3 months custody, a fine not exceeding level 5 on the standard scale or both.

19 Use and disclosure of information

(1) A person who holds information which has at any time been provided under these Regulations may use it if, and only if, the use is for—

(a) the purpose referred to in these Regulations,

(b) the purpose of mitigating or eliminating the effects of the emergency on the community of the Island, the economic position of the Island or for purposes essential to the public safety and life of the community of the Island, or

(c) the purpose of preventing or reducing the risk of future disruption to the matters referred to in paragraph (b) as a result of the emergency.

(2) A person who holds information which has at any time been provided under these Regulations may disclose it to another person if, and only if the disclosure is for a purpose specified in paragraph (1)(a) to (c).

(3) "Emergency" means the state of affairs referred to in the proclamation made on 16 March 2020 by the Governor in Council under section 3 of the Emergency Powers Act 1936.

PART 3

HEALTH PROTECTION (CORONAVIRUS) REGULATIONS 2020 (SD 2020/123)

20 Health Protection (Coronavirus) Regulations 2020 (SD 2020/123)

(1) The Health Protection (Coronavirus) Regulations 2020[3] are revoked.

(2) Any area declared by the Department under regulation 2 of the Health Protection (Coronavirus) Regulations is to be regarded as an infected area for the purposes of these Regulations.

(3) The declaration made by the Cabinet Office on 13 March 2020 under regulation 3 of those Regulations is to be regarded as a declaration made under paragraph 1 of these Regulations.

[3] SD 2020/123.

ENDNOTES

Table of Endnote References

[1] The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.

[2] Subpara (4A) inserted by SD2020/0180 with effect from 24/03/2020 at 16:30 and revoked by SD2020/0201 with effect from 27/03/2020 at 00:01.

[3] Subpara (4B) inserted by SD2020/0180 with effect from 24/03/2020 at 16:30.

[4] Regulation 11 substituted by SD2020/0180 with effect from 24/03/2020 at 16:30.