

Statutory Document No. 2020/0197



*Emergency Powers Act 1936*

# EMERGENCY POWERS (CORONAVIRUS) (EDUCATIONAL INSTITUTIONS) REGULATIONS 2020<sup>1</sup>

*Laid before Tynwald: 31 March 2020*  
*Approved by Tynwald: 31 March 2020*  
*Coming into Operation: in accordance with regulation 2*

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The Governor in Council, by Order<sup>1</sup>, makes the following Regulations under section 4 of the Emergency Powers Act 1936.

## 1 Title

These Regulations are the Emergency Powers (Coronavirus) (Educational Institutions) Regulations 2020.

## 2 Commencement

These Regulations come into operation immediately after they are made<sup>2</sup>.

## 3 Interpretation

In these Regulations —

“**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 —

- (a) the Proclamation of Emergency dated 16 March 2020<sup>3</sup>; and

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<sup>1</sup> 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 ...”.

<sup>2</sup> 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 only continue in force beyond 7 days of being so laid if Tynwald passes a resolution to that effect.

<sup>3</sup> SD 2020/0162

- (b) all subsequent consecutive Proclamations of Emergency that relate to the pandemic of Coronavirus (also known as COVID-19);<sup>3</sup>

“**educational institution**” means a school or college within the meanings given in the Education Act 2001;

“**premises**”, in relation to an educational institution, means any premises which persons regularly attend in order to receive services provided by the institution;

“**responsible body**” means the person or body of persons responsible for the management of an educational institution including the headteacher, principal, the governing body or, as the case may be, the proprietor (within the meaning of section 59 of the Education Act 2001);

“**school**” has the same meaning as in the Education Act 2001 (see section 59 of that Act); and

“**specified**” means specified, or falling within a description specified, in a temporary closure direction under regulation 5.

#### 4 General

These Regulations contain temporary modifications of legislation relating to the attendance at premises used for the provision of education.

#### 5 Temporary closure directions

- (1) During the Coronavirus Proclamation period, the Department of Education, Sport and Culture (“the Department”) may give a temporary closure direction that applies to —
- (a) one or more named educational institutions in the Island;
  - (b) all educational institutions in the Island (or any part of the Island);
  - (c) educational institutions in the Island (or any part of the Island) of a particular description.
- (2) A temporary closure direction under this regulation is a direction that requires the responsible body of an educational institution to which it applies to take reasonable steps to secure that persons do not, for a specified period, attend premises of the institution for purposes connected with the institution.
- (3) A temporary closure direction under this regulation may —
- (a) require the taking of reasonable steps in general terms, or require the taking of particular steps that the Department considers reasonable;
  - (b) relate to attendance of persons generally, or to attendance by specified persons;

- (c) relate to premises generally, or to specified premises or parts of premises;
  - (d) relate to attendance for purposes connected with an educational institution generally, or to attendance for specified purposes;
  - (e) otherwise make different provision for different purposes, or be framed by reference to whatever matters the Department considers appropriate;
  - (f) include such other provision as the Department considers appropriate in connection with the giving of the direction.
- (4) A failure by a responsible body to comply with a temporary closure direction under this regulation is enforceable, on an application made by the Department, by an injunction.
- (5) An application made under paragraph (4) may be made without notice being given to the responsible body.

## **6 Effect of temporary closure directions on other provisions**

In relation to a period during which a temporary closure direction under regulation 5 has effect in relation to an educational institution —

- (aa) there is no breach of the duty under section 8 of the Education Act 2001 (curriculum) in respect of any provisions of the curriculum which are not covered by the school as a result of the direction;<sup>4</sup>
- (ab) there is no breach of the duty under section 12 of the Education Act 2001 (religious education) in respect of a child who is a pupil at the school but who is, as a result of the direction, unable to be given religious education;<sup>5</sup>
- (ac) there is no breach of the duty under section 13 of the Education Act 2001 (religious worship) in respect of the requirement that arrangements are made for collective worship, if collective worship does not take place as a result of the direction;<sup>6</sup>
- (ad) there is no breach of the duty under regulations made under section 15 of the Education Act 2001 (selection of school) in respect of the appeal by a parent to a decision taken in relation to the selection of a school being considered other than by an appeal hearing in person;<sup>7</sup>
- (ae) for the purposes of section 21(2)(a) of the Education Act 2001 behaving in a “disorderly manner” at the school includes coughing or spitting in both cases at a person;<sup>8</sup>
- (a) there is no breach of the duty under section 24 of the Education Act 2001 (duty of parents to secure education of children of compulsory school age) in respect of a child who is a pupil at the school but who is, as a result of the direction, unable to be in regular attendance at the school;

- (b) any failure of a child to attend the school is to be disregarded for the purposes of section 29 of the Education Act 2001 (offence of failing to secure regular attendance at school of a registered pupil) to the extent that the failure is attributable to the direction.<sup>9</sup>

## 7 Publication, duration and guidance

- (1) A temporary closure direction under regulation 5 must be published by the Department on [www.gov.im](http://www.gov.im) as soon as practicable after it is made.<sup>10</sup>
- (1A) Despite the Interpretation (Public Document) (Exemption) Order 2020<sup>4</sup>, a copy of a temporary closure direction made under regulation 5, which applies to the community<sup>5</sup>, must be laid before Tynwald as soon as practicable after it is made.<sup>11</sup>
- (2) A temporary closure direction under regulation 5 has effect until the earlier of –
- (a) the end of the period specified under regulation 5(2); or
  - (b) the revocation of the direction by a further direction given by the Department under that regulation.
- (3) A person to whom a temporary closure direction under regulation 5 applies must have regard to any guidance given by the Department about how to comply with a direction given by the Department under that regulation.

## 8 Revocation

These Regulations revoke the Emergency Powers (Coronavirus) (Schools) Regulations 2020<sup>6</sup>.

MADE 13:05 27<sup>TH</sup> MARCH 2020

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<sup>4</sup> SD 2020/0225

<sup>5</sup> Section 2 of the Emergency Powers Act 1936 defines “community” as “includes a substantial portion of the community”.

<sup>6</sup> SD 2020/0178

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> 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.

<sup>2</sup> Reg 2 amended by SD2020/0249 with effect from 14/04/2020 at 14:48.

<sup>3</sup> Definition of “the Coronavirus Proclamation period” substituted by SD2020/0249 with effect from 14/04/2020 at 14:48.

<sup>4</sup> Subpara (aa) inserted by SD2020/0336 with effect from 04/06/2020 at 11:29.

<sup>5</sup> Subpara (ab) inserted by SD2020/0336 with effect from 04/06/2020 at 11:29.

<sup>6</sup> Subpara (ac) inserted by SD2020/0336 with effect from 04/06/2020 at 11:29.

<sup>7</sup> Subpara (ad) inserted by SD2020/0336 with effect from 04/06/2020 at 11:29.

<sup>8</sup> Subpara (ae) inserted by SD2020/0336 with effect from 04/06/2020 at 11:29.

<sup>9</sup> Regulation 6 amended by SD2020/0336 with effect from 04/06/2020 at 11:29.

<sup>10</sup> Para (1) amended by SD2020/0336 with effect from 04/06/2020 at 11:29.

<sup>11</sup> Para (1A) inserted by SD2020/0336 with effect from 04/06/2020 at 11:29.