

Statutory Document No. 2020/0242



Emergency Powers Act 1936

EMERGENCY POWERS (CORONAVIRUS) (VACATION OF DEPARTMENTAL FACILITIES) REGULATIONS 2020¹

Laid before Tynwald: 14 April 2020
Approved by Tynwald: 14 April 2020
Coming into Operation: in accordance with regulation 2

The Governor in Council, by Order¹, makes the following Regulations under section 4 of the Emergency Powers Act 1936.

1 Title

These Regulations are the Emergency Powers (Coronavirus) (Vacation of Departmental Facilities) Regulations 2020.

2 Commencement

These Regulations come into operation immediately after they are made².

3 Interpretation

In these Regulations —

“**authorised person (A)**” means a person who has actual or ostensible authority, from the Department, to communicate to a person or to the person’s representative the decision of the Department requiring that person to vacate a Departmental facility;

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

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, by Order, 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.

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

- (a) the Proclamation of Emergency dated 16 March 2020³; and
- (b) all subsequent consecutive Proclamations of Emergency that relate to the pandemic of Coronavirus (also known as COVID-19);²

“**the Department**” means the Department of Health and Social Care and “**Departmental**” shall be construed accordingly;

“**Departmental facility**” means any institution, building, structure, room, ward, bed, unit or other place used for, or in connection with, the provision of health and social care services and includes a mobile facility.

4 Requirement to vacate Departmental facilities

- (1) This regulation applies where, during the Coronavirus Proclamation period –
 - (a) a person (P) occupies, is present or accommodated in, any Departmental facility for the purpose of receiving care or treatment;
 - (b) the authorised person (A) considers, having taken and considered the advice of those concerned in the care or treatment of P in a professional capacity, at least one of the following applies –
 - (i) that it is no longer necessary for P to occupy or remain accommodated in that facility for that, or any other, purpose;
 - (ii) that facility is required for some other person who requires care and treatment and P can be removed from it without undue risk of harm to P’s health and wellbeing.
- (2) Before removing P, A must inform P or P’s representative that P is to be removed from the facility and –
 - (a) P must be afforded such time as is reasonable in the circumstances to vacate the facility, or
 - (b) where appropriate, P’s representative must be afforded such time as is reasonable in the circumstances to remove P from the facility.
- (3) Where paragraph (1) applies, A may take all necessary steps to remove P from the facility notwithstanding any refusal on P’s part or on the part of P’s representatives.
- (4) If practicable in all the circumstances, P must be moved to another Departmental facility in the same institution or facility.
- (5) But nothing in these Regulations requires the Department to give effect to, or comply with, P’s wishes as to where P is to be accommodated or re-

³ SD 2020/0162

accommodated where it is impracticable to do so in the circumstances or would put others (including staff of any Departmental facility) at risk of harm of any kind.

- (6) Where P is removed from a Departmental facility and not moved to another Departmental facility, A must –
- (a) in so far as A is able, ensure that an appropriate care package is in place for P, or
 - (b) without undue delay, notify the relevant social services of the need to put one in place.
- (7) A constable may be called upon to assist in the removal of P and may use reasonable force (if necessary) for that purpose.
- (8) A is not liable in damages or otherwise in respect of anything done in good faith for the purposes of, or in connection with, these Regulations.
- (9) P commits an offence if P refuses to vacate a Departmental facility in accordance with these Regulations.

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

- (10) A representative of P commits an offence if that representative in any way obstructs the removal of P from a Departmental facility in accordance with these Regulations.

Maximum Penalty (summary) - 3 months' custody and a fine not exceeding level 5 on the standard scale.⁴

MADE AT 08:40 ON 9 APRIL 2020

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

³ Para (9) substituted by SD2020/0249 with effect from 14/04/2020 at 14:48.

⁴ Para (10) substituted by SD2020/0249 with effect from 14/04/2020 at 14:48.