

Statutory Document No. 2020/0245



Emergency Powers Act 1936

EMERGENCY POWERS (CORONAVIRUS) (INFORMATION SHARING) REGULATIONS 2020¹

Laid before Tynwald: 14 April 2020
Approved by Tynwald: 14 April 2020¹
Coming into Operation: in accordance with regulation 2

The Governor in Council, by Order², makes the following Regulations under section 4 of the Emergency Powers Act 1936.

1 Title

These Regulations are the Emergency Powers (Coronavirus) (Information Sharing) Regulations 2020.

2 Commencement

These Regulations come into operation on the day after they are made³.

3 Interpretation

(1) In these Regulations —

“**applied GDPR**” has the meaning given in the Data Protection (Application of GDPR) Order 2018;⁴

“**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 —

¹ But with an amendment to regulation 3(1) – definition of “Department” inserted.

² 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 ...”.

³ 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.

⁴ SD 2018/0143

- (a) the Proclamation of Emergency dated 16 March 2020⁵; and
- (b) all subsequent consecutive Proclamations of Emergency that relate to the pandemic of Coronavirus (also known as COVID-19);²

“**data protection legislation**” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018⁶ as they have effect from time to time;

[“**Department**” includes a Local Authority;]⁷

“**information**” includes personal data as defined in the applied GDPR; and

“**specified person**” means a person specified in a direction made under regulation 5.

- (2) Any grammatical variation of the verb “to process” used in these Regulations must be construed in accordance with the definition of “processing” in the applied GDPR, except that its application is not limited to personal data as defined in the applied GDPR.

4 General

These Regulations make provision for information sharing and deal with modifications to the data protection legislation, for the purpose of securing the essentials of life to the community of the Island and for the protection of the economy of the Island and in recognition of the potential need –

- (a) for a Department to perform functions ordinarily performed by another Department; and
- (b) for information to be shared as a result of regulations made under the Emergency Powers Act 1936 (in connection with paragraph (a) or otherwise) between any Department or specified person.

5 Directions

- (1) During the Coronavirus Proclamation period, the Council of Ministers may direct that –
 - (a) a Department may share information with another Department or specified person; and
 - (b) a Department may require a specified person to disclose information to the Department or another person,for the purpose of facilitating any regulations made under the Emergency Powers Act 1936 which relate to Coronavirus.
- (2) A direction made under paragraph (1)(a) must specify –

⁵ SD 2020/0162

⁶ SD 2018/0145

⁷ The text inside the square brackets was inserted by an amendment approved by Tynwald prior to these Regulations being approved by Tynwald to continue in operation as amended.

- (a) the information which may be disclosed;
 - (b) by which Department the information may be disclosed;
 - (c) to which Department the information may be disclosed;
 - (d) the purpose for which the information may be processed; and
 - (e) the safeguards to be put in place by the Departments by which the information may be disclosed and received.
- (3) A direction made under paragraph (1)(b) must specify –
- (a) the specified person who may be required by a Department to disclose information;
 - (b) by which Department the specified person may be required to disclose information;
 - (c) to whom the Department referred to in subparagraph (b) may require the specified person to disclose the information (“the recipient”);
 - (d) the information which the specified person may be required to disclose;
 - (e) the purpose for which the information may be processed by the recipient; and
 - (f) the safeguards to be put in place by the specified person and the recipient.
- (4) Without limiting –
- (a) paragraph (2)(c) or (3)(c), the specification of the Department to which the information may be disclosed must include the specification of the controller or categories of controller; and
 - (b) paragraph (2)(e) or (3)(f), the safeguards may –
 - (i) be intended to prevent abuse, unlawful access, or further disclosure; and
 - (ii) must provide for the return, deletion, destruction, or other recovery of the data from the person with whom it is shared.
- (5) The Council of Ministers may issue guidance about the meanings of any of the terms used in this regulation.
- (6) A person to which a direction made under paragraph (1) applies, must have regard to any guidance issued under paragraph (5).
- (7) A direction made under paragraph (1) expires –
- (a) on the date specified in the direction; or
 - (b) if a date is not specified in the direction, 7 days after the end of the Coronavirus Proclamation period.

6 Lawful processing of information under a direction

A person who processes information in accordance with a direction made under paragraph 5(1) does not breach or commit an offence under the data protection legislation.

MADE AT 15.55 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.