



Isle of Man

Ellan Vannin

AT 3 of 2020

**EMERGENCY POWERS (AMENDMENT)
ACT 2020**



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**Isle of Man***Ellan Vannin*

EMERGENCY POWERS (AMENDMENT) ACT 2020

Signed in Tynwald: 14 April 2020
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AN ACT to amend the Emergency Powers Act 1936 so as to amend the procedure for emergency regulations, confer jurisdiction on courts of summary jurisdiction generally over offences under the Act, to provide for the imposition of fixed penalties, for the temporary continuation of emergency regulations at the end of a state of emergency and to make provision postponing local elections until 2021; 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:—

Introductory

1 Short title

The short title of this Act is the Emergency Powers (Amendment) Act 2020.

2 Commencement

- (1) This Act comes into operation on such day or days as the Council of Ministers may by order appoint.
- (2) An order under subsection (1) may contain such consequential, incidental, supplementary, transitional and transitory provision, including provision modifying or amending Manx enactments, as the Council of Ministers considers appropriate.

Tynwald procedure – laying only.

Amendment of the Emergency Powers Act 1936

3 Emergency Powers Act 1936 amended

The *Emergency Powers Act 1936* is amended in accordance with sections 4 and 5 below.

4 Emergency regulations: section 4 amended

- (1) Section 4 is amended as follows.
- (2) In subsection (1) for “, by Order, to make regulations” substitute **66** to make regulations **67**.
- (3) After subsection (1) insert—
 - 68** (1A) Where regulations made under subsection (1) in a period when a proclamation under section 3 is in force (“period A”) are still in force at the end of period A, if a further proclamation under that section is made in respect of the same emergency in respect of a subsequent period (“period B”) which begins at the end of period A, or any subsequent period, section 31 of the *Legislation Act 2015* shall apply to the regulations as if—
 - (a) they had been remade at the beginning of period B (and at the beginning of each subsequent period for which a proclamation of emergency is in operation in respect of the same emergency); and
 - (b) in relation to period B, and any subsequent period for which a proclamation of emergency is in operation in respect of the same emergency—
 - (i) for subsection (2) of that section there were substituted—
 - 69** (2) The document is to be treated as if it were laid before Tynwald at the beginning of the first sitting of the Court after the start of period B (and each subsequent period for which a proclamation of emergency is in operation in respect of the same emergency). **70**; and
 - (ii) in subsection (3) the words “or the next subsequent sitting” were omitted. **71**.
- (4) For subsection (3) substitute—
 - 72** (3) Regulations under this section may provide for offences under the regulations, or specified in them —
 - (a) to be triable by a court of summary jurisdiction and punishable by a maximum of 3 months’ custody, a fine not exceeding level 5 on the standard scale, or both, together

- with the forfeiture of any goods or money in respect of which the offence has been committed; or
- (b) to be the subject of a fixed penalty not exceeding £250 by means of a notice given to the person liable to pay such penalty by a person authorised to do so by or under the regulations and to provide for the procedure to be followed in relation to such penalty.
- (3A) Regulations under this section may not—
- (a) without the consent of the Deemsters, alter the procedure of a court in dealing with criminal matters; or
- (b) provide for the imposition without trial of custody, a fine or (except as provided in subsection (3)(b)) a financial penalty.
- (3B) Subsection (3A)(b) is subject to subsection (3C).
- (3C) Regulations under this section, when providing for an offence to be the subject of a fixed penalty under subsection (3)(b), must not require a person to pay such penalty, but may offer the person an opportunity to pay the penalty to discharge any liability to conviction for the offence to which the penalty relates.

5 Continuation of emergency regulations: section 4A inserted

After section 4 insert—

4A Continuation of emergency regulations

- (1) This section applies where a proclamation of emergency is in operation.
- (2) If it appears to the Governor in Council that it is necessary to do so in order to secure the intended effect of regulations under section 4 after the period of emergency ends, the Governor in Council may make regulations (“continuation regulations”).
- (3) Section 31 of the *Legislation Act 2015* (Tynwald procedure – affirmative) applies to continuation regulations, but as if in subsection (3) the words “or the next following sitting” were omitted.
- (4) Continuation regulations may provide for the continuation, for a period of not more than 6 months from the end of the period of emergency, and with or without modification, of any regulations under section 4 which are in operation during the period of emergency.
- (5) Continuation regulations are, despite point 1 of the proviso to the definition of “subordinate legislation” in section 19 of the *Human*

Rights Act 2001, subordinate legislation for the purposes of that Act. **22**.

Provision about local elections

6 Local elections postponed

- (1) The elections due to be held, in accordance with section 3 of the *Local Elections Act 1986*, on 23 April 2020 are postponed until 22 April 2021.
- (2) Subsections (3) and (4) amend the *Local Elections Act 1986* in consequence of the deferment in subsection (1).
- (3) In section 3—
 - (a) in subsection (1) for “2004” substitute **23** 2021 **22**.
 - (b) in subsection (2), for “The Department” substitute **24** Subject to subsection (3), the Department **25**.
 - (c) at the end insert —
26 (3) Subsection (2) does not apply to the elections to be held in 2021. **27**.
- (4) In section 5 for “2004” substitute “2021”.
- (5) The Schedule makes further provision in consequence of the postponement in subsection (1).

SCHEDULE

POSTPONEMENT OF LOCAL ELECTIONS: CONSEQUENTIAL PROVISIONS

[Section 6(5)]

1 Continuation of tenure of office

- (1) Every person who is currently a member of a local authority remains in office until 1 May 2021, unless he or she earlier vacates office.
- (2) Subparagraph (1) does not apply to the parish districts of Arbory and Rushen.

2 Amendment to the Douglas (Alteration of Wards and Number of Members) Scheme 2018

- (1) The Douglas (Alteration of Wards and Number of Members) Scheme 2018 is amended as follows.
- (2) In paragraph 4 (elections of the Borough of Douglas), for “2020” substitute **2021**.

3 Amendment to the Douglas (Alteration of Wards and Number of Members) Order 2019

- (1) The Douglas (Alteration of Wards and Number of Members) Order 2019 is amended as follows.
- (2) For article 4(3)(b) (commencement of scheme), substitute —
| **(b)** for all other purposes on 22 April 2021.

4 Amendment to the Port Erin (Number of Members) Order 2019

- (1) The Port Erin (Number of Members) Order 2019 is amended as follows.
- (2) For article 4(3)(b) (commencement of scheme), substitute —
| **(b)** for all other purposes on 22 April 2021.

5 Amendment to the Port St Mary (Number of Members) Order 2019

- (1) The Port St Mary (Number of Members) Order 2019 is amended as follows.
- (2) For article 4(3)(b) (commencement of scheme), substitute —
| **(b)** for all other purposes on 22 April 2021.

6 Amendment to the Arbory and Rushen (Local Government District)

Order 2019

- (1) The Arbory and Rushen (Local Government District) Order 2019 is amended as follows.
- (2) In article 5 (commissioners of the Arbory and Rushen parish district) —
- (a) for paragraph (2) substitute —
- ☐ (2) On and after 1 May 2021, there shall be 6 Commissioners.
- (2A) There shall be 10 Commissioners from the appointed day to 30 April 2021 (inclusive).
- ☐ This paragraph shall cease to have effect on 1 May 2021. ☐;
- (b) for paragraph (4), substitute —
- ☐ (4) The first Commissioners for the Arbory and Rushen Parish District take up office on the appointed day and hold office for a 1 year term. ☐;
- (c) after paragraph (4), insert —
- ☐ (5) On and after 1 May 2021, Commissioners for the Arbory and Rushen Parish District who take up office on the 1 May 2021 shall hold office for a 4 year term (and their successors shall take up office in each fourth succeeding year, other than when filling a casual vacancy in their number). ☐.
- (3) For article 9(2) (division of Arbory and Rushen district into wards), substitute —
- ☐ (2) On and after 1 May 2021, each ward shall elect 3 of the Commissioners.
- (2A) Each ward shall be represented by 5 Commissioners from the former authorities that make up that ward on the appointed day for the period up to 30 April 2021 (inclusive).
- ☐ This paragraph shall cease to have effect on 1 May 2021. ☐.

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