



## EMERGENCY POWERS (CORONAVIRUS) (MENTAL HEALTH MODIFICATIONS) REGULATIONS 2020

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Statutory Document No. 2020/0211



*Emergency Powers Act 1936*

## EMERGENCY POWERS (CORONAVIRUS) (MENTAL HEALTH MODIFICATIONS) REGULATIONS 2020<sup>1</sup>

*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 Order<sup>1</sup>, makes the following Regulations under section 4 of the Emergency Powers Act 1936.

### PART 1

#### INTRODUCTORY

#### 1 Title

These Regulations are the Emergency Powers (Coronavirus) (Mental Health Modifications) 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 Proclamation of Emergency dated 16 March 2020<sup>3</sup> is in operation.

<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

## PART 2

### GENERAL

#### 4 Purpose

These Regulations contain temporary modification of mental health legislation.

#### 5 References and expressions

- (1) References in these Regulations to sections are to sections of the Mental Health Act 1998 (“the 1998 Act”).
- (2) Expressions used in these Regulations and in the 1998 Act have the same meaning as in that Act.

#### 6 Forms

Where any form prescribed for use in connection with a provision of the 1998 Act is inconsistent with a modification made by regulations in Part 3, the form—

- (a) may, in connection with the provision as so modified, be used with appropriate amendments;
- (b) is otherwise, for use in that connection, to be read with such amendments as are necessary to reflect the modification.

## PART 3

### MODIFICATIONS OF THE MENTAL HEALTH ACT 1998 DURING THE CORONAVIRUS PROCLAMATION PERIOD

#### 7 Applications for compulsory admission to hospital for assessment or treatment

- (1) During the Coronavirus Proclamation period an application under section 2 or 3 may be founded on a recommendation by a single registered medical practitioner (a “single recommendation”), if the medical practitioner making that recommendation or an approved social worker considers that compliance with the requirement under that section for the recommendations of two practitioners is impractical or would involve undesirable delay.
- (2) A single recommendation must otherwise comply with the requirements of section 2(3) or 3(3).
- (3) An application founded on a single recommendation must include a statement of the opinion referred to in paragraph (1).

- (4) An emergency application under section 4 may not be founded on a single recommendation (but this does not limit section 4(3)).
- (5) Section 11(7) (general provisions as to applications) does not apply to an application founded on a single recommendation.
- (6) Section 12(1) (general provisions as to medical recommendations) has effect as if it required a single recommendation to be signed on or before the date of the application, and to be given by a practitioner who has personally examined the patient.
- (7) Section 12(2) has effect as if it required a single recommendation to be given by a practitioner approved for the purposes of that section by the Department as having special experience in the diagnosis or treatment of mental disorder.
- (8) Section 12(1) and (2) do not otherwise apply to a single recommendation (and accordingly there is no requirement for the practitioner giving the recommendation to have previous acquaintance with the patient).
- (9) A single recommendation is subject to section 15(2) (except paragraph (b)) in the same way as one of two recommendations (and section 15(3) does not apply to it).

## **8 Applications for admission of patients already in hospital**

- (1) During the Coronavirus Proclamation period any registered medical practitioner may furnish a report for the purposes of section 5(2) (detention of patient in hospital pending application for admission) if it appears to the practitioner that complying with the requirement under that provision for the report to be furnished by the practitioner in charge of the treatment of the patient is impractical or would involve undesirable delay.
- (2) During the Coronavirus Proclamation period—
  - (a) section 5(2) (period for which patient can be detained following report by practitioner or clinician) has effect as if for “72 hours” there were substituted “120 hours”;
  - (b) section 5(4) (period for which patient can be detained pending report by practitioner or clinician) has effect as if for “6 hours” there were substituted “12 hours”.

## **9 Transfer to hospital of prisoners**

- (1) During the Coronavirus Proclamation period any power of the Department of Home Affairs or, as the case may be, a court under a provision listed in paragraph (2) may be exercised if the Department, or as appropriate, the court—

- (a) is satisfied that complying with the requirement under that provision for the evidence of two registered medical practitioners is impractical or would involve undesirable delay, and
- (b) is satisfied on the evidence of a single registered medical practitioner of the matters of which it would (but for this paragraph) have to be satisfied on the evidence of two practitioners,

and any other conditions for the exercise of the power are met.

- (2) Those provisions are—
  - (a) section 53(1) (removal to hospital of persons serving sentences of custody);
  - (b) section 54(1) (removal to hospital of other prisoners);
  - (c) section 58(6) (further provision as to detained persons).

## **10 Conveyance of accused or convicted persons to hospital**

- (1) During the Coronavirus Proclamation period the provisions listed in paragraph (2) have effect as if references to conveying or admitting a person to hospital within a specified period were references to doing so within that period or as soon as practicable after the end of that period.
- (2) Those provisions are—
  - (a) section 47 (effect of hospital orders etc); and
  - (b) section 56(1) and (3) (effect of hospital and limitation directions).
- (3) During the Coronavirus Proclamation period section 53(2) (period within which person subject to transfer direction must be received into hospital) has effect as if for “14 days” there were substituted “28 days”.

## **11 Administration of medicine to persons liable to detention in hospital**

- (1) During the Coronavirus Proclamation period the person in charge of treatment within section 66(1)(b) (administration of medicine for more than three months) may give a certificate under section 66(3)(b) (appropriateness of treatment without consent) if that person considers that complying with the requirement under that provision for the certificate to be given by a registered medical practitioner other than the responsible medical officer is impractical or would involve undesirable delay.
- (2) During the Coronavirus Proclamation period a registered medical practitioner (or a person acting in accordance with paragraph (1)) may give a certificate under section 66(3)(b) having consulted only one other person, if the practitioner (or person) considers that complying with the requirement under section 66(4) for consultation with two other persons is impractical or would involve undesirable delay.

- (3) The person consulted in accordance with paragraph (2)—
  - (a) must have been professionally concerned with the patient's medical treatment, and
  - (b) must not be a nurse, a registered medical practitioner or the responsible medical officer in charge of the treatment in question.

## **PART 4**

### **AFTER THE CORONAVIRUS PROCLAMATION PERIOD: TRANSITIONAL PROVISION**

#### **12 Transitional: continuing validity and effect**

The end of the Coronavirus Proclamation period does not affect the continuing validity or effect of anything done during that period in reliance on a provision of these Regulations.

#### **13 Transitional: determination of periods**

Regulations 8(2) and 10(3) continue to apply after the end of the Coronavirus Proclamation period for the purposes of determining the length of any period which has begun before the end of that period.

#### **14 Transitional: orders and directions**

Regulation 10(1) continues to apply after the end of the Coronavirus Proclamation period in relation to any order or direction made during that period, subject to regulation 15.

#### **15 Transitional: conveyance to hospital**

The constable or other person whose duty is modified by that provision must in any event convey the person concerned to the requisite hospital within the period of seven days beginning with the day on which the Coronavirus Proclamation period ends.

**MADE 09:55 8<sup>TH</sup> APRIL 2020**

## 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.