
FOUNDATIONS (AMENDMENT) BILL 2025

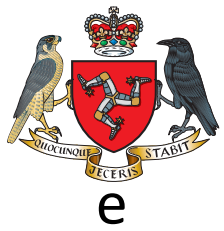
Explanatory Memorandum

1. This Bill is promoted by Mrs Tanya August-Phillips MLC on behalf of the Department for Enterprise (“the Department”).
2. *Clauses 1 and 2* contain, respectively, the short title of, and the commencement provisions for, the resulting Act.
3. *Clause 3* provides for the amendment of the *Foundations Act 2011* (“the 2011 Act”) by the resulting Act so as to provide for data asset foundations in Manx legislation.
4. *Clause 4* amends section 3 of the 2011 Act to widen the definition of “assets” so as to include, for a data asset foundation, data assets.
5. *Clause 5* amends section 13 of the 2011 Act by repealing subsection (3) which currently precludes a registered agent’s retirement or removal taking effect until immediately before the appointment of a new class 4 licenceholder as registered agent.
6. *Clause 6* amends section 28 of the 2011 Act to make it an offence for a foundation not to have a registered agent appointed in accordance with the 2011 Act.
7. *Clause 7* inserts a new section 28A into the 2011 Act to provide for the resignation of a registered agent.
8. *Clause 8* amends the heading to Part 6 of the 2011 Act as, in light of the inclusion of a new Part 7, these will not be closing provisions.
9. *Clause 9* inserts a new Part 7 into the 2011 Act to provide for data asset foundations, comprising new sections 67 to 94. Each proposed new section is considered below.
10. *New section 67* defines the terms which apply throughout the new Part 7.
11. *New section 68* imposes additional provisions which must be adhered to when establishing a data asset foundation.
12. *New section 69* requires the Department to make regulations establishing a data governance framework which imposes minimum requirements to be followed by data asset foundations.
13. *New section 70* enables the Department by regulations to establish a data valuation framework.
14. *New section 71* imposes additional requirements in relation to the name of a data asset foundation.

15. *New section 72* requires the objects of a data asset foundation to relate to the utilisation of its data assets.
16. *New section 73* requires the foundation rules of a data asset foundation to include the information required by the data governance framework.
17. *New section 74* enables the Department to make regulations prescribing model foundation rules for data asset foundations.
18. *New section 75* requires the foundation rules of a data asset foundation to set out the responsibilities of its council in relation to the requirements in new section 88.
19. *New section 76* requires the Department by regulations to prescribe the form of the data asset dedication instrument in accordance with the requirements of that section.
20. *New section 77* makes provision about the data asset registrar and the data asset register.
21. *New section 78* provides for the council of a data asset foundation to make an application to the data asset registrar to register data as a data asset by providing the particulars prescribed by the Department in regulations.
22. *New section 79* deals with provisional registration.
23. *New section 80* provides for the full registration of a provisional data asset following accreditation of the asset. Such registration confers a personal property right in the data asset which is vested in the data asset foundation even though that data asset may be neither a thing in possession nor a thing in action.
24. *New section 81* deals with the disposal or reversion of data assets in the circumstances and in the order provided for in the section. The personal property right conferred by new section 80 is extinguished upon the removal of the data asset from the data asset register.
25. *New section 82* enables regulations made by the Department to specify alternative data registers as equivalent data registers. A data asset registered on an equivalent data register is an equivalent data asset and can be registered on the data asset register without going through the accreditation process under new section 80.
26. *New section 83* provides for the updating of the data asset register in accordance with regulations made by the Department.
27. *New section 84* requires a data asset foundation to appoint an accredited assurance provider to issue and renew data asset accreditation in accordance with the data governance framework. The Department is responsible for accrediting such providers in accordance with regulations.
28. *New section 85* provides that a data asset foundation must not utilise a data asset unless there is a valid data asset accreditation in respect of that asset.
29. *New section 86* makes provision about data enforcers. Data enforcers have the functions set out in the data governance framework and in regulations made by the Department.

30. *New section 87* makes provision for the liability of data enforcers.
31. *New section 88* makes additional requirements in relation to the council of a data asset foundation on top of those in sections 23 to 27 of the 2011 Act.
32. *New section 89* enables the Department to make regulations specifying additional documents that a data asset foundation must keep on top of those required under section 41 of the 2011 Act.
33. *New section 90* requires that a data asset foundation's accounts must set out the basis of valuation of the data asset and record associated revenue and management costs.
34. *New section 91* sets out the powers of the High Court to make orders or give directions in relation to data asset foundations.
35. *New section 92* sets out the scope of the powers of the Department to make regulations under this Part.
36. *New section 93* enables the Department to give guidance about data asset foundations.
37. *New section 94* requires the Department to review the provisions of the 2011 Act in relation to data asset foundations within 3 years of their commencement and to submit a report on the review to Tynwald.
38. The resulting Act will have financial and human resource implications arising from the establishment, operation and oversight of the new regime, including:
 - (a) the establishment and ongoing maintenance of the data asset register;
 - (b) the appointment and resourcing of the office of the data asset registrar; and
 - (c) the establishment and supervision of the accreditation and registration regime for accredited assurance providers.

It is anticipated that some of these costs may be offset by fees prescribed in regulations.
39. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



FOUNDATIONS (AMENDMENT) BILL 2025

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FOUNDATIONS (AMENDMENT) BILL 2025

- 1 **A BILL** to amend the Foundations Act 2011 to provide for data asset foundations;
 2 to make consequential and supplemental amendments; and for connected
 3 purposes.

BE IT ENACTED by the King'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:—

4 **1 Short title**

5 The short title of this Act is the Foundations (Amendment) Act 2025.

6 **2 Commencement**

- 7 (1) This Act, apart from section 1 and this section, comes into operation on
 8 such day or days as the Department for Enterprise may by order appoint.
 9 Tynwald procedure — laying only.
 10 (2) An order under subsection (1) may make such supplemental, incidental,
 11 consequential and transitional provisions as the Department for
 12 Enterprise considers to be necessary.

13 **3 Foundations Act 2011 amended**

14 The *Foundations Act 2011* (“**the Act**”) is amended in accordance with this Act.

15 **4 Section 3 amended**

16 In section 3 of the Act (interpretation) —

- 17 (a) in the definition of “assets”, after paragraph (c) insert —
 18 | “(d) in the case of a data asset foundation, data assets;”
 19 (b) in the definition of “person with sufficient interest” —
 20 | (i) in paragraph (f), after “enforcer” insert “or data
 21 | enforcer”;
 22 | (ii) after paragraph (i) insert —

“(ia) in respect of a data asset foundation, the data asset registrar;”.

5 Section 13 amended

In section 13 of the Act (the foundation rules – registered agent), subsection (3) is repealed.

6 Section 28 amended

In section 28 of the Act (foundation must have a registered agent), after subsection (4) insert —

“(5) A foundation which fails to comply with subsection (1) or (2)(a) commits an offence.”.

7 Section 28A inserted

After section 28 of the Act, insert —

“28A Resignation of registered agent

- (1) A person may resign as the registered agent of a foundation only in accordance with this section.
- (2) A person wishing to resign as the registered agent must —
 - (a) give not less than 8 weeks’ written notice of the intention to resign to the foundation and to the Registrar; and
 - (b) specify in that notice the date on which the resignation is intended to take effect.
- (3) A notice under subsection (2) must be sent —
 - (a) to the foundation at its business address; and
 - (b) to at least two members of the council of the foundation at their last known residential or business addresses (or, if the council has only one member, to that member).
- (4) Within one week of giving notice under subsection (2), the registered agent must file a copy of that notice with the Registrar.
- (5) If, on or before the date specified in the notice, the foundation has not notified the Registrar of the appointment of a new registered agent under section 45, the resigning registered agent may file a final notice of resignation with the Registrar.
- (6) The resignation of the registered agent takes effect on the date the Registrar enters the final notice of resignation in the register.
- (7) A registered agent who resigns in contravention of this section commits an offence.”.

8 Part 6 amended

For the heading to Part 6 of the Act, substitute “**PART 6 — SUPPLEMENTARY PROVISIONS**”.

9 New Part 7 inserted

After section 66 of the Act, insert the following new Part —

“PART 7 – DATA ASSET FOUNDATIONS

67 Interpretation

In this Part, unless the context otherwise requires —

“**accredited assurance provider**” has the meaning given to it in section 84;

“**data**” means any digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of sound, visual or audio-visual recording;

“**data asset**”, in respect of a data asset foundation, means any data which is —

- (a) dedicated to a data asset foundation;
- (b) the subject of a data asset dedication instrument;
- (c) registered as a data asset on the data asset register pursuant to section 80; and
- (d) described as a fully registered data asset on the data asset register;

“**data asset accreditation**” means an accreditation in respect of a data asset which —

- (a) meets the criteria set out in the data governance framework; and
- (b) is issued by an accredited assurance provider in accordance with the process set out in the data governance framework;

“**data asset dedication instrument**” means an instrument in the form prescribed by section 76;

“**data asset foundation**” means a foundation established under this Act in accordance with section 4 and section 68;

“**data asset register**” means the register of data assets established by the data asset registrar pursuant to section 77(5);

“**data asset registrar**” means the person or body appointed as such by the Department pursuant to section 77(1);

“**data enforcer**” has the meaning given to it in section 86;

“data governance framework” means the framework established pursuant to section 69;

“data valuation framework” means the framework established pursuant to section 70;

“dedicate” means, in relation to a data asset foundation, to transfer or grant (with or without consideration) to a data asset foundation the relevant rights and permissions pertaining to data which may be subject to adverse rights or third party interests and are specified in the relevant data asset dedication instrument (and **“to transfer”**, for the purpose of this definition, includes whatever act may be necessary in relation to that data to successfully transfer or grant those specified rights and permissions to the data asset foundation so that they are exercisable by the data asset foundation) and **“dedicated”** and **“dedication”** are to be construed accordingly;

“equivalent data asset” has the meaning given to it in section 82(2)(b);

“equivalent data register” has the meaning given to it in section 82(2)(a);

“provisional data asset” has the meaning given to it in section 79(2);

“registration” means the recording of the data asset as **“fully registered”** on the data asset register pursuant to section 80(2) and **“registered”** is to be construed accordingly;

“regulations” means regulations made by the Department under section 92; and

“utilising” means holding, managing, processing, protecting, preserving, exploiting (including but not limited to commercial exploitation), disclosing, making available or otherwise using a data asset in furtherance of the objects of the data asset foundation and **“utilise”** and **“utilisation”** are to be construed accordingly.

68 Application for establishment of a data asset foundation

- (1) In addition to the requirements for establishing a foundation set out in section 4, a foundation is a data asset foundation if —
 - (a) its foundation instrument declares it to be a data asset foundation;
 - (b) its objects relate to utilising its data assets; and
 - (c) it meets the additional requirements for data asset foundations set out in the data governance framework and otherwise in regulations.
- (2) In respect of a data asset foundation, the declaration signed by the class 4 licenceholder required by section 4(5) must state that the proposed foundation is intended to be a data asset foundation and its objects relate to utilising its data assets.

- (3) Unless expressly stated otherwise in this Part, the provisions of this Act shall apply in full to a data asset foundation as a type of foundation.
- (4) A foundation that is not a data asset foundation must not utilise data assets and any purported dedication of a data asset to a foundation that is not a data asset foundation is void.
- (5) If a data asset foundation —
 - (a) receives notice from the data asset registrar that it fails to meet the requirements of this section; and
 - (b) such failure is not remedied within the period required by the data asset registrar in such notice,
 the data asset registrar may remove data assets held by that data asset foundation from the data asset register.
- (6) The data asset registrar must comply with the requirements of regulations when carrying out its functions under subsection (5).

69 Data governance framework

Regulations must establish a data governance framework that imposes minimum requirements in relation to data governance to be met by the data asset foundation and its council members, including —

- (a) setting minimum requirements for data stewardship, including making provision about technical, ethical and security standards in respect of data assets;
- (b) specifying the role of the Isle of Man Information Commissioner in relation to the supervision of data asset foundations in respect of their processing of personal data;
- (c) setting minimum requirements for data asset accreditation; and
- (d) making provision about any other matters which the Department considers necessary or expedient.

70 Data valuation framework

- (1) Regulations may establish a data valuation framework to be used to assign a value to a data asset.
- (2) Where no data valuation framework has been established in relation to a data asset, the council of the foundation may decide on the basis of valuation for the data asset.

71 The foundation instrument – name of data asset foundation

- (1) The name of the data asset foundation must comply with the requirements of section 6.

- (2) Additionally, the name must end in the words “Data Asset Foundation” or “DAF”.
- (3) If a foundation ceases to be a data asset foundation, the Registrar must change the name of the foundation on the register to remove the words “Data Asset Foundation” or “DAF”.
- (4) If a foundation is intended to be a data asset foundation, its foundation instrument must state this expressly.

72 The foundation instrument – objects of data asset foundation

- (1) In addition to the requirements of section 7, the objects of a data asset foundation must relate to the utilisation of its data assets.
- (2) Such objects may be pursued for charitable, non-charitable, commercial or mixed purposes.
- (3) Section 36(3) does not apply to a data asset foundation.

73 Data asset foundation must have foundation rules

In addition to the requirements of section 10, the foundation rules of a data asset foundation must include the information required by the data governance framework.

74 Model data asset foundation rules

- (1) Regulations may prescribe model foundation rules for data asset foundations.
- (2) Subsection (3) applies with effect from the date of a data asset foundation’s establishment.
- (3) If the foundation rules of a data asset foundation —
 - (a) make no provision for a matter for which provision is made by the relevant model foundation rules for data asset foundations; and
 - (b) do not expressly or by necessary implication exclude that provision of those model rules for data asset foundations,
 that provision is deemed to be included in those foundation rules.
- (4) In subsection (3), “the relevant model foundation rules” means the relevant model rules for data asset foundations as are in operation at the date of the data asset foundation’s establishment.
- (5) If model foundation rules for data asset foundations are amended by regulations, the amendment does not affect the foundation rules of a data asset foundation established before the amendment takes effect.

75 The foundation rules – council of data asset foundation

In addition to the requirements of section 12, the foundation rules of a data asset foundation must set out the responsibilities of the council in relation to the requirements in section 88.

76 Data asset dedication instrument

- (1) Regulations must prescribe the form of the data asset dedication instrument.
- (2) In particular, the instrument must —
 - (a) be executed by the dedicator or founder and accepted by the council of a data asset foundation;
 - (b) describe the dedicated data sufficiently so as to enable the data asset foundation to make a successful application for the registration of the data asset under section 78;
 - (c) confirm the dedication of the data to the data asset foundation, including confirmation that such dedication follows the appropriate form or method prescribed by virtue of subsection (3);
 - (d) describe the nature of the rights and permissions held by the data asset foundation in respect of that data;
 - (e) identify any restrictions, limitations or conditions that apply to the rights and permissions transferred or granted to the data asset foundation including but not limited to any rights reserved to the founder or the dedicator;
 - (f) confirm that the dedicated data and all rights and permissions in respect of that data shall revert to the dedicator if —
 - (i) there is no data asset accreditation in relation to that data asset; or
 - (ii) the data asset foundation fails to complete registration in accordance with section 80; and
 - (g) contain such other information as the Department considers necessary.
- (3) Regulations may make the registration of a data asset conditional upon the dedication of data to the foundation taking a certain form or following a certain method.

77 The data asset registrar and the data asset register

- (1) The Department must appoint a data asset registrar who shall be responsible for the functions conferred on it by this Part.

- (2) Subject to subsections (3) and (4), a person or body appointed to be the data asset registrar is to hold and vacate office in accordance with the terms of that appointment.
- (3) The data asset registrar may at any time resign from office by written notice to the Department.
- (4) The Department may remove the data asset registrar from office if the data asset registrar is unable or unfit to discharge the functions of office.
- (5) The data asset registrar must —
 - (a) establish a register of data assets known as the “data asset register”;
 - (b) keep the data asset register in the form prescribed by regulations; and
 - (c) maintain the data asset register in accordance with the requirements of this Part and any regulations.
- (6) The data asset registrar may charge the fees prescribed by regulations.

78 Application for registration of data asset

- (1) The council of a data asset foundation may make an application to the data asset registrar to register data as a data asset by providing the particulars prescribed in regulations for entry onto the data asset register.
- (2) An application under subsection (1) must —
 - (a) be supported by an executed data asset dedication instrument that complies with the requirements of section 76; and
 - (b) be accompanied by the fee prescribed by regulations.

79 Provisional registration

- (1) The data asset registrar shall accept an application if satisfied that it has been made pursuant to section 78.
- (2) The data described in the accepted application is a “provisional data asset”.
- (3) Upon acceptance of an application by the data asset registrar, the data asset registrar —
 - (a) must record the provisional data asset on the data asset register as “provisionally registered” together with any supplementary information required by regulations to be so recorded; and

- (b) may notify the council of the data asset foundation of any outstanding requirements under this Part that must be met before the provisional data asset will be fully registered.

80 Completion of registration

- (1) The council of the data asset foundation must seek to complete the registration of a provisional data asset —
- (a) within such period as may be prescribed by regulations;
 - (b) by submitting confirmation of a data asset accreditation in respect of the provisional data asset which has been conducted by an accredited assurance provider; and
 - (c) by meeting any outstanding requirements pursuant to section 79(3)(b).
- (2) If the data asset registrar is satisfied that the requirements of subsection (1) have been met, it shall update the data asset register to —
- (a) record the data asset as “fully registered”; and
 - (b) provide such information to the data asset foundation as regulations may prescribe.
- (3) If the data asset registrar is not satisfied that the requirements of subsection (1) have been met, the data asset registrar must remove the provisional data asset from the data asset register and the process of registration of the provisional data asset is void.
- (4) Upon the registration of a data asset in the data asset register, a personal property right in the data asset described therein is vested in the data asset foundation named in data asset registrar, notwithstanding that such data asset may be neither —
- (a) a thing in possession; nor
 - (b) a thing in action.
- (5) Regulations may provide for a simplified or modified application process for the purposes of section 78 where the application is to be made in relation to a data asset registered to another data asset foundation.

81 Disposal or reversion of data assets upon removal from data asset register

- (1) This section applies where —
- (a) a data asset foundation is to be wound up, dissolved or otherwise removed from the register; or

- (b) a data asset is removed from the data asset register by the data asset registrar, whether under section 85(4) or pursuant to regulations.
- (2) Despite section 16(3), a data asset registered to a data asset foundation shall not vest in the Treasury as *bona vacantia* except pursuant to subsection (3)(d).
- (3) Where this section applies, the data asset and all rights pertaining to it shall be disposed of, or shall revert, in the following order —
- (a) first, in the manner specified in the data asset dedication instrument relating to that asset;
- (b) second, if the data asset dedication instrument makes no provision or is silent as to the disposal of the data asset, in the manner specified in the foundation rules of the data asset foundation;
- (c) third, if the foundation rules make no such provision or are silent, the personal property right in the data asset vested by section 80(4) is extinguished, and all rights and permissions dedicated to the foundation in respect of that data shall revert to the dedicator of that asset, provided the dedicator is in existence and can be reasonably ascertained;
- (d) finally, if the dedicator under paragraph (c) is not in existence or cannot be reasonably ascertained, the data asset shall be treated as *bona vacantia* and section 16(3) shall apply.
- (4) Where a data asset is removed from the data asset register as described in subsection (1)(b) but the data asset foundation is not dissolved, the council of the data asset foundation must take all necessary steps to effect the disposal or reversion of the asset in accordance with the provisions of subsection (3).
- (5) Subsection (3) does not apply to the removal of a data asset from the data asset register if the removal is made by the data asset foundation for the purpose of utilising the data asset in accordance with its objects.
- (6) Regulations may make further provision about the removal of a data asset from the data asset register under subsection (5).
- (7) Section 16(2) (relating to applications to the High Court for directions as to the disposal of remaining assets) applies to the disposal or reversion of a data asset under this section.
- (8) For the avoidance of doubt, the personal property right in a data asset vested under section 80(4) is extinguished upon the removal of the data asset from the data asset register.

82 Equivalent data registers

- (1) Regulations may specify that an alternative data register is equivalent to the data asset register.
- (2) Where such a register is so specified —
 - (a) it shall be an “equivalent data register”;
 - (b) assets registered on the equivalent data register shall be “equivalent data assets”.
- (3) In this section, an alternative data register is one which is established under the laws of another jurisdiction, country or territory.
- (4) When assessing whether an alternative data register is equivalent for the purposes of subsection (1), the Department must take into account —
 - (a) the relevant laws establishing the alternative data register;
 - (b) the existence of and quality of accreditation required prior to registration of an asset on the alternative data register;
 - (c) the existence and effective functioning of a registrar or similar body with responsibility for the alternative data register;
 - (d) the nature of the information made available by the alternative data register; and
 - (e) the requirements for oversight of the register and assets registered on it.
- (5) If an application has been made pursuant to section 78 in respect of an equivalent data asset —
 - (a) the council is not required to meet the requirements of section 80(1); and
 - (b) for the purposes of section 80(2), the data asset registrar is deemed to be satisfied that the requirements of section 80(1) have been met upon its acceptance of the relevant application pursuant to section 79(1).

83 Updating the register

- (1) A person may apply to the data asset registrar to update the data asset in the circumstances and using the process described in regulations.
- (2) The process referred to in subsection (1) may include referral to the dispute resolution process established or identified by virtue of section 91(4)(a).

- (3) The data asset registrar must update the data asset register to state that a data asset is “under review” for any period that the data asset registrar is assessing the accuracy of the record for that data asset.
- (4) The council of a data asset foundation must notify the data asset registrar without undue delay upon becoming aware of a mistake in the data asset register which relates to data held by that data asset foundation.
- (5) The data enforcer for the data asset foundation must notify the data asset registrar without undue delay upon becoming aware of a mistake in the data asset register when performing duties under section 86.
- (6) The data asset registrar shall update the data asset register if satisfied that there is a mistake in the data asset register.
- (7) When exercising its functions under this section, the data asset registrar must comply with any requirements set out in regulations.
- (8) References to a mistake in the data asset register in this Part include anything mistakenly omitted from it as well as anything mistakenly included in it.
- (9) A data asset foundation which fails to comply with subsection (4) commits an offence.
- (10) A data enforcer who fails to comply with subsection (5) commits an offence.

84 Accredited assurance providers

- (1) An accredited assurance provider is a person or body that has been accredited by the Department where the Department is satisfied that the person or body has met the applicable criteria and qualifications established by virtue of subsection (2).
- (2) Regulations must —
 - (a) specify the criteria and qualifications required for accreditation of a person or body as an accredited assurance provider;
 - (b) specify the process for granting, suspending or revoking accreditation of a person or body as an accredited assurance provider; and
 - (c) establish a public register of accredited assurance providers.
- (3) A data asset foundation must —
 - (a) appoint an accredited assurance provider to issue a data asset accreditation for the purposes of any application made

- 1 under section 78 or to issue a renewal of a data asset
2 accreditation; and
- 3 (b) provide all reasonable assistance to the accredited assurance
4 provider for the performance of its functions.
- 5 (4) An accredited assurance provider may issue or renew a data asset
6 accreditation if satisfied that the data asset meets the requirements
7 set out in the data governance framework.
- 8 (5) Information received by an accredited assurance provider from a
9 foundation in the course of its duties under subsection (4) may be
10 disclosed by the provider to the data asset registrar for the
11 purposes of this Act.
- 12 (6) A data asset foundation which fails to comply with subsection
13 (3)(b) commits an offence.

85 Data asset accreditation

- 14
- 15 (1) A data asset foundation must not utilise a data asset unless there is
16 a valid data asset accreditation in respect of that data asset.
- 17 (2) A data asset accreditation may be suspended or revoked in the
18 circumstances set out in the data governance framework.
- 19 (3) The data asset registrar shall update the data asset register to state
20 that the data asset accreditation applicable to a data asset has been
21 suspended or revoked or has expired.
- 22 (4) If a data asset accreditation certificate is revoked or has expired, the
23 data asset registrar must update the status of the data asset on the
24 data asset register to record it is subject to remediation.
- 25 (5) While a data asset is in the status of remediation —
- 26 (a) the prohibition on utilising the data asset under subsection
27 (1) continues to apply;
- 28 (b) the personal property right vested in the data asset
29 foundation under section 80(4) remains in effect; and
- 30 (c) the data asset foundation must, within the remediation
31 period, provide the data asset registrar with confirmation of
32 a valid data asset accreditation.
- 33 (6) The remediation period is 90 days, or such other period as may be
34 prescribed by regulations for specific categories of data assets.
- 35 (7) The data asset registrar may, upon written application by the
36 council of the foundation and if satisfied that there are reasonable
37 grounds for doing so, extend the remediation period for a further
38 period not exceeding 90 days.

- (8) If a valid data asset accreditation has not been provided upon the expiry of the remediation period (including any extension), the data asset registrar must follow the process prescribed in regulations to remove the data asset from the data asset register.

86 Data enforcers

- (1) Every data asset foundation must appoint a data enforcer for the purposes of this Part.
- (2) A data enforcer is a person that meets the criteria (which may include qualifications and certifications) and has the functions set out in the data governance framework.
- (3) The data enforcer must act in accordance with the requirements of the data governance framework when exercising functions.
- (4) The council of the data asset foundation must cooperate with and provide reasonable assistance to the data enforcer to enable the data enforcer to carry out its functions.
- (5) Information received from the data asset foundation by the data enforcer in the performance of its functions under this Act may be disclosed by the data enforcer to the data asset registrar.
- (6) Regulations may —
 - (a) confer functions on data enforcers in relation to data asset foundations;
 - (b) establish a reporting framework for assessing the compliance of data asset foundations with the requirements of this Act; and
 - (c) determine the circumstances in which a data asset may be removed from the data asset register as a result of non-compliance with this Act.
- (7) Section 14 does not apply to a data asset foundation.
- (8) For the purposes of section 3 and Part 5, a data enforcer is a “person with sufficient interest” in respect of a data asset foundation.

87 Liability of data enforcers

- (1) This section applies to a data enforcer when acting or purporting to be acting in the course of that appointment.
- (2) Nothing —
 - (a) in the foundation instrument or foundation rules;
 - (b) in the data governance framework; or
 - (c) in a contract between the data asset foundation and the data enforcer,

relieves, releases or excuses the data enforcer from any liability for the person's fraud, wilful misconduct or gross negligence.

(3) A data enforcer shall not be liable for the actions of a data asset foundation under this Part unless the relevant actions of the data asset foundation are proven to —

- (a) have been committed with the consent or connivance of that data enforcer; or
- (b) be attributable to neglect on the part of that data enforcer.

88 Council of a data asset foundation

(1) In addition to the requirements set out in section 23, the council of a data asset foundation must have at least two members who meet the qualification requirements set out in the data governance framework.

(2) In addition to the duties of council members set out in section 24(2), the members of the council of a data asset foundation in conducting the foundation's affairs relating to its data assets, must —

- (a) ensure that all activities involving its data assets directly support the attainment of the data asset foundation's objects;
- (b) ensure compliance with the data governance framework and any other requirements of this Part and regulations in respect of its data assets; and
- (c) oversee the establishment and operation of effective access control mechanisms for its data assets.

(3) In the case of a data asset foundation, nothing —

- (a) in the foundation instrument or foundation rules;
- (b) in the data asset register or a data asset dedication instrument; or
- (c) in a contract between the data asset foundation and member of its council,

relieves, releases or excuses a member of the council from any liability for that person's fraud, wilful misconduct or gross negligence.

(4) Section 26(3) applies to the council of a data asset foundation.

89 Documents to be kept at business address of data asset foundation

Regulations may include additional documents and records to those listed in section 41(2) which must be kept by a data asset foundation pursuant to section 41(1).

90 Data asset foundation to keep accounts

The financial statements and accompanying notes prepared by a data asset foundation in accordance with section 42(2) must, in respect of a data asset —

- (a) set out the basis of valuation for the data asset; and
- (b) appropriately record any revenue generated from the data asset and costs associated with the management of the data asset.

91 Applications to the High Court relating to data asset foundations

(1) In respect of a data asset foundation, the High Court may order the amendment of the foundation instrument or the foundation rules if satisfied that the change will assist the foundation to utilise its data assets or to comply with the requirements of the data governance framework.

(2) Without prejudice to Part 5, if the High Court is satisfied that a person has failed to comply with —

- (a) a requirement of this Act or of the foundation instrument or foundation rules; or
- (b) an obligation imposed on the person by this Act or the foundation instrument or foundation rules,

the Court may make an order or give a direction requiring the suspension or revocation of a data asset accreditation or the rectification of the data asset register.

(3) Without prejudice to section 54(1), subsections (2) and (3) of that section apply if the High Court is satisfied that, if it gives a direction, it will assist the data asset foundation to utilise its data assets or to comply with the requirements of the data governance framework.

(4) Without prejudice to Part 5, a person with sufficient interest may apply to the High Court for the Court to give directions or make orders concerning disputes over utilisation of data assets or the practices of a data asset foundation where the Court is satisfied that —

- (a) the person with sufficient interest has exhausted any alternative dispute resolution process prescribed by regulations in seeking to resolve such dispute; or
- (b) it is otherwise desirable to make an order or give a direction.

(5) Orders made or directions given under subsection (4) include but are not limited to —

- (a) the suspension or revocation of a data asset accreditation; or

- (b) the rectification of the data asset register.

92 Data asset foundation regulations

- (1) The powers of the Treasury to make regulations under section 61 shall not apply in respect of this Part.
- (2) The Department may make regulations —
 - (a) in accordance with the provisions of this Part;
 - (b) in respect of any matters which the Department considers to be necessary to give effect to this Part.
- (3) Without limiting subsection (2), regulations under this section may include provision in relation to any of the following —
 - (a) the data governance framework;
 - (b) the establishment, maintenance, operation and public accessibility of the data asset register, including without limitation the required form and content of the data asset register, arrangements for inspection of and access to the data asset register, and the fees payable in respect of registration of data assets and other services provided by the data asset registrar;
 - (c) the information that must be included on the data asset register in respect of each recorded data asset;
 - (d) the form, content and registration requirements for data asset dedication instruments;
 - (e) criteria for the form or method of dedication which may be required by the data asset registrar as a condition of registration of the data asset including the form and content of data asset dedication instrument;
 - (f) the identity and role of the data asset registrar in respect of the oversight and operation of the data asset register;
 - (g) the form, procedure for application, criteria for issue, renewal, suspension and revocation of a data asset accreditation;
 - (h) the criteria and qualifications required for accreditation of an accredited assurance provider, the process for granting, suspending or revoking accreditation, and the establishment and maintenance of a public register of accredited assurance providers;
 - (i) requirements for the audit and assurance of data asset foundations' compliance with the data governance framework and data management practices, reporting obligations and renewal periods for accreditations, certifications or attestations;

- (j) the imposition of civil penalties for non-compliance with requirements specific to data asset foundations under this Part or regulations, and procedures for striking-off of data asset foundations from the register for such non-compliance, supplementing or modifying any general powers under section 61(1)(m);
- (k) the conferring of powers on the data asset registrar to refuse to accept documents or to refuse to register a data asset;
- (l) any requirements which must be followed by the data asset registrar when removing data assets from the data asset register;
- (m) any requirements which must be followed by the data asset registrar when updating the data asset register;
- (n) an alternative dispute resolution process relating to data assets or data asset foundations (or to both), including the requirements for the process, criteria for entry to the process, forum established or otherwise appointed for the process, and consequences of such process;
- (o) the conferring of rights of appeal in relation to decisions taken under this Part;
- (p) the principles or specific amounts for any fees payable in relation to applications, registrations or certifications specific to data asset foundations, where such fees are not otherwise provided for under section 62;
- (q) the data valuation framework including but not limited to the methodologies or standards for the valuation of data assets for the purposes of financial reporting by data asset foundations, supplementing section 90(a);
- (r) prescribing equivalent data registers;
- (s) conferring functions on data enforcers, including (but not limited to) powers equivalent to those under section 14 to —
 - (i) require the council to account for the administration of data assets and the pursuit of the data asset foundation's objects; and
 - (ii) sanction or authorise actions of the council which would otherwise not be permitted by the data asset foundation rules, subject to such conditions as may be prescribed;
- (t) making provision for the appointment, retirement, removal and remuneration of data enforcers (supplementing or modifying the requirements of the data governance framework);

- 1 (u) the keeping of documents and records by data asset
2 foundations;
- 3 (v) prescribing model foundation rules for data asset
4 foundations;
- 5 (w) enabling the conversion of a foundation into a data asset
6 foundation, including provision about the procedure for
7 conversion, the conditions to be met, and the effect of
8 conversion;
- 9 (x) prescribing the time periods within which data assets must
10 be registered on the data asset register, including different
11 periods for different classes of data assets or data asset
12 foundations;
- 13 (y) the consequences of a failure by a data asset foundation to
14 register any data asset within the time period prescribed
15 under the regulations made under paragraph (x); and
- 16 (z) any other matter where the Department considers that
17 regulations are necessary to give effect to the provisions of
18 this Act relating to data asset foundations.
- 19 (4) Regulations may make different provisions for different types or
20 categories of data assets or data asset foundations.
- 21 (5) Regulations may —
- 22 (a) provide for their contravention to be an offence and
23 prescribe a penalty for commission of the offence of a fine
24 not exceeding level 5 on the standard scale on summary
25 conviction;
- 26 (b) exempt a person from a provision of this Part to which the
27 regulations relate;
- 28 (c) confer functions on persons;
- 29 (d) permit a person to exercise a discretion in respect of any
30 matters specified in the regulations;
- 31 (e) require compliance with standards or the adoption of
32 practices recommended or specified from time to time
33 (whether before or after the making of the regulations) by a
34 person or body specified in the regulations; and
- 35 (f) contain consequential, incidental, supplementary and
36 transitional provisions which the Department considers to
37 be necessary.
- 38 (6) Regulations made during the period of 12 months beginning on the
39 date section 68 comes into operation may modify, adapt or amend
40 any provision of this Act or any other enactment where the
41 Department considers it necessary for the operation of this Part.

- (7) The power conferred by subsection (5)(f) includes the power to modify, adapt or amend any provision of this Act or any other enactment.
- (8) Regulations may not require a person to pay a civil penalty in relation to non-compliance referred to in subsection (3)(j) if criminal proceedings have been commenced in respect of that non-compliance.
- (9) Subject to subsection (10), regulations made under this Part are subject to the affirmative procedure.
- (10) Notwithstanding subsection (9), regulations must not come into operation unless they are approved by Tynwald if they include provision in relation to any of the following matters —
 - (a) matters specified in subsection (3)(j) or (n);
 - (b) matters specified in subsection (5)(a) or (b);
 - (c) matters which entail the exercise of the power specified in subsection (6); or
 - (d) matters specified in subsection (5)(f) which entail the exercise of the power specified in subsection (7).

93 Guidance

- (1) The Department may give guidance consisting of such information and advice as it considers appropriate —
 - (a) with respect to the operation of this Part and of any regulations; and
 - (b) with respect to any other matters about data asset foundations which it appears to the Department to be desirable to give information and advice.
- (2) The Department must publish its guidance.
- (3) Any guidance issued under this section is admissible in evidence in any legal proceedings and, if any provision of such guidance appears to the court or tribunal concerned to be relevant to any question arising in the proceedings, it may be taken into account in determining that question.

94 Review of data asset foundation provisions

- (1) The Department must, before the end of the period of 3 years beginning with the day on which section 68 comes into operation, carry out a review of the provisions of this Act relating to data asset foundations.
- (2) The Department must, as soon as reasonably practicable after completing the review under subsection (1), prepare and publish a

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report setting out the conclusions of the review and any proposals for amendment of this Act or regulations.

(3) The report prepared under subsection (2) must be laid before Tynwald for its approval.”.

IN THE COUNCIL

FOUNDATIONS (AMENDMENT) BILL 2025

A BILL to amend the Foundations Act 2011 to provide for data asset foundations; to make consequential and supplemental amendments; and for connected purposes.

Brought from the Keys on 24 February 2026 and reprinted to incorporate amendments made by the Keys.

MRS TANYA AUGUST-
PHILLIPS

FEBRUARY 2026