
WELSH STATUTORY INSTRUMENTS

2020 No. 452 (W. 102)

PUBLIC HEALTH, WALES

**The Health Protection (Coronavirus Restrictions)
(Wales) (Amendment) (No. 2) Regulations 2020**

<i>Made</i>	- - - -	<i>at 11:45 a.m. on 24 April 2020</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>at 2:45 p.m. on 24 April 2020</i>
<i>Coming into force</i>	- -	<i>at 12.01 a.m. on 25 April 2020</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 45C(1) and (3)(c), 45F(2) and 45P of the Public Health (Control of Disease) Act 1984⁽¹⁾.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Wales.

The Welsh Ministers consider that restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with section 45R of that Act the Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make this instrument without a draft having been laid before, and approved by a resolution of, the National Assembly for Wales.

Title, coming into force and application

1.—(1) The title of these Regulations is the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 2) Regulations 2020 and they come into force at 12.01 a.m. on 25 April 2020.

(2) In these Regulations, “the principal Regulations” means the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020⁽²⁾.

Termination directions

2. In regulation 3 of the principal Regulations, for paragraph (4) substitute—

(1) 1984 c. 22. Sections 45C, 45F and 45P were inserted by section 129 of the Health and Social Care Act 2008 (c. 14). The functions under these sections are conferred on “the appropriate Minister”. Under section 45T(6) of the 1984 Act the appropriate Minister, as respects Wales, is the Welsh Ministers.

(2) S.I. 2020/353 (W. 80) as amended by the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) Regulations 2020 (S.I. 2020/399 (W. 88)).

“(4) The Welsh Ministers may, if they consider it appropriate to do so having regard to the need to prevent, protect against, control or provide a public health response to the incidence or spread of infection in Wales with the coronavirus, publish a direction terminating a requirement or restriction in relation to—

- (a) a specified business or service or a specified description of business or service;
- (b) a specified description of persons;
- (c) a specified part of Wales.

(4A) The termination of a restriction or requirement by a direction does not affect—

- (a) any punishment incurred in respect of any offence committed under these Regulations before the restriction or requirement is terminated,
- (b) any fixed penalty notice issued under regulation 13 in relation to conduct occurring before the restriction or requirement is terminated, or
- (c) any investigation, legal proceeding or remedy in respect of—
 - (i) any such offence or conduct, or
 - (ii) any alleged offence under these Regulations that is alleged to have been committed before the restriction or requirement is terminated,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such punishment or penalty may be imposed, as if the termination had not occurred.”

Physical distancing requirement in relation to certain premises

3.—(1) Regulations 4, 5, 6 and 6A of the principal Regulations are amended as follows.

(2) After regulation 4(5) insert—

“(5A) Paragraph (5B) applies—

- (a) to premises used to carry on a business or provide a service mentioned in subparagraph (1)(a), (b) or (c) of paragraph 2 of Schedule 1, or
- (b) where premises used to carry on a business or provide a service listed in Part 2 or 3 of Schedule 1 are used for a purpose mentioned in paragraph (5).

(5B) Where this paragraph applies, the person responsible for carrying on the business or providing the service must, during the emergency period, take all reasonable measures to ensure —

- (a) that a distance of 2 metres is maintained between any persons on the premises (except between two members of the same household, or a carer and the person assisted by the carer),
- (b) that persons are only admitted to the premises in sufficiently small numbers to make it possible to maintain that distance, and
- (c) that a distance of 2 metres is maintained between persons waiting to enter the premises (except between two members of the same household, or a carer and the person assisted by the carer).”

(3) After regulation 5(3A) insert—

“(3B) Paragraph (3C) applies where premises used for a business listed in Part 3 of Schedule 1 are used—

- (a) to provide accommodation in accordance with paragraph (3), or
- (b) to carry on the business in accordance with paragraph (3A).

- (3C) Where this paragraph applies, the person responsible for carrying on the business must, during the emergency period, take all reasonable measures to ensure—
- (a) that a distance of 2 metres is maintained between any persons on the premises (except between two members of the same household, or a carer and the person assisted by the carer),
 - (b) that persons are only admitted to the premises in sufficiently small numbers to make it possible to maintain that distance, and
 - (c) that a distance of 2 metres is maintained between persons waiting to enter the premises (except between two members of the same household, or a carer and the person assisted by the carer).”
- (4) In regulation 6, after paragraph (2) insert—
- “(2A) Where premises are not closed because they are premises required in order to carry on a business as permitted by paragraph (2)(a), the person responsible for carrying on the business must, during the emergency period, take all reasonable measures to ensure—
- (a) that a distance of 2 metres is maintained between any persons on the premises (except between two members of the same household, or a carer and the person assisted by the carer),
 - (b) that persons are only admitted to the premises in sufficiently small numbers to make it possible to maintain that distance, and
 - (c) that a distance of 2 metres is maintained between persons waiting to enter the premises (except between two members of the same household, or a carer and the person assisted by the carer).”
- (5) In regulation 6A, for paragraph (2) substitute—
- “(2) Paragraph (1) does not apply to premises—
- (a) used in the carrying on of a business, or provision of a service, listed in Schedule 1, or
 - (b) to which regulation 6(2A) applies.”

Restriction on persons leaving or being outside of the place where they live

- 4.—(1) Regulation 8 of the principal Regulations is amended as follows.
- (2) In paragraph (1), after “living” insert “or remain away from that place”.
- (3) In paragraph (2)—
- (a) for sub-paragraph (a) substitute—
 - “(a) to obtain supplies from any business or service listed in Part 4 of Schedule 1 including—
 - (i) food and medical supplies for those in the same household (including animals in the household) or for vulnerable persons;
 - (ii) supplies for the essential upkeep, maintenance and functioning of the household, or the household of a vulnerable person;
 - (aa) to obtain money from or deposit money with any business or service listed in paragraphs 38 or 39 of Schedule 1;”
 - (b) for sub-paragraph (b) substitute—
 - “(b) to take exercise, no more than once a day (or more frequently if this is needed because of a particular health condition or disability), either—
 - (i) alone,

- (ii) with other members of the person’s household, or
- (iii) with the person’s carer;”
- (c) after sub-paragraph (g) insert—
 - “(ga) to visit a cemetery, burial ground or garden of remembrance to pay respects to a deceased person;”
- (d) in sub-paragraph (i)—
 - (i) in paragraph (i), for “the person’s child” substitute “a child in relation to whom the person is the parent, or has parental responsibility for, or has care of”;
 - (ii) in paragraph (iii), in the English language text, for “Department of Work” substitute “Department for Work”;
- (e) in sub-paragraph (l), for “necessary” substitute “the move cannot be postponed”.

Enforcement

- 5.—(1) Regulation 10 of the principal Regulations is amended as follows.
- (2) In paragraph (1)—
- (a) omit “reasonably believes that”;
 - (b) in sub-paragraph (a)—
 - (i) at the beginning insert “has reasonable grounds for suspecting that”;
 - (ii) after “4,” insert “5(3C),”;
 - (c) in sub-paragraph (b), at the beginning insert “considers”.
- (3) In paragraph (2), for “considers” substitute “has reasonable grounds for suspecting”.
- (4) For paragraph (3) substitute—
- “(3) A relevant person may—
- (a) when exercising the power in paragraph (2)(a) or (b), direct P to follow such instructions as the relevant person considers necessary;
 - (b) use reasonable force in the exercise of the power in paragraph (2)(b).”
- (5) In paragraph (5), for “purpose of paragraph (4)” substitute “purposes of this regulation”.
- (6) In paragraph (7), for “considers” substitute “has reasonable grounds for suspecting”.
- (7) For paragraph (8) substitute—
- “(8) A relevant person exercising the power in paragraph (7)—
- (a) to direct a gathering to disperse, or
 - (b) to remove a person to the place where they are living,
- may use reasonable force, if necessary, in exercise of the power.
- (8A) Where a relevant person has reasonable grounds to suspect that a person (“P”) is in a gathering in contravention of regulation 8(5) and is a child accompanied by an individual (“I”) who has responsibility for P—
- (a) the relevant person may direct I to take P to the place where P is living, and
 - (b) I must, so far as reasonably practicable, ensure that P complies with any direction or instruction given by the relevant person to P.
- (8B) A relevant person may only exercise a power in paragraph (7) or (8A) if the relevant person considers that it is necessary and proportionate to do so.”
- (8) In paragraph (9)—

- (a) for “A” substitute “If a relevant person considers it necessary and proportionate for the purposes of preventing, or terminating, a contravention of regulation 9(4), the”;
- (b) after “force” insert “, if necessary,”.
- (9) In paragraph (12), after “4,” insert “5(3C),”.

Minor and consequential amendments

- 6.—(1) The principal Regulations are amended as follows.
- (2) In regulation 1(3)(e), after paragraph (iii) insert—
 - “(iv) any child;
 - (v) any person who is a vulnerable adult within the meaning given by section 60(1) of the Safeguarding Vulnerable Groups Act 2006(3).”
 - (3) In regulation 4(5)—
 - (a) in sub-paragraph (a), after “Part 2” insert “of Schedule 1”;
 - (b) for sub-paragraph (b) substitute—
 - “(b) premises used for the businesses or services listed in Part 2 or 3 of Schedule 1 for any purpose as may be requested by the Welsh Ministers or a local authority;”
 - (c) in sub-paragraph (c)(ii), omit “orders”.
 - (4) In regulation 5(3A), omit sub-paragraph (a).
 - (5) In regulation 6(2)(a)(ii), after “orders” insert “or enquiries”.
 - (6) In regulation 7—
 - (a) in the Welsh language text, for “cam”, in each place it occurs, substitute “mesur”;
 - (b) in the Welsh language text, for “cymrir”, in each place it occurs, substitute “cymerir”;
 - (c) in the Welsh language text of paragraph (4), omit “wedi ei gymryd”;
 - (d) after paragraph (4) insert—
 - “(4ZA) Paragraph (3) does not apply to the grounds surrounding a crematorium, including any burial ground or garden of remembrance.”;
 - (e) in the Welsh language text of paragraph (5)(b), omit “wedi ei gymryd”.
 - (7) In regulation 7A(1)—
 - (a) after sub-paragraph (a) insert—
 - “(aa) regulation 4(5B),
 - (ab) regulation 5(3C),”;
 - (b) in sub-paragraph (b), after “6(1)” insert “or (2A)”;
 - (c) in the Welsh language text, in the words after sub-paragraph (d), for “camau” substitute “mesurau”.
 - (8) In regulation 8—
 - (a) in paragraph (2)(d)—
 - (i) in the Welsh language text, for “cymorth” substitute “cynhorthwy”;
 - (ii) after “emergency assistance” insert “to any person”;

(3) 2006 c. 47. The definition of “vulnerable adult” in section 60(1) was amended by s. 65(2)(b) of the Protection of Freedoms Act 2012 (c. 9).

- (b) in paragraph (2)(m), in the Welsh language text, for “newid” substitute “niwed”;
 - (c) in paragraph (5)(d)(iii), after “emergency assistance” insert “to any person”.
- (9) In regulation 12(1)(a), after “4,” insert “5(3C),”.
- (10) In Schedule 1—
- (a) in the Welsh language text of paragraph 2(2)(b), for “pan y cymrir pob cam” substitute “pan gymerir pob mesur”;
 - (b) in paragraph 22, after “except for” insert “livestock markets and”;
 - (c) in paragraph 24, at the end insert “(except for livestock auctions)”;
 - (d) in paragraph 38, for “and cash points” substitute “, savings clubs, cash points and undertakings which by way of business operate currency exchange offices, transmit money (or any representation of money) by any means or cash cheques which are made payable to customers.”

At 11:45 a.m. on 24 April 2020

Mark Drakeford
First Minister, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2A of the Public Health (Control of Disease) Act 1984 enables the Welsh Ministers, by regulations, to make provision for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination in Wales.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Wales.

These Regulations amend the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 (the “principal Regulations”).

Regulation 2 replaces paragraph (4) of regulation 3 of the principal Regulations with a more flexible provision that enables a requirement or restriction imposed by the principal Regulations to be terminated in relation to specific businesses or services (or descriptions of businesses or services), specific categories of persons or particular areas of Wales. A new paragraph (4A) is also inserted into regulation 3 of the principal Regulations to make clear that the termination of a requirement or restriction does not affect things which happen before the termination takes effect.

Regulation 3 amends regulations 4, 5, 6 and 6A of the principal Regulations so as to require persons responsible for businesses or services carried on in premises of the types listed below to take all reasonable measures to ensure that a distance of 2 metres is maintained between persons on the premises (unless the persons are members of the same household or are a carer and the person being cared for), to ensure the number of persons allowed to enter is limited so as to enable those measures to have effect, and to ensure that a distance of 2 metres is maintained between persons waiting to enter. The premises are—

- (a) premises used as cafés or canteens at a hospital, care home, school, prison or military establishment or used to provide food and drink to homeless persons;
- (b) premises that, although generally required to be closed under regulation 4(4) of the principal Regulations, are open for the purposes of broadcasting, or on the request of the Welsh Ministers or a local authority, or to provide services online, by telephone or by post;
- (c) holiday accommodation that is permitted to remain open to provide accommodation to certain persons, or for a purpose requested by the Welsh Ministers or a local authority, or to provide services online, by telephone or by post;
- (d) any part of a shop that would otherwise be required to close under regulation 6(2) of the principal Regulations but is permitted to remain open to respond to orders and enquiries received online, by telephone or by post (for example to provide facilities for the uplift of orders placed online, generally known as a “click and collect” service).

Regulation 4 makes a number of amendments to regulation 8 of the principal Regulations concerning the requirement that a person not leave the place where they are living without a reasonable excuse, including—

- (a) amending paragraph (1) to clarify that the restriction on leaving the place where a person is living without reasonable excuse also includes remaining away from that place without reasonable excuse;

Status: This is the original version (as it was originally made).

- (b) clarifying the drafting of paragraph (2)(a) to resolve the tautology of having a “need to obtain basic necessities” and making it clear that persons can visit banks and similar establishments to both withdraw and deposit money;
- (c) making clear that it is a reasonable excuse to exercise more than once a day if needed because of a particular health condition or disability;
- (d) to specify that visiting a burial ground or garden of remembrance to pay respects is a reasonable excuse.

Regulation 5 makes amendments to regulation 10 of the principal Regulations to clarify the application of enforcement provisions.

Regulation 6 contains further minor and consequential amendments to the principal Regulations.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has not been prepared as to the likely cost and benefit of complying with these Regulations.