

Regulations made by the Welsh Ministers, laid before Senedd Cymru under section 45R of the Public Health (Control of Disease) Act 1984 (c. 22), for approval by resolution of Senedd Cymru within twenty-eight days beginning with the day on which the instrument is made, subject to extension for periods of dissolution or recess for more than four days.

WELSH STATUTORY INSTRUMENTS

2020 No. 803 (W. 176)

PUBLIC HEALTH, WALES

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

Made - - - - at 1.50 p.m. on 24
July 2020
at 5.00 p.m. on 24
Laid before Senedd Cymru July 2020
Coming into force in accordance with regulation 1(2),
(3) and (4)

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 the amendments made 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, Senedd Cymru.

Title and coming into force

1.—(1) The title of these Regulations is the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 2) Regulations 2020.

(2) This regulation comes into force immediately after the Regulations are made.

(3) Regulations 2 and 4 come into force on 25 July 2020.

(4) Regulation 3 comes into force on 27 July 2020.

⁽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.

Amendments coming into force on 25 July 2020

2.—(1) The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020(2) are amended as follows.

- (2) Omit regulation 8.
- (3) In regulation 9, for “, 7(1) or 8(1)”, in both places it occurs, substitute “or 7(1)”.
- (4) In regulation 12(3), omit sub-paragraph (f).
- (5) In regulation 14(2)—
 - (a) in sub-paragraph (j), omit “critical” and the words from “, including” to the end;
 - (b) after that sub-paragraph insert—
 - “(ja) access childcare or participate in supervised activities for children;”.
- (6) Omit regulation 16.
- (7) In regulation 17(2), omit “8(1),”.
- (8) In regulation 18(1), omit “8(1),”.
- (9) In regulation 20(1)(a)—
 - (a) omit “8(1),”;
 - (b) for “, 12(2) or 16(1)” substitute “or 12(2)”.
- (10) In Schedule 1, in paragraphs 1, 2(1) and 3, for “Schedule 3” substitute “Schedule 4”.
- (11) In Schedule 2, omit paragraph 15.
- (12) Omit Schedule 3.
- (13) In Schedule 4—
 - (a) in paragraph 24, omit the words in brackets;
 - (b) after paragraph 26 insert—

“27.—(1) Holiday sites.

(2) In this paragraph, a “holiday site” means any land in Wales on which a mobile home or caravan is stationed for the purposes of human habitation (including any land in Wales used in conjunction with that land), in respect of which the relevant planning permission or the site licence for the land—

- (a) is expressed to be granted for holiday use only, or
- (b) requires that there are times of the year when no mobile home or caravan may be stationed on the site for human habitation.

(3) For the purpose of determining whether or not a site is a holiday site, any provision of the relevant planning permission or of the site licence which permits the stationing of a mobile home on the land for human habitation all year round is to be ignored if the mobile home is authorised to be occupied by—

- (a) the person who is the owner of the site, or
- (b) a person employed by that person but who does not occupy the mobile home under an agreement to which Part 4 of the Mobile Homes (Wales) Act 2013(3) applies.

28. Camping sites.

(2) [S.I. 2020/725 \(W. 162\)](#), as amended by the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) Regulations 2020 ([S.I. 2020/752 \(W. 169\)](#)).

(3) [2013 anaw 6](#), as amended by the Housing (Wales) Act 2014 (anaw 7).

29. Hotels and bed and breakfast accommodation.

30. Other holiday accommodation (including holiday apartments, hostels and boarding houses).”

Amendments coming into force on 27 July 2020

3.—(1) The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 are amended as follows.

(2) In regulation 1(2) after “Wales” insert “(which, for the purposes of Part 3, includes the airspace above Wales)”.

(3) In regulation 2(1), after sub-paragraph (k) insert—

“(l) “face covering” means a covering of any type which covers a person’s nose and mouth;

(m) “public transport service” means a service provided for the carriage of passengers by road, railway, tramway, air or water;

(n) “vehicle” includes an aircraft, a cable car, a train, a tram and a vessel.”

(4) In regulation 7(2)—

(a) in sub-paragraph (a), omit “1,”;

(b) omit sub-paragraph (d).

(5) In regulation 10—

(a) omit paragraphs (1) to (3);

(b) in the heading, omit “crematoriums and”.

(6) In regulation 12—

(a) in paragraph (3)(g), omit “permitted to open by virtue of regulation 10(2)”;

(b) in paragraph (4), for “service for the carriage of passengers by road, rail, tramway, air or sea” substitute “public transport service”.

(7) After regulation 12 insert—

“Requirement to wear face covering on public transport

12A.—(1) A person (“P”) who is travelling as a passenger on a vehicle used to provide a public transport service must wear a face covering.

(2) But this is not required—

(a) where an exemption applies under paragraph (3);

(b) where P has a reasonable excuse not to wear a face covering, as to which see paragraph (4).

(3) An exemption to the requirement to wear a face covering applies—

(a) where P is a child under the age of 11;

(b) on a vehicle providing a school transport service;

(c) on a ferry where—

(i) the part of the ferry which is open to passengers is entirely outdoors, or

(ii) a distance of at least 2 metres can be maintained between persons on the part of the ferry which is open to passengers;

(d) on a cruise ship;

- (e) where P is allocated a cabin, berth or other similar accommodation on the vehicle, at any time when P is in that accommodation—
 - (i) alone, or
 - (ii) only with members of P’s household or a member of the household’s carer;
 - (f) where—
 - (i) P is permitted, or ordinarily required, to board and to stay in a vehicle when using the public transport service,
 - (ii) the vehicle is not itself used for the provision of a public transport service, and
 - (iii) P stays in that vehicle;
 - (g) on an aircraft which neither took off from, nor is to land at, a place in Wales;
 - (h) on a vessel which does not dock at a port in Wales.
- (4) The circumstances in which P has a reasonable excuse to not wear a face covering include—
- (a) where P is unable to put on, wear or remove a face covering because of a physical or mental illness or impairment, or a disability (within the meaning of section 6 of the Equality Act 2010(4));
 - (b) where P has to remove the face covering to communicate with another person who has difficulty communicating (in relation to speech, language or otherwise);
 - (c) where P has to remove the face covering in order to avoid harm or injury, or the risk of harm or injury, to themselves or others;
 - (d) where P is travelling to avoid injury, or to escape a risk of harm, and does not have a face covering;
 - (e) where P has to remove the face covering to—
 - (i) take medication;
 - (ii) eat or drink, if this is allowed on the vehicle and is reasonably necessary (for example due to the length of the journey);
 - (f) where P is asked to remove the face covering by—
 - (i) an enforcement officer, or
 - (ii) the operator of the public transport service, an employee of the operator or a person authorised by the operator.
- (5) An operator of a public transport service to which paragraph (1) applies must provide information to passengers about the requirement to wear face coverings on their vehicles.
- (6) For the purposes of this regulation a “school transport service” means any transport service provided solely for the purpose of—
- (a) carrying a person to and from the school or other place at which the person receives education or training, or
 - (b) otherwise facilitating a person’s attendance at a school or other place at which the person receives education or training.”
- (8) In regulation 13—
- (a) after paragraph (1) insert—
 - “(1A) An operator of a public transport service to which regulation 12A applies must have regard to guidance issued by the Welsh Ministers about—

- (a) the requirement to wear a face covering in accordance with paragraphs (1) to (4) of regulation 12A and the enforcement of that requirement under regulation 18;
 - (b) providing information to passengers in accordance with paragraph (5) of regulation 12A.”;
 - (b) in paragraph (2)(a) after “paragraph (1)” insert “or (1A)”.
- (9) In regulation 14—
- (a) in paragraph (2), for sub-paragraphs (m) and (n) substitute—
 - “(m) undertake activities in connection with the purchase, sale, letting, or rental of residential property;”;
 - (b) omit paragraph (4).
- (10) In regulation 17(2), for “10(1) or (4)” substitute “10(4)”.
- (11) In regulation 18—
- (a) in paragraph (1), for “10(1) or (4) or 12(2)” substitute “10(4), 12(2) or 12A(5)”;
 - (b) after paragraph (3) insert—
 - “(3A) If an enforcement officer has reasonable grounds to suspect that a person (“P”) is contravening (or is about to contravene) regulation 12A(1), the officer may—
 - (a) direct P not to board the vehicle providing the public transport service in question;
 - (b) remove P from the vehicle, and may use reasonable force, if necessary, to do so.
 - (3B) If the operator of a public transport service, an employee of the operator or a person authorised by the operator, has reasonable grounds to suspect that a person (“P”) is about to contravene regulation 12A(1), the operator, employee or authorised person may direct P not to board the vehicle providing the public transport service in question.”;
 - (c) after paragraph (6) insert—
 - “(6A) Where an enforcement officer has reasonable grounds to believe that a child is failing to comply with the requirement in regulation 12A(1), the officer may direct any individual who has responsibility for the child to secure, so far as reasonably practicable, that the child complies with the requirement.”;
 - (d) in paragraph (7) after “paragraph (6)” insert “and (6A)”.
- (12) In regulation 20—
- (a) in paragraph (1)(a)—
 - (i) for “10(1) or (4)” substitute “10(4)”;
 - (ii) after “12(2)” insert “or 12A(1)”;
 - (b) in paragraph (3)—
 - (i) in sub-paragraph (a), after “regulation” insert “18(3A)(a),”;
 - (ii) omit the “or” after sub-paragraph (a);
 - (iii) after that sub-paragraph insert—
 - “(aa) contravenes a direction given by the operator of a public transport service, an employee of the operator or a person authorised by the operator, under regulation 18(3B), or”.

(13) In Schedule 2—

- (a) omit paragraphs 1, 7, 8 and 9;
- (b) in paragraph 13, omit “, amusement arcades”;
- (c) omit paragraph 14.

(14) In Schedule 4—

- (a) for paragraph 22 substitute—
 - “**22.** Cinemas.”;
- (b) after paragraph 30 insert—
 - “**31.** Massage parlours.
 - 32.** Nail and beauty salons.
 - 33.** Establishments providing tanning services, body piercings, tattooing, electrolysis or acupuncture.
 - 34.** Amusement arcades.
 - 35.** Museums, galleries and archive services.”

Savings for offences and penalties in relation to prior acts

4. Regulations 20 and 21 of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 continue to have effect in relation to any offence committed, or reasonably believed to have been committed, before the amendments made by these Regulations came into force as if those amendments had not been made.

At 1.50 p.m. on 24 July 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.

Regulations 2 and 3 of these Regulations amend the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020. The amendments made by regulation 2 come into force on 25 July 2020; those made by regulation 3 come into force on 27 July 2020.

The amendments made by regulation 2 consist of provision—

- (a) permitting underground visitor attractions to open, but the persons responsible for the premises will be required to take all reasonable measures to minimise the risk of exposure to coronavirus on the premises;
- (b) removing the requirement to close holiday accommodation that is not self-contained (but again the requirement to take all reasonable measures to minimise the risk of exposure to coronavirus on the premises will apply);
- (c) removing the requirement imposed on individuals to work from home where reasonably practicable;
- (d) clarifying that a reasonable excuse for gathering with other persons may include accessing any public services and childcare, as well as taking part in supervised children's recreation.

The amendments made by regulation 3 consist of provision—

- (a) permitting the opening of crematoriums (in all circumstances), indoor cinemas, nail and beauty salons, massage parlours, establishments providing tanning services, body piercings, tattooing, electrolysis or acupuncture, amusement arcades, museums, galleries and archive services (but as above, the requirement to take all reasonable measures to minimise the risk of exposure to coronavirus on the premises will apply);
- (b) requiring passengers travelling on public transport services to wear a face covering, subject to exceptions which are listed, and making provision for the enforcement of this duty;
- (c) relaxing the restriction on gatherings to allow a wider range of activities relating to the sale and letting of residential property, such as viewings of occupied properties.

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.