
WELSH STATUTORY INSTRUMENTS

2020 No. 1409 (W. 311)

PUBLIC HEALTH, WALES

The Health Protection (Coronavirus Restrictions and Functions of Local Authorities) (Amendment) (Wales) Regulations 2020

Approved by Senedd Cymru

<i>Made</i>	- - - -	<i>2 December 2020</i>
<i>Laid before Senedd Cymru</i>		<i>3 December 2020</i> <i>at 6.00 p.m. on 4</i>
<i>Coming into force</i>	- -	<i>December 2020</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 45B, 45C(1) and (3)(c), 45F(2) and 45P(2) 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, Senedd Cymru.

Title and coming into force

1.—(1) The title of these Regulations is the Health Protection (Coronavirus Restrictions and Functions of Local Authorities) (Amendment) (Wales) Regulations 2020.

(2) These Regulations come into force at 6.00 p.m. on 4 December 2020.

Amendment of the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020

2.—(1) The Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020(2) are amended as follows.

(2) In regulation 9—

(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. 2020/1219 (W. 276) as amended by S.I. 2020/1237 (W. 279) and S.I. 2020/1288 (W. 286).

- (a) in paragraph (1), for “outside Wales” substitute a “in a restricted UK area”;
- (b) in paragraph (2), after “leave Wales” insert “for the purposes of entering or remaining in a restricted UK area”;
- (c) at the end insert—
 - “(6) For the purposes of this regulation, “restricted UK area” means—
 - (a) an area of England for the time being specified or described in Part 2 of Schedule 4 to the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020(3) as being within the Tier 3 area;
 - (b) an area of Scotland for the time being specified in the table in Schedule 6 to the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(4), where the table indicates it is a Level 3 or Level 4 area;
 - (c) Northern Ireland.”
- (3) In Part 4, omit Chapter 3.
- (4) In regulation 19, after paragraph (1) insert—
 - “(1A) In its application to a business or service listed in paragraphs 10 to 12 of Schedule 1, paragraph (1) only applies to premises that are indoors.”
- (5) After regulation 19 insert—

“Restrictions on food and drink businesses

19A.—(1) A person responsible for carrying on a business or providing a service listed in paragraphs 5 to 7 of Schedule 2—

- (a) may not open its premises to customers before 6.00 a.m. each day;
- (b) must close the premises to customers at or before 6.00 p.m. each day.
- (2) The person responsible for the business may not—
 - (a) sell or supply alcohol for consumption on its premises;
 - (b) permit the consumption of alcohol on the premises.
- (3) For the purposes of this regulation, an area adjacent to the premises of the business where seating is made available for customers of the business (whether or not by the business) is to be treated as part of the premises of that business.
- (4) Where—
 - (a) a person responsible for carrying on a business listed in paragraphs 5 to 7 of Schedule 2 (“business A”) is subject to a requirement or restriction under this regulation, and
 - (b) business A forms part of a larger business (“business B”),
 the requirement or restriction is complied with if the person responsible for carrying on business B complies with the requirement or restriction.

Restrictions on food and drink businesses: exceptions

- 19B.**—(1) Regulation 19A(1) does not apply to—
- (a) premises located in—

(3) S.I. 2020/1374.

(4) S.S.I. 2020/344 as amended by S.S.I. 2020/347, S.S.I. 2020/374, S.S.I. 2020/389, S.S.I. 2020/392 and S.S.I. 2020/400.

- (i) a sea port;
 - (ii) an airport;
 - (iii) an educational establishment;
 - (iv) a hospital or care home;
 - (b) workplace canteens, where there is no practical alternative for people at that workplace to obtain food between 6.00 p.m. and 6.00 a.m.;
 - (c) premises used for the provision of food or drink to homeless persons.
- (2) Regulation 19A(1) does not prevent premises being used to sell or supply food or drink for consumption off the premises.
- (3) If—
- (a) the celebration of a marriage or formation of a civil partnership is being held on premises to which regulation 19A applies, and
 - (b) the celebration was booked before 6.00 p.m. on 4 December 2020,
- the premises may, despite regulation 19A(1)(b), remain open until 10.00 p.m. for the purposes of holding the celebration.
- (4) Paragraphs (5) and (6) apply where premises of a business or service listed in paragraphs 5 to 7 of Schedule 2 (“the restricted premises”) form part of the premises of holiday or travel accommodation.
- (5) Regulation 19A(1) does not—
- (a) require the restricted premises to be closed to the residents of the holiday or travel accommodation;
 - (b) prevent the sale of food or drink to residents—
 - (i) as part of room service, or
 - (ii) between 6.00 a.m. and 10.00 p.m. in any part of the premises of the holiday or travel accommodation.
- (6) Neither regulation 19A(1) nor (2)—
- (a) prevents residents from consuming food or drink (including alcohol) at any time in their private room;
 - (b) prevents the sale of alcohol to residents as part of room service (but see regulation 20).”
- (6) In regulation 20—
- (a) omit paragraphs (2) to (5);
 - (b) in paragraph (6), for “Paragraphs (1) and (2) do not allow the premises to be open, or” substitute “Paragraph (1) does not allow”;
 - (c) omit paragraph (7).
- (7) In regulation 25(3)—
- (a) after “19(1),” insert “19A(1) or (2),”;
 - (b) for “20(1) or (2)” substitute “20(1)”.
- (8) In regulation 28(4), for “, 14(2) or 18A(3)” substitute “or 14(2)”.
- (9) In regulation 31(4), for “, 14(2) or 18A(3)” substitute “or 14(2)”.
- (10) In regulation 32, at the end insert—

“(4) An enforcement officer may enter premises used wholly or mainly as a private dwelling only if the enforcement officer is a constable.”

(11) In regulation 34—

(a) in paragraph (1), omit “, including requiring any person to give any information or answer any question the officer considers to be relevant to the exercise of the power”;

(b) after paragraph (1) insert—

“(1A) Action taken under paragraph (1) may include requiring any person to give any information or answer any question the officer considers—

(a) necessary to enable the officer to determine whether to exercise a power conferred on the officer by this Part, or

(b) is otherwise relevant to the exercise of such a power.”

(12) In regulation 35—

(a) in paragraph (1)—

(i) in sub-paragraph (a), omit “18A(3),”;

(ii) in sub-paragraph (b)—

(aa) after “19(1),” insert “19A(1) or (2),”;

(bb) for “20(1) or (2)” substitute “20(1)”;

(b) in paragraph (5), before sub-paragraph (a) insert—

“(za) without reasonable excuse, fails to take the measures specified in a premises improvement notice issued under paragraph 1(1) of Schedule 3 within the time limit specified in the notice.”

(13) For regulation 42(1) substitute—

“**42.**—(1) This regulation applies to a fixed penalty notice issued in respect of an alleged offence—

(a) of contravening—

(i) regulation 19(1), 19A(1) or (2), or 20(1), or

(i) paragraph 3(1) of Schedule 3, or

(b) under regulation 35(5)(za),

(referred to in this regulation as an “alleged business offence”).”

(14) In regulation 46(1)(c)(i), for “or 20(1) or (2)” substitute “, 19A(1) or (2), or 20(1)”.

(15) In Schedule 1, at the end insert—

“**5.** Bingo halls.

6. Bowling alleys, amusement arcades and indoor play areas.

7. Casinos.

8. Cinemas.

9. Skating rinks.

10. Funfairs, amusement parks and theme parks.

11. Museums and galleries.

12. Visitor attractions.”

(16) In Schedule 2—

- (a) omit paragraphs 13, 14, 17, 18, 25, 33 and 38;
- (b) in paragraph 30, after “Libraries” insert “and archive services”;
- (c) in paragraph 45, for “Visitor attractions and holiday” substitute “Holiday”;
- (d) after paragraph 45 insert—

“**45A.** A business or service which is listed in Schedule 1 to the extent that the premises are permitted to be—

- (a) open by virtue of regulation 19(1A), or
- (b) used by virtue of regulation 19(2).”

- (17) In Schedule 3, in paragraph 2, at the end insert—

“(8) Where—

- (a) an enforcement officer considers that a responsible person has failed to take the measures specified in a premises improvement notice within the specified time limit, and
- (b) either—
 - (i) a fixed penalty notice has been issued in respect of an alleged offence under regulation 35(5)(za), or
 - (ii) proceedings have been brought for such an offence,in relation to that failure,

the enforcement officer may nevertheless issue a premises closure notice under sub-paragraph (1).”

Amendment of the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020

3.—(1) The Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020(5) are amended as follows.

(2) In regulation 3(1), for “8 January” substitute “19 February”.

(3) In regulation 6—

- (a) for paragraph (2) substitute—

“(2) In considering whether the public health conditions are met, a local authority must, in particular, have regard to—

- (a) whether people are gathering, or are likely to gather, at the event in contravention of regulation 6 of the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020;
- (b) where the event is held wholly or mainly indoors, whether more than 15 people are, or are likely to be, in attendance;
- (c) where the event is held wholly or mainly outdoors, whether more than 30 people are, or are likely to be, in attendance.”;

- (b) after paragraph (7), insert—

“(8) For the purposes of paragraph (2), an event is to be treated as being held indoors if it is held in premises which are enclosed or substantially enclosed within the meaning given by regulation 2 of the Smoke-free Premises etc. (Wales) Regulations 2007(6).”

(5) S.I. 2020/1011 (W. 225) as amended by S.I. 2020/1100 (W. 250), S.I. 2020/1149 (W. 261) and S.I. 2020/1219 (W. 276).

(6) S.I. 2007/787 (W. 68).

(4) In regulation 17, at the end insert—

“(4) An enforcement officer may enter premises used wholly or mainly as a private dwelling only if the enforcement officer is a constable.”

(5) In regulation 19(10), after sub-paragraph (b) insert—

“(c) the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020(7);”

(6) In regulation 20, after “Prosecutions” insert “, a local authority”.

2 December 2020

Mark Drakeford
First Minister, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 (S.I. 2020/1219 (W. 276)) (the “principal Regulations”) and the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020 (S.I. 2020/1011 (W. 225)) (the “functions of local authorities Regulations”).

The amendments to the principal Regulations—

- (a) require, at new regulation 19A(1) of the principal Regulations, bars, cafes, canteens, restaurants and pubs to be closed to customers between 6.00 p.m. and 6.00 a.m. (though this restriction is subject to specific exceptions in new regulation 19B, including in relation to holiday or travel accommodation and for wedding or civil partnership receptions booked before these Regulations come into force);
- (b) prevent, at new regulation 19A(2), any alcohol being sold for consumption, or being consumed, in bars, cafes, canteens, restaurants and public houses (though this does not prevent alcohol being sold to residents in holiday or travel accommodation as part of room service (subject to requirements in regulation 20), or prevent residents from drinking alcohol in their private rooms);
- (c) require indoor premises of entertainment venues and visitor attractions to close;
- (d) make consequential, minor or technical amendments, including revoking redundant provisions and amending various enforcement provisions (including to provide that it is an offence to fail, without reasonable excuse, to take measures specified in a premises improvement notice issued under Schedule 3 to the principal Regulations).

The amendments to the functions of local authorities Regulations—

- (a) provide for the Regulations to expire on 19 February 2020 instead of 8 January 2020, to align with the expiry date of the principal Regulations;
- (b) require a local authority, when deciding whether to give an event direction, to have regard to whether the event may result in people gathering in contravention of regulation 6 of the principal Regulations and to whether there may be more than 15 people (where the event is indoors) or 30 people (where it is outdoors) attending the event at any one time;
- (c) put beyond doubt that, despite the expiry of the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020, penalty notices issued under those Regulations must be taken into account in determining the amount of a fixed penalty notice to be issued under regulation 19 of the functions of local authorities Regulations;
- (d) permit local authorities to bring proceedings for offences under the 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.