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WELSH STATUTORY INSTRUMENTS

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**2020 No. 1609**

**The Health Protection (Coronavirus  
Restrictions) (No. 5) (Wales) Regulations 2020**

**PART 1**

Introduction, review and expiry

**Title, application and coming into force**

**1.**—(1) The title of these Regulations is the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020.

(2) These Regulations apply in relation to Wales.

(3) These Regulations, other than Part 6, come into force on 21 December 2020.

(4) Part 6 comes into force on 23 December 2020.

**Review**

**2.** The Welsh Ministers must review the need for the restrictions and requirements imposed by these Regulations, and whether those restrictions and requirements are proportionate to what the Welsh Ministers seek to achieve by them—

(a) by 7 January 2021;

(b) at least once in the period from 8 January 2021 to 28 January 2021;

(c) at least once in each subsequent period of 21 days.

**Expiry**

**3.** These Regulations expire at the end of the day on 31 March 2021.

**PART 2**

Levels of restrictions on gathering, travelling,  
and on use of premises of businesses and services

**Levels of restrictions**

**4.**—(1) Schedules 1 to 4 set out restrictions and requirements that may apply in an area in relation to—

(a) gatherings;

(b) organising events;

(c) travelling to and from other areas;

- (d) the use of premises of specified businesses or services that are ordinarily open to the public.
- (2) The restrictions and requirements set out in Schedule 1 apply in relation to an Alert Level 1 area.
- (3) The restrictions and requirements set out in Schedule 2 apply in relation to an Alert Level 2 area.
- (4) The restrictions and requirements set out in Schedule 3 apply in relation to an Alert Level 3 area.
- (5) The restrictions and requirements set out in Schedule 4 apply in relation to an Alert Level 4 area.
- (6) Schedule 5 sets out which one of Schedules 1 to 4 apply to an area by specifying a level for that area.
- (7) Schedule 6 makes temporary provision modifying the restrictions and requirements relating to persons gathering and travelling over the Christmas period.
- (8) In these Regulations—
  - (a) an “Alert Level 1 area” is an area specified in the table in Schedule 5, where the table indicates it is an Alert Level 1 area;
  - (b) an “Alert Level 2 area” is an area specified in the table in Schedule 5, where the table indicates it is an Alert Level 2 area;
  - (c) an “Alert Level 3 area” is an area specified in the table in Schedule 5, where the table indicates it is an Alert Level 3 area;
  - (d) an “Alert Level 4 area” is an area specified in the table in Schedule 5, where the table indicates it is an Alert Level 4 area.

## PART 3

### Requirement to isolate etc.

#### CHAPTER 1

#### Requirement to isolate etc. where person tests positive for coronavirus or has close contact with such person

#### **Interpretation of Part**

- 5.—**(1) In this Part, “close contact” means contact that a contact tracer considers may lead to a risk of infection or contamination with coronavirus, including—
- (a) having face-to-face contact with a person at a distance of less than 1 metre;
  - (b) spending more than 15 minutes within 2 metres of a person;
  - (c) travelling in a car or other small vehicle with a person or in close proximity to a person on an aeroplane or in the same carriage of a train.
- (2) In regulations 6 and 8, references to an “adult” (“A”) include references to a child aged 16 or 17.
- (3) For the purposes of this Part, a person has responsibility for a child if the person has—
- (a) custody or charge of the child for the time being, or
  - (b) parental responsibility for the child.

(4) For the purposes of these Regulations, notification by means of the NHS Covid 19 smartphone app developed and operated by the Secretary of State is not a notification.

#### **Requirement to isolate: adult with coronavirus**

6.—(1) This regulation applies where an adult (“A”) is notified by a contact tracer that A has tested positive for coronavirus.

(2) A may not leave or be outside the place where A is living before the end of the last day of A’s isolation unless regulation 10 or 11 applies.

(3) If requested by a contact tracer, A must notify the contact tracer—

(a) of the name of each person living at the place A is living, and

(b) of the address of that place.

(4) The last day of A’s isolation is the last day of the period of 10 days beginning with the day after the day of the test which led to the notification referred to in paragraph (1) being given.

(5) But where A reports to a contact tracer the day on which symptoms first developed, the last day of A’s isolation is the last day of the period of 10 days beginning with the day after the day which A reports as being the day on which the symptoms first developed.

#### **Requirement to isolate: child with coronavirus**

7.—(1) This regulation applies where an adult (“A”) is notified by a contact tracer that a child (“C”) for whom A is a responsible adult has tested positive for coronavirus.

(2) C may not leave or be outside the place where C is living before the end of the last day of C’s isolation unless regulation 10 or 11 applies.

(3) If requested by a contact tracer, A must notify the contact tracer—

(a) of the name of each person living at the place where C is living, and

(b) of the address of that place.

(4) The last day of C’s isolation is the last day of the period of 10 days beginning with the day after the day of the test which led to the notification referred to in paragraph (1) being given.

(5) But in a case where A reports to a contact tracer the day on which C’s symptoms first developed, the last day of C’s isolation is the last day of the period of 10 days beginning with the day after the day which A reports as being the day on which C’s symptoms first developed.

#### **Requirement to isolate after close contact: adult**

8.—(1) This regulation applies where an adult (“A”) is notified by a contact tracer that A has had close contact with a person (“P”) who has tested positive for coronavirus.

(2) A may not leave or be outside the place where A is living before the end of the last day of A’s isolation unless regulation 10 or 11 applies.

(3) If requested by a contact tracer, A must notify the contact tracer of the address of the place where A is living.

(4) The last day of A’s isolation is the last day of the period of 10 days beginning with the day after the day which a contact tracer records as being the last day on which A had close contact with P before A received the notification referred to in paragraph (1).

(5) But where A is living in the same place as P, the last day of A’s isolation is—

(a) where P, or, where P is a child, a responsible adult (“R”) on P’s behalf, reports to a contact tracer the day on which P’s symptoms first developed, the last day of the period of 10 days

beginning with the day after the day on which P, or R, reports as being the day on which P's symptoms first developed;

- (b) where no symptoms are reported, the last day of the period of 10 days beginning with the day after the day of the test which led to the notification being given to P, or R, that P had tested positive for coronavirus.

**Requirement to isolate after close contact: child**

9.—(1) This regulation applies where an adult (“A”) is notified by a contact tracer that a child (“C”) for whom A is responsible has had close contact with a person (“P”) who has tested positive for coronavirus.

(2) C may not leave or be outside the place where C is living before the end of the last day of C's isolation unless regulation 10 or 11 applies.

(3) If requested by a contact tracer, A must notify the contact tracer of the address of the place where C is living.

(4) The last day of C's isolation is the last day of the period of 10 days beginning with the day after the day which a contact tracer records as being the last day on which C had close contact with P before A received the notification referred to in paragraph (1).

(5) But where C is living in the same place as P, the last day of C's isolation is—

- (a) where P, or, where P is a child, a responsible adult (“R”) on P's behalf, reports to a contact tracer the day on which P's symptoms first developed, the last day of the period of 10 days beginning with the day after the day on which P, or R, reports as being the day on which P's symptoms first developed, or
- (b) where no symptoms are reported, the last day of the period of 10 days beginning with the day after the day of the test which led to the notification being given to P, or R, that P had tested positive for coronavirus.

**Isolation requirements: general exceptions**

10.—(1) Paragraph (2) applies where a person is required to not leave or be outside of the place where the person is living by virtue of regulation 6(2), 7(2), 8(2) or 9(2).

(2) The person may leave and be outside the place where the person is living for as long as is necessary—

- (a) to seek medical assistance, where this is required urgently or on the advice of a registered medical practitioner;
- (b) to access veterinary services where—
  - (i) they are urgently required, and
  - (ii) it is not possible for another person at the place that the person is living to access those services;
- (c) to fulfil a legal obligation, including attending court or satisfying bail conditions, or to participate in legal proceedings, where it is not possible or practicable to do so without leaving the place where the person is living;
- (d) to avoid illness, injury or other risk of harm;
- (e) for compassionate reasons, including to attend the funeral of—
  - (i) a family member;
  - (ii) a close friend;

- (f) to obtain basic necessities (including for other persons at the place where the person is living or any pets at that place) where it is not possible or practicable—
    - (i) for another person at the place where the person is living to obtain them, or
    - (ii) to obtain them by delivery to that place from a third party;
  - (g) to access public services (including social services or victims' services) where—
    - (i) access to the service is critical to the person's well-being, and
    - (ii) the service cannot be provided if the person remains at the place where the person is living;
  - (h) to move to a different place to live where it becomes impracticable to remain at the place where the person is living;
  - (i) where the person is a child who does not live in the same household as the child's parents, or one of the child's parents, to continue existing arrangements for access to, and contact between, the child and the child's parents, and for the purposes of this subparagraph, "parent" includes a person who is not a parent of the child, but who has parental responsibility for, or who has care of, the child.
- (3) Regulations 6(2), 7(2), 8(2) and 9(2) do not apply to a person who is homeless.
- (4) Regulation 6(2) does not apply to a person who—
- (a) has tested positive for coronavirus in the course of a research study (the "prior test"), and
  - (b) tests positive for coronavirus in the course of the same study within the period of 90 days beginning with the date of the prior test.

**Isolation requirements: exception for participants in a testing scheme**

- 11.—(1) This regulation applies where—
- (a) a person ("P") is required to not leave or be outside of the place where P is living by virtue of regulation 8(2) or 9(2) ("the isolation requirement"), and
  - (b) P agrees to participate in a testing scheme.
- (2) If P's first test under the testing scheme is negative for coronavirus, the isolation requirement ceases to apply to P from the time P receives the result of the test, subject to paragraphs (3) and (4).
- (3) If the result of a test taken by P under the testing scheme is positive for coronavirus, the isolation requirement applies to P from the time P receives the result of the test as if it had not ceased to apply by virtue of paragraph (2).
- (4) Despite paragraph (2) the isolation requirement applies to P on—
- (a) non-test days;
  - (b) any day on which P is required to take a test under the scheme but fails to do so.
- (5) If P's last test under the testing scheme is negative for coronavirus, the isolation requirement ceases to apply to P from the earlier of—
- (a) the time P receives the result of the test, or
  - (b) P's last day of isolation calculated in accordance with regulation 8 or 9 as the case may be.
- (6) Where P is a child—
- (a) a person with responsibility for P must agree on P's behalf that P is to participate in a testing scheme;
  - (b) the references in paragraphs (2) and (5)(a) to P receiving the result of a test include references to a person with responsibility for P receiving the result.
- (7) In this regulation—

- (a) “testing scheme” means a scheme designated by the Welsh Ministers under which P is required to take a number of tests for coronavirus specified in the scheme, on dates and in a manner so specified;
- (b) “non-test day” means a day between the day on which P takes the first and last test under the scheme on which P is not required to take a test under the scheme.

### **Requirement on persons with responsibility for children**

**12.** Where a requirement is imposed under regulation 7(2) or 9(2) on a child, a person with responsibility for the child must take all reasonable measures to ensure that the child complies with the requirement.

### **Withdrawing a notice which requires isolation**

- 13.—**(1) This regulation applies where a contact tracer—
- (a) has given a notification under regulation 6(1), 7(1), 8(1) or 9(1) (“the original notification”), but
  - (b) subsequently notifies the recipient of the original notification that it is withdrawn.
- (2) The original notification is treated as if it had not been given.

## **CHAPTER 2**

### **Information**

### **Power to use and disclose information**

**14.—**(1) A contact tracer may disclose only such relevant information to a person (“the information holder”) as is necessary for the information holder to have—

- (a) for the purposes of—
    - (i) carrying out a function under these Regulations,
    - (ii) preventing danger to the health of the public as a result of the spread of infection or contamination with coronavirus, or
    - (iii) monitoring the spread of infection or contamination with coronavirus, or
  - (b) for a purpose connected with, or otherwise incidental to, a purpose described in subparagraph (a).
- (2) Relevant information is—
- (a) where a person is required to isolate in accordance with regulation 6(2), 7(2), 8(2) or 9(2)—
    - (i) the person’s contact information and date of birth, or, where the person is a child, the contact details of the adult who is notified that the child is required to isolate and the child’s date of birth;
    - (ii) the date the notification was given under regulation 6(1), 7(1), 8(1) or 9(1);
    - (iii) the particular period in respect of which the person is required to not leave or be outside of the place where the person is living calculated in accordance with regulation 6, 7, 8 or 9;
  - (b) confirmation a person did not receive a positive coronavirus test and the person’s name, contact information and date of birth, or, where the person is a child, the name and contact details of an adult with responsibility for the child in addition to the child’s name and date of birth.

(3) The information holder may use relevant information disclosed under paragraph (1) only to the extent that it is necessary—

(a) for the purposes of—

- (i) carrying out a function under these Regulations,
- (ii) preventing danger to the health of the public as a result of the spread of infection or contamination with coronavirus, or
- (iii) monitoring the spread of infection or contamination with coronavirus, or

(b) for a purpose connected with, or otherwise incidental to, a purpose described in subparagraph (a).

(4) Subject to paragraph (6), the information holder may disclose only such relevant information to another person (the “recipient”) as is necessary for the recipient to have—

(a) for the purposes of—

- (i) carrying out a function of the recipient under these Regulations,
- (ii) preventing danger to the health of the public as a result of the spread of infection or contamination with coronavirus, or
- (iii) monitoring the spread of infection or contamination with coronavirus, or

(b) for a purpose connected with, or otherwise incidental to, a purpose described in subparagraph (a).

(5) Subject to paragraph (7), disclosure which is authorised by this regulation does not breach—

- (a) an obligation of confidence owed by the person making the disclosure, or
- (b) any other restriction on the disclosure of information (however imposed).

(6) This regulation does not limit the circumstances in which information may otherwise be disclosed under any other enactment or rule of law.

(7) Nothing in this regulation authorises the use or disclosure of personal data where doing so contravenes the data protection legislation.

(8) In this regulation, “data protection legislation” and “personal data” have the same meanings as in section 3 of the Data Protection Act 2018(1).

## PART 4

### Taking preventative measures in regulated premises

#### **Regulated premises and responsible persons**

**15.**—(1) For the purposes of these Regulations, the following are “regulated premises”—

- (a) premises of businesses or services listed in Schedule 7, to the extent that that the public have or are permitted access to the premises;
- (b) a vehicle used to provide a public transport service;
- (c) other premises where work is being carried out.

(2) In this Part, “responsible person”, in relation to regulated premises, means—

- (a) in relation to premises referred to in paragraph (1)(a) and (b), the person responsible for the premises,

- (b) in relation to premises referred to in paragraph (1)(c), the person responsible for the work being carried out on the premises.

### **Requirement to take all reasonable measures to minimise the risk of exposure to coronavirus**

**16.—**(1) For the purposes of minimising the risk of exposure to coronavirus at regulated premises, or the spread of coronavirus by those who have been at regulated premises, the responsible person must—

- (a) take all reasonable measures to ensure—
    - (i) that a distance of 2 metres is maintained between any persons on the premises (except between members of the same household or a carer and the person assisted by the carer);
    - (ii) where persons are required to wait to enter the premises, that a distance of 2 metres is maintained between them (except between members of the same household or a carer and the person assisted by the carer),
  - (b) take all other reasonable measures for that purpose, for example measures which limit close face-to-face interaction and maintain hygiene such as—
    - (i) changing the layout of premises including the location of furniture and workstations;
    - (ii) controlling use of entrances, passageways, stairs and lifts;
    - (iii) controlling use of shared facilities such as toilets and kitchens;
    - (iv) otherwise controlling the use of, or access to, any other part of the premises;
    - (v) installing barriers or screens;
    - (vi) providing or requiring use of personal protective equipment, and
  - (c) provide information to those entering or working at the premises about how to minimise the risk of exposure to coronavirus.
- (2) Measures that may be taken under paragraph (1) also include—
- (a) not carrying out certain activities;
  - (b) closing a part of the premises;
  - (c) allowing and enabling a person who ordinarily works at the premises to isolate due to testing positive for coronavirus or having had close contact with somebody who has tested positive, for a period—
    - (i) recommended in guidance published by the Welsh Ministers;
    - (ii) specified in a notification given to the person by a contact tracer;
  - (d) collecting contact information from each person at the premises and retaining it for 21 days for the purpose of providing it to any of the following, upon their request—
    - (i) the Welsh Ministers;
    - (ii) a contact tracer;
  - (e) taking reasonable measures to ensure that such contact information is correct.

### **Specific measures applicable to licensed premises**

**17.—**(1) Where regulation 16(1) applies to a person responsible for premises authorised for the sale or supply of alcohol for consumption on the premises, the sale or supply of food or drink for consumption on the premises must be carried out in accordance with the reasonable measures specified in paragraph (2) (subject to paragraphs (3) and (4)).

- (2) The reasonable measures are that—



- (a) there must be a person controlling entry to the premises and allocating a limited time period during which customers may stay in the premises;
  - (b) customers must be seated in the premises anywhere other than at a bar—
    - (i) when ordering food or drink,
    - (ii) when being served with food or drink, and
    - (iii) when consuming food or drink.
- (3) But where food is provided at the premises on a buffet basis, customers may select food from the buffet and return to where they are seated.
- (4) Paragraph (2) does not apply to—
- (a) workplace canteens, or
  - (b) premises in an educational establishment.
- (5) For the purposes of paragraph (1)—
- (a) food or drink sold in holiday or travel accommodation as part of room service is not to be treated as being sold for consumption on the premises;
  - (b) food or drink sold for consumption in an area adjacent to the premises where seating is made available for customers is to be treated as being sold for consumption on the premises.
- (6) Where regulated premises not authorised for the sale or supply of alcohol for consumption on the premises allow customers to consume their own alcohol on the premises, paragraphs (1) to (4) apply to those premises as they apply to premises that are authorised for the sale or supply of alcohol for consumption on the premises.

### **Guidance about taking reasonable measures**

**18.**—(1) A person required to take reasonable measures under regulation 16(1) or 17(1) must have regard to guidance issued by the Welsh Ministers about those measures.

(2) The Welsh Ministers—

- (a) may revise guidance issued under paragraph (1), and
- (b) must publish the guidance (and any revisions).

(3) Guidance under this regulation may incorporate (by reference or transposition) guidance, codes of practice or other documents published by another person (for example, a trade association, body representing members of an industry or a trade union).

(4) Guidance issued by the Welsh Ministers under—

- (a) paragraph (1) of regulation 20 of the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020(2), or
- (b) paragraph (1) of regulation 24 of the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020(3),

is to be treated as if it were guidance issued under paragraph (1) of this regulation.

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(2) S.I. 2020/1149 (W. 261).

(3) S.I. 2020/1219 (W. 276), as amended by S.I. 2020/1237 (W. 279), S.I. 2020/1288 (W. 286), S.I. 2020/1409 (W. 311), S.I. 2020/1477 (W. 316) and S.I. 2020/1522 (W. 326).

## PART 5

### Face coverings

#### Requirement to wear face covering on public transport

**19.**—(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 a 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 P 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;

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(4) 2010 c. 15.

- (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.

#### **Requirement to wear face covering in certain indoor public places**

- 20.**—(1) A person (“P”) must wear a face covering in indoor public areas of premises to which the public have or are permitted access.
- (2) But this is not required—
    - (a) where P is a child under the age of 11;
    - (b) where P has a reasonable excuse not to wear a face covering, as to which see paragraph (3).
  - (3) 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);
    - (b) where P is undertaking an activity and wearing a face covering during that activity may be considered to be a risk to P’s health;
    - (c) where P has to remove the face covering to communicate with a person who has difficulty communicating (in relation to speech, language or otherwise);
    - (d) where P has to remove the face covering in order to avoid harm or injury, or the risk of harm or injury, to P or others;
    - (e) where P is at the premises to avoid injury, or to escape a risk of harm, and does not have a face covering;
    - (f) where P has to remove the face covering to—
      - (i) take medication;
      - (ii) eat or drink, where reasonably necessary;
    - (g) where P is asked to remove the face covering by an enforcement officer;
    - (h) where P is seated in premises where food or drink is sold, or otherwise provided, for consumption on the premises.

#### **Guidance about requirements to wear face coverings**

- 21.**—(1) An operator of a public transport service to which regulation 19 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 19 and the enforcement of that requirement under regulation 32;
  - (b) providing information to passengers in accordance with paragraph (5) of regulation 19.
- (2) The Welsh Ministers—
- (a) may revise guidance issued under paragraph (1), and
  - (b) must publish the guidance (and any revisions).
- (3) Guidance under this regulation may incorporate (by reference or transposition) guidance, codes of practice or other documents published by another person (for example, a trade association, body representing members of an industry or a trade union).
- (4) Guidance issued by the Welsh Ministers under—
- (a) paragraph (2) of regulation 20 of the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020, or
  - (b) paragraph (2) of regulation 24 of the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020,
- is to be treated as if it were guidance issued under paragraph (1) of this regulation.

## PART 6

### Provision of education in school

#### **Provision of education in school to certain pupils when school premises are closed**

- 22.**—(1) Paragraph (3) applies in relation to a relevant pupil if—
- (a) the premises of the school at which the pupil is registered are closed to that pupil for a period of at least 3 consecutive school days, and
  - (b) the closure is a response to a threat to public health posed by the incidence and spread of coronavirus.
- (2) For the purposes of paragraph (1), “relevant pupil” means a registered pupil—
- (a) who the local authority which maintains the school at which the pupil is registered considers is the child of a critical worker, or
  - (b) who the proprietor of the school at which the pupil is registered considers should attend school by reason of the pupil’s vulnerability.
- (3) The proprietor of the school at which the pupil is registered must make arrangements for the pupil to attend the premises of a school for the purpose of the provision of education on the third and each subsequent school day of the period during which the premises of the school at which the pupil is registered are closed.
- (4) But paragraph (3) does not apply if, on the school day in question—
- (a) the pupil is required to not leave or be outside of the place where the pupil is living by virtue of regulation 6(2), 7(2), 8(2) or 9(2), or
  - (b) the pupil is otherwise isolating having been—
    - (i) notified by means of the NHS Covid 19 smartphone app developed and operated by the Secretary of State, or
    - (ii) advised to do so by the proprietor of the school at which the pupil is registered or by a childcare provider.

(5) In determining, for the purposes of paragraph (1)(a), whether the premises of a school are closed to a pupil, the fact that those premises may be open by virtue of paragraph (3) is to be disregarded.

(6) In deciding whether a pupil is the child of a critical worker, the local authority must have regard to any guidance published by the Welsh Ministers about identifying children of critical workers.

### **Failure to comply with regulation 22**

**23.** Any failure by a proprietor to comply with regulation 22 is enforceable by an application for an injunction by the Welsh Ministers or the local authority which maintains the school to the High Court or County Court, without notice.

### **Interpretation of this Part**

**24.** In this Part—

- (a) “maintained nursery school” has the meaning given by section 22(9) of the School Standards and Framework Act 1998<sup>(5)</sup>;
- (b) “maintained school” has the meaning given by section 20(7) of the School Standards and Framework Act 1998;
- (c) “proprietor” has the meaning given by section 579(1) of the Education Act 1996<sup>(6)</sup>;
- (d) “pupil” has the same meaning as in section 3 of the Education Act 1996;
- (e) “pupil referral unit” has the meaning given by section 19(2) of the Education Act 1996;
- (f) “registered pupil” has the meaning given by section 434(5) of the Education Act 1996;
- (g) “school” means a maintained school, a maintained nursery school or a pupil referral unit;
- (h) “school day” has the meaning given by section 579(1) of the Education Act 1996.

## **PART 7**

### **Enforcement**

#### **Enforcement officers**

**25.—(1)** For the purposes of regulation 26 and Schedule 8, an “enforcement officer” means a person designated by a local authority —

- (a) for the purposes of these Regulations,
- (b) under regulation 17(A1) of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020<sup>(7)</sup>,
- (c) under regulation 21(1) of the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020, or
- (d) under regulation 25(1) of the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020.

(2) For the purposes of regulations 19, 20, 27 to 34, 36 and 47, an “enforcement officer” means—

- (a) a constable,

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<sup>(5)</sup> 1998 c. 31.

<sup>(6)</sup> 1996 c. 56.

<sup>(7)</sup> S.I. 2020/725 (W. 162).

- (b) a police community support officer,
  - (c) a person designated by—
    - (i) the Welsh Ministers, or
    - (ii) a local authority,
 for the purposes of these Regulations (but see paragraph (3)), or
  - (d) a person designated by the Welsh Ministers or a local authority under—
    - (i) regulation 10(11)(c) of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020(8) as a relevant person (within the meaning given by that regulation),
    - (ii) regulation 17(1) of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 for the purposes of those Regulations,
    - (iii) regulation 21(2) of the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020 for the purposes of those Regulations, or
    - (iv) under regulation 25(2) of the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020,
 (but see paragraph (3)).
- (3) A person designated by a local authority may exercise an enforcement officer's functions only—
- (a) in relation to a contravention (or alleged contravention) of a requirement in—
    - (i) regulation 16(1) or 17(1),
    - (ii) paragraph 7(1) or 8(1) or (2) of Schedule 1,
    - (iii) paragraph 7(1) or 8(1) or (2) of Schedule 2,
    - (iv) paragraph 7(1), 8(1) or (2) or 10(1) of Schedule 3, or
    - (v) paragraph 7(1), 8(1), 9(1) or 10(1) of Schedule 4, or
  - (b) under and by virtue of Schedule 8.

### **Enforcement of requirement to take preventative measures**

26. Schedules 8 and 9 make provision for and in connection with conferring functions on enforcement officers for the purpose of enforcing regulations 16(1) and 17(1).

### **Compliance notices**

27.—(1) An enforcement officer may give a compliance notice to a person if the officer has reasonable grounds for suspecting that the person is contravening a requirement in—

- (a) regulation 19(5),
- (b) paragraph 7(1) or 8(1) or (2) of Schedule 1,
- (c) paragraph 7(1) or 8(1) or (2) of Schedule 2,
- (d) paragraph 7(1), 8(1) or (2) or 10(1) of Schedule 3, or
- (e) paragraph 7(1), 8(1), 9(1) or 10(1) of Schedule 4.

(2) A compliance notice may specify measures that the person to whom it is given must take as soon as is reasonably practicable so as to prevent that person from continuing to contravene the requirement.

### **Powers of removal and dispersal: gatherings and being away from home**

**28.**—(1) Paragraph (2) applies where an enforcement officer has reasonable grounds for suspecting that a person is participating in a gathering in a private dwelling in contravention of—

- (a) paragraph 1(1) of Schedule 1,
- (b) paragraph 1(1) of Schedule 2,
- (c) paragraph 1(1) of Schedule 3, or
- (d) paragraph 2(1) of Schedule 4.

(2) The enforcement officer may—

- (a) direct the gathering to disperse;
- (b) if the officer has reasonable grounds to suspect that the person does not live at the dwelling—
  - (i) direct the person to leave the dwelling;
  - (ii) remove the person from the dwelling.

(3) Paragraph (4) applies where an enforcement officer has reasonable grounds for suspecting that a person is participating in a gathering in a place other than a private dwelling in contravention of—

- (a) paragraph 2(1) of Schedule 1,
- (b) paragraph 2(1) or (3) of Schedule 2,
- (c) paragraph 2(1) or (3) of Schedule 3, or
- (d) paragraph 2(1) of Schedule 4.

(4) The enforcement officer may—

- (a) direct the gathering to disperse;
- (b) direct the person to leave the place where the gathering is taking place;
- (c) remove the person from that place.

(5) Where an enforcement officer has reasonable grounds for suspecting that a person is away from the place where the person is living in contravention of paragraph 1(1) of Schedule 4, the officer may—

- (a) direct the person to return to the place where the person is living;
- (b) remove the person to that place.

### **Powers relating to travel restrictions**

**29.**—(1) Paragraph (2) applies where an enforcement officer has reasonable grounds for suspecting that a person is about to enter an area in contravention of—

- (a) paragraph 6(1) of Schedule 1,
- (b) paragraph 6(1) of Schedule 2,
- (c) paragraph 6(1) of Schedule 3, or
- (d) paragraph 6(1) of Schedule 4.

(2) The enforcement officer may direct the person not to enter the area.

(3) Paragraph (4) applies where an enforcement officer has reasonable grounds for suspecting that a person is in an area in contravention of—

- (a) paragraph 6(1) of Schedule 1,
- (b) paragraph 6(1) of Schedule 2,

- (c) paragraph 6(1) of Schedule 3, or
- (d) paragraph 6(1) of Schedule 4.
- (4) The enforcement officer may—
  - (a) direct the person to leave the area;
  - (b) remove the person from the area.
- (5) Paragraph (6) applies where an enforcement officer has reasonable grounds for suspecting that a person is about to leave an area in contravention of—
  - (a) paragraph 6(2) of Schedule 1,
  - (b) paragraph 6(2) of Schedule 2, or
  - (c) paragraph 6(2) of Schedule 3.
- (6) The enforcement officer may direct the person not to leave the area.
- (7) Paragraph (8) applies where an enforcement officer has reasonable grounds for suspecting that a person has left an area in contravention of—
  - (a) paragraph 6(2) of Schedule 1,
  - (b) paragraph 6(2) of Schedule 2, or
  - (c) paragraph 6(2) of Schedule 3.
- (8) The enforcement officer may—
  - (a) direct the person to return to the area;
  - (b) return the person to the area.

#### **Powers relating to contravention of isolation requirement**

**30.** Where an enforcement officer has reasonable grounds for suspecting that a person is away from the place where they are living in contravention of regulation 6(2), 7(2), 8(2) or 9(2), the officer may—

- (a) direct the person to return to the place where the person is living;
- (b) remove the person to that place.

#### **Powers relating to events**

**31.—(1)** Paragraph (2) applies where an enforcement officer has reasonable grounds for suspecting that a person (“P”) is—

- (a) committing an offence under regulation 39(2);
  - (b) involved in organising an event in contravention of (or which the officer considers likely to be in contravention of) paragraph 4 of Schedule 1, paragraph 4 of Schedule 2, paragraph 4 of Schedule 3 or paragraph 4 of Schedule 4.
- (2) The enforcement officer may—
- (a) direct P to follow such instructions as the officer considers necessary in order to stop the event;
  - (b) remove P from the location of the event;
  - (c) direct any person to leave the event;
  - (d) remove any person from the event;
  - (e) where the event has not started—



- (i) direct P to follow such instructions as the officer considers necessary in order to stop the event from taking place;
- (ii) remove P from the proposed location of the event.

(3) Where an enforcement officer has reasonable grounds for suspecting that a person (“P”) is involved in organising an event authorised under paragraph 5 of Schedule 1, paragraph 5 of Schedule 2, paragraph 5 of Schedule 3 or paragraph 5 of Schedule 4 which the officer considers is being held in contravention of a requirement, restriction or other condition specified in relation to the authorisation, the officer may—

- (a) direct P to follow such instructions as the officer considers necessary in order to secure compliance with the requirement, restriction or other condition;
- (b) direct P to follow such instructions as the officer considers necessary in order to stop the event;
- (c) remove P from the location of the event;
- (d) direct any person to leave the event;
- (e) remove any person from the event.

#### **Enforcement of face covering requirements**

**32.**—(1) Where an enforcement officer has reasonable grounds for suspecting that a person is contravening (or is about to contravene) regulation 19(1), the officer may—

- (a) direct the person not to board the vehicle providing the public transport service in question;
- (b) remove the person from the vehicle.

(2) Where—

- (a) the operator of a public transport service,
- (b) an employee of the operator, or
- (c) a person authorised by the operator,

has reasonable grounds to suspect that a person is about to contravene regulation 19(1), the operator, employee or authorised person may direct the person not to board the vehicle providing the public transport service in question.

(3) Where an enforcement officer has reasonable grounds to suspect that a person is contravening (or is about to contravene) regulation 20(1), the officer may—

- (a) direct the person not to enter the premises;
- (b) remove the person from the premises.

#### **Enforcement: children**

**33.**—(1) Where an enforcement officer has reasonable grounds to suspect that a person (“P”) in respect of whom the officer may exercise a power under this Part is a child accompanied by an individual (“I”) who has responsibility for P—

- (a) the officer may direct I to take such action in respect of P as the officer considers appropriate, and
- (b) I must, so far as reasonably practicable, ensure that P complies with any direction or instruction given by the officer to P.

(2) For the purposes of paragraph (1), I has responsibility for a child if I—

- (a) has custody or charge of the child for the time being, or

- (b) has parental responsibility for the child.

### **Power of entry**

- 34.**—(1) An enforcement officer may enter premises, if the officer—
- (a) has reasonable grounds for suspecting that a requirement imposed by these Regulations is being, has been or is about to be contravened on the premises, and
  - (b) considers it necessary to enter the premises for the purpose of ascertaining whether the requirement is being, has been or is about to be contravened.
- (2) An enforcement officer entering premises in accordance with paragraph (1) may take such other persons, equipment and materials onto the premises as appears to the officer to be appropriate.
- (3) An enforcement officer entering premises in accordance with paragraph (1)—
- (a) if asked by a person on the premises, must show evidence of the officer’s identity and outline the purpose for which the power is exercised;
  - (b) if the premises are unoccupied or the occupier is temporarily absent, must leave the premises as effectively secured against unauthorised entry as when the officer found them.
- (4) An enforcement officer may enter premises which are wholly or mainly used as a private dwelling only if the enforcement officer is a constable.

### **Power of police to conduct road checks**

**35.**—(1) For the purposes of this regulation, a “road check” means the exercise in a locality of the power conferred by section 163 of the Road Traffic Act 1988(9) in such a way as to stop, during the period for which the exercise of that power in that locality continues, all vehicles or vehicles selected by any criterion.

(2) A constable may conduct a road check for the purpose of ascertaining whether a vehicle is carrying a person who the constable reasonably believes—

- (a) has committed, or
- (b) intends to commit,

an offence under these Regulations.

(3) A road check must be authorised by a constable of the rank of superintendent or above.

(4) But a road check may be authorised by a constable below that rank if the constable considers it necessary as a matter of urgency.

(5) A constable may authorise a road check if the constable has reasonable grounds to believe that a person referred to in paragraph (2) is, or is about to be, in the locality in which vehicles would be stopped.

(6) An authorisation must be in writing and must specify—

- (a) the locality in which vehicles are to be stopped;
- (b) the period, not exceeding 7 days, during which the road check may take place;
- (c) whether the road check is to be conducted—
  - (i) continuously throughout the period, or
  - (ii) at particular times during the period (in which case the authorisation must specify those times);
- (d) the name of the constable giving the authorisation.

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(9) 1988 c. 52, as amended by the Road Traffic Act 1991 (c. 40) and the Traffic Management Act 2004 (c. 18).

- (7) Where a road check is authorised under paragraph (4)—
- (a) the period specified in paragraph (6)(b) may not exceed 2 days;
  - (b) the constable giving the authorisation must, as soon as is reasonably practicable after giving it, inform a constable of the rank of superintendent or above that it has been given.
- (8) A constable of the rank of superintendent or above may give authorisation in writing for a road check to continue for a further period, not exceeding 7 days, beyond the period for which the road check was initially authorised.
- (9) Where a vehicle is stopped in a road check, the person in charge of the vehicle at the time when it is stopped is entitled to obtain a written statement of the purpose of the road check by applying in writing—
- (a) to the police force responsible for the locality where the road check is conducted, and
  - (b) no later than the end of the period of 12 months from the day on which the vehicle was stopped.

**Enforcement: supplemental provision**

**36.**—(1) An enforcement officer may take other action to facilitate the exercise of a power conferred on the officer by this Part.

- (2) Action taken under paragraph (1) may include—
- (a) requiring a person to give any information or answer any question the officer considers—
    - (i) necessary to enable the officer to determine whether to exercise a power conferred on the officer by this Part, or
    - (ii) is otherwise relevant to the exercise of such a power;
  - (b) directing a person to follow such instructions as the officer considers necessary.
- (3) A constable may use reasonable force in the exercise of a power under—
- (a) regulation 28(2)(b)(ii), (4)(c) or (5)(b);
  - (b) regulation 29(4)(b) or (8)(b);
  - (c) regulation 30(b);
  - (d) regulation 31(2)(b)(d) or (e)(ii), or (3)(c) or (e);
  - (e) regulation 32(1)(b) or (3)(b);
  - (f) regulation 34(1).
- (4) An enforcement officer may only exercise a power under this Part if the officer considers that it is necessary and proportionate to do so.
- (5) In this Part and Part 8 references to a requirement include references to a restriction.

**PART 8**

**Offences and penalties**

**CHAPTER 1**

**Offences**

**Offences relating to gatherings and being away from home**

**37.**—(1) A person who contravenes a requirement in—

- (a) paragraph 1(1) or 2(1) of Schedule 1,
  - (b) paragraph 1(1) or 2(1) or (3) of Schedule 2,
  - (c) paragraph 1(1) or 2(1) or (3) of Schedule 3, or
  - (d) paragraph 1(1) or 2(1) of Schedule 4,
- commits an offence.

- (2) A person who participates in a gathering—
- (a) which takes place in a private dwelling,
  - (b) which consists of more than 15 people, and
  - (c) at which people are gathered in contravention of—
    - (i) paragraph 1(1) of Schedule 1,
    - (ii) paragraph 1(1) of Schedule 2,
    - (iii) paragraph 1(1) of Schedule 3, or
    - (iv) paragraph 2(1) of Schedule 4,

commits an offence.

#### **Travel restriction offences**

- 38.** A person who contravenes a requirement in—
- (a) paragraph 6(1) or (2) of Schedule 1,
  - (b) paragraph 6(1) or (2) of Schedule 2,
  - (c) paragraph 6(1) or (2) of Schedule 3, or
  - (d) paragraph 6(1) of Schedule 4,

commits an offence.

#### **Offences relating to organising events**

- 39.**—(1) A person who contravenes a requirement in—
- (a) paragraph 4 of Schedule 1,
  - (b) paragraph 4 of Schedule 2,
  - (c) paragraph 4 of Schedule 3, or
  - (d) paragraph 4 of Schedule 4,

commits an offence.

(2) A person who, without reasonable excuse, is involved in organising a large unlicensed music event commits an offence.

- (3) For the purposes of paragraph (2)—
- (a) “large unlicensed music event” means an event—
    - (i) at which more than 30 people are in attendance,
    - (ii) at which music is played or performed for the purpose, or for purposes which include the purpose, of entertainment, and
    - (iii) where the playing or performance of the music is—

- (aa) a licensable activity (within the meaning of the Licensing Act 2003(10)),  
and
- (bb) not carried on under and in accordance with an authorisation (within the meaning given by section 136(5) of that Act);
- (b) a person is not involved in organising a large unlicensed music event if the person's only involvement is attending it.

### **Offences relating to isolation requirements and contact tracing**

**40.**—(1) A person who—

- (a) contravenes a requirement in regulation 6(2), 7(2), 8(2), 9(2) or 12, or
- (b) without reasonable excuse, contravenes a requirement in regulation 6(3), 7(3), 8(3) or 9(3),

commits an offence.

(2) It is an offence for a person (“P”) to give false or misleading information to a contact tracer—

- (a) under regulation 6(3), 7(3), 8(3) or 9(3), or
- (b) about—

- (i) P's contact information, or
- (ii) persons with whom P may have had close contact,

where P knows the information is false or misleading, or P is reckless as to whether the information is false or misleading.

(3) In paragraph (2), “close contact” has the same meaning as in Part 3.

### **Offence of failing to wear a face covering**

**41.** A person who contravenes the requirement in regulation 19(1) or 20(1) commits an offence.

### **Offences relating to businesses and services**

**42.**—(1) A person who, without reasonable excuse, contravenes a requirement in—

- (a) paragraphs 7(1) or 8(1) or (2) of Schedule 1,
- (b) paragraphs 7(1) or 8(1) or (2) of Schedule 2,
- (c) paragraphs 7(1), 8(1) or (2) or 10(1) of Schedule 3, or
- (d) paragraphs 7(1), 8(1), 9(1) or 10(1) of Schedule 4,

commits an offence.

(2) An operator of a public transport service who, without reasonable excuse, contravenes the requirement in regulation 19(5) commits an offence.

(3) A person who, without reasonable excuse, fails to take the measures specified in a premises improvement notice issued under paragraph 1(1) of Schedule 8 within the time limit specified in the notice commits an offence.

(4) A person who, without reasonable excuse, contravenes paragraph 3(1) of Schedule 8 commits an offence.

(5) A person who—

- (a) contravenes paragraph 3(2) of Schedule 8, or

(b) without reasonable excuse, removes, obscures or damages a notice or sign required to be displayed under paragraph 7(2)(a) of that Schedule, commits an offence.

#### **Obstruction and contravention of directions and compliance notices**

**43.**—(1) A person who obstructs, without reasonable excuse, any person carrying out a function under these Regulations commits an offence.

(2) A person who, without reasonable excuse—

(a) contravenes a direction given—

(i) by an enforcement officer under Part 7, or

(ii) by the operator of a public transport service, an employee of the operator, or a person authorised by the operator, under regulation 32(2), or

(b) fails to comply with a compliance notice given by an enforcement officer under regulation 27(1),

commits an offence.

#### **Penalty**

**44.** An offence under these Regulations is punishable on summary conviction by a fine.

#### **Arrest without warrant**

**45.** Section 24 of the Police and Criminal Evidence Act 1984(11) applies in relation to an offence under these Regulations as if the reasons in subsection (5) included—

(a) to maintain public health;

(b) to maintain public order.

#### **Offences committed by bodies corporate etc.**

**46.**—(1) If an offence under these Regulations committed by a body corporate is proved—

(a) to have been committed with the consent or connivance of an officer of the body, or

(b) to be attributable to any neglect on the part of such an officer,

the officer (as well as the body corporate) is guilty of the offence and liable to be prosecuted and proceeded against and punished accordingly.

(2) In paragraph (1), “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate.

(3) Proceedings for an offence under these Regulations alleged to have been committed by a partnership may be brought in the name of the partnership instead of in the name of any of the partners.

(4) Proceedings for an offence under these Regulations alleged to have been committed by an unincorporated body other than a partnership may be brought in the name of the body instead of in the name of any of its members and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a body corporate.

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(11) 1984 c. 60. Section 24 was substituted by section 110(1) of the Serious Organised Crime and Police Act 2005 (c. 15).

(5) Section 33 of the Criminal Justice Act 1925<sup>(12)</sup> and Schedule 3 to the Magistrates' Courts Act 1980<sup>(13)</sup> apply in proceedings for an offence brought against a partnership or an unincorporated body other than a partnership as they apply in relation to a body corporate.

(6) A fine imposed on a partnership on its conviction for an offence under these Regulations is to be paid out of the partnership assets.

(7) A fine imposed on an unincorporated body other than a partnership on its conviction for an offence under these Regulations is to be paid out of the funds of the body.

## CHAPTER 2

### Fixed penalties

#### Fixed penalty notices

**47.**—(1) An enforcement officer may issue a fixed penalty notice to a person the officer reasonably believes—

- (a) has committed an offence under these Regulations, and
- (b) is aged 18 or over.

(2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to—

- (a) a local authority, or
- (b) a person designated by the Welsh Ministers for the purposes of receiving payment under this regulation,

as the notice may specify.

(3) The Welsh Ministers may designate themselves under paragraph (2)(b).

(4) A person designated by the Welsh Ministers for the purposes of receiving payment under—

- (a) regulation 13 of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020,
- (b) regulation 21 of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020,
- (c) regulation 31 of the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020, or
- (d) regulation 37 of the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020

is to be treated as if designated for the purposes of receiving payment under this regulation.

(5) Where a local authority is specified in the notice it must be the authority (or as the case may be, one of the authorities) in whose area the offence is alleged to have been committed.

(6) Where a person is issued with a notice under this regulation in respect of an offence—

- (a) no proceedings may be taken for the offence before the end of the period of 28 days following the date the notice is issued;
- (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

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<sup>(12)</sup> 1925 c. 86.

<sup>(13)</sup> 1980 c. 43.

**Amount of fixed penalty: general**

**48.**—(1) Unless regulation 49, 50, 51 or 52 applies, the amount of a fixed penalty is—

- (a) £60, or
- (b) if £30 is paid before the end of the period of 14 days following the date of the notice, £30.

(2) But if the person to whom such a fixed penalty notice is issued has already received a relevant fixed penalty notice—

- (a) paragraph (1) does not apply, and
- (b) the amount specified as the fixed penalty is—
  - (i) in the case of the second relevant fixed penalty notice received, £120;
  - (ii) in the case of the third relevant fixed penalty notice received, £240;
  - (iii) in the case of the fourth relevant fixed penalty notice received, £480;
  - (iv) in the case of the fifth relevant fixed penalty notice received, £960;
  - (v) in the case of the sixth and any subsequent relevant fixed penalty notice received, £1,920.

(3) In paragraph (2), “relevant fixed penalty notice” means—

- (a) a fixed penalty notice where the amount of fixed penalty is determined under this regulation;
- (b) a fixed penalty notice under—
  - (i) the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020,
  - (ii) the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 other than a notice to which regulation 21(7A) of those Regulations applies,
  - (iii) the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020 other than a notice to which regulation 31(8) of those Regulations applies,
  - (iv) the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 other than a notice to which regulation 39, 40, 41 or 42 of those Regulations applies,
  - (v) the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020(14).

**Amount of fixed penalty: participating in a large gathering at a private dwelling**

**49.** Where a fixed penalty notice is issued in respect of an alleged offence under regulation 37(2), the amount of the fixed penalty is £60.

**Amount of fixed penalty: organising an event**

**50.**—(1) Where a fixed penalty notice is issued in respect of an alleged offence under regulation 39(1), the amount of the fixed penalty is £500.

(2) But if the person to whom a fixed penalty notice is issued in respect of such an alleged offence has already received a relevant fixed penalty notice—

- (a) paragraph (1) does not apply, and
- (b) the amount of the fixed penalty is—
  - (i) in the case of the second such fixed penalty notice received, £1,000;
  - (ii) in the case of the third such fixed penalty notice received, £2,000;



(iii) in the case of the fourth and any subsequent such fixed penalty notice received, £4,000.

- (3) In paragraph (2), “relevant fixed penalty notice” means—
- (a) a fixed penalty notice where the amount of fixed penalty is determined under this regulation;
  - (b) a fixed penalty notice under the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 to which regulation 40 of those Regulations applies.

#### **Amount of fixed penalty: organising an unlicensed music event**

**51.** Where a fixed penalty notice is issued in respect of an alleged offence under regulation 39(2), the amount of the fixed penalty is £10,000.

#### **Amount of fixed penalty: business-related offences**

**52.**—(1) This regulation applies to a fixed penalty notice issued in respect of an alleged offence under regulation 42(1), (2), (3) or (4) (an “alleged business offence”).

(2) Where a fixed penalty notice is issued in respect of an alleged business offence, the amount of the fixed penalty is £1,000.

(3) But if the person to whom a fixed penalty notice is issued in respect of an alleged business offence has already received a relevant fixed penalty notice—

- (a) paragraph (2) does not apply, and
- (b) the amount of the fixed penalty is—
  - (i) in the case of the second such fixed penalty notice received, £2,000;
  - (ii) in the case of the third such fixed penalty notice received, £4,000;
  - (iii) in the case of the fourth and any subsequent such fixed penalty notice received, £10,000.

- (4) In paragraph (3), “relevant fixed penalty notice” means—
- (a) a fixed penalty notice issued in respect of an alleged business offence;
  - (b) a fixed penalty notice under the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 to which regulation 42 of those Regulations applies.

#### **Fixed penalties: form and procedure**

**53.**—(1) A fixed penalty notice must—

- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
- (b) state the period during which (because of regulation 47(6)(a)) proceedings will not be taken for the offence;
- (c) specify the amount of the fixed penalty determined under regulation 48, 49, 50, 51 or 52 (as the case may be);
- (d) state the name and address of the person to whom the fixed penalty may be paid;
- (e) specify permissible methods of payment.

(2) Whatever other method may be specified under paragraph (1)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under paragraph (1)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).

(3) Where a letter is sent as mentioned in paragraph (2), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(4) In any proceedings, a certificate—

(a) that purports to be signed by or on behalf of the person with responsibility for the financial affairs of—

(i) the local authority, or

(ii) the person designated under regulation 47(2)(b),

specified in the fixed penalty notice to which the proceedings relate, and

(b) which states that the payment of a fixed penalty was, or was not, received by the date specified in the certificate,

is evidence of the facts stated.

### **Fixed penalty notices: prohibition of double jeopardy**

54.—(1) Where the same, or largely the same, act or omission by a person may give rise to a reasonable belief that the person has committed more than one offence under these Regulations, a fixed penalty notice may be issued to the person only in respect of one of the alleged offences.

(2) But a fixed penalty notice may be issued in respect of both an alleged offence under regulation 37(1) and under regulation 37(2) where the same, or largely the same, act by a person gives rise to a reasonable belief that the person has committed both offences.

## CHAPTER 3

### Proceedings

#### **Self-incrimination**

55.—(1) Relevant information may be used in evidence against the person to whom the information relates in criminal proceedings.

(2) Where the information is used in proceedings other than for an offence under these Regulations or section 5 of the Perjury Act 1911(15) (false statements made otherwise than on oath)

(a) no evidence relating to the information may be adduced by or on behalf of the prosecution, and

(b) no question relating to the information may be asked by or on behalf of the prosecution.

(3) Paragraph (2) does not apply if, in the proceedings—

(a) evidence relating to the information is adduced by or on behalf of the person who provided it, or

(b) a question relating to the information is asked by or on behalf of that person.

(4) In this regulation, “relevant information” means—

(a) information which is relevant information for the purposes of regulation 14;

(b) information, or the answer to a question, given in response to a requirement imposed under regulation 36(1);

(c) anything contained in a document or electronic records produced in response to a requirement imposed under paragraph 8(1) of Schedule 8.

(15) 1911 c. 6. Section 5 was amended by section 1(2) of the Criminal Justice Act 1948 (c. 58).

## Prosecutions

- 56.—(1) No proceedings for an offence under these Regulations may be brought other than by—
- (a) the Director of Public Prosecutions,
  - (b) any person designated by the Welsh Ministers, or
  - (c) in relation to proceedings for an offence under regulation 42, a local authority.
- (2) A person designated by the Welsh Ministers under—
- (a) regulation 14 of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020,
  - (b) regulation 22 of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020,
  - (c) regulation 32 of the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020, or
  - (d) regulation 46 of the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020,

is to be treated as if designated under this regulation.

## PART 9

### General

## Interpretation

- 57.—(1) In these Regulations—
- (a) “alcohol” has the meaning given by section 191 of the Licensing Act 2003<sup>(16)</sup>;
  - (b) “alternative wedding ceremony” means a ceremony—
    - (i) based on a person’s faith or belief or lack of belief, to mark the union of two people, other than a ceremony for the purposes of solemnising a marriage or forming a civil partnership,
    - (ii) held in regulated premises, and
    - (iii) organised by a charitable, benevolent or philanthropic institution;
  - (c) “carer” means a person who provides care for the person assisted where—
    - (i) the carer is entitled to an assessment under section 24 of the Social Services and Well-being (Wales) Act 2014<sup>(17)</sup>,
    - (ii) the care is part of the provision of community care services under Part 4 of the Social Services and Well-being (Wales) Act 2014, or
    - (iii) the care is provided by a care provider registered under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016<sup>(18)</sup>;
  - (d) “child” means a person who is aged under 18;
  - (e) “contact information”, in relation to a person, means the person’s name and information sufficient to enable the person to be contacted, (including a telephone number, and, in

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<sup>(16)</sup> Section 191 has been amended by the Policing and Crime Act 2017 (c. 3) and S.I. 2006/2407.

<sup>(17)</sup> 2014 anaw 4.

<sup>(18)</sup> 2016 anaw 2.

- relation to a person at regulated premises, the date and time at which the person was at the premises);
- (f) “contact tracer” means—
- (i) a person employed or engaged for the purposes of the health service (within the meaning of section 206 of the National Health Service (Wales) Act 2006<sup>(19)</sup> or section 108 of the National Health Service (Scotland) Act 1978<sup>(20)</sup>);
  - (ii) a person employed or engaged by a local authority, designated for the purposes of Part 3 by a Local Health Board, Public Health Wales National Health Service Trust<sup>(21)</sup> or a local authority;
- (g) “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);
- (h) “elite athlete” means an individual designated as such by the Sports Council for Wales for the purposes of—
- (i) these Regulations,
  - (ii) the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020,
  - (iii) the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020,
  - (iv) the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020, or
  - (v) the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020;
- (i) “elite sporting event” means a sporting event at which only elite athletes are competing;
- (j) “face covering” means a covering of any type which covers a person’s nose and mouth;
- (k) “food and drink business” means—
- (i) bars (including bars in members’ clubs);
  - (ii) public houses;
  - (iii) cafes, canteens and restaurants (including workplace canteens and dining rooms in members’ clubs);
- (l) “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—
- (i) is expressed to be granted for holiday use only, or
  - (ii) requires that there are times of the year when no mobile home or caravan may be stationed on the site for human habitation;
- (m) “holiday or travel accommodation” means accommodation in—
- (i) camping sites;
  - (ii) holiday sites;
  - (iii) hotels and bed and breakfast accommodation;
  - (iv) other holiday accommodation (including holiday apartments, hostels and boarding houses);
- (n) “local authority” means the council of a county or county borough in Wales;

<sup>(19)</sup> 2006 c. 42.<sup>(20)</sup> 1978 c. 29.<sup>(21)</sup> Established by S.I. 2009/2058 (W. 177).

- (o) “parental responsibility” has the same meaning as in the Children Act 1989(22);
- (p) a “person responsible for carrying on a business” includes the owner, proprietor, and manager of that business;
- (q) “premises” includes any building or structure and any land;
- (r) “public transport service” means a service provided to the general public for the carriage of passengers by road, railway, tramway, air or water;
- (s) “regulated premises” has the meaning given by regulation 15(1);
- (t) “restricted UK area” means—
  - (i) 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(23) as being within the Tier 3 area;
  - (ii) 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(24), where the table indicates it is a Level 3 or Level 4 area;
  - (iii) Northern Ireland;
- (u) “single adult household” means—
  - (i) a household comprising of 1 adult (and any number of children), or
  - (ii) a household comprising of—
    - (aa) 1 adult who has caring responsibilities for 1 or more other adults in the household,
    - (bb) the adult or adults being cared for,
    - (cc) no other adults, and
    - (dd) any number of children;
- (v) “vehicle” includes an aircraft, a cable car, a train, a tram and a vessel;
- (w) “vulnerable person” includes—
  - (i) any person aged 70 or older;
  - (ii) any person under 70 who has an underlying health condition;
  - (iii) any person who is pregnant;
  - (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(25).

(2) For the purposes of determining whether or not a site is a holiday site in accordance with paragraph (1)(I), 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

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(22) 1989 c. 41. See Part 1 of the Act, to which there have been various amendments, including by the Human Fertilisation and Embryology Act 2008 (c. 22) and S.I. 2019/1458.

(23) S.I. 2020/1374, as amended by S.I. 2020/1533 and S.I. 2020/1572.

(24) 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, S.S.I. 2020/400, S.S.I. 2020/415 and S.S.I. 2020/427.

(25) Section 60 was amended by section 65 of the Protection of Freedoms Act 2012 (c. 9).

- (b) a person employed by that person who does not occupy the mobile home under an agreement to which Part 4 of the Mobile Homes (Wales) Act 2013(26) applies.
- (3) In these Regulations, references to a “private dwelling”—
- (a) include a houseboat and any garden, yard, passage, stair, outhouse or other appurtenance of the dwelling;
- (b) do not include the following—
- (i) holiday or travel accommodation;
- (ii) accommodation in a care home service, secure accommodation service or residential family centre service, within the meaning given to those terms by Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016(27);
- (iii) criminal justice accommodation.
- (4) For the purposes of these Regulations—
- (a) there is a gathering when two or more people are in the same place in order to do something together;
- (b) an event is an occasion—
- (i) which is planned or scheduled for a particular purpose, and
- (ii) at which any number of people are in the same place for that purpose, whether or not they are participating in a gathering.
- (5) For the purposes of these Regulations—
- (a) premises are indoors if they are enclosed or substantially enclosed within the meaning given by regulation 2 of the Smoke-free Premises etc. (Wales) Regulations 2007(28);
- (b) premises are authorised for the sale or supply of alcohol where the premises have been granted or given an authorisation under the Licensing Act 2003, and “authorisation” has the meaning given by section 136(5) of that Act.
- (6) For the purposes of these Regulations, the premises of a cinema or theatre is a drive-in cinema or theatre if—
- (a) the premises are outdoors, and
- (b) persons attending the showing of a film or performance at the premises—
- (i) may only do so in an enclosed vehicle, and
- (ii) may not, in so far as is reasonably practicable, leave the vehicle while at the premises.
- (7) For the purposes of these Regulations, an activity is “organised” if—
- (a) it is organised by—
- (i) a business,
- (ii) a public body or a charitable, benevolent, educational or philanthropic institution,
- (iii) a club or political organisation, or
- (iv) the national governing body of a sport or other activity, and
- (b) the person organising it has—
- (i) carried out a risk assessment which would satisfy the requirements of regulation 3 of the Management of Health and Safety at Work Regulations 1999(29), whether or not the person is subject to those Regulations, and

(26) 2013 anaw 6, as amended by the Housing (Wales) Act 2014 (anaw 7).

(27) 2016 anaw 2.

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

(29) S.I. 1999/3242. Regulation 3 was amended by S.I. 2005/1541, S.I. 2015/21 and S.I. 2015/1637.

- (ii) complied with the requirements of regulations 16 and 18(1).
- (8) For the purposes of paragraph (7)(b)—
  - (a) regulation 3 of the Management of Health and Safety at Work Regulations 1999 applies as if the activity were an undertaking conducted by the person organising it;
  - (b) regulation 16 of these Regulations applies as if—
    - (i) the place where the activity takes place were regulated premises for the purposes of that regulation, and
    - (ii) the person organising the activity were the responsible person in relation to those regulated premises.

### **Revocation**

- 58.** The following Regulations are revoked—
- (a) the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020, other than regulation 48;
  - (b) regulation 4 of the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020(30);
  - (c) regulation 6 of the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (No. 2) (Wales) Regulations 2020(31).

### **Consequential amendment**

**59.** In regulation 19(10) of the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020, after sub-paragraph (d) insert—

- “(e) the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 if regulation 48 of those Regulations applies to the notice.”

At 5.45 p.m. on 18 December 2020

*Mark Drakeford*  
First Minister, one of the Welsh Ministers

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(30) S.I. 2020/1237 (W. 279) as amended by S.I. 2020/1288 (W. 286).

(31) S.I. 2020/1288 (W. 286).