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WELSH STATUTORY INSTRUMENTS

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**2020 No. 725**

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

**PART 5**

Enforcement

**Enforcement officers**

17.—(1) For the purposes of regulations 18 to 21, an “enforcement officer” means—

- (a) a constable,
- (b) a police community support officer,
- (c) a person designated by—
  - (i) the Welsh Ministers,
  - (ii) a local authority,
  - (iii) a National Park authority in Wales, or
  - (iv) Natural Resources Wales,

for the purposes of regulations 18 to 21 (but see paragraphs (2) and (3)), or

- (d) a person designated under regulation 10(11)(c) of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020<sup>F1</sup> as a relevant person (within the meaning given by that regulation) by—

- (i) the Welsh Ministers,
- (ii) a local authority,
- (iii) a National Park authority in Wales, or
- (iv) Natural Resources Wales,

(but see paragraphs (2) and (3)).

(2) A person designated by a local authority may exercise an enforcement officer's functions only in relation to a contravention (or alleged contravention) of a requirement in regulation 6(1), 7(1),<sup>F1</sup> ... 10(1) or (4), 11(4) or 12(2).

(3) A person designated by a National Park authority or Natural Resources Wales may exercise an enforcement officer's functions only in relation to a contravention (or alleged contravention) of the requirement in regulation 11(4).

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**Textual Amendments**

- F1** Word in reg. 17(2) omitted (25.7.2020) by virtue of [The Health Protection \(Coronavirus Restrictions\) \(No. 2\) \(Wales\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/803\)](#), regs. 1(3), **2(7)** (with reg. 4)

**Status:** Point in time view as at 25/07/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 (revoked), PART 5. (See end of Document for details)

#### Commencement Information

- I1** Reg. 17 in force at 11.7.2020 for specified purposes, see reg. 1(3)(e)  
**I2** Reg. 17 in force at 13.7.2020 in so far as not already in force, see reg. 1(4)

#### Marginal Citations

- M1** [S.I. 2020/353](#) (W. 80).

### Enforcement actions

**18.**—(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 regulation 6(1), 7(1), <sup>F2</sup>... 10(1) or (4) or 12(2).

(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.

(3) If an enforcement officer has reasonable grounds to suspect that a person (“P”) is contravening (or is about to contravene) regulation 11(4), the officer may remove P from a public path or access land (within the meaning given by regulation 11(7)) which is closed (or is being closed) by virtue of regulation 11(1), and may use reasonable force, if necessary, to do so.

(4) Where an enforcement officer has reasonable grounds for suspecting that people are gathered together in contravention of regulation 14(1), the officer may—

- (a) direct the gathering to disperse;
- (b) direct any person in the gathering to return to the place where they are living;
- (c) remove any person in the gathering to the place where they are living.

(5) An enforcement officer may—

- (a) when exercising the power in paragraph (4), direct a person to follow such instructions as the officer considers necessary;
- (b) use reasonable force in the exercise of the power in paragraph (4)(a) or (c).

(6) Where an enforcement officer has reasonable grounds to suspect that a person (“P”) is in a gathering in contravention of regulation 14(1) and is a child accompanied by an individual (“I”) who has responsibility for P—

- (a) the officer may direct I to take P to the place where P is living, and
- (b) I must, so far as reasonably practicable, ensure that P complies with any direction or instruction given by the officer to P.

(7) For the purposes of paragraph (6), 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.

(8) An enforcement officer may take other action to facilitate the exercise of a power conferred on the officer by this regulation or regulation 19.

(9) An enforcement officer may only exercise a power under this regulation or regulation 19 if the officer considers that it is necessary and proportionate to do so.

(10) In this regulation and regulations 19 and 20 references to a requirement include references to a restriction.

### Textual Amendments

- F2** Word in reg. 18(1) omitted (25.7.2020) by virtue of [The Health Protection \(Coronavirus Restrictions\) \(No. 2\) \(Wales\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/803\)](#), regs. 1(3), **2(8)** (with reg. 4)

### Commencement Information

- I3** Reg. 18 in force at 11.7.2020 for specified purposes, see reg. 1(3)(e)  
**I4** Reg. 18 in force at 13.7.2020 in so far as not already in force, see reg. 1(4)

## Power of entry

- 19.**—(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—
- (a) use reasonable force to enter the premises if necessary;
  - (b) 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.

### Commencement Information

- I5** Reg. 19 in force at 11.7.2020 for specified purposes, see reg. 1(3)(e)  
**I6** Reg. 19 in force at 13.7.2020 in so far as not already in force, see reg. 1(4)

## Offences and penalties

- 20.**—(1) A person who—
- (a) without reasonable excuse, contravenes a requirement in regulation 6(1), 7(1), <sup>F3</sup>... 10(1) or (4), 11(4) [<sup>F4</sup>or 12(2)], or
  - (b) contravenes a requirement in regulation 14(1),
- commits an offence.
- (2) A person who obstructs, without reasonable excuse, any person carrying out a function under these Regulations commits an offence.
- (3) A person who, without reasonable excuse—
- (a) contravenes a direction given by an enforcement officer under regulation 18(4), 18(5)(a) or 18(6), or
  - (b) fails to comply with a compliance notice given by an enforcement officer under regulation 18(1),

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commits an offence.

(4) An offence under these Regulations is punishable on summary conviction by a fine.

(5) Section 24 of the Police and Criminal Evidence Act 1984<sup>M2</sup> applies in relation to an offence under this regulation as if the reasons in subsection (5) included—

- (a) to maintain public health;
- (b) to maintain public order.

(6) If an offence under paragraph (1) 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.

(7) In paragraph (6), “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate.

(8) 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.

(9) 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.

(10) Section 33 of the Criminal Justice Act 1925<sup>M3</sup> and Schedule 3 to the Magistrates' Courts Act 1980<sup>M4</sup> apply in proceedings for an offence brought against a partnership or an unincorporated association other than a partnership as they apply in relation to a body corporate.

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

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

#### Textual Amendments

- F3** Word in reg. 20(1)(a) omitted (25.7.2020) by virtue of [The Health Protection \(Coronavirus Restrictions\) \(No. 2\) \(Wales\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/803\)](#), regs. 1(3), **2(9)(a)** (with reg. 4)
- F4** Words in reg. 20(1)(a) substituted (25.7.2020) by [The Health Protection \(Coronavirus Restrictions\) \(No. 2\) \(Wales\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/803\)](#), regs. 1(3), **2(9)(b)** (with reg. 4)

#### Commencement Information

- I7** Reg. 20 in force at 11.7.2020 for specified purposes, see reg. 1(3)(e)
- I8** Reg. 20 in force at 13.7.2020 in so far as not already in force, see reg. 1(4)

#### Marginal Citations

- M2** 1984 c. 60. Section 24 was substituted by section 110(1) of the [Serious Organised Crime and Police Act 2005 \(c. 15\)](#).
- M3** 1925 c. 86.
- M4** 1980 c. 43.

## Fixed penalty notices

21.—(1) An enforcement officer may issue a fixed penalty notice to anyone that 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 regulation 13 of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020<sup>M5</sup> 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, any 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.

(7) 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 paragraph (6)(a)) proceedings will not be taken for the offence;
- (c) specify the amount of the fixed penalty;
- (d) state the name and address of the person to whom the fixed penalty may be paid;
- (e) specify permissible methods of payment.

(8) The amount specified under paragraph (7)(c) must be £60 (subject to paragraphs (9) and (10)).

(9) A fixed penalty notice may specify that if £30 is paid before the end of the period of 14 days following the date of the notice, that is the amount of the fixed penalty.

(10) If the person to whom a fixed penalty notice is given has already received a fixed penalty notice under these Regulations—

- (a) paragraph (9) does not apply, and
- (b) the amount specified as the fixed penalty is to be—
  - (i) in the case of the second fixed penalty notice received, £120;
  - (ii) in the case of the third fixed penalty notice received, £240;
  - (iii) in the case of the fourth fixed penalty notice received, £480;
  - (iv) in the case of the fifth fixed penalty notice received, £960;
  - (v) in the case of the sixth and any subsequent fixed penalty notice received, £1920.

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(11) In calculating how many fixed penalty notices a person has received, fixed penalty notices issued to that person under the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 <sup>M6</sup> are to be taken into account.

(12) Whatever other method may be specified under paragraph (7)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under paragraph (7)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).

(13) Where a letter is sent as mentioned in paragraph (12), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(14) 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 paragraph (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.

(15) Where a fixed penalty is issued in respect of the alleged offence of contravening the requirement in regulation 11(4), references in this regulation to a “local authority” are to be read as including references to a National Park authority in Wales.

#### Commencement Information

**I9** Reg. 21 in force at 11.7.2020 for specified purposes, see reg. 1(3)(e)

**I10** Reg. 21 in force at 13.7.2020 in so far as not already in force, see reg. 1(4)

#### Marginal Citations

**M5** [S.I. 2020/353](#) (W. 80). Regulation 13 was amended by [S.I. 2020/399](#) (W. 88) and [S.I. 2020/529](#) (W. 124).

**M6** [S.I. 2020/353](#) (W. 80).

## Prosecutions

**22.**—(1) No proceedings for an offence under these Regulations may be brought other than by the Director of Public Prosecutions or any person designated by the Welsh Ministers.

(2) A person designated by the Welsh Ministers under regulation 14 of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 <sup>M7</sup> is to be treated as if designated under this regulation.

#### Commencement Information

**I11** Reg. 22 in force at 11.7.2020 for specified purposes, see reg. 1(3)(e)

**I12** Reg. 22 in force at 13.7.2020 in so far as not already in force, see reg. 1(4)

#### Marginal Citations

**M7** [S.I. 2020/353](#) (W. 80).

**Status:**

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