
WELSH STATUTORY INSTRUMENTS

2021 No. 1131 (W. 274)

PUBLIC HEALTH, WALES

**The Health Protection (Coronavirus Restrictions) (No. 5)
(Wales) (Amendment) (No. 18) Regulations 2021**

<i>Made</i>	- - - -	<i>at 1.40 p.m. on 8 October 2021</i>
<i>Laid before Senedd Cymru</i>		<i>at 5.00 p.m. on 8 October 2021</i>
<i>Coming into force</i>	- -	<i>9 October 2021</i>

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

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

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

In accordance with section 45Q(3) of that Act the Welsh Ministers are of the opinion that the instrument does not contain any provision made by virtue of section 45C(3)(c) of the Act which imposes or enables the imposition of a special restriction or requirement, or any other restriction or requirement which has or would have a significant effect on a person's rights.

Title and coming into force

1.—(1) The title of these Regulations is the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 18) Regulations 2021.

(2) These Regulations come into force on 9 October 2021.

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

Amendment to the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020

2.—(1) The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020(2) are amended as follows.

(2) In regulation 10—

(a) in paragraph (2)—

(i) after sub-paragraph (d) insert—

“(da) to enable the person to seek to prevent illness, injury or other risk of harm to another person (“A”) where—

(i) it is not possible or not practicable for somebody else to assist A,

(ii) the person is not assisting A as part of the person’s work or through providing voluntary services, and

(iii) the risk of harm to A from being in the same place as the person is less than the risk of harm to A that the person is seeking to prevent;”;

(ii) for sub-paragraph (h) substitute—

“(h) to move to a different place to live—

(i) where it becomes impracticable to remain at the place where the person is living, or

(ii) to prevent illness to another person who lives in the place where the person is living;”;

(b) after paragraph (6) insert—

“(6A) A contact tracer may, for the purposes of determining whether to request evidence from a person in accordance with paragraph (5)(b) or (6)(b), obtain and use information about whether a person—

(a) has completed a course of doses of an authorised vaccine;

(b) has participated in, or is participating in, a clinical trial of a vaccine for vaccination against coronavirus carried out in the United Kingdom in accordance with the requirements of the Medicines for Human Use (Clinical Trials) Regulations 2004(3).”

(3) Omit regulation 10A.

(4) In regulation 14—

(a) in paragraph (2), before sub-paragraph (b) insert—

“(ab) information about whether a person—

(i) has completed a course of doses of an authorised vaccine;

(ii) has participated in, or is participating in, a clinical trial of a vaccine for vaccination against coronavirus carried out in the United Kingdom in

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- (2) S.I. 2020/1609 (W. 335) as amended by S.I. 2020/1610 (W. 336), S.I. 2020/1623 (W. 340), S.I. 2020/1645 (W. 345), S.I. 2021/20 (W. 7), S.I. 2021/46 (W. 10), S.I. 2021/57 (W. 13), S.I. 2021/66 (W. 15), S.I. 2021/95 (W. 26), S.I. 2021/103 (W. 28), S.I. 2021/172 (W. 40), S.I. 2021/210 (W. 52), S.I. 2021/307 (W. 79), S.I. 2021/413 (W. 133), S.I. 2021/502 (W. 150), S.I. 2021/542 (W. 154), S.I. 2021/583 (W. 160), S.I. 2021/668 (W. 169), S.I. 2021/686 (W. 172), S.I. 2021/722 (W. 183), S.I. 2021/862 (W. 201), S.I. 2021/925 (W. 210) and S.I. 2021/970 (W. 228).
- (3) S.I. 2004/1031 as amended by section 116 of the Care Act 2014 (c. 23) and by S.I. 2004/3224, S.I. 2005/2754, S.I. 2005/2759, S.I. 2006/562, S.I. 2006/1928, S.I. 2006/2984, S.I. 2007/289, S.I. 2007/3101, S.I. 2008/941, S.I. 2010/231, S.I. 2010/551, S.I. 2010/1882, S.I. 2011/2581, S.I. 2012/134, S.I. 2012/504, S.I. 2012/1641, S.I. 2012/1916, S.I. 2013/532, S.I. 2016/190, S.I. 2016/696, S.I. 2019/593, S.I. 2019/744, S.I. 2019/1094 and S.I. 2020/1488.

accordance with the requirements of the Medicines for Human Use (Clinical Trials) Regulations 2004;”;

(b) for paragraph (8) substitute—

“(8) In this regulation—

(a) “authorised vaccine” and “clinical trial” have the same meanings as in regulation 10;

(b) “data protection legislation” and “personal data” have the same meanings as in section 3 of the Data Protection Act 2018(4).”

(5) In regulation 57(9), in the words before sub-paragraph (a), omit “regulated”.

Amendment to the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 17) Regulations 2021

3.—(1) In regulation 2(2) of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 17) Regulations 2021(5), the regulation 16A that is to be inserted after regulation 16 of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 is amended as follows.

(2) After paragraph (5) insert—

“(5A) For the purposes of paragraph (2)(c), a person participating in a religious service in premises ordinarily used as a place of worship is to be treated as being normally seated.”

(3) In paragraph (6)—

(a) in sub-paragraph (b), in the English language text, after “in relation to” insert “a”;

(b) in sub-paragraph (c)—

(i) for “or” substitute “, the”;

(ii) after “vaccination card” insert “, or a vaccine certificate relating to the person”.

(4) In paragraph (8), for “person is deemed to have received a course of doses of a vaccine” substitute “doses are deemed to be administered”.

(5) In paragraph (9)—

(a) in sub-paragraph (b)—

(i) at the beginning insert “in relation to a course of doses administered in the United Kingdom or a relevant country,”;

(ii) for “a”, where it appears after “completed”, substitute “the”;

(iii) in the opening words, the words from “the person” to the end become paragraph (i) of that sub-paragraph;

(iv) current paragraph (i) becomes sub-paragraph (aa);

(v) current paragraph (ii) becomes sub-paragraph (bb);

(vi) at the end of sub-paragraph (bb) as renumbered insert “, or”;

(vii) after sub-paragraph (bb) as renumbered insert—

“(ii) the person has received a dose of one authorised vaccine and a dose of a different authorised vaccine;”;

(b) after sub-paragraph (b) insert—

(4) 2018 c. 12.

(5) S.I. 2021/1119 (W. 271).

- “(c) in relation to a course of doses administered under the United Kingdom vaccine roll-out overseas, a person has completed the course of doses if—
- (i) the person has received the complete course of doses of the vaccine as specified in the manufacturer’s guidance for that vaccine, or
 - (ii) the person has received a dose of one vaccine and a dose of a different vaccine.”
- (6) In paragraph (10)—
- (a) in sub-paragraph (a)—
 - (i) in paragraph (i), after “United Kingdom” insert “or in a relevant country listed in paragraph (12)”;
 - (ii) in paragraph (ii), after “relevant country” insert “listed in the first column of the table in paragraph (11)”;
 - (b) in sub-paragraph (c)(ii), after “relevant country” insert “listed in the first column of the table in paragraph (11)”;
 - (c) in sub-paragraph (d), after “paragraph (11)” insert “or a country or territory listed in paragraph (12)”;
 - (d) after sub-paragraph (f) insert—
 - (g) “vaccine certificate” means a certificate in English, French or Spanish issued by the competent health authority of Australia, Canada or a relevant country listed in paragraph (12) which contains—
 - (i) the person’s full name;
 - (ii) the person’s date of birth;
 - (iii) the name and manufacturer of the vaccine that the person has received;
 - (iv) the date that the person received each does of the vaccine;
 - (v) details of either the identity of the issuer of the certificate or the country of vaccination, or both.”
- (7) In paragraph (11), in the table, at the appropriate places insert—
- (a) in the first column (relevant country) insert “Australia”, and in the second column (relevant regulator) of the same row insert “The Therapeutic Goods Administration”;
 - (b) in the first column insert “Canada”, and in the second column of the same row insert “Health Canada”.
- (8) After paragraph (11) insert—
- “(12) The countries and territories referred to in the definition of “relevant country” are—
- Albania
 - Antigua and Barbuda
 - The Bahamas
 - Bahrain
 - Bangladesh
 - Barbados
 - Bosnia and Herzegovina
 - Brazil
 - Brunei

Chile
Colombia
Dominica
Egypt
Georgia
Ghana
Grenada
Hong Kong
India
Indonesia
Israel
Jamaica
Japan
Jordan
Kenya
Kosovo
Kuwait
Malaysia
Maldives
Moldova
Montenegro
Morocco
Namibia
New Zealand
Nigeria
North Macedonia
Oman
Pakistan
The Philippines
Qatar
Saudi Arabia
Serbia
Singapore
South Africa
South Korea
St Kitts and Nevis
St Lucia
St Vincent and the Grenadines
Taiwan
Thailand

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Turkey
Ukraine
United Arab Emirates
Vietnam”.

At 1.40 p.m. on 8 October 2021

Mark Drakeford
First Minister, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

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

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (S.I. 2020/1609 (W. 335)) (“the principal Regulations”) to—

- clarify that a person who would otherwise be required to isolate under regulation 6, 7 or 8 of the principal Regulations may leave and be outside of the place where they are living for as long as is necessary—
 - to prevent illness, injury or other risk of harm to another person (“A”) where it is not possible or practicable for somebody else to assist A, the person is not assisting A as part of the person’s work or through providing voluntary services, and the risk of harm to A is greater than the risk of harm to A that arises from being in the same place as the person who would otherwise have to isolate;
 - to move to a different place to live to prevent illness to another person who lives in the place where the person is living;
- clarify that where a contact tracer is deciding whether to ask a person for evidence that they have been fully vaccinated or have participated in a clinical trial (before the person can rely on the relevant exemption to the requirement to isolate under regulation 8 of the principal Regulations after close contact with a positive case), a contact tracer can access and use the person’s vaccination record or record of participation in a clinical trial;
- provide that a contact tracer may only disclose such information about a person’s vaccine status or a person’s participation in a clinical trial as is necessary for the person receiving the information to have for the purposes of carrying out a function under the principal Regulations, preventing danger to the health of the public, monitoring the spread of coronavirus, or for a purpose that is connected to any of these matters;
- omit the spent transitional provision at regulation 10A of the principal Regulations;
- clarify that regulation 57(9) of the principal Regulations, which makes provision in relation to when a gathering or event is not to be treated as being “outdoors”, applies to all gatherings and events.

These Regulations also amend the new regulation 16A to be inserted into the principal Regulations at 7.00 a.m. on 11 October 2021 by the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 17) Regulations 2021 (S.I. 2021/1119 (W. 271)).

Regulation 16A(1) requires the person responsible for certain premises to take reasonable measures to ensure that an adult is permitted to be present on the premises only if they have evidence of particular matters, including vaccination with an authorised vaccine. These Regulations amend regulation 16A, before it comes into force, to provide that evidence of the following is acceptable for the purposes of regulation 16A(1)—

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- vaccination in the United Kingdom or a specified country with a dose of one authorised vaccine and a dose of a different authorised vaccine;
- vaccination under the United Kingdom vaccine roll-out overseas in accordance with the manufacturer’s guidance for the vaccine, or with a dose of one vaccine and a dose of a different vaccine.

The amendments also—

- add Australia and Canada to the list of specified countries in regulation 16A(11), so that evidence of vaccination in those countries with vaccines authorised by those countries’ regulators is acceptable for the purposes of regulation 16A(1);
- further expand the list of specified countries (by inserting new paragraph (12) into regulation 16A), so that evidence of vaccination in those countries with vaccines authorised in the United Kingdom is also acceptable;
- provide that evidence of vaccination in a specified country may be in the form of a vaccine certificate issued by the competent health authority of that country.

These amendments to regulation 16A are required to maintain consistency with regulation 2A of the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 ([S.I. 2020/574 \(W. 132\)](#)), as amended by the Health Protection (Coronavirus, International Travel, Operator Liability and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) (No. 3) Regulations 2021 ([S.I. 2021/1109 \(W. 265\)](#)), from 4 October 2021 and by the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 11) Regulations 2021 ([S.I. 2021/1126 \(W. 273\)](#)) from 11 October 2021. Regulation 2A provides that a person arriving in Wales from outside the common travel area is subject to reduced coronavirus testing requirements if they have been vaccinated with a qualifying vaccine, and regulation 16A of the principal Regulations provides that evidence of vaccination with the same qualifying vaccine is acceptable for the purposes of regulation 16A(1).

Regulation 16A is also amended to make it clear that a person participating in a religious service in premises ordinarily used as a place of worship is considered to be normally seated. This means that the requirements of regulation 16A(1) do not apply to a religious service of more than 500 people indoors in premises ordinarily used as a place of worship, which in practice means that those requirements don’t apply to any religious service held in premises ordinarily used as a place of worship.

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