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WELSH STATUTORY INSTRUMENTS

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**2021 No. 1363 (W. 358)**

**PUBLIC HEALTH, WALES**

**The Health Protection (Coronavirus Restrictions) (No. 5)  
(Wales) (Amendment) (No. 21) Regulations 2021**

*Approved by Senedd Cymru*

<i>Made</i>	- - - -	<i>at 1.12 p.m. on 2 December 2021</i>
<i>Laid before Senedd Cymru</i>		<i>at 4.30 p.m. on 2 December 2021</i>
<i>Coming into force</i>	- -	<i>3 December 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<sup>(1)</sup>.

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

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

In accordance with section 45R of that Act the Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make this instrument without a draft having been laid before, and approved by a resolution of, Senedd Cymru.

**Title and coming into force**

1.—(1) The title of these Regulations is the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 21) Regulations 2021.

(2) These Regulations come into force on 3 December 2021.

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

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

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

(2) S.I. 2020/1609 (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. 27).

(2) In regulation 5—

(a) after paragraph (1) insert—

“(1A) In this Part—

(a) a “person who has coronavirus which is or may be the Omicron variant” means—

(i) a person who has tested positive for coronavirus and molecular testing (including PCR tests, genotyping or sequencing) has identified that the person has the Omicron variant, or

(ii) a person who has tested positive for coronavirus and one of the following applies—

(aa) molecular testing (including PCR tests, genotyping or sequencing) has identified that the person is likely to have the Omicron variant, or

(bb) the circumstances are such that it is reasonable for a contact tracer to suspect that the person has the Omicron variant;

(b) “Omicron variant” means the SARS-CoV-2 variant designated as B.1.1.529 by the World Health Organisation.”

(b) after paragraph (4) insert—

“(5) For the purposes of regulations 6 and 7, “a contact tracer” includes—

(a) Public Health Wales National Health Service Trust;

(b) the Secretary of State.”

(3) Before regulation 10 insert—

**“Requirement to isolate after close contact with person with Omicron variant: child**

**9A.—**(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 coronavirus which is or may be the Omicron variant.

(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 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

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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), S.I. 2021/970 (W. 228), S.I. 2021/1119 (W. 271), S.I. 2021/1131 (W. 274), S.I. 2021/1212 (W. 303) and S.I. 2021/1304 (W. 334).

- (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.”
- (4) In regulation 10—
- (a) in paragraph (1), for “or 8(2)” substitute “, 8(2) or 9A(2)”;  
(b) in paragraph (3), for “and 8(2)” substitute “, 8(2) and 9A(2)”;  
(c) after paragraph (6) insert—
- “(6ZA) But paragraphs (5) and (6) do not apply where the contact tracer who gives the notification described in regulation 8(1) also notifies the person that the close contact was with a person who has coronavirus which is or may be the Omicron variant.”
- (5) In regulation 11, after paragraph (1) insert—
- “(1A) But this regulation does not apply where the contact tracer who gives the notification described in regulation 8(1) also notifies the person that the close contact was with a person who has coronavirus which is or may be the Omicron variant.”
- (6) In regulation 12, after “regulation 7(2)” insert “or 9A(2)”.
- (7) In regulation 13(1)(a), for “or 8(1)” substitute “, 8(1) or 9A(1)”.
- (8) After regulation 13 insert—
- “Withdrawing a notification that close contact was with person with Omicron variant**
- 13A.—**(1) This regulation applies where a contact tracer—
- (a) has given a notification under regulation 10(6ZA) or 11(1A) that a person’s close contact was with a person who has coronavirus which is or may be the Omicron variant (“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 (and the exemptions in regulations 10(5) and (6) and 11 may apply).”
- (9) In regulation 14(2)(a)—
- (a) in the words before paragraph (i), for “or 8(2)” substitute “, 8(2) or 9A(2)”;  
(b) in paragraph (ii), for “or 8(1)” substitute “, 8(1) or 9A(1)”;  
(c) in paragraph (iii), for “or 8” substitute “, 8 or 9A”.
- (10) In regulation 30, in the words before sub-paragraph (a), for “or 8(2)” substitute “, 8(2) or 9A(2)”.
- (11) In regulation 40—
- (a) in paragraph (1)—
- (i) in sub-paragraph (a), after “8(2)” insert “, 9A(2)”;  
(ii) in sub-paragraph (b), for “or 8(3)” substitute “, 8(3) or 9A(3)”;  
(b) in paragraph (2)(a), for “or 8(3)” substitute “, 8(3) or 9A(3)”.

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

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## 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—

- provide that where an adult is notified that they have had close contact with a person who has tested positive for coronavirus which is or may be the Omicron variant, the adult must self-isolate as the exemptions in the principal Regulations relating to vaccination status, clinical trials and testing schemes no longer apply;
- provide (similarly) that where an adult is notified that a child for whom the adult has responsibility has had close contact with a person who has tested positive for coronavirus which is or may be the Omicron variant, the child must self-isolate;
- clarify that for the purposes of regulations 6 and 7 of the principal Regulations, a “contact tracer” includes Public Health Wales NHS Trust and the Secretary of State so that they may notify people of positive test results.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. In accordance with the Code, a regulatory impact assessment as to the likely cost and benefit of complying with these Regulations has not been carried out, due to the need to put them in place urgently to deal with a serious and imminent threat to public health.