
WELSH STATUTORY INSTRUMENTS

2021 No. 172 (W. 40)

PUBLIC HEALTH, WALES

**The Health Protection (Coronavirus Restrictions)
(No. 5) (Wales) (Amendment) (No. 3) Regulations 2021**

Approved by Senedd Cymru

<i>Made</i>	- - - -	<i>at 3.06 p.m. on 19 February 2021</i>
<i>Laid before Senedd Cymru</i>		<i>at 5.45 p.m. on 19 February 2021</i>
<i>Coming into force</i>	- -	<i>20 February 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 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. 3) Regulations 2021.

(2) These Regulations come into force on 20 February 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 of 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) After regulation 4(6) insert—

“(6A) The restrictions and requirements set out in one of Schedules 1 to 4 apply to an area subject to the temporary modifications specified in relation to that area in Schedule 5.”

(3) In regulation 57(1), for sub-paragraph (h) substitute—

“(h) “elite athlete” means an individual who—

(i) derives a living from competing in a sport,

(ii) is designated as an elite athlete by the Sports Council for Wales for the purposes of—

(aa) these Regulations,

(bb) the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020,

(cc) the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020,

(dd) the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020, or

(ee) the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020,

(iii) is an “elite sportsperson” within the meaning given by regulation 2(1) of the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020(3),

(iv) is a “professional sportsperson” within the meaning given by regulation 2(1) of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(4), or

(v) is an “elite athlete” within the meaning given by paragraph 39(2) of Schedule 2 to the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2020(5);”;

(4) In paragraph 1 of Schedule 4, in sub-paragraph (4)(f)—

(a) after sub-paragraph (ii), insert “or”;

(b) omit sub-paragraph (iv) and the “or” immediately preceding it.

(5) In paragraph 2 of Schedule 4, in sub-paragraph (4)(i), omit sub-paragraph (ii) and the “or” immediately preceding it.

(6) In paragraph 6A of Schedule 4—

(a) in sub-paragraph (1), before “pupil” insert “designated”;

(b) after sub-paragraph (1) insert—

-
- (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) and S.I. 2021/103 (W. 28).
- (3) S.I. 2020/1374, as amended by S.I. 2020/1518, S.I. 2020/1533, S.I. 2020/1572, S.I. 2020/1611, S.I. 2020/1646, S.I. 2020/1654, S.I. 2021/8, S.I. 2021/53 and S.I. 2021/97.
- (4) S.S.I. 2020/344, as amended by S.S.I. 2020/347, S.S.I. 2020/374, S.S.I. 2020/389, S.S.I. 2020/392, S.S.I. 2020/400, S.S.I. 2020/415, S.S.I. 2020/427, S.S.I. 2020/439, S.S.I. 2020/452, S.S.I. 2020/471, S.S.I. 2021/1, S.S.I. 2021/3, S.S.I. 2021/17, S.S.I. 2021/25, S.S.I. 2021/35, S.S.I. 2021/49, S.S.I. 2021/54 and S.S.I. 2021/86.
- (5) S.R. 2020 No. 90, as amended by S.R. 2020 Nos. 138, 140, 154, 155, 163, 168, 179, 185, 189, 193, 194, 200, 203, 212, 216, 223, 228, 234, 241, 243, 244, 254, 275, 278, 289, 326, 344, and 355 and S.R. 2021 Nos. 4, 5, 6, 9, 10, 13, 17 and 32.

- “(1A) In this paragraph, “designated pupil” means a pupil in year 3 or above.”;
- (c) in sub-paragraph (2)—
- (i) in paragraph (a), before “pupil”, where it first occurs, insert “designated”;
 - (ii) in paragraph (b), before “pupil” insert “designated”;
 - (iii) in paragraph (c), before “pupil” insert “designated”;
 - (iv) in paragraph (d), before “pupil”, where it first occurs, insert “designated”;
 - (v) in paragraph (e), before “pupil” insert “designated”.
- (7) In paragraph 6B of Schedule 4, for sub-paragraph (2)(a) substitute—
- “(a) a further education institution to undertake—
- (i) an examination or other assessment, or
 - (ii) a course in engineering, construction, hospitality, catering, or agriculture, where attendance at the institution is necessary to enable the student to complete a required element of the course;”.
- (8) In paragraph 6D of Schedule 4, at the end insert—
- “(m) “school year” has the same meaning as in section 579(1) of the 1996 Act;
- (n) “year 3” means a year group in which the majority of children will, in the school year, attain the age of 8;
- (o) “year group” means a group of children at a school the majority of whom will, in a particular school year, attain the same age.”
- (9) In Schedule 5, after the table insert—

“Temporary modifications

2. In relation to an Alert Level 4 area, for the period from the start of the day on 20 February 2021 to the end of the day on 12 March 2021—

- (a) paragraph 1(4)(f) of Schedule 4 is to be read as if—
- (i) the “or” after sub-paragraph (ii) were omitted, and
 - (ii) after sub-paragraph (iii) there were inserted
“or
(iv) in a group of no more than 4 persons from no more than 2 households, but the group may also include any carer of a person in the group and any children from either household under the age of 11.”;
- (b) paragraph 2(4)(i) of Schedule 4 is to be read as if after sub-paragraph (i) there were inserted
“or
(ii) in a group of no more than 4 persons from no more than 2 households, but the group may also include any children from either household under the age of 11.”.

At 3.06 p.m. on 19 February 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”).

The principal Regulations are amended to make temporary modifications to the restrictions and requirements applying to an Alert Level 4 area under Schedule 4 to the principal Regulations. The temporary provisions allow groups of up to 4 people from 2 different households to exercise together outdoors (though the exercise continues to have to start and finish from the place where the people are living).

To provide for temporary modifications of this nature, a corresponding amendment is made to regulation 4(8). This means the restrictions and requirements for each alert level (set out in Schedules 1 to 4) apply to an area subject to any temporary modifications specified in relation to that area in Schedule 5. So in addition to looking at Schedule 5 to determine which of Schedules 1 to 4 applies to an area, you must also consider how the relevant Schedule may have been modified by Schedule 5.

Part 3A of Schedule 4 to the principal Regulations prohibits proprietors of schools in Wales in an Alert Level 4 area from allowing pupils to attend school premises. It also prohibits proprietors of further education institutions from allowing students to attend those institutions. This is subject to certain exceptions in both cases.

These Regulations amend Part 3A of Schedule 4 to the principal Regulations so that the prohibition on school proprietors applies only in relation to pupils in year 3 or above. It also amends that Part so that the prohibition on proprietors of further education institutions does not apply if the student is undertaking a course in engineering, construction, hospitality, catering, or agriculture and needs to attend the institution to complete their course.

These Regulations also make further minor amendments to Schedule 4 to the principal Regulations.

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