

WELSH STATUTORY INSTRUMENTS

2021 No. 307 (W. 79)

PUBLIC HEALTH, WALES

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

Approved by Senedd Cymru

<i>Made</i>	- - - -	<i>at 2.56 p.m. on 12 March 2021</i>
<i>Laid before Senedd Cymru</i>		<i>at 6.00 p.m. on 12 March 2021</i>
<i>Coming into force in accordance with regulation 1(2) to (4)</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^{M1}.

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.

Marginal Citations

M1 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.

Title and coming into force

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

(2) These Regulations, apart from sub-paragraphs (f) and (h) of regulation 2(8), come into force immediately before the start of the day on 13 March 2021.

(3) Sub-paragraph (f) of regulation 2(8) comes into force on 15 March 2021.

(4) Sub-paragraph (h) of regulation 2(8) comes into force on 22 March 2021.

Commencement Information

II Reg. 1 in force immediately before the start of the day on 13.3.2021, see reg. 1(2)

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

2.—(1) The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020^{M2} are amended as follows.

- (2) In regulation 3, for “31 March” substitute “ 28 May ”.
- (3) In regulation 31(3)^{M3}, omit “, paragraph 5 of Schedule 3”.
- (4) In Schedule 1—
- (a) in paragraph 3—
- (i) in sub-paragraph (2), for “single adult” substitute “ well-being needs ”;
- (ii) in sub-paragraph (3), omit “of the adult”;
- (iii) in sub-paragraph (6), omit “adult”;
- (iv) after sub-paragraph (6) insert—
- “(6A) Sub-paragraph (6B) applies where—
- (a) a person who would be, or is, a member of an extended household is a child, and
- (b) a person who has parental responsibility for the child (“P”) is a member of the child's household.
- (6B) Where this sub-paragraph applies—
- (a) the agreement required by sub-paragraph (3) is to be given by P (and not the child), and
- (b) a household ceases to be treated as part of an extended household in accordance with sub-paragraph (6) if P ceases to agree to be treated as part of the extended household (whether or not the child also ceases to agree).”;
- (v) after sub-paragraph (8) insert—
- “(9) In this paragraph, “well-being needs household” means—
- (a) a single adult household;
- (b) a household comprising of 1 or more children and no adults.”;
- (b) in paragraph 7(2)(c), omit “for such a broadcast”.
- (5) In Schedule 2—
- (a) in paragraph 3—
- (i) in sub-paragraph (2), for “single adult” substitute “ well-being needs ”;
- (ii) in sub-paragraph (3), for “of the adult members of the 2 households” substitute “ members of the households ”;
- (iii) in sub-paragraph (7), omit “adult”;
- (iv) after sub-paragraph (7) insert—
- “(7A) Sub-paragraph (7B) applies where—
- (a) a person who would be, or is, a member of an extended household is a child, and

- (b) a person who has parental responsibility for the child (“P”) is a member of the child's household.
 - (7B) Where this sub-paragraph applies—
 - (a) the agreement required by sub-paragraph (3) is to be given by P (and not the child), and
 - (b) a household ceases to be treated as part of an extended household in accordance with sub-paragraph (7) if P ceases to agree to be treated as part of the extended household (whether or not the child also ceases to agree).”;
 - (v) after sub-paragraph (9) insert—
 - “(10) In this paragraph, “well-being needs household” means—
 - (a) a single adult household;
 - (b) a household comprising of 1 or more children and no adults.”;
 - (b) in paragraph 7(2)(c), omit “for such a broadcast”.
- (6) In Schedule 3—
 - (a) in paragraph 3—
 - (i) in sub-paragraph (2), for “single adult” substitute “ well-being needs ”;
 - (ii) in sub-paragraph (3), for “of the adult members of the 2 households” substitute “ members of the households ”;
 - (iii) in sub-paragraph (7), omit “adult”;
 - (iv) after sub-paragraph (7) insert—
 - “(7A) Sub-paragraph (7B) applies where—
 - (a) a person who would be, or is, a member of an extended household is a child, and
 - (b) a person who has parental responsibility for the child (“P”) is a member of the child's household.
 - (7B) Where this sub-paragraph applies—
 - (a) the agreement required by sub-paragraph (3) is to be given by P (and not the child), and
 - (b) a household ceases to be treated as part of an extended household in accordance with sub-paragraph (7) if P ceases to agree to be treated as part of the extended household (whether or not the child also ceases to agree).”;
 - (v) after sub-paragraph (9) insert—
 - “(10) In this paragraph, “well-being needs household” means—
 - (a) a single adult household;
 - (b) a household comprising of 1 or more children and no adults.”;
 - (b) in paragraph 4(3)(c), after sub-paragraph (iv) insert—
 - “(v) an elite sporting event at which the only people present are elite athletes and persons working or providing voluntary services at the event.”;
 - (c) omit paragraph 5;
 - (d) in paragraph 7(2)(c), omit “for such a broadcast”.
- (7) In Schedule 4—
 - (a) in paragraph 3—

- (i) in sub-paragraph (2), for “of the adult members of the 2 households” substitute “members of the households”;
- (ii) in sub-paragraph (5), omit “adult”;
- (iii) after sub-paragraph (5) insert—
 - “(5A) Sub-paragraph (5B) applies where—
 - (a) a person who would be, or is, a member of an extended household is a child, and
 - (b) a person who has parental responsibility for the child (“P”) is a member of the child's household.
 - (5B) Where this sub-paragraph applies—
 - (a) the agreement required by sub-paragraph (2) is to be given by P (and not the child), and
 - (b) a household ceases to be treated as part of an extended household in accordance with sub-paragraph (5) if P ceases to agree to be treated as part of the extended household (whether or not the child also ceases to agree).”;
- (b) omit Part 3A.
- (8) In paragraph 2 of Schedule 5—
 - (a) for “from the start of the day on 20 February 2021 to the end of the day on 12 March 2021” substitute “ending at the end of the day on 26 March 2021”;
 - (b) before paragraph (a) insert—
 - “(za) regulation 28 is to be read as if—
 - (i) in paragraph (3)(d), for “2(1)” there were substituted “ 2A(1) ”;
 - (ii) in paragraph (5), after “from the” there were inserted “ area local to the ”;
 - (iii) in paragraph (5)(a), after “return to the” there were inserted “ area local to the ”;
 - (iv) in paragraph (5)(b), for “place” there were substituted “ area ”;
 - (zb) regulation 31(3) is to be read as if for “, paragraph 5 of Schedule 2 or paragraph 5 of Schedule 4” there were substituted “ or paragraph 5 of Schedule 2 ”;
 - (zc) regulation 37(1)(d) is to be read as if for “or 2(1)” there were substituted “ , 2(1) or 2A(1) ”;
 - (c) omit paragraphs (a) and (b);
 - (d) before paragraph (c) insert—
 - “(ba) paragraph 1 of Schedule 4 is to be read as if—
 - (i) for the heading there were substituted “ Requirement to stay local ”;
 - (ii) in sub-paragraph (1), for “place where they are living or remain away from that place” there were substituted “ area local to the place where they are living or remain away from that area ”;
 - (ii) in sub-paragraph (2)(a), after “from the” there were inserted “ area local to the ”;
 - (iii) in sub-paragraph (3)—
 - (aa) in the words before paragraph (a), after “from the” there were inserted “ area local to the ”;
 - (bb) after paragraph (1) there were inserted—

- “(m) visiting a person who is resident in a care home, with the permission of the service provider.”;
 - (iv) sub-paragraph (4)(b) were omitted;
 - (v) for sub-paragraph (4)(f) there were substituted—
 - “(f) exercising, where the exercise starts and finishes at the place where the person is living or where a member of the person's extended household is living.”;
 - (vi) sub-paragraph (5) were omitted;
 - (vii) at the end there were inserted—
 - “(6) In this paragraph and in paragraph 2A—
 - (a) “care home” means premises at which a “care home service” within the meaning given by paragraph 1 of Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016 ^{M4} is provided;
 - (b) “service provider” has the meaning given by section 3(1)(c) of the Regulation and Inspection of Social Care (Wales) Act 2016.”;
- (bb) paragraph 2 of Schedule 4 is to be treated as if it were replaced by the following—

“Restriction on gatherings in private dwellings

2.—(1) No person may, without a reasonable excuse, participate in a gathering in a private dwelling unless all the persons participating in the gathering are members of the same household or extended household.

(2) But a person may participate in such a gathering outdoors if the gathering consists of no more than 4 persons from no more than 2 households.

(3) In determining, for the purposes of sub-paragraph (2), the number of persons participating in a gathering no account is to be taken of—

- (a) any children under the age of 11, or
- (b) the carer of a person who is participating in the gathering.

(4) For the purposes of sub-paragraph (1), a person has a reasonable excuse if—

- (a) the person is participating in the gathering for a purpose that is reasonably necessary and there is no reasonably practicable alternative, or
- (b) one of the circumstances in sub-paragraph (6) applies.

(5) Examples of purposes for which it may be reasonably necessary for a person to participate in a gathering include—

- (a) obtaining or providing medical assistance, or accessing veterinary services;
- (b) working or providing voluntary or charitable services;
- (c) meeting a legal obligation;
- (d) providing, receiving or accessing care or assistance, including childcare or relevant personal care within the meaning of paragraph 7(3B) of Schedule 4 to the Safeguarding of Vulnerable Groups Act 2006 ^{M5}, where the person receiving the care is a vulnerable person;

- (e) in relation to children who do not live in the same household as their parents, or one of their parents, continuing existing arrangements for access to, and contact between, parents and children, and for the purposes of this paragraph, “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;
 - (f) moving home;
 - (g) undertaking activities in connection with the purchase, sale, letting, or rental of residential property;
 - (h) accessing or receiving educational services.
- (6) The circumstances referred to in sub-paragraph (4)(b) are that the person is—
- (a) providing or receiving emergency assistance;
 - (b) avoiding illness, injury or other risk of harm;
 - (c) participating in a gathering of no more than 4 people where all the persons in the gathering—
 - (i) live in the same premises, and
 - (ii) share toilet, washing, dining or cooking facilities with each other.
- (7) Despite sub-paragraphs (2) and (5)(b), no person may participate in a gathering in a private dwelling for the purposes of persuading or dissuading a person to vote in a particular manner in an election.
- (8) This paragraph does not apply to a person who is homeless.

Restriction on gatherings in public places

- 2A.—**(1) No person may, without a reasonable excuse, participate in a gathering which takes place anywhere other than in a private dwelling unless all the persons participating in the gathering are members of the same household.
- (2) But a person may participate in such a gathering outdoors if—
- (a) all the persons participating in the gathering are members of the same extended household, or
 - (b) the gathering consists of no more than 4 persons from no more than 2 households.
- (3) In determining, for the purposes of sub-paragraph (2)(b), the number of persons participating in a gathering no account is to be taken of—
- (a) any children under the age of 11, or
 - (b) the carer of a person who is participating in the gathering.
- (4) For the purposes of sub-paragraph (1), a person has a reasonable excuse if—
- (a) the person is participating in the gathering for a purpose that is reasonably necessary and there is no reasonably practicable alternative, or
 - (b) one of the circumstances in sub-paragraph (6) applies.
- (5) Examples of purposes for which it may be reasonably necessary for a person to participate in a gathering include—

- (a) obtaining or providing medical assistance, or accessing veterinary services;
 - (b) working or providing voluntary or charitable services;
 - (c) meeting a legal obligation, including attending court or satisfying bail conditions, or to participate in legal proceedings;
 - (d) providing, receiving or accessing care or assistance, including childcare or relevant personal care within the meaning of paragraph 7(3B) of Schedule 4 to the Safeguarding of Vulnerable Groups Act 2006, where the person receiving the care is a vulnerable person;
 - (e) in relation to children who do not live in the same household as their parents, or one of their parents, continuing existing arrangements for access to, and contact between, parents and children, and for the purposes of this paragraph, “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;
 - (f) moving home;
 - (g) undertaking activities in connection with the purchase, sale, letting, or rental of residential property;
 - (h) accessing or receiving public services;
 - (i) accessing or receiving educational services;
 - (j) visiting a person who is resident in a care home, with the permission of the service provider.
- (6) The circumstances referred to in sub-paragraph (4)(b) are that the person is—
- (a) providing or receiving emergency assistance;
 - (b) avoiding illness, injury or other risk of harm;
 - (c) attending a solemnisation of a marriage, formation of a civil partnership or alternative wedding ceremony—
 - (i) as a party to the marriage, civil partnership or alternative wedding,
 - (ii) if invited to attend, or
 - (iii) as the carer of a person attending;
 - (d) attending a funeral—
 - (i) as a person responsible for arranging the funeral,
 - (ii) if invited by a person responsible for arranging the funeral, or
 - (iii) as the carer of a person attending;
 - (e) attending a place of worship;
 - (f) an elite athlete and is training or competing;
 - (g) providing coaching or other support to an elite athlete, or providing support at an elite sporting event.
- (7) Despite sub-paragraphs (2)(b) and (5)(b), no person may participate in a gathering for the purposes of persuading or dissuading a person to vote in a particular manner in an election unless the person is participating in a broadcast without an audience (whether over the internet or as part of a radio or television broadcast).

- (8) This paragraph does not apply to a person who is homeless.”;”
- (e) after paragraph (c) insert—
- “(ca) paragraph 4 of Schedule 4 is to be read as if, after sub-paragraph (3)(c)(ii), there were inserted—
- “(iii) an elite sporting event at which the only people present are elite athletes and persons working or providing voluntary services at the event.”;
- (cb) paragraph 5 of Schedule 4 is to be treated as if it were omitted;
- (cc) paragraph 10 of Schedule 4 is to be read as if in sub-paragraph (2)(c), the words “for such a broadcast” were omitted;”;
- (f) for paragraph (cc) (as inserted above) substitute—
- “(cc) paragraph 10 of Schedule 4 is to be read as if—
- (i) in sub-paragraph (2)(c), the words “for such a broadcast” were omitted;
- (ii) after sub-paragraph (2) there were inserted—
- “(2A) Despite sub-paragraph (1), a person responsible for carrying on a business or providing a service listed in paragraph 22 (hair salons and barbers) may open its premises to the public, but only for the purposes of cutting, styling or colouring hair, by appointment.””
- (g) after paragraph (d) insert—
- “(e) paragraph 39 of Schedule 4 is to be read as if for “Enclosed or indoor” there were substituted “ Indoor ”;
- (f) paragraph 43 of Schedule 4 is to be read as if for “Sports” there were substituted “ Indoor sports ”;
- (g) paragraph 45 of Schedule 4 is to be treated as if it were replaced by the following—
- “45. Indoor sports courts, indoor bowling greens and other indoor sports grounds or pitches.””
- (h) after paragraph (g) insert—
- “(h) paragraph 56 of Schedule 4 is to be read as if for “and petrol stations” there were substituted “ , petrol stations, garden centres and plant nurseries ”;
- (i) in relation to a supermarket or other shop that sells multiple types of goods—
- (i) which was open to the public on 11 March 2021, and
- (ii) which uses its premises, in the ordinary course of its business, mainly to sell—
- (aa) goods listed in paragraph 55 of Schedule 4, or
- (bb) goods of a type ordinarily sold by any of the businesses listed in paragraph 56 of Schedule 4;
- paragraph 57 of Schedule 4 is to be read as if the words “but only for the purposes of” to the end were omitted.”

Commencement Information

I2 Reg. 2(1)-(7)(8)(a)-(e)(g) in force immediately before the start of the day on 13.3.2021, see reg. 1(2)

I3 Reg. 2(8)(f) in force at 15.3.2021, see reg. 1(3)

I4 Reg. 2(8)(h) in force at 22.3.2021, see reg. 1(4)

Marginal Citations

- M2** 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) and S.I. 2021/210 (W. 52).
- M3** As amended by regulation 2(3) of these Regulations.
- M4** 2016 anaw 2, as amended by S.I. 2017/1326 (W. 299) and S.I. 2018/195 (W. 44).
- M5** 2006 c. 47. Paragraph 7(3B) was inserted by section 66(2) of the [Protection of Freedoms Act 2012](#) (c. 9).

Amendment and temporary modification of the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020

3.—(1) In regulation 3(1) of the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020 ^{M6}, for “31 March” substitute “ 28 May ”.

^{F1}(2)

F1 Reg. 3(2) revoked (27.3.2021 immediately before the start of the day) by [The Health Protection \(Coronavirus Restrictions\) \(No. 5\) \(Wales\) \(Amendment\) \(No. 6\) Regulations 2021](#) (S.I. 2021/413), regs. 1(2), **3**

Commencement Information

I5 Reg. 3 in force immediately before the start of the day on 13.3.2021, see reg. 1(2)

Marginal Citations

- M6** S.I. 2020/1011 (W. 225) as amended by S.I. 2020/1100 (W. 250), S.I. 2020/1149 (W. 261), S.I. 2020/1219 (W. 276), S.I. 2020/1409 (W. 311), S.I. 2020/1609 (W. 335) and S.I. 2021/57 (W. 13).

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 amendments—

- (a) extend the expiry date of the principal Regulations to 28 May 2021;
- (b) revoke restrictions on pupils and students attending schools and further education colleges;
- (c) clarify that premises that are closed to the public, such as theatres, may be used to rehearse for a performance;
- (d) provide that a sporting event at which the only people present are elite athletes and persons working or providing voluntary services at the event, is not prohibited under the restrictions that apply at Alert Level 3;
- (e) make minor technical changes to the provisions relating to the process for people agreeing to form extended households, to reflect the fact that not all households contain a person aged 18 or over;
- (f) replicates changes previously made to the Alert Level 4 restrictions, that enabled under 18s who live alone to form an extended household, for Alert Levels 1, 2 and 3;
- (g) make temporary modifications to the restrictions and requirements applying to an Alert Level 4 area under Schedule 4 to the principal Regulations, which—
 - (i) extend the duration of the temporary modifications previously made to the end of the day on 26 March 2021;
 - (ii) from 13 March 2021, change the prohibition in paragraph 1 of Schedule 4 on leaving the place where a person is living (without a reasonable excuse) so that it becomes a prohibition on leaving the area local to the place where the person is living (without a reasonable excuse);
 - (iii) from 13 March 2021, provide that a person has a reasonable excuse to leave the area local to the place where they are living, and to gather, when visiting a friend or relative in a care home, as long as they have the permission of the person responsible for the care home;
 - (iv) from 13 March 2021, provide that up to 4 people (not including children under 11 or carers) from no more than 2 households may gather outdoors, including in private gardens, for any purpose;
 - (v) from 13 March 2021, provide that a sporting event at which the only people present are elite athletes and persons working or providing voluntary services at the event is not prohibited;
 - (vi) from 15 March 2021, allowing hair salons and barbers to open for the purposes of cutting, styling or colouring hair (only), by appointment;
 - (vii) from 13 March 2021, allowing outdoor sports and exercise facilities to open;

Changes to legislation: *There are currently no known outstanding effects for the The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 5) Regulations 2021. (See end of Document for details)*

- (viii) from 22 March 2021, provide that supermarkets and other shops that sell multiple types of goods, which are already open to the public and which mainly sell the goods allowed to be sold in accordance with the Alert Level 4 restrictions, may sell other goods on their premises;
- (ix) from 22 March 2021, allowing garden centres and plant nurseries to open;
- (h) make other minor and consequential changes.

Despite the reasonable excuse to gather for work or to provide voluntary services, and despite the temporary modification to Schedule 4 that allows 4 people from no more than 2 households to gather outdoors for any purposes, provision has been made to prohibit gathering for the purposes of political campaigning (for example, canvassing door to door). Most other activities relating to an election are allowed (for example, going to vote or distributing campaign material).

The Regulations also amend the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020 (S.I. 2020/1011 (W. 235)) to change their expiry date to 28 May 2021 (and make a temporary modification to regulation 6 of those Regulations that is consequential on amendments made 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.

Changes to legislation:

There are currently no known outstanding effects for the The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 5) Regulations 2021.