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WELSH STATUTORY INSTRUMENTS

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**2020 No. 353**

**The Health Protection (Coronavirus  
Restrictions) (Wales) Regulations 2020**

**Title, coming into force, application and interpretation**

1.—(1) The title of these Regulations is the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 and they come into force at 4.00 p.m. on 26 March 2020.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations—

- (a) “carer” means a person who provides care for the person assisted where—
  - (i) the carer is entitled to an assessment under section 24 of the Social Services and Well-being (Wales) Act 2014<sup>(1)</sup>,
  - (ii) the care is part of the provision of community care services under Part 4 of the Social Services and Well-being (Wales) Act 2014, or
  - (iii) the care is provided by a care provider registered under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016<sup>(2)</sup>;
- (b) “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);
- (c) “local authority” means the council of a county or county borough in Wales;
- (d) a “person responsible for carrying on a business” includes the owner, proprietor, and manager of that business;
- (e) “vulnerable person” includes—
  - (i) any person aged 70 or older;
  - (ii) any person under 70 who has an underlying health condition, including, but not limited to, the conditions listed in Schedule 2;
  - (iii) any person who is pregnant.

**Revocation**

2.—(1) The Health Protection (Coronavirus, Business Closure) (Wales) Regulations 2020<sup>(3)</sup> and the Health Protection (Coronavirus: Closure of Leisure Businesses, Footpaths and Access Land) (Wales) Regulations 2020<sup>(4)</sup> are revoked.

(2) Notwithstanding the revocation of those Regulations, they continue in force in relation to any offence committed under them before these Regulations came into force.

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(1) 2014 anaw 4.  
(2) 2016 anaw 2.  
(3) S.I. 2020/326 (W. 74).  
(4) S.I. 2020/334 (W. 76).

### **The emergency period and review of need for restrictions**

3.—(1) For the purposes of these Regulations the “emergency period”—

- (a) starts when these Regulations come into force, and
- (b) ends in relation to a requirement or restriction imposed by these Regulations on the day and at the time specified in a direction published by the Welsh Ministers terminating the requirement or restriction (see paragraphs (3) and (4)).

(2) The Welsh Ministers must review the need for restrictions and requirements imposed by these Regulations every 21 days, with the first review being carried out by 15 April 2020.

(3) As soon as the Welsh Ministers consider that a requirement or restriction imposed by these Regulations is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in Wales with the coronavirus, the Welsh Ministers must publish a direction terminating the requirement or restriction.

(4) A direction published under this regulation may—

- (a) terminate any one or more requirement or restriction;
- (b) terminate a requirement or restriction in relation to a specified business or service or a specified description of business or service.

(5) In this regulation, “specified” means specified in a direction.

### **Requirement to close premises and businesses during the emergency period**

4.—(1) A person responsible for carrying on a business which is listed in Part 1 of Schedule 1 must, during the emergency period—

- (a) close any premises, or part of the premises, in which food or drink are sold for consumption on those premises;
- (b) cease selling food or drink for consumption on its premises (but if the business sells food and drink for consumption off the premises it may continue to do so subject to regulation 6(1)).

(2) For the purposes of paragraph (1), food or drink sold by a hotel or other accommodation as part of room service is not to be treated as being sold for consumption on its premises.

(3) For the purposes of paragraph (1), an area adjacent to the premises of the business where seating is made available for customers of the business (whether or not by the business) is to be treated as part of the premises of that business.

(4) A person responsible for carrying on a business or providing a service which is listed in Part 2 or 3 of Schedule 1 must, during the emergency period, cease to carry on that business or to provide that service.

(5) But paragraph (4) does not prevent the use of—

- (a) premises used for the businesses or services listed in paragraphs 5, 6, 8, 9, 10 or 18 of Part 2 to broadcast (without an audience) a performance (whether over the internet or as part of a radio or television broadcast);
- (b) any suitable premises used for the businesses or services listed in Part 2 or 3 of that Schedule to provide, upon the request of the Welsh Ministers or a local authority, urgent public services (including the provision of food or other support for the homeless or vulnerable persons, blood donation sessions or support in an emergency);
- (c) premises used as a museum, gallery or library, or for providing archive services, for the provision of information or other services—
  - (i) through a website, or otherwise by on-line communication,

- (ii) by telephone, including orders by text message, or
- (iii) by post.

(6) If a business listed in Schedule 1 (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirement in paragraph (1) or (4) if it closes down business A.

#### **Requirement to close premises and businesses during the emergency period: specific provision about holiday etc. accommodation**

5.—(1) In so far as regulation 4(4) applies to a holiday site or camping site (by virtue of them being listed in Part 3 of Schedule 1), the obligation on the person responsible for carrying on the business (“P”) includes an obligation on P to use P’s best endeavours to require any person staying at the site when the business has ceased to be carried on to vacate the premises.

(2) But the obligation in paragraph (1) does not apply in relation to any person using a mobile home on a holiday site for human habitation under an agreement to which Part 4 of the Mobile Homes (Wales) Act 2013<sup>(5)</sup> applies.

(3) In so far as regulation 4(4) applies to any other business listed in Part 3 of Schedule 1, the obligation on the person responsible for carrying on the business applies subject to the need to—

- (a) provide accommodation for any persons staying in that accommodation when these Regulations come into force and who—
  - (i) are unable to return to their main residence, or
  - (ii) are using the accommodation as their main residence;
- (b) carry on the business, or keep any premises used in the business open, for any purpose as may be requested by the Welsh Ministers or a local authority.

(4) In this regulation and in Part 3 of the Schedule, a “holiday site” means any land in Wales on which a mobile home or caravan is stationed for the purposes of human habitation (including any land in Wales used in conjunction with that land), in respect of which the relevant planning permission or the site licence for the land—

- (a) is expressed to be granted for holiday use only, or
- (b) requires that there are times of the year when no mobile home or caravan may be stationed on the site for human habitation.

(5) For the purpose of determining whether or not a site is a holiday site, any provision of the relevant planning permission or of the site licence which permits the stationing of a mobile home on the land for human habitation all year round is to be ignored if the mobile home is authorised to be occupied by—

- (a) the person who is the owner of the site, or
- (b) a person employed by that person but who does not occupy the mobile home under an agreement to which Part 4 of the Mobile Homes (Wales) Act 2013<sup>(6)</sup> applies.

#### **Restrictions on certain other businesses and services during the emergency period**

6.—(1) A person responsible for carrying on a business, or providing a service, listed in Part 4 of Schedule 1 must, during the emergency period—

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<sup>(5)</sup> 2013 anaw 6 as amended by the Housing (Wales) Act 2014 (anaw 7)

<sup>(6)</sup> 2013 anaw 6 as amended by the Housing (Wales) Act 2014 (anaw 7)

- (a) take all reasonable measures to ensure that a distance of 2 metres is maintained between any persons on the business premises (except between two members of the same household, or a carer and the person assisted by the carer),
  - (b) take all reasonable measures to ensure that persons are only admitted to the business premises in sufficiently small numbers to make it possible to maintain that distance, and
  - (c) take all reasonable measures to ensure that a distance of 2 metres is maintained between persons waiting to enter the business premises (except between two members of the same household, or a carer and the person assisted by the carer).
- (2) A person responsible for carrying on a business, not listed in Part 4 of Schedule 1, of offering goods for sale or for hire in a shop must, during the emergency period—
- (a) cease to carry on that business except by making deliveries, or otherwise providing services in response to orders or enquiries received—
    - (i) through a website, or otherwise by on-line communication,
    - (ii) by telephone, including orders by text message, or
    - (iii) by post;
  - (b) close any premises which are not required to carry out the business or provide services as permitted by sub-paragraph (a);
  - (c) cease to admit any person to the premises who is not required to carry on the business or provide services as permitted by sub-paragraph (a).
- (3) If a business to which paragraph (2) applies (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirement in paragraph (2) if it ceases to carry on business A.

### **Restrictions on places of worship, crematoriums and community centres**

- 7.—(1) A person responsible for a place of worship must ensure that, during the emergency period, the place of worship is closed, except for uses permitted by paragraph (2).
- (2) If all reasonable measures are taken to ensure a distance of 2 metres is maintained between every person in the place of worship, the place may be used—
- (a) for funerals,
  - (b) to broadcast (without a congregation) an act of worship or funeral (whether over the internet or as part of a radio or television broadcast), or
  - (c) to provide essential voluntary services or, upon the request of the Welsh Ministers or a local authority, urgent public services (including the provision of food banks or other support for the homeless or vulnerable people, blood donation sessions or support in an emergency).
- (3) A person responsible for a crematorium must ensure that, during the emergency period, the crematorium is closed to members of the public, except for the use permitted by paragraph (4).
- (4) If all reasonable measures are taken to ensure a distance of 2 metres is maintained between every person in the crematorium, the crematorium may open to members of the public for funerals or burials (and to broadcast a funeral or burial whether over the internet or otherwise).
- (5) A person responsible for a community centre must ensure that, during the emergency period, the community centre is closed except where—
- (a) it is used to provide essential voluntary services or, upon the request of the Welsh Ministers or a local authority, urgent public services (including the provision of food banks or other support for the homeless or vulnerable persons, blood donation sessions or support in an emergency), and

- (b) all reasonable measures are taken to ensure that a distance of 2 metres is maintained between every person on the premises while those services are provided.

### **Restrictions on movement and gatherings during the emergency period**

**8.—(1)** During the emergency period, no person may leave the place where they are living without reasonable excuse.

- (2) For the purposes of paragraph (1), a reasonable excuse includes the need—
  - (a) to obtain from any business listed in Part 4 of Schedule 1 —
    - (i) basic necessities, including food and medical supplies for those in the same household (including animals in the household) or for vulnerable persons;
    - (ii) supplies (including money) for the essential upkeep, maintenance and functioning of the household, or the household of a vulnerable person;
  - (b) to take exercise, no more than once a day, either alone or with other members of the household;
  - (c) to seek medical assistance, including accessing any of the services referred to in paragraph 42 of Schedule 1 or accessing veterinary services;
  - (d) to provide care or assistance, including relevant personal care within the meaning of paragraph 7(3B) of Schedule 4 to the Safeguarding of Vulnerable Groups Act 2006(7), to a vulnerable person, or to provide emergency assistance;
  - (e) to donate blood;
  - (f) to travel for the purposes of work or to provide voluntary or charitable services, where it is not reasonably practicable for that person to work, or to provide those services, from the place where they are living;
  - (g) to attend a funeral—
    - (i) of a member of the person’s household,
    - (ii) of a close family member (including a partner, child, step-child or foster child, or parent),
    - (iii) of a friend, if no member of the deceased’s household or close family member of the deceased is attending, or
    - (iv) as the carer of a person who is attending as a person mentioned in sub-paragraph (i), (ii) or (iii);
  - (h) to meet a legal obligation, including attending court or satisfying bail conditions, or to participate in legal proceedings;
  - (i) to access critical public services, including—
    - (i) childcare or educational facilities (where these are still available to the person’s child);
    - (ii) social services;
    - (iii) services provided by the Department of Work and Pensions;
    - (iv) services provided to victims (such as victims of crime or domestic violence);
  - (j) in relation to children who do not live in the same household as their parents, or one of their parents, to continue existing arrangements for access to, and contact between, parents

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(7) 2006 c. 47. Sub-paragraph (3B) was substituted, with sub-paragraphs (1), (3) and (3A) to (3E) for sub-paragraphs (1) to (3) by s. 66(2) of the Protection of Freedoms Act 2012 (c. 9).

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;

- (k) in the case of a minister of religion or worship leader, to go to their place of worship;
- (l) to move house where necessary;
- (m) to avoid injury or illness or to escape a risk of harm.

(3) For the purposes of paragraph (1), the place where a person lives includes the premises where they live together with any garden, yard, passage, stair, garage, outhouse or other appurtenance of such premises.

(4) Paragraph (1) does not apply to any person who is homeless.

(5) During the emergency period, no person may participate in a gathering in a public place of more than two people except—

- (a) where all the persons in the gathering are members of the same household,
- (b) where the gathering is essential for work purposes,
- (c) to attend a funeral, or
- (d) where necessary—
  - (i) to facilitate a house move,
  - (ii) to provide care or assistance to a vulnerable person, including relevant personal care within the meaning of paragraph 7(3B) of Schedule 4 to the Safeguarding of Vulnerable Groups Act 2006,
  - (iii) to provide emergency assistance, or
  - (iv) to participate in legal proceedings, or fulfil a legal obligation.

#### **Requirement to close and not enter certain public paths and land during the emergency period**

9.—(1) Where paragraph (2) applies to a public path or access land in the area of a relevant authority, the relevant authority must, during the emergency period—

- (a) close the public path or access land, and
- (b) keep it closed until the earlier of—
  - (i) the end of the emergency period, or
  - (ii) the time when the authority considers that closure is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in its area with the coronavirus.

(2) This paragraph applies to the public paths and access land in its area a relevant authority considers—

- (a) to be liable to large numbers of people congregating or being in close proximity to each other, or
- (b) the use of which otherwise poses a high risk to the incidence or spread of infection in its area with the coronavirus.

(3) Where a public path has been closed under regulation 4 of the Health Protection (Coronavirus: Closure of Leisure Businesses, Footpaths and Access Land) (Wales) Regulations 2020(8), the path is to be treated as if it were closed under paragraph (1) of this regulation.

(4) No person may use a public path or access land closed by virtue of paragraph (1) unless authorised by the relevant authority.

(5) The relevant authority must—

- (a) publish a list of public paths or access land closed in its area on a website;
- (b) erect and maintain notices in prominent places informing the public of the closure of a public path or access land.

(6) For the purposes of this regulation references to a public path or access land include parts of a public path or access land.

(7) In this regulation—

(a) the “relevant authority” means—

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

(b) “public path” means a footpath, bridleway, byway, restricted byway or cycle track and—

- (i) “footpath”, “bridleway” and “cycle track” have the same meaning as in section 329(1) of the Highways Act 1980<sup>(9)</sup>;
- (ii) “byway” means a byway open to all traffic within the meaning given by section 66(1) of the Wildlife and Countryside Act 1981<sup>(10)</sup>;
- (iii) “restricted byway” has the meaning given by section 48(4) of the Countryside and Rights of Way Act 2000<sup>(11)</sup>;

(c) “access land” includes land to which the public has access by virtue of its ownership by the National Trust, but otherwise has the same meaning as in section 1(1) of the Countryside and Rights of Way Act 2000<sup>(12)</sup>.

## **Enforcement**

**10.**—(1) A relevant person may give a prohibition notice to a person if the relevant person reasonably believes that—

- (a) the person is contravening a requirement in regulation 4, 6 or 7, and
- (b) it is necessary and proportionate to give the prohibition notice for the purpose of preventing that person from continuing to contravene the requirement.

(2) Where a relevant person considers that a person (“P”) is contravening the requirement in regulation 8(1), the relevant person may—

- (a) direct P to return to the place where P is living;
- (b) remove P to that place.

(3) A relevant person exercising the power in paragraph (2) may—

- (a) direct P to follow such instructions as the relevant person considers necessary;
- (b) use reasonable force in the exercise of the power.

(4) Where P is a child accompanied by an individual (“I”) who has responsibility for the child—

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<sup>(9)</sup> 1980 c.66. Section 329 was amended by s1 of the Cycle Tracks Act 1984 (c.38) and paragraph 21 of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c.54).

<sup>(10)</sup> 1981 c.69.

<sup>(11)</sup> 2000 c.37.

<sup>(12)</sup> 2000 c.37. Section 1(1) was amended by s302(2)(a) of the Marine and Coastal Access Act 2009 (c.23).

- (a) the relevant person may direct I to take P to the place P is living, and
  - (b) I must, so far as reasonably practicable, ensure that P complies with any direction or instruction given by the relevant person to P.
- (5) For the purpose of paragraph (4), 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 (within the meaning of the Children Act 1989).
- (6) A relevant person may only exercise the power in paragraph (2) or (4) if the relevant person considers that it is a necessary and proportionate means of ensuring compliance with the requirement.
- (7) Where a relevant person considers that three or more people are gathered together in contravention of regulation 8(5), the relevant person 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.
- (8) Paragraphs (3) to (6) of this regulation apply to the exercise of the power in paragraph (7), as they apply to the exercise of a power in paragraph (2).
- (9) A relevant person may remove an individual from a public path or access land (within the meaning given by regulation 9(7)) which is closed (or is being closed) by virtue of regulation 9(1), and may use reasonable force to do so.
- (10) A relevant person may take such other action as the relevant person considers necessary and proportionate to facilitate the exercise of a power conferred on the person by this regulation or regulation 11.
- (11) For the purposes of this regulation and regulations 11, 12 and 13, a “relevant person” means—
- (a) a constable,
  - (b) a police community support officer, or
  - (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 this regulation and regulations 11, 12 and 13 (but see paragraphs (12) and (13)).
- (12) A person designated by a local authority may exercise a relevant person’s functions only in relation to a contravention (or alleged contravention) of a requirement in regulation 4, 6, 7 or 9(4).
- (13) A person designated by a National Park authority or Natural Resources Wales may exercise a relevant person’s functions only in relation to a contravention (or alleged contravention) of the requirement in regulation 9(4).
- (14) In this regulation and regulations 11 and 12, references to a requirement include references to a restriction.

### **Power of entry**

- 11.—**(1) A relevant person may enter premises, if the relevant person—
- (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) A relevant person 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 relevant person to be appropriate.
- (3) A relevant person entering premises in accordance with paragraph (1)—
  - (a) if asked by a person on the premises, must show evidence of the relevant person'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 relevant person found them.

### **Offences and penalties**

- 12.**—(1) A person who—
- (a) without reasonable excuse, contravenes a requirement in regulation 4, 6, 7, 8(5) or 9(4), or
  - (b) contravenes the requirement in regulation 8(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, contravenes a direction, or fails to comply with an instruction or a prohibition notice, given by a relevant person under regulation 10 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>(13)</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.

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<sup>(13)</sup> 1984 c. 60. Section 24 was substituted by s.110(1) of the Serious Organised Crime and Police Act 2005 (c. 15).

(10) Section 33 of the Criminal Justice Act 1925<sup>(14)</sup> and Schedule 3 to the Magistrates' Courts Act 1980<sup>(15)</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.

### **Fixed penalty notices**

**13.**—(1) A relevant person may issue a fixed penalty notice to anyone that the relevant person 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 local authority specified in the notice.

(3) The local authority specified in the notice 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.

(4) 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 of the notice;
- (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(5) 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 (4)(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.

(6) The amount specified under paragraph (5)(c) must be £60 (subject to paragraphs (7) and (8)).

(7) 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.

(8) If the person to whom a fixed penalty notice is given has already received a fixed penalty notice under these Regulations, the amount of the fixed penalty is £120.

(9) Whatever other method may be specified under paragraph (5)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under paragraph (5)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).

(10) Where a letter is sent as mentioned in paragraph (9), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(11) In any proceedings, a certificate—

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(14) 1925 c. 86.

(15) 1980 c. 43.

- (a) that purports to be signed by or on behalf of the person with responsibility for the financial affairs of the local authority concerned, and
- (b) 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.

(12) Where a fixed penalty is issued in respect of the alleged offence of contravening the requirement in regulation 9(4), references in this regulation to a “local authority” are to be read as including references to a National Park authority in Wales.

### **Prosecutions**

**14.** 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.

### **Expiry**

**15.—**(1) These Regulations expire at the end of the period of six months beginning with the day on which they come into force.

(2) This regulation does not affect the validity of anything done pursuant to these Regulations before they expire.

At 2.45 p.m. on 26th March 2020

*Mark Drakeford*  
The First Minister, one of the Welsh Ministers