

*Regulations made by the Welsh Ministers, laid before Senedd Cymru under section 45R of the Public Health (Control of Disease) Act 1984 (c. 22), for approval by resolution of Senedd Cymru within twenty-eight days beginning with the day on which the instrument is made, subject to extension for periods of dissolution or recess for more than four days.*

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WELSH STATUTORY INSTRUMENTS

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**2020 No. 961 (W. 215)**

**PUBLIC HEALTH, WALES**

**The Health Protection (Coronavirus Restrictions) (No. 2)  
(Wales) (Amendment) (No. 8) (Caerphilly) Regulations 2020**

<i>Made</i>	- - - -	<i>at 2.00 p.m. on 8 September 2020</i>
<i>Laid before Senedd Cymru</i>		<i>at 5.45 p.m. on 8 September 2020</i>
<i>Coming into force</i>	- -	<i>at 6.00 p.m. on 8 September 2020</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 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 the amendments made 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.** The title of these Regulations is the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 8) (Caerphilly) Regulations 2020 and they come into force at 6.00 p.m. on 8 September 2020.

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<sup>(1)</sup> 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. 2) (Wales) Regulations 2020**

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

(2) In regulation 2(1), after paragraph (q) insert—

“(r) “local health protection area” has the meaning given by Schedule 4A.”

(3) For regulation 4, substitute—

### **“Review**

4.—(1) The Welsh Ministers must review the need for restrictions and requirements imposed by these Regulations (other than the restrictions and requirements imposed by Schedule 4A), and whether those restrictions and requirements are proportionate to what the Welsh Ministers seek to achieve by them—

(a) by 10 September 2020;

(b) at least once in the period of 21 days beginning on 11 September 2020;

(c) at least once in each subsequent period of 21 days.

(2) The Welsh Ministers must review the need for restrictions and requirements imposed by Schedule 4A, and whether those restrictions and requirements are proportionate to what the Welsh Ministers seek to achieve by them—

(a) by 24 September 2020;

(b) at least once in the period of 7 days beginning on 25 September 2020;

(c) at least once in each subsequent period of 7 days.”

(4) After regulation 14B insert—

## **“PART 4A**

### **Local restrictions**

#### **Local health protection area**

14C. Schedule 4A contains provision about restrictions and requirements applying in relation to a local health protection area (including provisions modifying the effect of other provisions of these Regulations as they apply in relation to that area).”

(5) In regulation 18—

(a) after paragraph (3B) insert—

“(3C) If an enforcement officer has reasonable grounds to suspect that a person (“P”) is contravening (or is about to contravene) paragraph 6(1) of Schedule 4A, the officer may—

(a) direct P not to enter the premises;

(2) *S.I. 2020/725 (W. 162)*, as amended by the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) Regulations 2020 (*S.I. 2020/752 (W. 169)*), the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 2) Regulations 2020 (*S.I. 2020/803 (W. 176)*), the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 3) Regulations 2020 (*S.I. 2020/820 (W. 180)*), the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 4) Regulations 2020 (*S.I. 2020/843 (W. 186)*), the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 5) Regulations 2020 (*S.I. 2020/867 (W. 189)*), the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 6) Regulations 2020 (*S.I. 2020/884 (W. 195)*) and the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 7) Regulations 2020 (*S.I. 2020/912 (W. 204)*).

- (b) remove P from the premises, and may use reasonable force, if necessary, to do so.”;
  - (b) after paragraph (4) insert—
    - “(4A) Where an enforcement officer has reasonable grounds for suspecting that a person (“P”) is contravening (or is about to contravene) paragraph 3(1) or 4(1) of Schedule 4A, the officer may—
      - (a) direct P to return to the place where P is living;
      - (b) remove P to that place.”;
  - (c) in paragraph (5)—
    - (i) in sub-paragraph (a), after “(4)” insert “or (4A)”;
    - (ii) in sub-paragraph (b), after “(c)” insert “or (4A)(b)”;
  - (d) after paragraph (6) insert—
    - “(6ZA) Where an enforcement officer has reasonable grounds to suspect that a person (“P”) is contravening, or is about to contravene, paragraph 3(1) or 4(1) of Schedule 4A and is a child accompanied by an individual (“I”) who has responsibility for P—
      - (a) the officer may direct I to take P to the place where P is living, and
      - (b) I must, so far as reasonably practicable, ensure that P complies with any direction or instruction given by the officer to P.”;
  - (e) in paragraph (6A), after “12(A)(1)” insert “or paragraph 6(1) of Schedule 4A”;
  - (f) in paragraph (7), after “(6)” insert “, (6ZA)”.
- (6) In regulation 20—
- (a) in paragraph (1)—
    - (i) in sub-paragraph (a), after “12A(1),” insert “or paragraph 5(1) of Schedule 4A,”;
    - (ii) in sub-paragraph (b), after “14B(1),” insert “or paragraph 3(1), 4(1) or 6(1) of Schedule 4A”;
  - (b) in paragraph (3)(a)—
    - (i) after “18(3A)(a),” insert “18(3C)(a),”;
    - (ii) after “18(4),” insert “18(4A)(a),”;
    - (iii) for “or 18(6)” substitute “, 18(6) or 18(6ZA)(a)”.
- (7) After Schedule 4 insert—

“SCHEDULE 4A

Regulation 14C

Local restrictions

### **Local health protection area**

1. For the purposes of these Regulations, Caerphilly County Borough is a local health protection area.

### **Prohibition on forming extended households**

2.—(1) Despite regulation 2A, no household living in a local health protection area may agree to be treated as an extended household with other households.

(2) Where, before this paragraph came into force, a household living in a local health protection area agreed to be treated as being in an extended household with other households—

- (a) that household is not to be treated as being in the extended household, and
- (b) the other households continue to be treated as an extended household (provided they are not living in a local health protection area) and regulation 2A applies to those households accordingly.

### **Requirement to stay within local health protection area**

3.—(1) No person living in a local health protection area may, without a reasonable excuse, leave the area or remain away from the area.

(2) A reasonable excuse includes the need to do the following outside the local health protection area—

- (a) obtain—
  - (i) food and medical supplies for those in the same household (including animals in the household) or for vulnerable persons;
  - (ii) supplies for the essential upkeep, maintenance and functioning of the household, or the household of a vulnerable person;
- (b) obtain money from or deposit money with any business or service listed in paragraph 6 or 7 of Schedule 4;
- (c) obtain or provide medical assistance, including accessing any of the services referred to in paragraph 10 of Schedule 4 or accessing veterinary services;
- (d) provide or receive 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<sup>(3)</sup>, where the person receiving the care is a vulnerable person;
- (e) work or provide voluntary or charitable services, where it is not reasonably practicable to do so from home;
- (f) where the person is an elite athlete, train and compete;
- (g) provide or receive emergency assistance;
- (h) attend a solemnization of a marriage or formation of a civil partnership—
  - (i) as a party to the marriage or civil partnership,
  - (ii) if invited to attend, or
  - (iii) as the carer of a person attending;
- (i) attend 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;
- (j) meet a legal obligation, including attending court or satisfying bail conditions, or to participate in legal proceedings;
- (k) access or receive public services;
- (l) access or receive childcare or education services;
- (m) in relation to children who do not live in the same household as their parents, or one of their parents, continue existing arrangements for access to, and contact between, parents

(3) 2006 c. 47. Paragraph 7(3B) was inserted by section 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;

- (n) move home;
- (o) undertake activities in connection with the purchase, sale, letting, or rental of residential property;
- (p) avoid injury or illness or escape a risk of harm.

(3) For the purposes of sub-paragraph (1), it is not a reasonable excuse for a person to leave, or remain away from, a local health protection area to do anything if it would be reasonably practicable for the person to do that thing within the area.

(4) Sub-paragraph (1) does not apply to a person who is homeless.

#### **Requirement not to enter local health protection area**

4.—(1) No person may, without reasonable excuse, enter a local health protection area or remain in it.

(2) A reasonable excuse includes the need to do the following in the local health protection area—

- (a) obtain—
  - (i) food and medical supplies for those in the same household (including animals in the household) or for vulnerable persons;
  - (ii) supplies for the essential upkeep, maintenance and functioning of the household, or the household of a vulnerable person;
- (b) obtain money from or deposit money with any business or service listed in paragraph 6 or 7 of Schedule 4;
- (c) obtain or provide medical assistance, including accessing any of the services referred to in paragraph 10 of Schedule 4 or accessing veterinary services;
- (d) provide or receive 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, where the person receiving the care is a vulnerable person;
- (e) work or provide voluntary or charitable services;
- (f) where the person is an elite athlete, train and compete;
- (g) provide or receive emergency assistance;
- (h) attend a solemnization of a marriage or formation of a civil partnership—
  - (i) as a party to the marriage or civil partnership,
  - (ii) if invited to attend, or
  - (iii) as the carer of a person attending;
- (i) attend 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;
- (j) meet a legal obligation, including attending court or satisfying bail conditions, or to participate in legal proceedings;
- (k) access or receive public services;
- (l) access or receive childcare or education services;

- (m) in relation to children who do not live in the same household as their parents, or one of their parents, continue 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;
- (n) move home;
- (o) undertake activities in connection with the purchase, sale, letting, or rental of residential property;
- (p) avoid injury or illness or escape a risk of harm;
- (q) travel to reach a place outside the area.

(3) For the purposes of sub-paragraph (1), it is not a reasonable excuse for a person to enter, or remain in, a local health protection area to do anything if it would be reasonably practicable for the person to do that thing outside the area.

#### **Requirement to work from home where practicable**

5.—(1) No person living in a local health protection area may leave the place where they are living, or remain away from that place, in order to go to work or for work-related purposes.

(2) But sub-paragraph (1) does not apply if it is not reasonably practicable for the person to work from the place where they are living.

(3) No person living in a local health protection area may leave the place where they are living, or remain away from that place, in order to provide voluntary or charitable services.

(4) But sub-paragraph (3) does not apply if it is not reasonably practicable for the person to provide the voluntary or charitable services from the place where they are living.

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

#### **Requirement to wear face covering in certain public places**

6.—(1) A person (“P”) must wear a face covering in open premises in a local health protection area.

(2) But this is not required—

- (a) where an exemption applies under sub-paragraph (3);
- (b) where P has a reasonable excuse not to wear a face covering, as to which see sub-paragraph (4).

(3) An exemption to the requirement to wear a face covering applies—

- (a) where P is a child under the age of 11;
- (b) where P is in premises where food or drink is sold, or otherwise provided, for consumption on those premises.

(4) The circumstances in which P has a reasonable excuse to not wear a face covering include—

- (a) where P is unable to put on, wear or remove a face covering because of a physical or mental illness or impairment, or a disability (within the meaning of section 6 of the Equality Act 2010(4));
- (b) where P has to remove the face covering to communicate with another person who has difficulty communicating (in relation to speech, language or otherwise);

- (c) where P has to remove the face covering in order to avoid harm or injury, or the risk of harm or injury, to themselves or others;
  - (d) where P is at the premises to avoid injury, or to escape a risk of harm, and does not have a face covering;
  - (e) where P has to remove the face covering to—
    - (i) take medication;
    - (ii) eat or drink, where reasonably necessary;
  - (f) where P is asked to remove the face covering by an enforcement officer.
- (5) For the purposes of sub-paragraph (3)(b), where food or drink is sold or otherwise provided for consumption in a part of premises, the exemption only applies where P is in that part.”

At 2.00 p.m. on 8 September 2020

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

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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. 2) (Wales) Regulations 2020 (the “principal Regulations”). The amendments impose additional requirements and restrictions in relation to Caerphilly County Borough, which is designated as a “local health protection area”. In particular—

- (a) households within the area may not form extended households under regulation 2A of the principal Regulations and any household within the area which is already in an extended household is no longer to be treated as part of the extended household;
- (b) persons living in the area may not leave the area unless they have a reasonable excuse to do so (examples of reasonable excuses are listed in paragraph 3(2) of new Schedule 4A to the principal Regulations);
- (c) persons outside the area may not enter it without a reasonable excuse (examples of reasonable excuses are listed in paragraph 4(2) of new Schedule 4A);
- (d) persons living in the area may not leave their home to go to work, or to provide voluntary or charitable services, if it is reasonably practical for them to work or provide those services from home (see paragraph 5 of new Schedule 4A);
- (e) face coverings must be worn in “open premises” (that is premises open to the public and required to take all reasonable measures to minimise the risk of exposure to coronavirus under regulation 12 of the principal Regulations), unless an exemption applies or the person has a reasonable excuse for not wearing the face covering (see paragraph 6 of new Schedule 4A).

These Regulations also make further amendments to the principal Regulations which are consequential on the provisions about the creation of a local health protection area.

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.