

## WELSH STATUTORY INSTRUMENTS

### 2020 No. 1011 (W. 225)

## PUBLIC HEALTH, WALES

### The Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020

<i>Made</i>	- - - -	<i>17 September 2020</i>
		<i>at 11.00 a.m. on 18</i>
<i>Laid before Senedd Cymru</i>		<i>September 2020</i>
		<i>at 12.01 a.m. on 18</i>
<i>Coming into force</i>	- -	<i>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>F1</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 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.

**F1** 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.

## PART 1

### Introduction

#### Title, application and coming into force

1.—(1) The title of these Regulations is the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020.

(2) These Regulations apply in relation to Wales.

*Status: Point in time view as at 26/03/2022.**Changes to legislation: There are currently no known outstanding effects for the The Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020. (See end of Document for details)*

(3) These Regulations come into force at 12.01 a.m. on 18 September 2020.

#### Commencement Information

**I1** Reg. 1 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

#### Interpretation

2. In these Regulations—

- (a) “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);
- (b) “enforcement officer” has the meaning given by regulation 15;
- (c) “event direction” has the meaning given by regulation 6;
- (d) “local authority” means the council of a county or county borough in Wales;
- (e) “premises” includes any building or structure and any land;
- (f) “premises direction” has the meaning given by regulation 5;
- (g) “public place” has the meaning given by regulation 7(2);
- (h) “public place direction” has the meaning given by regulation 7.

#### Commencement Information

**I2** Reg. 2 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

#### Expiry

3.—(1) These Regulations expire at the end of the day on [F<sup>2</sup>18 April 2022].

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

**F2** Words in [reg. 3\(1\)](#) substituted (26.3.2022) by [The Health Protection \(Coronavirus Restrictions\) \(No. 5\) \(Wales\) \(Amendment\) \(No. 7\) Regulations 2022 \(S.I. 2022/378\)](#), regs. 1(2), [3](#)

#### Commencement Information

**I3** Reg. 3 in force at 18.9.2020 at 12.01 a.m., see [reg. 1\(3\)](#)

## PART 2

### Local authority directions in relation to premises, events and public places

#### CHAPTER 1

#### Giving and [F<sup>3</sup>withdrawing] directions

**F3** Word in Pt. 2 Ch. 1 heading substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, [2\(6\)\(a\)\(7\)](#)

## Public health conditions for giving directions

- 4.—(1) If it considers that the public health conditions are met, a local authority may give—
- (a) a premises direction under regulation 5;
  - (b) an event direction under regulation 6;
  - (c) a public place direction under regulation 7.
- (2) For the purposes of these Regulations, the “public health conditions” are that—
- (a) the direction is a response to a serious and imminent threat to public health,
  - (b) the direction is necessary for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection by coronavirus in the local authority's area, and
  - (c) the prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose.

### Commencement Information

**I4** Reg. 4 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

## Premises directions

- 5.—(1) A local authority may give a premises direction in respect of any premises in its area.
- (2) A premises direction may—
- (a) require the premises to be closed;
  - (b) impose restrictions or requirements in relation to entering or leaving the premises;
  - (c) impose restrictions or requirements in relation to the use of the premises;
  - (d) impose restrictions in relation to the number or description of persons permitted on the premises.
- (3) But a premises direction may not be given in relation to premises which form part of critical infrastructure.
- (4) Before giving a premises direction, a local authority must have regard to the need to ensure that members of the public have access to essential goods and public services.
- (5) Where a local authority gives a premises direction, it must take reasonable steps to give prior notice of the direction to—
- (a) a person carrying on a business from the premises to which the direction relates, and
  - (b) (if different) any person who owns or occupies the premises.
- (6) A person responsible for premises to which a premises direction relates must take the steps necessary to comply with the direction as soon as is reasonably practicable after the direction takes effect.
- (7) No person may, without reasonable excuse, act in contravention of a premises direction.

### Commencement Information

**I5** Reg. 5 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

## Event directions

6.—(1) A local authority may give an event direction in respect of any event held, or proposed to be held, in its area.

[<sup>F4</sup>(2) In considering whether the public health conditions are met, a local authority must, in particular, have regard to whether people are gathering, or are likely to gather, at the event in contravention of whichever of the following provisions of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 applies to the area in which the event is held or is proposed to be held—

- (a) paragraph 2 of Schedule 1;
- (b) paragraph 2 of Schedule 2;
- (c) [<sup>F5</sup>paragraph 3] of Schedule 3;
- (d) paragraph 2 of Schedule 4.]

(3) An event direction may—

- (a) require the event to stop or not to be held;
- (b) impose restrictions or requirements in relation to entering or leaving the event;
- (c) impose restrictions or requirements in relation to the number of persons who may attend the event;
- (d) impose any other restrictions or requirements in relation to the holding of the event (including, for example, requirements relating to the attendance of medical or emergency services at the event).

(4) Where a local authority gives an event direction it must take reasonable steps to give prior notice of the direction to—

- (a) a person involved in the organisation of the event, and
- (b) (if different) any person who owns or occupies the premises at which the event takes place or is proposed to take place.

(5) A person involved in organising an event to which an event direction relates must take the steps necessary to comply with the direction as soon as is reasonably practicable after the direction takes effect.

(6) No person may, without reasonable excuse, act in contravention of an event direction.

(7) For the purposes of this Part, a person is not involved in organising an event if the person's only involvement is, or would be, attending it.

<sup>F6</sup>(8) .....

**F4** Reg. 6(2) substituted (20.1.2021) by [The Health Protection \(Coronavirus Restrictions\) \(No. 5\) \(Wales\) \(Amendment\) Regulations 2021 \(S.I. 2021/57\)](#), regs. 1(2), **3(3)(a)**

**F5** Words in [reg. 6\(2\)\(c\)](#) substituted (3.5.2021 immediately before the start of the day) by [The Health Protection \(Coronavirus Restrictions\) \(No. 5\) \(Wales\) \(Amendment\) \(No. 9\) Regulations 2021 \(S.I. 2021/542\)](#), regs. 1(2), **4**

**F6** Reg. 6(8) omitted (20.1.2021) by virtue of [The Health Protection \(Coronavirus Restrictions\) \(No. 5\) \(Wales\) \(Amendment\) Regulations 2021 \(S.I. 2021/57\)](#), regs. 1(2), **3(3)(b)**

### Modifications etc. (not altering text)

**C1** Reg. 6(2)(d) modified (temp.) (13.3.2021 immediately before the start of the day) by [The Health Protection \(Coronavirus Restrictions\) \(No. 5\) \(Wales\) \(Amendment\) \(No. 5\) Regulations 2021 \(S.I. 2021/307\)](#), regs. 1(2), **3(2)**

**Commencement Information**

**I6** Reg. 6 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

**[<sup>F7</sup>Public place directions**

7.—(1) A local authority may give a public place direction in respect of any public place in the authority's area.

(2) For the purposes of these Regulations, “public place” means an outdoor place to which the public have or are permitted access, whether on payment or otherwise, including—

- (a) land laid out as a public garden or used for the purpose of recreation by members of the public;
- (b) land which is “open country” as defined in section 59(2) of the National Parks and Access to the Countryside Act 1949, as read with section 16 of the Countryside Act 1968;
- (c) any highway to which the public has access;
- (d) a public path;
- (e) access land.

(3) A public place direction may impose prohibitions, requirements or restrictions in relation to—

- (a) access to the public place (including, in particular, prohibiting access at specified times);
- (b) activities carried on in the public place (including, in particular, prohibiting or restricting the consumption of alcohol).

(4) But a public place direction may not—

- (a) impose prohibitions, requirements or restrictions—
  - (i) in relation to access to a public path or access land (see instead regulation 14);
  - (ii) on the consumption of alcohol in premises in the public place which are authorised for the sale or supply of alcohol;
- (b) impose prohibitions or requirements in relation to access to the public place or an activity carried on in the place if such a prohibition or requirement has effect in relation to the place by virtue of a public spaces protection order made under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014.

(5) Where—

- (a) a byelaw imposes a prohibition, requirement or restriction relating to access to, or an activity carried on in, a public place, and
- (b) access to, or the carrying on of that activity in, the public place is prohibited or restricted by, or subject to a requirement in, a public place direction,

the prohibition, requirement or restriction imposed by the byelaw is of no effect in relation to the public place for so long as the public place direction has effect.

(6) A public place direction must describe the public place in sufficient detail to enable its boundaries to be determined.

(7) A local authority which gives a public place direction must take such steps as are reasonably practicable—

- (a) where the direction prohibits or restricts access to the public place, to prevent or restrict such access (including by erecting and maintaining notices in prominent places informing the public of the direction);

- (b) where the direction prohibits, restricts or imposes requirements on the carrying on of an activity in the public place, to bring the direction to the attention of members of the public who may be in the public place (including by erecting and maintaining notices in prominent places informing the public of the direction);
- (c) to give prior notice of the direction to persons carrying on a business from premises within the public place;
- (d) to ensure that the direction is brought to the attention of any person who owns, occupies or is responsible for premises in the public place.

(8) Where a public place direction prohibits or restricts access to the public place, any person, other than a local authority, who owns, occupies or is responsible for premises in the public place must take such steps as are reasonably practicable to prevent or restrict public access to the premises in accordance with the direction.

(9) No person may, without reasonable excuse—

- (a) enter or remain in a public place;
- (b) carry on an activity in a public place,

in contravention of a prohibition, requirement or restriction imposed by a public place direction.

(10) A local authority may not give a public place direction in respect of a public place which includes property to which section 73 of the Public Health (Control of Disease) Act 1984 (Crown property) applies.

(11) But a local authority may give a public place direction in respect of such a place if the authority has entered into an agreement under section 73(2) with the appropriate authority (within the meaning given by that section) that—

- (a) section 45C of the same Act, and
- (b) these Regulations,

apply to the property (subject to such terms as may be included in the agreement).

(12) For the purposes of this regulation—

- (a) “access land” has the meaning given in regulation 14(7)(c),
- (b) “alcohol” has the meaning given by section 191 of the Licensing Act 2003;
- (c) “public path” has the meaning given in regulation 14(7)(b), and
- (d) premises are authorised for the sale or supply of alcohol where the premises have been granted or given an authorisation under the Licensing Act 2003, and “authorisation” has the meaning given by section 136(5) of that Act.]

**F7** Reg. 7 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(2)**

## **Review and [F8]withdrawal**

**8.—(1)** Where a local authority gives a direction under this Part, the authority must review whether the public health conditions continue to be met in relation to the direction—

- (a) at least once in the period of 7 days beginning on the day after the day direction is given, and
- (b) at least once in every subsequent period of 7 days.

(2) If, on a review under paragraph (1), the local authority considers that the public health conditions are no longer met, the local authority must [F9]withdraw the direction.

(3) Paragraph (2) does not prevent a local authority from [<sup>F10</sup>withdrawing] a direction at any time if the authority considers that the public health conditions are no longer met in relation to the direction.

(4) A direction is [<sup>F11</sup>withdrawn] by giving notice in writing to each person to whom the direction was given.

(5) Paragraphs (2) and (3) of regulation 11 apply to a [<sup>F8</sup>withdrawal] as they apply to a direction.

(6) A direction ceases to have effect at the time notice of [<sup>F8</sup>withdrawal] is given.

- F8** Word in reg. 8 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(b)(7)**
- F9** Word in reg. 8 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(c)(7)**
- F10** Word in reg. 8 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(a)(7)**
- F11** Word in reg. 8 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(d)(7)**

#### Commencement Information

- I7** Reg. 8 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

### Requirement to have regard to advice or guidance and to consult

9. In determining whether to give or [<sup>F12</sup>withdraw] a direction under this Part a local authority must—

- (a) have regard to—
  - (i) any advice given to it by the authority's Director of Public Protection;
  - (ii) any guidance issued by the Welsh Ministers about directions under this Part, and
- (b) consult the Welsh Ministers if it is reasonably practicable to do so.

- F12** Word in reg. 9 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(c)(7)**

#### Commencement Information

- I8** Reg. 9 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

## CHAPTER 2

### Form and procedure

#### Form and content of directions

10. A direction given under this Part must—

- (a) be in writing;

- (b) contain a description of the premises, event or public place to which the direction relates (and in the case of a public place direction see <sup>F13</sup>regulation 7(6));
- (c) state the date and time from which each prohibition, requirement or restriction imposed by the direction takes effect (which must not be earlier than when the direction is given);
- (d) state the date and time at which each such prohibition, requirement or restriction ceases to have effect (which must be no later than 21 days after it takes effect);
- (e) set out the reasons why the local authority considers the public health conditions to be met in relation to the direction;
- (f) give details of the right of appeal, and the right to make representations, conferred by regulation 12.

**F13** Words in reg. 10(b) substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, 2(3)

#### Commencement Information

**I9** Reg. 10 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

### Giving a direction

**11.**—(1) A local authority gives a direction under this Part by giving the direction in writing—

- (a) in the case of a premises direction, to—
  - (i) a person carrying on a business from the premises to which the direction relates, and
  - (ii) (if different) a person who owns, occupies or is otherwise responsible for the premises;
- (b) in the case of an event direction, to—
  - (i) a person involved in organising the event to which the direction relates, and
  - (ii) (if different) a person who owns, occupies or is otherwise responsible for the premises at which the event takes place or is proposed to take place;
- (c) in the case of a public place direction, to—
  - (i) a person carrying on a business from premises within the public place to which the direction relates, and
  - (ii) each person who owns, occupies or is otherwise responsible for any premises in the public place.

(2) If it is not reasonably practicable for a local authority to give a direction in accordance with paragraph (1), the direction is to be treated as given in accordance with that paragraph when it is published in such manner as the local authority considers appropriate to bring it to the attention of persons who may be affected by it.

(3) As soon as reasonably practicable after a local authority gives a direction under this Part the local authority must—

- (a) give a copy of the direction to any other person named in the direction,
- (b) send a copy of the direction to—
  - (i) the Welsh Ministers,
  - (ii) every other local authority whose area is adjacent to the authority's area,



- (iii) where the local authority's area is adjacent to the area of a county or district council in England, that council, and
- (c) publish the direction in such manner as the local authority considers appropriate to bring it to the attention of persons who may be affected by it.

#### Commencement Information

**I10** Reg. 11 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

### Appeals and representations

**12.—**(1) In this regulation, “interested person” means—

- (a) in the case of a premises direction—
  - (i) a person carrying on a business from the premises to which the direction relates;
  - (ii) (if different) a person who owns or occupies the premises;
- (b) in the case of an event direction—
  - (i) a person involved in organising the event to which the direction relates;
  - (ii) (if different) a person who owns or occupies the premises at which the event takes place or is proposed to take place;
- (c) in the case of a public place direction—
  - (i) a person carrying on a business from premises within the public place to which the direction relates;
  - (ii) a person who owns, occupies or is responsible for any premises in the public place.

(2) An interested person may—

- (a) appeal against the direction to a magistrates' court by way of complaint for an order, and the Magistrates' Courts Act 1980 <sup>F14</sup> applies to the proceedings;
- (b) make representations to the Welsh Ministers about the direction.

(3) Where an interested person makes representations to the Welsh Ministers under this regulation the Welsh Ministers must—

- (a) consider the representations as soon as is reasonably practicable, and
- (b) decide whether it would be appropriate to exercise the power in regulation 13(1).

(4) The Welsh Ministers must provide written reasons for the decision in paragraph (3)(b) to—

- (a) the interested person, and
- (b) the local authority which gave the direction.

(5) Making representations under paragraph (2)(b) does not affect an interested person's right of appeal under paragraph (2)(a).

**F14** 1980 c. 43.

#### Commencement Information

**I11** Reg. 12 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

## CHAPTER 3

### Welsh Ministers' power to require <sup>F15</sup>withdrawal

**F15** Word in Pt. 2 Ch. 3 heading substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(b)(7)**

### Power of Welsh Ministers to require a local authority to <sup>F16</sup>withdraw a direction

**13.—**(1) If the Welsh Ministers consider that the public health conditions are no longer met in relation to a direction given by a local authority under this Part, the Welsh Ministers must require the authority to <sup>F16</sup>withdraw the direction.

(2) Where the Welsh Ministers require a local authority to <sup>F16</sup>withdraw a direction under this regulation—

- (a) the local authority is not required to consider whether the public health conditions continue to be met in relation to the direction, and
- (b) regulation 9 does not apply.

(3) Before requiring a local authority to <sup>F16</sup>withdraw a direction under this regulation, the Welsh Ministers must consult the Chief Medical Officer for Wales.

**F16** Word in reg. 13 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(c)(7)**

#### Commencement Information

**I12** Reg. 13 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

## PART 3

### Duty to close certain public paths and access land

#### Closure of public paths and access land

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

- (a) close the public path or access land, and
- (b) keep it closed until 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 with coronavirus in its area.

(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 of exposure to coronavirus.

(3) Where a public path or access land has been closed under—

- (a) regulation 4 of the Health Protection (Coronavirus: Closure of Leisure Businesses, Footpaths and Access Land) (Wales) Regulations 2020 <sup>F17</sup>,
  - (b) regulation 9 of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 <sup>F18</sup>,
  - (c) regulation 11 of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 <sup>F19</sup>,
- the path or land 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>F20</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>F21</sup>;
    - (iii) “restricted byway” has the meaning given by section 48(4) of the Countryside and Rights of Way Act 2000 <sup>F22</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>F23</sup>.

**F17** [S.I. 2020/334](#) (W. 76), revoked by [S.I. 2020/353](#) (W. 80).

**F18** [S.I. 2020/353](#) (W. 80), revoked by [S.I. 2020/725](#) (W. 162).

**F19** Regulation 11 was revoked by [S.I. 2020/985](#) (W. 222).

**F20** Section 329 was amended by section 1 of the [Cycle Tracks Act 1984](#) (c. 38) and paragraph 21 of Schedule 3 to the [Road Traffic \(Consequential Provisions\) Act 1988](#) (c. 54).

**F21** [1981 c. 69](#).

**F22** [2000 c. 37](#).

**F23** Section 1(1) was amended by section 303(2)(a) of the [Marine and Coastal Access Act 2009](#) (c. 23).

#### Commencement Information

**I13** Reg. 14 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

## PART 4

### Enforcement

#### Enforcement officers

**15.—**(1) For the purposes of regulations 16, 17 and 19, an “enforcement officer” 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 regulations 16 to 19 (but see paragraph (2)).

(2) A person designated by a National Park authority or Natural Resources Wales may exercise an enforcement officer's functions only in relation to a contravention (or alleged contravention) of the requirement in regulation 14(4).

#### Commencement Information

**I14** Reg. 15 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

#### Enforcement actions

**16.—**(1) An enforcement officer may give a compliance notice to a person if the officer has reasonable grounds for suspecting that the person—

- (a) is acting in contravention of a premises direction, event direction or public place direction, or
- (b) is failing, or has failed, to take the steps required under regulation 5(6), 6(5) or [F247(8)].

(2) A compliance notice may specify measures that the person to whom it is given must take as soon as is reasonably practicable so as to—

- (a) prevent that person from continuing to act in contravention of the direction, or
- (b) rectify the failure to take the steps.

(3) Where a constable has reasonable grounds for suspecting that a person is on premises in contravention of a premises direction, the constable may—

- (a) direct the person to leave the premises;
- (b) remove the person from the premises.

(4) Where a constable has reasonable grounds for suspecting that an event is being held in contravention of an event direction, the constable may—

- (a) direct the event to stop;
- (b) direct a person to leave the event;
- (c) remove a person from the event.

(5) Where a constable has reasonable grounds for suspecting that a person is in a public place in contravention of a public place direction [<sup>F25</sup>imposing a prohibition, requirement or restriction in relation to access to the place], the constable may—

- (a) direct the person to leave the place;
- (b) remove the person from the place.

[<sup>F26</sup>(5A) Where a constable has reasonable grounds for suspecting that a person in a public place is acting in contravention of a public place direction imposing a prohibition, requirement or restriction in relation to the carrying on of an activity in the place, the constable may take such action as the constable considers necessary to prevent the person from continuing to act in contravention of the direction (including removing the person from the place).]

(6) A constable may—

- (a) when exercising the power in paragraph (3), (4) [<sup>F27</sup>, (5) or (5A)] direct a person to follow such instructions as the constable considers necessary;
- (b) use reasonable force in the exercise of the power in paragraph (3)(b), (4)(c) [<sup>F28</sup>, (5)(b) or (5A)].

(7) Where a constable has reasonable grounds to suspect that the person referred to in paragraph (3), (4) [<sup>F29</sup>, (5) or (5A)] is a child (“C”) accompanied by an individual (“I”) who has responsibility for C—

- (a) the constable may direct I to ensure that C leaves the premises, event or public place, as the case may be, and
- (b) I must, so far as reasonably practicable, ensure that C complies with any direction or instruction given by the constable to C.

(8) If an enforcement officer has reasonable grounds to suspect that a person is contravening (or is about to contravene) regulation 14(4), the officer may remove the person from a public path or access land (within the meaning given by regulation 14(7)) which is closed (or is being closed) by virtue of regulation 14(1), and may use reasonable force to do so.

(9) Where an enforcement officer has reasonable grounds to suspect that the person referred to in paragraph 0 is a child (“C”) accompanied by an individual (“I”) who has responsibility for C—

- (a) the officer may direct I to ensure that C leaves the public place or access land, and
- (b) I must, so far as reasonably practicable, ensure that C complies with any direction or instruction given by the officer to C.

(10) For the purposes of paragraphs (7) and (8), 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.

(11) An enforcement officer may take other enforcement action to facilitate the exercise of a power conferred on the officer by this regulation or regulation 17.

(12) An enforcement officer may only exercise a power under this regulation or regulation 17 if the officer considers that it is necessary and proportionate to do so.

(13) References in this regulation to a “constable” are to be read as including a police community support officer.

**F24** Word in reg. 16(1)(b) substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, 2(4)(a)

*Status: Point in time view as at 26/03/2022.**Changes to legislation: There are currently no known outstanding effects for the The Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020. (See end of Document for details)*

- F25** Words in reg. 16(5) inserted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(4)(b)**
- F26** Reg. 16(5A) inserted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(4)(c)**
- F27** Words in reg. 16(6)(a) substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(4)(d)(i)**
- F28** Words in reg. 16(6)(b) substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(4)(d)(ii)**
- F29** Words in reg. 16(7) substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(4)(e)**

**Commencement Information**

- I15** Reg. 16 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

**Power of entry**

**17.—(1)** An enforcement officer may enter premises to take, or facilitate the taking of, enforcement action under regulation 16.

- (2) An enforcement officer entering premises in accordance with paragraph (1) may—
- (a) use reasonable force to enter the premises;
  - (b) take such other persons, equipment and materials onto the premises as appears to the officer to be appropriate.
- (3) An enforcement officer entering premises in accordance with paragraph (1)—
- (a) if asked by a person on the premises, must show evidence of the officer'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 officer found them.

[<sup>F30</sup>(4) An enforcement officer may enter premises used wholly or mainly as a private dwelling only if the enforcement officer is a constable.]

- F30** Reg. 17(4) inserted (4.12.2020 at 6.00 p.m.) by [The Health Protection \(Coronavirus Restrictions and Functions of Local Authorities\) \(Amendment\) \(Wales\) Regulations 2020 \(S.I. 2020/1409\)](#), regs. 1(2), **3(4)**

**Commencement Information**

- I16** Reg. 17 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

**Offences and penalties**

**18.—(1)** A person who—

- (a) contravenes regulation 5(7), 6(6) or [<sup>F31</sup>7(9)],
- (b) without reasonable excuse, fails to take the steps required under regulation 5(6), 6(5), or [<sup>F32</sup>7(8)], or
- (c) without reasonable excuse, contravenes regulation 14(4),

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—

- (a) fails to comply with a compliance notice given by an enforcement officer under regulation 16(1), or
- (b) contravenes a direction given by an enforcement officer under regulation 16(3)(a), (4)(a) or (b), (5)(a) or (6)(a),

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>F33</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 these Regulations 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.

(10) Section 33 of the Criminal Justice Act 1925<sup>F34</sup> and Schedule 3 to the Magistrates' Courts Act 1980 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.

**F31** Word in reg. 18(1)(a) substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(5)(a)**

**F32** Word in reg. 18(1)(b) substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(5)(b)**

**F33** 1984 c. 60. Section 24 was substituted by section 110(1) of the [Serious Organised Crime and Police Act 2005 \(c. 15\)](#).

**F34** 1925 c. 86.

**Commencement Information**

**I17** Reg. 18 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

**Fixed penalty notices**

**19.—**(1) An enforcement officer may issue a fixed penalty notice to anyone that the officer 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) a local authority, or
- (b) a person designated by the Welsh Ministers for the purposes of receiving payment under this regulation,

as the notice may specify.

(3) The Welsh Ministers may designate themselves under paragraph (2)(b).

(4) Where a local authority is specified in the notice it 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.

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

(6) 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 (5)(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.

(7) The amount specified under paragraph (6)(c) must be £60 (subject to paragraphs (8) and (9)).

(8) 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.

(9) If the person to whom a fixed penalty notice is given has already received a fixed penalty notice under these Regulations or Regulations mentioned in paragraph (10)—

- (a) paragraph (8) does not apply, and
- (b) the amount specified as the fixed penalty is to be—
  - (i) in the case of the second fixed penalty notice received, £120;
  - (ii) in the case of the third fixed penalty notice received, £240;
  - (iii) in the case of the fourth fixed penalty notice received, £480;
  - (iv) in the case of the fifth fixed penalty notice received, £960;
  - (v) in the case of the sixth and any subsequent fixed penalty notice received, £1920.



(10) In calculating how many fixed penalty notices a person has received, fixed penalty notices issued to that person under the following Regulations are to be taken into account—

- (a) the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020;
- (b) the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020.
- [<sup>F35</sup>(c) the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020.]
- [<sup>F36</sup>(d) the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020.]
- [<sup>F37</sup>(e) the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 if regulation 48 of those Regulations applies to the notice.]

(11) Whatever other method may be specified under paragraph (6)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under paragraph (6)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).

(12) Where a letter is sent as mentioned in paragraph (11), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(13) In any proceedings, a certificate—

- (a) that purports to be signed by or on behalf of the person with responsibility for the financial affairs of—
  - (i) the local authority, or
  - (ii) the person designated under paragraph (2)(b),
 specified in the fixed penalty notice to which the proceedings relate, and
- (b) which 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.

(14) Where a fixed penalty is issued in respect of the alleged offence of contravening the requirement in regulation 14(4), references in this regulation to a “local authority” are to be read as including references to a National Park authority in Wales.

- F35** Reg. 19(10)(c) inserted (23.10.2020 at 6.00 p.m.) by [The Health Protection \(Coronavirus Restrictions\) \(No. 3\) \(Wales\) Regulations 2020 \(S.I. 2020/1149\)](#), regs. 1(3), **35(1)** (with reg. 2); and reg. 19(10)(c) also expressed to be inserted (4.12.2020 at 6.00 p.m.) by [The Health Protection \(Coronavirus Restrictions and Functions of Local Authorities\) \(Amendment\) \(Wales\) Regulations 2020 \(S.I. 2020/1409\)](#), regs. 1(2), **3(5)**
- F36** Reg. 19(10)(d) inserted (9.11.2020) by [The Health Protection \(Coronavirus Restrictions\) \(No. 4\) \(Wales\) Regulations 2020 \(S.I. 2020/1219\)](#), regs. 1(3), **48** (with reg. 3)
- F37** Reg. 19(10)(e) inserted (20.12.2020) by [The Health Protection \(Coronavirus Restrictions\) \(No. 5\) \(Wales\) Regulations 2020 \(S.I. 2020/1609\)](#), regs. 1(3), **59** (as amended by [S.I. 2020/1610](#), regs. 1(2), 2(2))

#### Commencement Information

- I18** Reg. 19 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

## Prosecutions

**20.** No proceedings for an offence under these Regulations may be brought other than by the Director of Public Prosecutions [<sup>F38</sup>, a local authority] or any person designated by the Welsh Ministers.

**Status:** Point in time view as at 26/03/2022.

**Changes to legislation:** There are currently no known outstanding effects for the The Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020. (See end of Document for details)

**F38** Words in reg. 20 inserted (4.12.2020 at 6.00 p.m.) by [The Health Protection \(Coronavirus Restrictions and Functions of Local Authorities\) \(Amendment\) \(Wales\) Regulations 2020 \(S.I. 2020/1409\)](#), regs. 1(2), 3(6)

#### Commencement Information

**I19** Reg. 20 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

## PART 5

### Revocation and consequential amendment

#### Revocation

**21.** The Health Protection (Coronavirus Restrictions) (Functions of Local Authorities) (Wales) Regulations 2020 <sup>F39</sup> are revoked.

**F39** [S.I. 2020/984](#) (W. 221).

#### Commencement Information

**I20** Reg. 21 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

#### Consequential amendment

**22.** In regulation 21(11) of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020, for “the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities) (Wales) Regulations 2020” substitute “the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020 ”.

#### Commencement Information

**I21** Reg. 22 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

*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.

The Regulations have 5 Parts.

**Part 1** contains interpretation provisions. It also provides that the Regulations expire on 8 January 2021 unless they are revoked before then.

**Part 2** provides local authorities in Wales with powers to control premises, events and public places in their areas to help control coronavirus within their areas. This includes closing premises and public places and stopping events where necessary.

**Part 3** continues a duty already imposed on local authorities, National Park authorities, Natural Resources Wales and the National Trust to close public footpaths and land accessible by the public in Wales where congregation of people may lead to a high risk of exposure to coronavirus.

**Part 4** provides for the enforcement of the restrictions or requirements imposed by the Regulations.

**Part 5** revokes the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities) (Wales) Regulations 2020 (S.I. 2020/984 (W. 221)) and makes a consequential amendment to the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 (S.I. 2020/725 (W. 162)). The Regulations replace the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities) (Wales) Regulations 2020 due to a failure to properly record the Welsh Ministers' declaration that the Regulations were urgent, in accordance with section 45R(2) of the Public Health (Control of Disease) Act 1984.

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.

**Status:**

Point in time view as at 26/03/2022.

**Changes to legislation:**

There are currently no known outstanding effects for the The Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020.