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WELSH STATUTORY INSTRUMENTS

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**2020 No. 1011**

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

**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**

**II** 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 [F17(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>F2</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>F3</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>F4</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>F5</sup>, (5)(b) or (5A)].

(7) Where a constable has reasonable grounds to suspect that the person referred to in paragraph (3), (4) [<sup>F6</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.

- F1** 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)**
- F2** 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)**
- F3** 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)**
- F4** 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)**
- F5** 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)**
- F6** 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

- I2** 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>F7</sup>(4) An enforcement officer may enter premises used wholly or mainly as a private dwelling only if the enforcement officer is a constable.]

- F7** 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

**I3** 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>F8</sup>7(9)],
- (b) without reasonable excuse, fails to take the steps required under regulation 5(6), 6(5), or [<sup>F9</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>M1</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>M2</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.

- F8** 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)**
- F9** 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)**

#### Commencement Information

- I4** Reg. 18 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

#### Marginal Citations

- M1** 1984 c. 60. Section 24 was substituted by section 110(1) of the [Serious Organised Crime and Police Act 2005 \(c. 15\)](#).
- M2** 1925 c. 86.

### 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>F10</sup>(c) the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020.]
- [<sup>F11</sup>(d) the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020.]
- [<sup>F12</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.

**F10** 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)**

**F11** 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)

**F12** 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))

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**Commencement Information**

**I5** 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>F13</sup>, a local authority] or any person designated by the Welsh Ministers.

**F13** 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)**

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**Commencement Information**

**I6** Reg. 20 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

**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, PART 4.