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WELSH STATUTORY INSTRUMENTS

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**2020 No. 1219**

**The Health Protection (Coronavirus  
Restrictions) (No. 4) (Wales) Regulations 2020**

**PART 8**

Offences and penalties

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**35.**—(1) A person who—

- (a) contravenes a requirement in regulation 4(1), 6(1) or (3), 7(1), 9(1) or (2), 11(2), 12(2), 13(2), 14(2), 16, 22(1) or 23(1), or
- (b) without reasonable excuse, contravenes a requirement in regulation 8(1), 11(3), 12(3), 13(3), 14(3), 19(1), 20(1) or (2), or 22(5),

commits an offence.

(2) It is an offence for a person (“P”) to give false or misleading information to a contact tracer—

- (a) under regulation 11(3), 12(3), 13(3) or 14(3), or
- (b) about—
  - (i) P’s contact information, or
  - (ii) persons with whom P may have had close contact,

where P knows the information is false or misleading, or P is reckless as to whether the information is false or misleading.

(3) A person who participates in a gathering—

- (a) which takes place in a private dwelling,
- (b) which consists of more than 15 people, and
- (c) at which people are gathered in contravention of regulation 4(1),

commits an offence.

(4) A person who obstructs, without reasonable excuse, any person carrying out a function under these Regulations commits an offence.

(5) A person who—

- (a) without reasonable excuse, contravenes paragraph 3(1) of Schedule 3,
- (b) contravenes paragraph 3(2) of that Schedule, or
- (c) without reasonable excuse, removes, obscures or damages a notice or sign required to be displayed under paragraph 7(2)(a) of that Schedule,

commits an offence.

(6) A person who, without reasonable excuse—

- (a) contravenes a direction given—

- (i) by an enforcement officer under Part 7, or
- (ii) by the operator of a public transport service, an employee of the operator, or a person authorised by the operator, under regulation 30(2), or
- (b) fails to comply with a compliance notice given by an enforcement officer under regulation 27(1),

commits an offence.

(7) An offence under these Regulations is punishable on summary conviction by a fine.

(8) Section 24 of the Police and Criminal Evidence Act 1984(1) 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.

(9) In this regulation, “close contact” has the same meaning as in Part 4.

### **Offences committed by bodies corporate etc.**

**36.**—(1) 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.

(2) In paragraph (1), “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate.

(3) 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.

(4) 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.

(5) Section 33 of the Criminal Justice Act 1925(2) and Schedule 3 to the Magistrates’ Courts Act 1980(3) 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.

(6) A fine imposed on a partnership on its conviction for an offence under these Regulations is to be paid out of the partnership assets.

(7) 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**

**37.**—(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.

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

(2) 1925 c. 86.

(3) 1980 c. 43.

(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) A person designated by the Welsh Ministers for the purposes of receiving payment under—

- (a) regulation 13 of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020,
- (b) regulation 21 of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020, or
- (c) regulation 31 of the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020,

is to be treated as if designated for the purposes of receiving payment under this regulation.

(5) 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.

(6) 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.

#### **Amount of fixed penalty: general**

**38.**—(1) Unless regulation 39, 40, 41 or 42 applies, the amount of a fixed penalty is £60.

(2) But 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.

(3) And if the person to whom a fixed penalty notice is issued has already received a relevant fixed penalty notice—

- (a) paragraphs (1) and (2) do not apply, and
- (b) the amount specified as the fixed penalty is—
  - (i) in the case of the second relevant fixed penalty notice received, £120;
  - (ii) in the case of the third relevant fixed penalty notice received, £240;
  - (iii) in the case of the fourth relevant fixed penalty notice received, £480;
  - (iv) in the case of the fifth relevant fixed penalty notice received, £960;
  - (v) in the case of the sixth and any subsequent relevant fixed penalty notice received, £1,920.

(4) In paragraph (3), “relevant fixed penalty notice” means—

- (a) a fixed penalty notice where the amount of fixed penalty is determined under this regulation;
- (b) a fixed penalty notice under—
  - (i) the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020,
  - (ii) the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020,

(iii) the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020, and

(iv) the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020(4).

(5) In calculating the number of fixed penalty notices issued to a person, no account is to be taken of a notice issued to the person in respect of an alleged offence of contravening—

(a) regulation 14B(1) of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020, or

(b) regulation 9 of the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020.

#### **Amount of fixed penalty: participating in a large gathering at a private dwelling**

**39.** Where a fixed penalty notice issued in respect of an alleged offence under regulation 35(3), the amount of the fixed penalty is £60.

#### **Amount of fixed penalty: organising an event**

**40.**—(1) Where a fixed penalty notice is issued in respect of an alleged offence of contravening regulation 7(1), the amount of the fixed penalty is £200.

(2) But if the person to whom a fixed penalty notice is issued in respect of an alleged offence of contravening regulation 7(1) has already received a fixed penalty notice in respect of such an alleged offence—

(a) paragraph (1) does not apply, and

(b) the amount of the fixed penalty is—

(i) in the case of the second such fixed penalty notice received, £400;

(ii) in the case of the third such fixed penalty notice received, £800;

(iii) in the case of the fourth such fixed penalty notice received, £1,600;

(iv) in the case of the fifth such fixed penalty notice received, £3,200;

(v) in the case of the sixth and any subsequent such fixed penalty notice received, £6,400.

#### **Amount of fixed penalty: organising an unlicensed music event**

**41.** Where a fixed penalty notice is issued in respect of an alleged offence of contravening regulation 8(1), the amount of the fixed penalty is £10,000.

#### **Amount of fixed penalty: business-related offences**

**42.**—(1) This regulation applies to a fixed penalty notice issued in respect of an alleged offence of contravening—

(a) regulation 19(1),

(b) regulation 20(1) or (2), or

(c) paragraph 3(1) of Schedule 3,

(referred to in this regulation as an “alleged business offence”).

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(4) S.I. 2020/1011 (W. 225).

(2) Where a fixed penalty notice is issued in respect of an alleged business offence, the amount of the fixed penalty is £1,000.

(3) But if the person to whom a fixed penalty notice is issued in respect of an alleged business offence has already received a fixed penalty notice in respect of such an alleged offence—

- (a) paragraph (2) does not apply, and
- (b) the amount of the fixed penalty is—
  - (i) in the case of the second such fixed penalty notice received, £2,000;
  - (ii) in the case of the third such fixed penalty notice received, £4,000;
  - (iii) in the case of the fourth and any subsequent such fixed penalty notice received, £10,000.

### **Fixed penalties: form and procedure**

**43.**—(1) 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 regulation 37(6)(a)) proceedings will not be taken for the offence;
- (c) specify the amount of the fixed penalty determined under regulation 38, 39, 40, 41 or 42 (as the case may be);
- (d) state the name and address of the person to whom the fixed penalty may be paid;
- (e) specify permissible methods of payment.

(2) Whatever other method may be specified under paragraph (1)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under paragraph (1)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).

(3) Where a letter is sent as mentioned in paragraph (2), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(4) 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 regulation 37(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.

### **Fixed penalty notices: prohibition of double jeopardy**

**44.**—(1) Where the same, or largely the same, act or omission by a person may give rise to a reasonable belief that the person has committed more than one offence under these Regulations, a fixed penalty may be issued to the person only in respect of one of the alleged offences.

(2) But a fixed penalty notice may be issued in respect of both—

- (a) an alleged offence of contravening regulation 4(1), and
- (b) an offence under regulation 35(3),

where the same, or largely the same, act by a person gives rise to a reasonable belief that the person has committed both offences.

### Self-incrimination

**45.**—(1) Relevant information may be used in evidence against the person to whom the information relates in criminal proceedings.

(2) Where the information is used in proceedings other than for an offence under these Regulations or section 5 of the Perjury Act 1911<sup>(5)</sup> (false statements made otherwise than on oath)—

- (a) no evidence relating to the information may be adduced by or on behalf of the prosecution, and
  - (b) no question relating to the information may be asked by or on behalf of the prosecution.
- (3) Paragraph (2) does not apply if, in the proceedings—
- (a) evidence relating to the information is adduced by or on behalf of the person who provided it, or
  - (b) a question relating to the information is asked by or on behalf of that person.
- (4) In this regulation, “relevant information” means—
- (a) information which is relevant information for the purposes of regulation 18;
  - (b) information, or the answer to a question, given in response to a requirement imposed under regulation 34(1);
  - (c) anything contained in a document or electronic records produced in response to a requirement imposed under paragraph 8(1) of Schedule 3.

### Prosecutions

**46.**—(1) No proceedings for an offence under these Regulations may be brought other than by—

- (a) the Director of Public Prosecutions,
  - (b) any person designated by the Welsh Ministers, or
  - (c) in relation to proceedings for an offence—
    - (i) of contravening a requirement in regulation 19(1) or 20(1) or (2), or Schedule 3, or
    - (ii) under regulation 35(4) or (6),
 a local authority.
- (2) A person designated by the Welsh Ministers under—
- (a) regulation 14 of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020,
  - (b) regulation 22 of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020, or
  - (c) regulation 32 of the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020,

is to be treated as if designated under this regulation.

(5) 1911 c. 6. Section 5 was amended by section 1(2) of the Criminal Justice Act 1948 (c. 58).