

Regulations made by the Welsh Ministers, laid before the National Assembly for Wales under section 45R of the Public Health (Control of Disease) Act 1984 (c. 22), for approval by resolution of the National Assembly for Wales 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.

WELSH STATUTORY INSTRUMENTS

2020 No. 308 (W. 68)

PUBLIC HEALTH, WALES

The Health Protection (Coronavirus) (Wales) Regulations 2020

		<i>at 3:15 p.m. on 17</i>
<i>Made</i>	- - - -	<i>March 2020</i>
<i>Laid before the National</i>		<i>at 5:30 p.m. on 17</i>
<i>Assembly for Wales</i>	- -	<i>March 2020</i>
<i>Coming into force</i>	- -	<i>18 March 2020</i>

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 45B, 45C, 45F and 45P of the Public Health (Control of Disease) Act 1984(1).

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, the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is the Health Protection (Coronavirus) (Wales) Regulations 2020 and they come into force on 18 March 2020.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

“the 1984 Act” (“*Deddf 1984*”) means the Public Health (Control of Disease) Act 1984;

“child” (“*plentyn*”) means a person under the age of 18 years;

“Coronavirus” (“*Coronafeirws*”) means Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) which causes the disease known as “COVID-19”;

(1) 1984 c. 22 (“the 1984 Act”). Sections 45B, 45C, 45F and 45P were inserted by section 129 of the Health and Social Care Act 2008 (c. 14) (“the 2008 Act”). 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.

“infected area” (“*ardal heintiedig*”) means any area (including a country) which the Secretary of State has declared, by notice published on www.gov.uk, as an area where there is known or thought to be sustained human-to-human transmission of Coronavirus, or from which there is a high risk of importation of infection or contamination (by Coronavirus) via travel from that area to the UK;

“isolation” (“*ynysu*”) in relation to a person means the separation of that person from any other person in such a manner as to prevent infection or contamination (with Coronavirus)—

- (a) at a facility designated, by notice published on www.gov.wales, for the purposes of these Regulations by the Welsh Ministers;
- (b) in that person’s home;
- (c) in a hospital;
- (d) at another suitable place;

“medical officer” (“*swyddog meddygol*”) means a registered medical practitioner designated for the purposes of these Regulations by the Welsh Ministers;

“public health officer” (“*swyddog iechyd cyhoeddus*”) means a registered public health consultant or a person working within Public Health Wales under the oversight of a registered public health consultant;

“Public Health Wales” (“*Iechyd Cyhoeddus Cymru*”) means the Public Health Wales National Health Service Trust⁽²⁾;

“registered public health consultant” (“*ymgyngorydd iechyd cyhoeddus cofrestredig*”) means a professionally registered public health consultant working within Public Health Wales;

“responsible adult” (“*oedolyn cyfrifol*”) means, in relation to a child, a person with parental responsibility for the child (within the meaning of the Children Act 1989⁽³⁾) or a person who has custody or charge of the child for the time being;

“screening requirements” (“*gofynion ynglŷn â sgrinio*”) means the requirements set out in regulation 6(1).

(2) In these Regulations, a reference to infection or contamination⁽⁴⁾, however expressed, is a reference to infection or contamination by Coronavirus, and related expressions are to be construed accordingly.

(3) Other expressions used in these Regulations and in the 1984 Act have the same meaning as in that Act.

(4) The notice referred to in the definition of “isolation” in paragraph (1) must be followed, as soon as reasonably practicable, by publication of the notice in the London Gazette and in at least one newspaper circulating in Wales.

Serious and imminent threat declaration

3.—(1) These Regulations apply where the Welsh Ministers declare, by notice published on www.gov.wales, that the incidence or transmission of Coronavirus constitutes a serious and imminent threat to public health, and that the incidence or transmission of Coronavirus is at such a point that the measures outlined in these Regulations may reasonably be considered as an effective means of delaying or preventing the further, significant transmission of Coronavirus (“serious and imminent threat declaration”).

(2) Public Health Wales National Health Service Trust was established by [S.I. 2009/2058 \(W. 177\)](#).

(3) [1989 c. 41](#).

(4) See section 45A of the 1984 Act for the interpretation of “infection” and “contamination”. Section 45A was inserted by section 129 of the 2008 Act.

(2) The Welsh Ministers may revoke a serious and imminent threat declaration by way of a subsequent notice published on www.gov.wales.

(3) Before making a declaration under paragraph (1), or revoking a declaration under paragraph (2), the Welsh Ministers must have due regard to any advice from the Chief Medical Officer or one of the Deputy Chief Medical Officers of the Department of Health and Social Services of the Welsh Government.

(4) The publication of a notice under paragraph (2) does not affect the validity of any steps taken pursuant to these Regulations before the notice is published.

(5) A notice published under paragraph (1) or (2) must be followed, as soon as reasonably practicable, by publication of the notice in the London Gazette and in at least one newspaper circulating in Wales.

Detention of persons by the Welsh Ministers or a registered public health consultant

4.—(1) Where Condition A or B is met in relation to a person (“P”), the Welsh Ministers or a registered public health consultant may, for the purposes of screening, assessment and the imposition of any restrictions or requirements under regulation 5, impose on P a requirement to be detained until the later of—

- (a) the end of the period of 48 hours beginning with the time from which P’s detention under this regulation begins;
- (b) such time as any screening requirements imposed on or in relation to P under regulation 5(1) have been complied with and the assessment referred to in that regulation carried out in relation to P.

(2) Condition A is that—

- (a) the Welsh Ministers or registered public health consultant has reasonable grounds to believe that P is, or may be, infected or contaminated with Coronavirus, and
- (b) the Welsh Ministers or registered public health consultant considers that there is a risk that P might infect or contaminate others.

(3) Condition B is that P—

- (a) has arrived in Wales on an aircraft, ship or train from outside the United Kingdom, whether directly or via Northern Ireland, Scotland or England, and
- (b) has left, or the Welsh Ministers or registered public health consultant has reasonable grounds to believe P has left, an infected area within the 14 day period immediately preceding the date of P’s arrival in Wales.

(4) Where a special restriction or requirement is imposed under this regulation, the person imposing the restriction or requirement must express it to be contingent on the incidence or transmission of Coronavirus constituting a serious and imminent threat to public health as referred to in regulation 3.

Imposition of restrictions and requirements

5.—(1) Where Condition A or B (set out in regulation 4) is met in relation to a person (“P”), the Welsh Ministers or a registered public health consultant may—

- (a) (orally or in writing) impose on or in relation to P one or more screening requirements to inform an assessment, by the Welsh Ministers or a registered public health consultant, of whether P presents or could present a risk of infecting or contaminating others,
- (b) carry out such an assessment in relation to P, and

- (c) following such an assessment, (orally or in writing) impose on or in relation to P any other restriction or requirement which the Welsh Ministers or, as the case may be, a registered public health consultant considers necessary for the purposes of removing or reducing the risk referred to in sub-paragraph (a), including a special restriction or requirement⁽⁵⁾.
- (2) A decision to impose a restriction or requirement under paragraph (1) may only be taken if the Welsh Ministers or, as the case may be, registered public health consultant considers, when taking the decision, that the restriction or requirement is proportionate to what is sought to be achieved by imposing it.
- (3) A restriction or requirement imposed under paragraph (1)—
- (a) by the Welsh Ministers may be varied (orally or in writing) by the Welsh Ministers;
 - (b) by a registered public health consultant may be varied (orally or in writing) by the Welsh Ministers or a registered public health consultant.
- (4) Where a restriction or requirement under paragraph (1)(c) is imposed on or in relation to a child, a person who is a responsible adult in relation to the child must secure that the child complies with the restriction or requirement, insofar as that person is reasonably able to do so.
- (5) Where a restriction or requirement is imposed orally on a person under this regulation, or a restriction or requirement imposed under this regulation is orally varied, the person (or, in the case of a child, a person who is a responsible adult in relation to the child) must be provided with a written notification of the restriction or requirement that has been imposed or varied as soon as reasonably practicable.
- (6) Where a special restriction or requirement is imposed under paragraph (1)(c), the person imposing the restriction or requirement must express it to be contingent on the incidence or transmission of Coronavirus constituting a serious and imminent threat to public health as referred to in regulation 3.
- (7) Paragraph (1) does not affect the exercise of any powers by virtue of regulation 8.

Screening requirements

- 6.—(1) For the purposes of these Regulations, the screening requirements, in relation to a person (“P”) are requirements to the effect that P must—
- (a) answer questions about P’s health or other relevant circumstances (including travel history and information about other individuals with whom P may have had contact),
 - (b) produce any documents which may assist a registered public health consultant or public health officer in assessing P’s health,
 - (c) at such time as a registered public health consultant may specify, allow a public health officer, or a medical officer, to take a biological sample of P, including a sample of P’s respiratory secretions or blood, by appropriate means including by swabbing P’s nasopharyngeal cavity, or provide such a sample, and
 - (d) provide sufficient information to enable P to be contacted immediately by a public health officer during such period as a registered public health consultant may specify, where the registered public health consultant considers that such provision of information is necessary in order to reduce or remove the risk of P infecting or contaminating others.
- (2) Where P is—
- (a) a child, and
 - (b) accompanied by a responsible adult,

(5) See sections 45C and 45T of the 1984 Act for the meaning of “special restriction or requirement”. This is a restriction or requirement which can be imposed by a justice of the peace by virtue of section 45G(2), 45H(2) or 45I(2) of the 1984 Act. Section 45G(2) includes references to detention and isolation.

paragraph (3) applies.

- (3) The responsible adult must—
- (a) secure that P answers questions in accordance with paragraph (1)(a),
 - (b) answer the questions if P is unable to do so or cannot reliably do so,
 - (c) produce any documents, required under paragraph (1)(b), on P's behalf,
 - (d) allow a public health officer, or a medical officer, to take a biological sample of P, including a sample of P's respiratory secretions or blood, by appropriate means including by swabbing P's nasopharyngeal cavity, or provide such a sample, and
 - (e) provide information where required by a public health officer under paragraph (1)(d).

Imposition of further restrictions and requirements

7.—(1) In a case where Condition A or B (set out in regulation 4) is met in relation to a person (“P”)—

- (a) following an assessment, by the Welsh Ministers or a registered public health consultant, of risk presented by P in accordance with regulation 5(1), or
- (b) following P's release from detention under regulation 5, or from isolation under regulation 8,

the Welsh Ministers or a registered public health consultant may (orally or in writing) impose on P any one or more of the requirements specified in paragraph (2) where the Welsh Ministers or a registered public health consultant considers that it is necessary and proportionate to do so in order to reduce or remove the risk of P infecting or contaminating others.

- (2) The requirements specified in this paragraph are for P to—
- (a) provide P's contact details to a public health officer;
 - (b) supply information to a public health officer which may assist in assessing P's health;
 - (c) at such time as a public health officer may specify, allow the officer or a medical officer, to take a biological sample of P, including a sample of P's respiratory secretions or blood, by appropriate means including by swabbing P's nasopharyngeal cavity, or provide such a sample;
 - (d) comply with any other specified condition or to take any other specified measure.
- (3) The conditions or measures which may be specified under paragraph (2)(d) include—
- (a) a restriction on P's travel;
 - (b) a restriction on P's activities;
 - (c) a restriction on P's contact with specified persons.
- (4) The period for which a restriction is imposed under paragraph (3) may not exceed 14 days beginning with the day on which the restriction is imposed.
- (5) The Welsh Ministers or a registered public health consultant may (orally or in writing)—
- (a) vary any requirement imposed under this regulation, and
 - (b) impose on P any additional requirements specified in paragraph (2).
- (6) Before imposing or varying a requirement under this regulation, the Welsh Ministers or, as the case may be, registered public health consultant must—
- (a) inform P (or where P is a child, a person who is a responsible adult in relation to P) of the requirement or variation that the Welsh Ministers or a registered public health consultant is minded to impose or make, and

(b) have regard to any relevant representations by P (or, where P is a child, a person who is a responsible adult in relation to P), as to its suitability.

(7) Where a requirement under this regulation is imposed on or in relation to a child, or varied in relation to a child, a person who is a responsible adult in relation to the child must secure that the child complies with the requirement, insofar as that person is reasonably able to do so.

(8) Where the Welsh Ministers or a registered public health consultant orally imposes a requirement on P under this regulation, or orally varies such a requirement, the Welsh Ministers or, as the case may be, registered public health consultant must provide P (or where P is a child, a person who is a responsible adult in relation to P) with a written notification of the requirement that has been imposed or varied.

(9) Paragraph (1) does not affect the exercise of any powers by virtue of regulation 5(1)(c).

Isolation of persons suspected to be infected with Coronavirus

8.—(1) This regulation applies where Condition A or B (set out in regulation 4) is met in relation to a person (“P”).

(2) The Welsh Ministers or a registered public health consultant may require P to be kept in isolation if the Welsh Ministers or, as the case may be, registered public health consultant—

- (a) has reasonable grounds to believe that P is, or may be, infected or contaminated with Coronavirus, and
- (b) consider that it is necessary and proportionate to do so in order to reduce or remove the risk of P infecting or contaminating others.

(3) Where a registered public health consultant has reasonable grounds to believe that P is, or may be, infected or contaminated with Coronavirus, the registered public health consultant may detain P pending the decision of the Welsh Ministers or, as the case may be, registered public health consultant under paragraph (2).

(4) Where paragraph (2) applies, the Welsh Ministers or, as the case may be, registered public health consultant may impose on or in relation to P one or more screening requirements.

(5) Where a special restriction or requirement is imposed under this regulation, the person imposing the restriction or requirement must express it to be contingent on the incidence or transmission of Coronavirus constituting a serious and imminent threat to public health as referred to in regulation 3.

(6) Paragraph (1) does not affect the exercise of any powers by virtue of regulation 5(1)(c).

Detention or isolation: additional provisions

9.—(1) Where P is detained or kept in isolation under regulation 5 or 8 or subjected to restrictions or requirements under regulation 7, the Welsh Ministers must have due regard to P’s well-being.

(2) Where P is detained or kept in isolation under regulation 5 or 8 or subjected to restrictions or requirements under regulation 7 for a period exceeding 14 days, the Welsh Ministers must review the continuation of P’s detention as soon as reasonably practicable by reference to the provisions of those regulations.

(3) After each subsequent interval of 24 hours during which P is detained or kept in isolation under regulation 5 or 8 or subjected to restrictions or requirements under regulation 7, the Welsh Ministers must review the continuation and conditions of P’s detention by reference to the provisions of those regulations.

(4) Where P is detained or kept in isolation under regulation 5 or 8 or subjected to restrictions or requirements under regulation 7, the Welsh Ministers or a registered public health consultant may require P to comply with screening requirements if the Welsh Ministers or the registered public health

consultant considers that it is necessary and proportionate to do so in order to reduce or remove the risk of P infecting or contaminating others.

(5) Where P is detained under regulation 4, the Welsh Ministers or a registered public health consultant may require P to move to a suitable place.

(6) The Welsh Ministers or, as the case may be, registered public health consultant must notify P (or, where P is a child, a person who is a responsible adult in relation to P), as soon as P's detention under regulation 4 or 5 starts, or as soon as it is decided to keep P in isolation under regulation 8, of—

- (a) the fact of P's detention or isolation,
- (b) the powers under which P is detained or kept in isolation,
- (c) the reason for P's detention or isolation,
- (d) the next steps that may be taken and by whom,
- (e) the obligation to keep the need for P's detention or isolation under review,
- (f) the penalty for—
 - (i) absconding, or attempting to abscond, from detention or isolation under regulation 15(1)(b);
 - (ii) providing false or misleading information intentionally or recklessly under regulation 15(2);
 - (iii) obstructing a person carrying out a function under these Regulations under regulation 15(3), and
- (g) the right to appeal to the magistrates' court under regulation 12, where applicable.

Restrictions or requirements: groups

10.—(1) The powers in regulations 4, 5 and 8 include powers to impose a restriction or requirement in relation to a group of persons, including a special restriction or requirement.

(2) For those purposes those regulations have effect as follows.

(3) In regulation 4—

- (a) in paragraph (2), references to P are to each person in the group;
- (b) in paragraph (3), references to P are to each person in the group who has arrived on the same aircraft, ship or train and left the same area;
- (c) in paragraph (1) (insofar as it relates to those paragraphs), the reference to “a person” is to be read accordingly, and the power to impose a requirement to be detained is to be read as a power to impose that requirement on any one or more of the persons in the group in question.

(4) In regulation 5—

- (a) in paragraph (1), the reference to “a person” is to be read in accordance with paragraph (3) of this regulation;
- (b) in the rest of that paragraph, references to P are to one or more of the persons in the group in question.

(5) In regulation 8—

- (a) in paragraph (1), the reference to “a person” is to be read in accordance with paragraph (3) of this regulation;
- (b) in the rest of that regulation, references to P are to one or more of the persons in the group in question.

Appeals

11.—(1) A person in relation to whom a restriction or requirement is imposed under these Regulations may appeal to the magistrates' court against the decision to impose that requirement or restriction.

(2) A person with parental responsibility for a child in relation to whom a restriction or requirement is imposed under these Regulations may appeal to the magistrates' court against the decision to impose that restriction or requirement.

Enforcement

12.—(1) Where a requirement is imposed on a person to be detained or kept in isolation under regulation 4, 5 or 8, a constable may do any of the following—

- (a) take the person to a suitable place, specified by the Welsh Ministers or a public health officer, for the person's detention or isolation;
- (b) keep the person in detention or isolation.

(2) Where a person absconds from detention or isolation imposed under regulation 4, 5 or 8, a constable may take the person into custody and return the person to the place of detention or isolation, or take the person to another suitable place specified by a public health officer.

(3) A constable may use reasonable force, if necessary, in the exercise of a power under this regulation.

Initial detention of persons to enable screening and assessment

13.—(1) This regulation applies if a constable has reasonable grounds to suspect that—

- (a) a person ("P") is, or may be, infected or contaminated with Coronavirus,
- (b) there is a risk that P might infect or contaminate others, and
- (c) it is necessary to direct, remove or detain P in the interests of P, for the protection of other persons or for the maintenance of public safety.

(2) A constable may—

- (a) direct P to go immediately to a hospital or other suitable place specified in the direction for the purposes of screening, assessment and the imposition of any restrictions or requirements under regulation 5,
- (b) remove P to a hospital or other suitable place for the purposes of the imposition of any restrictions or requirements under regulation 5, or
- (c) if P is already at a hospital or other suitable place, keep P at that place or remove P to another hospital or other suitable place for the purposes of the imposition of any restrictions or requirements under regulation 5.

(3) The power in paragraph (2) may be exercised where P is at any place.

(4) For the purpose of exercising the power in paragraph (2), a constable may enter any place.

(5) Before exercising the power in paragraph (2) the constable must—

- (a) so far as reasonably practicable, consult a registered public health consultant and have due regard to the views of the registered public health consultant and any information provided by the registered public health consultant in relation to P,
- (b) have due regard to any guidance issued by the Welsh Ministers, and
- (c) where consultation has not been carried out under sub-paragraph (a)—

- (i) consult a registered public health consultant as soon as reasonably practicable after the power in paragraph (2) has been exercised, and
- (ii) have due regard to the views of the registered public health consultant and any information provided by the registered public health consultant in relation to P.

(6) A person removed to or kept in a hospital or other suitable place under this regulation may be detained there for a period not exceeding the permitted period of detention.

(7) A constable or a registered public health consultant or a person authorised by either of them for the purposes of this paragraph, may, before the end of the permitted period of detention, take a person detained in a hospital or other suitable place to one or more other hospitals or other suitable places.

(8) A person taken to a hospital or other suitable place under paragraph (7) may be detained there for a period ending no later than the permitted period of detention.

(9) A constable may use reasonable force, if necessary, in the exercise of a power under this regulation.

(10) In this regulation—

“the authorised extended period” (“*y cyfnod estynedig a awdurdodir*”) means such further period as is specified in an authorisation under paragraph (11);

“the initial period” (“*y cyfnod cychwynnol*”) means the period of 24 hours beginning with—

- (a) in a case where the person is removed to a hospital or other suitable place, the time when the person arrives at that place, or
- (b) in a case where the person is kept at a hospital or other suitable place, the time when the constable decides to keep the person at that place;

“the permitted period of detention” (“*y cyfnod cadw a ganiateir*”) means the initial period of detention and the authorised extended period.

(11) A constable or registered public health consultant may, at any time before the expiry of the initial period, authorise the detention of a person for a further period not exceeding 24 hours (beginning immediately at the end of the initial period).

(12) An authorisation under paragraph (11) may be given only if the person giving the authorisation considers that the extension is necessary because it is not reasonably practicable for the imposition of any restrictions or requirements under regulation 5 to be completed before the end of the initial period.

Offences

14.—(1) A person (“P”) commits an offence if P—

- (a) fails, without reasonable excuse, to comply with a restriction or requirement imposed under regulation 4(1), 5(1), 7(1) or 9(4) or (5);
- (b) absconds, or attempts to abscond, from detention or isolation under regulation 4, 5 or 8.

(2) A person who provides false or misleading information intentionally or recklessly to any person carrying out a function under these Regulations commits an offence.

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

(4) A responsible adult who fails without reasonable excuse to comply with regulation 5(4), 6(3) or 7(7) commits an offence.

(5) An offence specified in paragraphs (1), (2), (3) or (4) is punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

Expiry

15.—(1) These Regulations cease to have effect at the end of the period of two years beginning on the day on which they come into force.

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

At 3:15 p.m. on 17 March 2020

Vaughan Gething
Minister for Health and Social Services, one of
the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations supplement the health protection regime found in Part 2A of the Public Health (Control of Disease) Act 1984 (“the 1984 Act”) in the event that there exists a serious and imminent threat to public health from the virus known as Coronavirus or “Severe acute respiratory syndrome coronavirus 2”, which causes the disease known as “COVID-19”.

Regulation 2 defines the terms used in the Regulations.

Regulation 3 provides that the Regulations apply where the Welsh Ministers make a declaration on www.gov.wales that the incidence or transmission of Coronavirus constitutes a serious and imminent threat to public health and that the incidence or transmission of Coronavirus is at such a point that the measures outlined in these Regulations may reasonably be considered as an effective means of delaying or preventing the further transmission of Coronavirus.

Regulation 4 enables a person to be detained for screening purposes where certain conditions are met.

Regulation 5 enables screening and other requirements to be imposed on a person where certain conditions are met.

Regulation 6 sets out the screening requirements.

Regulation 7 enables further restrictions and requirements to be imposed on certain persons for the purpose of reducing or removing the risk of persons infecting or contaminating others.

Regulation 8 provides for the isolation of persons.

Regulation 9 makes additional provision in relation to cases where persons are detained or isolated.

Regulation 10 enables restrictions and requirements to be imposed in relation to groups of persons.

Regulations 11 and 12 provide for appeals and enforcement.

Regulation 13 provides powers for constables to detain persons.

Regulation 14 provides for offences.

Regulation 15 provides for the expiry of the Regulations at the end of two years.

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.