
WELSH STATUTORY INSTRUMENTS

2021 No. 722 (W. 183)

PUBLIC HEALTH, WALES

**The Health Protection (Coronavirus Restrictions) (No. 5)
(Wales) (Amendment) (No. 13) Regulations 2021**

Approved by Senedd Cymru

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| <i>Made</i> | - - - - | <i>at 1.39 p.m. on 18 June 2021</i> |
| <i>Laid before Senedd Cymru</i> | | <i>at 4.00 p.m. on 18 June 2021</i> |
| <i>Coming into force</i> | - - | <i>21 June 2021</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(2) of the Public Health (Control of Disease) Act 1984⁽¹⁾.

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 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.

Title and coming into force

1.—(1) The title of these Regulations is the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 13) Regulations 2021.

(2) These Regulations come into force on 21 June 2021.

Amendment to the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020

2.—(1) The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020⁽²⁾ are amended as follows.

(1) 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.

(2) S.I. 2020/1609 (W. 335) as amended by S.I. 2020/1610 (W. 336), S.I. 2020/1623 (W. 340), S.I. 2020/1645 (W. 345), S.I. 2021/20 (W. 7), S.I. 2021/46 (W. 10), S.I. 2021/57 (W. 13), S.I. 2021/66 (W. 15), S.I. 2021/95 (W. 26), S.I. 2021/103 (W. 27).

(2) For regulation 16 substitute—

“Requirement to take all reasonable measures to minimise the risk of exposure to coronavirus

16.—(1) For the purposes of minimising the risk of exposure to coronavirus at regulated premises, or the spread of coronavirus by those who have been at regulated premises, the responsible person must take the following steps—

Step 1

Undertake a specific assessment of the risk of exposure to coronavirus at the premises, and in doing so consult persons working on the premises or representatives of those persons.

Step 2

Provide information to those entering or working at the premises about how to minimise the risk of exposure to coronavirus.

Step 3

Take all reasonable measures to ensure—

- (a) that a distance of 2 metres is maintained between any persons on the premises, except between members of a permitted group;
- (b) where persons are required to wait to enter the premises, that a distance of 2 metres is maintained between them, except between members of a permitted group.

Step 4

Take reasonable measures to mitigate the risk of exposure to coronavirus that arises where persons gather in close proximity, such as—

- (a) seeking to prevent the following persons from being present at the premises—
 - (i) any person who has tested positive for coronavirus in the previous 10 days,
 - (ii) any person who has had close contact in the previous 10 days with a person who has tested positive for coronavirus,
 - (iii) any person experiencing symptoms associated with COVID-19;
- (b) ensuring that persons gathering at the premises gather outdoors where this is practicable;
- (c) limiting close face-to-face interaction between persons on the premises, for example by—
 - (i) changing the layout of premises including the location of furniture and workstations;
 - (ii) controlling the use of entrances, passageways, stairs and lifts;
 - (iii) controlling the use of shared facilities such as toilets and kitchens;
 - (iv) otherwise controlling the use of, or access to, any other part of the premises;
 - (v) installing barriers or screens;
- (d) limiting the duration of time for which persons may be present on the premises;
- (e) seeking to ensure that the premises are well ventilated;
- (f) maintaining good hygiene on the premises;

- (g) providing or requiring use of personal protective equipment.
- (2) In determining the extent to which it is reasonable to take a particular measure under Step 3, regard may be had to measures taken under Step 4 to mitigate the risk of exposure to coronavirus that arises when any person is within a distance of 2 metres of another person.
- (3) Measures that may be taken under paragraph (1) include—
 - (a) not carrying out certain activities;
 - (b) closing a part of the premises;
 - (c) allowing and enabling a person who ordinarily works at the premises to isolate due to testing positive for coronavirus or having had close contact with somebody who has tested positive, for a period—
 - (i) recommended in guidance published by the Welsh Ministers;
 - (ii) specified in a notification given to the person by a contact tracer;
 - (d) collecting contact information from each person at the premises and retaining it for 21 days for the purpose of providing it to any of the following, upon their request—
 - (i) the Welsh Ministers;
 - (ii) a contact tracer;
 - (e) taking reasonable measures to ensure that such contact information is correct.
- (4) An assessment under Step 1—
 - (a) must satisfy the requirements of regulation 3 of the Management of Health and Safety at Work Regulations 1999⁽³⁾ (the “1999 Regulations”), and
 - (b) must be undertaken—
 - (i) whether or not the responsible person has already undertaken an assessment under that regulation, and
 - (ii) whether or not that regulation applies to the responsible person.
- (5) For the purposes of paragraph (4)—
 - (a) regulation 3 of the 1999 Regulations is to be read as if the words “by or under the relevant statutory provisions”, in both places it occurs, were substituted by the words “by regulations 16, 17 and 17A of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020”, and
 - (b) if regulation 3 of the 1999 Regulations would not, but for paragraph (4)(b)(ii), apply to a responsible person—
 - (i) that regulation is to be treated as applying to the person as if the person were an employer, and
 - (ii) persons working at the premises are, for the purposes of that regulation as it applies by virtue of paragraph (4)(b)(ii), treated as being employed by the responsible person.
- (6) For the purposes of Step 3, “permitted group” means—
 - (a) where the premises are in an Alert Level 1 area or an Alert Level 2 area, a group which—
 - (i) consists of no more than 6 people, not counting any persons under the age of 11 or any carer of a person in the group, or
 - (ii) consists of members of the same household and any carer of a member of the household;

(3) S.I. 1999/3242. Regulation 3 was amended by S.I. 2005/1541, S.I. 2015/21 and S.I. 2015/1637.

- (b) where the premises are in an Alert Level 3 area or an Alert Level 4 area, a group which consists of members of the same household and any carer of a member of the household.”
- (3) In regulation 17(1), after “responsible person” insert “under Step 4 of that regulation”.
- (4) In regulation 17A, in the words before sub-paragraph (a), after “responsible person” insert “under Step 4 of that regulation”.
- (5) In regulation 57—
 - (a) in paragraph (1), after sub-paragraph (g) insert—
 - “(ga) “COVID-19” is the official designation of the disease which can be caused by coronavirus;”;
 - (b) in paragraph (9)(a) for “of food and drink to be consumed outdoors” substitute “or consumption of food and drink”.
- (6) In Schedule 1—
 - (a) in paragraph 2(5)—
 - (i) in paragraph (e), for “of no more than 30 people at regulated premises, not counting persons under the age of 11 or persons working at the premises,” substitute “at regulated premises”;
 - (ii) after paragraph (k) insert—
 - “(ka) participating in or facilitating a regulated gathering of primary school children in holiday or travel accommodation, where the gathering relates to—
 - (i) a regulated gathering described in paragraph (k), or
 - (ii) a gathering in which the children are participating for the purpose described in sub-paragraph (4)(i);”;
 - (b) after paragraph 2(5) insert—
 - “(6) For the purposes of this paragraph and paragraph 4—
 - (a) “primary school child” means a child who is in year 6 or below in a school in Wales or would be in year 6 or below if the child attended a school in Wales,
 - (b) “school” has the meaning given by section 4 of the Education Act 1996,
 - (c) “school year” has the same meaning as in section 579(1) of that Act,
 - (d) “year 6” means a year group in which the majority of children will, in the school year, attain the age of 11, and
 - (e) “year group” means a group of children at a school, the majority of whom will, in a particular school year, attain the same age.”;
 - (c) in paragraph 4—
 - (i) in sub-paragraph (2)—
 - (aa) in paragraph (e), omit “where no more than 30 people are in attendance,”;
 - (bb) after paragraph (g) insert—
 - “(ga) a regulated gathering of primary school children in holiday or travel accommodation, where the gathering relates to—
 - (i) a regulated gathering described in paragraph (g), or
 - (ii) a gathering in which the children are participating for the purpose of accessing or receiving educational services in accordance with paragraph 2(4)(i);”;

- (cc) in paragraph (h)—
 - (i) in the words before sub-paragraph (i), after “regulated premises” insert “(other than at holiday or travel accommodation)”;
 - (ii) in sub-paragraph (ii), omit “or, if the regulated premises are holiday or travel accommodation, the same extended household”;
 - (dd) after paragraph (i) insert—
 - “(ia) an event that is any of the following, where it is held in premises ordinarily used for that purpose—
 - (i) the showing of a film,
 - (ii) an entertainment performance where no more than 200 people are in attendance or where it is held outdoors,
 - (iii) a market, or
 - (iv) a religious service;
 - (ib) an elite sporting event at which the only people present are elite athletes and persons working or providing voluntary services for the event.”;
 - (ee) after paragraph (j) insert—
 - “(k) an event that is held to any extent indoors at holiday or travel accommodation and at which all of the people in attendance are members of the same household or extended household.”;
 - (ii) in sub-paragraph (3), omit paragraphs (c) and (d).
- (7) In Schedule 2, paragraph 4—
- (a) in sub-paragraph (2)—
 - (i) in paragraph (e), for “of no more than 30 people at regulated premises, or an outdoor gathering of no more than 50 people at such premises, not counting (in either case) persons under the age of 11 or persons working at the premises” substitute “at regulated premises where no more than 30 people are in attendance, or an outdoor gathering at regulated premises where no more than 50 people are in attendance”;
 - (ii) in paragraph (f)(i), omit “not counting persons under the age of 11 or persons working, or providing voluntary services, at the gathering.”;
 - (iii) in paragraph (g)(i), omit “not counting persons under the age of 11 or persons working, or providing voluntary services, at the gathering.”;
 - (iv) after paragraph (h) insert—
 - “(i) an event that is held at regulated premises, other than at holiday or travel accommodation, and at which—
 - (i) no more than 6 people are in attendance, or
 - (ii) all of the people in attendance are members of the same household;
 - (j) an event that is any of the following, where it is held in premises ordinarily used for that purpose—
 - (i) the showing of a film,
 - (ii) an entertainment performance where no more than 200 people are in attendance or where it is held outdoors,
 - (iii) a market, or

- (iv) a religious service;
 - (k) an elite sporting event at which the only people present are elite athletes and persons working or providing voluntary services for the event;
 - (l) an event that is held outdoors at premises that are not regulated premises or outdoors at holiday or travel accommodation and at which—
 - (i) no more than 6 people are in attendance, or
 - (ii) all of the people in attendance are members of the same household or extended household;
 - (m) an event that is held to any extent indoors at holiday or travel accommodation and at which all of the people in attendance are members of the same household or extended household.”;
- (b) after sub-paragraph (2) insert—
- “(2A) In determining, for the purposes of sub-paragraph (2), the number of persons in attendance at an event, no account is to be taken of—
- (a) any children under the age of 11,
 - (b) the carer of any person in attendance, or
 - (c) any person working, or providing voluntary services, at the event.”;
- (c) in sub-paragraph (3), omit paragraphs (c) and (d).

At 1.39 p.m. on 18 June 2021

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.

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (S.I. 2020/1609 (W. 335)) (“the principal Regulations”).

The Regulations replace regulation 16 of the principal Regulations. The new regulation 16 requires the person responsible for “regulated premises” to take the following steps.

Step 1 – undertake an assessment of the risk of exposure to coronavirus at the premises.

Step 2 – provide information to those entering or working at the premises about how to minimise the risk of exposure to coronavirus.

Step 3 – take all reasonable measures to ensure that a distance of 2 metres is maintained between persons on the premises, except between the members of a group, comprising of no more than 6 persons or members of the same household at Alert Level 1 and 2, or at Alert Levels 3 and 4, comprising of members of the same household.

Step 4 – take reasonable measures to mitigate the risk of exposure to coronavirus that arises where persons gather in close proximity to each other. The measures may include seeking to prevent persons experiencing symptoms of COVID-19 from entering the premises, ensuring that people gather outdoors instead of indoors where it is practicable to do so, limiting close face-to-face interaction, seeking to ensure that the premises are well ventilated, and maintaining good hygiene. They may also include measures such as not carrying on certain activities and collecting contact information from persons at the premises.

In determining the extent to which it is reasonable to take a particular measure under Step 3, the person responsible for the premises may have regard to measures taken under Step 4 to mitigate the risk of exposure to coronavirus when a person is within 2 metres of another person.

The Regulations also amend Schedule 1 to the principal Regulations (which sets out the restrictions and requirements that currently have effect in Wales as an Alert Level 1 area) to—

- remove the previous limit of 30 on the number of people that are allowed to gather at a celebration of a solemnisation of a marriage, formation of a civil partnership or alternative wedding ceremony, or at a celebration of the life of a deceased person – maximum permitted numbers will now be set in light of the risk assessment undertaken under regulation 16 of the principal Regulations, and the steps and reasonable measures taken under that regulation;
- allow primary school children to gather at holiday or travel accommodation (for example, for overnight stays) where the gathering is related to a regulated gathering for the development or well-being of children, such as those provided for children outside of school hours and during school holidays at places such as outdoor education centres, or is related to a gathering at which the children are participating for the purpose of accessing or receiving education;

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- clarify that the prohibition on organising events does not apply to an entertainment performance held in premises ordinarily used for that purpose, and where no more than 200 people are in attendance or where it is held outdoors.

The Regulations also amend Schedule 2 to the principal Regulations (which relates to Alert Level 2 areas) to clarify the effect of the prohibition on organising events, including that it does not apply to an entertainment performance held in premises ordinarily used for that purpose, and where no more than 200 people are in attendance or where it is held outdoors.

They also make other minor and consequential amendments to the principal Regulations, including amending regulation 57 to clarify that an event does not cease to be classed as being “outdoors” just because indoor facilities are provided for the consumption of food and drink.

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.