

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. 399 (W. 88)

PUBLIC HEALTH, WALES

The Health Protection (Coronavirus Restrictions) (Wales) (Amendment) Regulations 2020

<i>Made</i>	- - - -	<i>3 April 2020</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>6 April 2020 at 12.01 a.m. on 7 April 2020</i>
<i>Coming into force</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⁽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.

These Regulations amend the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020⁽²⁾ and the Welsh Ministers consider that the person desachieve, 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, the National Assembly for Wales.

Title, coming into force and application

1.—(1) The title of these Regulations is the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) Regulations 2020 and they come into force at 12.01 a.m. on 7 April 2020.

(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. 2020/353 (W. 80)

(2) In these Regulations, “the principal Regulations” means the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020(3).

Holiday accommodation businesses providing online etc. services

2. In regulation 5 of the principal Regulations, for paragraph (3) substitute—

“(3) In so far as regulation 4(4) applies to any other business listed in Part 3 of Schedule 1, the obligation on the person responsible for carrying on the business applies subject to the need to provide accommodation for any persons staying in that accommodation when these Regulations come into force and who—

- (a) are unable to return to their main residence, or
- (b) are using the accommodation as their main residence.

(3A) In so far as regulation 4(4) applies to a business listed in Part 3 of Schedule 1, the obligation on the person responsible for carrying on the business applies subject to the need to—

- (a) carry on the business, or keep any premises used in the business open, for any purpose as may be requested by the Welsh Ministers or a local authority;
- (b) carry on the business by providing information or other services—
 - (i) through a website, or otherwise by on-line communication,
 - (ii) by telephone, including enquiries by text message, or
 - (iii) by post.”

Restriction on other places of work

3. After regulation 6 of the principal Regulations insert—

“General restriction on places of work

6A.—(1) A person responsible for work being carried out at premises where a person is working must, when such work is being carried out during the emergency period, take all reasonable measures to ensure that a distance of 2 metres is maintained between any persons on the premises (except between two members of the same household, or a carer and the person assisted by the carer).

(2) Paragraph (1) does not apply to premises used in the carrying on of a business, or provision of a service, listed in Schedule 1.”

Restrictions on places of worship, crematoriums, cemeteries and community centres

4. In regulation 7 of the principal Regulations—

- (a) in paragraph (2), after “worship”, where it first occurs, insert “(except between two members of the same household, or a carer and the person assisted by the carer)”;
- (b) in paragraph (4), after “crematorium”, where it first occurs, insert “(except between two members of the same household, or a carer and the person assisted by the carer)”;
- (c) after paragraph (4) insert—

“(4A) A person responsible for a cemetery must take all reasonable measures to ensure a distance of 2 metres is maintained between every person at a burial taking

- place in the cemetery during the emergency period (except between two members of the same household, or a carer and the person assisted by the carer).”;
- (d) in paragraph (5)(b), after “premises” insert “(except between two members of the same household, or a carer and the person assisted by the carer)”;
- (e) after paragraph (5) insert—
- “ (6) For the purposes of this regulation—
- (a) “burial” includes the internment of a dead person’s ashes;
- (b) “cemetery” includes a burial ground and any other place for the internment of the dead.”;
- (f) in the heading, after “crematoriums” insert “, cemeteries”.

Guidance on maintaining distance of 2 metres between persons

5. After regulation 7 of the principal Regulations insert—

“Guidance on maintaining distance of 2 metres between persons

7A.—(1) A person subject to a requirement or restriction in—

- (a) regulation 4(1) as it applies to workplace canteens,
- (b) regulation 6(1),
- (c) regulation 6A(1), or
- (d) regulation 7(1), (3), (4A) or (5),

must have regard to guidance issued by the Welsh Ministers about reasonable measures to be taken to ensure that a distance of 2 metres is maintained between persons.

(2) The Welsh Ministers—

- (a) may revise guidance issued under paragraph (1), and
- (b) must publish the guidance (and any revisions).

(3) Guidance under this regulation may incorporate (by reference or transposition) guidance, codes of practice or other documents published by another person (for example, a trade association, body representing members of an industry or a trade union).”

Attendance at funerals

6. In regulation 8(2)(g) of the principal Regulations, for paragraphs (i) to (iv) substitute—

- “(i) as a person responsible for arranging the funeral,
- (ii) if invited by a person responsible for arranging the funeral, or
- (iii) as the carer of a person attending.”

Minor and consequential amendments

7.—(1) The principal Regulations are amended as follows.

(2) In regulation 1(3), after sub-paragraph (d) insert—

“(da) “premises” includes any building or structure and any land;”.

(3) In regulation 3(2), for “15” substitute “16”.

(4) In regulation 10—

- (a) in paragraph (1)(a), after “6” insert “, 6A”;

- (b) in paragraph (12), after “6,” insert “6A.”
- (5) In regulation 12(1)(a), after “6,” insert “ 6A.”
- (6) In regulation 13—
 - (a) in paragraph (2), for “a local authority specified in the notice.” substitute “—
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.”;
 - (b) after paragraph (2) insert—
“(2A) The Welsh Ministers may designate themselves under paragraph (2)(b).”;
 - (c) in paragraph (3), for “The local authority specified in the notice” substitute “Where a local authority is specified in the notice it”;
 - (d) in paragraph (8), after “£120” insert “and paragraph (7) does not apply”;
 - (e) in paragraph (11)(a), for “the local authority concerned, and” substitute “—
“(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”.
- (7) In Schedule 1—
 - (a) in paragraph 29, for “on”, where it first occurs, substitute “off”;
 - (b) for paragraph 44 substitute—
“**44.** Agricultural or aquacultural supplies shops.
44A. Livestock markets or auctions.”;
 - (c) in the Schedule heading, after “subject to” insert “specific”.

3 April 2020

Mark Drakeford
The 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 regulations 5, 7 and 8 of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 (the “principal Regulations”), insert new regulations 6A and 7A into the principal Regulations, and make further minor and consequential amendments to them.

Regulation 5 of the principal Regulations makes provision relating to providers of holiday accommodation which are subject to the requirement to cease carrying on their business under regulation 4(4) of the principal Regulations. **Regulation 2** amends paragraph (3) of, and adds a new paragraph (3A) to, regulation 5 to make it clear that all such businesses can continue to provide services online or by telephone or post, and can open premises at the request of the Welsh Ministers or a local authority.

Regulation 3 inserts new regulation 6A into the principal Regulations which requires the person responsible for work being carried out at any place (when such work is being carried out during the emergency period and so long as the premises are not the premises of a business or service listed in Schedule 1 to take all reasonable measures to ensure that a distance of 2 metres is maintained between persons on the premises (unless the persons are members of the same household or are a carer and the person being cared for).

Regulation 4 amends regulation 7 of the principal Regulations so that the requirement to take all reasonable measures to ensure that a distance of 2 metres is maintained between persons in a place of worship, crematorium or community centre does not apply to persons from the same household or to carers and persons they are caring for. It also inserts a new paragraph (4A) into regulation 7 with the effect that a person responsible for a cemetery must take all reasonable measures to ensure that a distance of 2 metres is maintained between persons from different households attending a burial at the cemetery. Finally, a new paragraph (6) is inserted defining “cemetery” and “burial” for the purposes of regulation 7.

Regulation 5 inserts new regulation 7A into the principal Regulations which requires any person who is subject to a requirement to take all reasonable measures to ensure that a distance of 2 metres is maintained between persons at a place to have regard to guidance from the Welsh Ministers about taking those measures.

Regulation 8(1) of the principal Regulations provides that, during the emergency period, no person may leave the place where they are living without reasonable excuse. Regulation 8(2) sets out a non-exhaustive list of activities that are to be regarded as reasonable excuses.

Sub-paragraph (g) of regulation 8(2) provides that attending a funeral is a reasonable excuse for a person if the funeral is that of a member of the person’s household (paragraph (i)); a close family member (paragraph (ii)); or a friend, where no member of the deceased’s household or close family member is attending (paragraph (iii)). **Regulation 6** amends regulation 8(2)(g) with the effect that attending the funeral is to be regarded as a reasonable excuse to leave the place where a person is living if the person is responsible for arranging the funeral or is invited (but note that there will be

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limits on the number of persons who may attend a funeral as a result of the restrictions imposed by regulation 7 of the principal Regulations).

Regulation 7 contains minor and consequential amendments including—

inserting a definition of “premises” for the purposes of the principal Regulations, which makes it clear that any building or structure or any land (that is to say outdoor places) count as premises under the Regulations;

permitting the Welsh Ministers to designate a person to receive payments of fixed penalties as an alternative to making payments to the local authority in whose area the offence is alleged to have occurred;

adding aquacultural supplies shops and livestock markets and auctions to the list in Part 4 of Schedule 1 to the principal Regulations with the effect that they may remain open but must comply with the requirements of regulation 6(1) of the principal Regulations.

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.