

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

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2020 No. 843 (W. 186)

PUBLIC HEALTH, WALES

**The Health Protection (Coronavirus
Restrictions) (No. 2) (Wales)
(Amendment) (No. 4) Regulations
2020**

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. 2) (Wales) Regulations 2020 (“the principal Regulations”).

The amendments permit community centres, swimming pools, fitness studios, gyms, spas, leisure centres and indoor play areas to open; but measures must be taken to minimise the risk of exposure to coronavirus on the premises.

The amendments also confer new powers on local authority enforcement officers to ensure that measures are taken (in accordance with regulation 12 of the principal Regulations) to minimise the risk of exposure to coronavirus at workplaces and other premises that

are open. An officer may issue a “premises improvement notice” requiring the person responsible for the premises to take specified measures, and if those measures are not taken an officer may issue a “premises closure notice” requiring the premises to close. Where necessary, an officer may also issue a premises closure notice without having previously issued a premises improvement notice. Provision is made for appeals against notices, for publicising notices, and for breach of the terms of either type of notice to be an offence.

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.

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2020 No. 843 (W. 186)

PUBLIC HEALTH, WALES

**The Health Protection (Coronavirus
Restrictions) (No. 2) (Wales)
(Amendment) (No. 4) Regulations
2020**

Made at 12.30 p.m. on 7 August 2020

*Laid before Senedd
Cymru at 6.00 p.m. on 7 August 2020*

Coming into force 10 August 2020

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.

The Welsh Ministers consider that the amendments made 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

(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.

having been laid before, and approved by a resolution of, Senedd Cymru.

Title and coming into force

1. The title of these Regulations is the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 4) Regulations 2020 and they come into force on 10 August 2020.

Amendment of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020

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

(2) In regulation 7(2)(a), for “, 6 or 12” substitute “or 6”.

(3) Omit regulation 10.

(4) In regulation 12—

(a) after paragraph (2) insert—

“(2A) Measures that may be taken under paragraph (2) for the purposes of minimising the risk of exposure to coronavirus at the premises also include—

(a) ceasing to carry out certain activities;

(b) closing a part of the premises.”

(b) in paragraph (3)(h), omit “permitted to open by virtue of regulation 10(4)”.

(5) In regulation 14(2), after sub-paragraph (o) insert—

“(p) exercise with others, in a gathering of no more than 30 people, at a fitness studio, gym, swimming pool, other indoor leisure centre or facility or any other open premises.”

(6) In regulation 17—

(a) before paragraph (1) insert—

“(A1) In regulation 17A and Schedule 5, an “enforcement officer” means a person designated by a local authority for the purposes of these Regulations.”;

(b) in paragraph (1)(c), for “regulations 18 to 21” substitute “these Regulations”;

(1) S.I. 2020/725 (W. 162), as amended by the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) Regulations 2020 (S.I. 2020/752 (W. 169)), the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/803 (W. 176)) and the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 3) Regulations 2020 (S.I. 2020/820 (W. 180)).

- (c) in paragraph (2), for “10(4), 11(4) or 12(2)” substitute “11(4) or 12(2) or Schedule 5”.

(7) After regulation 17 insert—

“Enforcement of regulation 12(2)

17A. Schedules 5 and 6 make provision for and in connection with conferring functions on enforcement officers for the purpose of enforcing regulation 12(2).”

(8) In regulation 18—

- (a) in paragraph (1), omit “, 10(4), 12(2)”;

(b) after paragraph (7) insert—

“(7A) An enforcement officer may, to facilitate the exercise of a power conferred on the officer by Schedule 5—

- (a) require any person to give any information or answer any question the officer considers to be relevant to the exercise of the power;

- (b) require the production of, inspect and take copies of, any documents or electronic records.”;

- (c) in paragraph (8), for “or regulation 19” substitute “, regulation 19 or Schedule 5”;

(d) after paragraph (9) insert—

“(9A) A person may not be required under paragraph (7A) to provide a document, record or other information in respect of which a claim for legal professional privilege could be maintained in legal proceedings.

(9B) No information or answer given by a person in response to a requirement imposed under paragraph (7A)(a) is admissible in evidence against that person, or the person’s spouse or civil partner, in proceedings under any enactment other than these Regulations.”

(9) In regulation 19(1)(a), after “imposed by” insert “or under”.

(10) In regulation 20—

- (a) in paragraph (1)(a), omit “10(4),” and “or 12(2)”;

(b) after paragraph (2) insert—

“(2A) A person who—

- (a) without reasonable excuse, contravenes paragraph 3(1) of Schedule 5,

- (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) of that Schedule,

commits an offence.”;

(c) after paragraph (3) insert—

“(3A) A person who commits an offence under paragraph (2A)(a) is liable on summary conviction to imprisonment for a term not exceeding 6 months, to a fine, or to both.”;

(d) in paragraph (4), for “An” substitute “Any other”.

(11) In regulation 21(1)(a), after “these Regulations” insert “(except an offence under regulation 20(2A)(a))”.

(12) In regulation 22(1), at the end insert “, except that proceedings for an offence under regulation 20(2A) may also be brought by a local authority”.

(13) In Schedule 2—

(a) in paragraph 3, after “Venues” insert “authorised to be used for the supply of alcohol by a premises licence or club premises certificate (within the meaning given by the Licensing Act 2003(1))”;

(b) omit paragraphs 11 to 13.

(14) In Schedule 4, after paragraph 41 insert—

42. Swimming pools.

43. Indoor fitness studios, gyms, spas and other indoor leisure centres and facilities.

44. Indoor play areas.”

(15) After Schedule 4 insert the Schedules 5 and 6 set out in Schedules 1 and 2 to these Regulations.

Savings for offences and penalties in relation to prior acts

3. Regulations 20 and 21 of the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 continue to have effect in relation to any offence committed, or reasonably believed to have been committed, before the amendments made by these Regulations came into force as if those amendments had not been made.

Mark Drakeford

The First Minister, one of the Welsh Ministers

At 12.30 p.m. on 7 August 2020

(1) 2003 c.17.

SCHEDULE 1 Regulation 2
New Schedule 5 to the Health Protection
(Coronavirus Restrictions) (No. 2)
(Wales) Regulations 2020

“SCHEDULE 5 Regulation 17A
Enforcement of regulation 12(2)

Premises improvement notice

1.—(1) An enforcement officer may issue a notice (a “premises improvement notice”) to a person responsible for premises referred to in regulation 12(1) if the officer considers that—

- (a) the person is not complying with the obligations imposed on the person by regulation 12(2), and
- (b) the measures specified in the notice are necessary and proportionate in order to ensure that the person complies with those obligations.

(2) A premises improvement notice must—

- (a) specify the premises to which it relates;
- (b) specify the measures it requires to be taken in order to ensure that the person complies with the obligations imposed by regulation 12(2);
- (c) specify a time limit within which the measures must be taken (which must not be less than 48 hours beginning with the time the notice is issued);
- (d) give details of the right of appeal conferred by paragraph 5.

Premises closure notice

2.—(1) If either condition 1 or condition 2 is satisfied, an enforcement officer may issue a notice (a “premises closure notice”) to a person responsible for premises referred to in regulation 12(1) requiring the premises, or part of the premises, to be closed.

(2) Condition 1 is—

- (a) a premises improvement notice has been issued to the person,
- (b) the enforcement officer considers that the person has failed to take the measures specified in the premises improvement notice within the specified time limit, and

- (c) the officer considers that the closure of the premises, or part of the premises, is necessary and proportionate for the purpose of minimising the risk of exposure to coronavirus.

(3) Condition 2 is that the enforcement officer considers that—

- (a) the person is not complying with the obligations imposed on the person by regulation 12(2), and
- (b) the closure of the premises, or part of the premises, (without a premises improvement notice having been issued) is necessary and proportionate for the purpose of minimising the risk of exposure to coronavirus.

(4) A premises closure notice must—

- (a) contain a description of the premises to be closed,
- (b) where a premises improvement notice has been issued, set out the measures that the enforcement officer considers—
 - (i) have not been taken, and
 - (ii) must be taken in order to ensure that the responsible person complies with the obligations imposed by regulation 12(2),
- (c) where a premises improvement notice has not been issued, set out the reasons why the enforcement officer considers that the person is not complying with the obligations imposed by regulation 12(2),
- (d) in either case, set out the reasons why the enforcement officer considers that closure of the premises is necessary and proportionate for the purpose of minimising the risk of exposure to coronavirus,
- (e) specify the period for which the notice has effect, and
- (f) give details of the right of appeal conferred by paragraph 5.

(5) The period specified under sub-paragraph (4)(e) may not be more than 336 hours (14 days) beginning with the time the notice is issued.

(6) A premises closure notice has effect from the time at which it is issued or from a later time specified in the notice.

(7) A premises closure notice may not be issued in relation to premises which form part of critical infrastructure (for example, premises used to generate electricity or supply water) or which are used to provide essential public services.

Effect of premises closure notice

3.—(1) As soon as is reasonably practicable after a premises closure notice takes effect, the person to whom it is issued must ensure that—

- (a) the premises to which the notice relates are closed, and
- (b) no business is carried on or service is provided on, or from, the premises.

(2) No person may enter, or be on, premises closed under sub-paragraph (1) without a reasonable excuse.

(3) For the purposes of sub-paragraph (2), the circumstances in which a person has a reasonable excuse include where—

- (a) the person lives on the premises;
- (b) the person is carrying out essential maintenance or repairs;
- (c) the person is doing things necessary to ensure that regulation 12(2) can be complied with when the premises are allowed to be open;
- (d) the person is an enforcement officer or a person assisting an enforcement officer;
- (e) it is necessary for the person to be on the premises to avoid injury or illness or escape a risk of harm.

Termination of premises improvement or closure notice

4.—(1) An enforcement officer may issue a notice terminating a premises improvement notice or a premises closure notice if satisfied that—

- (a) the measures specified in the premises improvement notice (if one was issued) have been taken, or
- (b) other measures have been taken to ensure that regulation 12(2) can be complied with at the premises in question.

(2) A premises improvement notice or premises closure notice ceases to have effect at the time notice of the termination is issued.

Appeals

5.—(1) A person to whom a premises improvement notice or premises closure notice is issued may appeal to a magistrates' court against the notice.

(2) An appeal must be made—

- (a) by way of complaint for an order, and in accordance with the Magistrates' Courts Act 1980(1), and
- (b) within 7 days after the day the notice is issued.

(3) But a magistrates' court may allow an appeal to be made after the expiry of the period mentioned in sub-paragraph (2)(b) if satisfied that there is a good reason for the failure to appeal before the expiry of that period (and for any delay in applying for permission to appeal out of time).

(4) A magistrates' court may suspend the effect of a premises improvement notice or premises closure notice pending the determination of an appeal.

(5) On an appeal against a premises improvement notice or premises closure notice, a magistrates' court may—

- (a) confirm the decision to issue the notice;
- (b) direct that the notice is to cease to have effect;
- (c) modify the notice;
- (d) make such other order as the court considers appropriate.

(6) If the magistrates' court directs that a notice is to cease to have effect or modifies a notice, it may order the local authority for the area in which the premises in question are situated to compensate the person responsible for the premises for loss suffered as the result of the issue of the notice.

(7) An appeal by either party against the decision of a magistrates' court on an appeal under this section may be brought to the Crown Court.

(8) On an appeal to the Crown Court, the Court may—

- (a) confirm, vary or reverse the decision of the magistrates court;

(1) 1980 c. 43.

- (b) remit the case to the magistrates' court to dispose of in accordance with directions given by the Crown Court.

Issuing premises improvement and closure notices and terminations

6.—(1) A premises improvement notice, premises closure notice or a termination of either of those types of notice is issued to a person by giving a copy of it in writing to that person.

(2) But where the person responsible for the premises to which the notice or termination relates is not on the premises when it is to be issued, the notice is to be treated as having been issued to that person if—

- (a) a copy of it is given to any other person on the premises who appears to be responsible for any business or service being carried out on the premises, or
- (b) if there is no such person on the premises when the notice is to be issued, a copy of the notice is placed in a conspicuous position on the premises.

Publicising premises improvement and closure notices

7.—(1) This regulation applies where an enforcement officer has issued a premises improvement notice or a premises closure notice.

(2) As soon as reasonably practicable after issuing the notice, the enforcement officer must—

- (a) display a copy of the notice, and a sign in the form set out in Schedule 6, in a prominent place near every entrance to the premises;
- (b) arrange for the notice to be published on the website of the local authority for the area in which the premises are located.

(3) A notice or sign displayed under sub-paragraph (2)(a) must be at least A4 size.

(4) A notice required to be displayed and published under sub-paragraph (2) must continue to be displayed and published, and a sign required to be displayed under that sub-paragraph must continue to be displayed, for as long as the notice has effect.”

SCHEDULE 2

Regulation 2

New Schedule 6 to the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020

“SCHEDULE 6

Regulation 17A

Form of sign to accompany premises improvement notice or premises closure notice

Sign to be displayed with premises improvement notice

1.—(1) A sign displayed with a premises improvement notice under paragraph 7(2)(a) of Schedule 5 must be in the form set out below.

(2) The colours used in the sign must be white, black and amber C0 M60 Y100 K0.

 <p>GIG CYMRU NHS WALES</p>	<p>Iechyd Cyhoeddus Cymru Public Health Wales</p>	 <p>DIOGELU CYMRU KEEP WALES SAFE</p>	 <p>Llywodraeth Cymru Welsh Government</p>
<p>IECHYD Y CYHOEDD Y CORONAFEIRWS</p> <p>Gofyniad i leihau'r risg o ddod i gysylltiad â'r coronafeirws mewn mangre:</p>	<p>PUBLIC HEALTH CORONAVIRUS</p> <p>Requirement to minimise risk of exposure to coronavirus on premises:</p>		
<p>ANGEN GWELLA</p>			
<p>IMPROVEMENT NEEDED</p>			
<p>Diogelu Cymru gyda'n gilydd</p>	<p>Together we'll keep Wales safe</p>		
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Sign to be displayed with premises closure notice

2.—(1) A sign displayed with a premises closure notice under paragraph 7(2)(a) of Schedule 5 must be in the form set out below.

(2) The colours used in the sign must be white, black and red C15 M100 Y100 K0.

 <p>GIG CYMRU NHS WALES</p>	<p>Iechyd Cyhoeddus Cymru Public Health Wales</p>	 <p>DIOGELU CYMRU KEEP WALES SAFE</p>	 <p>Llywodraeth Cymru Welsh Government</p>
<p>IECHYD Y CYHOEDD Y CORONAFEIRWS</p> <p>Gofyniad i leihau'r risg o ddod i gysylltiad â'r coronafeirws mewn mangre:</p>		<p>PUBLIC HEALTH CORONAVIRUS</p> <p>Requirement to minimise risk of exposure to coronavirus on premises:</p>	
<p>CAEWDYD Y FANGRE HON</p>			
<p>PREMISES CLOSED</p>			
<p>Diogelu Cymru gyda'n gilydd</p>		<p>Together we'll keep Wales safe</p>	
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