

*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.*

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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

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**2021 No. 1407 (W. 366)**

**PUBLIC HEALTH, WALES**

**The Health Protection (Coronavirus  
Restrictions) (No. 5) (Wales)  
(Amendment) (No. 22) Regulations  
2021**

**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”). There are three changes.

The first changes eligibility for being present in certain premises under regulation 16A (commonly known as a “COVID pass”) to exclude natural immunity (a positive result from a polymerase chain reaction test taken by the person no more than 180 days and no less than 10 days before entering premises). This means that passes are only generally available to those who are vaccinated or have a

negative result from a qualifying test taken within 48 hours of entering the premises.

The second makes it clear that, in relation to the (existing) requirement to wear a face covering in indoor public areas, the auditorium of a theatre, cinema or concert hall and the viewing area of an indoor arena or stadium are not to be treated as premises where food or drink is sold or provided for consumption on the premises. This means face coverings must be worn in these areas unless one of the exemptions in regulation 20(2) of the principal Regulations applies.

The third amends the definition of an indoor public area to include a car that is being used for a paid driving lesson or a driving test.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. In accordance with the Code, a regulatory impact assessment as to the likely cost and benefit of complying with these Regulations has not been carried out, due to the need to put them in place urgently to deal with a serious and imminent threat to public health.

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**2021 No. 1407 (W. 366)**

**PUBLIC HEALTH, WALES**

**The Health Protection (Coronavirus  
Restrictions) (No. 5) (Wales)  
(Amendment) (No. 22) Regulations  
2021**

*Made at 1.43 p.m. on 10 December 2021*

*Laid before Senedd  
Cymru at 3.55 p.m. on 10 December 2021*

*Coming into force in accordance with  
regulation 1(2) and (3)*

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.

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(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.

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. 22) Regulations 2021.

(2) Regulation 2(2) comes into force on 15 December 2021.

(3) The remainder of these Regulations come into force on 11 December 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<sup>(1)</sup> are amended as follows.

(2) In regulation 16A—

(a) in paragraph (1)—

(i) after sub-paragraph (b) insert “or”;

(ii) omit “or” after sub-paragraph (c);

(iii) omit sub-paragraph (d);

(b) omit paragraph (7).

(3) In regulation 20, after paragraph (4) insert—

“(5) For the purposes of paragraph (1)—

(a) the auditorium of a theatre, cinema or concert hall, or

(b) the viewing area of an indoor arena or stadium,

is not to be treated as premises where food or drink is sold, or otherwise provided, for consumption on the premises.

(6) For the purposes of paragraph (1), a vehicle is to be treated as an indoor public area of premises when being used for—

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<sup>(1)</sup> 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. 28), S.I. 2021/172 (W. 40), S.I. 2021/210 (W. 52), S.I. 2021/307 (W. 79), S.I. 2021/413 (W. 133), S.I. 2021/502 (W. 150), S.I. 2021/542 (W. 154), S.I. 2021/583 (W. 160), S.I. 2021/668 (W. 169), S.I. 2021/686 (W. 172), S.I. 2021/722 (W. 183), S.I. 2021/862 (W. 201), S.I. 2021/925 (W. 210), S.I. 2021/970 (W. 228), S.I. 2021/1119 (W. 271), S.I. 2021/1131 (W. 274), S.I. 2021/1212 (W. 303), S.I. 2021/1304 (W. 334) and S.I. 2021/1363 (W. 358).

- (a) paid instruction in the driving of a motor car in accordance with section 123 of the Road Traffic Act 1988<sup>(1)</sup>, or
- (b) a test of competence to drive such as is described in section 89(1)(a)(i) of that Act.”

*Mark Drakeford*

First Minister, one of the Welsh Ministers

At 1.43 p.m. on 10 December 2021

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<sup>(1)</sup> 1988 c. 52.