

COVID-19 Policing brief in response to the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020



Wales

14.07.2020

This briefing covers The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 which came into force on 13 July 2020.

We have published separate briefings on:

- **[The Health Protection \(Coronavirus, Restrictions\) \(No.2\) \(England\) Regulations 2020](#)**
- **[The Health Protection \(Coronavirus, Wearing of Face Coverings on Public Transport\) \(England\) Regulations 2020](#)**
- **[The Health Protection \(Coronavirus, International Travel\) \(England\) Regulations 2020](#)**
- **[The Coronavirus Act 2020](#). This was published on 3 April 2020 and applies in both England and Wales**

All are available on the College of Policing website.

Remember

The Health Protection Regulations (secondary legislation)

Health Protection Regulations have been enacted for England and Wales. The English Regulations do not apply in Wales and vice versa.

Yes, enforceable. Anyone contravening the Regulations applying in their country commits an offence, punishable on summary conviction by a fine.

The Coronavirus Act 2020 (primary legislation)

Applies in England and Wales.

Yes, enforceable. There are five main summary offences created by the legislation. These offences are punishable on summary conviction by a fine.

Government guidance – is **not enforceable**. The English and Welsh governments have issued their own guidance, neither are enforceable and only apply in their respective localities

Introduction to the Welsh Regulations

The need for the restrictions imposed by these Regulations will be reviewed by Welsh Ministers at least once every 21 days. The Regulations expire six months after they come into force, this will be at the end of the day on 8 January 2021. This will be an ever-changing picture and everyone in policing is encouraged to follow developments closely.

The Regulations set out:

- provisions for extended households
- the requirement to close certain premises and businesses. Local authorities and Trading Standards will lead on enforcing and monitoring the closure of businesses
- the provisions for closure of paths and access land
- measures to minimise the risk of exposure to coronavirus
- restrictions on gatherings and provisions for organised outdoor activities
- requirement to continue to work from home where possible

For the purposes of these Regulations an 'enforcement officer' includes a constable, a police community support officer, or a person designated by the Welsh Ministers, a local authority, a National Park authority in Wales, or Natural Resources Wales.

Under these Regulations two households can agree to be treated as a single (extended) household. Therefore, wherever 'a household' is referenced it is to be read as including extended households.

Main content of the Welsh Regulations

Business closures

The Regulations require the indoor sections/parts of bars and restaurants to remain closed. Exceptions apply.

Schedule 2 lists all other businesses and services required to be closed. Exceptions apply.

Holiday accommodation should remain closed, however this does not prevent the use of premises for the provision of self-contained accommodation or for the provision of pitches for self-contained caravans at holiday sites or camping sites. 'Self contained' requires that the accommodation is only being used by members of the same household, toilets and washing facilities are not shared other than by members of the same household and neither are the facilities for the preparation and consumption of food.

Public paths and access land

Relevant authorities are able to close public paths and access land they consider to be liable to large numbers of people congregating or being in close proximity to each other, or the use of which would otherwise pose a high risk to the incidence or spread of infection with coronavirus in its area. They must erect signage and publish a list of public paths or access land closed in its area on a website. Use of closed paths and access land is prohibited when closed under these Regulations.

Minimising risk of exposure to coronavirus at open premises and while working

Reasonable measures to minimise risk of exposure to coronavirus

Those responsible for 'open premises' or work being carried out at any premises where a person is working must:

- a) take all reasonable measures to ensure:
 - i. 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)
 - ii. where persons are required to wait to enter the premises, that a distance of 2 metres is maintained between them (except between two members of the same household, or a carer and the person assisted by the carer)
- b) take any other reasonable measures to achieve the purposes above, for example measures which limit close face to face interaction and maintain hygiene, examples are provided in the regulations but are not exhaustive.
- c) provide information to those entering or working at the premises about how to minimise the risk of exposure to coronavirus.

'Open premises' includes places of worship, cemeteries, crematoriums and community centres (when open for permitted uses). This list is not exhaustive.

Guidance on minimising exposure

A person required to take reasonable measures as above must have regard to guidance issued by the Welsh ministers about those measures.

Restrictions on movement and gatherings

There are no longer any restrictions on people leaving the area where they are living, the requirement to remain 'local' has also been removed.

However there are still restrictions on gatherings. No person may, without a reasonable excuse:

(a) gather **outdoors** with any other person apart from:

- i. members of their household or of no more than one other household. This can be your household (one household in law is defined as your household and your extended household) and another household (including their extended household) – four households in total, where formal extended households exist – see extended households
- ii. their carer, or
- iii. a person they are providing care to

(b) gather in premises **indoors** with any other person apart from:

- i. the members of their household (including extended household)
- ii. their carer, or
- iii. a person they are providing care to

Examples of a 'reasonable excuse' include but are not limited to:

- (a) obtain medical assistance, including accessing veterinary services
- (b) provide or receive care or assistance
- (c) provide or receive emergency assistance
- (d) donate blood

The list given in the Regulations is not exhaustive. Officer discretion is key in determining what is reasonable.

Exception for organised outdoor activities

Despite the regulations on gatherings, organised outdoor activity consisting of no more than 30 persons is permissible if:

- a) it takes place outdoors,
- b) it is organised by (i) a business, (ii) a public body or a charitable, benevolent or philanthropic institution, (iii) a club or political organisation, or (iv) the national governing body of a sport or other activity, and
- c) the person organising it has (i) carried out a risk assessment which would satisfy the requirements of Regulation 3 of the Management of Health and Safety at Work Regulations 1999 and (ii) has complied with the minimising risk of exposure measures

Extended households

This is where two households agree to be treated as a single (extended) household. For this to occur all of the adults of the two households must agree. But:

- a) a household may only agree to be treated as a single household with one other household, and
- b) if two households cease to agree to be treated as a single household, neither household may then agree to be treated as a single household with any other household

Enforcement options

Where a constable or PCSO has **reasonable grounds for suspecting** that a number of people are gathered in contravention of the Regulations, they may:

- (a) direct the gathering to disperse;
- (b) direct any person in the gathering to return to the place where they are living;
- (c) remove any person in the gathering to the place where they are living. Reasonable force may be used, if necessary, in the exercise of this power.

Anyone contravening these requirements commits an offence, punishable on summary conviction by a fine.

These are non-recordable offences. They can't be punished by imprisonment. Biometrics are not required to be taken.

Where someone is believed to have committed an offence and is 18 or over, the police may issue them with a fine for £60 payable within 28 days, but this is reduced to £30 if paid within 14 days. Court proceedings may be brought in cases of non-payment. The amount of the fine will double for each subsequent offence up to £1,920.

Note: Officers can issue directions to a person responsible for a **child** to take them home. Failure to comply with this direction may be an offence and a fixed penalty is available as an alternative to prosecution for that offence.

A power of entry is provided

An enforcement officer may enter premises, if the enforcement officer has reasonable grounds for suspecting that a requirement of the Regulations is, has been or is about to be contravened on the premises, and considers it necessary to enter the premises. The enforcement officer entering premises may use reasonable force to gain entry.

Police response

We police by consent. The initial police response should be to encourage voluntary compliance. There is no power to 'stop and account'.

The police role in enforcing breaches of the Health Protection (Coronavirus Restriction) (Wales) Regulations 2020 in Wales has changed. Their main role will be in enforcing the restrictions around gatherings. Policing will continue to apply the four-step escalation principles:

1. Engage

Officers speak to people and try to establish their awareness and understanding of the situation.

2. Explain

Officers try to educate people about any personal risks they are taking, they will explain the Regulations and highlight the responsibilities we all share.

3. Encourage

Officers may need to guide individuals, suggesting they disperse or go home. Officers can encourage people to act reasonably to prevent the spread of infection, and only as a last resort

4. Enforce

Officers may, as a last resort, remove a person to the place where they live, using reasonable force only if it is a necessary and proportionate means of ensuring compliance. They may also fine individual(s) for breach of the Regulations, the usual FPN process, via ACRO, applies.