

# The Health Protection (Coronavirus: Closure of Leisure Businesses, Footpaths and Access Land) (Wales) Regulations 2020

This note is prepared for Assembly Members following the decisions of the Business Committee on 27 March 2020 and 3 April 2020 regarding the temporary handling of statutory instruments laid before the Assembly.

## Summary

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Note: as of 26 March 2020 these Regulations are revoked by the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020.

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) which causes the disease known as COVID-19 or "coronavirus".

The Regulations are made under sections 45C(1), (3)(c), (4)(d), 45F(2) and 45P of the Public Health (Control of Disease) Act 1984 (**1984 Act**). The 1984 Act and regulations made under it provide a legislative framework for health protection in England and Wales. Part 2A of the 1984 Act provides a legal basis to protect the public from threats arising from infectious disease.

A person responsible for carrying on a business which is listed in Part 1 of the Schedule must cease to carry on that business. The businesses that must close are holiday caravan sites, camping sites, amusement arcades and indoor play centres). The Welsh Ministers are required to keep the need for the restrictions under review every 28 days. As soon as the Welsh Ministers consider that the restrictions are no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in Wales with coronavirus, the Welsh Ministers must publish a direction. A person who contravenes the requirement to cease to carry on a business contrary to these Regulations is punishable on summary conviction by an unlimited fine.

The Regulations also impose a duty, on local authorities, National Park authorities, National Resources Wales and the National Trust to close footpaths or access land in Wales by 12.00pm on 25 March 2020. The requirement applies to footpaths and access land that the relevant authority considers (a) to be liable to large numbers of people congregating or being in close proximity to each other, or (b) the use of which otherwise poses a high risk to the incidence or spread of infection in its area with the coronavirus. The restriction seeks to prevent large numbers of people congregating or being in close proximity to each other. The relevant authority is required to publish a list of the closures on a website.

These Regulations expire at the end of the period of six months beginning with the day on which they come into force.

The Welsh Ministers consider that restrictions and requirements imposed by the Regulations are proportionate to what they seek to achieve, which is to respond to a serious and imminent threat to public health.



## Procedure

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Made Affirmative: the Regulations were made at 10:00pm on 23 March 2020, before being laid (under the emergency procedure provided for in the 1984 Act), and are subject to the approval of the National Assembly for Wales within 28 days of being made.

The Regulations have now been revoked by the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020.

## Further Points To Note

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The following points are noted in respect of these Regulations.

### **1. Timing of laying before the Assembly**

These Regulations came into force on 24 March at 12:00pm, but they were laid after this time (4:55pm on 24 March). No notification has been provided in relation to this delay to explain why these Regulations could not be laid before they came into force. However, in these unprecedented times, it is appreciated that the Welsh Government is working under extreme pressure.

### **2. Human Rights**

We note that due to the nature of the measures provided for by these Regulations, the following Articles of the European Convention on Human Rights appear to be engaged: Article 8 – right to respect for private and family life; Article 11 - freedom of assembly and association; and Article 1 of the First Protocol – protection of property. Each of these are qualified rights, which permit the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health.

The Explanatory Memorandum does not contain a justification for the interference with these human rights.

The necessity of the situation that has given rise to these Regulations is the likely basis relied upon to justify the interference with these rights as a proportionate means of achieving the legitimate aim of protecting the citizens of Wales.

## **Legal Services**

### **National Assembly for Wales**

**7 April 2020**

