

# SL(5)548 – The Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 3) Regulations 2020

## Background and Purpose

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These Regulations amend the Health Protection (Coronavirus Restrictions) (Wales) Regulations (“the principal regulations”) and came into force at 4.00 p.m. on 11 May 2020.

These Regulations are made under sections 45C(1), (3)(c), 45F(2) and 45P of the Public Health (Control of Disease) Act 1984 (“the 1984 Act”) 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 which causes the disease known as COVID-19 or “coronavirus”.

The purpose of the principal Regulations, which these Regulations amend, is to:

- put restrictions on the movement of individuals, setting out circumstances in which they may leave the place where they live and preventing gatherings of groups of more than two people, except in certain circumstances; and
- require the closure of certain businesses and impose requirements on other businesses, as well as duties to close certain public footpaths and land, to protect against the risks to public health arising from coronavirus.

Specifically, these Regulations:

- add the proportionality of requirements and restrictions as a consideration when the Welsh Ministers review the principal Regulations;
- remove provisions relating to the termination of requirements or restrictions by ministerial direction (which means they must be terminated by amending the principal Regulations);
- permit libraries, garden centres and plant nurseries to open subject to requirements to take all reasonable measures to ensure a distance of 2 metres is maintained by persons on the premises and persons waiting to enter the premises;
- specify that leaving the place where you live to collect goods ordered from a shop operating on an “order and collect” basis constitutes a reasonable excuse for the purposes of regulation 8(1) of the principal Regulations; and
- remove the limitation on exercising no more than once a day.

## Procedure

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Made Affirmative: the Regulations have already been made, but require Senedd approval for them to stay into force for more than 28 days.

## Technical Scrutiny

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No points are identified for reporting under Standing Order 21.2 in respect of this instrument.



## Merits Scrutiny

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The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

### **1.Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues or public policy likely to be of interest to the Assembly.**

The Explanatory Memorandum that accompanies these Regulations provides that the inclusion of a requirement for the Welsh Ministers to consider the proportionality of the requirements and restrictions

*"more accurately reflects the nature of the review and the Welsh Ministers ongoing duty to keep under the review the proportionality of the requirements and restrictions from a Human Rights perspective"*

Proportionality is a key consideration when assessing the justification of interference with certain individual rights under the Human Rights Act 1998. As such, Legal Services welcome this amendment as it recognises not only the Welsh Ministers' overarching duty of proportionality contained in section 45D of the 1984 Act but also their overarching duty to ensure compliance with the Human Rights Act.

## Implications arising from exiting the European Union

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No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Government Response

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A Welsh Government response is not required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**13 May 2020**

