

WELSH STATUTORY INSTRUMENTS

**2020 No. 1011**

The Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020

**PART 2**

Local authority directions in relation to premises, events and public places

CHAPTER 1

Giving and [<sup>F1</sup>withdrawing] directions

**Textual Amendments**

- F1** Word in Pt. 2 Ch. 1 heading substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(a)(7)**

**Public health conditions for giving directions**

- 4.—**(1) If it considers that the public health conditions are met, a local authority may give—
- (a) a premises direction under regulation 5;
  - (b) an event direction under regulation 6;
  - (c) a public place direction under regulation 7.
- (2) For the purposes of these Regulations, the “public health conditions” are that—
- (a) the direction is a response to a serious and imminent threat to public health,
  - (b) the direction is necessary for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection by coronavirus in the local authority's area, and
  - (c) the prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose.

**Commencement Information**

- II** Reg. 4 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

**Premises directions**

- 5.—**(1) A local authority may give a premises direction in respect of any premises in its area.
- (2) A premises direction may—
- (a) require the premises to be closed;

- (b) impose restrictions or requirements in relation to entering or leaving the premises;
  - (c) impose restrictions or requirements in relation to the use of the premises;
  - (d) impose restrictions in relation to the number or description of persons permitted on the premises.
- (3) But a premises direction may not be given in relation to premises which form part of critical infrastructure.
- (4) Before giving a premises direction, a local authority must have regard to the need to ensure that members of the public have access to essential goods and public services.
- (5) Where a local authority gives a premises direction, it must take reasonable steps to give prior notice of the direction to—
- (a) a person carrying on a business from the premises to which the direction relates, and
  - (b) (if different) any person who owns or occupies the premises.
- (6) A person responsible for premises to which a premises direction relates must take the steps necessary to comply with the direction as soon as is reasonably practicable after the direction takes effect.
- (7) No person may, without reasonable excuse, act in contravention of a premises direction.

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**Commencement Information**

**I2** Reg. 5 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

**Event directions**

**6.—(1)** A local authority may give an event direction in respect of any event held, or proposed to be held, in its area.

<sup>F2</sup>(2) In considering whether the public health conditions are met, a local authority must, in particular, have regard to whether people are gathering, or are likely to gather, at the event in contravention of whichever of the following provisions of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 applies to the area in which the event is held or is proposed to be held—

- (a) paragraph 2 of Schedule 1;
  - (b) paragraph 2 of Schedule 2;
  - (c) [<sup>F3</sup>paragraph 3] of Schedule 3;
  - (d) paragraph 2 of Schedule 4.]
- (3) An event direction may—
- (a) require the event to stop or not to be held;
  - (b) impose restrictions or requirements in relation to entering or leaving the event;
  - (c) impose restrictions or requirements in relation to the number of persons who may attend the event;
  - (d) impose any other restrictions or requirements in relation to the holding of the event (including, for example, requirements relating to the attendance of medical or emergency services at the event).
- (4) Where a local authority gives an event direction it must take reasonable steps to give prior notice of the direction to—
- (a) a person involved in the organisation of the event, and

- (b) (if different) any person who owns or occupies the premises at which the event takes place or is proposed to take place.
- (5) A person involved in organising an event to which an event direction relates must take the steps necessary to comply with the direction as soon as is reasonably practicable after the direction takes effect.
- (6) No person may, without reasonable excuse, act in contravention of an event direction.
- (7) For the purposes of this Part, a person is not involved in organising an event if the person's only involvement is, or would be, attending it.
- <sup>F4</sup>(8) .....

<p><b>Textual Amendments</b></p> <p><b>F2</b> Reg. 6(2) substituted (20.1.2021) by <a href="#">The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) Regulations 2021 (S.I. 2021/57)</a>, regs. 1(2), <b>3(3)(a)</b></p> <p><b>F3</b> Words in reg. 6(2)(c) substituted (3.5.2021 immediately before the start of the day) by <a href="#">The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 9) Regulations 2021 (S.I. 2021/542)</a>, regs. 1(2), <b>4</b></p> <p><b>F4</b> Reg. 6(8) omitted (20.1.2021) by virtue of <a href="#">The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) Regulations 2021 (S.I. 2021/57)</a>, regs. 1(2), <b>3(3)(b)</b></p> <p><b>Modifications etc. (not altering text)</b></p> <p><b>C1</b> Reg. 6(2)(d) modified (temp.) (13.3.2021 immediately before the start of the day) by <a href="#">The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 5) Regulations 2021 (S.I. 2021/307)</a>, regs. 1(2), <b>3(2)</b></p> <p><b>Commencement Information</b></p> <p><b>I3</b> Reg. 6 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)</p>
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<sup>F5</sup>**Public place directions**

- 7.—(1) A local authority may give a public place direction in respect of any public place in the authority's area.
- (2) For the purposes of these Regulations, “public place” means an outdoor place to which the public have or are permitted access, whether on payment or otherwise, including—
  - (a) land laid out as a public garden or used for the purpose of recreation by members of the public;
  - (b) land which is “open country” as defined in section 59(2) of the National Parks and Access to the Countryside Act 1949, as read with section 16 of the Countryside Act 1968;
  - (c) any highway to which the public has access;
  - (d) a public path;
  - (e) access land.
- (3) A public place direction may impose prohibitions, requirements or restrictions in relation to—
  - (a) access to the public place (including, in particular, prohibiting access at specified times);
  - (b) activities carried on in the public place (including, in particular, prohibiting or restricting the consumption of alcohol).
- (4) But a public place direction may not—
  - (a) impose prohibitions, requirements or restrictions—

- (i) in relation to access to a public path or access land (see instead regulation 14);
  - (ii) on the consumption of alcohol in premises in the public place which are authorised for the sale or supply of alcohol;
- (b) impose prohibitions or requirements in relation to access to the public place or an activity carried on in the place if such a prohibition or requirement has effect in relation to the place by virtue of a public spaces protection order made under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014.
- (5) Where—
- (a) a byelaw imposes a prohibition, requirement or restriction relating to access to, or an activity carried on in, a public place, and
  - (b) access to, or the carrying on of that activity in, the public place is prohibited or restricted by, or subject to a requirement in, a public place direction,
- the prohibition, requirement or restriction imposed by the byelaw is of no effect in relation to the public place for so long as the public place direction has effect.
- (6) A public place direction must describe the public place in sufficient detail to enable its boundaries to be determined.
- (7) A local authority which gives a public place direction must take such steps as are reasonably practicable—
- (a) where the direction prohibits or restricts access to the public place, to prevent or restrict such access (including by erecting and maintaining notices in prominent places informing the public of the direction);
  - (b) where the direction prohibits, restricts or imposes requirements on the carrying on of an activity in the public place, to bring the direction to the attention of members of the public who may be in the public place (including by erecting and maintaining notices in prominent places informing the public of the direction);
  - (c) to give prior notice of the direction to persons carrying on a business from premises within the public place;
  - (d) to ensure that the direction is brought to the attention of any person who owns, occupies or is responsible for premises in the public place.
- (8) Where a public place direction prohibits or restricts access to the public place, any person, other than a local authority, who owns, occupies or is responsible for premises in the public place must take such steps as are reasonably practicable to prevent or restrict public access to the premises in accordance with the direction.
- (9) No person may, without reasonable excuse—
- (a) enter or remain in a public place;
  - (b) carry on an activity in a public place,
- in contravention of a prohibition, requirement or restriction imposed by a public place direction.
- (10) A local authority may not give a public place direction in respect of a public place which includes property to which section 73 of the Public Health (Control of Disease) Act 1984 (Crown property) applies.
- (11) But a local authority may give a public place direction in respect of such a place if the authority has entered into an agreement under section 73(2) with the appropriate authority (within the meaning given by that section) that—
- (a) section 45C of the same Act, and
  - (b) these Regulations,

apply to the property (subject to such terms as may be included in the agreement).

(12) For the purposes of this regulation—

- (a) “access land” has the meaning given in regulation 14(7)(c),
- (b) “alcohol” has the meaning given by section 191 of the Licensing Act 2003;
- (c) “public path” has the meaning given in regulation 14(7)(b), and
- (d) premises are authorised for the sale or supply of alcohol where the premises have been granted or given an authorisation under the Licensing Act 2003, and “authorisation” has the meaning given by section 136(5) of that Act.]

#### Textual Amendments

- F5** Reg. 7 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(2)**

#### Review and [F6 withdrawal]

**8.—(1)** Where a local authority gives a direction under this Part, the authority must review whether the public health conditions continue to be met in relation to the direction—

- (a) at least once in the period of 7 days beginning on the day after the day direction is given, and
- (b) at least once in every subsequent period of 7 days.

(2) If, on a review under paragraph (1), the local authority considers that the public health conditions are no longer met, the local authority must [F7 withdraw] the direction.

(3) Paragraph (2) does not prevent a local authority from [F8 withdrawing] a direction at any time if the authority considers that the public health conditions are no longer met in relation to the direction.

(4) A direction is [F9 withdrawn] by giving notice in writing to each person to whom the direction was given.

(5) Paragraphs (2) and (3) of regulation 11 apply to a [F6 withdrawal] as they apply to a direction.

(6) A direction ceases to have effect at the time notice of [F6 withdrawal] is given.

#### Textual Amendments

- F6** Word in reg. 8 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(b)(7)**
- F7** Word in reg. 8 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(c)(7)**
- F8** Word in reg. 8 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(a)(7)**
- F9** Word in reg. 8 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(d)(7)**

#### Commencement Information

**I4** Reg. 8 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

#### Requirement to have regard to advice or guidance and to consult

**9.** In determining whether to give or [<sup>F10</sup>withdraw] a direction under this Part a local authority must—

- (a) have regard to—
  - (i) any advice given to it by the authority's Director of Public Protection;
  - (ii) any guidance issued by the Welsh Ministers about directions under this Part, and
- (b) consult the Welsh Ministers if it is reasonably practicable to do so.

#### Textual Amendments

**F10** Word in reg. 9 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(c)(7)**

#### Commencement Information

**I5** Reg. 9 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

## CHAPTER 2

### Form and procedure

#### Form and content of directions

**10.** A direction given under this Part must—

- (a) be in writing;
- (b) contain a description of the premises, event or public place to which the direction relates (and in the case of a public place direction see [<sup>F11</sup>regulation 7(6)]);
- (c) state the date and time from which each prohibition, requirement or restriction imposed by the direction takes effect (which must not be earlier than when the direction is given);
- (d) state the date and time at which each such prohibition, requirement or restriction ceases to have effect (which must be no later than 21 days after it takes effect);
- (e) set out the reasons why the local authority considers the public health conditions to be met in relation to the direction;
- (f) give details of the right of appeal, and the right to make representations, conferred by regulation 12.

#### Textual Amendments

**F11** Words in reg. 10(b) substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(3)**

#### Commencement Information

**I6** Reg. 10 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

#### Giving a direction

**11.**—(1) A local authority gives a direction under this Part by giving the direction in writing—

- (a) in the case of a premises direction, to—
  - (i) a person carrying on a business from the premises to which the direction relates, and
  - (ii) (if different) a person who owns, occupies or is otherwise responsible for the premises;
- (b) in the case of an event direction, to—
  - (i) a person involved in organising the event to which the direction relates, and
  - (ii) (if different) a person who owns, occupies or is otherwise responsible for the premises at which the event takes place or is proposed to take place;
- (c) in the case of a public place direction, to—
  - (i) a person carrying on a business from premises within the public place to which the direction relates, and
  - (ii) each person who owns, occupies or is otherwise responsible for any premises in the public place.

(2) If it is not reasonably practicable for a local authority to give a direction in accordance with paragraph (1), the direction is to be treated as given in accordance with that paragraph when it is published in such manner as the local authority considers appropriate to bring it to the attention of persons who may be affected by it.

(3) As soon as reasonably practicable after a local authority gives a direction under this Part the local authority must—

- (a) give a copy of the direction to any other person named in the direction,
- (b) send a copy of the direction to—
  - (i) the Welsh Ministers,
  - (ii) every other local authority whose area is adjacent to the authority's area,
  - (iii) where the local authority's area is adjacent to the area of a county or district council in England, that council, and
- (c) publish the direction in such manner as the local authority considers appropriate to bring it to the attention of persons who may be affected by it.

#### Commencement Information

**I7** Reg. 11 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

#### Appeals and representations

**12.**—(1) In this regulation, “interested person” means—

- (a) in the case of a premises direction—
  - (i) a person carrying on a business from the premises to which the direction relates;
  - (ii) (if different) a person who owns or occupies the premises;

- (b) in the case of an event direction—
  - (i) a person involved in organising the event to which the direction relates;
  - (ii) (if different) a person who owns or occupies the premises at which the event takes place or is proposed to take place;
- (c) in the case of a public place direction—
  - (i) a person carrying on a business from premises within the public place to which the direction relates;
  - (ii) a person who owns, occupies or is responsible for any premises in the public place.
- (2) An interested person may—
  - (a) appeal against the direction to a magistrates' court by way of complaint for an order, and the Magistrates' Courts Act 1980 <sup>M1</sup> applies to the proceedings;
  - (b) make representations to the Welsh Ministers about the direction.
- (3) Where an interested person makes representations to the Welsh Ministers under this regulation the Welsh Ministers must—
  - (a) consider the representations as soon as is reasonably practicable, and
  - (b) decide whether it would be appropriate to exercise the power in regulation 13(1).
- (4) The Welsh Ministers must provide written reasons for the decision in paragraph (3)(b) to—
  - (a) the interested person, and
  - (b) the local authority which gave the direction.
- (5) Making representations under paragraph (2)(b) does not affect an interested person's right of appeal under paragraph (2)(a).

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**Commencement Information**

**I8** Reg. 12 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

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**Marginal Citations**

**M1** 1980 c. 43.

CHAPTER 3

Welsh Ministers' power to require <sup>F12</sup>withdrawal]

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**Textual Amendments**

**F12** Word in Pt. 2 Ch. 3 heading substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(b)(7)**

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**Power of Welsh Ministers to require a local authority to <sup>F13</sup>withdraw] a direction**

**13.—**(1) If the Welsh Ministers consider that the public health conditions are no longer met in relation to a direction given by a local authority under this Part, the Welsh Ministers must require the authority to <sup>F13</sup>withdraw] the direction.

(2) Where the Welsh Ministers require a local authority to <sup>F13</sup>withdraw] a direction under this regulation—



- (a) the local authority is not required to consider whether the public health conditions continue to be met in relation to the direction, and
  - (b) regulation 9 does not apply.
- (3) Before requiring a local authority to [<sup>F13</sup>withdraw] a direction under this regulation, the Welsh Ministers must consult the Chief Medical Officer for Wales.

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**Textual Amendments**

**F13** Word in reg. 13 substituted (12.10.2020) by [The Health Protection \(Coronavirus Restrictions\) \(Functions of Local Authorities etc.\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1100\)](#), regs. 1, **2(6)(c)(7)**

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**Commencement Information**

**I9** Reg. 13 in force at 18.9.2020 at 12.01 a.m., see reg. 1(3)

**Changes to legislation:**

There are currently no known outstanding effects for the The Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020, PART 2.