

Government Response: The Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020

This is a Government response to the draft report of the Legislation, Justice and Constitution Committee dated (as revised) 02 November 2020: merits scrutiny points 2, 3, 4, 6, 7 and 8.

Merits scrutiny points:

2. The Government undertook wide ranging consultation on the week beginning 19 October including, but not limited to the below:

| | |
|---|---|
| Economy | CBI, FSB, IoD, Make UK, Industry Wales, Chambers of Commerce and Welsh Retail Consortium, retail representative organisations, food retailers, local authorities. Engagement at a sector level – with aerospace, automotive, digital companies - through Sector Fora and Industry Wales. Trade Unions |
| Public Health | Consultants in Communicable Disease Control (Public Health Wales), Directors of Public Health (Health Boards) and Directors of Public Protection (Local Authorities) |
| Schools, FE, WBL and HE | FE Principals and Work Based Learning stakeholders |
| Social Partnership Council | Meeting held on 22 October |
| Vulnerable Children and Young People Stakeholder Group | Meeting held on 23 October: attendees included Children’s Commissioner for Wales and representatives from Children in Wales, Care Inspectorate Wales, Health Inspectorate Wales, Public Health Wales, Estyn, third sector organisations supporting children and young people (e.g. NSPCC, Llamau) |
| Disability Equality Forum | Meeting held on 21 October: attendees included representatives from a number of Disabled People’s Organisations e.g. Disability Wales, Mencap, RNIB, All Wales People First, Learning Disability Wales, Wales Council for Deaf People, Wales Council for the Blind, as well as independent members. |
| Violence Against Women Domestic Abuse and Sexual Violence | VAWDASV COVID-19 Strategic Group: Meeting held on 20 th October, chaired by National Adviser for VAWDASV and representatives from VAWDASV umbrella bodies, police, and PHW |

3. Regulation 16 did not place restrictions on mixed businesses. Its purpose was only to set out the way in which the restrictions in regulations 11 to 13 applied to businesses which comprised of a number of smaller businesses. Due to the way Schedule 1 categorised businesses, it is clear that certain types of business undertakings operate businesses of more than one kind as listed in Schedule 1.

The Welsh Government, business representative groups, Trade Unions and essential retailers worked closely on the implementation of Welsh Government regulations introduced to minimise the sale of non-essential items during the 17 day firebreak. This was to stop the spread of coronavirus and save lives. The Welsh Government revised its guidance (29 October) to provide greater clarity on the steps retailers could take to implement the rules and around how retailers should manage exceptional requests for items not included on the list of things that should be sold. It has also agreed to look at the legislation after the firebreak to take account of the industry's experience and feedback.

We recognise the hard work of retail staff across Wales and the need to ensure their safety throughout this pandemic.

4. Firebreak guidance was first published on the [Welsh Government website](#) on 23 October.

6. Part 2 imposed duties on individuals, and each individual was responsible for their actions. Regulation 3 required persons to stay at home unless they had a reasonable excuse. Obtaining supplies was a reasonable excuse, but only where there was a need to do so. The operation of Part 3 of the Regulations complemented the objectives of Part 2 by requiring certain types of business to close (but also provided exceptions for some types of businesses). As set out above, where a business operated in a number of categories as specified in Schedule 1, it is clear from regulation 16 that it is treated as multiple smaller businesses.

A supermarket is a food retailer, and to the extent it is, it could open its premises under regulation 15. And similarly, if it operates as e.g. a petrol station, newsagent, pharmacy or a hardware store, it was permitted to open its premises to that extent. But to the extent that it was a kind of business that sells goods for sale or hire in a shop which is not listed in Part 3 of Schedule 1, it was required by regulation 11 to be closed.

The Regulations were made as a response to an ongoing public health emergency: the purpose of the restrictions on businesses was to protect public health by limiting opportunity for people to be out of their homes and mixing with others.

7. In relation to point (a), visiting other members of extended households was not listed as an example of a reasonable excuse. However, the Government considers that it would have been objectively reasonable to meet with people who the law considers to be part of your own household (and that it would, therefore, have been permitted under the Regulations).

The Regulations also allowed people in an extended household to gather together when they left their homes for permitted reasons (e.g. to obtain supplies, or to exercise).

The Welsh Government notes point (b). We will ensure wording for future guidance is updated to make it absolutely clear that people can form a 'new' extended household after the firebreak, but that it cannot be changed once it is formed.

In relation to point (c) the Government is content that it was clear from the context of regulation 33 that the references to a 'household' in paragraph (3) were not to extended households.

8. During the firebreak, people could visit a cemetery and local authority burial sites to visit a family member's grave but were required to follow physical distancing practice.

There have been a number of cases of coronavirus linked to pubs and in our discussions with local authorities and public health experts, there was a clear consensus about the need to introduce limits on the sale of alcohol.

Local public health teams report issues with a deterioration of social distancing late at night, linked to alcohol consumption. It can also make effective contact tracing difficult.

The Government confirms that the conditions in regulation 3(3) were cumulative and considers that this is clear from the context; otherwise, it would have been a very broad exception to a strict restriction imposed on the grounds of public health.