

Cytûn – Churches together in Wales/Eglwysi ynghyd yng Nghymru Welsh Government requirements regarding risk assessment in “regulated premises” under the coronavirus regulations

Every effort has been made to ensure the accuracy of this information, but it should not be regarded as a statement of the law nor relied upon for the purposes of legal advice.

On 20 January 2021 Welsh Government [amended the coronavirus regulations](#) to make conducting a risk assessment mandatory for all “regulated premises” (including places of worship, community centres, cafes, retail premises, heritage attractions and other places open to the public owned or managed by faith groups) if the public has access to them. A further amendment, to make a fire risk assessment also mandatory, was made on 30 January 2021. The regulations define the relevant terms as follows:

15. Regulated premises and responsible persons

(1) For the purposes of these Regulations, the following are “regulated premises”—
(a) premises of businesses or services listed in Schedule 7, to the extent that that the public have or are permitted access to the premises;

(b) a vehicle used to provide a public transport service;

(c) other premises where work is being carried out.

(2) In this Part, “responsible person”, in relation to regulated premises, means—

(a) in relation to premises referred to in paragraph (1)(a) and (b), the person responsible for the premises,

(b) in relation to premises referred to in paragraph (1)(c), the person responsible for the work being carried out on the premises.

The regulations define ‘risk assessment’ by reference to Regulation 3 of [The Management of Health and Safety at Work Regulations 1999](#) as subsequently amended, and require that the regulations be read as if a number of further amendments were made to them. Cytûn’s best understanding of the resulting wording, and therefore legal obligation on ‘persons’ (which includes bodies such as PCCs, Elders’ Meetings, etc. as well as individuals) responsible for regulated premises in Wales, is as follows:

Risk assessment

(1) Every responsible person shall make a suitable and sufficient assessment of—

(a) the risks to the health and safety of persons working at the premises to which they are exposed whilst they are at work; and

(b) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking, for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by regulations 16, 17 and 17A of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 and by Part II of the Fire Precautions (Workplace) Regulations 1997.¹

(2) Every relevant self-employed person shall make a suitable and sufficient assessment of—
(a) the risks to his own health and safety to which he is exposed whilst he is at work; and

¹ The relevant sections of the Fire Precautions (Workplace) Regulations 1997 can be found on pp 4-7 below.

(b) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking, for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by regulations 16, 17 and 17A of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 and by Part II of the Fire Precautions (Workplace) Regulations 1997.

(3) Any assessment such as is referred to in paragraph (1) or (2) shall be reviewed by the responsible person or relevant self-employed person who made it if—

(a) there is reason to suspect that it is no longer valid; or

(b) there has been a significant change in the matters to which it relates; and where as a result of any such review changes to an assessment are required, the responsible person or relevant self-employed person concerned shall make them.

(3A) In this regulation “relevant self-employed person” means a self-employed person who conducts an undertaking of a prescribed description for the purposes of section 3(2) of the Health and Safety at Work etc. Act 1974.

(4) A responsible person shall not allow a young person to work at the premises unless he has, in relation to risks to the health and safety of young persons, made or reviewed an assessment in accordance with paragraphs (1) and (5).

(5) In making or reviewing the assessment, a person responsible for premises at which a young person is or shall be working shall take particular account of—

(a) the inexperience, lack of awareness of risks and immaturity of young persons;

(b) the fitting-out and layout of the workplace and the workstation;

(c) the nature, degree and duration of exposure to physical, biological and chemical agents;

(d) the form, range, and use of work equipment and the way in which it is handled;

(e) the organisation of processes and activities;

(f) the extent of the health and safety training provided or to be provided to young persons; and

(g) risks from agents, processes and work listed in the Annex to Council Directive 94/33/EC on the protection of young people at work, as amended by Directive 2014/27/EU.

(6) Where five or more persons are working at the premises for which the responsible person is responsible, he shall record—

(a) the significant findings of the assessment; and

(b) any group of persons working at the premises identified by it as being especially at risk.

It should be noted that “working” here includes voluntary work as well as paid work, and is not confined to employees (the regulations are specifically required to be read so that they are not confined to an employer-employee relationship).

The relevant parts of the coronavirus regulations, which list the substantive matters which the risk assessment must cover, and give examples of the kind of measures that may be taken, are as follows:

16. Requirement to take all reasonable measures to minimise the risk of exposure to coronavirus

(1) For the purposes of minimising the risk of exposure to coronavirus at regulated premises, or the spread of coronavirus by those who have been at regulated premises, the responsible person must—

(za) undertake a specific assessment of the risk of exposure to coronavirus at the premises

and in doing so consult persons working on the premises or representatives of those persons;

(a) take all reasonable measures to ensure—

(i) that a distance of 2 metres is maintained between any persons on the premises (except between 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 members of the same household or a carer and the person assisted by the carer),

(b) take all other reasonable measures for that purpose, for example measures which limit close face-to-face interaction and maintain hygiene such as—

(i) changing the layout of premises including the location of furniture and workstations;

(ii) controlling use of entrances, passageways, stairs and lifts;

(iii) controlling use of shared facilities such as toilets and kitchens;

(iv) otherwise controlling the use of, or access to, any other part of the premises;

(v) installing barriers or screens;

(vi) providing or requiring use of personal protective equipment, and

(c) provide information to those entering or working at the premises about how to minimise the risk of exposure to coronavirus.

(2) Measures that may be taken under paragraph (1) also include—

(a) not carrying out certain activities;

(b) closing a part of the premises;

(c) allowing and enabling a person who ordinarily works at the premises to isolate due to testing positive for coronavirus or having had close contact with somebody who has tested positive, for a period—

(i) recommended in guidance published by the Welsh Ministers;

(ii) specified in a notification given to the person by a contact tracer;

(d) collecting contact information from each person at the premises and retaining it for 21 days for the purpose of providing it to any of the following, upon their request—

(i) the Welsh Ministers;

(ii) a contact tracer;

(e) taking reasonable measures to ensure that such contact information is correct.

17. Specific measures applicable to licensed premises

(1) Where regulation 16(1) applies to a person responsible for premises authorised for the sale or supply of alcohol for consumption on the premises, the measures to be taken by the responsible person include (but are not limited to)—

(a) having a person controlling entry to the premises and allocating a limited time period to customers for which they may stay in the premises;

(b) requiring customers to be seated in the premises in any place other than at a bar—

(i) when ordering food or drink,

(ii) when being served with food or drink, and

(iii) when consuming food or drink.

(3) But where food is provided at the premises on a buffet basis, customers may select food from the buffet and return to where they are seated.

(4) Paragraph (1) does not apply to—

(a) workplace canteens, or

(b) premises in an educational establishment.

(5) For the purposes of paragraph (1)—

(a) food or drink sold in holiday or travel accommodation as part of room service is not to be treated as being sold for consumption on the premises;

(b) food or drink sold for consumption in an area adjacent to the premises where seating is made available for customers is to be treated as being sold for consumption on the premises.

(6) Where regulated premises not authorised for the sale or supply of alcohol for consumption on the premises allow customers to consume their own alcohol on the premises, paragraphs (1) to (4) apply to those premises as they apply to premises that are authorised for the sale or supply of alcohol for consumption on the premises.

17A. Specific measures applicable to retail premises

Where regulation 16(1) applies to a person responsible for retail premises of a business offering goods or services for sale or hire in those premises (including businesses selling food or drink for consumption off the premises), the measures to be taken by the responsible person must include (but are not limited to)—

(a) measures for controlling entry to the premises and limiting the number of customers who are on the premises at any one time;

(b) provision of hand sanitisation products or hand washing facilities for use by customers when they enter and exit the premises;

(c) measures to sanitise any baskets, trolleys or similar containers provided for use by customers on the premises;

(d) in order to remind customers to maintain a distance of 2 metres between each other and to wear a face covering—

(i) displaying signs and other visual aids;

(ii) making announcements on a regular basis.

The regulations also require the 'person' responsible for regulated premises to have regard to guidance issued by Welsh Ministers. Links to current guidance relevant to faith communities can be found on the [Cytûn website](#).

Part II of the [Fire Precautions \(Workplace\) Regulations 1997](#), referenced in the risk assessment regulations, reads as follows:

FIRE PRECAUTIONS IN THE WORKPLACE

Application of Part II

3.— *(1) Every employer shall ensure that he complies with the requirements of this Part of these Regulations in respect of every workplace, other than an excepted workplace, which is to any extent under his control, so far as the requirements relate to matters within his control.*

(2) Every person who has, to any extent, control of a workplace, other than an excepted workplace, shall ensure that, so far as relates to matters within his control, the workplace complies with any applicable requirement of this Part of these Regulations.

(3) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to—

(a) the maintenance or repair of any workplace; or

(b) the safety of any workplace,

that person shall be treated, for the purposes of paragraph (2), as being a person who has control of the workplace to the extent that his obligation so extends.

(4) Any reference in this regulation to a person having control of any workplace is a reference to a person having control of the workplace in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

(5) For the purposes of these Regulations, an "excepted workplace" is—

(a) any workplace to the extent that it comprises premises for which a fire certificate is in force or for which an application for a fire certificate is pending under the 1971 Act (other than a fire certificate deemed to have been issued under that Act by virtue of paragraph 2 of Schedule 8 to the 1974 Act);

(b) any workplace to the extent that it comprises premises—

(i) in respect of which there is in force a safety certificate under the Safety of Sports Grounds Act 1975(10) or under Part III of the Fire Safety and Safety of Places of Sport Act 1987(11); and

(ii) which are in use for the activity or activities specified in the certificate;

(c) any workplace to the extent that it comprises premises to which the Fire Precautions (Sub-surface Railway Stations) Regulations 1989(12) apply;

(d) any workplace which is or is on a construction site within the meaning of regulation 2(1) of the Construction (Health, Safety and Welfare) Regulations 1996(13) and to which those Regulations apply;

(e) any workplace which is or is in or on a ship within the meaning of regulation 2(1) of the Docks Regulations 1988(14), including any such ship which is in the course of construction or repair;

(f) any workplace to the extent that it comprises premises to which the Fire Certificates (Special Premises) Regulations 1976(15) apply;

(g) any workplace which is deemed to form part of a mine for the purposes of the Mines and Quarries Act 1954(16);

(h) any workplace which is or is in or on an offshore installation within the meaning of regulation 3 of the Offshore Installations and Pipelines Works (Management and Administration) Regulations 1995(17);

(i) any workplace which is or is in or on an aircraft, locomotive or rolling stock, trailer or semi-trailer used as a means of transport or a vehicle for which a licence is in force under the Vehicle Excise and Registration Act 1994(18) or a vehicle exempted from duty under that Act; and

(j) any workplace which is in fields, woods or other land forming part of an agricultural or forestry undertaking but which is not inside a building and is situated away from the undertaking's main buildings.

(6) The requirements of this Part of these Regulations shall not have effect to the extent that they would prevent—

(a) any member of the armed forces of the Crown or of any visiting force (within the meaning of regulation 19);

(b) any constable or any member of a police force not being a constable; or

(c) any member of any emergency service, from carrying out their duties.

(7) Without prejudice to paragraph (6), regulation 5(2)(f) shall not apply to any premises falling within the scope of section 40(2)(a) or (b) of the 1971 Act (prisons) or any part of any other premises used for keeping persons in lawful custody or detention.

(8) Where paragraph (6) or (7) applies, the safety of employees in case of fire shall nevertheless be ensured so far as is possible.

Fire-fighting and fire detection

4.—(1) Where necessary (whether due to the features of a workplace, the activity carried on there, any hazard present there or any other relevant circumstances) in order to safeguard the safety of employees in case of fire—

(a) a workplace shall, to the extent that is appropriate, be equipped with appropriate fire-fighting equipment and with fire detectors and alarms; and

(b) any non-automatic fire-fighting equipment so provided shall be easily accessible, simple to use and indicated by signs(19),

and for the purposes of sub-paragraph (a) what is appropriate is to be determined by the dimensions and use of the building housing the workplace, the equipment it contains, the physical and chemical properties of the substances likely to be present and the maximum number of people that may be present at any one time.

(2) An employer shall, where necessary in order to safeguard the safety of his employees in case of fire—

(a) take measures for fire-fighting in the workplace, adapted to the nature of the activities carried on there and the size of his undertaking and of the workplace concerned and taking into account persons other than his employees who may be present;

(b) nominate employees to implement those measures and ensure that the number of such employees, their training and the equipment available to them are adequate, taking into account the size of, and the specific hazards involved in, the workplace concerned; and

(c) arrange any necessary contacts with external emergency services, particularly as regards rescue work and fire-fighting.

Emergency routes and exits

5.—(1) Where necessary in order to safeguard the safety of employees in case of fire, routes to emergency exits from a workplace and the exits themselves shall be kept clear at all times.

(2) The following requirements must be complied with in respect of a workplace where necessary (whether due to the features of the workplace, the activity carried on there, any hazard present there or any other relevant circumstances) in order to safeguard the safety of employees in case of fire—

(a) emergency routes and exits shall lead as directly as possible to a place of safety;

(b) in the event of danger, it must be possible for employees to evacuate the workplace quickly and as safely as possible;

(c) the number, distribution and dimensions of emergency routes and exits shall be adequate having regard to the use, equipment and dimensions of the workplace and the maximum number of persons that may be present there at any one time;

(d) emergency doors shall open in the direction of escape;

(e) sliding or revolving doors shall not be used for exits specifically intended as emergency exits;

(f) emergency doors shall not be so locked or fastened that they cannot be easily and immediately opened by any person who may require to use them in an emergency;

(g) emergency routes and exits must be indicated by signs(20); and

(h) emergency routes and exits requiring illumination shall be provided with emergency lighting of adequate intensity in the case of failure of their normal lighting.

Maintenance

6. Where necessary in order to safeguard the safety of employees in case of fire, the workplace and any equipment and devices provided in respect of the workplace under regulations 4 and 5 shall be subject to a suitable system of maintenance and be maintained in an efficient state, in efficient working order and in good repair.

(10) [1975 c. 52](#). (11) [1987 c. 27](#). (12) S.I. [1989/1401](#), as amended. (13) S.I. [1996/1592](#). (14) S.I. [1988/1655](#). (15) S.I. [1976/2003](#). (16) [1954 c. 70](#). (17) S.I. [1995/738](#). (18) [1994 c. 22](#). (19) (20) See the Health and Safety (Safety Signs and Signals) Regulations 1996 (S.I. [1996/341](#)), which impose requirements in relation to fire safety signs.

Our understanding is that the effect of the above regulations, taken together, is to:

1. make conducting a full risk assessment – covering general health and safety risks and fire risks as well as the coronavirus related issues – mandatory for all “regulated premises”, even for premises where that was not previously the case.
2. require a review of the risk assessment to be made each time the coronavirus regulations are amended or the uses of the premises change (as this would be a *significant change in the matters to which it relates*) and also when the wider situation regarding the pandemic changes (as this would be *reason to suspect that it is no longer valid*).
3. require the risk assessment to be in writing when *five or more persons are working at the premises*. As ‘working’ includes working voluntarily, this would cover nearly all circumstances likely to be relevant to faith communities.

The special requirements relating to risk assessment for young people should also be noted carefully where relevant.

Gethin Rhys
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