

SL(5)552 – The Health Protection (Coronavirus Restrictions) (Wales) (Amendment) (No. 4) Regulations 2020

Background and Purpose

These Regulations amend the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 (“the Principal Regulations”) to increase the amount of the fixed penalty for repeated breaches of the Principal Regulations up to a maximum of £1,920.

The previous and new fine structure is set out in the table below:

	Previous fine structure	New fine structure
First offence	£60	£60
Second offence	£120	£120
Third offence	£120	£240
Fourth offence	£120	£480
Fifth offence	£120	£960
Sixth offence	£120	£1,920

Procedure

Made affirmative.

These Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were made for them to continue to have effect.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vii) - that there appear to be inconsistencies between the meaning of its English and Welsh texts

There appears to be a number of errors in the Welsh text of these Regulations:

1. In the preamble to the Welsh text “iechyd a cyhoedd” should read “iechyd y cyhoedd”
2. The reference to “Deddf Iechyd a Gofal Cymdeithasol” in the footnote on page 3 does not include the year of the Act
3. Regulation 2(2) – the amendment results in “y” appearing twice in the Welsh text, so the amended text now reads “ar y **y** cynharaf o’r canlynol” (emphasis added)
4. Regulation 2(3)(iii) – the “yn” is missing before “achos y pedwerydd...”



Merits Scrutiny

The following point is 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 Senedd.

The Welsh Government is asked to clarify why these Regulations follow the urgent procedure under section 45R of the Public Health (Control of Disease) Act 1984 (“the 1984 Act”), given there had been widespread public discussion around the level of Welsh fixed penalty notices in the weeks leading up to the making of these Regulations. In other words, we ask what happened that resulted in an urgent need to increase the level of fixed penalty notices in Wales.

We note that the urgent “made affirmative” procedure does not have to be used under the 1984 Act, and that the more usual “draft affirmative” procedure (where the Senedd approves regulations **before** they are made) is the default procedure under the 1984 Act.

Implications arising from exiting the European Union

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

Government Response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

2 June 2020



Cynulliad Cenedlaethol Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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National Assembly for Wales

Legislation, Justice and Constitution Committee