

# SL(5)633 – The Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) (Amendment) Regulations 2020

## Background and Purpose

These Regulations amend the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020 to expand the powers of local authorities to issue public places directions so that the directions may prohibit or regulate specified activities in a public place, including the consumption of alcohol.

## 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

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

## Merits Scrutiny

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 of public policy likely to be of interest to the Senedd**

We note the Welsh Government's justification for any potential interference with human rights. In particular, we note the following paragraph in the Explanatory Memorandum:

*Local authorities may only issue directions where 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 proportionate to that aim. Any direction must be reviewed by the local authority who issued it at least once every seven days whilst it remains in force, and if no longer necessary or proportionate must be revoked. In addition, any such directions may be appealed to a magistrates' court by an interested party.*

We also note the following paragraph elsewhere in the Explanatory Memorandum:



*In relation to the consumption of alcohol specifically, the broadened public place direction power complements the restrictions on the sale of alcohol introduced in Wales on 24 September as it will help local authorities stop gatherings of people consuming alcohol in designated areas as a result of the earlier closure of licensed premises. Such behaviours increase the risk of coronavirus transmission as the consumption of alcohol leads to decreasing observance of social distancing and makes enforcement more difficult.*

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

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraphs in the Explanatory Memorandum:

*Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, including the need to lift any restrictions which are no longer considered proportionate to that response, there has been no public consultation in relation to these Regulations. As outlined when the original Regulations were made, throughout the pandemic, the Welsh Government has been in close contact with local authority enforcement officers who have reported these powers are needed where a serious and imminent threat to health exists and existing powers are insufficient.*

*Together with other Ministers and the Welsh Government, I have continued to update individuals and businesses throughout subsequent changes to the regulatory framework in place to respond to the ongoing threat arising from coronavirus.*

## **Implications arising from exiting the European Union**

None.

## **Welsh Government response**

A Welsh Government response is not required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**14 October 2020**

