

SL(5)638 – The Health Protection (Coronavirus Restrictions) (No.2) (Wales) (Amendment) (No. 19) Regulations 2020

Background and Purpose

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 ("the Principal Regulations"). The Regulations are made under sections 45C(1) and (3)(c), 45F(2) and 45P of the Public Health (Control of Disease) Act 1984.

These Regulations:

- impose restrictions on persons travelling to areas of Wales not designated as local health protection areas from parts of England, Scotland and Northern Ireland which have high prevalence of coronavirus, and corresponding restrictions on people travelling from Wales to such areas. The areas of high prevalence are those designated as follows by the relevant authority in that part of the UK:
 - England – all Tier 2 "high" and Tier 3 "very high" areas
 - Scotland – protected areas subject to additional temporary measures
 - Northern Ireland – currently the entire territory.
- provide that it is a reasonable excuse to enter or leave a local health protection area to participate in or facilitate organised activities for the development or well-being of children, and modifies the reasonable excuses for gathering and for entering or leaving a local health protection area so that they are consistent.
- make minor and consequential amendments to ensure consistency and updating the full title of "Menai (Bangor)" as one of the electoral divisions in the county of Gwynedd, listed in paragraph 1 of Schedule 4A to the Principal Regulations.

The Regulations come into force at 6.00 p.m. on 16 October 2020. The restrictions and requirements introduced by these amendments in relation to travel must be reviewed on or before 23 October 2020, and at least once every seven days thereafter.

Procedure

Made Affirmative.

The 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(v) – that for any particular reason its form or meaning needs further explanation

Regulation 2(4)(a) of these Regulations make amendments to regulation 14(2) of the Principal Regulations and to “sub-paragraph (b)”. Regulation 2(4)(a) of the Welsh version of these Regulations does not refer to sub-paragraph (b), but instead refers to “ym mharagraff (2)” (which translates as “in paragraph 2”). The Welsh text should read as “yn is-baragraff (b)” (in sub-paragraph (b)) in order to ensure clarity and consistency with the English version.

Merits Scrutiny

The following 4 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 paragraphs in the Explanatory Memorandum:

“The Government considers that the restrictions imposed by the amendments made by these Regulations to the principal Regulations, are proportionate. The amendments balance the need to maintain an appropriate response to the threat posed by coronavirus against the rights of individuals and businesses, in a manner which remains proportionate to the need to avoid an increase to the rate of transmission of coronavirus, taking into account the scientific evidence.”

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 welcome the evidence provided by the Welsh Government in the Explanatory Memorandum explaining why the Principal Regulations have been amended to restrict travel from other areas, and for the purposes of allowing persons to leave a local health protection area should they have a reasonable excuse for doing so. We believe that providing this evidence will aid transparency, and assist the Senedd’s scrutiny of coronavirus restrictions. We note in particular the following paragraph from the Explanatory Memorandum which refers to the report “SARS-Cov-2 Genomic Insights”.

“Evidence from public health professionals suggests coronavirus is moving from east to west across the UK and across Wales. As a general rule, it is concentrating in urban areas and then spreading to more sparsely populated areas as a result of people



travelling. The paper SARS-Cov-2 Genomic Insights (October 2020) demonstrates the spread of infection geographically and supports the case for travel restrictions as a means of controlling spread. To prevent further spread in areas where there is still a relatively low prevalence of the virus, there is an urgent need to limit non-essential travel across the UK. The amendments will achieve this goal.

<https://gov.wales/sites/default/files/publications/2020-10/sars-cov-2-genomic-insights-october-2020.pdf>

3. 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, there has been no public consultation in relation to these Regulations. More widely, representative groups along with individuals and businesses have been informed about the relaxation of the restrictions through wide scale and ongoing public information broadcasts across the UK, including by myself. Together with other Ministers and the Welsh Government, I have continued to update individuals and businesses throughout subsequent changes to the Regulations."

4. 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 that there is no equality impact assessment for these Regulations and ask the Welsh Government to explain what arrangements it has made, in respect of these Regulations, to publish reports of equality impact assessments in accordance with regulation 8(1)(d) of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.

Implications arising from exiting the European Union

None.

Welsh Government response

A Welsh Government response is required in relation to the technical reporting point and merit reporting point 4 only.

Legal Advisers

Legislation, Justice and Constitution Committee

22 October 2020



Senedd Cymru
Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad
—
Welsh Parliament
Legislation, Justice and Constitution Committee