

# SL(5)718 – The Public Health (Protection from Eviction) (Wales) (Coronavirus) Regulations 2021

## Background and Purpose

These Regulations are made by the Welsh Ministers under sections 45C(1), (2), (3)(c) and 45P(2) of the Public Health (Control of Disease) Act 1984.

These Regulations re-enact the Public Health (Protection from Eviction) (Wales) (Coronavirus) Regulations 2020 which expire on 11 January 2021.

These Regulations come into force on 11 January 2021 and expire at the end of the day on 31 March 2021. Regulation 3 provides that the Regulations must be reviewed regularly to ensure the restrictions and requirements imposed remain proportionate.

These Regulations prevent, except in specified circumstances, attendance at a dwelling-house for the purpose of executing a writ or warrant of possession, executing a writ or warrant of restitution or delivering a notice of eviction.

The specified circumstances are where the court is satisfied that: the claim is against trespassers who are persons unknown; or where it was made wholly or partly on the grounds of domestic violence, serious offences, anti-social behaviour, or nuisance; or, in cases where the person attending is satisfied that the dwelling-house is unoccupied at the time of attendance and the possession order was made wholly or partly on the grounds of the death of the occupant.

In a statement on 8<sup>th</sup> January 2021, the Minister for Housing and Local Government said:

*“The purpose of the Regulations is to contribute to the public health response to coronavirus by preventing the enforcement of evictions except in the most serious circumstances. The impact of evictions and homelessness on the incidence and spread of Covid 19 remains of great concern. Homelessness places people in situations where they are at much greater risk of both contracting the virus and transmitting it to others. The current Alert Level 4 restrictions may make it more difficult for those facing eviction to access services, including advice and support services as organisations may be closed or running at a reduced capacity. Securing alternative accommodation which is already more limited during the winter period, may also present increased practical difficulties. In a situation where there is widespread and increasing community transmission of the virus, and with the pressures placed on public services generally, the likelihood that evictions will result in homelessness remains raised.*”

*The Regulations will be subject to a review cycle during the period that they are in force to ensure the restrictions and requirements remain proportionate. The first review must take place in the period between the Regulations coming into force and the 28 January*



*2021 in order to align with the review timings in the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020. They must then be reviewed at least once in each subsequent three weekly period."*

## Procedure

Made Affirmative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd.

In accordance with the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984, this instrument must be approved by the Senedd by 3 February 2021 in order for it to remain in 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 or public policy likely to be of interest to the Senedd.**

These Regulations engage a landlord's rights under Article 1 Protocol 1 of the European Convention on Human Rights ("A1P1"). The Committee note that exceptions are included in the Regulations that allow for evictions in certain circumstances, that the regulations are made only for a specified period, that they are to be reviewed on a regular 3-week cycle and are made in the context of the current health emergency.

The committee further note the reasons given for this legislation in the Explanatory Memorandum.

*"The purpose of the Regulations is to provide a public health response to the increasing incidence and transmission of the Covid-19 virus by preventing the enforcement of evictions in Wales except in the most serious circumstances. The Regulations come into force on 11 January 2021 and expire on 31 March. The continuing need for, and proportionality of, the regulations must be reviewed every 3 weeks. These 3 weekly reviews are aligned with the review periods for the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020, as the relevant Alert Level will be a key consideration in determining whether these measures remain proportionate. "*

### **2. 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.**



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

*“Given the public health emergency, it has not been possible to conduct a consultation on these Regulations and there is no statutory requirement to do so. However, the Welsh Government has strong relationships with stakeholders from across the housing sector; bodies representing landlords have been informally engaged on these Regulations.”*

### **3. 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 Committee note that no regulatory impact assessment has been prepared for these Regulations and the Explanatory Memorandum states:

*“The COVID-19 emergency and the urgency of making these Regulations means it has not been possible to prepare a quantified Regulatory Impact Assessment.”*

The Committee notes that paragraph 6 of the Explanatory Memorandum attempts to set out a summary of the potential impact of these Regulations which does provide some qualitative assessment of their impact.

### **4. 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.**

These Regulations extend the period of time by approximately 10 weeks by which a landlord will be prevented from seeking possession of their property for unpaid rent. In combination with previous Regulations, landlords will have been prevented from recovering possession due to unpaid rent for a significant period of time. The arrears of rent for some landlords may have a significant economic impact. Have the Government given any consideration as to what financial support it may give landlords that find themselves in financial difficulty because of the extension of restrictions imposed by these regulations.

## **Welsh Government response**

A Welsh Government response is required for merits point 4.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**12 January 2021**

