

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Video Conference via Zoom	P Gareth Williams
Meeting date: 12 July 2021	Committee Clerk
Meeting time: 10.00	0300 200 6565
	SeneddLJC@senedd.wales

In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health. This meeting will be broadcast live on www.Senedd.TV

Informal pre-meeting (09.30–10.00)

- 1 Introductions, apologies, substitutions and declarations of interest**
10.00
- 2 Committee remit**
10.00 (Pages 1 – 19)
LJC(6)–04–21 – Paper 1 – Committee remit
- 3 Legislative Consent Memorandum on the Environment Bill:
Evidence session**
10.00–11.00 (Pages 20 – 100)
Julie James MS, Minister for Climate Change
Bernadette Payne, Legal Services
Eifiona Williams, Head of Water
Howard Davies, Circular Economy Manager
Jane Anstee, Waste Regulation Policy Manager
Olwen Spiller, Head of Environment Quality



[Legislative Consent Memorandum](#)

LJC(6)-04-21 – Briefing

LJC(6)-04-21 – Legal advice note

LJC(6)-04-21 – Research Service Briefing

LJC(6)-04-21 – Paper 2 – Letter from the Business Committee, 7 July 2021

LJC(6)-04-21 – Paper 3 – Letter to the Business Committee, 2 July 2021

4 Proposed negative instruments that raise no reporting issues under Standing Order 21.3B

11.00–11.05

(Page 101)

LJC(6)-04-21 – Paper 4 – Proposed negative statutory instruments with clear reports

4.1 pNeg(6)001 – The Food and Drink (Transitional Provisions) (Wales) (EU Exit) Regulations 2021

5 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

11.05–11.10

(Pages 102 – 104)

LJC(6)-04-21 – Paper 5 – Statutory instruments with clear reports
Draft Affirmative Resolution Instruments

5.1 SL(6)016 – The Coronavirus Act 2020 (Early Expiry: Local Authority Care and Support) (Wales) Regulations 2021

5.2 SL(6)017 – The Care Planning, Placement and Case Review (Wales) (Amendment) Regulations 2021

6 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3

11.10–11.15

Made Negative Resolution Instruments

6.1 SL(6)019 – The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 2) Regulations 2021

(Pages 105 – 122)

LJC(6)–04–21 – Paper 6 – Draft report

LJC(6)–04–21 – Paper 7 – Regulations

LJC(6)–04–21 – Paper 8 – Explanatory Memorandum

LJC(6)–04–21 – Paper 9 – Letter from the Minister for Economy, 28 June 2021

6.2 SL(6)020 – The Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) Regulations 2021

(Pages 123 – 139)

LJC(6)–04–21 – Paper 10 – Draft report

LJC(6)–04–21 – Paper 11 – Regulations

LJC(6)–04–21 – Paper 12 – Explanatory Memorandum

LJC(6)–04–21 – Paper 13 – Letter from the Minister for Health and Social Services, 28 June 2021

LJC(6)–04–21 – Paper 31 – Welsh Government response

Draft Affirmative Resolution Instruments

6.3 SL(6)018 – The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021

(Pages 140 – 152)

LJC(6)–04–21 – Paper 14 – Draft report

LJC(6)–04–21 – Paper 15 – Regulations

LJC(6)–04–21 – Paper 16 – Explanatory Memorandum

7 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered

11.15–11.20

7.1 SL(6)009 – The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 11) Regulations 2021

(Pages 153 – 156)

LJC(6)–04–21 – Paper 17 – Report

LJC(6)–04–21 – Paper 18 – Welsh Government – further response

7.2 SL(6)013 – The Coronavirus Act 2020 (Residential Tenancies: Extension of Period of Protection from Eviction) (No. 2) (Wales) Regulations 2021

(Pages 157 – 164)

LJC(6)–04–21 – Paper 19 – Report

LJC(6)–04–21 – Paper 20 – Welsh Government response

8 Standing Order 30B Report: The European Union (Withdrawal) Act and Common Frameworks

11.20–11.25

(Pages 165 – 182)

LJC(6)–04–21 – Paper 21 – Written statement by the Welsh Government, 2 June 2021

LJC(6)–04–21 – Paper 22 – UK Government Report: The European Union (Withdrawal) Act and Common Frameworks

9 Papers to note

11.25–11.30

9.1 Letter from the Minister for Finance and Local Government: Regulatory Impact Assessment code for subordinate legislation

(Pages 183 – 188)

LJC(6)–04–21 – Paper 23 – Letter from the Minister for Finance and Local Government, 1 July 2021

LJC(6)–04–21 – Paper 24 – Regulatory Impact Assessment Code for Subordinate Legislation

9.2 Letter from the Head of Wales Office, Royal College of Speech and Language Therapists: Potential inquiry

(Pages 189 – 190)

LJC(6)–04–21 – Paper 25 – Letter from Pippa Cotterill, Head of Wales Office, Royal College of Speech and Language Therapists, 5 July 2021

9.3 Letter from the Minister for Rural Affairs and North Wales, and Trefnydd: The Official Controls (Extension of Transitional Periods) Regulations 2021

(Pages 191 – 192)

LJC(6)-04-21 - Paper 26 - Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 7 July 2021

9.4 Letter from the Auditor General for Wales: The Work of Audit Wales

(Pages 193 - 194)

LJC(6)-04-21 - Paper 32 - Letter from the Auditor General for Wales, 9 July 2021

10 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting

11.30

**11 Legislative Consent Memorandum on the Environment Bill:
Consideration of evidence**

12 Committee procedures and ways of working

(Pages 195 - 248)

LJC(6)-04-21 - Paper 27 - Ways of working

LJC(6)-04-21 - Paper 28 - Early committee activity

LJC(6)-04-21 - Paper 29 - Merits report for Statutory Instruments laid but not formally scrutinised by the Legislation, Justice and Constitution Committee in the Fifth Senedd

LJC(6)-04-21 - Paper 30 - Training and development

Legislation, Justice and Constitution Committee remit

July 2021

Purpose

1. The paper sets out the remit and responsibilities of the Legislation, Justice and Constitution Committee.

Recommendation

2. The Committee is invited to note its remit.

Background

3. The rules and procedures of the Senedd are laid out in Standing Orders. Standing Order 16.1 requires the Senedd to establish committees with power within their remit to:

"(i) examine the expenditure, administration and policy of the government and associated public bodies;

(ii) examine legislation;

(iii) undertake other functions specified in Standing Orders; and

(iv) consider any matter affecting Wales."

4. In doing this, the Business Committee has to ensure that every area of responsibility of the Welsh Government and associated public bodies, and all matters relating to the legislative competence of the Senedd and functions of the Welsh Ministers and of the Counsel General, are subject to committee scrutiny.

Committee remit

5. The remit of this Committee, as agreed by the Senedd on 23 June 2021, is:



"to carry out the functions of the responsible committee set out in Standing Order 21 and Standing Order 26C, and to consider any other matter relating to: legislation within or relating to the competence of the Senedd or the Welsh Ministers, including the quality of legislation; devolution, the constitution (including Wales's constitutional future), justice, and external affairs, including (but not restricted to) changes to the devolution settlement, and intergovernmental relations."

- 6.** Standing Orders 21 and 26C are attached at Annexes 1 and 2.

Annex 1: Standing Order 21 – Constitutional and Legislative Affairs

Committee or Committees

21.1 In proposing the remits of committees under Standing Order 16.2 or 16.3, the Business Committee must ensure that responsibility for the functions in Standing Order 21 is assigned to a committee or committees (referred to within Standing Order 21 as “a responsible committee”).

Functions

21.2 A responsible committee must consider all statutory instruments or draft statutory instruments required by any enactment to be laid before the Senedd and report on whether the Senedd should pay special attention to the instrument or draft on any of the following grounds:

- i. that there appears to be doubt as to whether it is intra vires;
- ii. that it appears to make unusual or unexpected use of the powers conferred by the enactment under which it is made or to be made;
- iii. that the enactment which gives the power to make it contains specific provisions excluding it from challenge in the courts;
- iv. that it appears to have retrospective effect where the authorising enactment does not give express authority for this;
- v. that for any particular reason its form or meaning needs further explanation;
- vi. that its drafting appears to be defective or it fails to fulfil statutory requirements;
- vii. that there appear to be inconsistencies between the meaning of its English and Welsh texts;
- viii. that it uses gender specific language;
- ix. that it is not made or to be made in both English and Welsh;
- x. that there appears to have been unjustifiable delay in publishing it or laying it before the Senedd; or
- xi. that there appears to have been unjustifiable delay in sending notification under section 4(1) of the Statutory Instruments Act 1946 (as modified).

21.3 A responsible committee may consider and report on whether the Senedd should pay special attention to any statutory instrument or draft statutory instrument required by any enactment to be laid before the Senedd on any of the following grounds:

- i. that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment;
- 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;
- iii. that it is inappropriate in view of the changed circumstances since the enactment under which it is made or is to be made was itself passed or made; or
- iv. [Standing Order removed by resolution in Plenary on 24 March 2021]
- v. that it imperfectly achieves its policy objectives.

21.3A Standing Orders 21.2 and 21.3 do not apply to any draft statutory instrument laid before the Senedd to which paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018 or paragraph 9 of Schedule 5 to the European Union (Future Relationship) Act 2020 applies.

21.3B A responsible committee must report on the appropriate procedure to apply to any draft statutory instrument laid before the Senedd to which paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018 or paragraph 9 of Schedule 5 to the European Union (Future Relationship) Act 2020 applies.

21.3C The responsible committee under Standing Order 21.3B must report on the appropriate procedure using the following criteria:

- i. whether the memorandum is sufficiently clear and transparent about why the government is of the opinion that the negative resolution procedure should apply;
- ii. whether the memorandum is sufficiently clear and transparent as to the changes that are being made by the regulations;
- iii. whether there has been adequate consultation on the regulations;
- iv. whether the memorandum is sufficiently clear and transparent about the impact the regulations may have on equality and human rights;

v. whether the regulations raise matters of public, political or legal importance; and

vi. any other matters the committee considers appropriate.

21.4 A responsible committee must make any report under Standing Order 21.2 or 21.3 in respect of any statutory instrument or draft statutory instrument no later than 20 days after the instrument or draft has been laid.

21.4A Where the enactment requiring the statutory instrument or draft statutory instrument to be laid before the Senedd specifies timings in relation to the Senedd's consideration of the statutory instrument or draft statutory instrument, then:

i. the time limit in Standing Order 21.4 does not apply;

ii. the Business Committee may establish and publish a timetable for the responsible committee or committees to report.

21.4B A responsible committee must make any report under Standing Order 21.3B in respect of any relevant draft statutory instrument no later than 14 days after a draft of the instrument has been laid. Standing Order 21.4A(ii) does not apply to those draft statutory instruments.

21.5 In calculating for the purposes of Standing Order 21.4 or 21.4B any period of days, no account is to be taken of any time during which the Senedd is dissolved or is in recess for more than 4 days.

21.6 Standing Orders 21.2 and 21.3 do not apply to proposed or draft Orders in Council to be made, in accordance with Standing Order 25, under section 109 of the Act or subordinate legislation subject to Special Senedd Procedure under Standing Order 28.

21.7 A responsible committee may consider and report on:

i. any other subordinate legislation laid before the Senedd other than that subject to Special Senedd Procedure under Standing Order 28;

ii. the appropriateness of provisions in Senedd Bills and in Bills for Acts of the United Kingdom Parliament that grant powers to make subordinate legislation to the Welsh Ministers, the First Minister or the Counsel General;

iii. any statutory instrument consent memorandum laid in relation to a relevant statutory instrument under Standing Order 30A;

iv. the exercise of commencement powers by the Welsh Ministers;

v. any legislative matter of a general nature within or relating to the competence of the Senedd or Welsh Ministers; or

vi. draft legislation which is the subject of consultation.

21.8 [Standing Order removed by resolution in Plenary on 24 March 2021]

21.9 [Standing Order removed by resolution in Plenary on 24 March 2021]

21.10 [Standing Order removed by resolution in Plenary on 24 March 2021]

21.11 [Standing Order removed by resolution in Plenary on 24 March 2021]

Annex 2: Standing Order 26C – Consolidation Acts of the Senedd

Form and Introduction of Consolidation Bills

26C.1 A Consolidation Bill is a Bill introduced by a member of the government for the purpose of consolidating existing primary legislation, secondary legislation, and common law.

26C.2 A Consolidation Bill may:

- (i) restate existing legislation with any changes of structure, language or format appropriate for the purpose of improving the presentation of the law and ensuring consistency with current drafting practice;
- (ii) clarify the application or effect of existing law;
- (iii) remove or omit provisions which are obsolete, spent or no longer of practical utility or effect;
- (iv) make minor changes to existing law for the purposes of achieving a satisfactory consolidation; and
- (v) make other changes to the law which the Law Commission of England and Wales recommends are appropriate for inclusion within a Consolidation Bill;
- (vi) include appropriate transitional and savings provisions, and consequential amendments and repeals of existing legislation (including amendments to ensure the existing legislation continues to operate correctly in relation to England).

26C.3 The Presiding Officer, having consulted the Business Committee, may issue written guidance to Members on the interpretation of Standing Orders 26C.1 and 26C.2, and the operation of Standing Order 26C generally.

26C.4 A Consolidation Bill may be introduced on a working day in a sitting week.

26C.5 A Consolidation Bill must be introduced by being laid.

26C.6 A Consolidation Bill must not be laid unless it is in proper form in accordance with any determinations made by the Presiding Officer.

26C.7 A Consolidation Bill must on its introduction be accompanied by a statement in English and Welsh by the Presiding Officer which must:

- (i) indicate whether or not the provisions of the Consolidation Bill would be, in his or her opinion, within the legislative competence of the Senedd; and

(ii) indicate any provisions which, in his or her opinion, would not be within the legislative competence of the Senedd and the reasons for that opinion.

26C.8 A Consolidation Bill must be introduced in both English and Welsh.

Documentation to Accompany a Consolidation Bill

26C.9 At the same time as the Member in charge introduces a Consolidation Bill, he or she must also lay an Explanatory Memorandum which must:

(i) state that in his or her view the provisions of the Consolidation Bill would be within the legislative competence of the Senedd;

(ii) set out the reasons for introducing the Consolidation Bill;

(iii) state that the Consolidation Bill contains no provisions other than those permitted under Standing Order 26C.2;

(iv) include tables showing the origins of provisions in the Consolidation Bill, and the destinations in the Consolidation Bill of the existing provisions it consolidates;

(v) explain how the Consolidation Bill makes any changes of the kind permitted under Standing Order 26C.2 (ii) to (v);

(vi) summarise objectively what each of the provisions of the Consolidation Bill is intended to do (to the extent that it requires explanation or comment) and give other information necessary to explain the effect of the Consolidation Bill;

(vii) confirm that the provisions of the Consolidation Bill give rise to no additional significant expenditure payable out of the Welsh Consolidated Fund, and where it gives rise to additional expenditure, set out the best estimates for this;

(viii) set out the potential impact (if any) on the justice system in England and Wales of the provisions of the Consolidation Bill (a "justice impact assessment"), in accordance with section 110A of the Act; and

(ix) where the Consolidation Bill contains any provision charging expenditure on the Welsh Consolidated Fund, incorporate a report of the Auditor General setting out his or her views on whether the charge is appropriate.

26C.10 The Explanatory Memorandum to the Consolidation Bill must state precisely where each of the requirements of Standing Order 26C.9 can be found within it, by means of an index or otherwise.

26C.11 The Consolidation Bill must be accompanied by a statement by the Member in Charge, based on the advice of the Counsel General (where the Member in Charge is not the Counsel General) and, where relevant, the Law Commission, endorsing the accuracy of the Explanatory Memorandum and certifying that in the Member in Charge's view the Bill is a Consolidation Bill within the meaning of Standing Order 26C.1 and 26C.2.

Responsible Committee

26C.12 In proposing the remits of committees under Standing Order 16.2 or 16.3, the Business Committee must ensure that there is a committee (referred to within Standing Order 26C as "the responsible committee") with responsibility for the functions specified in Standing Order 26C.

Timetable of Consideration of a Consolidation Bill

26C.13 The Business Committee must establish and publish a timetable for the consideration of a Consolidation Bill, except for any stage taken in plenary (which must be arranged under the provisions of Standing Order 11.12).

26C.14 The Business Committee may make such subsequent changes to a timetable established under Standing Order 26C.13 as it considers appropriate but must give reasons for such changes.

Initial Consideration

26C.15 Once a Consolidation Bill has been introduced, the Business Committee must refer the Consolidation Bill to the responsible committee for initial consideration.

26C.16 Once the Business Committee refers the Consolidation Bill to the responsible committee under Standing Order 26C.15, that responsible committee must consider and report on whether the Bill should proceed as a Consolidation Bill.

26C.17 In considering whether a Bill should proceed as a Consolidation Bill or not, the responsible committee may consider:

(i) whether the Committee is satisfied that the scope of the consolidation is appropriate;

(ii) whether the Committee is satisfied that the relevant enactments have been included within the consolidation;

(iii) whether the Bill correctly consolidates the enactments or changes their substantive legal effect only to the extent allowed by Standing Order 26C.2;

(iv) whether the Bill consolidates the law clearly and consistently;

(v) any other matters it considers relevant to Standing Order 26C.

26C.18 Not earlier than five working days after either:

(i) the responsible committee has reported on whether the Bill should proceed as a Consolidation Bill; or

(ii) the deadline by which the responsible committee is required to report has been reached,

(iii) the Member in charge of the Bill may propose that the Senedd agree that the Bill should proceed as a Consolidation Bill.

26C.19 If the Senedd agrees that the Bill should proceed as a Consolidation Bill, the Bill proceeds to Detailed Committee Consideration.

26C.20 If the Senedd does not agree that the Bill should proceed as a Consolidation Bill, the Bill falls.

26C.21 Initial Consideration is completed when the Senedd agrees that the Bill should proceed as a Consolidation Bill or the Consolidation Bill falls at Initial Consideration.

Detailed Committee Consideration

26C.22 Detailed Committee Consideration must be undertaken by the responsible committee.

26C.23 Detailed Committee Consideration starts on the first working day after Initial Consideration is completed.

26C.24 At least 15 working days must elapse between the start of Detailed Committee Consideration and the date of the first meeting at which the responsible committee considers amendments to the Consolidation Bill.

26C.25 A Consolidation Bill may be amended in Detailed Committee Consideration proceedings.

26C.26 Amendments to be considered at Detailed Committee Consideration proceedings may be tabled by any Member, from the first day on which Detailed Committee Consideration starts.

26C.27 Amendments are to be disposed of in the order in which the sections and schedules to which they relate arise in the Consolidation Bill, unless the committee considering Detailed Committee Consideration proceedings has decided otherwise.

26C.28 Only a Member who is a member of the committee considering Detailed Committee Consideration proceedings may participate in those proceedings for the purpose of:

- (i) moving or seeking agreement to withdraw an amendment; or
- (ii) voting.

26C.29 An amendment tabled by a Member who is not a member of the committee considering Detailed Committee Consideration proceedings, may be moved by a member of the committee.

26C.30 When all amendments at Detailed Committee Consideration proceedings have been disposed of, any member of the committee may without notice move that the committee consider further amendments at further Detailed Committee Consideration proceedings. Such a motion may not be debated or amended.

26C.31 If a motion under Standing Order 26C.30 is agreed to, any member of the government may table amendments to the Consolidation Bill to be moved at the further Detailed Committee Consideration proceedings.

26C.32 Amendments under Standing Order 26C.31 are only admissible if, in addition to the criteria in Standing Order 26C.85, they are for the purpose of clarifying a provision of a Consolidation Bill (including ensuring consistency between the English and Welsh texts) or giving effect to commitments given at the earlier Detailed Committee Consideration proceedings.

26C.33 Where any amendment is tabled to a section of or schedule to the Consolidation Bill, once the final amendment to that section or schedule has been disposed of, that section or schedule as amended, or otherwise, is deemed to be agreed by the committee for the purpose of Detailed Committee Consideration proceedings.

26C.34 If no amendment is tabled to a section of or schedule to the Consolidation Bill, then that section or schedule is deemed agreed by the committee for the purpose of Detailed Committee Consideration proceedings.

26C.35 Detailed Committee Consideration is completed when the last amendment has been disposed of or the last section or schedule has been deemed agreed, whichever is the later.

26C.36 After the completion of Detailed Committee Consideration proceedings, the responsible committee must report on the outcomes of its detailed consideration, and whether in its view the Consolidation Bill should proceed to Detailed Senedd Consideration or to Final Stage.

26C.37 If a Consolidation Bill is amended at Detailed Committee Consideration proceedings, the Member in charge must prepare a revised Explanatory Memorandum, unless the committee considering Detailed Committee Consideration proceedings resolves that no revised Explanatory Memorandum is required.

26C.38 Any revised Explanatory Memorandum prepared under Standing Order 26C.37 must be laid at least five working days before the date of Final Stage proceedings or, where relevant, the first Detailed Senedd Consideration proceedings.

Detailed Senedd Consideration

26C.39 If the responsible Committee at Detailed Committee Consideration reports that the Senedd should consider amendments at Detailed Senedd Consideration, the Consolidation Bill proceeds to Detailed Senedd Consideration, unless a motion that the Consolidation Bill should proceed directly to Final Stage is agreed by the Senedd.

26C.40 If the responsible committee has reported on the Detailed Committee Consideration of the Consolidation Bill and has recommended that the Consolidation Bill proceed to Final Stage, or if the deadline for the committee to report has passed, the Consolidation Bill proceeds to Final Stage, unless a motion that the Senedd consider amendments at Detailed Senedd Consideration is agreed by the Senedd.

26C.41 The Senedd must consider a motion tabled under Standing Order 26C.39 or 26C.40. Such a motion may be tabled by any Member, and may be debated but not amended.

26C.42 Detailed Senedd Consideration starts either:

(i) two sitting weeks after the responsible Committee at Detailed Committee Consideration reports that the Senedd should consider amendments at Detailed Senedd Consideration (and no motion under Standing Order 26C.39 that the Consolidation Bill should proceed directly to Final Stage is agreed by the Senedd in the meantime); or

(ii) the day after a motion under Standing Order 26C.40 that the Senedd consider amendments at Detailed Senedd Consideration is agreed by the Senedd.

26C.43 At least 15 working days must elapse between the start of Detailed Senedd Consideration and the date of the first meeting of the Senedd that considers Detailed Senedd Consideration proceedings.

26C.44 Detailed Senedd Consideration proceedings of a Consolidation Bill must be considered by the Senedd in plenary.

26C.45 A Consolidation Bill may be amended in Detailed Senedd Consideration proceedings.

26C.46 Amendments to be considered at Detailed Senedd Consideration proceedings may be tabled by any Member from the first day on which Detailed Senedd Consideration starts.

26C.47 The Presiding Officer may select those amendments which are to be taken at Detailed Senedd Consideration proceedings.

26C.48 The Presiding Officer may in exceptional circumstances accept an amendment at Detailed Senedd Consideration proceedings of which less notice has been given than is required under Standing Order 26C.83. Such an amendment is referred to as a "late amendment".

26C.49 Amendments are to be disposed of in the order in which the sections and schedules to which they relate arise in the Consolidation Bill, unless the Senedd has decided otherwise on a motion of the Minister with responsibility for government business.

26C.50 The Senedd may, on a motion without notice of the Minister with responsibility for government business, agree to one or more time-limits that are to apply to debates on amendments (as they have been grouped by the Presiding Officer).

26C.51 If a motion under Standing Order 26C.50 is agreed to, debates on those groups of amendments must be concluded by the time-limits specified in the motion, except to the extent considered necessary by the Presiding Officer:

(i) as a consequence of the non-moving of an amendment leading to a change in the order in which groups are debated; or

(ii) to prevent any debate on a group of amendments that has already begun when a time-limit is reached from being unreasonably curtailed.

26C.52 When all amendments selected at Detailed Senedd Consideration proceedings have been disposed of, any member of the government may without notice move that the Senedd consider further amendments at further Detailed Senedd Consideration proceedings. Such a motion may not be debated or amended.

26C.53 If a motion under Standing Order 26C.52 is agreed to, any member of the government may table amendments to the Consolidation Bill to be moved at the further Detailed Senedd Consideration proceedings.

26C.54 Amendments under Standing Order 26C.53 are only admissible if, in addition to the criteria in Standing Order 26C.85, they are for the purpose of clarifying a provision of a Consolidation Bill (including ensuring consistency between the English and Welsh texts) or giving effect to commitments given at the earlier Detailed Senedd Consideration proceedings.

26C.55 Where any amendment is tabled to a section of or schedule to the Consolidation Bill, once the final amendment to that section or schedule has been disposed of, that section or schedule as amended, or otherwise, is deemed agreed by the Senedd for the purpose of Detailed Senedd Consideration proceedings.

26C.56 If no amendment is tabled to a section of or schedule to the Consolidation Bill, then that section or schedule is deemed agreed by the Senedd for the purpose of Detailed Senedd Consideration proceedings.

26C.57 Detailed Senedd Consideration is completed when the last amendment has been disposed of or the last section or schedule has been deemed agreed, whichever is the later.

Final Stage

26C.58 A motion that the Consolidation Bill be passed may be tabled by any Member, but may not be considered until either:

(i) at least 2 sitting weeks after either:

(a) the responsible committee has reported on Detailed Committee Consideration of the Consolidation Bill and has recommended that the Consolidation Bill should proceed to Final Stage; or

(b) the deadline for the responsible committee to report has passed;

(and no motion under Standing Order 26C.40 that the Senedd should consider amendments at Detailed Senedd Consideration is agreed by the Senedd in the meantime); or

(ii) at least 5 working days after either;

(a) a motion that the Consolidation Bill should proceed directly to Final Stage is agreed by the Senedd under Standing Order 26C.39; or

(b) the completion of Detailed Senedd Consideration proceedings,
where undertaken.

26C.59 A motion under Standing Order 26C.58 must be tabled at least one working day before it is debated.

26C.60 A motion that a Consolidation Bill be passed may not be amended.

26C.61 No motion that a Consolidation Bill be passed may be moved unless the text of the Consolidation Bill is available in both English and Welsh.

26C.62 No motion that a Consolidation Bill be passed may be moved until the Presiding Officer has stated, in accordance with section 111A(3) of the Act, whether or not in the Presiding Officer's view any provision of the Consolidation Bill relates to a protected subject matter.

26C.63 Where the Presiding Officer has made a statement that in the Presiding Officer's view any provision of the Consolidation Bill relates to a protected subject matter, the Bill is only passed if the number voting in favour of it is at least two-thirds of the total number of Senedd seats.

26C.64 A recorded vote must be taken on a motion that a Consolidation Bill be passed.

26C.65 No motion under Standing Order 12.31(ii) may be moved in any Final Stage proceedings.

Reconsideration of Consolidation Bills Passed

26C.66 Any Member may by motion propose that the Senedd reconsider the Consolidation Bill if:

(i) the Supreme Court decides on a reference made in relation to the Consolidation Bill under section 112 of the Act that the Consolidation Bill or any provision of it would not be within the legislative competence of the Senedd; or

(ii) an order is made in relation to the Consolidation Bill under section 114 of the Act.

26C.67 If the Senedd agrees to a motion under Standing Order 26C.66, Reconsideration Stage starts on the first working day after that motion is agreed to by the Senedd.

26C.68 Standing Orders 26C.43 to 26C.47 and 26C.49 to 26C.57 apply to Reconsideration Stage proceedings. References to "Detailed Senedd Consideration" and "further Detailed Senedd

Consideration" should be construed as references to "Reconsideration Stage" and "further Reconsideration Stage" accordingly.

26C.69 A Consolidation Bill may not be amended at Reconsideration Stage unless in addition to the criteria in Standing Order 26C.82(i), (ii) and (iv), and in the opinion of the Presiding Officer, the amendments are solely for the purpose of resolving the issue which is the subject of:

- (i) the decision of the Supreme Court; or
- (ii) the Order under section 114 of the Act.

26C.70 After all amendments have been disposed of at Reconsideration Stage proceedings, and subject to Standing Order 26C.71, any Member may without notice move that the Senedd approves a Consolidation Bill amended on reconsideration. Such a motion may not be amended and a recorded vote must be taken on the motion.

26C.71 No motion that a reconsidered Consolidation Bill be approved may be moved until the Presiding Officer has stated, in accordance with section 111A(3) of the Act, whether or not in the Presiding Officer's view any provision of the Consolidation Bill relates to a protected subject matter.

26C.72 Where the Presiding Officer has made a statement that in the Presiding Officer's view any provision of the Consolidation Bill relates to a protected subject matter, the Consolidation Bill is only passed if the number voting in favour of it is at least two-thirds of the total number of Senedd seats.

Reconsideration of Bills Rejected

26C.73 Any Member may by motion propose that the Senedd reconsider the Consolidation Bill if the Supreme Court decides on a reference made under section 111B(2)a of the Act in relation to a Consolidation Bill rejected by the Senedd, that no provision of the Consolidation Bill that is subject to the reference relates to a protected subject-matter.

26C.74 If the Senedd agrees to a motion under Standing Order 26C.73, Reconsideration Stage starts on the first working day after that motion is agreed to by the Senedd.

26C.75 A Consolidation Bill reconsidered in accordance with Standing Order 26C.73 may not be amended.

26C.76 At Reconsideration Stage in accordance with Standing Order 26C.73, any Member may table a motion that the Consolidation Bill be approved. Such a motion may not be amended and a recorded vote must be taken on the motion.

26C.77 No motion under Standing Order 26C.76 may be moved until the Presiding Officer has stated, in accordance with section 111A(3) of the Act, whether or not in his or her view any provision of the Consolidation Bill relates to a protected subject-matter.

General Provisions in Relation to Amendments to Consolidation Bills

26C.78 Standing Orders 26C.79 to 26C.87 apply to amendments in Detailed Committee Consideration, Detailed Senedd Consideration proceedings or on Reconsideration, except that Standing Order 26C.82(iii) does not apply to amendments on Reconsideration.

26C.79 The Presiding Officer must determine the proper form of amendments to a Consolidation Bill.

26C.80 No amendment, other than a late amendment, may be considered unless it has been tabled at least five working days before it is considered.

26C.81 Any Member may add his or her name to an amendment (other than a late amendment) by notifying the Clerk at any time until the end of the working day before the amendment is due to be considered.

26C.82 An amendment is not admissible if:

- (i) it is not in its proper form in accordance with Standing Order 26C;
- (ii) it is not relevant to the Consolidation Bill or the provisions of the Consolidation Bill which it would amend;
- (iii) it would cause the Bill to cease to be a Consolidation Bill as defined by Standing Orders 26C.1 and 26C.2; or
- (iv) it is inconsistent with a decision already taken at the Stage at which the amendment is proposed.

26C.83 An amendment may be tabled to an amendment and, if selected, must be disposed of before the amendment which it would amend and Standing Orders 26C.78 to 26C.87 must apply accordingly.

26C.84 Subject to Standing Order 26C.28, an amendment (other than a late amendment) may be withdrawn by the Member who tabled it at any time before the day on which it is considered but only with the unanimous agreement of any Members who have added their names to the amendment. If such agreement is not obtained, the amendment becomes an amendment in the name of the Member who first added his or her name to the amendment and who does not agree to the amendment being withdrawn.

26C.85 The chair of a committee considering Detailed Committee Consideration proceedings or the Presiding Officer, as the case may be, may group amendments for the purposes of debate as he or she sees fit. An amendment debated as part of a group may not be debated again when it comes to be disposed of.

26C.86 If a Member who tabled an amendment does not move the amendment when that amendment comes to be debated, the amendment may be moved:

- (i) in Detailed Committee Consideration proceedings, by a member of that committee; or
- (ii) in Detailed Senedd Consideration proceedings or on Reconsideration, by any other Member.

26C.87 An amendment which has been moved may be withdrawn by the Member who moved it, but only:

- (i) in a committee considering Detailed Committee Consideration proceedings, if no member of that committee objects; or
- (ii) in Detailed Senedd Consideration proceedings or on Reconsideration, if no Member objects.

Her Majesty's and Duke of Cornwall's Consent

26C.88 If a Consolidation Bill contains any provision, or is amended so as to include any provision, that would, if contained in a Bill for an Act of the United Kingdom Parliament, require the consent of Her Majesty, or the Duke of Cornwall, the Senedd must not debate the question whether the Consolidation Bill be passed (or approved following Reconsideration) unless such consent to such a provision has been signified by a member of the government at a meeting of the Senedd.

Notification of Royal Assent to Acts of the Senedd

26C.89 The Clerk must notify the Senedd of the date of Royal Assent to an Act of the Senedd.

Fall, Rejection or Withdrawal of Bills

26C.90 Subject to Standing Order 26C.73, if a Consolidation Bill falls or is rejected by the Senedd, no further proceedings may be taken on that Consolidation Bill, and another Consolidation Bill which, in the opinion of the Presiding Officer, is in the same or similar terms must not be introduced under this Standing Order in the same Senedd within the period of 6 months from the date on which the Consolidation Bill fell or was rejected.

26C.91 A Consolidation Bill falls if it has not been passed or approved by the Senedd before the end of the Senedd in which it was introduced.

26C.92 A Consolidation Bill may be withdrawn at any time by the Member in charge but must not be withdrawn after Initial Consideration except with the agreement of the Senedd.

Agenda Item 3

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

By virtue of paragraph(s) vi of Standing Order 17.42

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By virtue of paragraph(s) vi of Standing Order 17.42

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Proposed Negative Statutory Instruments with Clear Reports

12 July 2021

pNeg(6)001 – The Food and Drink (Transitional Provisions) (Wales) (EU Exit) Regulations 2021

Procedure: Proposed Negative

These Regulations amend the following statutory instruments relating to food and drink standards and labelling:

- The Food Information (Wales) Regulations 2014; and
- The Country of Origin of Certain Meats (Wales) Regulations 2015

These amendments are required to address deficiencies arising from EU Exit and ensure that the statute book can operate effectively following the UK's exit from the EU.

These Regulations were laid for the purposes of sifting under the EU (Withdrawal) Act 2018 in accordance with Standing Order 27.9A.

Parent Act: European Union (Withdrawal) Act 2018

Sift Requirements Satisfied: Yes



Agenda Item 5

Statutory Instruments with Clear Reports 12 July 2021

SL(6)016 – The Coronavirus Act 2020 (Early Expiry: Local Authority Care and Support) (Wales) Regulations 2021

Procedure: Affirmative

The Coronavirus Act 2020 (Early Expiry: Local Authority Care and Support) (Wales) Regulations 2021 (“the Regulations”) are made under section 90(1) of the Coronavirus Act 2020 (“the 2020 Act”).

Part 2 of Schedule 12 to, and section 15 of, the 2020 Act (in so far as it relates to Part 2 of Schedule 12), enable local authorities in Wales to streamline assessment arrangements and prioritise adult social care, where necessary, more effectively than they could do under their existing duties under the Social Services and Well-being (Wales) Act 2014 (“the 2014 Act”) in its un-modified form. The modifications were intended to enable local authorities to provide urgent and acute care without delay during exceptional times. Notwithstanding the modifications made by the 2020 Act, various safeguards remained in place within the 2014 Act. The relevant provisions were commenced on 1 April 2020 and were suspended on 22 March 2021 by the Coronavirus Act 2020 (Suspension: Local Authority Care and Support) (Wales) Regulations 2021.

The purpose of the Regulations is to early expire the operation of the relevant provisions in the 2020 Act, insofar as they relate to adults and adult carers receiving social care in Wales.

Section 89 of the 2020 Act provides for the automatic expiry of the relevant provisions on 25 March 2022, unless they are extended or expired early by the Welsh Ministers. The effect of the Regulations is to remove the option to draw on the modifications (which are in any event suspended).

The Explanatory Memorandum to the Regulations states that the Regulations will not have any practical impact on local authorities, adults receiving care or adult carers as no local authority in Wales delivered services in accordance with the modified provisions of the 2014 Act when the relevant provisions of the 2020 Act were in force.

It is intended that the Regulations will come into force on 1 August 2021 so that on that date Part 2 of Schedule 12 will expire, save for paragraphs 30 and 33 and 35. Section 89(2) of the 2020 Act specifically provides that these paragraphs cannot be expired early. This reflects the transitional nature the provisions may play after any “emergency period”, including after the 2020 Act ceases to have effect.

Paragraph 31(1) clarifies that an “emergency period” is any period during which the modifications provided by Part 2 of Schedule 12 have effect. The Explanatory Memorandum



to the Regulations notes that local authorities in Wales have all confirmed that they have not operated in accordance with the modified provisions during the “emergency period”.

Paragraph 30 provides that a local authority may retrospectively undertake a financial assessment and charge for needs met using the modified provisions during the “emergency period” where no or a reduced charge has been made. Paragraph 33 makes similar provision for retrospective action in relation to duties under the 2014 Act relating to the portability of care and support.

Paragraph 35 provides that the Welsh Ministers can issue statutory guidance and direct local authorities to have regard to that guidance about how they are to exercise functions under the 2014 Act where the 2020 Act modifications to the existing social care duties under the 2014 Act are in operation.

The Explanatory Memorandum states that as no services were provided under the modified duties when the relevant provisions were in force, no adverse impact or disadvantage for individuals receiving care and support is expected as a result of the exclusion of paragraphs 30, 33 and 35 from the expiry effected by these Regulations.

Parent Act: Coronavirus Act 2020

Date Made:

Date Laid: 22 June 2021

Coming into force date: 31 July 2021

SL(6)017 – The Care Planning, Placement and Case Review (Wales) (Amendment) Regulations 2021

Procedure: Affirmative

These Regulations amend the Care Planning, Placement and Case Review (Wales) Regulations 2015 (“the 2015 Regulations”) in consequence of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 amending section 83 of the Social Services and Well-being (Wales) Act 2014 (“the 2014 Act”).

The effect of these Regulations is to continue the existing position regarding (a) the looked after children who are required to have a personal education plan, and (b) the list of information that must be included in a personal education plan.

Regulation 6 of these Regulations removes the requirement in the 2015 Regulations that a care and support plan include a personal education plan, as that requirement has been inserted into section 83 of the 2014 Act.



Regulation 5 prescribes the categories of looked after children for whom no personal education plan is to be prepared as part of their care and support plan. The categories prescribed are those for whom a personal education plan was not required by the 2015 Regulations. They are:

- any child who has been placed for adoption under the Adoption and Children Act 2002, unless the child falls within regulation 56 (which is where a child is (i) remanded to local authority accommodation, (ii) remanded to youth detention accommodation, or (iii) detained);
- any child who is looked after by the local authority for short breaks (within the circumstances set out in regulation 62(2));
- any child who is looked after only by reason of being remanded to youth detention accommodation.

These Regulations come into force on 1 September 2021.

Parent Act: Social Services and Well-being (Wales) Act 2014

Date Made:

Date Laid: 22 June 2021

Coming into force date: 01 September 2021



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—
Welsh Parliament

Legislation, Justice and Constitution Committee

SL(6)019 – The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 2) Regulations 2021

Background and Purpose

Section 82 of the Coronavirus Act 2020 ensures that re-entry or forfeiture for non-payment of rent may not be enforced in relation to relevant business tenancies during the “relevant period”.

Section 82(12) of the Act defines the “relevant period” as beginning on 26 March 2020, and ending on 30 June 2020, or such later date as may be specified in regulations made by the relevant national authority. The Welsh Ministers are the relevant national authority in relation to Wales.

The Welsh Ministers have extended the relevant period as follows:

- The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2020 (S.I. 2020/606 (W. 140)) extended the “relevant period” until 30 September 2020;
- The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 2) Regulations 2020 (S.I. 2020/960 (W. 214)) further extended the “relevant period” until 31 December 2020;
- The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 3) Regulations 2020 (S.I. 2020/1456 (W. 314)) further extended the “relevant period” until 31 March 2021; and
- The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2021 (S.I. 2021/253 (W. 66)) further extended the “relevant period” until 30 June 2021.

These Regulations, further extend the moratorium provided by section 82 of the Act until 30 September 2021.

Procedure

Made Negative.

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

The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.



Technical Scrutiny

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

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 of public policy likely to be of interest to the Senedd

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Vaughan Gething MS, Minister for Economy, in a letter to the Llywydd dated 28 June 2021.

In particular, we note what the letter says regarding the extension of the relevant period:

“There is an urgent need to ensure that the relevant period is extended beyond the 30 June. The number of businesses under immediate threat of eviction from their premises must be kept low, in order to continue to contribute to the range of measures in place that respond to the continuing effects of the pandemic. Consequently, these Regulations come into force on 30 June 2021 in order to ensure that there is no gap in the protection given to tenants. This means that they do not follow the convention that not less than 21 days should elapse between the laying of the Regulations and their coming into force. The decision to extend the relevant period has been taken in response to a situation that is still rapidly evolving, and in the light of continuing uncertainties surrounding the impact of new variants of the virus. Taking this decision has been essential to ensuring appropriate alignment of the measures taken to combat the effects of the pandemic.”

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

7 July 2021



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—

Welsh Parliament **Pack Page 106**

Legislation, Justice and Constitution Committee

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2021 No. 759 (W. 186)

**LANDLORD AND TENANT,
WALES**

**The Business Tenancies (Extension
of Protection from Forfeiture etc.)
(Wales) (Coronavirus) (No. 2)
Regulations 2021**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 82 of the Coronavirus Act 2020 ensures that re-entry or forfeiture for non-payment of rent may not be enforced in relation to relevant business tenancies during the “relevant period”. Section 82(12) of the Act defines the “relevant period” as beginning on 26 March 2020, and ending on 30 June 2020, or such later date as may be specified in regulations made by the relevant national authority.

The Welsh Ministers are the relevant national authority in relation to Wales.

The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2020 (S.I. 2020/606 (W. 140)) extended the “relevant period” until 30 September 2020.

The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 2) Regulations 2020 (S.I. 2020/960 (W. 214)) further extended the “relevant period” until 31 December 2020.

The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 3) Regulations 2020 (S.I. 2020/1456 (W. 314)) further extended the “relevant period” until 31 March 2021.

The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2021 (S.I. 2021/253 (W. 66)) further extended the “relevant period” until 30 June 2021.

As a result of these Regulations, the moratorium provided by section 82 of the Act is further extended until 30 September 2021.

Regulation 2 of these Regulations extends the “relevant period” until 30 September 2021.

Regulation 3 of these Regulations revokes the Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2021.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government’s website at www.gov.wales.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2021 No. 759 (W. 186)

**LANDLORD AND TENANT,
WALES**

**The Business Tenancies (Extension
of Protection from Forfeiture etc.)
(Wales) (Coronavirus) (No. 2)
Regulations 2021**

<i>Made</i>	<i>24 June 2021</i>
<i>Laid before Senedd Cymru</i>	<i>28 June 2021</i>
<i>Coming into force</i>	<i>30 June 2021</i>

The Welsh Ministers make the following Regulations in exercise of the power conferred on them by section 82(12) of the Coronavirus Act 2020⁽¹⁾.

Title and commencement

1.—(1) The title of these Regulations is the Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 2) Regulations 2021.

(2) These Regulations come into force on 30 June 2021.

Extension of relevant period providing protection from forfeiture etc.

2. For the purposes of section 82 (business tenancies in England and Wales: protection from forfeiture etc.) of the Coronavirus Act 2020, the “relevant period”, as defined in subsection (12) of that section ends, in relation to Wales, with 30 September 2021.

(1) 2020 c. 7.

Revocation

3. The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2021⁽¹⁾ are revoked.

Vaughan Gething

Minister for Economy, one of the Welsh Ministers
24 June 2021

⁽¹⁾ S.I. 2021/253 (W. 66).

Explanatory Memorandum to the Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 2) Regulations 2021

This Explanatory Memorandum has been prepared by the Economy, Skills & Natural Resources Group and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 2) Regulations 2021. I am satisfied that the benefits justify the likely costs.

Vaughan Gething MS
Minister for Economy
28 June 2021

PART 1

1. Description

These Regulations make provision to extend the duration of the moratorium provided by section 82 of the Coronavirus Act (2020) (“the Act”), during which a right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced, by action or otherwise.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

The Welsh Ministers has the executive competence to make these Regulations pursuant to section 82 of the Coronavirus Act 2020 (“the Act”). Section 82(12) of the Act defines the “relevant period” as “ending with 30 June 2020 or such later date as may be specified by the relevant national authority in regulations made by statutory instrument (and that power may be exercised on more than one occasion so as to further extend the period)”. Section 82(12) of the Act further confirms that “relevant national authority” means in relation to Wales, the Welsh Ministers.

According to the UK Government, the most recent data for the UK indicates that hospitality rent payment continues to lag significantly behind the average, with just 44.1% of rent paid following the March payment date (compared to 71.8% across all sectors), which constitutes a 2% reduction from the same period following the December rent payment date.

The British Property Federation (BPF) estimate that by the 30 June 2021, £7.5bn of commercial rent across the UK will be in arrears. Remit Consulting estimate that of 30 March, £5.3bn of commercial rents arising since March 2020 were unpaid, of which half (£2.8bn) were in the retail sector.

According to the UK Government, the most recent data for the UK shows that hospitality rent payment continues to lag significantly behind the average, with just 23.6% of rent paid in the pubs, bars and restaurants sector 35 days after the March payment date.

Whilst the statistics relate to the whole of the UK, a proportion of this data relates to Wales.

There is an urgent need to ensure that the relevant period is extended beyond the 30 June. The number of businesses under immediate threat of eviction from their premises must be kept low, in order to continue to contribute to the range of measures in place that respond to the continuing effects of the pandemic. Consequently, these Regulations come into force on 30 June 2021 in order to ensure that there is no gap in the protection given to tenants, which means that they do not follow the convention that not less than 21 days should elapse between the laying of the Regulations and their coming into force. The decision to extend the relevant period has been taken in response to a situation that is still rapidly evolving, and in the light of continuing uncertainties surrounding the

impact of new variants of the virus. Taking this decision has been essential to ensuring appropriate alignment of the measures taken to combat the effects of the pandemic. Complying with the 21 day convention has thus not been practicable in this instance.

3. Legislative background

Section 82 of the Act makes provision that a right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced, by action or otherwise, during the “relevant period”. Section 82(12) of the Act defines the “relevant period” as beginning with the day after the day the Act was passed, and ending with 30th June 2020, or such later date as may be specified by the relevant national authority in regulations. The power to specify a later date may be exercised on more than one occasion so as to further extend the “relevant period”.

The Welsh Ministers are the “relevant national authority” in relation to Wales, and are therefore able to make regulations, to extend the “relevant period” for protections beyond 30th June 2020, thereby maintaining the protection provided by section 82 of the Act to such later date specified in regulations.

Regulations currently in force, The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2021 extend the “relevant period” until 30 June 2021.

These Regulations follow the Senedd’s negative resolution procedure.

4. Purpose and intended effect of the legislation

The purpose of the Regulations is to specify that the “relevant period”, as defined by section 82(12) of the Act, is to end, in relation to Wales, with 30 September 2021.

The effect of the Regulations is to extend the “relevant period” in which a right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced, by action or otherwise for a further 3 months to 30 September 2021.

PART 2 – REGULATORY IMPACT ASSESSMENT

5. Options

Five options have been considered:

Option 1: Do nothing - Allow the provision protecting commercial tenants from eviction due to non-payment of rent to lapse on 30 June 2021.

Option 2: Make Regulations to extend the protection for a further 1 month to 31 July 2021.

Option 3: Make Regulations to extend the protection for a further 3 months to 30 September 2021. This is the preferred option.

Option 4: Make Regulations to extend the protection for a further 6 months to 31 December 2021.

Option 5: Make Regulations to extend the protection for nearly a further 9 months to 25 March 2022.

Costs and benefits

There are potential financial implications associated with all options. With options 2, 3, 4 and 5 there may be increasing pressure for Welsh Ministers to provide additional financial support to commercial landlords during this period to counteract the protection provided to tenants. Extending the protection is intended to support the economic recovery by trying to ensure businesses are able to continue trading.

However, the assessment is supplemented by data from a voluntary fortnightly [Business Insights and Conditions Survey \(BICS\)](#). It is carried out by the Office for National Statistics (ONS), which captures the views of businesses on the impact of the coronavirus (COVID-19) on turnover, workforce prices, trade and business resilience.

The annex contains some further information on the survey and the findings should be viewed in the context of this information. It should be noted that the survey is voluntary and may only reflect the characteristics of those that responded; the results are experimental. Furthermore, the survey is not forward looking so future business conditions and impacts are not covered.

Option 1: Do nothing - Allow the provision protecting commercial tenants from forfeiture proceedings due to non-payment of rent to lapse on 30 June 2021.

Without making, amending and extending the Regulations, the protection will lapse and as a result there is an increased risk that commercial tenants could be evicted from their premises for non-payment of rent. As the principle aim of the original legislation was to protect commercial tenants and jobs, removal of the

current protection would put those commercial tenants, some of which may have been supported financially by both the Welsh and UK Governments, back at risk as the economy recovers.

A consequence of this option is that commercial landlords will be free to take action for non-payment of rent. This will lead either to payment of some or all of rent owed by commercial tenants, or forfeiture proceedings. However, due to the uncertainty of the current economic climate, landlords would need to carefully consider whether they would benefit financially as tenants may in any event not be able to make the necessary payments. It might be difficult to find a replacement tenant, or to sell the property, as demand for commercial space in some sectors (e.g. leisure, retail and hospitality) is likely to have reduced, at least in the short term.

The results from Wave 30 of the ONS BICS survey covers the period of **19 April to 2 May 2021**. It shows that, of businesses who have not permanently stopped trading, 61% of businesses in Wales are using or intend to use the Coronavirus Job Retention Scheme, compared to 62% of businesses in Scotland, 54% in Northern Ireland and 56% in England.

Welsh businesses have made use of a wide range of government schemes during the crisis. These include:

- Business grants funded by UK and devolved governments;
- Government backed accredited loans or finance agreements; and
- The Kickstart Job Scheme for young people as well as the CJRS.

Of businesses who have not permanently stopped trading, 61% of those operating in Wales had not received any government-backed loans or finance agreements, this compares to 63% in England and Northern Ireland and 66% in Scotland. Also, of business who have not permanently stopped trading and have applied for a government grant in Wales, 4% did not receive it. This compares to 8% in Northern Ireland and 6% in Scotland and England.

The conclusion is that Option 1 would not achieve the policy objective of supporting business and protecting commercial tenants from forfeiture during the Coronavirus pandemic.

Option 2 – Make Regulations to extend the protection for a further 1 month to 31 July 2021.

While extending the provisions for a short period of time – namely a month – would limit the burden on landlords, this option is not likely to be sufficient to signal to the Welsh economy that there is a significant framework of support in place to allow businesses to adapt.

Furthermore, an extension of this period of time will drastically reduce the scope for the Welsh Government to develop a more sustainable set of proposals.

Option 3: Make Regulations to extend the protection for a further 3 months to 30 September 2021.

Coronavirus has reduced economic activity, leading to a drop in income for many businesses. The ONS BICS survey shows:

- 28% of responding businesses in Wales reported a decrease in turnover of up to 50%, the **highest** of any other UK country or English Region. A further 8% reporting a decrease of over 50%. Across all businesses currently trading in Wales, 10% declared that profits have decreased by more than 50%, 9% said profits had decreased between 20-50% and 15% said profits had decreased by up to 20%.
- Of businesses not permanently stopped trading, 40% think that their cash reserves will last more than 6 months in Wales. This is the **lowest** of any other UK country or English region.
- 43% of businesses in Wales had less than 6 months cash reserves, similar to the overall UK figure of 44%. Around 3% of Welsh businesses reported they had no cash reserves.

Insolvency:

In Wales, of businesses not permanently stopped trading:

- 11% had a moderate risk of insolvency
- 55% had a low risk of insolvency
- 24% had no risk of insolvency

Business confidence:

In Wales, of businesses currently trading:

- 65% reported high confidence that they would survive the next three months;
- 28% reported medium confidence that they would survive the next three months;
- 2% reported low confidence that they would survive the next three months.

Site closures:

In Wales, of businesses currently trading:

- 2% intended to permanently close some business sites in the next three months;
- 86% did not intend to permanently close any business sites in the next three months;
- A further 13% were 'not sure'

Capital expenditure¹

Welsh businesses appear to have also had their capital expenditure affected by the coronavirus (COVID-19) pandemic.

In wave 27 of the BICS (8 March to 21 March 2021), of all businesses continuing to trade in Wales, 10% reported that capital expenditure had stopped, while 22% reported that capital expenditure had been lower than normal.

This option will allow the Welsh Government to continue to protect commercial tenants during a continuing time of uncertainty, but at the same time does not excessively remove the rights and remedies which enable landlords to pursue non-payment of rent.

The commercial property sector and market plays an important role in the economy and in delivering and providing business critical infrastructure in the form of commercial premises from which businesses can operate and grow. It is therefore important to recognise the needs of both landlord and tenant businesses.

This protection does not remove the requirement to pay rent, but suspends a landlord's right to take forfeiture action for non-payment of rent. Tenants will still be liable for any arrears, and will have to pay any rent owed once the protection is lifted or face actions such as forfeiture. The landlord's actions will not prejudice them from exercising a right to forfeit in the future, once the moratorium is over, unless the landlord and tenant have agreed otherwise by way of a rent deferment agreement or such similar agreement in relation to the payment of rent.

In recommending Option 3, the Welsh Government recognises the position of landlords, as investors in and providers of critical business infrastructure. The provisions of Option 3 will continue to put landlords at a disadvantage in negotiating rent deferment arrangements to ease tenants' current predicaments whilst seeking to protect their assets. It was previously considered that an extension to 30 September 2021 would signal a lack of confidence in economic recovery efforts. At that stage the continued significant effects on businesses and their cashflow was not known. In light of the continuation of the pandemic and anticipated further waves as a result of new variants, a further three month extension is now considered the best option to allow time for businesses to recover and for Welsh Government to further assess the public health situation.

Option 4: Make Regulations to extend the protection for a further 6 months to 31 December 2021.

Option 4 would allow more time for Welsh businesses to recover and bolster their ability to meet rent payments. The Welsh Government has recently outlined a cautious and considered approach to easing restrictions on the economy. While this represents cause for optimism, it is recognised that such an ability to pay

¹ The figures relating to footfall are from BICS Wave 23 (covering the period between 25 January to 7 February) as Wave 24 does not contain these figures.

rent would be limited until businesses are fully operational and many may continue to experience cash flow challenges. In this respect, Option 4 would allow for a period of breathing space to businesses.

This protection does not remove the requirement to pay rent, but suspends a landlord's right to take forfeiture action for non-payment of rent. Tenants will still be liable for any arrears, and will have to pay any rent owed once the protection is lifted or face actions such as forfeiture. The landlord's actions will not prejudice them from exercising a right to forfeit in the future, once the moratorium is over, unless the landlord and tenant have agreed otherwise by way of a rent deferment agreement or such similar agreement in relation to the payment of rent.

However, this option may put landlords and investors under increasing pressure at this stage.

Option 5: Make Regulations to extend the protection for a further 9 months to 31 March 2022.

Option 5 would allow more time for Welsh businesses to recover and bolster their ability to meet rent payments. The Welsh Government has recently outlined a cautious and considered approach to easing restrictions on the economy. While this represents cause for optimism, it is recognised that such an ability to pay rent would be limited until businesses are fully operational and many may continue to experience cash flow challenges. In this respect, Option 5 would allow for a period of breathing space to businesses.

This protection does not remove the requirement to pay rent, but suspends a landlord's right to take forfeiture action for non-payment of rent. Tenants will still be liable for any arrears, and will have to pay any rent owed once the protection is lifted or face actions such as forfeiture. The landlord's actions will not prejudice them from exercising a right to forfeit in the future, once the moratorium is over, unless the landlord and tenant have agreed otherwise by way of a rent deferment agreement or such similar agreement in relation to the payment of rent.

However, this option is highly likely to put landlords and investors under increasing pressure at this stage.

For the reasons outlined above, the Welsh Government consider Option 3 is the most appropriate option to pursue at this time.

6. Consultation

An engagement exercise with key stakeholders to better understand the impact that the Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2021 has had on both commercial tenants and landlords in Wales was undertaken, concluding in May 2021.

We received a number of representations from stakeholders and in summary the key points made were:

- The provisions were intended to be a short-term emergency measure.
- The moratorium is beginning to have an adverse impact on commercial landlords.
- The extension of the moratorium is likely to have led to unintended consequences with rent accruals causing a substantial debt for businesses and could be called in in short order.
- It is important that whether the protections are permitted to lapse or renewed, it is done so as a package underpinned by close engagement across Welsh and UK Governments.
- Landlords can be expected to take a tough approach to rent arrears should the moratorium be lifted on 30 June 2021. For businesses dealing with mandated closure and with no ability to generate income, rent is increasingly difficult to meet.
- It is reasonable to continue to provide support to impacted businesses until they are able to resume trading normally.
- The issue of commercial rent arrears is probably the last significant outstanding business concern arising from the pandemic.
- The worst outcome would be a 'cliff edge' on 1 July 2021 when all tenant protections are suddenly withdrawn with nothing to replace them.

The concerns raised by stakeholders will be central to the development of policy positions and will inform further discussions with the UK Government on this issue.

7. Competition Assessment

On completion of the Competition Filter test it was determined that there are no effects on competition.

8. Post implementation review

The effect of these Regulations is time limited and the position will be reviewed prior to the proposed extension end date of 30 September 2021.

9. Annex

Measuring the data

The Business Insights and Conditions Survey (BICS) is voluntary and the results are experimental.

Wave	22 April 2021 Publication Wave 28	6 May 2021 Publication Wave 29	20 May 2021 Publication Wave 30
Sample	39,002	38,919	38,834
Response	9,857	9,744	9,547
Rate	25.3%	25.0%	24.6%

Source: Office for National Statistics - Business Insights and Conditions Survey

Notes

1. Final weighted results, Wave 30 of the Office for National Statistics' (ONS') Business Insights and Conditions Survey (BICS).

The results are based on responses from the voluntary fortnightly BICS, which captures businesses' views on financial performance, workforce, prices, trade, and business resilience. The Wave 30 survey was live for the period 4 to 16 May 2021. For questions regarding the last two weeks, businesses were asked for their experience for the reference period 19 April to 2 May 2021. The [survey questions](#) are available.

ONS currently provide unweighted estimates with a country and regional split for selected variables. These should be treated with caution as only those that have responded to the survey are represented, and as such these are not fully representative of the UK as a whole. When unweighted, each business is assigned the same weight regardless of turnover, size or industry, and businesses that have not responded to the survey or that are not sampled are not taken into account.



Ein cyf/Our ref: MA-VG-1744-21

Elin Jones MS
Llywydd
Senedd Cymru
Cardiff Bay
CARDIFF
CF99 1SN

28 June 2021

Dear Elin,

The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 2) Regulations 2021

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this statutory instrument will come into force on 30 June 2021, less than 21 days after it has been laid. A copy of the instrument and the Explanatory Memorandum that accompanies it are attached for your information.

The Regulations make provision to extend the duration of the moratorium provided by section 82 of the Coronavirus Act 2020 ("the Act"), during which a right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced, by action or otherwise. The Act initially covered the relevant period concluding on 30 June 2020 and has been extended a number of times (currently, until 30 June 2021), due to the continuing issues faced as a result of the pandemic. This statutory instrument extends the protections for an additional three months; until 30 September 2021.

There is an urgent need to ensure that the relevant period is extended beyond the 30 June. The number of businesses under immediate threat of eviction from their premises must be kept low, in order to continue to contribute to the range of measures in place that respond to the continuing effects of the pandemic. Consequently, these Regulations come into force on 30 June 2021 in order to ensure that there is no gap in the protection given to tenants. This means that they do not follow the convention that not less than 21 days should elapse between the laying of the Regulations and their coming into force. The decision to extend the relevant period has been taken in response to a situation that is still rapidly evolving, and in the light of continuing uncertainties surrounding the impact of new variants of the virus. Taking this decision has been essential to ensuring appropriate alignment of the measures taken to combat the effects of the pandemic.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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Gohebiaeth.Vaughan.Gething@llyw.cymru
Correspondence.Vaughan.Gething@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The Explanatory Memorandum is attached for your information; a Regulatory Impact Assessment has been prepared for these Regulations and is also included as part of the Explanatory Memorandum. Both are being laid, together with the Regulations, in the Table Office.

I am copying this letter to the Minister for Rural Affairs, North Wales and Trefnydd, the Legislation, Justice and Constitution Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive style with a large initial 'V' and a long, sweeping tail on the 'g'.

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

SL(6)020 - The Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) Regulations 2021

Background and Purpose

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”) and the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (the “Public Health Information Regulations”).

The International Travel Regulations impose requirements on persons entering Wales after having been abroad. They include a requirement for persons arriving in Wales to isolate for a period determined in accordance with the International Travel Regulations. The requirements imposed by the International Travel Regulations are subject to exceptions, and certain categories of person are exempt from having to comply.

Persons entering Wales after being in one or more of the countries and territories listed in Schedule 3 to the International Travel Regulations (“exempt countries and territories”) are not required to isolate. Regulation 3 of these Regulations amends the list of exempt countries and territories. Regulation 3 adds Anguilla, Antigua and Barbuda, Balearic Islands, Barbados, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Dominica, Grenada, Madeira, Malta, Montserrat, Pitcairn, and Turks and Caicos Islands to the “green list” of countries and territories.

Non-exempt persons are prohibited from entering Wales where they have been in a country or territory listed in Schedule 3A to the International Travel Regulations within the last 10 days of arrival. Regulation 4 of these Regulations adds Dominican Republic, Eritrea, Haiti, Mongolia, Tunisia and Uganda to the “red list” of countries and territories.

Regulation 5 amends the Public Health Information Regulations to amend the prescribed text of the on-board public health information announcement operators are required to provide to passengers arriving into Wales on relevant services to make specific reference to the post arrival testing requirements that apply.

Procedure

Made Negative.

These Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the



Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

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

Merits Scrutiny

The following five 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 breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Eluned Morgan MS, Minister for Health and Social Services, in a letter to the Llywydd dated 28 June 2021.

The letter explains that:

“Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.”

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

“The amendments contained in these Regulations do not change the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Convention on Human Rights; the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.

The Government considers that the Public Health Information Regulations do not engage any of the individual rights under the Human Rights Act 1998 and the European Convention on Human Rights. And, to the extent that any such rights may be engaged, the Government considers that the interference is minimal and can be justified as being necessary and proportionate to achieve a legitimate aim. The amendments to the Public Health Information Regulations made by these Regulations do not change the engagement of individual rights.”



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

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 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.”

It is noted that these Regulations amend the requirements to provide information to passengers arriving into Wales. In the absence of consultation prior to making these Regulations, the Government is asked to explain what, if any, action was taken to make operators aware of these changes ahead of them coming into force to ensure that operators could comply with the law, as amended.

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

Regulation 5 amends the Public Health Information Regulations to amend the prescribed text of the on-board public health information announcement operators are required to provide to passengers arriving into Wales. The previous on-board public health information announcement, as was previously set out in Schedule 1 to the Public Health Information Regulations, included the following text:

“Simple measures you can take to help protect yourself and family are:

Wear a mask; wash your hands; avoid touching your face with your hands; practice social distancing; catch coughs and sneezes in a tissue and dispose of it immediately.”

Regulation 5 of these Regulations removes this text from the amended Schedule to the Public Health Information Regulations. The Government is asked to explain why this text will no longer form part of the on-board public health announcement operators are required to provide to passengers arriving into Wales on relevant services, particularly as wearing face coverings in indoor public places (including public transport) is a legal requirement in Wales.

5. 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 Explanatory Memorandum explains that a regulatory impact assessment has not been carried out in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health.

Welsh Government response

A Welsh Government response is required in relation to the third and fourth merits points.



Legal Advisers
Legislation, Justice and Constitution Committee
6 July 2021



W E L S H S T A T U T O R Y
I N S T R U M E N T S

2021 No. 765 (W. 187)

PUBLIC HEALTH, WALES

**The Health Protection
(Coronavirus, International Travel
and Public Health Information to
Travellers) (Wales) (Miscellaneous
Amendments) Regulations 2021**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (S.I. 2020/574 (W. 132)) (the “International Travel Regulations”) and the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (S.I. 2020/595 (W. 136)) (the “Public Health Information Regulations”).

The International Travel Regulations impose requirements on persons entering Wales after having been abroad. They include a requirement for persons arriving in Wales to isolate for a period determined in accordance with those Regulations. The requirements imposed by the International Travel Regulations are subject to exceptions, and certain categories of person are exempt from having to comply. Persons entering Wales after being in one or more of the countries and territories listed in Schedule 3 to the International Travel Regulations are not required to isolate. The countries and territories listed in Schedule 3 are referred to as “exempt countries and territories”.

Regulation 3 of these Regulations amends Schedule 3 to the International Travel Regulations to add the following to the list of exempt countries and territories outside the common travel area: Anguilla, Antigua and Barbuda, Balearic Islands, Barbados, Bermuda, Antarctica/British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Dominica, Grenada, Madeira, Malta, Montserrat, Pitcairn Islands, and Turks and Caicos Islands.

Non-exempt persons are prohibited from entering Wales where they have been in a country or territory listed in Schedule 3A to the International Travel Regulations within the last 10 days of arrival, pursuant to regulation 12E of the International Travel Regulations. Regulation 4 of these Regulations amends Schedule 3A to add Dominican Republic, Eritrea, Haiti, Mongolia, Tunisia and Uganda to the list of countries and territories subject to additional measures.

The Public Health Information Regulations impose requirements on operators of international passenger services coming from outside the common travel area to an airport, heliport or seaport in Wales to provide passengers with specified public health information. Regulation 5 amends the content of the on-board public health information announcement operators are required to provide to passengers arriving into Wales on relevant services.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has not been prepared as to the likely costs and benefits of complying with these Regulations.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2021 No. 765 (W. 187)

PUBLIC HEALTH, WALES

The Health Protection
(Coronavirus, International Travel
and Public Health Information to
Travellers) (Wales) (Miscellaneous
Amendments) Regulations 2021

Made 25 June 2021

Laid before Senedd Cymru 28 June 2021

*Coming into force at 4.00 a.m. on 30 June
2021*

The Welsh Ministers, in exercise of the powers conferred on them by sections 45B and 45P(2) of the Public Health (Control of Disease) Act 1984⁽¹⁾, make the following Regulations.

Title and coming into force

1.—(1) The title of these Regulations is the Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) Regulations 2021.

(2) These Regulations come into force at 4.00 a.m. on 30 June 2021.

(1) 1984 c. 22. Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14). The function of making regulations under Part 2A is conferred on “the appropriate Minister”. Under section 45T(6) of the 1984 Act the appropriate Minister as respects Wales, is the Welsh Ministers.

Amendments to the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020

2. The Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020(1) are amended as follows.

Amendment to Schedule 3

3. In Schedule 3 (exempt countries and territories outside the common travel area)—

(a) in Part 1, at the appropriate places insert—

“Antigua and Barbuda
Balearic Islands
Barbados
Dominica
Grenada
Madeira
Malta”;

(b) in Part 2, at the appropriate places insert—

“Anguilla
Bermuda
Antarctica/British Antarctic Territory
British Indian Ocean Territory
British Virgin Islands
Cayman Islands
Montserrat
Pitcairn Islands
Turks and Caicos Islands”.

(1) S.I. 2020/574 (W. 132), amended by S.I. 2020/595 (W. 136), S.I. 2020/714 (W. 160), S.I. 2020/726 (W. 163), S.I. 2020/804 (W. 177), S.I. 2020/817 (W. 179), S.I. 2020/840 (W. 185), S.I. 2020/868 (W. 190), S.I. 2020/886 (W. 196), S.I. 2020/917 (W. 205), S.I. 2020/942, S.I. 2020/944 (W. 210), S.I. 2020/962 (W. 216), S.I. 2020/981 (W. 220), S.I. 2020/1015 (W. 226), S.I. 2020/1042 (W. 231), S.I. 2020/1080 (W. 243), S.I. 2020/1098 (W. 249), S.I. 2020/1133 (W. 258), S.I. 2020/1165 (W. 263), S.I. 2020/1191 (W. 269), S.I. 2020/1223 (W. 277), S.I. 2020/1232 (W. 278), S.I. 2020/1237 (W. 279), S.I. 2020/1288 (W. 286), S.I. 2020/1329 (W. 295), S.I. 2020/1362 (W. 301), S.I. 2020/1477 (W. 316), S.I. 2020/1521 (W. 325), S.I. 2020/1602 (W. 332), S.I. 2020/1645 (W. 345), S.I. 2021/20 (W. 7), S.I. 2021/24 (W. 8), S.I. 2021/46 (W. 10), S.I. 2021/48 (W. 11), S.I. 2021/50 (W. 12), S.I. 2021/66 (W. 15), S.I. 2021/72 (W. 18), S.I. 2021/95 (W. 26), S.I. 2021/154 (W. 38), S.I. 2021/305 (W. 78), S.I. 2021/361 (W. 110), S.I. 2021/454 (W. 144), S.I. 2021/500 (W. 149), S.I. 2021/568 (W. 156), S.I. 2021/584 (W. 161), S.I. 2021/646 (W. 166) and S.I. 2021/669 (W. 170).

Amendments to Schedule 3A

4. In Schedule 3A (countries and territories subject to additional measures), at the appropriate places insert—

“Dominican Republic
Eritrea
Haiti
Mongolia
Tunisia
Uganda”.

Amendment to the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020

5. For Part 2 of the Schedule to the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020⁽¹⁾ (information provided during journey), substitute—

“Part 2

The statement to be provided for the purposes of regulation 4 is—

(a) Welsh language version—

“Dyma neges iechyd y cyhoedd ar ran asiantaethau iechyd y cyhoedd y Deyrnas Unedig.

Pa mor hir bynnag yr ydych yn bwriadu aros yn y Deyrnas Unedig, rhaid i bawb gymryd prawf COVID-19 a archebwyd ymlaen llaw o fewn y ddau ddiwrnod cyntaf ar ôl ichi gyrraedd. Os ydych wedi bod mewn unrhyw wledydd ar y rhestr goch neu oren, neu wedi tramwyo drwy unrhyw wledydd o'r fath, rhaid ichi hefyd gymryd prawf arall a archebwyd ymlaen llaw 8 niwrnod ar ôl ichi gyrraedd.

Os ydych wedi bod mewn gwlad oren neu goch o fewn y 10 niwrnod diwethaf, neu wedi tramwyo drwy wlad o'r fath, rhaid ichi fynd i

(1) S.I. 2020/595 (W. 136), amended by S.I. 2020/714 (W. 160), S.I. 2020/1118 (W. 253), S.I. 2020/1521 (W. 325), S.I. 2021/72 (W. 18), S.I. 2021/171 (W. 39), S.I. 2021/457 (W. 145), S.I. 2021/584 (W. 161) and S.I. 2021/646 (W. 166).

gwarantín am y 10 niwrnod cyntaf ar ôl ichi gyrraedd.

Symptomau'r coronafeirws yw peswch cyson newydd, tymheredd uchel neu gollu eich synnwyr blasu neu aroglí arferol, neu newid yn eich synnwyr blasu neu aroglí arferol. Os ydych yn profi unrhyw un o'r symptomau hyn, ni waeth pa mor ysgafn ydynt, fe'ch cynghorir i wneud eich hunan yn hysbys i'r criw.

Dilynwch y canllawiau Iechyd y Cyhoedd ar gyfer yr ardal yr ydych yn byw ynddi neu'n teithio ynddi.

Ewch i [gov.uk/coronavirus](https://www.gov.uk/coronavirus) i gael rhagor o gyngor.”;

(b) English language version—

“The following is a public health message on behalf of the UK's public health agencies.

However long you intend to stay in the UK, everyone must take a pre-booked COVID-19 test within the first two days after you arrive. If you have been in or transited through any countries on the red or amber list you must also take another pre-booked test 8 days after arrival.

If you have been in or transited through an amber or red country within the previous 10 days you must quarantine for the first 10 days after you arrive.

The symptoms of coronavirus are a new continuous cough, a high temperature or a loss of, or change in, normal sense of taste or smell. If you experience any of these symptoms, however mild, you are advised to make yourself known to the crew.

Please follow the Public Health guidance for the area you are living or travelling in.

Visit [gov.uk/coronavirus](https://www.gov.uk/coronavirus) for more advice.”;

- (c) the statement in paragraph (a) or (b) translated into an officially recognised language of the country of departure.”

Eluned Morgan

Minister for Health and Social Services, one of the
Welsh Ministers

25 June 2021

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) Regulations 2021

This Explanatory Memorandum has been prepared by the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) Regulations 2021.

Eluned Morgan MS
Minister for Health and Social Services

28 June 2021

1. Description

These Regulations amend the [Health Protection \(Coronavirus, International Travel\) \(Wales\) Regulations 2020](#) (“the International Travel Regulations”) and the [Health Protection \(Coronavirus, Public Health Information for Persons Travelling to Wales etc.\) Regulations 2020](#) (the “Public Health Information Regulations”)

2. Matters of special interest to the Legislation, Justice and Constitution Committee

Coming into force

In accordance with section 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Regulations do not adhere to the 21 day convention. This is necessary owing to the risk posed in relation to coronavirus and in particular variant strains of the same, from passengers travelling to the UK. The changes made by these Regulations continue the four nation approach to international travel and ensure continuing alignment with England and the other nations.

European Convention on Human Rights

The amendments contained in these Regulations do not change the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Convention on Human Rights; the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.

The Government considers that the Public Health Information Regulations do not engage any of the individual rights under the Human Rights Act 1998 and the European Convention on Human Rights. And, to the extent that any such rights may be engaged, the Government considers that the interference is minimal and can be justified as being necessary and proportionate to achieve a legitimate aim. The amendments to the Public Health Information Regulations made by these Regulations do not change the engagement of individual rights.

3. Legislative background

The Public Health (Control of Disease) Act 1984 (“the 1984 Act”), and regulations made under it, provide a legislative framework for health protection in England and Wales. These Regulations are made in reliance on the powers in sections 45B and 45P(2) of the 1984 Act. The Explanatory Memoranda to the [International Travel Regulations](#) and the [Public Health Information Regulations](#) provide further information on these powers.

4. Purpose and intended effect of the legislation

These Regulations amend the International Travel Regulations to:

- Add Dominican Republic, Eritrea, Haiti, Mongolia, Tunisia and Uganda to the “red list” of countries and territories
- Add Anguilla, Antigua and Barbuda, Balearic Islands, Barbados, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Dominica, Grenada, Madeira, Malta, Montserrat, Pitcairn, and Turks and Caicos Islands to the “green list” of countries and territories

These Regulations also amend the Public Health Information regulations to amend the prescribed text of the on-board public health information announcement operators are required to provide to passengers arriving into Wales on relevant services to make specific reference to the post arrival testing requirements that apply.

The Welsh Ministers consider that these amendments are proportionate to what they seek to achieve, which is to respond to a serious and imminent threat to public health.

5. Consultation

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.

6. Regulatory Impact Assessment (RIA)

There has been no regulatory impact assessment in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health.



Elin Jones, MS
Llywydd
Senedd Cymru
Cardiff Bay
CF99 1SN

28 June 2021

Dear Elin

The Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) Regulations 2021

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this Statutory Instrument will come into force at 04:00 a.m. on 30 June 2021, less than 21 days after it has been laid. A copy of the instrument and the Explanatory Memorandum that accompanies it are attached for your information.

This statutory instrument amends the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020.

These Regulations make the following amendments:

- **Dominican Republic, Eritrea, Haiti, Mongolia, Tunisia and Uganda** are added to the "red list" of countries and territories
- **Anguilla, Antigua and Barbuda, Balearic Islands, Barbados, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Dominica, Grenada, Madeira, Malta, Montserrat, Pitcairn, and Turks and Caicos Islands** are added to the "green list" of countries and territories

The Regulations also amend the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 to amend the prescribed text of the on-board public health information announcement operators are required to provide to passengers arriving into Wales on relevant services to make specific reference to the post arrival testing requirements that apply.

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Gohebiaeth.Eluned.Morgan@llyw.cymru
Correspondence.Eluned.Morgan@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.

I am copying this letter to the Minister for Rural Affairs and North Wales, and Trefnydd, the Legislation, Justice and Constitution Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Government Response: The Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) Regulations 2021

Merits scrutiny point 3:

The Government confirms that operators were notified on a UK-wide basis on 25th June 2021 of the intention to update the regulations regarding the provision of information to passengers so that operators would in future also be required to inform passengers of the new obligations in relation to pre-departure testing. This information was provided to operators directly through established communication channels and via industry representative organisations.

Merits scrutiny point 4:

We can confirm that this update to the wording was made to enable 4 nations alignment, providing consistency to operators and passengers, whilst continuing to ask passengers to follow local public health guidance. This also ensures the advice will be relevant to travellers' ultimate destination in the UK, not just where they land, and that any changes to the detail of the public health advice can be captured at the relevant links rather than requiring the regulations to be updated with the latest advice.

Agenda Item 6.3

SL(6)018 - The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021

Background and Purpose

These Regulations are proposed to be made by the Welsh Ministers pursuant to section 97(1) and (2) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (the "2018 Act").

The 2018 Act reforms the law on education and training for children and young people with additional learning needs and renames the Special Educational Needs Tribunal for Wales as the Education Tribunal for Wales.

These Regulations make consequential amendments to references in primary legislation in order to reflect these changes.

Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

Paragraph 7(1)(a) in Part 1 of Schedule 17 to the Coronavirus Act 2020 provides that the Welsh Ministers may by notice make provision in relation to Wales disapplying, for a specified period, any enactment listed in sub-paragraph (5) of that paragraph.

Regulation 11(2) of the subject Regulations proposes to insert a new paragraph "(ga)" into paragraph 7(5) to include a number of references to provisions in the 2018 Act concerning individual development plans which the Welsh Ministers may then disapply in accordance with paragraph 7(1)(a). However, new paragraph (ga) includes a reference to "section 13(7)", which does not appear in the 2018 Act.

Merits Scrutiny

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



Welsh Government response

Technical Scrutiny point 1: This is a typing error. The reference should be to section 13(1) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, rather than section 13(7). The reference will be corrected when the SI is published.

The Committee will also wish to note that the Explanatory Memorandum has been amended to correct incorrect references that were noticed post laying.

Legal Advisers

Legislation, Justice and Constitution Committee

5 July 2021



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—

Welsh Parliament

Legislation, Justice and Constitution Committee

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Draft Regulations laid before Senedd Cymru under section 98(3)(c) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2021 No. (W.)

EDUCATION, WALES

**The Additional Learning Needs and
Education Tribunal (Wales) Act
2018 (Consequential Amendments)
Regulations 2021**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in consequence of the Additional Learning Needs and Education Tribunal (Wales) Act 2018. That Act reforms the law on education and training for children and young people with additional learning needs and renames the Special Educational Needs Tribunal for Wales as the Education Tribunal for Wales.

These Regulations update references in primary legislation to reflect these changes.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

Draft Regulations laid before Senedd Cymru under section 98(3)(c) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2021 No. (W.)

EDUCATION, WALES

**The Additional Learning Needs and
Education Tribunal (Wales) Act
2018 (Consequential Amendments)
Regulations 2021**

Made

Coming into force

1 September 2021

The Welsh Ministers in exercise of the powers in section 97(1) and (2) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018⁽¹⁾ make the following Regulations.

In accordance with section 98(3)(c)⁽²⁾ of that Act, a draft of these Regulations was laid before, and approved by a resolution of, Senedd Cymru.

PART 1

Introduction

Title and commencement

1. The title of these Regulations is the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021 and they come into force on 1 September 2021.

(1) 2018 anaw 2.

(2) The references in section 98(3) to the National Assembly for Wales now have effect as references to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

PART 2

Amendments to Primary Legislation

Local Government Act 1974

2.—(1) The Local Government Act 1974⁽¹⁾ is amended as follows.

(2) In Schedule 5, in paragraph 5(2)(b)⁽²⁾, after “special educational needs (within the meaning given by section 579(1) of the Education Act 1996)” insert “or additional learning needs (within the meaning given by section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018)”.

Education Act 1997

3.—(1) The Education Act 1997⁽³⁾ is amended as follows.

(2) In section 32(6)(a)⁽⁴⁾, for “special educational needs (as defined in section 312 of the Education Act 1996)” substitute “additional learning needs (as defined in section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018)”.

Special Educational Needs and Disability Act 2001

4.—(1) The Special Educational Needs and Disability Act 2001⁽⁵⁾ is amended as follows.

(2) In Schedule 8, Part 1, omit paragraph 12.

Education Act 2002

5.—(1) The Education Act 2002⁽⁶⁾ is amended as follows.

(2) In section 1(3)⁽⁷⁾, in paragraph (g) of the definition of “qualifying body”, omit “or the National Assembly for Wales”.

(3) In section 2(5)⁽⁸⁾, for “children with special educational needs” substitute—

-
- (1) 1974 c. 7.
 - (2) Paragraph 5 of Schedule 5 was amended by paragraph 63 of Schedule 3 to the Children and Families Act 2014 (c. 6). Paragraph 5 also includes other amendments which are not relevant to these Regulations.
 - (3) 1997 c. 44.
 - (4) There are amendments to section 32 which are not relevant to these Regulations.
 - (5) 2001 c. 10.
 - (6) 2002 c. 32.
 - (7) Section 1 was amended by paragraph 1 of Schedule 16 to the Education and Inspections Act 2006 (c. 40). Section 1 also includes other amendments which are not relevant to these Regulations. Paragraph (g) of the definition is substituted by the Education and Skills Act 2008 (c. 25) but the substitution is not yet in force.
 - (8) There are amendments to section 2 which are not relevant to these Regulations.

“—

- (a) in relation to England, children with special educational needs, or
- (b) in relation to Wales, persons under 25 with special educational needs.”

(4) After section 92 (pupils with EHC plans) insert—

“Pupils with Individual Development Plans

92A. The additional learning provision described in an individual development plan prepared or maintained by a local authority in Wales under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 may include provision—

- (a) excluding the application of the National Curriculum for England, or
- (b) applying the National Curriculum for England with such modifications as may be specified in the plan.”

Nationality, Immigration and Asylum Act 2002

6.—(1) The Nationality, Immigration and Asylum Act 2002(1) is amended as follows.

(2) In section 36—

- (a) in subsection (3)(b), for “a statement in respect of the child under section 324 of the Education Act 1996 (c. 56) (special educational needs)” substitute “an individual development plan maintained for the child under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”;
- (b) omit subsection (5)(d) and (e);
- (c) after subsection (5)(f) omit “and”;
- (d) after subsection (5)(g) insert “, and”;
- (e) after subsection (5)(g) insert—
 - “(h) section 51 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (duty to favour education for children at mainstream maintained schools).”;
- (f) for subsection (6) substitute—
 - “(6) The power of the Education Tribunal for Wales under section 71(1) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (decisions on appeals under section 70) is subject to subsection (2) above.”;

(1) 2002 c. 41.

- (g) in subsection (7)—
 - (i) in the words before paragraph (a), after “Children and Families Act 2014” insert “, Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018” and after “special educational needs” insert “or additional learning needs”;
 - (ii) after paragraph (a) insert—
 - “(aa) the child receiving the additional learning provision called for by the child’s additional learning needs,”;
- (h) for subsection (9)(b) substitute—
 - “(b) the person responsible for education at an accommodation centre may refer a case to a local authority under section 12(2)(a) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 as though—
 - (i) a child for whom education is provided at the centre under section 29(1)(f) were a child who is a registered pupil at a school, and
 - (ii) that person were the governing body of the school.”;
- (i) omit subsection (9)(c).

Education Act 2005

7.—(1) The Education Act 2005(1) is amended as follows.

(2) In section 28(2), omit subsections (2)(d) and (4)(d).

Education and Inspections Act 2006

8.—(1) The Education and Inspections Act 2006(3) is amended as follows.

(2) In section 16(1)(c)(4), after “section 324 of EA 1996 (statement of special educational needs)” insert “or an individual development plan under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.

(3) In section 88(5), omit “or the Assembly” in both places it occurs.

(1) 2005 c. 18.
 (2) There are amendments to section 28 which are not relevant to these Regulations.
 (3) 2006 c. 40.
 (4) Section 16 was amended by paragraph 81 of Schedule 3(2) to the Children and Families Act 2014. There are other amendments to section 16 which are not relevant to these Regulations.

Qualifications Wales Act 2015

9.—(1) The Qualifications Wales Act 2015(1) is amended as follows.

(2) In section 57(5)(a), after “special educational needs” insert “or additional learning needs”.

Wales Act 2017

10.—(1) The Wales Act 2017(2) is amended as follows.

(2) In section 59(1), for paragraph (d) substitute—

“(d) the Education Tribunal for Wales or Tribiwnlys Addysg Cymru;”.

(3) Omit section 62(4).

Coronavirus Act 2020

11.—(1) The Coronavirus Act 2020(3) is amended as follows.

(2) In Schedule 17, Part 1, paragraph 7(5)(4), after paragraph (g) insert—

“(ga) sections 13(7), 14(10), 19(7), 23(1) and 24(1) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (provisions relating to individual development plans);”.

Name

Minister for Education and the Welsh Language, one of the Welsh Ministers

Date

(1) 2015 anaw 5.

(2) 2017 c. 4.

(3) 2020 c. 7.

(4) There are amendments to paragraph 7 which are not relevant to these Regulations.

Explanatory Memorandum to the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021

This Explanatory Memorandum has been prepared by the Education Department of the Welsh Government and is laid before Senedd Cymru in conjunction with the above regulations and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021.

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

8 July 2021

1. Description

- 1.1 The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021 make necessary amendments to primary legislation as a consequence of commencing provisions within the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (“the 2018 Act”).

2. Matters of special interest to the Senedd Cymru

- 2.1 No specific matters identified.
- 2.2 Further amendments to the Care Planning, Placement and Case Review (Wales) Regulations 2015, and amendments to other secondary legislation, are likely to be made in consequence of the 2018 Act.

3. Legislative background

- 3.1 The relevant powers to amend other legislation by statutory instrument are contained under sections 97(1) and (2) of the 2018 Act. This instrument follows the Senedd’s draft affirmative procedure.

4. Purpose and intended effect of the legislation

- 4.1 The purpose of this Statutory Instrument is to make the necessary consequential amendments to relevant primary legislation to ensure the ALN system can begin to take effect from 1 September 2021 in relation to how the 2018 Act corresponds to other enactments.
- 4.2 These amendments are minor and technical in nature. A brief description of each consequential amendment is provided below, under the title of each Act we are seeking to amend.

Local Government Act 1974

- 4.3 Section 26 of the Local Government Act 1974 sets out what a Local Commissioner (such as the Local Government Ombudsman), who is a member of a body of Commissioners called the Commission for Local Administration in England, may and may not investigate.
- 4.4 Currently, the Local Government Act 1974 provides that matters relating to Special Educational Needs (SEN), which cannot be considered by a Tribunal, could be considered by the Local Commissioner. Although these powers are

available to English local authorities only, is it likely there will be some children or young people who reside in Wales but receive their education in England.

- 4.5 The proposed amendment would enable Local Commissioners (in England) to investigate an English authority's actions when providing Additional Learning Provision (ALP) to a child from Wales, in the same way they can investigate the provision of SEN to children from England.

Education Act 1997

- 4.6 Part V of the Education Act 1997 is about the supervision of the curriculum for schools and external qualifications in respect of Wales. Section 32 relates to Welsh Ministers' functions in respect of advancing education and training and promoting quality and coherence, and that they shall have regard to the reasonable requirements of persons with learning difficulties.
- 4.7 The proposed amendments will update the definition of "learning difficulties" used in section 32 to ensure these functions apply to children and young people with Additional Learning Needs (ALN).

Special Educational Needs and Disability Act 2001

- 4.8 In Schedule 8 (Minor and consequential amendments) of the above Act, paragraph 12 will be omitted. This is to ensure outdated terminology ("special educational needs") is no longer used in the Education Act 1996.

Education Act 2002

- 4.9 Section 1(3)(g) includes "the proprietor of any special school that is not maintained by a local authority but is for the time being approved by the Secretary of State or the National Assembly for Wales under section 342 of the Education Act 1996" as a qualifying body. The amendment will omit the reference to "National Assembly for Wales" to ensure outdated terminology is no longer in use.
- 4.10 Section 2(5) provides that Welsh Ministers may relax or exempt any of the provisions in the 2018 Act for up to 3 years. However, such an application or order may be refused by Welsh Ministers if it is likely to have an effect on the "education of children with special educational needs". The amendments will update the terminology to ensure the powers are appropriate for the ALN system.

Nationality, Immigration and Asylum Act 2002

- 4.11 Section 36 of the Nationality, Immigration and Asylum Act 2002 disapplies a general duty on local authorities (under the Education Act 1996) to contribute towards “the spiritual, moral, mental and physical development of the community by securing that efficient primary education and secondary education...” in respect of persons residing in an “accommodation centre”.
- 4.12 This section has not yet been commenced and there are currently no plans from the UK Government to commence it. However, if the section is commenced in the future, several references throughout the section will require amendments to its terminology, such as omitting “special educational needs” and inserting in its place “additional learning needs”. The consequential amendments proposed will update the relevant terminology under the section in case those provisions are commenced at a later date.

Education Act 2005

- 4.13 Section 28 of the Education Act 2005 relates to the duty to arrange regular inspections of certain schools. To reflect changes made to the education system in Wales, the amendment will omit “special schools which are not community or foundation special schools but are for the time being approved by the Assembly under section 342 of the Education Act 1996” from the list of schools which may be inspected.

Education & Inspections Act 2006

- 4.14 Section 16 of the Education & Inspections Act 2006 relates to consultations on proposals for discontinuance of schools maintained by a local authority. Amendments are required to update the reference to a local authority maintaining a “statement of special educational needs” to one that also maintains an “individual development plan.”
- 4.15 Section 88 relates to the responsibility of a governing body for discipline; that policies are designed to promote good behaviour and discipline on the part of its pupils are pursued at the school. In this section, an amendments is required to omit to words “or the Assembly” when listing “relevant schools” or “governing bodies” which are approved by the Secretary of State or the Assembly under section 342 of EA 1996.

Qualifications Wales Act 2015

- 4.16 Section 57 (General interpretation and index of defined expressions) requires an amendment to its terminology to include “additional learning needs” when defining “a learning difficulty” in relation to the Qualifications Wales Act 2015.

Wales Act 2017

4.17 Section 59 of the Wales Act 2015 relates to Welsh tribunals. An amendment is required to add “the Education Tribunal for Wales” to the list of Welsh tribunals in place of “the Special Educational Needs Tribunal for Wales”.

4.18 Additionally, section 62 (Cross-deployment of members of the Welsh tribunals) requires an amendment to omit the “Special Educational Needs Tribunal for Wales” from the section.

Coronavirus Act 2020

4.19 Schedule 17 of the Coronavirus Act 2020 requires an amendment to insert the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (provisions relating to individual development plans) to enable the temporary disapplication or modification of the ALN system should the continuing pandemic force another lockdown.

5. Consultation

5.1 No formal consultation has taken place as the regulations make only consequential technical amendments.

6. Regulatory Impact Assessment (RIA)

6.1 A regulatory impact assessment has not been prepared in respect of these consequential amendment regulations as they make technical amendments to statute and do not impose or reduce costs for business, charities or voluntary bodies or the public sector.

SL(6)009 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 11) Regulations 2021

Background and Purpose

These Regulations move the whole of Wales to Alert Level 1. This means that the restrictions and requirements in Schedule 1 to the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (as amended by these Regulations) apply in Wales from 6.00 a.m. on 7 June 2021.

Schedule 1 sets out restrictions and requirements relating to, for example:

- gatherings in people's homes;
- gathering outdoors;
- gathering in holiday accommodation;
- attending weddings, funerals and places of worship;
- taking part in gatherings organised by clubs and charities;
- organising events;
- the authorisation of events by the Welsh Ministers;
- the closure of certain businesses such as nightclubs and ice skating rinks.

The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020, including Schedule 1, are available here: <https://www.legislation.gov.uk/wsi/2020/1609/contents/2021-05-17>.

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

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



Merits Scrutiny

The following 3 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:

"Whilst the principal Regulations, as amended by these Regulations, engage individual rights under the Human Rights Act 1998 and the European Convention on Human Rights, the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.

Article 5 (right to liberty), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are engaged by the principal Regulations.

Each of these is a qualified right, which permits the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health. All such restrictions and requirements must be justified on the basis that they are in pursuit of a legitimate aim, namely of protecting public health, and are proportionate. Any interference with these rights also needs to be balanced with the State's positive obligations under Article 2 (right to life). The adjustment of the restrictions and requirements under the principal Regulations by these Regulations is a proportionate response to the spread of coronavirus. It balances 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 reduce the rate of transmission of the coronavirus, taking into account the scientific evidence.

These amending Regulations reduce the extent in which the restrictions and requirements under the principal Regulations interfere with those individual rights."

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 paragraph 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.”

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 that the Explanatory Memorandum to these Regulations makes no reference to an equality impact assessment. We 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.

Welsh Government response

Merit Scrutiny point 3:

Following each review period, a Summary Impact Assessment is produced, translated and published. This covers the following areas:

- Wellbeing Impact
- Economic Impact Assessment
- Equality Impact Assessment
- Children’s Rights Impact Assessment (if applicable and not fully covered in the Equality Impact Assessment)
- Human Rights Impact Assessment
- Welsh Language Impact Assessment

All the Summary Impact Assessments and additional ad-hoc individual Impact Assessments can be found at <https://gov.wales/impact-assessments-coronavirus>.

The SIA covering these regulations will be published by the end of this review period on 24th June.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 14 June 2021 and reports to the Senedd in line with the reporting points above.



Government Response: The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 11) Regulations 2021

The Government response to Committee's report on The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 11) Regulations 2021 noted that the Summary Impact Assessments would be published on 24 June. The Committee will wish to note that we will not meet the 24 June publication date advised to the committee for the 14 May review but will publish the impact assessment as soon as possible.

SL(6)013 – The Coronavirus Act 2020 (Residential Tenancies: Extension of Period of Protection from Eviction) (No. 2) (Wales) Regulations 2021

Background and Purpose

Section 81 and Schedule 29 to the Coronavirus Act 2020 (“the 2020 Act”) provide protection from eviction by increasing the notice period a landlord is required to give a tenant when seeking possession. These Regulations extend the period during which increased notice must be given to tenants until 30 September 2021 (from the previous end date of 30 June 2021), and this will apply to tenancies granted tenancies under the Rent Act 1977 and the Housing Acts 1985, 1988 and 1996.

Specifically, these Regulations amend Schedule 29 to the 2020 Act (“Schedule 29”). Schedule 29 modifies various statutory provisions, relating to notices that need to be given in order to seek possession of dwellings, during “the relevant period” (as defined by paragraph 1(1) of that Schedule). The Coronavirus Act 2020 (Assured Tenancies and Assured Shorthold Tenancies, Extension of Notice Periods) (Amendment) (Wales) Regulations 2020 (S.I. 2020/778 (W. 172)) and, in part, the Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Wales) Regulations 2020 (S.I. 2020/1044 (W. 233)) amended the modifications made by Schedule 29. The provision made by Schedule 29 was originally to end on 30 September 2020 (at the end of the relevant period). Regulation 3 of S.I. 2020/1044 (W. 233) amended paragraph 1(1)(b)(ii) of the definition of the relevant period so that Schedule 29 had effect in relation to Wales until 31 March 2021. Regulation 2 of the Coronavirus Act 2020 (Residential Tenancies: Extension of Period of Protection from Eviction) (Wales) Regulations 2021 (S.I. 2021/377 (W. 118)) further amended paragraph 1(1)(b)(ii) of the definition of the relevant period so that Schedule 29 has effect in relation to Wales until 30 June 2021. Regulation 2 of these Regulations further amends paragraph 1(1)(b)(ii) so that Schedule 29 has effect, in relation to Wales, until 30 September 2021.

Procedure

Negative Resolution.

The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

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 breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Julie James MS, Minister for Climate Change, in a letter to the Llywydd dated 17 June 2021. In particular, we note the following in the letter:

“In the light of the ongoing pandemic, and continuing uncertainties surrounding the impact of the new variants that have recently emerged, the Welsh Ministers have concluded that there remains an urgent need to ensure that the number of tenants under threat of eviction from their homes is kept as low as possible. Doing so will assist with the containment of Coronavirus, ease the burden on frontline staff, and ensure tenants are provided with appropriate support. The Regulations make an important contribution to meeting that urgent need. In order to ensure that the provisions of Schedule 29 continue to apply after 30 June, the Regulations come into force on 30 June.”

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

These Regulations engage a landlord’s rights under Article 1 Protocol 1 of the European Convention on Human Rights (“A1P1”). The Committee note that the Regulations will only extend the relevant period for a specified period (up to 30 September 2021).

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:

Paragraph 4.4 states *“continued longer notice periods should mean fewer people evicted into homelessness, or being at risk of eviction into homelessness. If a person becomes homeless, their potential vulnerability to the virus and the likelihood of them spreading it is increased further (“containing and slowing the virus”).*

Since the time when the relevant period was last extended, there have been significant and continuing improvements made in relation to the virus and the public health situation no longer remains critical in the same way. The rate at which the virus is now circulating in the community means that delaying evictions is currently unlikely to be playing a significant role in controlling the transmission of the virus. However, at the same time, there remains a considerable degree of uncertainty regarding the trajectory of the pandemic and in particular on the emergence of new variants. With increasing case rates in both Scotland and England, a third wave in Wales appears possible as



current evidence suggests that the most recent Delta variant is more transmissible than the previously dominant Alpha variant.

This uncertainty relates to transmissibility of new variants but more importantly, the likely effectiveness of the current vaccines in preventing serious illness and hospitalisations in relation to these variants. Although there is, at present, a high degree of optimism in relation to continued effectiveness of the vaccines, it will be some time yet before any degree of certainty is achieved. The protection provided by two doses against this Delta variant appears to be much greater than for one dose, and therefore protection from infection remains limited for many in the population at this point. In the meantime, the virus remains a threat to public health, which would be significantly exacerbated if a new wave of cases, or outbreaks in specific locations, were accompanied by a sudden wave of evictions and a resultant increase in homelessness. In these circumstances, taking continued action to limit the risk of a sudden spike in evictions so that public health continues to be protected, is considered proportionate."

Taking the above comments into account, the Committee note that Landlords have already had restrictions imposed on them for a significant period of time. The restrictions originally contained in the Coronavirus Act in April 2020 were imposed on landlords until September 30 2020. Whilst the pandemic meant that it was considered proportionate to extend the "relevant period" on two previous occasions, the circumstances have since changed significantly and this has been reflected by legislation that has reduced the alert level for the whole of Wales to alert level 2. This has meant that restrictions in several sectors have been relaxed. For example, in the leisure industry, cinemas are now allowed to be open. Soft-play centres and gymnasiums have opened. Can the Welsh Government provide justification for the extended restrictions on Landlords, whilst restrictions in other areas have been lifted? The Welsh Government state in their Explanatory Memorandum that *"The rate at which the virus is now circulating in the community means that delaying evictions is currently unlikely to be playing a significant role in controlling the transmission of the virus."* In light of these comments in the Explanatory Memorandum, can the Welsh Government provide any evidence to the Committee which demonstrates that tenant evictions pose a greater health risk than allowing citizens to participate and attend other settings where restrictions have been lifted. The Committee consider that such evidence is necessary to demonstrate that the approach taken remains proportionate on grounds of human rights.

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

The Committee note that the Welsh Government have considered other options before deciding to extend the current restrictions for a further 3 months. Option B in the Explanatory Memorandum explores the possibility of taking a more graduated and proportionate action in relation to landlords given the improvement in the general picture of public health.

Paragraph 6.7 states:



“... recognising that the public health situation has improved, there is an argument that it might be appropriate to start reducing notice periods back towards their pre-Covid length. Under this option, therefore, the regulations extending the relevant period would also reduce notice periods from their current six months to four months. For notices issued under section 21 of the Housing Act 1988, this would be the midpoint between the current six months’ notice period and the pre-coronavirus period of two months. Although, this would still mean that a notice issued in June would expire after that issued in July, it would significantly reduce the extent of that differential and mean that the reversion to pre-Covid notice periods from September onwards would be more graduated.”

The Committee note that a more graduated approach has been taken in England (not dissimilar to the option considered above) to take into account the improvements made in the risks to public health and to apply a proportionate response to how landlords may evict their tenants. The legislation (The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) (No. 2) Regulations 2021) introduces a graduated approach. The Regulations in England are drafted in a way that reduces and tapers down the notice periods from 6 months to 2 or 4 months depending on the circumstances and whether they are fault or no fault evictions. The Explanatory Memorandum for the Regulations in England state that *“this is to ensure that the measures remain proportionate to the public health risks, and to mitigate the risk of a cliff-edge in protections that could encourage a spike in possession claims and create pressures for public services.”*

The Committee note the options and reasons given in the Explanatory Memorandum and would like the Welsh Government to expand on and justify the legislative approach taken in these Regulations. Specifically, can the Welsh Government explain why it did not take a tapered approach similar to that in England.

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

“Given the emergency, it has not been possible to conduct any 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 the purpose and effect these Regulations.”

5. 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

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 to make these Regulations means it has not been possible to prepare a quantified Regulatory Impact Assessment."

6. 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 12 weeks) during which a landlord will be subject to the extended notice periods that must be given in order to seek possession of their property, and those extended periods will apply where a landlord wishes to seek possession because of unpaid rent. These Regulations, combined with the provisions made by the Public Health (Protection from Eviction) (Wales) Regulations 2021 and the Health (Protection from Eviction) (No. 2) (Wales) Regulations 2021 (which prevent, except in specified circumstances, attendance at a dwelling for the purpose of executing a warrant of possession or of delivering a notice of eviction) mean that landlords will have been subject to a number of restrictions on obtaining possession over a significant period of time. This may lead to financial difficulties for some landlords in the private rented sector, particularly small-scale landlords who may rely on their rental income to cover mortgage payments or as their only source of income. Given that there has been no formal consultation or a thorough regulatory impact assessment undertaken, what, if any action has the Welsh Government taken to mitigate the economic effects of these Regulations on Landlords.

Welsh Government response

A Welsh Government response is required for merits points 2, 3 and 6.

Committee Consideration

The Committee considered the instrument at its meeting on 28 June 2021 and reports to the Senedd in line with the reporting points above.



Government Response: The Coronavirus Act 2020 (Residential Tenancies: Extension of Period of Protection from Eviction) (No. 2) (Wales) Regulations 2021

Merit Scrutiny point 2:

The Explanatory Notes to the Coronavirus Act 2020 set out the Act's overarching aims, three of which are:

- containing and slowing the virus
- easing the burden on frontline staff; and,
- supporting people.

Section 4.4 of the Explanatory Memorandum that accompanied the Regulations sets out in detail how an extension to the relevant period to which Schedule 29 applies will support these three aims – specifically through reduced homelessness, reduced pressure on services, increased security and reduced anxiety, and increased scope to support individuals at risk of eviction. It is for these reasons that the provisions set out in Schedule 29 are to continue to apply.

The Explanatory Memorandum recognises, as the Committee has noted, that delaying evictions is unlikely to play a significant role in controlling the transmission of the virus at a time when the rate of community transmission is very low. However, the Explanatory Memorandum also notes that there remains a considerable degree of uncertainty regarding the trajectory of the pandemic and that a third wave in Wales appears possible as current evidence suggests that the Delta variant is more transmissible than the previously dominant Alpha variant. The Explanatory Memorandum goes on to note that the impact of any new wave would be significantly exacerbated if accompanied by a sudden wave of evictions and a resultant increase in homelessness. It concludes that in these circumstances, taking continued action to limit the risk of a sudden spike in evictions so that public health continues to be protected, is considered proportionate.

The Committee will be aware that the current restrictions on the enforcement of evictions came to an end when the Public Health (Protection from Eviction) (Wales) (Coronavirus) Regulations 2021 expired on the 30 June. This will inevitably lead to an increase in the number of evictions taking place. These Regulations will mitigate and 'even out' that potential increase in evictions in the light of the risk to public health that is posed.

The Committee has asked for evidence that tenant evictions pose a greater risk to public health than other areas where restrictions have been lifted. In addition to the points already made above, it is also worth noting that those other restrictions could be re-imposed in the light of a sudden worsening in the pandemic and would have immediate effect on the transmission of the virus. Were arrangements for notice periods to revert to the pre-pandemic requirements, however, any subsequent re-imposition of increased notice periods would have no immediate impact on the number

tenants at imminent risk of eviction as a consequence of a notice already issued. In this regard, increased notice periods are a very different form of restriction from the others to which the Committee refers.

Merit Scrutiny point 3:

As the Committee will be aware, throughout the pandemic the Welsh Government has taken decisions in the light of the Welsh context, on the basis of the evidence that we have at our disposal, and with the objective of keeping people in Wales safe. As set out in the Explanatory Memorandum, the option of retaining increased notice periods but at a reduced level was considered, and its potential benefits taken into account. However, in the light of the concerns relating to a potential third wave arising as a consequence of the increased transmissibility of the Delta variant, and the significant proportion of the population who have yet to have both doses of the vaccine and for whom protection is therefore still limited, the more cautious approach taken in the Regulations best reflects our objective of keeping people safe.

Merit Scrutiny point 6:

The Explanatory Memorandum acknowledges that extending the relevant period, so that notice periods remain at an increased length, could result in tenants accruing greater levels of rent arrears, resulting in financial hardship for landlords in the private rented sector – particularly small-scale landlords who may rely on their rental income to cover mortgage payments, or as their only source of income. However it also notes that landlords would still be able to recover possession if a tenant fails to pay rent, or otherwise breach the terms of their tenancy. As the Explanatory Memorandum notes, with the expiry of the Public Health (Protection from Eviction) (Wales) (Coronavirus) Regulations 2021 on 30 June, there will be no continued restriction on landlords taking action to evict tenants for rent arrears once the notice period has expired.

At the same time we have provided a package of support for the sector. This has included:

- £4.1 million to top up Department for Work and Pensions funding for Discretionary Housing Payments to help those in receipt of housing related benefits who are in rent arrears,
- funding of the Private Rented Sector (PRS) Debt Helpline to advise and support private sector tenants struggling with rent, income and housing benefits; delivered by Citizen's Advice Cymru,
- funding of £166 million to local authorities in 2021-22 through the Housing Support Grant to deliver housing related support services. The services help to prevent people from becoming homeless, stabilizes their housing situation, or helps potentially homeless people to find and keep accommodation,
- Providing additional funding through the Discretionary Assistance Fund (DAF),
- Our Tenancy Saver Loan scheme; which made low cost loans available to private sector tenants who suffered a temporary change of income and fell into rent arrears;
- Funding for Shelter Cymru to advise and support tenants.

- Our new Tenancy Hardship Grant, will support private rented sector tenants in Wales who are in significant rent arrears as a direct consequence of the pandemic.

**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **The European Union (Withdrawal) Act and Common Frameworks**

DATE **2 June 2021**

BY **Mick Antoniw MS, Counsel General and Minister for the
Constitution**

The European Union (Withdrawal) Act 2018 requires the UK Government to report to Parliament periodically on matters relating to Common Frameworks and the UK Government's use, if any, of powers under section 12 of the Act (the so-called 'freezing powers') temporarily to maintain existing EU law limits on devolved competence. I am notifying Members that the eleventh such report was laid in Parliament on 20 May 2021, covering the period 26 December 2020 to 25 March 2021.

The report outlines continued positive work on Common Frameworks, and confirms that the UK Government has not used the 'freezing powers'. During this reporting period, the Trade and Cooperation Agreement and the Northern Ireland Protocol came into force. Work to address the issues arising from the interactions between these agreements and UK Common Frameworks is underway.

The UK Internal Market Act was also enacted shortly before the reporting period began. The Welsh Government remains deeply concerned about the potential of this Act to undermine the collaborative Common Frameworks programme.

[The European Union \(Withdrawal\) Act and Common Frameworks: 26 December 2020 to 25 March 2021](#)



Cabinet Office

The European Union (Withdrawal) Act and Common Frameworks

26 December 2020 to 25 March 2021

May 2021



Cabinet Office

The European Union (Withdrawal) Act and Common Frameworks

26 December 2020 to 25 March 2021

Presented to Parliament pursuant to paragraph 4 of Schedule 3 to the European Union (Withdrawal) Act 2018

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**The Rt Hon Alister Jack MP
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**The Rt Hon Simon Hart MP
Secretary of State for Wales**

Foreword

Since 2017, the UK Government and devolved administrations have been working together to develop agreements covering a range of policy areas that have returned from the European Union and that intersect with devolved competence. The development of UK Common Frameworks is guided by principles agreed at the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) in October 2017 between the UK Government and Scottish and Welsh Governments, and, later on 15 June 2020, endorsed by the Executive Committee of the Northern Ireland Executive.

Under Schedule 3 of the European Union (Withdrawal) Act 2018, the UK Government has a statutory requirement to report to UK Parliament every three months on the progress made on the development of UK Common Frameworks. This eleventh European Union Withdrawal and Common Frameworks report details progress from 26 December 2020 to 25 March 2021. In addition to progress made, the report details that the UK Government did not make use of powers under Section 12 of the European Union (Withdrawal) Act 2018 to temporarily limit devolved competence in any policy areas.

The UK Government and devolved administrations have remained committed to progressing UK Common Frameworks. By the end of this reporting period, eight Common Frameworks achieved provisional confirmation status. The UK, Scottish and Welsh Governments provisionally agreed a further 15 frameworks and the UK Government also approved six frameworks that only apply to Northern Ireland. Work has been ongoing to secure provisional approval for all 21 frameworks, whilst they have been operating on an interim basis across the UK at official level, reflecting established ways of working between the administrations.

Parliamentary engagement progressed well in this reporting period, with four provisional frameworks - Public Procurement, Food Compositional Standards and Labelling, Blood Safety and Quality, and Organs, Tissues and Cells - being laid in UK Parliament. UK Parliament and devolved legislatures also provided their remaining recommendations on the three provisional frameworks that were submitted for parliamentary scrutiny in 2020: Nutrition Labelling, Composition and Standards; Hazardous Substances (Planning); and Food and Feed Safety and Hygiene Law. Work progressed to prepare the remaining provisional frameworks for scrutiny in 2021, and, where appropriate, preparations were initiated to plan any future technical engagement with stakeholders.

Progress has been made in preparing UK Government departments for their greater role in the future oversight of Frameworks falling within their purview and ensuring that operating within Common Frameworks becomes 'business as usual' and a standard way of working for the relevant UK Government departments, as noted in the recent progress update on the review of intergovernmental relations.

During this reporting period, the Trade and Cooperation Agreement and the Northern Ireland Protocol came into force and the UK Internal Market Act was enacted shortly before the reporting period began. Work to resolve any issues arising from the interaction between these policy areas and UK Common Frameworks is well underway, in order to make regulation within the UK work for all of its citizens and businesses.

Implementation of Common Frameworks

- 1.1. Part 2 of Schedule 3 to the European Union (Withdrawal) Act 2018 requires that a Minister of the Crown report to Parliament at three month intervals on various matters pertaining to Common Frameworks, and the use of the powers in Section 12 of, and Schedule 3 to, the 2018 Act to temporarily maintain EU law limits on devolved competence. Reports are shared with the devolved administrations to enable them to maintain a concurrent level of scrutiny. The last report was published on 18 March 2021 and covered the reporting period 26 September to 25 December 2020.¹
- 1.2. The purpose of these reports is to ensure that the process of developing Common Frameworks, in collaboration with the devolved administrations, is transparent and subject to robust parliamentary scrutiny.

Principles for Common Frameworks

- 1.3. Under the Withdrawal Agreement, EU law continued to apply to and in the UK during the Transition Period which ended on 31 December 2020. Under the devolution settlements and until the end of the Transition Period, the devolved legislatures and administrations could not act incompatibly with EU law. The EU laws created common UK-wide approaches even where those policy areas were otherwise within devolved competence. The UK Government and devolved administrations have agreed that common approaches will continue to be required in some areas now the UK has left the EU and the Transition Period has ended.
- 1.4. In October 2017, the Joint Ministerial Committee (EU Negotiations) agreed upon principles to guide the work to create Common Frameworks.² These principles are set out below:
 1. *Common Frameworks will be established where they are necessary in order to:*
 - *enable the functioning of the UK internal market, while acknowledging policy divergence;*
 - *ensure compliance with international obligations;*
 - *ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;*
 - *enable the management of common resources;*
 - *administer and provide access to justice in cases with a cross-border element;*
 - *safeguard the security of the UK.*
 2. *Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:*

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/968066/2021-01-04-OFF-SEN-Tenth-EUWA-and-Common-Frameworks-Report-1.pdf

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf

- *be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;*
 - *maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory, as is afforded by current EU rules;*
 - *lead to a significant increase in decision-making powers for the devolved administrations.*
3. *Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK which shares a land frontier with the EU. They will also adhere to the Belfast Agreement.*

1.5. The Northern Ireland Executive endorsed the JMC(EN) principles in June 2020. These principles continue to guide all discussions between the UK Government and the devolved administrations on Common Frameworks. Details of how these principles have been taken into account are included in this report, and will be included in future iterations of this publication.

Progress Towards Establishing Frameworks

1.6. The following section sets out the steps taken during this reporting period by the UK Government, in collaboration with the devolved administrations, towards implementing long-term Common Frameworks. It also outlines how the frameworks principles have been taken into account.

Frameworks Delivery

1.7. The work to establish Common Frameworks has five phases. The delivery plan below illustrates how a framework moves through these five phases of development. Each framework moves through this process at a different pace.

- **Phase 1: Principles and proof of concept:** consists of engagement between UK Government and devolved administration officials (also referred to as multilateral deep dives) to focus on legislative and key non-legislative frameworks, as well as to establish some of the interdependencies that affect multiple frameworks.
- **Phase 2: Policy development:** detailed policy development takes place, including joint work between UK Government and devolved administration officials to agree policy approaches and operational and governance arrangements for each policy area. Initial stakeholder engagement also takes place, where appropriate. This results in jointly drafted and agreed outline frameworks.
- **Phase 3: Review and consultation:** UK Government and devolved administrations collaborate to further develop and finalise policy approaches, explore interactions with cross-cutting workstreams, and agree operational and governance arrangements. Technical engagement takes place with sector-specific stakeholders. Towards the end of Phase 3, in-depth review and assessment takes place, conducted jointly at official level. This phase

results in cross-departmental collective agreement on the policy approach within the UK Government, and provisional confirmation of frameworks by members of JMC(EN). This in-depth review and joint confirmation ensures that a minimally operable framework, recognised as a 'provisional framework', is developed.

- **Phase 4: Preparation and implementation:** after JMC(EN) ministerial confirmation of a provisional framework, provisional frameworks are shared with legislatures to enable parliamentary scrutiny. UK Government and devolved administration officials work jointly on any ongoing reappraisals of cross-cutting issues, and review parliamentary recommendations in order to finalise individual frameworks. At the end of this phase, the provisional framework receives ministerial approval from the intergovernmental forum responsible for the Common Frameworks programme and the successor to JMC(EN) (which is being agreed through the review of intergovernmental relations).
- **Phase 5: Post-implementation:** post-implementation arrangements take place, including regular cycles of review and, if appropriate, amendment. These vary between frameworks and details continue to be developed as the Common Frameworks programme progresses.

- 1.8. Frameworks have continued to be developed in 2021, depending on the requirements of the particular policy area. This may require a combination of legislative and non-legislative measures. A detailed overview of which frameworks fall into legislative or non-legislative categories can be found in the Frameworks Analysis 2020 published on 24 September 2020.³ A further analysis will be published later in 2021.
- 1.9. The delivery process detailed above accounts for the need for frameworks to be implemented in different ways, with some activities undertaken concurrently, to ensure that all of the necessary steps have been completed. As a result, frameworks will move forward and be finalised at different points in time, depending on their individual requirements.

Delivery Plan

- 1.10. Following the capacity pressures on officials working across the UK Common Frameworks programme as a result of the COVID-19 outbreak in 2020, the UK Government and the devolved administrations have remained committed to delivering Common Frameworks and the programme continued to make progress in early 2021.
- 1.11. Work on individual frameworks during 2021 has been ongoing, to take account of the cross-cutting issues that apply to those frameworks and the likelihood of them benefitting from any further technical stakeholder engagement. Delivery timelines for each framework will vary according to the cross-cutting issues that apply, any further

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/919729/Frameworks-Analysis-2020.pdf

stakeholder engagement and whether the framework intersects with the devolved competence of one or all devolved administrations.

- 1.12. The pre-election period for the election to the Senedd and Scottish Parliament began on the last day of this reporting period (25 March 2021). During this reporting period, the Cabinet Office liaised with the devolved administrations to coordinate the continued progression of the programme during the pre-election period while respecting the guidance for civil servants of all administrations to maintain impartiality during the period. Both the Scottish Government and Welsh Government have committed to continuing to participate in meetings between officials, through the Frameworks Project Team and Frameworks Project Board meetings and will seek to make progress on frameworks where possible and appropriate.

Framework Coordination

- 1.13. Common Frameworks are being developed through constructive discussions between the UK Government and devolved administrations. This has continued during the latest reporting period.
- 1.14. During this reporting period, there were two meetings of the UK Government-devolved administrations Frameworks Project Board, involving Cabinet Office senior officials and their counterparts in the devolved administrations. The Project Board monitors progress and facilitates agreement on the direction of the Common Frameworks programme.
- 1.15. At an operational level, there have been weekly Frameworks Project Team meetings between officials in the UK Government and the devolved administrations, where productive, collaborative work has been undertaken to support the detailed development of frameworks by policy officials.
- 1.16. Multiple meetings have taken place between officials in the Cabinet Office, other government departments and the devolved administrations. These include working group meetings on individual frameworks across the Common Frameworks programme.
- 1.17. Cabinet Office, as programme coordinator, has continued to engage with departments across the UK Government during this reporting period. This has been done via the fortnightly Frameworks Deputy Director Group on strategic policy development and planning, and the monthly Frameworks Working Group to provide policy leads with updates, discuss barriers and drive progress.

Programme Development

Provisional Confirmation

- 1.18. During this reporting period, JMC(EN) ministers agreed five further provisional frameworks, bringing the total of provisionally confirmed frameworks to eight. A provisional framework is an outline framework which has been agreed by JMC(EN)

having first undergone collaborative policy development, testing of policy conclusions, peer review and, where appropriate, external sector-specific engagement.

- 1.19. Additionally, the UK Government, Scottish Government and Welsh Government had provisionally agreed a further 15 frameworks and the UK Government had also provisionally approved six frameworks that only intersect with Northern Ireland. These 21 frameworks have been operating on an interim basis across the UK at official level while their provisional confirmation is awaited. The operation of these frameworks reflects established ways of working between the administrations.

Phase 4 Development

- 1.20. All provisional frameworks continued to undergo development towards their finalisation, which requires conclusion of:
- a) Any remaining framework-specific policy development, including the resolution of cross-cutting issues;
 - b) Any further technical stakeholder engagement required; and
 - c) Parliamentary scrutiny by the legislatures of each administration with an interest in the framework.
- 1.21. The UK Government and devolved administrations developed a Phase 4 review process that will prepare provisional frameworks for full implementation. Once the framework has been fully developed and parliamentary scrutiny has been completed, a final official-level review at the end of Phase 4 will precede final ministerial confirmation by each administration as full frameworks.
- 1.22. Whilst the steps towards final agreement are the same across the programme as a whole, each framework will follow an individual timeline depending on the level of further policy development required and the timing of scrutiny by different committees across UK Parliament, Scottish Parliament, Welsh Parliament (Senedd Cymru) and the Northern Ireland Assembly.

Hazardous Substances

- 1.23. The scrutiny of the Hazardous Substances (Planning) Framework continued with recommendations being issued by the Scottish and Welsh Parliaments and the Northern Ireland Assembly on 13 and 21 January and 4 February respectively. The relevant House of Lords and House of Commons Committees had previously provided recommendations in December 2020.
- 1.24. The UK Government and devolved administrations agreed amendments to the framework to take account of these recommendations. The amended framework was subsequently agreed by the Frameworks Project Board on 16 March and Portfolio Ministers completed their clearance on 22 March. The framework was submitted for final approval by the ministers responsible for intergovernmental relations from each administration, at the end of the reporting period.

Transparency

- 1.25. The UK Government is committed to transparency in the UK Common Frameworks programme. The European Union (Withdrawal) Act and Common Frameworks report, detailing programme delivery and individual framework development, will continue to be laid quarterly, as per statutory requirements. These reports, alongside a number of provisional frameworks and associated publications can be accessed on the UK Government's UK Common Frameworks webpage on gov.uk.⁴

Parliamentary Engagement

- 1.26. On 23 March, four provisional frameworks were laid in UK Parliament and published on gov.uk. UK Government departments advised chairs of their respective UK Parliament committees of the update, and similar steps were taken across the devolved administrations prior to the Scottish and Welsh pre-election period. The four provisional frameworks are: Public Procurement, Food Compositional Standards and Labelling, Blood Safety and Quality, and Organs, Tissues and Cells (apart from embryos and gametes).
- 1.27. The Public Health Protection and Health Security Framework was also provisionally confirmed during this reporting period. It is intended that this framework will be laid before Parliament and published, once the UK Government and devolved administrations have further updated it to reflect recent public health developments across the UK and the impact of the operation of the UK-EU Trade and Cooperation Agreement.
- 1.28. During this reporting period, UK Parliament and devolved legislatures submitted recommendations arising from parliamentary scrutiny conducted on Hazardous Substances (Planning); Nutrition Labelling, Composition and Standards; and Food and Feed Safety and Hygiene Law. The UK Government and devolved administrations began jointly considering the parliamentary recommendations for all three frameworks, and during this reporting submitted a revised Hazardous Substances (Planning) Framework for Ministerial approval.
- 1.29. At an official level, the UK Government and UK Parliament have worked closely to prepare for formal scrutiny of UK Common Frameworks. As a result, the majority of UK Government departments have now sent summaries of their provisional frameworks committees to UK Parliamentary committees. Framework summaries shared with UK Parliament in this reporting period include: Company Law, Late Payments, Radioactive Substances, and Specified Quantities and Packaged Goods Legislation.
- 1.30. The UK Government has continued to engage constructively with the House of Lords Common Frameworks Scrutiny Committee (CFSC). On 23 February, the Minister for the Constitution and Devolution, Chloe Smith MP, gave evidence to the CFSC by providing an update and answering committee questions on the Common Frameworks programme. The Committee has continued to take a close interest in the

⁴ <https://www.gov.uk/government/collections/uk-common-frameworks>

programme and has issued 10 letters to UK Government ministers during the reporting period, including providing recommendations on the Food and Feed Safety and Hygiene Law Framework.

- 1.31. The UK Government continues to engage with the House of Commons. The Parliamentary Secretary at the Cabinet Office, Julia Lopez MP, attended the House of Commons Public Administration and Constitutional Affairs Committee on 2 March to give evidence on the Public Procurement Framework and wider programme. The Minister for the Constitution and Devolution corresponded with Bernard Jenkin MP, Chair of the House of Commons Liaison Committee, on matters including programme progress, parliamentary scrutiny, and intergovernmental relations.

Stakeholder Engagement

- 1.32. The UK Government and devolved administrations work collaboratively to conduct a programme of engagement with sector-specific experts at various points in the development of each framework. This engagement is conducted jointly across all administrations, where possible; the process updates stakeholders on the development of specific frameworks and affords stakeholders an opportunity to input their views and expertise.
- 1.33. In this reporting period, provisional frameworks were reviewed by the Cabinet Office and policy-owning departments, taking account of discussions with the devolved administrations, to determine what additional technical stakeholder engagement may be required, if any. Where appropriate, preparations were initiated to plan any future engagement with stakeholders.

Cross-Cutting Issues

- 1.34. Work was carried out with UK Government policy-owning departments and devolved administrations to ascertain and swiftly address the range of cross-cutting issues within individual frameworks. The Frameworks Project Board has now established a joint sub-group to facilitate this.

Northern Ireland and the Ireland/Northern Ireland Protocol

- 1.35. The principles for Common Frameworks agreed at JMC(EN) on 16 October 2017 state that “frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land border with the EU. They will also adhere to the Belfast Agreement”.
- 1.36. The Protocol on Ireland/Northern Ireland to the Withdrawal Agreement, including the Unilateral Declaration on Consent made by the UK Government, avoids a hard border on the island of Ireland, whilst ensuring that the UK, including Northern Ireland, could leave the EU as a whole. As long as the Protocol is in force, special provisions apply in Northern Ireland. These include (but are not exhausted by) Northern Ireland remaining within the UK’s customs territory but aligning with the EU

on goods (including certain laws for VAT on goods), and EU tariffs applying in Northern Ireland except for movements within the single customs territory of the UK. A number of pieces of EU legislation will continue to apply directly in Northern Ireland by virtue of the Protocol, in certain policy areas. These are set out in the Annexes to the Protocol.

- 1.37. The Protocol came into force during this reporting period. The operation of Common Frameworks will not have any adverse consequences for the implementation of the Protocol, and Common Frameworks contain the governance structures needed to manage divergence arising from the Protocol.

Trade and Cooperation Agreement

- 1.38. The UK-EU Trade and Cooperation Agreement (TCA) came into force during this reporting period. The TCA changes the basis of the UK's relationship with the EU and many of the provisions of this agreement overlap with policy areas that intersect with Common Frameworks.
- 1.39. The UK Government and the devolved administrations are currently considering how the TCA should best be referenced within the Common Frameworks.

UK Internal Market

- 1.40. The UK Internal Market Act came into force in this reporting period, establishing the UK's internal market regime by placing in legislation the market access principles of mutual recognition and non-discrimination.
- 1.41. The UK Government began work on implementing the provisions within the Act, including those which relate to Common Frameworks. Discussions on this are progressing at official level between UK Government and the devolved administrations.

Intergovernmental Review

- 1.42. In this reporting period, the UK Government published an update on the Intergovernmental Relations Review, alongside the Dunlop Review and the first iteration of the Intergovernmental Relations Quarterly Report.
- 1.43. The revised intergovernmental relations structures agreed through the review will likely form much of the context in which Common Frameworks will operate, as well as providing part of the route for dispute resolution within Common Frameworks.

Legislation Relating to Retained EU Law Restrictions

- 1.44. Section 12 of the European Union (Withdrawal) Act 2018 removed the requirements in each of the devolution statutes that the devolved legislatures could only legislate in

ways that were compatible with EU law. The Act then replaced those requirements with powers for the UK Government to apply, by regulations, a temporary ‘freeze’ on devolved competence in specified areas, subject to the approval of the UK Parliament, via the draft affirmative scrutiny procedure. These provisions came fully into force at the end of the Transition Period.

- 1.45. The process for making, agreeing and revoking these regulations can be found in the first European Union (Withdrawal) Act and Common Frameworks report.

Regulations to ‘Freeze’ Devolved Competence

Retained EU law restrictions applied during reporting period

- 1.46. No regulations have been made to apply retained EU law restrictions under these powers during the reporting period.

Progress towards removal of retained EU law restrictions

- 1.47. No retained EU law restrictions made under the powers in Sections 30A and 57(4) of the Scotland Act 1998, Sections 80(8) and 109A of the Government of Wales Act 2006, or Sections 6A and 24(3) of the Northern Ireland Act 1998 had effect at the end of the reporting period.

Regulations to Repeal the ‘Freezing’ Powers

- 1.48. In addition to the ‘freezing’ powers inserted into the devolution statutes by the European Union (Withdrawal) Act, Section 12(9) confers a power on UK Ministers to repeal, by regulations, the new provisions containing those powers.

Powers to apply retained EU law restrictions repealed during reporting period

- 1.49. No regulations have been made under Section 12(9) of the European Union (Withdrawal) Act to repeal the powers to apply retained EU law restrictions during the reporting period.

Progress required in order to repeal the powers to apply retained EU law restrictions

- 1.50. The UK Government has not sought to make use of the powers to apply retained EU law restrictions at this juncture. As outlined earlier in this report, significant progress is being made across policy areas to establish Common Frameworks in collaboration with the devolved administrations.
- 1.51. The ‘freezing’ powers provide a mechanism to give certainty across those areas where common rules do need to be maintained, by ensuring that there will not be substantive policy change in different parts of the UK until those future arrangements are in place. In order to remove those powers from the statute book, further progress

towards the implementation of Common Frameworks would be needed. The UK Government will keep this position under review, in line with the statutory duty in Section 12(10) of the European Union (Withdrawal) Act.

Rebecca Evans AS/MS
Y Gweinidog Cyllid a Llywodraeth Leol
Minister for Finance and Local Government

Agenda Item 9.1



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies AS/MS
Chair of Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
CF99 1SN

01/07/2021

Dear Huw,

I am writing to inform you that, following a public consultation, a revised Regulatory Impact Assessment Code for Subordinate Legislation (the 'RIA Code') has been laid in the Senedd and published on the Welsh Government's website. The review of the RIA Code was prompted by a query from the Legislation, Justice and Constitution Committee during the last Senedd term.

The revised RIA Code can be found via the following link:

<https://gov.wales/welsh-ministers-regulatory-impact-assessment-code-for-subordinate-legislation-2021-html>

I have copied this letter to the Chair of Finance Committee.

Yours sincerely,

Rebecca Evans AS/MS
Y Gweinidog Cyllid a Llywodraeth Leol
Minister for Finance and Local Government

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation

1. Introduction

- 1.1 The purpose of this Code is to set out the Welsh Ministers' policy on carrying out regulatory impact assessments (RIAs) in relation to relevant subordinate legislation which they propose to make. Although the term "the Welsh Ministers" is used in this Code, it is, unless otherwise stated, taken to also include the First Minister and the Counsel General in accordance with section 76(2)(b) of the Government of Wales Act 2006 ("GOWA 2006").
- 1.2 The Code also reaffirms the Welsh Ministers' commitment to consider the impact of subordinate legislation on business, the third sector, local government and others; and on its statutory duties, explained below.
- 1.3 **Details of what constitutes subordinate legislation** can be found on the Senedd Cymru website.

2. The Content of this Code

- 2.1 This Code is made under section 76 of GOWA 2006, which provides that the Welsh Ministers must make a code of practice setting out how and in what circumstances they intend to carry out a regulatory impact assessment when making relevant Welsh subordinate legislation.
- 2.2 Section 76(2)(a) of GOWA 2006 provides the following definition for a Regulatory Impact Assessment:

"a regulatory impact assessment is an assessment as to the likely costs and benefits of complying with relevant Welsh subordinate legislation".
- 2.3 Section 76(2)(b) of GOWA 2006 provides the following definition in respect of "relevant Welsh subordinate legislation":

"subordinate legislation is relevant Welsh subordinate legislation if it is made by the Welsh Ministers, the First Minister or the Counsel General and the statutory instrument (or a draft of the statutory instrument) containing it is required to be laid before the Senedd".

2.4 Paragraph 3.3 of this Code also sets out the circumstances in which the Welsh Ministers will voluntarily produce an RIA for subordinate legislation which falls outside of the definition of “relevant Welsh subordinate legislation”.

3. Policy for carrying out an RIA

3.1 RIAs provide the Welsh Ministers, the Accounting Officer, Senedd Cymru and stakeholders with information on the likely costs, benefits and risks associated with alternative policy options. This includes consideration of how the proposed changes would impact on different individuals, groups and organisations etc. Each assessment is intended to help the Welsh Ministers identify a preferred option from a value for money perspective and is designed to present the information needed for Senedd Cymru and stakeholders to be able to scrutinise that decision effectively.

3.2 The Welsh Ministers’ policy will be to always carry out an RIA for relevant Welsh subordinate legislation (as defined) - subject to the following exceptions:

- Where the subordinate legislation simply increases a statutory fee, tax rate, payment, grant or allowance by a predetermined formula (for example, the rate of inflation).
- Where technical amendments are required to change the wording of the law rather than its purpose or effect.
- Where factual amendments are being made to update subordinate legislation and which do not alter the policy (or its impact) in any significant way or how it is applied in a given situation.
- Where the subordinate legislation is a Commencement Order or Commencement Regulations or Regulations which also make consequential provision or savings (provided the savings are not made by imposing an additional cost on an alternative party), etc.
- Where the delay that would be caused by conducting an RIA would defeat the object of making the legislation in question.
- Where the subordinate legislation is urgently required to:
 - i. negate or mitigate a serious threat to human, animal or plant health or serious damage to property; OR
 - ii. properly respond to circumstances resulting from such a threat.
- Where the subordinate legislation is made in the exercise of statutory powers granted by an Act or Measure which does not in any way give the Welsh Ministers discretion as to how those powers should be exercised.

- 3.3 Where an RIA is not required under this Code in respect of a piece of subordinate legislation (either because it falls outside the scope of section 76(2)(b) of GOWA 2006 or it falls within one of the exceptions) the Welsh Ministers may voluntarily conduct an RIA. Each piece of subordinate legislation which does not require an RIA will be assessed individually to determine whether it will nevertheless be accompanied by an RIA. Generally, the greater the impact of a piece of subordinate legislation, the more likely it is that an RIA will be carried out in respect of it.
- 3.4 The development of an RIA is part of an ongoing process that begins with an assessment of whether legislation is necessary to implement a new policy. The impact of the proposed subordinate legislation must be assessed when the options for the development of a policy are being considered. Effective stakeholder engagement is critical for the development of a robust RIA and the approach is consistent with the Welsh Government's policy of consulting and involving others (including business, local government and the voluntary sectors) in the development of policies at the very earliest opportunity.
- 3.5 The RIA is developed in parallel to an Integrated Impact Assessment (IIA). The Well-being of Future Generations (Wales) Act 2015 (WFGA 2015) provides the framework for the IIA, which assesses the social, cultural, economic and environmental impacts (both positive and negative) of policy proposals.
- 3.6 Subordinate legislation is usually concerned with detailed changes to the law made in most cases under powers from an Act of Parliament, an Act of Senedd Cymru or an Assembly Measure. The changes made by subordinate legislation can vary significantly from the technical, like uprating figures in line with inflation; to providing detailed rules necessary for the operation of an Act or Measure. In all cases, the level of detail and depth of analysis in the RIA should be proportionate to the scale of the likely impact.
- 3.7 In line with Standing Order requirements, the completed RIA will be included as part of the Explanatory Memorandum which accompanies a piece of subordinate legislation when it is laid before the Senedd.
- 3.8 Where two or more pieces of subordinate legislation are closely linked and a single RIA could adequately address each of them, a single RIA may be

prepared in respect of all those pieces of subordinate legislation. Where this is the case, the RIA (or an internet link to the RIA) will be included in each Explanatory Memorandum.

4. Consultation in connection with RIAs for subordinate legislation

The Welsh Ministers' statutory schemes and functions

4.1 As part of the regulatory process and in compiling any RIA, the Welsh Ministers will carry out the proper and appropriate consultation with those who are likely to be affected, and those who have an interest in the overall impact of the legislation. Such consultation will be consistent with the provisions of the statutory partnership schemes provided for in GOWA 2006:

- Section 73 – **Local government partnership scheme** (Chapter 8)
- Section 74 – **Third sector scheme** (Chapter 3), and
- Section 75 – **Business scheme** (paragraphs 17 – 23)

4.2 In compiling an RIA, the Welsh Ministers will have due regard to their statutory duties including those set out in GOWA 2006.

4.3 It is the policy of the Welsh Government to consult for 12 weeks on new policy proposals unless there is a compelling reason to do otherwise. All public consultations are made available online.

4.4 **Current Welsh Government consultations** are available on the GOV.WALES website.

5. Revision and remaking

5.1 Section 76(3)(a) of GOWA 2006 requires the Welsh Ministers to keep this Code under review.

5.2 Section 76(4) to (6) of GOWA 2006 provides that if the Welsh Ministers decide they want to revise or remake the Code then they must:

- consult such persons as they consider appropriate
- publish the Code when they remake it
- publish any revisions (either the revisions themselves or the revised Code in its entirety), and

- If the Code is remade or revised, then lay a copy before the Senedd.

6. Consultation on the Code

- 6.1 A public consultation on a draft version of the revised Code was held between 08 December 2020 and 04 March 2021. The consultation asked that the scope of the draft Code and the proposed exceptions be considered.
- 6.2 This Code was laid before the Senedd on 29 June 2021.



Huw Irranca Davies MS,
Chair,
Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
CF99 1SN

5 July 2021

Dear Mr Irranca-Davies,

Many congratulations on your appointment as chair of the new Legislation, Justice and Constitution Committee. I am writing as Head of Wales Office for the Royal College of Speech and Language Therapists. I appreciate the wide-ranging remit of the committee and the many calls on the committee's time but wanted to take an early opportunity to raise the possibility of a short inquiry into the speech, language and communication needs of young people in the youth justice estate. As the facts below highlight, this is a significant issue which could benefit from a timely, focused review.

Key facts

- Up to **60%** of young people in the youth justice estate have speech, language & communication needs (Bryan et al, 2007).
- **66%-90%** of young offenders have low language skills. 46-67% of these are in the poor or very poor range (Bryan et al, 2007).
- Around **40%** of young offenders find it difficult or are unable to access and benefit from rehabilitation programmes that are delivered verbally, such as drug rehabilitation courses (Bryan et al, 2004).

To our knowledge, this issue was last reviewed by the Senedd over ten years ago when the then Communities and Culture Committee report 'Youth justice: the experience of Welsh children in the secure estate' (2010) highlighted a lack of provision in Wales for young and adult offenders who have speech language and communication needs and recommended the Welsh Government enable pilot work to be done in Wales on the potential benefits of speech and language therapy for juvenile offenders both in custody and on release. Despite evidence from the pilots, provision remains extremely patchy over a decade later. This was briefly touched upon by the recent Health Committee inquiry on the provision of health and social care in the adult prison estate in Wales in which the governor of HMP Parc acknowledged that there was unmet need for speech and language therapy among the prison population.

We believe a potential short inquiry by the committee could be extremely helpful in shining a light on this key area and would be happy to provide further information to the committee should you wish to explore this possibility further.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Cotterill', is enclosed in a light grey rectangular box.

Pippa Cotterill,

Head of Wales Office

Ein cyf/Our ref: MA/LG/2120/21

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee

7 July 2021

Dear Huw,

The Official Controls (Extension of Transitional Periods) Regulations 2021

The Secretary of State proposes to make the above named Statutory Instrument (SI) under powers conferred by:

- Article 144(6) of, and paragraph 2 of Annex 6 to, Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products;
- Regulation 71(1) of the Import of, and Trade in, Animals and Animal Products (Miscellaneous Amendments) (EU Exit) Regulations 2020; and
- Regulation 33(2) of the Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations 2020.

In order to support trade by ensuring the continued delivery of functioning sanitary and phytosanitary (SPS) controls between Great Britain (GB) and the European Union (EU) following the end of the Transition Period.

Statutory instruments made by the UKG (with the consent of the Welsh Ministers) and brought into force in late 2020 / early 2021, under the European Union (Withdrawal) Act 2018, made provision for to the UK Government's decision a transitionary period, during which, to introduce checks on EU SPS imports would be introduced in phases, to start following the end of the Transition Period.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The 2021 Regulations amends the following legislation and will now extend the transitional staging period from 31 July 2021 to 28 February 2022:

- Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products;
- The Trade in Animals and Related Products Regulations 2011 (applies to England only);
- the Import of, and Trade in, Animals and Animal Products (Miscellaneous Amendments) (EU Exit) Regulations 2020; and
- The Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations 2020.

Without these amendments, from the end of July 2021, import and exports businesses in GB and EU respectively will be obliged to comply with the SPS control requirements as currently set out in legislation.

The extension will allow businesses in Wales affected by the pandemic to familiarise themselves with the new SPS compliance requirements and IT systems and ensure that necessary infrastructure and processes are in place at Border Control Points, further minimising the risk of any disruption.

I am writing to let you know I give my consent to the Secretary of State to make this SI in relation to Wales. I understand the SI will be laid before the Houses of Parliament on 8 July and will be subject to the negative procedure.

In these exceptional circumstances when we are required to consider and correct an unprecedented volume of legislation within a tight timeframe and with finite resources, the Welsh Government's general principal is that, if appropriate, we permit the UK Government to legislate on our behalf. Should consent be withheld, these corrections will need to be made through legislation made by the Welsh Government. There is insufficient time and resources to be able to draft and lay such regulations to come into force. If consent is not given, then the risk of the Welsh statute book becoming inoperable increases.

I am copying this letter to the Counsel General and Minister for the Constitution, Minister for Climate Change, Deputy Minister for Mental Health and Wellbeing and the Chair of the Economy, Trade, and Rural Affairs Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end.

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd

Huw Irranca-Davies MS
Chair
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Reference: AC/271/caf
Date issued: 9 July 2021

Dear Huw

The Work of Audit Wales

Congratulations on your appointment as Chair of the Legislation, Justice and Constitution Committee. I wish you every success in your new role and at the start of a challenging five-year period for public services in Wales.

My remit as Auditor General for Wales means that I am the statutory external auditor of most of the Welsh public sector and responsible for the audit of most of the public money spent in Wales. In September, I am planning to publish a series of 'Picture of Public Services' outputs. These will provide our take on the key financial and wider challenges facing public services over the coming years and will set out some of the key areas of public service delivery where I will be expecting public services to demonstrate progress. I hope that the outputs from this work will be of interest to all Members of the Senedd and that they will provide a useful point of reference for their future work.

I am expecting that the work of Audit Wales will continue to play a key role supporting the work of the new Public Accounts and Public Administration Committee (PAPAC), with PAPAC remaining our primary audience. However, I am also keen that Audit Wales uses its unique perspective and expertise to support the work of other Senedd

committees where we have relevant audit intelligence to bring to bear. We would therefore welcome the opportunity to be included on any wider consultations that your Committee runs. I am also anticipating that there will continue to be occasions where committees other than PAPAC might take the lead in scrutinising issues raised by my reports, where these are relevant and timely in the context of their own scrutiny work.

We have just recently published our latest [Annual Report and Accounts](#), which tells the story of our work during 2020-21 and links to some of our major outputs. Our Annual Report also summarises work in progress or planned to start later this year and we will be sharing further details with committee clerking teams over the summer. The Committee may also be interested in the report we published in September 2020 on [Better Law Making: the implementation challenge](#), which drew on findings from some of our previous work.

If you or your Committee members would like to find out more about the work of Audit Wales, then please do not hesitate to get in touch. If Members have specific concerns about the use of public money, then we are always open to receiving correspondence. Members can either contact me directly or they can do so via our Audit Wales address info@audit.wales. Further details about how we handle such correspondence are available on our website: [Raising a concern | Audit Wales](#).

I very much look forward to working with you over the next five years.

Best wishes,



ADRIAN CROMPTON
Auditor General for Wales

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Document is Restricted

Merits report for Statutory Instruments laid but not formally scrutinised by the Legislation, Justice and Constitution Committee in the Fifth Senedd

April 2021

Each of the following statutory instruments was laid before the Senedd at a point that did not allow them to be properly considered by the Fifth Senedd's Legislation, Justice and Constitution Committee.

Standing Orders include a requirement for there to be “a responsible committee” and for that committee to report on statutory instruments within 20 days of being laid.

In the Sixth Senedd, it is unlikely that the responsible Committee will be established in time to consider all statutory instruments laid (and not reported on) at the end of the Fifth Senedd within the 20-day reporting deadline. The 40-day deadline, within which the Senedd is able to annul instruments subject to the negative procedure, may also have passed before the incoming responsible Committee can consider these instruments.

In these circumstances, the instruments would not have been subject to any Senedd scrutiny procedure and the opportunity for Senedd Members to table motions to annul any of the instruments may be lost.



Therefore, the Legislation, Justice and Constitution Committee has agreed to report under Standing Order 21.3 that the Senedd should pay special attention to these Statutory Instruments because they give rise to an issue of public policy likely to be of interest to the Senedd (namely that they may by-pass the usual scrutiny arrangements for Statutory Instruments).

SL(5)797 - The Accounts and Audit (Wales) (Amendment) Regulations 2021

Procedure: Negative

These Regulations amend the Accounts and Audit (Wales) Regulations 2014 (“the 2014 Regulations”).

The 2014 Regulations made provision regarding the audit and accounts of local government bodies in Wales which are required to be audited by the Auditor General for Wales pursuant to section 13 of the *Public Audit (Wales) Act 2004*.

These Regulations provide that corporate joint committees established by Regulations made under Part 5 of the *Local Government and Elections (Wales) Act 2021* are subject to the provisions of the 2014 Regulations where relevant.

Date Made: 17 March 2021

Date Laid: 18 March 2021

Coming into force date: 8 April 2021

20 days ends: 16 May 2021

40 days ends: 4 June 2021

SL(5)800 - The Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) (Amendment) Regulations 2021

Procedure: Negative

These Regulations amend the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 (“the principal Regulations”). The principal Regulations apply to meetings of executives of county and county borough councils in Wales which are operating executive arrangements under Part 2 of the *Local Government Act 2000*.

These Regulations amend the principal Regulations to reflect the fact meetings of executives and their committees may be held partly or solely through remote means. They also require notices and agendas for executive meetings, reports

connected with those meetings, written statements of executive decisions, reports considered when taking executive decisions and background papers to be published on an authority's website, although background papers are not required to be published on the website of an authority if it would not be reasonably practicable to do so.

Date Made: 18 March 2021

Date Laid: 19 March 2021

Coming into force date: 1 May 2021

20 days ends: 17 May 2021

40 days ends: 5 June 2021

SL(5)801 - The Bee Diseases and Pests Control (Wales) (Amendment) Order 2021

Procedure: Negative

This Order amends the Bee Diseases and Pests Control (Wales) Order 2006 ("the 2006 Order") which makes provision for the control of pests and diseases affecting bees.

Article 2 inserts article 2A into the 2006 Order. Article 2A requires persons owning or in charge of a hive to report the presence of any species of Varroa mite in that hive to the Welsh Ministers.

Date Made: 17 March 2021

Date Laid: 19 March 2021

Coming into force date: 21 April 2021

20 days ends: 17 May 2021

40 days ends: 5 June 2021

SL(5)802 - The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 4) Regulations 2021

Procedure: Negative

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (the "International Travel Regulations"). The International Travel Regulations impose requirements on persons entering Wales after having been abroad.

From 15 February 2021, the Welsh Government introduced a ban on travellers arriving into Wales if they had been in a “red list country” (those listed in Schedule 3A of the International Travel Regulations) in the previous 10 days. Travellers must arrive at one of the designated ports of entry in England (or Scotland) and remain there in managed isolation for 10 days before travelling on to Wales. In addition, for arrivals from “amber list countries” (those not in the Common Travel Area of Ireland, Isle of Man or the Channel Islands, or on the list of red list of countries) exemption from isolation was made more restrictive so that isolation for 10 days is required but a person may leave isolation for a limited period for work purposes.

These Regulations:

- remove Portugal and Mauritius from the red list, but add Oman, Qatar, Ethiopia and Somalia;
- amend the list of reasons to leave isolation for those who arrived from an amber list country;
- increase the isolation requirements for arrivals from red list countries;
- amend enforcement provisions for immigration officers and police in respect of people who have been in red list countries.

Date Made: 19 March 2021

Date Laid: 19 March 2021

Coming into force date: 20 March 2021

20 days ends: 17 May 2021

40 days ends: 5 June 2021

SL(5)803 - The Town and Country Planning (Strategic Development Plan) (Wales) Regulations 2021

Procedure: Negative

Section 60M(1) of the *Planning and Compulsory Purchase Act 2004* requires a corporate joint committee, to which Part 6 of that Act applies by virtue of regulations made under Part 5 of the *Local Government and Elections (Wales) Act 2021*, to prepare a strategic development plan (“SDP”) for its area.

These Regulations are split into 6 parts and make the following provision:

- Part 1 deals with general matters;
- Part 2 deals with the preparation and revision of an SDP;
- Part 3 deals with the steps that must be taken following revocation of an SDP;
- Part 4 makes provision for the review of an SDP every six years;
- Part 5 deals with the content and publication of an annual monitoring report;
- Part 6 provides for requirements as to the availability of documents.

Date Made: 18 March 2021

Date Laid: 22 March 2021

Coming into force date: 28 February 2022

20 days ends: 20 May 2021

40 days ends: 8 June 2021

SL(5)804 – The Agricultural Holdings (Units of Production) (Wales) Order 2021

Procedure: Negative

This Order prescribes units of production for the assessment of the productive capacity of agricultural land situated in Wales and sets out the amount which is to be regarded as the net annual income from each such unit for the year 12 September 2019 to 11 September 2020 for certain purposes of the *Agricultural Holdings Act 1986*.

Date Made: 19 March 2021

Date Laid: 22 March 2021

Coming into force date: 12 April 2021

20 days ends: 20 May 2021

40 days ends: 8 June 2021

SL(5)805 - The Sea Fishing (Penalty Notices) (Wales) (Amendment) Order 2021

Procedure: Negative

This Order amends the Sea Fishing (Penalty Notices) (Wales) Order 2019 (“the 2019 Order”) in consequence of amendments made by the *Fisheries Act 2020* (“the 2020 Act”).

The 2019 Order creates a scheme for the issuing and payment of penalty notices for specified offences related to sea fishing (“penalty offences”).

The 2020 Act makes provision for access of foreign vessels to fisheries in Wales and the Welsh zone, and for the licensing of fishing vessels by the Welsh Ministers. It also revokes provisions in other legislation which governed those matters. This Order therefore updates the list of penalty offences contained in the 2019 Order by removing references to offence provisions which have been revoked by provisions in the 2020 Act and including references to the relevant new provisions.

The 2020 Act also provides the Welsh Ministers with powers to make orders relating to the exploitation of sea fisheries resources and provides that a breach of those orders is an offence. This Order therefore adds that offence to the list of penalty offences specified in the 2019 Order.

Date Made: 22 March 2021

Date Laid: 23 March 2021

Coming into force date: 14 April 2021

20 days ends: 21 May 2021

40 days ends: 9 June 2021

SL(5)806 - The Government of Maintained Schools (Training Requirements for Governors) (Wales) (Amendment) Regulations 2021

Procedure: Negative

The Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013 (“the 2013 Regulations”) set out the training requirements for governors at maintained schools in Wales. Under the 2013 Regulations all newly appointed, re-appointed, newly elected or re-elected governors must attend training on school performance data within one year of

their appointment or election. Non-completion of the training would result in a six month suspension, and if the training was not completed within that six month suspension period ultimately the governor would be disqualified.

The purpose of the Regulations is to amend the definition of “school performance data training” in the 2013 Regulations so that it refers to the latest training document published by the Welsh Ministers for governors on understanding school performance data. The Regulations also provide that:

- any governor who has completed the training using the revised 2020 training document before these Regulations come into force is to be treated as meeting the school performance data training requirements under the 2013 Regulations;
- any governor who has completed the mandatory data training specified under the 2013 Regulations before these regulations come into force does not have to repeat the training in accordance with these Regulations.

Date Made: 19 March 2021

Date Laid: 23 March 2021

Coming into force date: 14 April 2021

20 days ends: 21 May 2021

40 days ends: 9 June 2021

SL(5)807 - Code of Practice on the Delivery of Autism Services

Procedure: Draft Negative

The Social Services and Well-being (Wales) Act 2014 ('the 2014 Act') provides the legal framework for improving the well-being of people who need care and support, and carers who need support.

The draft code was laid before the Senedd on 24 March 2021. In accordance with section 146 of the 2014 Act, if, before the end of a period of 40 days, the Senedd resolves not to approve the draft, the Welsh Ministers must not issue the code (or revised code) in the form of that draft. If no such resolution is made before the end of that period, the Welsh Ministers must issue the code (or revised code) in the form of the draft, and the code (or revised code) comes into force on the date appointed by order of the Welsh Ministers. According to the Explanatory

Memorandum, the intention is for the Code to come into force on 1 September 2021.

The code describes how local authorities must exercise their social services functions (which are defined in Schedule 2 to the 2014 Act) in accordance with the requirements in the code in relation to autistic people and their parents and carers who need care and support.

The code also applies to and constitutes guidance in respect of the exercise of health services functions by local health boards and NHS trusts in accordance with the National Health Service (Wales) Act 2006 and describes how the relevant health bodies must exercise their respective functions when providing services to autistic people, their parents and carers.

Date Made:

Date Laid: 24 March 2021

Coming into force date: on the date appointed by order of the Welsh Ministers

20 days ends: 22 May 2021

40 days ends: 10 June 2021

SL(5)808 - The Coronavirus Act 2020 (Residential Tenancies: Extension of Period of Protection from Eviction) (Wales) Regulations 2021

Procedure: Negative

Section 81 and Schedule 29 to the *Coronavirus Act 2020* (“the 2020 Act”) provide protection from eviction from a residential tenancy.

The Regulations amend paragraph 1(1) of Schedule 29 to the 2020 Act by extending until 30 June 2021 the relevant period during which Schedule 29 applies.

The effect of these changes will be to extend, for a further three months, the period during which landlords, in most circumstances, will need to provide tenants with increased notice before starting possession proceedings in the courts.

Date Made: 22 March 2021

Date Laid: 24 March 2021

Coming into force date: 31 March 2021

20 days ends: 22 May 2021

40 days ends: 10 June 2021

SL(5)809 - The Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) (Amendment) Regulations 2021

Procedure: Negative

These Regulations amend the Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) Regulations 2021 to extend the temporary suspension of the requirement for meat preparations imported into Wales from establishments situated in the EEA member States, the Faroe Islands, Greenland or Switzerland to be deep frozen, by changing the date of 31 March 2021, and extending it to 30 September 2021. This aligns with the approach being taken by Defra and the Scottish Government.

Date Made: 22 March 2021

Date Laid: 24 March 2021

Coming into force date: 30 March 2021

20 days ends: 22 May 2021

40 days ends: 10 June 2021

SL(5)810 - The Trade in Animals and Related Products (Wales) (Amendment) (EU Exit) Regulations 2021

Procedure: Made Affirmative

The 2021 Regulations amend the 1 April 2021 date in paragraphs 5(3) and 6(1)(c) of Schedule 5 to the Trade in Animals and Related Products (Wales) Regulations 2011 (“the 2011 Regulations”) changing it to 1 July 2021. Schedule 5 was inserted into the 2011 Regulations by regulation 32 of the Trade in Animals and Related Products (Wales) (Amendment) (EU Exit) Regulations 2020.

Paragraph 5(3) of Schedule 5 to the 2011 Regulations relates to the pre-notification requirement for relevant goods consisting of products of animal origin.

Paragraph 6(1)(c) of Schedule 5 relates to the requirement that relevant goods consisting of products of animal origins be accompanied by an appropriate health certificate for third country imports in the form published by the Welsh Ministers or the Secretary of State.

These amendments are needed to ensure alignment with changes being made shortly by the UK Government on a Great Britain basis to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products. These proposed changes will in effect delay the introduction of documentary and physical checks at designated Border Control Posts.

Date Made: 22 March 2021

Date Laid: 24 March 2021

Coming into force date: 31 March 2021

28 day approval period ends: 27 May 2021

SL(5)811 - The Food, Animal Feed and Seeds (Miscellaneous Amendments and Transitional Provisions) (Wales) (EU Exit) Regulations 2021

Procedure: Negative

These Regulations amend the following Statutory Instruments relating to food and feed hygiene and safety, food compositional standards and labelling and seeds:

- The Food Hygiene (Wales) Regulations 2006;
- The Quick-frozen Foodstuffs (Wales) Regulations 2007;
- The Seed Marketing (Wales) Regulations 2012;
- The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013;
- The Honey (Wales) Regulations 2015;
- The Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016;
- The Caseins and Caseinates (Wales) Regulations 2016.

The amendments are required to address deficiencies arising from EU Exit and ensure that the statute book can operate effectively following the UK's exit from the EU.

Date Made: 23 March 2021
Date Laid: 24 March 2021
Coming into force date: 14 April 2021
20 days ends: 22 May 2021
40 days ends: 10 June 2021

SL(5)812 - The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (Wales) Order 2021

Procedure: Negative

The Town and Country Planning (General Permitted Development) Order 1995 (the “GPDO”), as amended, allows some development to be undertaken, within certain parameters, without the need to submit a planning application. This is known as “permitted development”.

This Order amends the GPDO to temporarily relax planning control for specified development. The Explanatory Memorandum indicates that this is being done to support the reopening of businesses and their efforts to create safe environments in light of the Covid-19 pandemic.

Date Made: 23 March 2021
Date Laid: 24 March 2021
Coming into force date: 30 April 2021
20 days ends: 22 May 2021
40 days ends: 10 June 2021

SL(5)813 - The Countryside Access (Local Access Forums) (Wales) (Coronavirus) Regulations 2021

Procedure: Negative

These Regulations amend the Countryside Access (Local Access Forums) (Wales) Regulations 2001 to make temporary provision in relation to the administration of Local Access Forums to ensure that they are able to continue to meet and take decisions during the period of disruption caused by the coronavirus pandemic.

Date Made: 24 March 2021
Date Laid: 26 March 2021
Coming into force date: 1 May 2021

20 days ends: 24 May 2021

40 days ends: 12 June 2021

SL(5)814 - The Regulated Services (Annual Returns) (Wales) (Amendment) (Coronavirus) Regulations 2021

Procedure: Negative

The *Regulation and Inspection of Social Care (Wales) Act 2016* ('the 2016 Act') provides the statutory framework for the regulation and inspection of social care services and the regulation of the social care workforce in Wales.

These Regulations, made under the 2016 Act, make changes to the Regulated Services (Annual Returns) (Wales) Regulations 2017. Their purpose is to delay, until 26 May 2022, the requirement for providers of regulated services to submit an annual return to the Welsh Ministers (in practice, Care Inspectorate Wales) in respect of any the financial years 2018-19, 2019-20 and 2020-21 during which they have been registered under the 2016 Act. The Regulations also reduce the required content for the annual returns for the financial years 2018-19, 2019-20 and 2020-21.

Date Made: 24 March 2021

Date Laid: 26 March 2021

Coming into force date: 16 April 2021

20 days ends: 24 May 2021

40 days ends: 12 June 2021

SL(5)815 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 6) Regulations 2021

Procedure: Made Affirmative

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 ("the principal Regulations") to move the whole of Wales to Alert Level 3 and to temporarily modify how Alert Level 3 operates (until the end of the day of 11 April 2021). This is achieved by inserting a new Schedule 3A into the principal Regulations, and making necessary amendments to the principal Regulations to ensure that references to Schedule 3 are treated as if replaced by references to Schedule 3A.

The effect is that every part of Wales is an Alert Level 3 area from immediately before the beginning of the day on 27 March 2021.

The temporary Alert Level 3 restrictions under Schedule 3A are different in a number of respects from the Schedule 3 restrictions that would usually apply to an Alert Level 3 area. The temporarily modified Alert Level 3 restrictions provide (among other things) that until the end of the day on 11 April 2021:

- Stay local restrictions are lifted in Wales and replaced with restrictions on leaving or entering Wales without a reasonable excuse.
- Self-contained accommodation can reopen. Accommodation can only be let to members of the same household and their support bubble.
- Up to 6 people (not including children under 11 or carers) from no more than 2 households may gather outdoors. This includes in private gardens.
- Outdoor organised activities for children under 18 will be allowed.
- Outdoor spaces of a scheduled monument or a registered historic park or garden, can reopen.
- Libraries and archives can reopen.

The Regulations also amend Schedule 5 to the principal Regulations to make temporary modifications to enable the enforcement of the restrictions in Schedule 3A.

Date Made: 26 March 2021

Date Laid: 26 March 2021

Coming into force date: 27 March 2021

28 day approval period ends: 31 May 2021

SL(5)817 - The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 5) Regulations 2021

Procedure: Negative

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (the “International Travel Regulations”). The International

Travel Regulations impose requirements on persons entering Wales after having been abroad.

From 15 February 2021 the Welsh Government introduced a ban on travellers arriving into Wales if they had been in a “red list country” (those listed in Schedule 3A of the International Travel Regulations) in the previous 10 days. Travellers must arrive at one of the designated ports of entry in England (or Scotland) and remain there in managed isolation for 10 days before travelling on to Wales. In addition, for arrivals from “amber list countries” (those not in the Common Travel Area of Ireland, Isle of Man or the Channel Islands, or on the list of red list of countries) exemption from isolation was made more restrictive so that isolation for 10 days is required but a person may leave isolation for a limited period for work purposes.

These Regulations:

- add Bangladesh, Kenya, Pakistan and the Philippines to the red list of countries;
- allow hauliers who have been in a “red list” country to enter Wales;
- introduce a bespoke testing arrangement for UK and non-UK hauliers;
- allow boarding school students to isolate at school if they have arrived from a “red list” country;
- allow a person to leave isolation after 14 days if a test result has not been returned from the laboratory.

Date Made: 8 April 2021

Date Laid: 8 April 2021

Coming into force date: 9 April 2021

20 days ends: 26 May 2021

40 days ends: 15 June 2021

SL(5)818 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 7) Regulations 2021

Procedure: Made Affirmative

The Regulations amend

- The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (“the principal Regulations”);

- The Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (“the Public Health Information Regulations”).

These Regulations amend the principal Regulations to temporarily modify how Alert Level 3 operates in Wales. The period of the temporary modifications already in place (see SL SL(5)815 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 6) Regulations 2021) has been extended until the end of the day on 25 April 2021.

In particular these Regulations make further temporary modifications:

- removing the restrictions on canvassing for elections, although canvassers are subject to a duty to take all reasonable measures to minimise the risk of exposure to, and spread of, coronavirus when carrying out this activity and, when taking those measures they must have regard to guidance issued by the Welsh Ministers;
- permitting non-essential retail to reopen;
- permitting close contact services to reopen, including mobile services in people’s homes such as mobile hairdressers (a new definition of close contact services has been included at regulation 57(1)(da));
- removing the restrictions to now allow for wedding ‘show-arounds’ by appointment in premises used as venues for wedding, civil partnership and alternative wedding ceremonies, or for celebrations of the same, which are otherwise required to close;
- removing restrictions so as to allow crematoriums to be fully open.

These Regulations remove the current restrictions on travel within the UK and into/from the Common Travel Area (CTA), and place new restrictions and requirements on international travel (which apply in all Alert Levels). This includes:

- restrictions to prohibit international travel without a reasonable excuse. A person who attempts to travel to a destination outside the CTA without a reasonable excuse is guilty of an offence and may be subject to a Fixed Penalty of £5,000;
- a person who is at an embarkation point (for example, an airport) and is seeking to leave the CTA and has a reasonable excuse for doing so, must now, if requested, provide a completed international travel declaration form stating the reasons for travelling. A person who fails to complete a

declaration form (or who provides false or misleading information on the form) may be subject to a Fixed Penalty of £60.

Other technical, minor and consequential amendments, including to provide for the enforcement of the new provisions on international travel, are also made by these Regulations.

In consequence of the amendments described in relation to international travel, the Regulations also amend the Public Health Information Regulations. The Public Health Information Regulations ensure that travellers are made aware of the travel requirements and public health guidance that are in force in Wales. The Public Health Information Regulations are amended so that operators of relevant services departing from Wales to a destination outside the CTA are required to advise travellers of the restriction on leaving Wales to such a destination, and the requirement to complete an international travel declaration form. This information is to be provided at the time of booking and at least 24 hours prior to the scheduled departure.

Date Made: 9 April 2021

Date Laid: 9 April 2021

Coming into force date: 12 April 2021

28 day approval period ends: 3 June 2021

SL(5)819 - The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021

Procedure: Negative

These Regulations (“the 2021 Regulations”) amend:

- The Education (Fees and Awards) (Wales) Regulations 2007;
- The Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015;
- The Education (Student Support) (Wales) Regulations 2017;
- The Education (Postgraduate Master’s Degree Loans) (Wales) Regulations 2017;
- The Education (Student Support) (Wales) Regulations 2018;

- The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018;
- The Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019.

The above-mentioned regulations underpin the system of financial support for students who are ordinarily resident in Wales and taking designated courses of higher education, set out the categories of person who are eligible for home fee status, authorise rules of eligibility in relation to certain awards connected to education and training and set out the categories of person who are able to benefit from capped tuition fees.

The 2021 Regulations make amendments related to EU Exit which are necessary as a result of the Withdrawal Agreements and to implement the Welsh Government's policy on student finance for the 2021/22 academic year.

Date Made: 19 April 2021

Date Laid: 22 April 2021

Coming into force date: 25 April 2021

20 days ends: 26 May 2021

40 days ends: 15 June 2021

SL(5)820 - The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 6) Regulations 2021

Procedure: Negative

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (the "International Travel Regulations"). The International Travel Regulations impose requirements on persons entering Wales after having been abroad.

From 15 February 2021 the Welsh Government introduced a ban on travellers arriving into Wales if they had been in a "red list country" in the previous 10 days. Travellers must arrive at one of the designated ports of entry in England (or Scotland) and remain there in managed isolation for 10 days before travelling on to Wales.

These Regulations add India to the "red list" of countries. These Regulations also allow couriers of human blood, tissues and organs who have been in a "red list"

country to enter Wales and allow health or care professionals who have been in a “red list” country to enter Wales and isolate in Wales.

Date Made: 22 April 2021

Date Laid: 22 April 2021

Coming into force date: 23 April 2021

20 days ends: 26 May 2021

40 days ends: 15 June 2021

SL(5)821 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 8) Regulations 2021

Procedure: Made Affirmative

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (“the principal Regulations”) to temporarily modify how Alert Level 3 operates in Wales. The period of the temporary modifications already in place (see SL(5)818 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 7) Regulations 2021) is extended until the end of the day on 2 May 2021.

These Regulations make further temporary modifications:

From 24 April 2021:

- The restrictions on gathering with others outdoors are relaxed to allow a maximum of 6 people (not including children under 11 or carers) to gather from no more than 6 households.

From 26 April 2021:

- People may gather outdoors for the purposes of participating in formally organised activities involving up to 30 people (this involves a designated person being responsible for the activity, all reasonable measures being taken to minimise the spread of coronavirus while undertaking the activity and no consumption of alcohol). Formally organised activities can include protesting and picketing, which can take place without a limit on the number of people present at all Alert Levels apart from Alert Level 4.
- Certain businesses including visitor attractions and swimming pools will be allowed to reopen their premises for outdoor activities, including the

consumption of food and drink outdoors (from 6.00 am onwards that day).

- Provided the act took place on or after 26 March 2020, outdoors gatherings of up to 30 people are allowed to celebrate the solemnisation of a marriage, formation of a civil partnership or an alternative wedding ceremony, or the life of a deceased person.
- People gathering when working in people's homes, for example by tradespeople, is allowed without it needing to be necessary or without the need for a "reasonable alternative" (unless at Alert Level 4).
- "Pilot" events may now be organised with the permission of the Welsh Ministers.

Date Made: 23 April 2021

Date Laid: 23 April 2021

Coming into force date: 24 and 26 April 2021 (see above)

28 day approval period ends: 3 June 2021

Document is Restricted