

Government response to the Legislation, Justice and Constitution Committee Report on the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) Regulations 2020

Technical scrutiny

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

1.1. NAW Legal Advisors have noted an error in the third paragraph of the preamble of the English text of the Regulations.

1.2. A correction slip remedying the text was issued by the Queen's Printer on 20 April 2020.

2. Standing Order 21.2 (v) – that for any particular reason its form or meaning needs further explanation.

2.1. NAW Legal Advisors have queried why the Welsh Ministers did not rely on the enabling power contained in section 45C(4)(d) of the Public Health (Control of Diseases) Act 1984 to make the Regulations. A similar question was raised for the principal Regulations, please refer to the Government's response which is relevant here.

2.2. The Government's view therefore is that these Regulations have been made in exercise of the powers which accurately reflect the content of them.

Merits scrutiny

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 Assembly.

3.1. NAW Legal Advisors have identified a number of differences between the principal Regulations for Wales and the equivalent provision for England, and raise the same point for the amending Regulations. We reiterate our response made on the principal Regulations that the Government is working with the UK Government and the other devolved administrations to ensure a coordinated response to the pandemic. However, the powers in Part 2A of the Public Health (Control of Disease) Act 1984 are conferred on the Welsh Ministers in relation to Wales so that provision may be made which is specifically suited to circumstances in Wales and based on decisions made by the Welsh Ministers. The Government is again surprised by the comments made, which seem to imply that the Government should justify any departure from the law as it stands in relation to England.

**Welsh Government
28 April 2020**