

Rt Hon Mark Drakeford MS
First Minister of Wales

25 August 2020

Dear Mark

The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 4) Regulations 2020

We considered The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 4) Regulations 2020 (the Regulations) at our meeting on 24 August and laid our **report** before the Senedd the same day.

Our report identifies two points under Standing Order 21.2, the first of which concerns doubt as to whether the Regulations are *intra vires*.

The Regulations create new offences relating to premises closure notices, punishable by up to 6 months' imprisonment or a fine. However, the *Public Health (Control of Disease) Act 1984* provides that such offences cannot be punishable by imprisonment.

In our report we note that the Welsh Government has already addressed this matter in the **Health Protection (Coronavirus Restrictions) (No.2) (Wales) (Amendment) (No.5) Regulations 2020** (the later Regulations), by making it clear that such offences are punishable only by a fine.

However, we are concerned that the provision relating to imprisonment was in force between 10 August 2020 and 17 August 2020.

We note that the Explanatory Memorandum for the later Regulations states that Her Majesty's Courts and Tribunals Service (HMCTS) and the Judicial Office were notified on 10 August of the error that these later Regulations correct.

Our report on the Regulations laid before the Senedd asks that the Welsh Government confirms that the irregular provision had no practical effect during the period 10 to 17 August. If there have been practical effects, we would be grateful to receive the relevant detailed information. Further, please can you confirm how HMCTS and the Judicial



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Office were notified of the error and what relevant discussions were held with them at the time, or in subsequent days.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mick Antoniw', with a horizontal line underneath the name.

Mick Antoniw AM
Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg
We welcome correspondence in Welsh or English

