

## **GOVERNMENT RESPONSE: THE HEALTH PROTECTION (CORONAVIRUS RESTRICTIONS) (FUNCTIONS OF LOCAL AUTHORITIES) (WALES) REGULATIONS 2020**

1. This is a Government response to the draft report of the Legislation, Justice and Constitution Committee dated 17 September 2020.

### **Technical scrutiny points:**

*Point 1: declaration required under section 45R(2) of the Public Health (Control of Disease) Act 1984*

2. The draft Report notes that the Regulations do not include the declaration required by section 45R(2) of the 1984 Act.
3. The Welsh Ministers have revoked and replaced<sup>1</sup> the Regulations. This is due to the failure to properly record the Welsh Ministers' declaration that the Regulations were urgent, in accordance with section 45R(2) of the 1984 Act. We are grateful for the Committee's Report on this point.

*Points 2 and 3: reference in regulations 2(g) and 16(9)*

4. The draft Report notes that in the English language text of regulation 2(g) the cross reference is to regulation 7(1) instead of 7(2), and in the English language text of regulation 16(9) the cross reference is to paragraph (9) instead of paragraph (8).
5. These errors appear to arise from template formatting issues which arose when the pdf version was created of the signed Word document. The instrument as made was correct. We will raise this with The National Archives for future reference, but as these particular Regulations have now been revoked and replaced no further action (for example, seeking a correction slip) will be taken on them.

### **Merits scrutiny points:**

*Point 4: guidance*

6. The draft Report notes a number of matters relating to the Regulations which would benefit from further guidance, or existing guidance being updated.
7. Welsh Government public health officials have worked closely with Directors of Public Protection Wales (DPPW) to develop procedures for using the new powers. The procedures will be produced as documented guidance in due course.

*Point 5: persons that own and occupy premises, and those that are responsible for premises*

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<sup>1</sup> See the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020 (SI 2020/1011 (W. 225)).

8. The draft Report seeks to understand whether there is a distinction in the treatment of notices and, if so, why such a distinction is required.
9. In respect of premises directions and event directions, the phrase “otherwise responsible for the premises” appears in regulation 11 only. This is to allow the procedural step of giving the direction to be completed where it appears to the person giving the direction that there is someone on the premises who is responsible for those premises at the time the direction is given but who may not be the owner or occupier. Nevertheless it is thought appropriate that steps to give prior notice and appeal rights in respect of those kinds of directions ought to be aimed at those with a clear interest in the direction (i.e. persons carrying on businesses at the premises concerned, those organising an event at which an event direction is aimed or the owner or occupier of the premises to which either type of direction relates).
10. Public place directions have more general application to any land to which the public have access. It therefore seems appropriate for there to be a broader category of persons who should be given prior notice (where reasonably practicable) and who may appeal against a direction applying generally to a place which may contain numerous premises.

*Point 6: error in the Explanatory Memorandum*

11. The draft Report notes that the term “policy officer”/“swyddog polisi” has been used instead of “police officer”/ “swyddog heddlu”.
12. The Government agrees this was an error, but proposes no further action be taken as these Regulations have been revoked and replaced.