

Explanatory Memorandum to the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) (Amendment) Regulations 2020

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 Restrictions) (No. 4) (Wales) (Amendment) Regulations 2020.

Mark Drakeford
First Minister

11 December 2020

1. Description

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 (“the principal Regulations”).

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

These Regulations are made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22) (“the 1984 Act”). The Regulations are made without a draft having been laid and approved by the Senedd. It is the opinion of the Welsh Ministers that, by reason of urgency, it is necessary to make the Regulations without a draft being so laid and approved so that public health measures can be taken in order to quickly respond to the threat to human health from coronavirus. The Welsh Ministers are of the opinion that the restrictions and requirements as set out in these Regulations are necessary and proportionate as a public health response to the current threat posed by coronavirus.

European Convention on Human Rights

The amendments contained in these Regulations continue to engage, under the principal Regulations, individual rights under the Human Rights Act 1998 and the European Charter of Fundamental 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.

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. The Regulations are made in reliance on the powers in sections 45C(1) and (3)(c), 45F(2) and 45P(2) of the 1984 Act.

The Explanatory Memorandum to the principal Regulations provides further information on these powers.

4. Purpose and intended effect of the legislation

These Regulations make amendments to the principal Regulations to:

- close all outdoor attractions including funfairs with the exception of drive-in events such as drive in cinemas; and
- close trampoline parks and skate parks.

Given the deteriorating public health position and the UK wide agreement to relax restrictions for a short period over Christmas, the advice from the Chief Medical Officer for Wales and Public Health Wales is that urgent action should be taken in the pre-festive period to avoid unsustainable demand on the NHS in late December

and January. A separate decision has been made to move all secondary schools to online learning one week before the end of term.

To further assist in deterring mixing in public places, the Regulation will require all outdoor attractions and funfairs to be closed from Monday 14 December.

These amendments come into force at the beginning of Monday, 14 December 2020.

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.

In determining the need for, and details of the restrictions and requirements set out in these Regulations, I together with other Ministers and the Welsh Government officials have held and continue to hold discussions with key sectors and stakeholders, including local government and business leaders and trade unions in Wales. I announced in my statement to Members on 11 December the Welsh Government's intention to publish an update to the Coronavirus Control Plan the following week.

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.