

**Explanatory Memorandum to the Adoption and Fostering (Wales)
(Miscellaneous Amendments) (Coronavirus) (Amendment) Regulations 2021**

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

Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) (Amendment) Regulations 2021.

Julie Morgan
Deputy Minister for Health and Social Services

8 March 2021

PART 1

1. Description

The Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) (Amendment) Regulations 2021 amend the Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) Regulations 2020 (“the 2020 Regulations”).

These Regulations extend the expiry date of the 2020 Regulations in response to the COVID 19 pandemic to 30th September 2021.

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

A consultation exercise was undertaken over a two week period which commenced on the 16th February and ended on 2nd March 2021. Details concerning this period of engagement are at section 5 below.

The continued issues associated with the pandemic means that the sectors are still currently experiencing pressures due to the continuing restrictions caused by the pandemic. The extension will reduce the risk of disrupting the approval of prospective adopters or temporary care arrangements within the sectors. If the Welsh Government considers the situation to be improving, it can revoke these Regulations at an earlier date.

3. Legislative background

The Regulations are made under the powers conferred upon the Welsh Ministers by sections 9(1)(a), 140(7) and (8) and 142(5) of the Adoption and Children Act 2002 and sections 87 and 196(2) of the Social Services and Well-being (Wales) Act 2014.

These Regulations will follow the negative procedure.

4. Purpose and intended effect of the legislation

The Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) (Amendment) Regulations 2021 amend the 2020 Regulations.

These Regulations extend the expiry date of the 2020 Regulations in response to the coronavirus pandemic.

The 2020 Regulations came into force on 1st November 2020 and amended:

- The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313 (W. 95)); and
- The Care Planning, Placement and Case Review (Wales) Regulations 2015 (S.I. 2015/1818 (W. 261))

The amendments have assisted the children's social care sector to manage the effects of the coronavirus pandemic in Wales. The changes prioritise the needs of children, relaxing some administrative and procedural obligations to support delivery of children's services but maintaining appropriate safeguards in such extraordinary circumstances

The 2020 Regulations are due to expire on 31st March 2021 and the main effect of these Regulations is to amend the expiry date of the 2020 Regulations. These Regulations amend regulations 2, 3, 4, 6, 7 and 8 of the 2020 Regulations by substituting 30 September 2021 for 31 March 2021. This means that the amendments made by regulations 2, 3, 4, 6, 7 and 8 of the 2020 Regulations continue to have effect until 30 September 2021.

Regulation 5 of the 2020 Regulations made typographical amendments to the Adoption Agencies (Wales) Regulations 2005. To ensure these typographical amendments continue, these Regulations also provide that the amendments made by regulation 5 of the 2020 Regulations will no longer expire on 31 March 2021.

5. Consultation

A two week consultation was published on the Welsh Government's website between 16th February and 2nd March 2021. Separate emails which included the consultation's web link were also shared separately with key stakeholders across the children's social care sector including:

- Directors of Social Services
- Heads Of Children Services
- Public Health Wales
- National Adoption Service
- Lead Heads of Adoption Regions
- Children's Commissioner for Wales
- WLGA
- Adoption UK Cymru
- The Fostering Network
- Adoption and Fostering Association Cymru
- St David's Children's Society
- Children's Commissioning Consortium in Wales (4C's)
- Care Inspectorate Wales
- Children in Wales
- National Association of Fostering Providers

As the changes introduced by the 2020 Regulations have been formally consulted on during August 2020 and there is a very short timeframe to introduce the Statutory Instrument to change the expiration date outlined in these Regulations, it was felt that a two week consultation exercise would be adequate to gauge stakeholder views and raise awareness of the proposed extension.

The consultation will be published on the Welsh Government's website in due course and can be accessed via

<https://gov.wales/adoption-and-fostering-wales-miscellaneous-amendments-coronavirus-regulations-2020-0>

6. Regulatory Impact Assessment (RIA)

The need for the Regulations has been identified as part of the contingency planning for issues that may arise from the spread of Covid-19. Due to the limited time available to prepare the Adoption and Fostering (Wales) (Miscellaneous Amendments) (Coronavirus) (Amendment) Regulations 2021 and the changes made are temporary, a Regulatory Impact Assessment has not been produced.

Whilst local authorities are responsible for the children's social care system the proposed changes are not anticipated to result in any extensive additional costs or significant changes to working practices.

The needs of businesses in the social care sector at this time have been considered in the preparation of the Regulations; the amendments will reduce or eliminate burdens on agencies and are intended to support children's social care services to meet their statutory obligations more flexibly during the pandemic.

Specific impact tests

- **Welsh Language**

There are no positive or adverse impact implications on the Welsh Language.

- **Children's Rights**

No conflict with UNCRC has been identified and there are no negative impacts on children and young people; the provisions bring indirect benefits for children. A Children's Rights Impact Assessment (CRIA) was produced to support the introduction of the 2020 Regulations.

- **Privacy**

There are no impact implications on privacy matters.

- **Competition Assessment**

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No

Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector categorised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

The filter test shows that it is not likely that the regulation will have any detrimental effect on competition; therefore a detailed assessment has not been conducted.