

Explanatory Memorandum to the Countryside Access (Local Access Forums)(Wales)(Coronavirus) Regulations 2021

This Explanatory Memorandum has been prepared by the Economy, Skills and Natural Resources Department 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 Countryside Access (Local Access Forums) (Coronavirus) (Wales) Regulations 2021.

Lesley Griffiths MS
Minister for Environment, Energy and Rural Affairs
26 March 2021

PART 1

1. Description

The Regulations make temporary provision in relation to the administration of Local Access Forums (“LAFs”) to ensure that they are able to continue to meet and take decisions during the period of disruption caused by COVID-19.

The measures employed to combat COVID-19 include social distancing, the avoidance of non-essential travel and the requirement to work from home where possible. The Countryside Access (Local Access Forums) (Wales) Regulations 2001 place requirements on LAFs to meet in person, to make meetings open to the public and to enable the public to inspect their annual reports in the offices of their respective governing authority. This runs counter to the measures in place for COVID-19.

The Regulations provide flexibility to enable LAFs to operate safely, effectively and lawfully by, for example, enabling meetings to be conducted on the basis of full or partial remote attendance and by making provision about the electronic publishing of certain documents.

These limitations have previously been addressed with the introduction of the Countryside Access (Local Access Forums)(Wales)(Coronavirus) Regulations 2020, but these are due to cease on 30 April 2021.

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

There are no matters of special interest to the Legislation, Justice and Constitution Committee.

3. Legislative background

These Regulations are made using the powers in section 94 and 95(5) of the Countryside and Rights of Way Act 2000. The powers of the Senedd under that Act were transferred to the Welsh Ministers by s.162 and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

4. Purpose and intended effect of the legislation

Existing legislation requires local authorities and National Park Authorities to have a LAF – an advisory body on public access to land for the purposes of open-air recreation.

These Regulations make non-textual amendments to the Countryside Access (Local Access Forums) (Wales) Regulations 2001 to ensure that Local Access Forums (LAFs) are able to continue to meet and take decisions during the period of disruption caused by the coronavirus pandemic.

Regulation 1 sets out preliminary matters and defines terms used in the Regulations.

Regulation 2 allows meetings to be held remotely rather than in person to address the travel restrictions and social distancing requirements imposed by the pandemic.

Regulation 3 makes provision about temporary appointments to LAFs. It gives appointing authorities the power to choose not to undertake certain requirements of the recruitment process in regulation 7 of the 2001 Regulations if that would be difficult or impossible for them due to the current restrictions in place. This power is only available for appointments made in the period beginning with the day on which the Regulations come into force and ending with 31 December 2021. Should an appointing authority decide to exercise this power to undertake a simpler recruitment process, then that appointment may only be made of a maximum term of 9 months;

Regulation 4 enables papers to be delivered through electronic means to minimise potential issues with their postal or personal delivery;

Regulation 5 enables the elections of chairs and deputy chairs to be conducted via means other than a secret ballot, which may be difficult in a remote meeting context.

Regulation 6 provide LAFs with the flexibility to exclude the public from consideration of certain items at the meeting as the person presiding may decide.

Regulation 7 modifies the provision requiring automatic disqualification of membership due to failure to attend meetings for a period of 12 months.

Regulation 8 adds an additional requirement for a LAF's annual report to be published on a website to the existing right of the public to inspect the annual reports at the offices of their respective authorities

5. Consultation

Due to the emergency and technical nature of these Regulations the Welsh Government has not undertaken a public consultation.

Views have been sought from Natural Resources Wales, the National Representative of LAFs in Wales and a number of Local Authorities about the need to retain the changes introduced in the 2020 Regulation. All responses received have supported the continuing need for Regulations of this type while Covid-19 restrictions remain in place.

Other than the consultation outlined above, the Welsh Government has received no correspondence regarding the Countryside Access (Local Access Forums)(Wales)(Coronavirus) Regulations 2020.

6. Regulatory Impact Assessment (RIA)

An RIA has not been prepared as it considered to be exempt under paragraph 4.2 of the Welsh Ministers' regulatory impact assessment code for subordinate legislation on the basis that the proposed Regulations are "routine technical and factual amendments which have no major policy impact."