

SL(6)027 – The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 14) Regulations 2021

Background and Purpose

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (“the principal Regulations”).

Regulation 16 of the principal Regulations requires the person responsible for regulated premises to take steps to minimise the risk of exposure to coronavirus, notably taking all reasonable measures to ensure that a distance of 2 metres is maintained between persons on the premises. This requirement now only applies to indoor premises. However, there remains a requirement for the person responsible for the premises to take reasonable measures to limit close physical interaction between persons on the premises.

Regulation 16 also requires a coronavirus risk assessment to be undertaken. These Regulations now require employers to provide information to their employees on the risks identified in the assessment and the preventive and protective measures being put in place.

Regulation 17 of the principal Regulations sets out particular measures that must be taken by persons responsible for licensed premises. These Regulations amend the requirements so that persons attending regulated gatherings or events at such premises no longer have to be seated to consume food or drink. The same position applies to other types of event: the showing of a film, a live sporting event, and a live theatrical performance. The requirement to be seated in licensed premises remains in force in all other circumstances.

The following changes are made to Schedule 1. This Schedule relates to Alert Level 1 which currently applies to the whole of Wales.

Any six people, or the members of any two households (however many they number) are permitted to meet indoors in private homes and holiday accommodation, even if they are not members of the same household or extended household.

Organised indoor events for up to 1,000 seated or 200 standing can take place (subject to the requirements set out in Regulation 16 of the principal Regulations – as explained above).

The previous limit of 30 on the number of people who are permitted to gather in all outdoor premises is removed (subject to the requirements set out in Regulation 16 of the principal Regulations – as explained above). Up to 30 children (not just primary school children as was the case previously) are permitted to gather at holiday or travel accommodation for well-being, developmental or educational gatherings. Ice rinks are permitted to re-open.



Procedure

Made Affirmative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were made for them to continue to have effect.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following three points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

We note the Welsh Government's justification for any potential interference with human rights. In particular, we note the following paragraphs in the Explanatory Memorandum:

"Whilst the principal Regulations, as amended by these Regulations, engage individual rights under the Human Rights Act 1998 and the European Convention on Human 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...These amending Regulations reduce the extent in which the restrictions and requirements under the principal Regulations interfere with those individual rights."

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

"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."

3. Standing Order 21.3 (ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

The Explanatory Memorandum provides that a regulatory impact assessment has not been carried out 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. It goes on to state that a summary impact assessment was prepared and will be published as soon as practicably possible.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

28 July 2021



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee