

The Health Protection (Coronavirus) (Wales) Regulations 2020

This note is prepared for Assembly Members following the decisions of the Business Committee on 27 March 2020 and 3 April 2020 regarding the temporary handling of statutory instruments laid before the Assembly.

Summary

Note: as of 25 March 2020 these Regulations were revoked, with saving provisions, by the Coronavirus Act 2020.

These Regulations, made under the Public Health (Control of Disease) Act 1984 (**the 1984 Act**), make provision for the purpose of enabling a number of public health measures to be taken to reduce the public health risks arising from severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) which causes the disease known as COVID-19.

These Regulations enable the imposition of restrictions (which may include screening, isolation and other appropriate restrictions) on individuals where the Welsh Ministers or a registered public health consultant have reasonable grounds to suspect that the individual is, or may be, contaminated with the Coronavirus. The Regulations provide for a police constable to detain an individual and enforce those restrictions as required.

The Regulations also includes provision for police constables to detain individuals where they have reasonable grounds to believe an individual is, or may be, infected or contaminated with Coronavirus and are posing a risk to others. The constable is obliged to have due regard to Welsh Government guidance and consult a registered public health consultant in the exercise of their powers.

The Regulations create relevant offences punishable on summary conviction by a fine not exceeding level 3 on the standard scale (currently £1,000).

Procedure

Made Affirmative: the Regulations were made before being laid (under the emergency procedure provided for in the 1984 Act), and are subject to the approval of the National Assembly for Wales within 28 days of being made.

The Regulations have now been revoked by the Coronavirus Act 2020.

Further Points To Note

The following points are noted in respect of these Regulations.

1. Human rights

We note that, due to the nature of the measures provided for by the Regulations, the following Articles of the European Convention on Human Rights appear to be engaged: Article 5 – right to liberty and security; Article 8 – right to respect for private and family life, and Article 11 - freedom of assembly and association.



The exigency of the situation that has given rise to the Regulations is the likely basis relied upon to justify the interference with these rights as a proportionate means of achieving the legitimate aim of protecting the citizens of Wales as set out in the Regulations.

2. Powers granted to the Welsh Ministers

We note that the Welsh Ministers have granted significant powers to themselves under the Regulations. However, due to the nature of the emergency circumstances provided for by the 1984 Act, such a grant is envisaged under section 45D(5)(a) of the 1984 Act. Further, the Regulations themselves, and thus the relevant powers granted to the Welsh Ministers, cease to have effect at the end of the period of two years from the day of coming into force in accordance with regulation 15.

Legal Services

National Assembly for Wales

7 April 2020



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