

# **SL(5)627 – The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) (Amendment) (No. 16) (Conwy, Denbighshire, Flintshire and Wrexham) Regulations 2020**

## **Background and Purpose**

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020 and designate the county boroughs of Conwy and Wrexham and the counties of Denbighshire and Flintshire as local health protection areas subject to local restrictions and requirements.

The effect in respect of each of these new areas is to:

- provide that no household within each area may be treated as forming part of an extended household and prohibiting the formation of an extended household by such a household;
- prohibiting persons living in each area from leaving or remaining away from each area without reasonable excuse;
- require residents of each area to work from home, unless it is not reasonably practicable for them to do so;
- prohibit people outside of each area entering the area without reasonable excuse. It is not a reasonable excuse to enter an area to work, if it is reasonably practicable for that work to be done outside the area.

The Regulations must be reviewed before the end of 7 October 2020 and then at least once every 7 days.

## **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 that these Regulations introduce a tightening of coronavirus restrictions in Conwy, Denbighshire, Flintshire and Wrexham.

The Explanatory Memorandum states that the Regulations are a response “to the threat to human health from coronavirus” and “to the threat posed by the increasing incidence and spread of coronavirus both in these areas and more widely”.

We believe that, where coronavirus restrictions are being tightened in any significant way, Explanatory Memorandums should set out the evidence on which the Welsh Government relies in deciding that such tightening is necessary and proportionate. We believe the same principle should apply where restrictions are being lifted.

With regard to these Regulations, we would be grateful if the Welsh Government could set out evidence which showed that:

- (a) Conwy, Denbighshire, Flintshire and Wrexham should go into local lockdown in the way they did;
- (b) the need for local lockdown in those areas was so urgent that there was no time for the Senedd to approve a draft of the Regulations in advance;
- (c) other areas of Wales did not need to go into local lockdown.

Providing this evidence will aid transparency as well as the Committee’s scrutiny of coronavirus restrictions, in particular in the event that areas of Wales will go into a series of ‘rolling lockdowns’ in the coming months.

We also believe that including evidence in Explanatory Memorandums will help raise public awareness of Explanatory Memorandums and the statutory instruments themselves.

### **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**

As noted above, these Regulations introduce a tightening of coronavirus restrictions in Conwy, Denbighshire, Flintshire and Wrexham.



We note the Welsh Government's view in the Explanatory Memorandum that any interference with human rights arising from these new restrictions is justified in pursuing the legitimate aim of responding to the coronavirus pandemic.

### **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**

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraphs from 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.*

*More widely, individuals and businesses have been informed about the restrictions through wide scale and ongoing public information broadcasts across the UK, including by the Chief Medical Officer for Wales and myself. In making the Regulations today there has been ongoing discussions with Public Health Wales, local authority and NHS bodies for the areas of Conwy, Denbighshire, Flintshire and Wrexham as well as ongoing discussions with the Incident Management Teams in the existing local health protection areas.*

*Together with other Ministers and the Welsh Government, I have continued to update individuals and businesses throughout subsequent changes to the Regulations. The Minister for Health and Social Services explained to Members in the Senedd yesterday [29 September 2020] the intention to impose the restrictions and requirements achieved through these Regulations; the proposed changes have been widely reported by the media.*

## **Implications arising from exiting the European Union**

None.

## **Welsh Government response**

A Welsh Government response to the first merits point is required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**7 October 2020**

