

Explanatory Memorandum to the Countryside Access (Local Access Forums) (Wales) (Coronavirus) Regulations 2020

This Explanatory Memorandum has been prepared by the Department for Housing and Local Government 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 Countryside Access (Local Access Forums) (Coronavirus) (Wales) Regulations 2020.

Hannah Blythyn MS
Deputy Minister for Housing and Local Government
13 July 2020

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 currently 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.

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 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 30 April 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 period.

Regulation 8 substitutes the right of the public to inspect the annual reports of LAFs at the offices of their respective authorities with a requirement for the annual report to be published on a website.

5. Consultation

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.

The Welsh Government has been in regular contact with local authorities and National Resources Wales.

6. Regulatory Impact Assessment (RIA)

An RIA has not been prepared further to the Welsh Ministers' regulatory impact assessment code for subordinate legislation and the urgency required to make these Regulations. No significant, impact on the private, voluntarily or public

sector is foreseen. No substantive policy changes will be created by the legislation.