



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **Coronavirus Act 2020 – Sections 8 (and Schedule 7), 9 and 75**

DATE **27 March 2020**

BY **Vaughan Gething AM, Minister for Health and Social Services**

I am laying this written statement under Standing Order 30 – Notification in relation to UK Parliament Bills. Standing Order 30 requires a statement to be made about any UK Parliament Bill which makes provision (“relevant provision”) in relation to Wales (other than a provision which is a relevant provision within Standing Order 29.1) which modifies the functions of the Welsh Ministers or of the Counsel General (apart from incidental, consequential, transitional, transitory, supplementary or savings provisions relating to matters that are not within the legislative competence of the Assembly), or, to the government’s knowledge, the Assembly or Assembly Commission.

The emergency Coronavirus Bill was introduced into the UK Parliament on 19 March 2020. The legislative consent memorandum for this Bill, which covers the provisions requiring Assembly consent, can be found at:

<https://www.assembly.wales/laid%20documents/lcm-ld13106/lcm-ld13106%20-e.pdf>.

This statement covers provisions which are outside the Assembly’s legislative competence, and so did not require Assembly consent, but nevertheless modified executive competence.

The Bill received Royal Assent on 25 March 2020, becoming the Coronavirus Act 2020. I therefore refer to it as “the Act” in the remainder of this statement.

Policy Objective(s)

The objective of the Act is to enable the Governments of the UK to respond to an emergency situation and manage the effects of a Coronavirus pandemic. The Act contains temporary measures designed to either amend existing legislative provisions or introduce new statutory powers which are designed to mitigate these impacts.

Relevant provision(s) in the Act

Section 8 (emergency volunteering leave)

Section 8 gives effect to Schedule 7.

Paragraph 1(3) of Schedule 7 provides that an “emergency volunteering certificate” is a document issued by an “appropriate authority”. “Appropriate authority” is defined for the purposes of Part 1 of the Schedule, in paragraph 4. Sub-paragraph 4(3) provides that in relation to Wales an appropriate authority means:

- (a) The Welsh Ministers
- (b) A county council, or
- (c) A county borough council

This therefore confers a function on the Welsh Ministers as an appropriate authority of issuing emergency volunteering certificates under Schedule 7.

Section 9 (compensation for emergency volunteers)

Section 9 provides that emergency volunteers may be entitled to receive payments by way of compensation if they are an emergency volunteer. Section 9(8) provides that a person is an emergency volunteer if an appropriate authority certifies that the person meets certain conditions. Section 9(9) provides that “appropriate authority” has the same meaning as in paragraph 4 of Schedule 7.

This therefore confers a function on the Welsh Ministers as an appropriate authority of certifying the requirements a person must meet to be deemed an emergency volunteer.

Section 75 (disapplication of limit under section 8 of the Industrial Development Act 1982)

Section 75 of the Act, modifies functions in section 8 of the Industrial Development Act 1982 (“the IDA”).

Section 8(1) of the IDA is a power for the Secretary of State (“SoS”) to provide financial assistance for a variety of specified purposes. This power was transferred to the National Assembly for Wales, concurrently with the SoS, by the National Assembly for Wales (Transfer of Functions) Order 1999 and subsequently to the WMs by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (“GOWA”). This is reflected in Schedule 3A to GOWA as inserted by the Wales Act 2017.

Section 8(4) of the IDA provides that the aggregate of sums paid under the power in section 8(1) cannot exceed the limit set in section 8(5). This also applies to Welsh Ministers’ exercise of the function.

Section 8(5) of the IDA sets the aggregate limit but provides that the SoS can alter the limit by Order on a set number of occasions. This power was not transferred to the Welsh Ministers and remains solely with the SoS.

Section 75 of the Bill provides that any financial assistance given in reliance on the power in section 8 of the IDA does not count towards the aggregate limit if the assistance relates to the

Coronavirus. This provision modifies the exercise of the Welsh Ministers' function under section 8 of the IDA.

Section 75(2) confers a function on the Welsh Ministers as a "providing authority". The Welsh Ministers are the providing authority if they have exercised the section 8 function to give financial assistance and the power in the Bill is for them to designate the assistance as coronavirus related.

For these reasons I consider that the above sections and Schedule are relevant provisions in a UK Parliament Bill for the purpose of Standing Order 30.

Reasons for making these provisions in the Coronavirus Act

The Act supports a cohesive UK approach in responding to the COVID-19 public health threat, providing coherent powers to respond to the outbreak in Wales, in both reserved and devolved areas, and respecting the devolution settlement. The intention is to get to a position whereby the right people (public agencies in all four nations of the UK) can take the right action (as set out in the UK COVID-19 Action Plan:

<https://www.gov.uk/government/publications/coronavirus-actionplan/coronavirus-action-plan-a-guide-to-what-you-can-expect-across-theuk>) at the right time (as a result of decisions taken by the four UK governments, usually under the auspices of COBR) - using the same powers, at the same time, in the same way.

The action plan sets out options that can be taken as part of the response. This Act ensures that the agencies and services involved – schools, hospitals, the police and others – have the tools and powers they need. Each of the four nations of the UK has its own set of laws, and thus these tools and powers differ (to varying degrees) in each area. Consistency of outcome will be achieved by making the range of tools and powers consistent across the UK.

I consider it appropriate for these provisions to be made by means of the UK Coronavirus Act, because the provision could not be made by an Act of the Senedd.