**Cytûn – Churches together in Wales
Briefing on Coronavirus related Legislation**

On March 17 Welsh Government laid and the next day brought into force the [Health Protection (Coronavirus) (Wales) Regulations 2020](http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=28114) under the [Public Health (Control of Disease) Act 1984](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=2ahUKEwiCwJTA4ajoAhVWi1wKHU6GDikQFjAAegQIAhAB&url=http%3A%2F%2Fwww.legislation.gov.uk%2Fukpga%2F1984%2F22&usg=AOvVaw2V76RbBdi6CMXYnDX1kW4q). This gives powers to Welsh Ministers and Public Health consultants to require individuals who are suspected of carrying coronavirus, or who arrive from outside Wales, to undergo testing and/or self-isolation or to detain them, or impose any other restrictions on them. To refuse is a criminal offence and anyone refusing can be arrested. Those subject to these restrictions can appeal to a magistrates’ court. These powers are now in force for 28 days, after which they must be confirmed by the National Assembly for Wales to remain in force.

On March 19 the UK Government, acting on behalf of all four governments in the UK, laid the [Coronavirus Bill](https://services.parliament.uk/Bills/2019-21/coronavirus/documents.html) before the UK Parliament. It is intended to rush it through all stages in the House of Commons on March 23 and the Lords on March 24. [Amendments](https://publications.parliament.uk/pa/bills/cbill/58-01/0122/amend/coronavirus_rm_cwh_0319.1-6.html) may be considered and some have already been tabled by both opposition and government backbench members. These mainly involve increasing the amount and regularity of Parliamentary scrutiny of the exercise by UK ministers of these powers. The National Assembly for Wales will need to pass a Legislative Consent Motion, presumably on March 25 (its only plenary sitting day next week) and there will undoubtedly be debate in the Senedd about how to scrutinise the use by Welsh Ministers of their power under this bill. The Senedd cannot amend the Bill itself, but will need to agree to secondary legislation relating to devolved areas made under the Bill.

The Bill documentation shows signs of the pressure under which it has been written, with a number of lacunae in the [Explanatory Notes](https://publications.parliament.uk/pa/bills/cbill/58-01/0122/en/20122en01.htm), especially with regards to Wales. The [Impact Assessment](https://publications.parliament.uk/pa/bills/cbill/58-01/0122/Coronavirus%20Bill%20Impact%20Assessment%20final%20pdf.pdf) appears to be the civil servants’ advice to ministers prior to publication, as it includes a number of disadvantages of the proposed legislation and in places even suggests grounds of legal challenge to what is proposed! No Equality Impact Assessment has yet been published, although one is promised.

It should be noted that a number of measures which have been trailed by UK and Welsh Ministers in recent days are *not* included in the Bill. Amongst these are:

* Mortgage holidays for home owners and private landlords and restricting the ability of landlords (including churches) to regain possession of residential property, even when rent is not paid. This will be included in [separate emergency legislation](https://www.gov.uk/government/news/complete-ban-on-evictions-and-additional-protection-for-renters).
* Relaxing DBS checking for volunteers.
* A package of improved social security measures and compensation for businesses. This is [expected to be announced by the Chancellor of the Exchequer on March 20](https://www.bbc.co.uk/news/business-51969708) and legislated for swiftly.

It may be that some of these measures can be achieved by voluntary agreement, by secondary legislation or by devolved Welsh legislation. Cytûn will continue to monitor the situation.

The Bill is lengthy – 329 pages long – and aims to provide consistency across all four nations of the UK. The complexity of the three devolved settlements and their interaction is illustrated by this approach, requiring separate clauses for each nation in many matters. However, the Bill itself respects all devolved areas; UK ministers can act under it in devolved areas only with the consent of the Welsh Government (although not necessarily the National Assembly). Because of the nature of the emergency, different parts of the Bill may be started, suspended or re-applied depending on the progress of the epidemic. Therefore, not all the measures will necessarily be in force at the same time.

The following summary focuses on those areas likely to be of direct interest to churches. It makes no claim to completeness and **should not be relied upon for legal purposes**.

These are the principal provisions of the Bill:

**Health and social care**

1. Enabling health and social care workers who have left the registers in the past 2-3 years voluntarily to re-register, and to ensure that their pension rights are not affected by this. In Wales, this also involves allowing them to resume work before they renew their DBS clearance (however, relaxation of DBS requirements for other volunteers is not included in this bill).
2. Introducing Emergency Volunteering Leave for 4 weeks in the first 16 weeks, and then for a further 4 weeks in each subsequent 16 week period. This will entitle people to take unpaid leave from their current employment to volunteer in an approved scheme to help with the coronavirus crisis. They will be offered expenses and some recompense (but not their full pay) for each period of volunteering. Details of the schemes and finance will be made under secondary legislation.
3. Providing state-backed indemnity cover for all those who offer help in health and social care under 1 and 2 above and are not already covered by such a scheme.
4. Allowing local authorities to reduce the amount of social care they offer to people below the levels required by the individual’s care plan made under the Social Services and Well-Being (Wales) Act 2014, provided the reduction does not infringe the individual’s human rights; and to suspend the regular updating of individual care plans.

**Death and bereavement**

1. Allowing the registration of deaths and still-births to be made remotely rather than in person, and by an undertaker rather than a near relative of the deceased. The requirement for a second doctor’s signature prior to cremation will be suspended, as will the requirement for the doctor who certifies to have seen the patient in person during the 14 days prior to death.
2. Changing the system for authorising use of the Investigatory Powers Act by the security services.
3. Suspending the requirement to hold an inquest with a jury when someone dies of coronavirus.
4. Extensive powers to control the *transportation, storage or disposal of dead bodies or other human remains* where the usual procedures are reaching capacity. Vaughan Gething AM, Health & Social Care Minister in Wales, [speaking at the National Assembly Health and Social Care Committee on March 19](https://www.youtube.com/watch?v=w1eDxEoxjVs), confirmed that this could involve suspending funerals and/or individual disposal altogether. To fail to comply would be a criminal offence. **Churches are urged to draw the attention of these provisions (**[**Schedule 27 of the Bill**](https://publications.parliament.uk/pa/bills/cbill/58-01/0122/cbill_2019-20210122_en_30.htm#sch27)**) to all local clergy and funeral officiants.**

**Food supply**

1. Obliging all those involved in the food supply chain to provide information to the governments when required in order to enable the government to plan for continuous provision of food.

**Education**

1. Giving powers to ministers to oblige nurseries, schools (including private schools), Further Education colleges and Higher Education institutions (including halls of residence) to stay open or to close or to alter the services they provide. Readers will be aware that these powers have already been invoked prior to the passage of the legislation.

**Tax and benefits**

1. Removing the 4 day waiting period for statutory sick pay (SSP) and reimbursing to employers the costs of paying SSP to those who have, or are self-isolating because of, coronavirus.
2. Allowing the UK Government to reduce (but not increase) National Insurance contribution rates during the 2020-21 tax year by regulation.

**Closing ports**

1. Allowing the UK Government to suspend Border Force operations at ports if there are insufficient staff, and therefore obliging those ports to close.

**Infection control**

1. Restating the powers already contained in the [Health Protection (Coronavirus) (Wales) Regulations 2020](http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=28114) and extending them to “public health officers” (not just public health consultants) and to immigration officers. The powers for Wales are contained in [Schedule 20 Part 4](https://publications.parliament.uk/pa/bills/cbill/58-01/0122/cbill_2019-20210122_en_22.htm#sch20-pt4) of the Bill.
2. Allowing UK and Welsh Ministers to prevent or restrict events or gatherings and to close or restrict the use of premises. The powers for Wales are contained in [Schedule 21 Part 4](https://publications.parliament.uk/pa/bills/cbill/58-01/0122/cbill_2019-20210122_en_25.htm#sch21-pt4) of the Bill. They cover all kinds of events, gatherings and premises without exception, so **including places of worship and religious gatherings.** The Bill allows UK and Welsh Ministers to pay compensation, but it does not oblige them to do so.

**Courts and tribunals**

1. Allowing courts and tribunals to conduct more hearings remotely, especially where participants may be carrying coronavirus or are appealing against an order made under this legislation. In most cases, the public would be able to watch these proceedings so that the administration of justice remained transparent.

**Elections**

1. Allowing UK ministers to postpone the Police & Crime Commissioner Elections due on 7 May 2020 (which they have already done to 6 May 2021, which means they will now coincide with the next elections to the National Assembly of Wales)
2. Allowing Welsh Ministers to postpone any local by-elections to not later than 6 May 2021.
3. Allowing the Llywydd to postpone any by-elections to constituency seats in the National Assembly to no later than 6 May 2021.

**Finance**

1. The Bill gives unlimited authority to UK ministers to incur expenditure with regard to coronavirus measures. The Bill does not seem to apply this to devolved administrations, who do not have the same borrowing powers as the UK Government.

Gethin Rhys
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