

SL(6)161 – The Health Protection (Coronavirus Restrictions) (No.5) (Wales) (Amendment) (No.5) Regulations 2022

Background and Purpose

These [Regulations](#) amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020/1609 (“the principal Regulations”), with effect from 18 February 2022. These Regulations provide that the principal Regulations and the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020 will expire on 28 March 2022, rather than 25 February 2022.

These Regulations:

- omit regulation 16A of the principal Regulations, which requires any person responsible for certain premises to take reasonable measures to ensure that adults are on the premises only if they have what is commonly referred to as a “COVID pass” (and to make consequential amendments), as that requirement no longer remains proportionate in light of the current health position.
- amend the principal Regulations to extend the exemption for fully vaccinated close contacts of persons who test positive for coronavirus so that close contacts no longer have to self-isolate if they have completed a course of doses of any vaccine that is authorised for the purposes of the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2022 or under the United Kingdom vaccine roll-out overseas (prior to the amendment, close contacts were only exempt if they had completed a course of doses of a vaccine authorised in the United Kingdom).
- insert a transitional provision relating to the amendment to the exemption for fully vaccinated close contacts and revoke a spent transitional provision.

The effect of these Regulations is that:

- all venues previously covered by the domestic COVID pass requirements – large indoor and outdoor events, nightclubs, cinemas, theatres and concert halls – will no longer need to restrict entry to vaccinated individuals or those who have a negative test (or are medically exempt) as shown on a COVID pass.
- anyone identified in Wales as a close contact is exempt from the legal requirement to self-isolate for 10 days, if they have been fully vaccinated with an approved vaccine as defined in the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2022.



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 two 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 the Welsh Government's justification for any potential interference with human rights. In particular, we note the following in the Explanatory Memorandum:

Whilst the principal Regulations, as amended by these Regulations, engage individual rights under the Human Rights Act 1998 and the European Convention on Human Rights, the Government considers that they are justified for the purpose of preventing the spread of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.

Article 5 (right to liberty), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are engaged by the principal Regulations.

Each of these is a qualified right, which permits the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health. All such restrictions and requirements must be justified on the basis that they are in pursuit of a legitimate aim, namely of protecting public health, and are proportionate to that aim. Any interference with these rights also needs to be balanced with the state's positive obligations under Article 2 (right to life). The adjustment of the restrictions and requirements under the principal Regulations by these Regulations is a proportionate response to the spread of coronavirus. It balances the need to maintain an appropriate response to the threat posed by coronavirus against the rights of individuals and businesses, in a manner which remains



proportionate to the need to control the rate of transmission of the coronavirus, taking into account the scientific evidence.

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

We note that there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

Given the ongoing threat arising from coronavirus and the need for a proportionate and prompt public health response, there has been no public consultation in relation to these Regulations. However, engagement has taken place with various stakeholders.

Welsh Government response

A Welsh Government response is not required.

Committee Consideration

The Committee considered the instrument at its meeting on 28 February 2022 and reports to the Senedd in line with the reporting points above.

