

SL(5)725 – The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 2) Regulations 2021

Background and Purpose

The Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”) impose requirements on persons entering Wales after having been abroad. They include a requirement for persons arriving in Wales to isolate for a period determined in accordance with the International Travel Regulations.

The requirements imposed by the International Travel Regulations are subject to exceptions, and certain categories of person are exempt from having to comply.

Until now, persons entering Wales after being in one or more of the countries and territories listed in Parts 1 and 2 of Schedule 3 to the International Travel Regulations (“exempt countries and territories”) have not been required to isolate. Part 2 of these Regulations removes all the exempt countries and territories listed in Schedule 3.

These Regulations also:

- Amend Schedule 2 to the International Travel Regulations by removing certain categories of worker that are currently exempt from having to provide passenger information and isolate;
- Amend regulation 10 of the International Travel Regulations by removing certain exceptions to the requirement to isolate.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.



Merits Scrutiny

The following 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 breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Vaughan Gething MS, Minister for Health and Social Services, in a [letter](#) to the Llywydd dated 16 January 2021.

In particular, we note the following in the letter:

“Not adhering to the 21 day convention, and bringing them into force before they are laid, allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.”

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

“The amendments contained in these Regulations do not change the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Charter of Fundamental Rights; the Government considers that they are justified for the purpose of preventing the spreading 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.”

Section 5(4) of the European Union (Withdrawal) Act 2018 states that the European Charter of Fundamental Rights (“the Charter”) is not part of domestic law on or after IP completion day (23:00 on 31 December 2020). Can the Welsh Government provide an explanation as to why reference to the Charter is made in the Explanatory Memorandum?

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 paragraph in 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."

Welsh Government response

A Welsh Government response is required in relation to the second merits point.

Committee Consideration

The Committee considered the instrument at its meeting on 25 January 2021 and reports to the Senedd in line with the reporting points above.

