

SL(5)721 – The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) Regulations 2021

Background and Purpose

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”) to implement changes identified by the Joint Biosecurity Centre in the public health risk status of certain countries or territories, as is necessary for the protection of public health.

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.

Persons entering Wales after being in one or more of the countries and territories listed in Schedule 3 to the International Travel Regulations (“exempt countries and territories”) are not required to isolate. Part 2 of these Regulations amends the list of exempt countries and territories.

Regulation 2 amends the International Travel Regulations to remove the entry for the United Arab Emirates. Regulation 3 makes transitional provisions in this regard.¹

These Regulations came into force at 4.00 am on 12 January 2021.

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

¹ It is noted that the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 2) Regulations 2021 have since removed all countries from the list of exempt countries and territories.



The following three 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 by these Regulations 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(5) 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, which was at 23:00 on 31 December 2020. The Charter therefore no longer forms part of domestic law. In light of this, it would assist the Committee to receive an explanation as to why reference to the Charter is made in the Explanatory Memorandum.

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 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 Rebecca Evans MS, Minister for Finance and Trefnydd, in a letter to the Llywydd dated 11 January 2021.

In particular, we note the following paragraphs of the letter:

"It has been necessary to urgently remove the United Arab Emirates (UAE) from the list of exempted countries and territories that are set out in the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020, following advice which indicates the risk to public health of inbound travel from UAE has risen.

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 in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case."

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.”

We also note that the letter from Rebecca Evans MS, Minister for Finance and Trefnydd to the Llywydd dated 11 January 2021 states that:

“Due to the immediacy of the Regulations they have not been subject to consultation.”

Welsh Government response

A Welsh Government response is required in relation to the first reporting point only.

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.

