

SL(5)578 – The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) Regulations 2020

Background and Purpose

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”).

The International Travel Regulations impose requirements on persons entering Wales after having been abroad. They include requiring people to self-isolate for a period of 14 days. The requirements are subject to exceptions, and certain categories of person are exempt from having to comply.

These Regulations amend the International Travel Regulations to remove Serbia from the Schedule 3 list of exempt countries and territories. As such, self-isolation requirements are being reintroduced for travellers coming into Wales from Serbia.

Procedure

Negative.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. 21.2(vi) that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 1(3) of the English text defines the term “International Travel Regulations”. However, Regulation 2(1) then refers to the “The International Travel Amendments”. The Welsh text does not have this inconsistency.

Merits Scrutiny

The following 4 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. 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

The 21 day rule under the Statutory Instruments Act 1946 (incorporated in Schedule 10 of the Government of Wales Act 2006) provides that instruments should be laid 21 days before they come into force. This enables Members to seek to annul such instruments before they have effect, as confusion can be caused if legislation is annulled after it has been implemented.

These Regulations were laid on 10 July, and came into force the following day, 11 July 2020. In this case, the Welsh Government considers that the circumstances justify a breach of the 21 day rule. We note the letter sent by Rebecca Evans, Minister for Finance and Trefnydd to the Llywydd, dated 10 July 2020. This states:



I wrote to you on 9 July to advise that we had laid the Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2020. Subsequent to those Regulations being made it has been necessary to urgently remove Serbia from the list of exempted countries and territories that are now set out in the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020. Not adhering to the 21 day convention allows these further amending Regulations to come into force at the earliest opportunity, and in view of the changing evidence on countries at risk in relation to this disease this is considered necessary and justifiable in this case.

2. 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

Schedule 3 of the International Travel Regulations, which provided for an exempt list of countries and territories, including Serbia, only came into force on 10 July 2020, as the Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2020 Regulations, containing the Schedule 3 to the International Travel Regulations were made and laid on 9 July 2020. These Regulations were made at 3.45pm on the 10 July, and came into force on 11 July, removing Serbia from the list in Schedule 3.

The Explanatory Memorandum to these Regulations states that

“The Travel Regulations are kept under review. Subsequent to the list of exempt countries and territories being added to those Regulations, updated advice from the Joint Biosecurity Council and Public Health England has been received which indicates the risk to public health of inbound travel from Serbia has risen. On the basis of this advice the Welsh Government considers that self-isolation requirements should now be reintroduced for travellers coming into Wales from Serbia. The requirements will come into effect for any travellers entering the Common Travel Area from Serbia on or after 11 July 2020.”

There is a need to remove from the list of exempt countries and territories, a country or territory from which inbound travel represents an increased risk to public health. However, these Regulations, which remove Serbia from the Schedule 3 list were made, and laid, on the same day that the list to exempt Serbia came into force. As such, there may be a risk of confusion to readers of the legislation.

3. 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

In respect of the human rights implications of these Regulations, the Welsh Government’s Explanatory Memorandum states as follows:

The amendment contained in these Regulations does not change the engagement under the 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.



Human rights are engaged under the International Travel Regulations, and these Regulations do not change the position in this regard. These Regulations remove one of the exempt countries from the list in Schedule 3 to the International Travel Regulations, requiring travellers from Serbia to self isolate.

4. 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

No public consultation or regulatory impact assessment has been carried out in relation to these Regulations. The Explanatory Memorandum explains that this is due to the serious and imminent threat arising from coronavirus and the need for an urgent public health response and, as such, the need to put these Regulations in place urgently.

Implications arising from exiting the European Union

No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

27 July 2020



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee