

SL(5)651 – The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 18) Regulations 2020

Background and Purpose

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the principal Regulations”) to remove Denmark from the list of exempt countries and territories in those Regulations and to make transitional provisions.

These Regulations came into force at 4:00am on 6 November 2020. It is noted that further legislative provisions in relation to travel from Denmark have since come into force at 4:00am on 7 November 2020 via the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020.

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 5 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

Human Rights

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, which relates to both these Regulations and the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 19) Regulations 2020:

“The amendments contained in both sets of 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."

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

Consultation

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 the No 18 [...] Regulations."

In a letter to the Llywydd from Rebecca Evans MS, Minister for Finance and Trefnydd dated 6 November 2020, it is also explained that:

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

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

Equality Impact Assessment

We note there is no equality impact assessment for these Regulations, neither is there for the principal Regulations, and ask the Welsh Government to explain what arrangements it has made, in respect of these Regulations or the principal Regulations, to publish reports of equality impact assessments in accordance with regulation 8(1)(d) of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.

4. 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

Breach of the 21-day rule and coming into force before laid

We note:

- That the Regulations came into force before being laid before the Senedd; and
- The breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a negative resolution instrument is laid before the Senedd and the date the instrument comes into force).

An explanation has been provided by Rebecca Evans MS, Minister for Finance and Trefnydd, in a letter to the Llywydd dated 6 November 2020. In particular, we note the following in the letter:



“Overnight it became necessary to make the above Regulations, and in accordance with sections 4(1) and 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this Statutory Instrument has not adhered to the 21 day convention and has come into force before it could be laid. [...]

These Regulations further amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 to remove Denmark from the list of exempt countries and territories. The Regulations make this change due to the identified changes in risk to public health posed by arrivals from this country.”

We also note the Government’s explanation contained in the Explanatory Memorandum that it became necessary to “urgently remove Denmark from the list of exempt countries” because of “emerging health risks being reported from mink farms in Denmark, and the need to act before further international travel from Denmark arrived in the UK.”

5. 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

Illustrative document

We note and welcome the publication of an [illustrative document](#) by the Welsh Government, which sets out the various amendments made to the principal Regulations in order to assist the reader in understanding the principal Regulations.

Implications arising from exiting the European Union

None.

Welsh Government response

Given the current circumstances regarding coronavirus, a Welsh Government response is required in relation to the third merits point as soon as is reasonably practicable.

Legal Advisers

Legislation, Justice and Constitution Committee

11 November 2020

