

# SL(5)652 – The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 19) Regulations 2020

## Background and Purpose

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the principal Regulations”) to remove Germany and Sweden from the list of exempt countries and territories in the principal Regulations and to make transitional provisions. These Regulations also make a technical amendment to the Welsh language text of the principal Regulations to give effect to the provisions of the Transfer of Functions (Secretary of State for Foreign, Commonwealth and Development Affairs) Order 2020.

These Regulations came into force at 4.00 am on 7 November 2020.

## Procedure

Negative.

These Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul these 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 Government’s explanation contained in the Explanatory Memorandum that advice “received from the Joint Biosecurity Centre indicates that the risk to public health posed by the incidence and spread of coronavirus in Germany and Sweden has increased”.



In the Explanatory Memorandum, which relates to both these Regulations and the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 18) Regulations 2020, the Welsh Government states:

*"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 19 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**

We note 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), and the explanation for the breach 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:

*“Not adhering to the 21 day convention 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.”*

**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**

