

SL(5)705 – The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 22) Regulations 2020

Background and Purpose

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 entries for Republic of Namibia, Uruguay and Virgin Islands of the United States.

Regulation 4 also provides an additional exception in relation to a person entering Wales who has been released from isolation in England under ‘Test to Release’ (by regulation 4(13A) of the Health Protection (Coronavirus International Travel) (England) Regulations 2020 (S.I. 2020/568) to enable any person with a negative result under that system to be permitted entry to Wales in limited circumstances.

These Regulations came into force at 4.00 am on 19 December 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 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 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 18 December 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.”

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.”

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 paragraphs 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.”

In a letter to the Llywydd from Rebecca Evans MS, Minister for Finance and Trefnydd dated 18 December 2020, it is also explained that:

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



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.

As noted in the Welsh Government's reply to the Committee reports in relation to the No.18 and No. 19 "International Travel" Regulations, the Committee welcomes the commitment by the Welsh Government in respect of a future published Integrated Impact Assessment on international travel isolation requirements as set out below.

"Regulations have been made to respond to a public health emergency, so it has not been possible to produce and publish an Equality Impact Assessment alongside them. An Integrated Impact Assessment of international travel isolation requirements will be published in due course."

Implications arising from exiting the European Union

None.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

21 December 2020

