

SL(5)719 – The Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2021

Background and Purpose

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”) and the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (“the No. 5 Regulations”), retaining the additional restrictions already in place in relation to South Africa and extending them to travellers (and their households) arriving in Wales from other Southern African countries (listed in the new Schedule 3A to the International Travel Regulations) on or after 4.00 a.m. on 9 January 2021.

These Regulations also:

- Extend the existing prohibition on passenger aircraft and vessels arriving directly into Wales to the additional countries listed in the new Schedule 3A; and
- Permit show homes to stay open in Alert Level 4 areas (although viewing a property in connection with a sale or let is permitted only if it is reasonably necessary and there is no reasonably practicable alternative).

Procedure

Made Affirmative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is dissolved or in recess for more than four days) of the date they were made for them to continue to have effect.

Technical Scrutiny

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

1. Standing Order 21.2(vii) - that there appear to be inconsistencies between the meaning of its English and Welsh texts

Regulation 8(7) in the English text substitutes “developer sales offices and show homes” in paragraph 48 of Schedule 4 to the No. 5 Regulations with “developer sales offices”. However, the same regulation in the Welsh text substitutes “developer sales offices and show homes” with “show homes”.



Merits Scrutiny

The following 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 or 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 or the No. 5 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 or 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."

3. Standing Order 21.3 (ii) - that it is of political or legal importance or gives rise to issues or public policy likely to be of interest to the Senedd

The Explanatory Memorandum provides that a regulatory impact assessment has not been carried out in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health.

4. Standing Order 21.3 (ii) - that it is of political or legal importance or gives rise to issues or public policy likely to be of interest to the Senedd

Footnote (2) on page 8 of these Regulations refers to "S.I. 2020/163" and "S.I. 2020/165". We assume that they should read S.I. 2020/16~~2~~³ and S.I. 16~~4~~⁵ (*emphasis added*) as those are the SI numbers for the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 2) Regulations 2020 and the Health Protection (Coronavirus, South Africa) (Wales) Regulations 2020, respectively.

It is accepted that the footnote does not form part of the law. However, if the purpose of its inclusion is to assist a reader, it would be helpful if the correct references were used.



Welsh Government response

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

Committee Consideration

The Committee considered the instrument at its meeting on 18 January 2021 and reports to the Senedd in line with the reporting points above.

