

SL(6)028 - The Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) (No. 2) Regulations 2021

Background and Purpose

The International Travel Regulations¹ impose requirements on persons entering Wales after having been abroad. They include a requirement for persons arriving in Wales from non-exempt countries or territories to isolate for a specified period.

These Regulations amend the International Travel Regulations by:

- Making the following changes to the Red, Amber and Green lists:
 - adding Cuba, Indonesia, Myanmar and Sierra Leone to the Red list;
 - removing the Balearic Islands and the British Virgin Islands from the Green list (moving them to the Amber list);
 - adding Bulgaria, Croatia, Hong Kong and Taiwan to the Green list.

- Including provision for specified events to use private testing providers for mandatory testing.

- Remove the requirement for the following travellers from Amber list countries to isolate and take a Day 8 test:
 - fully vaccinated UK residents;
 - children under 18;
 - people who have taken part in vaccination trials.

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.

¹ The Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (S.I. 2020/574)



Technical Scrutiny

No following 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 Eluned Morgan MS, Minister for Health and Social Services in a [letter to the Llywydd dated 16 July 2021](#). In particular, we note the letter says:

“Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; 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 Convention on Human 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.

The Government considers that the Public Health Information Regulations do not engage any of the individual rights under the Human Rights Act 1998 and the European Convention on Human Rights. And, to the extent that any such rights may be engaged, the Government considers that the interference is minimal and can be justified as being necessary and proportionate to achieve a legitimate aim. The amendments to the Public Health Information Regulations made by these Regulations do not change the engagement of individual rights.”

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 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."

Welsh Government response

A Welsh Government response is not required.

Legal Advisers
Legislation, Justice and Constitution Committee
29 July 2021



Senedd Cymru
Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad
—
Welsh Parliament
Legislation, Justice and Constitution Committee