

SL(6)032 - The Health Protection (Coronavirus, International Travel and Operator Liability) (Wales) (Miscellaneous Amendments) (No. 3) 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 so that certain travellers arriving in Wales from amber list countries do not have to isolate. This includes travellers who have received a full course of an authorised vaccine in a relevant country and travellers who are under 18 and ordinarily resident in a relevant country.

The list of relevant countries includes:

- a member State of the European Union,²
- Andorra,
- Iceland,
- Liechtenstein,
- Monaco,
- Norway,
- San Marino,
- Switzerland,
- the United States of America,
- Vatican City State.

Under these Regulations, such travellers are also not required to take a PCR test on day 8 after arriving in Wales.

These Regulations also amend the Operator Liability Regulations³ so that operators of international passenger services must check that a person:

- (i) who has declared that they are an 'eligible vaccinated arrival' under the International Travel Regulations can provide evidence to support that declaration;

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

² Excluding Metropolitan France (but Metropolitan France was subsequently included as a relevant country from 8 August 2021 by virtue of the Health Protection (Coronavirus, International Travel and Operator Liability) (Wales) (Miscellaneous Amendments) (No.4) Regulations 2021 (S.I. 2021/926))

³ The Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021 (S.I. 2021/48)



- (ii) seeking to rely on an exemption from certain travel requirements can evidence they are eligible for the exemption.

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 Eluned Morgan MS, Minister for Health and Social Services in a [letter to the Llywydd dated 30 July 2021](#).

The letter to the Llywydd states:

“Such urgency of coming into force is necessary to continue the four nation approach to international travel because the law in Wales will apply to travellers regardless of their port of entry. 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 Operator Liability 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 Operator Liability 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

10 August 2021



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—

Welsh Parliament

Legislation, Justice and Constitution Committee