

SL(6)040 - The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 10) 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 to isolate for a period determined in accordance with those Regulations. The requirements imposed by the International Travel Regulations are subject to exceptions. 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 are not required to isolate. The countries and territories listed in Schedule 3 are referred to as “exempt countries and territories”. Regulation 4 of these Regulations amends Schedule 3 to add to the list of exempt countries and territories outside the common travel area, as follows: The Azores, Canada, Denmark, Finland, Liechtenstein, Lithuania, Switzerland.

Non-exempt persons are prohibited from entering Wales where they have been in a country or territory listed in Schedule 3A to the International Travel Regulations within the last 10 days of arrival. Regulation 5 of these Regulations amends Schedule 3A to add Montenegro and Thailand to the list of countries and territories subject to additional measures.

The International Travel Regulations permit unaccompanied minors (under 18) to isolate at their destination (rather than elsewhere) where they arrive from a country listed in Schedule 3A and will be attending a boarding school or further education institution in Wales (See Regulation 12E). Regulation 5 of these Regulations amends the International Travel Regulations to include any students under the age of 18 who are coming to Wales to pursue studies in higher education. This approach is consistent with that of the UK Government.

Schedule 4 to the International Travel Regulations sets out a list of specified sporting events. An individual who is required to isolate may leave isolation to compete or train in, or provide coaching or other support to a person competing in, those events. Regulation 6 adds the following to the list-

- The Champions Hockey League competition
- FIH World Cup qualifiers for Men (European group)

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



Procedure

Made 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). We further note the explanation for the breach provided by Eluned Morgan MS, Minister for Health and Social Services in a letter to the Llywydd of 27 August 2021, namely that-

“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.”



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

31 August 2021



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee