

SL(6)104 - The Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) (No. 4) 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, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (“the Passenger Information Regulations”).

These Regulations amend the International Travel Regulations, with effect from 4am 7 December 2021, so that:

- Fully vaccinated travellers above a certain age arriving in Wales from outside the Common Travel Area must now take a pre-departure test (those travelling from red-list countries remain prohibited from travelling to Wales) unless they meet specific exemptions;
- The age threshold for application of the above requirement has changed from 11 to 12 years old;
- The time before departure at which a pre-departure test must be taken has been reduced to no more than 48 hours prior to departure.

Before these amendments came into force, the position was that:

- Fully vaccinated travellers did not need to take a pre-departure test;
- The age threshold for application of the requirement for unvaccinated travellers to take a pre-departure test was 11 years old;
- The time before departure at which a pre-departure test must be taken was no more than 72 hours prior to departure.

The changes are being brought in to address the threat to public health posed by the Omicron variant, which may have a greater impact on vaccinated persons than current variants.

As a result of these changes to the International Travel Regulations, consequential changes are made to the Passenger Information Regulations to ensure the correct information is provided to travellers.



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 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 6 December 2021.

“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

10 December 2021



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee