

SL(6)181 – The Health Protection (Coronavirus, International Travel, Operator Liability and Public Health Information to Travellers etc.) (Wales) (Revocation) Regulations 2022

Background and Purpose

These Regulations revoke the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2022 (the “International Travel Regulations”), the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021 (the “Operator Liability Regulations”) and the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (the “Public Health Information Regulations”) (together “the Principal Regulations”).

The Regulations also revoke a number of statutory instruments which amend the Principal Regulations as well as the previous version of the International Travel Regulations.

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 four 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 convention (i.e. the convention 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 March 2022](#).



In particular, we note what the letter says regarding the four nation approach to international travel being maintained:

Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continues to maintain the four nation approach to international travel as the other nations will also revoke their Regulations at this time; in view of the changing evidence that the risks posed by international travel has changed therefore it is no longer proportionate to maintain the restriction measures.

Further, the Explanatory Memorandum notes that UK Government changes will render the corresponding Welsh legislation inoperable:

In accordance with section 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Regulations do not adhere to the 21 day convention. This is necessary because the UK government intend to revoke their regulations at 04:00 hours on 18 March which means the passenger locator form will cease from that time. Without the PLF the Wales regulations are inoperable. These Regulations are being revoked in the other nations so there will be alignment across the UK.

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.

The Explanatory Memorandum accompanying the Regulations notes the impact of the Regulations on human rights:

The amendments contained in these Regulations changes the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Convention on Human Rights as current restrictions are to be removed; the Government considers that they are justified because the domestic transmission of Omicron now significantly surpasses that from imported cases therefore it is no longer proportionate to maintain the restriction measures.

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:

There has been no public consultation in relation to these Regulations due to the need to put them in place urgently to ensure legislation in Wales is operable.

4. 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 that no regulatory impact assessment has been prepared in relation to these Regulations. Similar reasoning has been provided in the Explanatory Memorandum to that noted above, in relation to consultation:



There has been no regulatory impact assessment in relation to these Regulations due to the need to put them in place urgently to ensure legislation in Wales is operable.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

14 April 2022



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee