

SL(6)061 - The Health Protection (Coronavirus, International Travel, Operator Liability and Public Health Information to Travellers)(Wales) (Miscellaneous Amendments) (No. 3) Regulations 2021

Background and Purpose

These [Regulations](#) amend the following Regulations:

- The Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (S.I. 2020/574 (W. 132)) (“the International Travel Regulations”);
- The Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales)(Amendment) Regulations 2021 (S.I. 2021/40 (W. 11)) (“the Operator Liability Regulations”); and
- The Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (S.I. 2020/574 (W. 132)) (“the Public Health Information Regulations”).

Part 2 of these Regulations amend the International Travel Regulations. The International Travel Regulations impose requirements on people entering Wales after having been abroad.

Regulations 3, 6 and 8 make provision to remove Schedule 3 (exempt countries and territories outside the common travel area), containing what are commonly referred to as ‘green list’ countries, from the International Travel Regulations.

Regulation 4 makes amendments to regulation 2A (exemptions for vaccinated travellers and others) of the International Travel Regulations, including an expansion of the list of relevant countries at paragraph (11) and introduction of further relevant countries and territories in a new paragraph (12). These changes mean that:

- mixed doses and vaccination taken under certain different programmes are recognised,
- the following countries are added to the list of countries with recognised vaccination certification: Australia, Antigua and Barbuda, Barbados, Bahrain, Brunei, Canada, Dominica, Israel, Japan, Kuwait, Malaysia, New Zealand, Qatar, Saudi Arabia, Singapore, South Korea, Taiwan and the United Arab Emirates (UAE)

Regulation 5 amends regulation 6A (requirement to possess notification of a negative test result) of the International Travel Regulations so as to exempt a regulation 2A traveller from the requirements of that regulation.

Regulation 7 makes amendments to the requirements that apply to private test providers at paragraphs 1ZA and 2ZA of Schedule 1C.



Regulation 9 amends Schedule 4 to the International Travel Regulations to update the list of specified sporting events. A person is able to leave isolation to compete or train in, or provide coaching or other support to a person competing in a sporting event specified in Schedule 4. These changes add three events to the list of specified sporting events

Part 3 of these Regulations makes minor amendments to the Operator Liability Regulations to reflect the changes to the restrictions on international travel. The Operator Liability Regulations impose requirements those who operate international passenger services (“operators”) arriving into Wales from outside the common travel area.

The Public Health Information Regulations impose requirements on operators of international passenger services coming from outside the common travel area to an airport, heliport or seaport in Wales to provide passengers with specified public health information.

Part 4 of these Regulations amend The Public Health Information Regulations to make changes to the specified public health information that operators must provide to passengers prior to, and during travel into, Wales.

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 3 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 1 October 2021. In particular, we note what the letter says regarding the breach of the rule:

“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 paragraphs at page 2 of 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 and 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 Operator Liability Regulations and 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

7 October 2021



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee