

SL(6)023 – The Health Protection (Coronavirus, International Travel and Operator Liability) (Miscellaneous Amendments) (Wales) (No. 2) 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, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021 (“the Operator Liability Regulations”).

Specifically, these Regulations amend the International Travel Regulations to add four events to Schedule 4 (List of sporting events). An individual is able to leave isolation to compete in or train for, or provide coaching or other support to a person competing in, the sporting events listed in Schedule 4. The four events added to Schedule 4 are:

- European Tour – Cazoo Open;
- R & A – The Curtis Cup;
- Red Bull Hardline; and
- The Tour of Britain.

These Regulations also amend the Operator Liability Regulations so that an operator is not required to ensure that a passenger on a relevant service, who is a person that is being lawfully compelled to travel in the course of an extradition, prisoner transfer or deportation, is in possession of a notification of:

- a negative pre departure test result; or
- the arrangements made to comply with any post arrival testing requirements.

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 Welsh Government's justification for any potential interference with human rights. In particular, we note the following paragraphs 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."

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 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."

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 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 12 July 2021](#).

In particular, we note the following from the letter:

"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."

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

28.07.2021



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee