

SL(6)049 – The Health Protection (Coronavirus, International Travel and Notification) (Wales) (Miscellaneous Amendments) Regulations 2021

Background and Purpose

These [Regulations](#) amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”) (SI 2020/574) and the Health Protection (Notification) (Wales) Regulations 2010 (SI 2010/1546) (“the Notification Regulations”).

Specifically, these Regulations amend the International Travel Regulations by making the following changes:

- Bangladesh, Egypt, Kenya, Maldives, Oman, Pakistan, Sri Lanka and Turkey are removed from the “red list”; and
- to allow coronavirus day 2 and day 8 tests to be carried out by private sector test providers, provided they comply with specified requirements, including being appropriately accredited, having specified systems in place and making a declaration to confirm compliance.

In addition, these Regulations also amend the Notification Regulations by making the following changes:

- imposing requirements on diagnostic laboratories, sequencing laboratories and test providers to notify Public Health Wales of the results of covid-19 or influenza virus detection tests which they process; and
- imposing a requirement on diagnostic laboratories to report additional information where they process tests in accordance with the International Travel Regulations.

Regulation 15 requires the Welsh Ministers to review the effectiveness of the provisions made in the Notification Regulations by these Regulations before the expiry of the period of 12 Months beginning with the day after the day on which they come into force.

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 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."

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 20 September 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

29 September 2021



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee