Twitter Thread by Adam Wagner



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A short thread on why I am dubious that the government can lawfully impose charges on travellers entering the UK for quarantine and testing (proposed at £1,750 and £210)

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The UK has signed up to the International Health Regulations (IHA) 2005. These therefore create binding international legal obligations on the UK.

The IHA explicitly prevent charging for travellers' quarantine or medical examinations.

https://t.co/n4oWE8x5Vg /2

International law is not actionable in a UK court unless it has been implemented in law.

But it can be used as an aide to interpretation where a statute isn't clear as to what powers it grants.

See e.g. Lord Bingham in A v SSHD https://t.co/RXmib1qGYD

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The Quarantine regulations will, I assume, be made under section 45B of the Public Health (Control of Disease) Act 1984

https://t.co/54L4lHGMEr

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That gives pretty broad powers but I can't see any power to charge for quarantine. Perhaps it will be inferred from somewhere else in Part 2A?

But...

... Part 2A of the 1984 Act was brought in by the Health and Social Care Act 2008 which was expressly (see the Explanatory Notes) intended to implement the UK's obligations under...

The International Health Regulations 2005

https://t.co/PEfFjHNzpg

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Surely Parliament didn't intend for the powers under Part 2A of the Public Health Act 1984 to permit a minister to make regulations which breached the express requirements of the International Health Regulations 2005?

So how can the minister have power to impose charges?
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I may be missing something - let me know if I am.

I am also conscious govt may use a different power altogether to set this up, perhaps Schedule 21 of Coronavirus Act 2020? But that seems not quite right and still doesn't expressly allow for charging.

https://t.co/bWbHOOC4f4
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Thoughts welcome!

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