

Explanatory Memorandum to the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) (Amendment) Regulations 2020

This Explanatory Memorandum has been prepared by the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) (Amendment) Regulations 2020.

Vaughan Gething
Minister for Health and Social Service

14 October 2020

Explanatory Memorandum

1. Description

The Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) (Amendment) Regulations 2020 (“the Amending Regulations”) amend the information that is required be given to passengers travelling to Wales by the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (“the Passenger Information Regulations”).

The Passenger Information Regulations introduced requirements for operators of air and sea international passenger services (“operators”) to provide their passengers with information about coronavirus and related matters (such as the duty to self-isolate when coming to Wales from outside the Common Travel Area), as well as information on public health guidance. These requirements came into force on the 17 June 2020.

The Passenger Information Regulations were amended by the Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Amendment) (Wales) Regulations 2020 to:

- make the content of the public health statement that is made to passengers during their journey consistent across the U.K.;
- remove the requirement for the statement to be made orally, to provide operators with greater flexibility on how the statement is delivered; and
- alter the review period for the Regulations from every 21 days to every 28 days, starting on 23 July 2020.

These amendments came into force on the 10 July 2020.

The Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) (Amendment) Regulations 2020 (“the Amending Regulations”) are part of a suite of regulatory amendments being made by all 4 U.K. nations to the information that operators must give to passengers arriving from outside the Common Travel Area. They further amend the Passenger Information Regulations to:

- provide the text of the information that operators of international travel services must give to passengers at the booking and check-in stages, and prescribe web links to relevant government webpages (previously, the exact wording of this information was not prescribed but was left up to the operator);
- require operators to provide information to all passengers between 24 to 48 hours before they are due to travel to Wales - including links to relevant government webpages; and
- update the on-board statement that must be delivered during the journey to the U.K.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None

3. Legislative background

These Regulations are made using powers found in sections 45B(1), 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984 (“the 1984 Act”).

The 1984 Act and regulations made under it provide a legislative framework for health protection in England and Wales. Part 2A of the 1984 Act was inserted by the Health and Social Care Act 2008, and provides a legal basis to protect the public from threats arising from infectious disease.

Section 45B of the 1984 Act provides for the making of health protection regulations concerning international travel etc. Under section 45B(1)(a), the appropriate Minister may by regulations make provision for preventing danger to public health from vessels, aircraft, trains or other conveyances arriving at any place. Section 45B(2)(e) provides that regulations under section 45B(1) may include provision prohibiting or regulating the arrival or departure of conveyances and the entry or exit of persons or things. Section 45B(2)(g) provides that regulations under section 45B(1) may include provision requiring persons to provide information or answer questions (including information or questions relating to their health).

Section 45F of the 1984 Act provides that regulations made under section 45B may create offences and provide for the execution and enforcement of restrictions and requirements imposed by or under the regulations. An operator commits an offence under the Regulations if it fails to comply with the requirement to ensure the provision of information. Section 45F(2)(a) contains supplementary provision relating to regulations made under section 45B; it provides that regulations made under section 45B may confer functions on persons. Functions relevant to monitoring compliance and enforcing the requirements are conferred on authorised persons.

The powers under these sections are conferred on “the appropriate Minister”. Under section 45T(6) of the 1984 Act the appropriate Minister, as respects Wales, means the Welsh Ministers.

Coming into force

These Amending Regulations are subject to annulment by Senedd Cymru (the ‘negative procedure’).

They will come into force on 4 November 2020.

UK-wide approach

Whilst the UK Government leads on the joint policy for international travel, it works in collaboration with the Devolved Governments and has developed a unified UK

approach. As a result, the Governments of all 4 nations have equivalent legislation to the Passenger Information Regulations.

The Amending Regulations are part of a suite of regulatory changes being made by all 4 U.K. nations to the information which operators must give to passengers arriving from outside the Common Travel Area.

4. Purpose and intended effect of the legislation

The Passenger Information Regulations were introduced to ensure only those persons who were willing and able to comply with the relevant requirements and public health guidance completed their travel to Wales.

By the time they reach the point of entry, passengers should have had up-to-date information so that they know what is required of them immediately upon entry. Ensuring that people entering Wales have, and can comply with, these requirements and guidance will help to reduce the transmission of SARS-CoV-2 and thereby prevent danger to public health from aircraft and vessels arriving in Wales from outside the Common Travel Area.

Those who are unable or unwilling to comply with these requirements may choose not to travel.

However, there are concerns that some operators are failing to convey the required information clearly to passengers at booking and check-in. Instead, the information that is given may be unclear or confusing.

In addition, some passengers are arriving in Wales having not completed Passenger Locator Forms, particularly where they are returning from countries with which there is a "Travel Corridor".

There are also concerns that passengers need to be made aware that there could be swift changes to those countries with which Wales has a "Travel Corridor". As a result, passengers may be required to self-isolate on their return to Wales, even though this may not have been a requirement when the journey was originally booked or the outward stage of the journey made.

To ensure all passengers are given the information they need about relevant requirements and public health guidance so that they may make an informed choice about whether to travel to Wales, these Amending Regulations insert new provisions into the Passenger Information Regulations:

a) Booking

The new provisions prescribe the exact wording of the information that operators must give to passengers before a booking is completed. When booking via an operator's website or mobile application, this information must include links to the following webpages:

- i. www.gov.uk/provide-journey-contact-details-before-travel-uk
- ii. www.gov.uk/uk-border-control.

There will be links to public health advice for each nation from www.gov.uk/uk-border-control; for Wales, this will be a link to www.gov.wales/coronavirus.

Where booking is carried out over the telephone or in person, the information must be read out to the passenger by way of a script or by way of a written notice which sets out the requirement to provide information and the requirement to isolate, pursuant to the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020.

By requiring operators to provide this prescribed information at the booking stage, people are better equipped to make an informed decision about whether they wish to travel to Wales.

b) Check-in

The Amending Regulations require the same scripted information to be provided to passengers at check-in as is used on booking. (As with booking, previously the exact wording of this information was not prescribed but was left up to the operator). The information must be provided before check-in is completed.

When check-in is delivered digitally, this information will include links to the following webpages:

- i. www.gov.uk/provide-journey-contact-details-before-travel-uk;
- ii. www.gov.uk/uk-border-control; and
- iii. www.gov.wales/exemptions-self-isolation-coronavirus-covid-19-html.

For passengers checking in at the airport or port, operators must deliver the information orally by way of a script, or by way of a written notice which sets out the requirement to provide information and the requirement to isolate, pursuant to the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020.

The third link to www.gov.wales/exemptions-self-isolation-coronavirus-covid-19-html is needed at check-in to direct passengers – who will be nearing their date of travel – to the latest information on “Travel Corridors”, and exemptions to self-isolation requirements.

In the same way as at the booking stage, there will be prominent links to public health advice for each U.K. nation from www.gov.uk/uk-border-control. For Wales, this will be a link to www.gov.wales/coronavirus.

There is likely to be a time lag between the booking and check-in stages, in which Government guidance could change. By requiring operators to provide the prescribed information at check-in, people can make an informed decision about whether, in light of any changes, they still wish to travel to Wales.

Those who are unable to or unwilling to comply with government guidance may choose not to travel.

c. Notification prior to departure

The Amending Regulations place a new requirement on operators to provide information to passengers between 24 to 48 hours prior to their departure. The information this message must contain is provided in the provisions inserted into the Passenger Information Regulations by the Amending Regulations, and includes a link to www.gov.uk/provide-journey-contact-details-before-travel-uk.

Operators must contact passengers to deliver this information via one of the following methods: email, SMS message, app push notification, or phone call.

d. Whilst passengers are on board the aircraft or ferry.

The “on-board” statement that must be delivered to passengers during their journey to Wales is updated to, amongst other matters, clarify that passengers must complete a Passenger Locator Form regardless of where they are arriving from. The requirement to self-isolate unless exempt is also moved towards the beginning of the statement, to give it more prominence.

This on-board statement is considered to be vital, as bookings may be taken, and check-in services may be managed, by third parties (travel agents, intermediaries) instead of directly by operators. Whilst the aim is to provide information to all passengers at the booking and check-in stages, this cannot be guaranteed. To ensure that all people travelling to Wales have been provided with the guidance, it is therefore necessary for operators to provide it to them whilst they are on board and en route.

5. Consultation

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.

6. Regulatory Impact Assessment (RIA)

Further to the Welsh Ministers’ regulatory impact assessment code for subordinate legislation, these Regulations form part of the response to the ongoing COVID-19 pandemic and need to be put in place urgently. As such, an RIA has not been prepared.

However, an initial assessment indicates that the impact of the Amending Regulations on operators is low.

There will be some familiarisation costs, but as the Passenger Information Regulations already require operators to provide information to passengers (but at

their discretion as to how this information is provided at booking and check-in) these costs are expected to be low.

While there will be additional costs to amend systems and processes in order to provide the specific text and prompts required by the provisions inserted into the Passenger Information Regulations by the Amending Regulations, operators already have systems in place to provide information to passengers on booking and at check-in, prior to departure, and during the on-board stages of the passenger journey. Therefore, the costs of amending existing systems and processes is expected to be low.

It is not possible to directly attribute any specific benefit of the policy to a public health outcome, as these measures act as a vehicle to communicate and enable other health measures through ensuring passengers are aware of the latest public health and travel requirements. Without the changes to passenger information made by these Amending Regulations, the full benefits of these requirements may not be realised. As such, these Regulations are expected to help reduce the transmission of COVID-19.