

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) 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, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020.

Vaughan Gething
Minister for Health and Social Services

9 November 2020

1. Description

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”), the Health Protection (Coronavirus Restrictions) (No. 3) (Wales) Regulations 2020 and the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 (“the No. 3 and No. 4 Regulations”).

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

These Regulations are made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22) (“the 1984 Act”). The Regulations are made without a draft having been laid and approved by the Senedd. It is the opinion of the Welsh Ministers that, by reason of urgency, it is necessary to make the Regulations without a draft being so laid and approved so that public health measures can be taken in order to quickly respond to the threat to human health from coronavirus. The Welsh Ministers are of the opinion that the restrictions and requirements as set out in these Regulations are necessary and proportionate as a public health response to the current threat posed by coronavirus.

European Convention on Human Rights

The amendments contained these Regulations do not change the engagement under the International Travel Regulations or the No. 3 and No. 4 Regulations of individual rights under the Human Rights Act 1998 and the European Charter of Fundamental 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.

Coming into force

In accordance with section 4(1) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Regulations came into force before they were laid, owing to the urgent need to respond to identified changes in the risk to public health posed by arrivals from Denmark.

3. Legislative background

The Public Health (Control of Disease) Act 1984 (“the 1984 Act”), and regulations made under it, provide a legislative framework for health protection in England and Wales. The Regulations are made in reliance on the powers in sections 45B, 45C(1) and (3), 45F(2) and 45P(2) of the 1984 Act.

The Explanatory Memoranda to the International Travel Regulations and the No. 3 and No. 4 Regulations provide further information on these powers.

4. Purpose and intended effect of the legislation

The International Travel Regulations were made on 5 June 2020 and came into force on 8 June 2020 in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

The International Travel Regulations are kept under review, and changes have been made to the list of exempt countries and territories from which travellers would not be required to isolate upon arrival in Wales – of most relevance to these Regulations when the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 18) Regulations were made to urgently remove Denmark from the list of exempt countries and territories with effect from 4.00 a.m. on 6 November 2020. From that time, persons entering Wales who have been in Denmark in the 14 days previously have been required to isolate.

That amendment was necessary because of emerging health risks being reported from Denmark that a new strain of covid virus has been shown to be transmitted from mink to people, and the need to act before further international travel from Denmark arrived in the UK. The amendments that have now been made by these Regulations extend that isolation requirement to all members of the household of any person entering Wales from 4.00 a.m. on 7 November who has been in Denmark in the 14 days before: so that both the returning traveller and any members of their household will now be required to isolate for 14 days. The amendments also disapply all sectoral exemptions in Schedule 2, so that no person arriving into Wales who has been in Denmark in the previous 14 days can be exempted from the requirements to provide passenger information or isolate. A more limited list than is usual of reasons for temporarily leaving isolation will also apply, as part of the response to the threat to public health.

This change coincides with the UK Government's implementation of immigration powers, which mean all non-British national or resident travellers who've been in or transited through Denmark in the last 14 days will be denied entry into the UK.

To effectively respond to the emerging situation, amendments have also been made to the No. 3 and No. 4 Regulations, which will require a person who entered Wales before 4am on 7 November having been in Denmark in the previous 14 days to isolate for 14 days from their date of arrival into Wales. This requirement will also extend to any members of that person's household.

To effectively support the implementation of these new requirements, Public Health Wales is now urgently contacting all residents in Wales who have been in Denmark in the past 14 days to explain the new isolation requirements.

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)

There has been no regulatory impact assessment in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health.