

## **Explanatory Memorandum to the Health Protection (Coronavirus, South Africa) (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, South Africa) (Wales) Regulations 2020.

**Vaughan Gething**  
**Minister for Health and Social Services**

29 December 2020

## **1. Description**

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”) and the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (“the No. 5 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. 5 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 South Africa.

## **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. 5 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. South Africa is not currently on that exempt list, so travellers are already required to isolate upon arrival to Wales, but further amendments are now being made to the International Travel Regulations so as to extend this isolation requirement to all members of the household of any person entering Wales from 9.00 a.m. on 24 December.

The Regulations also disapply all sectoral exemptions in Schedule 2 of the International Travel Regulations, so that no person arriving into Wales who has been in South Africa in the previous 10 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.

These changes are necessary because of emerging health risks being reported from South Africa that a new strain of covid virus with high levels of transmissibility has been identified.

To effectively respond to the emerging situation, amendments have also been made to the No. 5 Regulations, which will require a person who entered Wales before 9.00 a.m. on 24 December having been in South Africa in the previous 10 days to isolate for 10 days from the date they were last in South Africa. This requirement will also extend to any members of that person's household.

Finally, restrictions are inserted into the International Travel Regulations preventing vessels and aircraft from arriving directly into Wales from South Africa from 9am on 24 December.

These amendments coincide with the UK Government's implementation of immigration powers, which will refuse entry to all non-British national or resident travellers who arrive at the UK borders from 9:00 am Thursday 24 December.

To effectively support the implementation of these new requirements, Public Health Wales is now urgently contacting all residents in Wales who have been in South Africa in the past 10 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.