

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2021

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 2021.

Vaughan Gething
Minister for Health and Social Services

8 January 2021

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

Coming into force

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.

The Regulations will come into force at 4am on 9 January 2021.

European Convention on Human Rights

The amendments contained in 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.

3. Legislative background

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 provides 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 – most recently on 19 December 2020,

Advice which has now been received from the Joint Biosecurity Centre indicates that the risk to public health posed by the incidence and spread of coronavirus in the Republic of Botswana, Israel, the City of Jerusalem, the Republic of Seychelles and the Republic of Mauritius has increased. On the basis of this advice the Welsh Government consider that isolation requirements should now be introduced for travellers coming into Wales from those countries and territories.

The revised requirements will come into effect for any travellers entering the Common Travel Area from those countries or territories on or after 4.00 am on Saturday 9 January 2021.

As of 24 December 2020, additional restrictions were imposed on travellers to Wales from South Africa in response to emerging health risks posed by a new strain of coronavirus (COVID202012/02) that was identified as having high levels of transmissibility.

These Regulations retain the additional restrictions in relation to South Africa but restructure the regulations so as to enable these restrictions to also be imposed on travellers from other specified destinations. The Regulations also make some minor changes to the restrictions themselves, for example, to enable a person to leave isolation to fulfil a legal obligation or for the purpose of leaving Wales.

The Regulations also extend the additional restrictions (as amended) currently imposed on travellers to Wales from South Africa (and their households) to travellers (and their households) from other Southern African countries. Travellers from the following countries are considered to pose a risk to public health because of reports that the South Africa variant (COVID202012/02) is circulating there and/or because of strong travel connections with South Africa: Namibia, Botswana, Malawi, Eswatini, Lesotho, Zambia, Zimbabwe, Mozambique and Angola, the Seychelles and Mauritius.

Persons that arrive in Wales from 4.00am on 9 January 2021 who have been in any of those countries in the previous 10 days and members of such persons' household will therefore be required to self-isolate. 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 those countries 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.

The prohibition on direct passenger aircraft and vessels arriving into Wales from South Africa will also continue to apply and be extended to these additional countries where relevant.

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

04.00 a.m. on 9 January 2021 having been one of the listed countries in the previous 10 days to isolate for 10 days from the date they were last in that country. This requirement will also extend to any members of that person's household.

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 these countries from 4:00 am Saturday 9 January 2021.

To effectively support the implementation of these new requirements, Public Health Wales is now urgently contacting all residents in Wales who have been in affected countries in the past 10 days to explain the new isolation requirements.

A minor amendment has also been made to the International Travel Regulations to address a technical issue in the Welsh language version of the regulations.

Minor amendments have also been made to the No. 5 Regulations, including omitting spent provisions relating to extended households on 25 December 2020, and permitting show homes to stay open in Alert Level 4 areas (although viewing a property in connection with a sale or let is permitted only if it is reasonably necessary and there is no reasonably practicable alternative). Activities related to purchasing, letting and moving homes are currently allowed under the No. 5 Regulations if they are reasonably necessary and there is no reasonable alternative, and this amendment enables people to view new homes in the same way they are currently permitted so view homes that are not new.

All of these changes will come into force at 4.00 am on Saturday 9 January 2021.

The Welsh Ministers consider that these amendments are proportionate to what they seek to achieve, which is to respond to a serious and imminent threat to public health.

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.