

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) 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, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021.

Vaughan Gething
Minister for Health and Social Services

15 January 2021

1. Description

Subject to specified exemptions, until 10 July 2020, the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”) required all passengers arriving in Wales from outside of the Common Travel Area (i.e. the open borders area comprising the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland) to provide their contact details and travel information and to isolate for a period of 14 days.

These Regulations amend the International Travel Regulations so as to introduce further measures to protect public health, in the form of a pre-departure testing scheme, which will require all arrivals into Wales from outside the common travel area to possess notification of a negative coronavirus test.

These Regulations also introduce a new requirement on operators of international passenger services arriving into Wales from outside the common travel area to ensure that passengers on such services possess notification of a negative test result, which it will be a criminal offence to breach.

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

Coming into force

In accordance with section 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Regulations do not adhere to the 21 day convention. This was necessary in view of the need to act swiftly and on a four nations basis in order to provide a further safeguard in the effort to prevent danger to public health from persons travelling into Wales from outside the common travel area, especially in relation to the emergence of new variants of concern.

European Convention on Human Rights

The amendments to the International Travel Regulations and operator requirement provisions contained in these Regulations remain consistent with the engagement under the International Travel 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 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, 45F(2) and 45P(2) of the 1984 Act. The Explanatory Memorandum to the International Travel 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 Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 were made on 15 June, and came into force on 17 June. They place obligations on operators of international passenger services arriving into Wales from outside the common travel area to ensure that passengers travelling on those services are made aware of their obligations under the International Travel Regulations to provide information and, where relevant, isolate on their return to Wales.

Both sets of Regulations are kept under regular review and as part of the ongoing effort to prevent danger to public health in connection with the spread of coronavirus in the context of international travel it has been determined that travellers arriving into Wales from outside the common travel area should be in possession of a negative coronavirus test result. The amendments to the International Travel Regulations made by these Regulations introduce this new requirement and the details of the test and notification that is required. These Regulations also introduce a corresponding duty on operators of international passenger services to ensure that passengers travelling on these services are in possession of a notification of a negative test.

The new requirements in relation to pre-departure testing come into effect for any travellers arriving in Wales from 4.00 am on Monday 18 January.

The Welsh Ministers consider that the provisions and amendments contained in these regulations 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.