

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (No.2) (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) (No.2) (Wales) Regulations 2021.

Vaughan Gething
Minister for Health and Social Services

15 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 “Restrictions 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.

Coming into force

In accordance with sections 4(1) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Regulations came into force in part before they were laid, owing to the need to respond urgently to identified changes on risk posed by these new variants of concern.

European Convention on Human Rights

The amendments contained in these Regulations do not change 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, 45C (1) and (3) 45F(2) and 45P(2) of the 1984 Act.

The Explanatory Memorandum to the International Travel Regulations and the Restriction 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 – most recently on 12 January 2021.

Advice which has now been received from the Joint Biosecurity Centre indicates that the risk to public health posed by the incidence and community spread of a new variant of coronavirus in Argentina, Brazil, Bolivia, Chile, Colombia, Ecuador, French Guiana, Guyana, Paraguay, Peru, Portugal, Republic of Cabo Verde, Republic of Panama, Suriname, Uruguay, and Venezuela has increased.

Additional measures are now being made to the International Travel Regulations so any person arriving into Wales from these countries will be required to isolate and that isolation requirement will to all members of the household of any person entering Wales from 4.00 a.m. on 15 January 2021.

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 these 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.

These changes are necessary because of emerging health risks being reported from these countries that a new strain of coronavirus 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 4.00 a.m. on 15 January having been in these countries in the previous 10 days to isolate for 10 days from the date they were last in those countries. This requirement will also extend to any members of that person's household.

Restrictions in the International Travel Regulations preventing vessels and aircraft from arriving directly into Wales will also apply to these countries from 4.00am on the 16 January 2021.

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 4.00am on Monday 18 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 these countries in the past 10 days to explain the new isolation requirements.

In addition advice has also been received from the JBC that the risk to public health posed by the incidence and spread of coronavirus in Aruba, the Azores, Bonaire, Sint Eustatius and Saba, and Madeira 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 these countries and territories. These revised requirements come into effect for any travellers entering the Common Travel Area from these countries on or after 4.00 am on 16 January 2021.

This amendment to the International Travel Regulations does not affect the requirements under those Regulations for persons arriving into the Common Travel Area before the coming into force of the amendment.

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.