

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (No.3) (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.3) (Wales) Regulations 2021.

Vaughan Gething
Minister for Health and Social Services

21 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

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.

These Regulations will come into force at 4.00 a.m. on 22 January 2021.

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 Convention on Human 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 Memoranda 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. Following advice received from the Joint Biosecurity Centre regarding the emergence of a new strain of coronavirus first identified in South Africa, in December 2020 the Welsh Government decided to impose additional measures on travellers who returned to Wales from that country and members of their household. The enhanced isolation requirements were also applied to travellers from South Africa already in Wales that had recently returned. The Welsh Government subsequently extended those additional measures to a number of other Southern African countries following advice subsequently received from the Joint Biosecurity Centre regarding risks associated with this new variant.

Further advice which has now been received from the Joint Biosecurity Centre indicates that the current restrictions in place in response to the spread of the new variant should remain in place and that, as a precautionary approach, these measures should be extended to the Democratic Republic of the Congo and Tanzania. These countries have borders with Zambia (which has seen an increase in the number of cases, test positivity and fatalities in recent weeks), which is already subject to the enhanced restrictions regime.

The International Travel Regulations are therefore being amended so that any person arriving into Wales from the Democratic Republic of the Congo or Tanzania will be required to isolate in accordance with the enhanced restrictions regime and that isolation requirement will also apply to all members of the household of any person entering Wales from those countries as of 4.00 a.m. on Friday 22 January 2021.

The International Travel Regulations disapply all sectoral exemptions in Schedule 2 of the International Travel Regulations to travellers from countries that are subject to additional measures. Therefore, 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 22 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, and a more limited list than is usual of reasons for temporarily leaving isolation will also apply. 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 these countries in the past 10 days to explain the new isolation requirements.

In addition, amendments are made to the ban on direct aircraft and vessels (one of the measures that may be imposed on countries subject to additional measures in the International Travel Regulations). The travel ban will no longer apply to aircrafts which are landing for the purpose of refuelling or maintenance where no passengers board or disembark; aircrafts which are an air ambulance and landing for the purpose of transporting a person for medical treatment; and vessels required to moor pursuant to a safety direction issued as the result of an accident.

These additional amendments will also come into force at 4.00 a.m. on 22 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.