

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (No. 3) (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, International Travel and Restrictions) (Amendment) (No. 3) (Wales) Regulations 2020.

Vaughan Gething
Minister for Health and Social Services

8 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. 4) (Wales) Regulations 2020 (“the No. 4 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 in these Regulations do not change the engagement under the International Travel Regulations or the No. 4 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. Part 2A of the 1984 Act was inserted by the Health and Social Care Act 2008, and provides a legal basis to protect the public from threats arising from infectious disease.

These Regulations are made in reliance on the powers in sections 45B, 45C(1) and (3)(c), 45F(2) and 45P(2) of the 1984 Act.

Regulations made under both sections 45B and 45C of the 1984 Act are subject to different Senedd procedure. However, in accordance with section 40 of the Legislation (Wales) Act 2019, these Regulations are subject to the made affirmative procedure as set out in sections 45Q and 45R of the 1984 Act.

The functions under these sections are conferred on “the appropriate Minister”. Under section 45T(6) of the 1984 Act the appropriate Minister, in respect of Wales, means the Welsh Ministers.

The Explanatory Memoranda to the International Travel Regulations and the No. 4 Regulations provide further information on these powers.

4. Purpose and intended effect of the legislation

These Regulations make amendments to the International Travel Regulations and the No. 4 Regulations as set out below.

International Travel Regulations

These Regulations amend the International Travel Regulations to:

- a) provide that a person subject to a requirement to isolate under these Regulations must isolate for 10 days instead of 14 days and makes transitional provision for those who are already isolating. For example if a person is already beyond the 10th day of their isolation period at that point, they may immediately stop isolating;
- b) permit a child who is required to isolate to move to another household during the period of isolation, if this is in line with existing arrangements relating to custody and contact with the child's parents.

No. 4 Regulations

These Regulations amend the No. 4 Regulations to:

- a) provide that a person subject to a requirement to isolate as a result of having had close contact with a person who has tested positive for coronavirus must isolate for 10 days instead of 14 days and makes transitional provision for those who are already isolating. For example if a person is already beyond the 10th day of their isolation period at that point, they may immediately stop isolating;
- b) permit a child who is required to isolate to move to another household during the period of isolation if this is in line with existing arrangements relating to custody and contact with the child's parents;
- c) remove the ability for a contact tracer to disclose information about fixed penalties issued or criminal proceedings brought in relation to the commission of an offence of contravening the requirements relating to isolation requirements; contact tracers do not have access to that information so this provision was redundant.

Reducing the isolation period to 10 days is endorsed by the UK Chief Medical Officers on the current available evidence around likelihood of being infectious as a contact after 10 days. The other amendments to the No. 4 Regulations are to ensure custody arrangements are respected and to remove a redundant provision.

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. A summary of the impacts relating to the original self isolation duty can be found [here](#). The reduction in the self-isolation period is anticipated to have a positive equality and children's rights impact. It is anticipated to reduce the length of time children and young people spend away from face to face learning, reduce the impact on those with caring responsibilities (disproportionately women) and help to relieve the disruption for businesses.