

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

Vaughan Gething
Minister for Health and Social Services

15 February 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. As of 10 December 2020, the isolation period was reduced to 10 days.

The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2020 so as to (among other things) introduce an exemption from the isolation requirement for passengers arriving from specified countries and territories, known as “exempt countries”.

These Regulations amend the International Travel Regulations to respond to the risk posed by and difficulties assessing the risk of imported variant strains of SARS-COV-2 (“coronavirus”), which is necessary for the protection of public health.

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

Coming into force

In accordance with section s4(1) and 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Regulations have come into force before they were laid, and do not adhere to the 21 day convention. This was necessary owing to the risk posed in relation to coronavirus and in particular variant strains of the same, from passengers travelling to the UK. The nature of these new enhanced measures requires a four nation approach and it is necessary to introduce them in alignment with England and the other nations.

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 of 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, 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 International Travel Regulations are kept under review, and on 18 January the travel corridors were suspended. The current arrangements for travel within the Common Travel Area (CTA) (UK, Ireland, Isle of Man and the Channel Islands) are unchanged so travel without isolation is still permitted.

Advice which has now been received from the Joint Biosecurity Centre indicates that it is difficult to fully assess the public health risk posed by the incidence and spread of variant strains of coronavirus. On the basis of this advice and with a view to taking a four nations approach in relation to international travel, the Welsh Government consider that enhanced measures need to be introduced into the regulations.

This will mean that a new testing system is in place for persons aged 5 years or over arriving into Wales (subject to a limited number of exemptions), requiring them to book and undertake testing on day 2 and 8 of their isolation period. Failure to do so will be a criminal offence, liable to a fine. Failure to undertake both tests will also mean that the isolation period is extended to 14 days.

Moreover, further measures are being taken in relation to countries that have already been identified as an enhanced risk due to links with variant strains of coronavirus (“red list countries”) in order to further protect against the risk of community transmission of variant strains. In addition to the existing ban on direct flights and vessels from red list countries, no person who has been in a red list country in the last 10 days will be able to enter Wales from 4am on 15 February and failure to comply with this restriction will be a criminal offence, liable to a fine. Should such travellers arrive at a designated port in England or Scotland, they will be required to enter into a managed quarantine period in accordance with the regulations in force there.

For arrivals from “amber list countries” sectoral exemptions apply for certain categories of workers for which no isolation is required. These are being made more restrictive and will be amended to become sectoral exceptions so that isolation is required but a person may leave isolation for a limited period for work purposes.

The enhanced management of isolation requirements came into effect for travellers arriving into Wales from 4am today, Monday 15 February.

These amendments to the International Travel Regulations do not affect the requirements under those Regulations for persons arriving into Wales before the coming into force of these amendments.

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.