Explanatory Memorandum to the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) 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) (Wales) (Amendment) Regulations 2020

Vaughan Gething,
Minister for Health and Social Services

10 July 2020

1. Description

Subject to specified exemptions, until 10 July 2020, the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 ("the 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 self-isolate themselves for a period of 14 days.

The Travel Regulations have been 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 further amend the Travel Regulations so as to remove Serbia from the list of exempt countries and territories.

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, as inserted by paragraph 3 of Schedule 10 to the Government of Wales Act 2006, the Llywydd has been informed that the Regulations will come into force on 11 July 2020, which is less than 21 days from the date of laying.

European Convention on Human Rights

The amendment contained in these Regulations does not change the engagement under the 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.

Part 2A of the 1984 Act, as inserted by the Health and Social Care Act 2008, provides a legal basis to protect the public from threats arising from infectious disease or contamination from chemicals or radiation, and includes powers to impose restrictions or requirements on people, and in relation to things and premises, for use in rare circumstances where voluntary cooperation cannot be obtained. Overall, the amended 1984 Act sets out a framework for health protection which requires much of the detailed provisions to be delivered through regulations.

The Regulations are made in reliance on the powers in sections 45B and 45P(2) of the 1984 Act.

Section 45B of the 1984 Act provides a power of the appropriate Minister (defined in section 45T as the Secretary of State for England, or the Welsh Ministers for Wales) to make regulations for preventing danger to public health from conveyances (or the persons or articles on those conveyances) arriving at any place or for preventing the spread of infection or contamination by conveyances leaving any place. It also provides a power for regulations to give effect to international agreements or arrangements, for example World Health Organisation recommendations.

Section 45P(2) of the 1984 Act provides that the power to make regulations under Part 2A of the 1984 Act includes the power to make different provision for different cases or people or different areas, including to make different provision based on the purpose of the case.

4. Purpose and intended effect of the legislation

The 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) which causes the disease known as COVID-19 or “coronavirus”.

The Travel Regulations are kept under review. Subsequent to the list of exempt countries and territories being added to those Regulations, updated advice from the Joint Biosecurity Council and Public Health England has been received which indicates the risk to public health of inbound travel from Serbia has risen. On the basis of this advice the Welsh Government considers that self-isolation requirements should now be reintroduced for travellers coming into Wales from Serbia. The requirements will come into effect for any travellers entering the Common Travel Area from Serbia on or after 11 July 2020.

The Welsh Ministers consider that reintroducing the requirements imposed by the Travel Regulations in respect of travellers from Serbia is 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.