

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (No. 2) (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. 2) (Wales) Regulations 2020.

Vaughan Gething
Minister for Health and Social Services

13 November 2020

1. Description

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”) in respect of the isolation requirement for passengers arriving from specified countries and territories, known as “exempt countries”. These Regulations also make minor and technical amendments to the International Travel Regulations and the Health Protection (Coronavirus Restrictions) (No. 4) (Wales) Regulations 2020 (“the No. 4 Regulations”). These Regulations also make a consequential amendment to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020.

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 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. The 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 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 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, the No. 4 Regulations and the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 as set out below.

International Travel Regulations

The International Travel Regulations 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). From 10 July 2020 there have been exemptions from the isolation requirements set out in those Regulations for passengers arriving from specified countries and territories, known as “exempt countries”.

As part of the ongoing review of the International Travel Regulations, 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 in the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 19) Regulations.

Advice has now been received from the Joint Biosecurity Centre which indicates that the risk to public health posed by the incidence and spread of coronavirus in Greece (excluding Corfu, Crete, Kos, Rhodes and Zakynthos) 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 Greece also (excluding Corfu, Crete, Kos, Rhodes and Zakynthos). The isolation requirements that were introduced on 1 November 2020 for travellers coming into Wales from Cyprus will also be introduced for travellers coming into Wales from the Sovereign Base Areas of Akrotiri and Dhekelia on the island of Cyprus.

The Joint Biosecurity Centre also advises that the risk to public health posed by the incidence and spread of coronavirus in Bahrain, Cambodia, Chile, Iceland, Laos, Qatar, Turks and Caicos Islands, and the United Arab Emirates has decreased. As such these countries and territories are now being added to the list of exempt countries and territories in the International Travel Regulations.

The revised requirements will come into effect for any travellers entering the Common Travel Area on or after 4.00 am on Saturday 14 November 2020.

In light of the reported outbreaks of Coronavirus in mink farms in Denmark, and subsequent spread to the local community, these Regulations also amend the International Travel Regulations to put in place an additional measure which prohibits aircraft and maritime vessels whose last departure point was in Denmark from landing or mooring anywhere in Wales, subject to limited exceptions.

The Regulations also make minor and technical amendments to the International Travel Regulations following the making of the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 on Saturday morning. In particular, the amendments make clear that an individual who

is isolating after having returned from Denmark may leave their isolation premises for the purposes of traveling to leave Wales. They also correct errors in the International Travel Regulations resulting from the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 and which were identified by the Legislation, Justice and Constitution Committee's draft report on those amending Regulations.

No. 4 Regulations

These Regulations make minor and technical amendments to the No. 4 Regulations, following the making of the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 on Saturday morning. In particular the amendments provide that a person subject to the requirement not to leave the place where they are living due to having recently been in Denmark (or being a member of the same household as a person who was recently in Denmark) may do so in order to leave Wales. They also correct errors in the No. 4 Regulations resulting from the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 and which were identified by the Legislation, Justice and Constitution Committee's draft report on those amending Regulations.

The Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020

These Regulations make a consequential amendment to the Health Protection (Coronavirus, International Travel and Restrictions) (Amendment) (Wales) Regulations 2020 to omit paragraph (5) from regulation 4. This provision made an erroneous amendment to the No. 4 Regulations which was identified by the Legislation, Justice and Constitution Committee's draft report on those amending Regulations. This has been corrected as mentioned above.

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.