

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 5) 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. 5) Regulations 2021.

Vaughan Gething
Minister for Health and Social Services

8 April 2021

1. Description

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”).

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, the Llywydd has been informed that the Regulations do not adhere to the 21 day convention. This is 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 changes made by these Regulation continue the four nation approach to international travel and ensure continuing 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 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, 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 latest JBC risk assessments (22 March) for Bangladesh, Kenya, Pakistan and the Philippines shows that the risks have increased and these countries should now be added to the “red list” of countries. Travellers from those countries would not be permitted entry to Wales but instead would have to enter through a designated port in England or Scotland and remain in managed quarantine there for 10 days before travelling onto Wales. Direct flights will be prohibited but none are expected.

Other changes to be introduced in this legislation are to:

- Allow hauliers who have been in a “red list” country to enter Wales and be exempt from the requirement to go into managed isolation in England.

- Introduce a bespoke testing arrangement for hauliers (both UK and non-UK) to exempt them from the post-arrival testing requirements and replace that with workforce tests at days 2, 5 and 8.
- Introduce specific isolation requirements for hauliers.
- Introduce fixed penalty notices for offences relating to the new testing and isolation requirements.
- Allow students under the age of 18 who have been in a “red list” country to enter Wales and to isolate at a boarding school.
- Allow a person to leave isolation after 14 days if a test result has not been returned from the laboratory.
- Make other consequential amendments including amendments to fix drafting errors in the International Travel Regulations.

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.