

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 16) 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. 16) Regulations 2021.

Eluned Morgan MS
Minister for Health and Social Services

2 December 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 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 because of the urgent need to correct an error – identified by the Committee – in the International Travel Regulations introduced by the [Health Protection \(Coronavirus, International Travel and Public Health Information to Travellers\) \(Wales\) \(Amendment\) \(No.3\) Regulations 2021](#) (“the No. 3 Regulations”) earlier this week. Owing to the risk posed in relation to coronavirus and in particular variant strains of the same, from passengers travelling to the UK it is necessary for this error to be corrected at the very earliest opportunity. The change made by these Regulations continues the four nation approach to international travel and ensures 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. These Regulations are made in reliance on the powers in sections 45B 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

As noted above, the Legislation, Justice and Constitution Committee have identified an error in the Welsh text of the No. 3 Regulations. Regulation 8 of those Regulations inserted new regulation 6HB(3) into the International Travel Regulations, relating to isolation requirements on receipt of inconclusive test results for “day 2 tests”. In the English text this referred to isolation for 10 days, whereas the Welsh text referred to isolation for 14 days. The isolation period should be 10 days.

These Regulations now further amend the Welsh text of regulation 6HB(3) in the International Travel Regulations to make clear the isolation period is 10 days.

Although very regrettable, in practice we confirm that no one in Wales or the UK will currently be affected by this error prior to its remedy. This is because when the amendment was corrected it was only the second day of the new arrangements, and as such “day 2 tests” were only just being taken. The consequences of any inconclusive test results and the disparity between the texts of the isolation periods of 10 days or 14 days would not have any impact until next week.

However this error needs to be corrected and action taken urgently as an inconclusive result could be returned yesterday or today and people need to plan accordingly.

This correction came into force at 8pm on 1 December 2021, but there was not sufficient time between making and laying the instrument to complete all of the necessary registration requirements, so as to enable it to be laid on the day of making.

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.