

# SL(5)818 – The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 7) Regulations 2021

This note has been prepared to provide information for Senedd Members in relation to plenary business on 26 May 2021.

## Background and Purpose

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (“the principal Regulations”) by temporarily modifying how Alert Level 3 operates in Wales. The period of the temporary modifications (already in place) has been extended until the end of the day on 25 April 2021.

In particular, these Regulations make further temporary modifications, as follows:

- (i) Restrictions on election canvassing are removed. Canvassers are subject to a duty to take all reasonable measures to minimise the risk of exposure to, and spread of, coronavirus when carrying out this activity and must have regard to guidance issued by the Welsh Ministers;
- (ii) Non-essential retail may reopen;
- (iii) Close contact services may reopen, including mobile services in people’s homes such as mobile hairdressers;
- (iv) Venues may open for viewings for those who may wish to book them for their wedding, civil partnership or alternative wedding ceremony; and
- (v) Crematoriums may fully re-open.

The Regulations remove the current restrictions on travel within the UK and into/from the Common Travel Area (CTA), and place new restrictions and requirements on international travel (which apply in all Alert Levels). These include the following:

- (i) Restrictions are put in place to prohibit international travel without a reasonable excuse. A person who attempts to travel to a destination outside the CTA without a reasonable excuse is guilty of an offence and may be subject to a Fixed Penalty of £5,000;
- (ii) Where a person has a reasonable excuse for leaving the CTA, they are required (when requested) to provide to an enforcement office a completed international travel declaration form stating the reasons for travel. This will apply at the embarkation point (e.g. an airport). Failure to do so may result in a Fixed Penalty of £60 which will also apply where false or misleading information is given on the form.

In consequence of the new provisions relating to international travel, the Regulations also amend the Health Protection (Coronavirus, Public Health Information for Persons Travelling



to Wales etc.) Regulations 2020. The latter Regulations ensure that travellers are made aware of travel requirements and public health guidance that apply in Wales. These are now amended so that operators of travel services departing from Wales to a destination outside the CTA are required to advise travellers of the restriction on leaving Wales and the requirement to complete an international travel declaration form. This information is to be provided at the time of booking and at least 24 hours prior to the scheduled departure.

## Procedure

Made Affirmative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is dissolved or in recess for more than four days) of the date they were made for them to continue to have effect.

## Points to note

1. We note the Welsh Government's justification for any potential interference with human rights. In particular, we note the following paragraphs in the Explanatory Memorandum:

*"Whilst the principal Regulations, as amended by these Regulations, engage 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.*

*Article 5 (right to liberty), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are engaged by the principal Regulations.*

*Each of these is a qualified right, which permits the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health. All such restrictions and requirements must be justified on the basis that they are in pursuit of a legitimate aim, namely of protecting public health and are proportionate. Any interference with these rights also needs to be balanced with the State's positive obligations under Article 2 (right to life). The adjustment of the restrictions and requirements under the principal Regulations by these Regulations is a proportionate response to the spread of the coronavirus. It balances the need to maintain an appropriate response to the threat posed by the coronavirus against the rights of individuals and businesses, in a manner which remains proportionate to the need to reduce the rate of transmission of the coronavirus, taking into account the scientific evidence.*

*These amending Regulations reduce the extent in which the restrictions and requirements under the principal Regulations interfere with those individual rights.*

*The Government considers that the Public Health Information Regulations do not engage any of the individual rights under the Human Rights Act 1998 and the European Convention*



*on Human Rights. And, to the extent that any such rights may be engaged, the Government considers that the interference is minimal and can be justified as being necessary and proportionate to achieve a legitimate aim. The amendments to the Public Health Information Regulations made by these Regulations do not change the engagement of individual rights."*

2. We note that there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

*"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."*

3. The Explanatory Memorandum provides that a regulatory impact assessment has not been carried out 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.

**Legal Advisers**

**28 April 2021**



Gwasanaethau Cyfreithiol | Legal Services  
Nodyn i Aelodau | Note to Members