

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 4) 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. 4) Regulations 2021.

Vaughan Gething
Minister for Health and Social Services

19 March 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 International 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).

The International Travel Regulations are kept under review, and on 18 January the travel corridors were suspended. The current arrangements for travel within the Common Travel Area (CTA) (UK, Ireland, Isle of Man and the Channel Islands) are unchanged so travel without isolation is still permitted.

From 15 February the UK Government introduced a managed quarantine regime for those returning from red list countries into England. 5 ports of entry in England were designated for such arrivals who are required to complete a period of managed

quarantine in a hotel. There are a limited number of exemptions for categories, such as diplomats, armed forces personnel and hauliers.

From 15 February the Welsh Government introduced a ban on travellers arriving into Wales if they had been in a red list country in the previous 10 days. They must arrive at one of the designated ports of entry in England (or Scotland) and remain there in managed isolation for 10 days before travelling on to Wales. This means that such arrivals are not allowed entry in to Wales (except very limited exemptions) and to enter contrary to that provision will be a criminal offence with a Fixed Penalty Notice (FPN) of £10,000.

The latest JBC risk assessment (10 March) shows that the risks of imported infection from Variants of Concern (VoCs) has reduced for Portugal and Mauritius so these are to be removed from the red list. This means that direct flights will be reinstated and arrivals from those countries may isolate for 10 days at home.

However the risk assessments for Ethiopia, Oman, Qatar and Somalia shows that the risks have increased and these countries should now be added to the red list of countries. This would mean that direct flights would be banned, travellers 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.

There are already a very small number of exemptions from entry to Wales from a red list country for diplomats, military personnel, and to ensure the continuation of essential government business and deal with emergencies. In addition there is currently an exemption in place for hauliers arriving from Portugal to protect essential supply chain but the exemption for such hauliers will no longer be necessary when Portugal is removed from the red list. These Regulations therefore remove that exemption from the International Travel Regulations.

The current exemptions from the ban on travelling to Wales from a red list country are to be continued and exemptions for aviation and maritime crew will be introduced. Such arrivals will be required to isolate at-home for 10 days.

Despite there being a ban on entering Wales from a 'red list' country, we are aware that there have been a few examples of people arriving from 'red list' countries via Ireland into Wales' seaports. These Regulations will provide immigration officers and the police with powers where they have reasonable grounds to believe a person is present in Wales having been in a 'red list' country within the previous 10 days, including powers to:

- require production of a passport or travel documentation;
- detain a person for up to three hours;
- require a person to travel to an address in Wales (or a premises secured by the Welsh Ministers);
- require a person to isolate at that address;
- search a person, their baggage, or their vehicle;
- seize and retain documents or articles recovered upon a search.

As a limited number of people will be isolating at home after arriving in Wales from a red-list country these Regulations also make provision to allow a limited number of reasons for such a person to leave a place of isolation. This is a narrower list of reasons than currently applies to people entering Wales having been in countries other than 'red-list' countries.

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.