

## **Explanatory Memorandum to the Health Protection (Coronavirus, International Travel and Operator Liability) (Miscellaneous Amendments) (Wales) 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 and Operator Liability) (Miscellaneous Amendments) (Wales) Regulations 2021.

**Vaughan Gething**  
**Minister for Health and Social Services**

12 March 2021

## **1. Description**

These Regulations amend:

- the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”),
- the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability (Wales) (Amendment) Regulations 2021 (“the Operator Liability Regulations”) and
- the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 3) Regulations 2021 (“the No. 3 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 of 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.

For arrivals from “amber list countries” sectoral exemptions applied for certain categories of workers for which no isolation is required. From 15 February these were made more restrictive and became sectoral exceptions so that isolation for 10 days is required but a person may leave isolation for a limited period for work purposes.

Since that time a number of inconsistencies have been identified between the regulatory regimes for England and for Wales and these Regulations seek to address those differences to ensure continuing alignment. In addition these Regulations amend the list of sporting events in the International Travel Regulations to cover upcoming events expected to take place over the next four months. In summary:

- Amending regulation 14 of the International Travel Regulations to make provision for a reasonable excuse defence in relation to the requirements to provide passenger information (under regulations 4 and 5) and the offence for providing false or misleading information in relation to those requirements.
- Amending the required content of the notification of a negative test result set out in paragraph 2 of Schedule 1A to the International Travel Regulations.
- Consequential amendments to the Operator Liability Regulations 2021 in consequence of the above.
- Replacing the definition and widening the scope of the exemption for aircraft crew at paragraph 10 of Schedule 2 to the International Travel Regulations, to include crew that are otherwise required to travel to the United Kingdom for work purposes.
- Correcting various cross-references and to provide a constable with the power to request evidence from a person that they have booked and paid for day 2 and day 8 tests to be taken after their arrival in Wales.

- Providing immigration officers with the power to issue fixed penalty notices for breaches of regulation 12E of the International Travel Regulations (the prohibition on entry for travellers from a 'red list' country).
- Technical amendments to the International Travel Regulations correcting various cross-references in the English language text, and to paragraph 5 of Schedule 5 in the Welsh language text, where incorrect paragraph numbers have been used.
- A technical amendment to regulation 2 of the No. 3 Regulations to correct an incorrect reference.

As noted above, the International Travel Regulations are also amended to update the list of sporting events with those events expected to take place over the next four months, and remove those that have happened.

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.