

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel and Operator Liability) (Wales) (Miscellaneous Amendments) (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 and Operator Liability) (Wales) (Miscellaneous Amendments) (No. 4) Regulations 2021.

Eluned Morgan MS
Minister for Health and Social Services

6 August 2021

1. Description

These Regulations amend the [Health Protection \(Coronavirus, International Travel\) \(Wales\) Regulations 2020](#) (“the International Travel Regulations”) and the [Health Protection \(Coronavirus, International Travel, Pre-Departure Testing and Operator Liability \(Wales\) \(Amendment\) Regulations 2021](#) (“the Operator Liability 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. Not adhering to the 21 day convention allows the changes made by these Regulations in respect of countries and an addition to specified events subject to a bespoke testing regime to come into force at the earliest opportunity and continue the four nation approach to international travel. In view of the changing evidence on risk in relation to this disease, especially for those countries where the situation has worsened and they have moved to the “red list”, this is considered necessary and justifiable in this case.

The changes regarding the technical specification of the post-arrival tests need to be made as promptly as possible to ensure alignment with equivalent amendments being introduced in England on the 23 August and provide a lead-in period required for implementation by the testing laboratories.

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.

The Government considers that the Operator Liability 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 Operator Liability Regulations made by these Regulations do not change the engagement of individual rights

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,

45F(2) and 45P(2) of the 1984 Act. The Explanatory Memoranda to the [International Travel Regulations](#) and the [Operator Liability Regulations](#) provide further information on these powers.

4. Purpose and intended effect of the legislation

These Regulations amend the International Travel Regulations by making the following changes:

- **Georgia, Mayotte, Mexico and Reunion** are added to the “red list” of countries and territories
- **Bahrain, India, Qatar and the United Arab Emirates** are removed from the “red list of countries and territories and are added to the “amber list” of countries and territories
- **Austria, Germany, Latvia, Norway, Romania, Slovakia and Slovenia** are removed from the “amber list” and added to the “green list” of countries and territories.
- People who have been in, or travelled through, **Metropolitan France** (mainland France including the island of Corsica) are to be exempt from Day 8 PCR test and isolation requirements for people who are fully vaccinated in UK / EU / USA vaccination programmes; children under the age of 18; and people who have taken part in vaccination trials.
- The R&A Curtis Cup is added to the list of specified events subject to a bespoke testing regime
- Changes to the technical specifications for post-arrival tests.

These Regulations also make a consequential amendment to regulation 5C of the Operator Liability Regulations in light of the amendment to regulation 2A of the International Travel Regulations to extend the exemptions in regulation 2A to persons travelling from Metropolitan France.

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.