

2021 No. 171 (W. 39)

PUBLIC HEALTH, WALES

**The Health Protection
(Coronavirus, Operator Liability
and Public Health Information to
Travellers) (Wales) (Amendment)
Regulations 2021**

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (S.I. 2020/595 (W. 136)) ("the Public Health Information Regulations") impose requirements on operators of international passenger services coming from outside the common travel area to an airport, heliport or seaport in Wales ("operators"), to provide passengers with specified public health information.

These Regulations amend the Public Health Information Regulations to update the information that operators are required to provide to passengers who arrive in Wales. The updated information that operators are required to provide includes information about the requirement under regulation 6B of the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (S.I. 2020/574 (W. 132)) ("the International Travel Regulations"), to arrange post arrival testing (Regulation 2).

These Regulations also amend the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021 (S.I. 2021/48 (W. 11)) ("the Operator Liability Regulations") in consequence of amendments made to the International Travel Regulations on 15 February 2021.

Regulation 3 amends the Operator Liability Regulations so as to—

- (a) require operators to ensure that passengers who arrive in Wales from outside the common

travel area on international passenger services have made arrangements for post arrival testing in accordance with regulation 6B of the International Travel Regulations;

- (b) require persons operating transport services (which includes flights by means of private aircraft) for passengers travelling to Wales from outside the common travel area, to take reasonable steps to ensure that passengers who have been in a country or territory listed in Schedule 3A to the International Travel Regulations (commonly referred to as the red list countries) do not arrive into a port in Wales, unless they are persons to whom regulation 12E(2) and (3) of those Regulations applies (i.e. exempted persons);
- (c) create offences for the breach of those requirements; and
- (d) make consequential amendments.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has not been prepared as to the likely cost and benefit of complying with these Regulations

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and Public Health Information to
Travellers) (Wales) (Amendment)
Regulations 2021**

Made at 2.55 p.m. on 19 February 2021

Laid before *Senedd*
Cymru at 5.30 p.m. on 19 February 2021

Coming into
force at 4.00 a.m. on 20 February 2021

The Welsh Ministers, in exercise of the powers conferred on them by sections 45B, 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984(1), make the following Regulations.

Title, coming into force and interpretation

1.—(1) The title of these Regulations is the Health Protection (Coronavirus, Operator Liability and Public Health Information to Travellers) (Wales) (Amendment) Regulations 2021.

(2) These Regulations come into force at 4.00 a.m. on 20 February 2021.

(3) In these Regulations—

“the Public Health Information Regulations” (“*y Rheoliadau Gwybodaeth Iechyd y Cyhoedd*”) means the Health Protection (Coronavirus, Public

(1) 1984 c.22. Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14). The function of making regulations under Part 2A is conferred on “the appropriate Minister”. Under section 45T(6) of the 1984 Act the appropriate Minister as respects Wales, is the Welsh Ministers.

Health Information for Persons Travelling to Wales etc.) Regulations 2020(1);

“the Operator Liability Regulations” (“*y Rheoliadau Atebolrwydd Gweithredwyr*”) means the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021(2).

Amendment of the Public Health Information Regulations

2.—(1) The Public Health Information Regulations are amended as follows.

(2) In regulation 3 (provision of information before booking and at check-in)—

- (a) in paragraph (2)(a)(v), omit “and”;
- (b) in paragraph (2)(a)(vi), for “;” substitute “, and”;
- (c) after sub-paragraph (2)(a)(vi) insert—
 - “(vii) www.gov.uk/travel-quarantine-and-testing (referred to in Part 1 of the Schedule);”;
- (d) in paragraph (2)(b)(v), omit “and”;
- (e) in paragraph (2)(b)(vi), for “;” substitute “, and”;
- (f) after paragraph (2)(b)(vi) insert—
 - “(vii) www.gov.uk/travel-quarantine-and-testing (referred to in Part 1 of the Schedule);”;
- (g) in paragraph (2)(c)(ii)(bb), omit “and”;
- (h) for paragraph (2)(c)(ii)(cc) substitute—
 - “(cc) the requirement to arrange tests before arriving in Wales in accordance with regulation 6B of the International Travel Regulations, and
 - (dd) the requirement to isolate;”.

(3) In regulation 3A (provision of information prior to departure)—

- (a) in paragraph (4)(a)(iv), omit “and”;
- (b) in paragraph (4)(a)(v), for “;” substitute “, and”;
- (c) after paragraph (4)(a)(v), insert—

(1) S.I. 2020/595 (W. 136) amended by S.I. 2020/714 (W.160), S.I. 2020/1118 (W.253), S.I. 2020/1521 (W. 325) and S.I. 2021/72 (W. 18).

(2) S.I. 2021/48 (W. 11) amended by S.I. 2021/72 (W. 18).

“(vi) informs P of the requirement to arrange tests before arriving in Wales in accordance with regulation 6B of the International Travel Regulations;”;

(d) in paragraph (4)(b)(v), omit “and”;

(e) in paragraph (4)(b)(vi), for “;” substitute “, and”;

(f) after paragraph (4)(b)(vi) insert—

“(vii) www.gov.uk/travel-quarantine-and-testing (referred to in Part 1 of the Schedule);”.

(4) In Part 1 of the Schedule (information to be provided for the purposes of regulations 3(2)(a)(i), (3)(2)(b)(i), 3(2)(c)(i), 3A(4)(b)(i) and 3A(4)(c))—

(a) for “3) All arrivals must self-isolate for 10 days unless exempt. Check the list of exempt countries immediately before travel and the list of work-related exemptions if travelling for work.” substitute—

“3) All arrivals must quarantine for 10 days unless exempt. If you have travelled through a red list country in the last 10 days, you must have a valid Managed Quarantine Facility booked prior to departure. For information please visit: www.gov.uk/travel-quarantine-and-testing. Check the list of exempt countries immediately before travel and the list of work-related exemptions if travelling for work.

4) Everyone is required to take a coronavirus test on days 2 and 8 of their quarantine. You must have this booked prior to departure. For information please visit: <https://gov.wales/coronavirus-covid-19-testing-people-travelling-wales>.”;

(b) for “4) It” substitute “5) It”;

(c) for “5) If you self-isolate” substitute “5) If you quarantine”.

(5) In Part 2 of the Schedule (statement to be provided for the purposes of regulation 4)—

(a) in paragraph (a) (Welsh language version), from the words “Cyn cael mynediad i'r Deyrnas Unedig” to “Ewch i gov.uk i gael rhagor o wybodaeth.” substitute—

“Cyn dod i'r DU, rhaid ichi lenwi ffurflen lleoli teithwyr ar lein, ni waeth o ble yr ydych yn cyrraedd. Rhaid ichi hefyd fynd i gwarantyn am y 10 niwrnod cyntaf ar ôl ichi

gyrraedd, oni bai eich bod mewn categori esempt. Mae hyn er mwyn eich gwarchod chi ac eraill. Mae hyn yn cynnwys archebu cwarantín mewn gwesty os ydych wedi teithio drwy wlad sydd ar y rhestr goch yn ystod y 10 niwrnod diwethaf, neu archebu profion cwarantín yn y cartref os ydych wedi teithio mewn unrhyw wlad arall.

Ewch i gov.uk/coronavirus i gael rhagor o wybodaeth.”

- (b) in paragraph (b) (English language version), from the words “Before entering the UK” to “Visit gov.uk for more information.” substitute—

“Before entering the UK, you must complete a passenger locator form online, regardless of where you are arriving from. You must also quarantine for the first 10 days after you arrive, unless you are in an exempt category. This is to protect yourself and others. This includes booking hotel quarantine if you have travelled through a red list country in the last 10 days, or booking home quarantine tests if you have travelled in any other country.

Visit gov.uk/coronavirus for more information.”

Amendment of the Operator Liability Regulations

3.—(1) Part 3 of the Operator Liability Regulations (operator liability in respect of arrivals) is amended as follows.

(2) In regulation 4 (interpretation),

- (a) in the definition of “authorised person”, for “means” substitute “, other than in regulation 5B, means”;
- (b) in the appropriate place, insert ““notification of post arrival testing arrangements” (“*ystyr “hysbysu am drefniadau profion ar ôl cyrraedd*”) means notification of the arrangements made in accordance with regulation 6B of the International Travel Regulations for a passenger to undertake tests for the detection of coronavirus”;
- (c) in the definition of “operator”, for “means” substitute “, other than in regulation 5B, means”;
- (d) for the definition of “relevant passenger”, substitute—

“relevant passenger” (*“teithiwr perthnasol”*) means—

- (a) a passenger who, without reasonable excuse fails—
 - (i) to produce a valid notification of a negative result from a qualifying test when requested to do so by an immigration officer pursuant to regulation 6A(2) of the International Travel Regulations, or
 - (ii) to provide a test reference number or other evidence that tests for the detection of coronavirus have been arranged in respect of the passenger to an immigration officer pursuant to regulation 6B(8) of the International Travel Regulations, or
- (b) arrives in a port in Wales in contravention of regulation 12E(1) of the International Travel Regulations;”.

(3) After regulation 5 (requirement to ensure passengers possess notification of a negative test result), insert—

“Requirement to ensure passengers possess notification of post arrival testing arrangements

5A.—(1) An operator must ensure that a passenger who arrives in Wales on an international passenger service is in possession of a notification of post arrival testing arrangements.

(2) Paragraph (1) does not apply in relation to a passenger—

- (a) whom the operator, or a person acting on behalf of the operator, reasonably believes is not required to comply with the requirement in regulation 6B of the International Travel Regulations (requirement to arrange tests before arriving in Wales) or has a reasonable excuse for failing to comply with that requirement; or
- (b) who is a child, travelling without a responsible individual.

Requirement to ensure that certain passengers do not arrive at ports in Wales

5B.—(1) An operator must take all reasonable steps to ensure that a Schedule 3A passenger

does not arrive on a relevant transport service to a port in Wales.

(2) Paragraph (1) does not apply where—

- (a) it is necessary for a pilot in command of an aircraft to land the aircraft by means of which the transport service is provided in Wales to secure—
 - (i) the safety or security of the aircraft, or
 - (ii) the safety of any person aboard the aircraft;
- (b) an aircraft is an air ambulance and it lands in Wales for the purposes of transporting a person for medical treatment;
- (c) the pilot in command of an aircraft is instructed by an authorised person to land the aircraft in Wales.

(3) In this regulation—

“authorised person” (“*person awdurdodedig*”) means—

- (a) a constable,
- (b) the Civil Aviation Authority,
- (c) the Secretary of State, or
- (d) a person authorised by the Civil Aviation Authority or the Secretary of State under the Air Navigation Order 2016⁽¹⁾;

“operator” (“*gweithredwr*”), in relation to a transport service provided by means of an aircraft, has the meaning given in article 4 of the Air Navigation Order 2016;

“pilot in command” (“*peilot sydd â rheolaeth*”) and “private aircraft” (“*awyren breifat*”) have the meaning given in the Air Navigation Order 2016 (see Schedule 1 to that Order);

“relevant transport service” (“*gwasanaeth trafndiaeth perthnasol*”), in relation to an operator, means a transport service provided by or on behalf of that operator;

“Schedule 3A passenger” (“*teithiwr Atodlen 3A*”) means a person who has been in a country or territory listed in Schedule 3A to the International Travel Regulations and who is not a person to whom regulation 12E(2) and (3) of those regulations applies;

(1) S.I. 2016/765; to which there are amendments not relevant to these regulations.

“transport service” (“*gwasanaeth trafnidiaeth*”) means—

- (a) an international passenger service,
- (b) a service (other than an international passenger service) which—
 - (i) is carrying passengers travelling to Wales from outside the common travel area (whether for payment or valuable consideration or otherwise), and
 - (ii) is provided by means of an aircraft (other than a private aircraft), or
- (c) a flight which —
 - (i) is carrying passengers travelling to Wales from outside the common travel area (whether for payment or valuable consideration or otherwise), and
 - (ii) is provided by means of a private aircraft.”

(4) In regulation 6 (offences),—

- (a) for in paragraph (1), substitute

“(1) An operator who fails to comply with a requirement in—

- (a) regulation 5(1),
 - (b) regulation 5A(1), or
 - (c) regulation 5B(1),
- commits an offence.”;

- (b) in paragraph (3), for “(1)” substitute “(1)(a)”;

- (c) after paragraph (3), insert—

“(4) In relation to an offence in paragraph (1)(b), it is a defence for an operator to show that the operator, or a person acting on behalf of the operator, could not reasonably have been expected to know that a notification of post arrival testing arrangements provided in respect of a relevant passenger was false or incorrect in any respect.

(5) In relation to an offence in paragraph (1)(c), it is a defence for an operator to show that the operator, or a person acting on behalf of the operator, could not have reasonably been expected to know that a relevant passenger was a Schedule 3A passenger.”

(5) In regulation 9 (power to use and disclose information), in paragraph (2)(a), for “6A” substitute “6A, 6B or 12E(1)”.

(6) In regulation 10 (review), for “regulation 5” substitute “regulations 5, 5A and 5B”.

Vaughan Gething
Minister for Health and Social Services, one of the
Welsh Ministers
At 2.55 p.m. on 19 February 2021