
WELSH STATUTORY INSTRUMENTS

2022 No. 126

**The Health Protection (Coronavirus,
International Travel) (Wales) Regulations 2022**

PART 1

General

Title, coming into force and revocations

1.—(1) The title of these Regulations is the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2022.

(2) These Regulations come into force at 4.00 a.m. on 11 February 2022.

(3) The Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020(1) are revoked.

(4) Part 3 of the Health Protection (Coronavirus, International Travel and Notification) (Wales) (Miscellaneous Amendments) Regulations 2021(2) is revoked.

General interpretation

2.—(1) In these Regulations—

“the 2020 Regulations” (“*Rheoliadau 2020*”) means the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020;

“child” (“*plentyn*”) means a person under 18 years of age and any reference to an “adult” (“*oedolyn*”) is to be interpreted accordingly;

“coronavirus” (“*coronafeirws*”) means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

“the Coronavirus Restrictions Regulations” (“*y Rheoliadau Cyfyngiadau Coronafeirws*”) means the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020(3);

-
- (1) S.I. 2020/574 (W. 132), amended by S.I. 2020/595 (W. 136), S.I. 2020/714 (W. 160), S.I. 2020/726 (W. 163), S.I. 2020/804 (W. 177), S.I. 2020/817 (W. 179), S.I. 2020/840 (W. 185), S.I. 2020/868 (W. 190), S.I. 2020/886 (W. 196), S.I. 2020/917 (W. 205), S.I. 2020/942, S.I. 2020/944 (W. 210), S.I. 2020/962 (W. 216), S.I. 2020/981 (W. 220), S.I. 2020/1015 (W. 226), S.I. 2020/1042 (W. 231), S.I. 2020/1080 (W. 243), S.I. 2020/1098 (W. 249), S.I. 2020/1133 (W. 258), S.I. 2020/1165 (W. 263), S.I. 2020/1191 (W. 269), S.I. 2020/1223 (W. 277), S.I. 2020/1232 (W. 278), S.I. 2020/1237 (W. 279), S.I. 2020/1288 (W. 286), S.I. 2020/1329 (W. 295), S.I. 2020/1362 (W. 301), S.I. 2020/1477 (W. 316), S.I. 2020/1521 (W. 325), S.I. 2020/1602 (W. 332), S.I. 2020/1645 (W. 345), S.I. 2021/20 (W. 7), S.I. 2021/24 (W. 8), S.I. 2021/46 (W. 10), S.I. 2021/48 (W. 11), S.I. 2021/50 (W. 12), S.I. 2021/66 (W. 15), S.I. 2021/72 (W. 18), S.I. 2021/95 (W. 26), S.I. 2021/154 (W. 38), S.I. 2021/305 (W. 78), S.I. 2021/361 (W. 110), S.I. 2021/454 (W. 144), S.I. 2021/500 (W. 149), S.I. 2021/568 (W. 156), S.I. 2021/584 (W. 161), S.I. 2021/646 (W. 166), S.I. 2021/669 (W. 170), S.I. 2021/765 (W. 187), S.I. 2021/826 (W. 193), S.I. 2021/863 (W. 202), S.I. 2021/867 (W. 203), S.I. 2021/915 (W. 208), S.I. 2021/926 (W. 211), S.I. 2021/967 (W. 227), S.I. 2021/1063 (W. 250), S.I. 2021/1109 (W. 265), S.I. 2021/1126 (W. 273), S.I. 2021/1212 (W. 303), S.I. 2021/1321 (W. 336), S.I. 2021/1330 (W. 343), S.I. 2021/1342 (W. 346), S.I. 2021/1354 (W. 352), S.I. 2021/1366 (W. 361), S.I. 2021/1369 (W. 362), S.I. 2021/1433 (W. 371), and S.I. 2022/16 (W. 8).
- (2) S.I. 2021/1063 (W. 250).
- (3) S.I. 2020/1609 (W. 335), amended by S.I. 2020/1610 (W. 336), S.I. 2020/1623 (W. 340), S.I. 2020/1645 (W. 345), S.I. 2021/20 (W. 7), S.I. 2021/46 (W. 10), S.I. 2021/57 (W. 13), S.I. 2021/66 (W. 15), S.I. 2021/95 (W. 26), S.I. 2021/103 (W. 28), S.I. 2021/172 (W. 40), S.I. 2021/210 (W. 52), S.I. 2021/307 (W. 79), S.I. 2021/413 (W. 133), S.I. 2021/502 (W. 150), S.I. 2021/542

“crown servant” (“*gwas i’r goron*”) has the meaning given in section 12(1)(a) to (e) of the Official Secrets Act 1989(4);

“day 2 test” (“*prawf diwrnod 2*”) means a test which complies with regulation 8(5) and paragraph 1 of Schedule 4;

“device” (“*dyfais*”) means an in vitro diagnostic medical device within the meaning given in regulation 2(1) of the Medical Devices Regulations 2002(5);

“driver” (“*gyrrwr*”) includes a person who is travelling in a vehicle as a relief driver;

“eligible traveller” (“*teithiwr cymwys*”) has the meaning given in regulation 3;

“EU Digital COVID Certificate” (“*Tystysgrif COVID Ddigidol yr UE*”) means a certificate of COVID-19 records issued by an EEA state, a member State of the European Free Trade Association, Andorra, Monaco, San Marino or the Vatican City State;

“goods vehicle” (“*cerbyd nwyddau*”) has the meaning given in section 192 of the Road Traffic Act 1988(6);

“government contractor” (“*contractwr llywodraeth*”) has the meaning given in section 12(2) of the Official Secrets Act 1989;

“immigration officer” (“*swyddog mewnfudo*”) means a person appointed by the Secretary of State as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971(7);

“NHS” (“*GIG*”) means the health service continued under section 1(1) of the National Health Service Act 2006(8);

“passenger information” (“*gwybodaeth am deithiwr*”) means—

- (a) where P is an eligible traveller, the information specified in Part 1 of Schedule 1;
- (b) where P is not an eligible traveller, the information specified in Parts 1 and 2 of Schedule 1;

“private test provider” (“*darparwr prawf preifat*”) means a test provider other than a public test provider;

“public test provider” (“*darparwr prawf cyhoeddus*”) means a person who provides or administers a test exercising powers under the National Health Service (Wales) Act 2006(9), the National Health Service Act 2006, the National Health Service (Scotland) Act 1978(10), or the Health and Personal Social Services (Northern Ireland) Order 1972(11);

“qualifying test” (“*prawf cymhwysol*”) means a test that is a qualifying test for the purposes of regulation 7;

(W. 154), S.I. 2021/583 (W. 160), S.I. 2021/668 (W. 169), S.I. 2021/686 (W. 172), S.I. 2021/722 (W. 183), S.I. 2021/862 (W. 201), S.I. 2021/925 (W. 210), S.I. 2021/970 (W. 228), S.I. 2021/1119 (W. 271), S.I. 2021/1131 (W. 274), S.I. 2021/1212 (W. 303), S.I. 2021/1304 (W. 334), S.I. 2021/1363 (W. 358), S.I. 2021/1407 (W. 366), S.I. 2021/1468 (W. 376), S.I. 2021/1477 (W. 379), S.I. 2021/1485 (W. 386), S.I. 2021/1490 (W. 390), S.I. 2022/39 (W. 16) and S.I. 2022/55 (W. 21).

- (4) 1989 c. 6. Section 12 was amended by paragraph 22 of Schedule 10 to the Reserve Forces Act 1996 (c. 14), by paragraph 30 of Schedule 12 to the Government of Wales Act 1998 (c. 38), by paragraph 26 of Schedule 8 to the Scotland Act 1998 (c. 46), by paragraph 9(3) of Schedule 13 to the Northern Ireland Act 1998 (c. 47), by paragraph 9 of Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32), by paragraph 6 of Schedule 14 to the Energy Act 2004 (c. 20), by paragraph 58 of Schedule 4 to the Serious Organised Crime and Police Act 2005, by paragraph 34 of Schedule 10, and paragraph 1 of Schedule 12, to the Government of Wales Act 2006 (c. 32) and by paragraph 36 of Schedule 8 to the Crime and Courts Act 2013 (c. 22).

(5) S.I. 2002/618, amended by S.I. 2008/2936.

(6) 1988 c. 52. There are amendments to section 192 but none is relevant.

(7) 1971 c. 77. Paragraph 1 was amended by paragraph 3 of Schedule 3 to the Health Protection Agency Act 2004 (c. 17), and by S.I. 1993/1813.

(8) 2006 c. 41.

(9) 2006 c. 42.

(10) 1978 c. 29.

(11) S.I. 1972/1265 (N.I.14).

“replacement workforce test” (“*prawf gweithlu arall*”) means a test which is taken for the detection of coronavirus which are provided or administered under the National Health Service (Wales) Act 2006 and which is taken in accordance with regulation 9(4) or regulation 11(3);

“road haulage worker” (“*gweithiwr cludiant ffyrdd*”) means—

- (a) a driver of a goods vehicle that is being used in connection with the carriage of goods, other than goods for non-commercial personal use by the driver, or
- (b) a person who is employed by the holder of a Community licence issued under Article 4 of Regulation (EC) No 1072/2009 of the European Parliament and of the Council(12), and who is acting in the course of their employment;

“sensitivity” (“*sensitifrwydd*”), in relation to a device, means how often the device correctly generates a positive result;

“specificity” (“*penodolrwydd*”), in relation to a device, means how often the device correctly generates a negative result;

“test provider” (“*darparwr prawf*”) means a public test provider or a private test provider;

“workforce test” (“*prawf gweithlu*”) means a test which is taken for the detection of coronavirus which is provided or administered under the National Health Service (Wales) Act 2006.

(2) For the purpose of these Regulations, a person has responsibility for a child if—

- (a) the person has custody or charge of the child, or
- (b) the person has parental responsibility for the child (within the meaning of the Children Act 1989(13)).

(3) In these Regulations—

“aircraft” (“*cerbyd awyr*”)(14);

“the common travel area” (“*yr ardal deithio gyffredin*”)(15);

“port” (“*porthladd*”)(16);

“ship” (“*llong*”)(17),

have the same meaning as they have in the Immigration Act 1971.

(4) For the purposes of these Regulations, a person travelling by aircraft or ship is not to be treated as having been in a place unless—

- (a) the person disembarks from the aircraft or ship while it is at the place, or
- (b) where the person remains on the aircraft or ship while it is at the place, any other passengers embark on the aircraft or ship at the place.

(5) For the purposes of these Regulations, a person has begun their journey to Wales outside the common travel area if the original place of departure was outside the common travel area, whether or not the last place of departure on that journey was inside the common travel area.

Exemptions for eligible travellers

3.—(1) In these Regulations, a person (“P”) is an eligible traveller if P meets the requirements of paragraph (2) and any of the requirements in paragraphs (3) to (7) of this regulation.

(12) OJ No. L 300, 14.11.2009, p. 72.

(13) 1989 c. 41.

(14) See section 33(1).

(15) See section 1(3). It provides that the United Kingdom, the Channel Islands, the Isle of Man, and the Republic of Ireland are collectively referred to in that Act as “the common travel area”.

(16) See section 33(1).

(17) See section 33(1).

- (2) P arrives in Wales having begun their journey outside the common travel area.
- (3) P—
- (a) has completed a course of doses of an authorised vaccine with the final dose having been received at least 14 days prior to arriving in Wales,
 - (b) if required by an immigration officer or the operator of a commercial service on which P travels to Wales from outside the common travel area, is able to provide proof of meeting the requirement in sub-paragraph (a) in the form of—
 - (i) the NHS COVID pass or equivalent from NHS Scotland, NHS Wales or the Department of Health in Northern Ireland,
 - (ii) the EU Digital COVID certificate,
 - (iii) a certificate of COVID-19 records issued by an approved third country or territory,
 - (iv) a North American Certificate,
 - (v) the Centers for Disease Control and Prevention vaccination card, or
 - (vi) a vaccine certificate, and
 - (c) has declared that P has completed a course of an authorised vaccine using a facility referred to in regulation 6(1).
- (4) P—
- (a) has participated in, or is participating in, a clinical trial of an authorised vaccine for vaccination against coronavirus carried out in accordance with the requirements of the Medicines for Human Use (Clinical Trials) Regulations 2004(18),
 - (b) is able to provide proof of such participation if required by an immigration officer or the operator of a commercial service on which P travels to Wales from outside the common travel area, and
 - (c) has declared that P has participated in or is participating in such a clinical trial using a facility referred to in regulation 6(1).
- (5) P—
- (a) has participated or is participating in a clinical trial in the United States of America by the Food and Drugs Administration of a vaccine for vaccination against coronavirus, and
 - (b) is able to provide proof of such participation through the Centers for Disease Control and Prevention vaccination card if required by an immigration officer or the operator of a commercial service on which P travels to Wales from outside the common travel area.
- (6) P is under the age of 18 upon arrival in Wales.
- (7) P—
- (a) has completed a course of doses of a vaccine under the United Kingdom vaccine roll-out overseas, with the final dose having been received at least 14 days prior to arriving in Wales,
 - (b) is able to provide proof if required by an immigration officer of meeting the requirements in sub-paragraph (a), and
 - (c) has declared that P has completed a course of doses of a vaccine as described in sub-paragraph (a) using a facility referred to in regulation 6(1).
- (8) For the purposes of paragraph (3), P has completed a course of doses if P has received the complete course of doses specified—

- (a) in the summary of product characteristics approved as part of the marketing authorisation for the authorised vaccine, or
- (b) in the instructions for usage approved as part of the authorisation by the licensing authority on a temporary basis under regulation 174 of the Human Medicines Regulations 2012⁽¹⁹⁾ for the authorised vaccine.

(9) For the purposes of paragraph (3)—

- (a) where P has received a dose of one authorised vaccine and a dose of a different authorised vaccine, P is deemed to have completed a course of doses of an authorised vaccine;
- (b) where P has received at least two doses of any of the vaccines referred to in paragraph (d) of the definition of “authorised vaccine”, P is deemed to have completed a course of doses of an authorised vaccine.

(10) For the purposes of paragraph (7), P has completed a course of doses of a vaccine if P has received the complete course of doses of the vaccine as specified in the manufacturer’s guidance for that vaccine.

(11) For the purposes of paragraph (7), where P has received—

- (a) a dose of an authorised vaccine, and
- (b) a dose of a vaccine under the United Kingdom vaccine roll-out overseas,

P is deemed to have completed a course of doses of a vaccine under the United Kingdom vaccine roll-out overseas.

(12) For the purposes of paragraph (7), where P has received—

- (a) a dose of one vaccine under the United Kingdom vaccine roll-out overseas, and
- (b) a dose of a different vaccine under the United Kingdom vaccine roll-out overseas,

P is deemed to have completed a course of doses of a vaccine under the United Kingdom vaccine roll-out overseas.

(13) For the purposes of this regulation, a child is to be treated as making a declaration using a facility referred to in regulation 6(1), and providing any proof required, if that declaration is made, and the proof provided, by a person who is travelling with and has responsibility for that child.

(14) In this regulation—

“authorised vaccine” (“*brechlyn awdurdodedig*”) means a medical product for vaccination against coronavirus—

- (a) in relation to doses received in the United Kingdom, authorised—
 - (i) for supply in the United Kingdom in accordance with a marketing authorisation, or
 - (ii) by the licensing authority on a temporary basis under regulation 174 of the Human Medicines Regulations 2012;
- (b) in relation to doses received in a relevant country listed in the first column of the table in paragraph (15), authorised for supply in that country following evaluation by the relevant regulator for the country;
- (c) in relation to doses received in any other country or territory (including a relevant country listed in paragraph (16)), which would be authorised as provided for in paragraph (a)(i) or (ii) if the doses were received in the United Kingdom;
- (d) in relation to doses received in any country in the world, those vaccines which are—

⁽¹⁹⁾ S.I. 2012/1916.

- (i) listed in lines 10, 11, 12, 13 or 14 of the Guidance Document “Status of COVID-19 Vaccines within WHO EUL/PQ evaluation process” published by the World Health Organisation on 23 December 2021, and

- (ii) authorised or certified in a regulated country listed in paragraph (16);

“clinical trial” (“*treial clinigol*”) has the meaning given in regulation 2(1) of the Medicines for Human Use (Clinical Trials) Regulations 2004;

“the licensing authority” (“*yr awdurdod trwyddedu*”) has the meaning given in regulation 6(2) of the Human Medicines Regulations 2012;

“marketing authorisation” (“*awdurdodiad marchnata*”)—

- (a) in relation to a vaccine authorised for supply in the United Kingdom or in a member State, has the meaning given in regulation 8(1) of the Human Medicines Regulations 2012;
- (b) in relation to a vaccine authorised for supply in a relevant country listed in the first column of the table in paragraph (15) other than a member State, means a marketing authorisation granted by the relevant regulator for the country;

“NHS COVID pass” (“*pàs COVID y GIG*”) means the COVID-19 records on the NHS smartphone app developed and operated by the Secretary of State through the website at NHS.uk or a COVID-19 post vaccination letter obtained from the NHS;

“NHS Scotland” (“*GIG yr Alban*”) means the health service continued under section 1(1) of the National Health Service (Scotland) Act 1978;

“NHS Wales” (“*GIG Cymru*”) means the health service continued under section 1(1) of the National Health Service (Wales) Act 2006;

“North American Certificate” (“*Tystysgrif Gogledd America*”) means—

- (a) Excelsior Pass Plus (New York);
- (b) Digital COVID-19 Vaccine Record (California);
- (c) WA Verify (Washington state);

“relevant country” (“*gwlad berthnasol*”) means a country or territory listed in the first column of the table in paragraph (15) or a country or territory listed in paragraph (16);

“relevant regulator” (“*rheoleiddiwr perthnasol*”), in relation to a relevant country, means the regulator identified in the corresponding row of the second column of the table in paragraph (15), and a reference to a regulator in that table is a reference to the regulatory authority of that name designated as a Stringent Regulatory Authority by the World Health Organization pursuant to the operation of the COVAX Facility;

“United Kingdom vaccine roll-out overseas” (“*rhaglen frechu’r Deyrnas Unedig dramor*”) means the administration of vaccination against coronavirus to—

- (a) crown servants, government contractors or other personnel posted or based overseas and their dependants under the scheme known as the Foreign, Commonwealth and Development Office staff COVID-19 vaccination programme, or
- (b) military or civilian personnel, government contractors and their dependants at a military posting overseas, including the British overseas territories, the Channel Islands and the Isle of Man, under the vaccination scheme provided or approved by the UK Defence Medical Services;

“vaccine certificate” (“*tystysgrif brechlyn*”) means a certificate in English, French or Spanish issued by the competent health authority of a relevant country, other than a European country or territory listed in the table in paragraph (15) or the United States of America, which contains—

- (a) P’s full name;

- (b) P's date of birth;
- (c) the name and manufacturer of the vaccine that P has received;
- (d) the date that P received each dose of the vaccine;
- (e) details of either the identity of the issuer of the certificate or the country of vaccination, or both.

(15) The table referred to in the definitions of “relevant country” and “relevant regulator” follows—

<i>Relevant country</i>	<i>Relevant regulator</i>
A member State	European Medicines Agency
Andorra	European Medicines Agency
Australia	The Therapeutic Goods Administration
Canada	Health Canada
Iceland	European Medicines Agency
Liechtenstein	European Medicines Agency
Monaco	European Medicines Agency
Norway	European Medicines Agency
San Marino	European Medicines Agency
Switzerland	Swissmedic
the United States of America	United States Food and Drug Administration
Vatican City State	European Medicines Agency

(16) The countries and territories referred to in the definition of “relevant country” are—

- Albania
- Algeria
- Angola
- Anguilla
- Antigua and Barbuda
- Argentina
- Armenia
- Azerbaijan
- The Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belize
- Bermuda
- Bhutan

Bolivia
Bosnia & Herzegovina
Botswana
Brazil
British Antarctic Territory
British Indian Ocean Territory
British Virgin Islands
Brunei
Cambodia
Cameroon
Cayman Islands
Chile
China
Colombia
Costa Rica
Cote d'Ivoire
Democratic Republic of the Congo
Djibouti
Dominica
Dominican Republic
Ecuador
Egypt
Eswatini
Falkland Islands
Fiji
The Gambia
Georgia
Ghana
Gibraltar
Grenada
Guatemala
Guernsey
Guyana
Honduras
Hong Kong
India
Indonesia
Iran
Iraq
Isle of Man

Israel
Jamaica
Japan
Jersey
Jordan
Kazakhstan
Kenya
Kosovo
Kuwait
Kyrgyzstan
Laos
Lebanon
Lesotho
Liberia
Libya
Macao SAR
Madagascar
Malawi
Malaysia
Maldives
Mali
Mauritania
Mauritius
Mexico
Moldova
Mongolia
Montenegro
Montserrat
Morocco
Mozambique
Namibia
Nepal
New Zealand
Niger
Nigeria
The north of Cyprus
North Macedonia
Occupied Palestinian Territories
Oman
Pakistan

Palau
Panama
Papua New Guinea
Paraguay
Peru
Philippines
Pitcairn, Henderson, Ducie and Oeno Islands
Qatar
Rwanda
Saint Helena, Ascension and Tristan da Cunha
Samoa
Sao Tome and Principe
Saudi Arabia
Senegal
Serbia
Seychelles
Sierra Leone
Singapore
Solomon Islands
South Africa
South Georgia and the South Sandwich Islands
South Korea
South Sudan
The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus
Sri Lanka
St Kitts and Nevis
St Lucia
St Vincent and the Grenadines
Suriname
Taiwan
Tanzania
Thailand
Timor-Leste
Tonga
Trinidad and Tobago
Tunisia
Turkey
Turkmenistan
Turks and Caicos Islands
Uganda

Ukraine
United Arab Emirates
Uruguay
Uzbekistan
Vanuatu
Vietnam
Zambia
Zimbabwe.

(17) The following countries and territories are approved third countries or territories for the purposes of this Part—

Albania
Armenia
Cape Verde
El Salvador
Faroe Islands
Israel
Morocco
North Macedonia
Panama
Togo
Turkey
Ukraine.

(18) Where a course of doses of an authorised vaccine has been administered to a person (“P”) by a person acting on behalf of the United Nations and authorised to administer the vaccination in that capacity, P is to be treated as if they have received those doses in a relevant country listed in paragraph (16), and any reference to a person from a relevant country in these Regulations is to be construed accordingly.

Transitional provision

4.—(1) Paragraph (2) applies where—

- (a) a person (“P”), immediately before these Regulations come into force, is required not to leave or be outside of specified premises in Wales in accordance with regulation 7(1) or regulation 8(1) of the 2020 Regulations (“the isolation requirement”), and
- (b) the isolation requirement would not have applied to P had the countries and territories listed in paragraph (3) been included in regulation 2A(12) of the 2020 Regulations immediately before P’s arrival in Wales.

(2) The isolation requirement ceases to apply to P when these Regulations come into force.

(3) The countries and territories referred to in paragraph (1)(b) are—

Algeria
Cape Verde
China
El Salvador

Guatemala
Iran
Kazakhstan
Kyrgyzstan
Macao SAR
Mexico
Sao Tome and Principe
South Sudan
Timor-Leste
Togo
Tonga
Turkmenistan.

PART 2

Requirement to provide information

Persons arriving from outside the common travel area

5.—(1) In this Part, references to “P” are to a person who arrives in Wales having begun their journey outside the common travel area.

(2) But references to P do not include a person described in any of paragraphs 1 to 11 of Schedule 5.

Requirement to provide passenger information

6.—(1) P must submit the following information to the Secretary of State electronically not more than 3 days before arriving in Wales, using a facility provided by the Secretary of State for this purpose—

- (a) P’s passenger information, and
- (b) where P arrives in Wales accompanied by a child for whom P has responsibility, the child’s passenger information.

(2) Where P arrives in Wales at a port—

- (a) P must comply with paragraph (1) before leaving the port, and
- (b) an immigration officer at the port must provide P with any assistance the officer considers necessary to enable P to comply with paragraph (1).

(3) P must, if requested by an immigration officer to do so, provide the officer with evidence that the passenger information has been provided.

(4) Where P is a child in respect of whom passenger information has been provided by a person with responsibility for P in accordance with paragraph (1)(b), P is not required by paragraph (1)(a) to provide P’s passenger information.

(5) Nothing in this regulation requires a person to provide passenger information if the information is not within the person’s possession or under the person’s control.

PART 3

Testing requirements

Requirement to possess notification of a negative test result

7.—(1) This regulation applies to a person (“P”) who arrives in Wales having begun their journey outside the common travel area.

(2) But references to P do not include—

- (a) an eligible traveller;
- (b) a person described in paragraph 3(1) of Schedule 2;
- (c) a person described in any of paragraphs 2, 3, 4, 6, 8, 9, 10, 11, 12 or 18 of Schedule 5.

(3) P must possess on arrival a valid notification of a negative result from a qualifying test taken by P.

(4) P must produce, physically or digitally, the notification referred to in paragraph (3), if requested to do so by an immigration officer.

(5) For the purposes of this regulation—

- (a) a test is a qualifying test if it complies with paragraph 1 of Schedule 2;
- (b) a notification of a negative test result is valid if—
 - (i) it is provided through the EU Digital COVID Certificate, or
 - (ii) it includes the information specified in paragraph 2 of Schedule 2.

Requirement to book and undertake day 2 test

8.—(1) This regulation applies to a person (“P”) who arrives in Wales having begun their journey outside of the common travel area.

(2) But references to P do not include—

- (a) an eligible traveller;
- (b) a person described in paragraph 1(1)(a) to (i) of Schedule 5 who satisfies the conditions in paragraph 1(2) of that Schedule;
- (c) a person described in any of paragraphs 2 to 18 of Schedule 5.

(3) P must on arrival in Wales possess a booking for a day 2 test arranged with a test provider.

(4) P must undertake the day 2 test.

(5) A day 2 test is not to be treated as complying with this regulation unless—

- (a) P undertakes the test no later than the end of the second day after the day on which P arrived in Wales,
- (b) the person arranging the test notified the test provider that the tests were being arranged for the purposes of this regulation, and
- (c) the information in Schedule 3 was provided to the test provider in relation to P.

(6) When a day 2 test has been arranged, the test provider must provide a test reference number to—

- (a) P, and
- (b) any person who arranges tests on P’s behalf.

(7) Where P is an adult who arrives in Wales without possessing the day 2 test required under paragraph (3), P must as soon as is reasonably practicable obtain that test or those tests.

(8) Where P does not undertake a test as required by this regulation by reason of a reasonable excuse (see regulation 13(2) and (4)), P must, as soon as is reasonably practicable after the matters giving rise to the reasonable excuse no longer apply, undertake a test (“a replacement test”) complying with the requirements (with the exception of the requirement at paragraph (5)(a)) that apply to the test that was missed.

(9) Where a replacement test is undertaken, P is to be treated as if they had undertaken a day 2 test in accordance with this regulation.

(10) A person who has arranged a day 2 test must provide evidence of it if requested by an immigration officer or a constable.

Workforce testing for road haulage workers

9.—(1) This regulation applies to a person (“P”) who—

- (a) is a road haulage worker, and
- (b) began their journey outside the common travel area.

(2) But references to P do not include an eligible traveller.

(3) P must undertake—

- (a) a workforce test before the end of day 2,
- (b) a workforce test after day 2 but before the end of day 5, and
- (c) a workforce test after day 5 but before the end of day 8.

(4) Where P does not undertake any of the workforce tests as required by paragraph (3) by reason of a reasonable excuse (see regulation 13(2) and (5)), P must, as soon as is reasonably practicable after the matters giving rise to the reasonable excuse no longer apply, undertake a replacement workforce test or tests.

(5) Where P takes a replacement workforce test in accordance with paragraph (4), P is to be treated as if they had complied with paragraph (3).

(6) For the purposes of this regulation—

- “day 2” (“*diwrnod 2*”) means the second day after the day on which P arrives in Wales;
- “day 5” (“*diwrnod 5*”) means the fifth day after the day on which P arrives in Wales;
- “day 8” (“*diwrnod 8*”) means the eighth day after the day on which P arrives in Wales.

Duties on employers of road haulage workers to facilitate workforce testing

10.—(1) Paragraph (2) applies where—

- (a) an employer (“E”) employs more than 50 persons, and
- (b) any person E employs must undertake workforce tests in accordance with regulation 9.

(2) E must take reasonable steps to facilitate the taking of those workforce tests.

(3) In discharge of the duty in paragraph (2), E must have regard to any guidance issued by the Welsh Ministers for the purposes of this regulation.

(4) For the purposes of this regulation—

- (a) “employs” includes having responsibility for agency workers;
- (b) a person has responsibility for agency workers if—
 - (i) the agency worker is supplied or to be supplied by a person (an “agent”) to the employer under a contract or other arrangements made between the agent and the employer, and

- (ii) the agency worker is not—
 - (aa) a worker because of the absence of a worker’s contract between the agency worker and the agent or the employer, or
 - (bb) a party to a contract under which the agency worker undertakes to do the work for another party to a contract whose status is, by virtue of the contract, that of a client or customer of any profession or business undertaking carried on by the agency worker.

Consequences of an inconclusive result

11.—(1) This regulation applies where a person (“P”) has taken a test in accordance with regulation 8 or regulation 9 and that test has returned an inconclusive result.

(2) Where the test was taken in accordance with regulation 8, P must, as soon as is reasonably practicable, arrange and undertake a further test which complies with the requirements of a day 2 test, with the exception of the requirement in regulation 8(5)(a).

(3) Where the test was taken in accordance with regulation 9, P must, as soon as is reasonably practicable, arrange and undertake a replacement workforce test.

Consequences of a positive result

12.—(1) Paragraph (2) applies where a test taken by a person (“P”) in accordance with regulation 8, regulation 9 or regulation 11 returns a positive result.

(2) The Coronavirus Restrictions Regulations apply to P as if P had been notified by a contact tracer that P had tested positive for coronavirus.

(3) Where P’s positive result under paragraph (1)—

(a) came from a workforce test or replacement workforce test, and

(b) that workforce test or replacement workforce test was not a polymerase chain reaction test,

P must undertake a test that complies with the requirements of a day 2 test, with the exception of the requirement at regulation 8(5)(a).

(4) Where a test taken in accordance with paragraph (3) returns a negative result, paragraph (2) ceases to apply to P.

(5) “Contact tracer” has the meaning given in the Coronavirus Restrictions Regulations.

PART 4

Enforcement and offences

Offences

13.—(1) A person who contravenes a requirement in regulation—

(a) 6(1),

(b) 6(3),

(c) 7(3),

(d) 7(4),

(e) 8,

(f) 9,

(g) 10(2), or

(h) 11,

commits an offence.

(2) But a person does not commit an offence where they have a reasonable excuse for contravening regulations referred to in paragraph (1).

(3) For the purposes of an offence under paragraph (1)(c), a reasonable excuse includes, in particular, where—

- (a) a person reasonably believed at the time of the contravention that a notification in their possession of a negative result relating to the person was valid and from a qualifying test (for the purposes of regulation 7);
- (b) a person was medically unfit to provide a sample for a qualifying test before travelling to Wales and possesses a document, signed by a medical practitioner entitled to practise in the country or territory in which that practitioner was based, to that effect;
- (c) it was not reasonably practicable for a person to obtain a qualifying test before travelling to Wales due to—
 - (i) a disability;
 - (ii) the need to obtain urgent medical treatment;
- (d) a person was accompanying, in order to provide support (whether medical or otherwise), a person described in sub-paragraph (b) and where it was not reasonably practicable for the accompanying person to obtain a qualifying test before travelling to Wales;
- (e) a person began their journey to Wales in a country or territory in which a qualifying test was not available to the public (with or without payment) or in which it was not reasonably practicable for a person to obtain a qualifying test due to a lack of reasonable access to a qualifying test or testing facility and it was not reasonably practicable for them to obtain a qualifying test in their last point of departure if this was different to where they began their journey;
- (f) the time it has taken a person to travel from the country or territory where they began their journey to the country or territory of their last point of departure prior to arriving in Wales meant that it was not reasonably practicable for them to meet the requirement in paragraph 1(1)(c) of Schedule 2, and it was not reasonably practicable for them to obtain a qualifying test in their last point of departure.

(4) For the purposes of an offence under paragraph (1)(e), a reasonable excuse includes, in particular, where—

- (a) it was not reasonably practicable for a person to book a test due to a disability;
- (b) a person reasonably considered before arriving in Wales that it would not be reasonably practicable for the person to provide a sample for a test due to a disability;
- (c) a person required medical treatment with such urgency that booking a test was not reasonably practicable;
- (d) a person was accompanying, in order to provide support, whether medical or otherwise, a person described in sub-paragraph (a) or (c) where it was not reasonably practicable for the accompanying person to book a test;
- (e) a person began their journey to Wales in a country or territory in which the person did not have reasonable access to the facilities or services required to book a test, with or without payment, and such facilities or services were not reasonably accessible in their last point of departure if this was different to where they began their journey;
- (f) a test is cancelled for reasons beyond P's control;

- (g) a test provider took all reasonable steps to provide a test reference number to P and any person arranging a test for P.
- (5) For the purposes of an offence under paragraph (1)(f), a reasonable excuse includes, in particular, where—
 - (a) it is not reasonably practicable for P to undertake a test due to a disability;
 - (b) P requires medical treatment with such urgency that undertaking a test is not reasonably practicable;
 - (c) P has left Wales.
- (6) It is an offence for a person to provide false or misleading information to the Secretary of State for the purposes of regulation 6 where—
 - (a) the person knows the information is false or misleading, or
 - (b) the person is reckless as to whether the information is false or misleading.
- (7) But a person does not commit an offence under paragraph (6) if they have a reasonable excuse for providing false or misleading information to the Secretary of State.
- (8) A person who intentionally obstructs any person exercising functions under these Regulations commits an offence.
- (9) A person who commits an offence under this regulation is liable on summary conviction to a fine.
- (10) Section 24 of the Police and Criminal Evidence Act 1984(20) applies in relation to an offence under this regulation as if the reasons in subsection (5) of that section included—
 - (a) to maintain public health;
 - (b) to maintain public order.

Prosecutions

14. No proceedings for an offence under these Regulations may be brought other than by the Director of Public Prosecutions or any person designated by the Welsh Ministers.

Fixed penalty notices

- 15.—(1) An immigration officer may issue a fixed penalty notice to any adult the officer reasonably believes has committed an offence—
- (a) under regulation 13(1) or (6), in relation to a requirement in regulation 6(1) or (3), or
 - (b) under regulation 13(8), where the person is believed to have intentionally obstructed a person carrying out a function in relation to one of those requirements.
- (2) A constable may issue a fixed penalty notice to any adult the constable reasonably believes has committed an offence under these Regulations.
- (3) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to—
- (a) the Welsh Ministers, or
 - (b) a person designated by the Welsh Ministers for the purposes of receiving payment under this regulation.
- (4) Where a person is issued with a notice under this regulation in respect of an offence—

(20) 1984 c. 60. Section 24 was substituted by section 110(1) of the Serious Organised Crime and Police Act 2005 (c. 15).

- (a) no proceedings may be taken for the offence before the end of the period of 28 days beginning with the date the notice is issued;
 - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.
- (5) A fixed penalty notice must—
- (a) describe the circumstances alleged to constitute the offence,
 - (b) state the period during which (because of paragraph (4)(a)) proceedings will not be taken for the offence,
 - (c) specify the amount of the fixed penalty,
 - (d) state the name and address of the person to whom the fixed penalty may be paid, and
 - (e) specify permissible methods of payment.
- (6) Where the fixed penalty notice is issued in respect of an offence under regulation 13(1)(c) or (d), the amount specified under paragraph (5)(c) is to be—
- (a) in the case of the first fixed penalty notice received, £500;
 - (b) in the case of the second fixed penalty notice received, £1000;
 - (c) in the case of the third fixed penalty notice received, £2000;
 - (d) in the case of the fourth and any subsequent fixed penalty notice received, £4000.
- (7) Where the fixed penalty notice is issued to a person in respect of an offence described in regulation 13(1)(e) then the amount specified under paragraph (5)(c) must be—
- (a) in the case of a fixed penalty notice issued in respect of a failure to arrange tests in accordance with regulation 8(3), £1000;
 - (b) in the case of the first fixed penalty notice issued in respect of a failure to take a test in accordance with regulation 8(4), £1000;
 - (c) in the case of the second and any subsequent fixed penalty notice issued in respect of a failure to take a test in accordance with regulation 8(4), £2000.
- (8) Where the fixed penalty notice is issued in respect of an offence (an “information or notification offence”)—
- (a) of contravening a requirement imposed by regulation 6(1) or (4), or
 - (b) under regulation 13(8) where the person is believed to have intentionally obstructed a person carrying out a function in relation to one of those requirements,
- the amount specified under paragraph (5)(c) must be £60 (subject to paragraphs (9) and (10)).
- (9) A fixed penalty notice issued in respect of an information or notification offence may specify that if £30 is paid before the end of the period of 14 days beginning with the day after the date the notice is issued, that is the amount of the fixed penalty.
- (10) But if the person to whom a fixed penalty notice in respect of an information or notification offence is issued has already received a fixed penalty notice in respect of such of such an offence—
- (a) paragraph (9) does not apply, and
 - (b) the amount specified as the fixed penalty is to be—
 - (i) in the case of the second fixed penalty notice received, £120;
 - (ii) in the case of the third fixed penalty notice received, £240;
 - (iii) in the case of the fourth fixed penalty notice received, £480;
 - (iv) in the case of the fifth fixed penalty notice received, £960;
 - (v) in the case of the sixth and any subsequent fixed penalty notice received, £1920.

(11) Whatever other method may be specified under paragraph (5)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under paragraph (5)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).

(12) Where a letter is sent as mentioned in paragraph (11), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(13) In any proceedings, a certificate that—

(a) purports to be signed by or on behalf of—

(i) the Welsh Ministers, or

(ii) a person designated by the Welsh Ministers under paragraph (3)(b), and

(b) states that the payment of a fixed penalty was, or was not, received by the date specified in the certificate,

is evidence of the facts stated.

PART 5

Information sharing

Use and disclosure of information

16.—(1) In this regulation and regulation 17, “relevant information” means—

(a) Welsh passenger information;

(b) other UK passenger information.

(2) For the purposes of this regulation—

(a) “Welsh passenger information” means—

(i) passenger information provided to the Secretary of State for the purpose of regulation 6;

(ii) where a person arranges or undertakes a test under regulation 8—

(aa) information generated where the person arranges or takes a test;

(bb) information obtained by a test provider under regulation 8;

(cc) the results of the test;

(dd) information recorded by a test provider in the course of administering a test taken in accordance with regulation 8 (including confirmation that the test was taken, details of when and where it was taken, any reasons for a test not being taken and the details of any replacement test to be taken);

(iii) information provided to an immigration officer pursuant to regulation 8(10);

(iv) where a sample taken in respect of a day 2 test under regulation 8 has been sequenced, the sorted BAM file relating to that sample containing all reads aligning to the coronavirus reference genome with unaligned and human reads removed;

(b) “other UK passenger information” means information provided to a person under provision in regulations made as respects England, Scotland or Northern Ireland (as the case may be) that is equivalent to provision mentioned in sub-paragraph (a).

(3) In this regulation, any reference to the holder of information is a reference to—

(a) the Secretary of State;

(b) a person to whom the information was disclosed under paragraph (4) or (5);

- (c) a test provider;
 - (d) an immigration officer.
- (4) The holder of Welsh passenger information may disclose it to another person (“the recipient”) in circumstances where it is necessary for the recipient to have the information—
- (a) for the purpose of carrying out a function of the recipient under—
 - (i) these Regulations, or
 - (ii) regulations made as respects England, Scotland or Northern Ireland (as the case may be) that are equivalent to these Regulations;
 - (b) for the purpose of—
 - (i) preventing danger to public health as a result of the spread of infection or contamination with coronavirus,
 - (ii) monitoring the spread of infection or contamination with coronavirus, or
 - (iii) giving effect to any international agreement or arrangement relating to the spread of infection or contamination with coronavirus;
 - (c) for a purpose connected with, or otherwise incidental to, a purpose described in subparagraph (a) or (b).
- (5) The holder of other UK passenger information may disclose it to another person (“the recipient”) in circumstances where it is necessary for the recipient to have the information—
- (a) for the purpose of carrying out a function of the recipient under these Regulations;
 - (b) for the purpose of—
 - (i) preventing danger to public health in Wales as a result of the spread of infection or contamination with coronavirus,
 - (ii) monitoring the spread of infection or contamination with coronavirus in Wales, or
 - (iii) giving effect in Wales to any international agreement or arrangement relating to the spread of infection or contamination with coronavirus;
 - (c) for a purpose connected with, or otherwise incidental to, a purpose described in subparagraph (a) or (b).
- (6) A holder of relevant information may not use the information otherwise than—
- (a) for the purpose of carrying out a function of the holder under these Regulations;
 - (b) in the case of Welsh passenger information, for a purpose described in paragraph (4)(b);
 - (c) in the case of other UK passenger information, for a purpose described in paragraph (5)(b);
 - (d) for a purpose connected with, or otherwise incidental to, a purpose described in subparagraph (a), (b) or (c).
- (7) Despite paragraphs (4), (5) and (6), this regulation does not limit the circumstances in which information may otherwise lawfully be disclosed or used under any other enactment or rule of law.
- (8) Disclosure which is authorised by this regulation does not breach—
- (a) an obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (9) Nothing in this regulation authorises the disclosure of personal data where doing so contravenes the data protection legislation.
- (10) In paragraph (9), “the data protection legislation” and “personal data” have the same meanings as in section 3 of the Data Protection Act 2018(21).

(21) 2018 c. 12.

Self-incrimination

17.—(1) Relevant information may be used in evidence against the person to whom the information relates in criminal proceedings.

- (2) Where the information is used in such proceedings—
- (a) no evidence relating to the information may be adduced by or on behalf of the prosecution, and
 - (b) no question relating to the information may be asked by or on behalf of the prosecution.
- (3) Paragraph (2) does not apply if the proceedings are for—
- (a) an offence under these Regulations,
 - (b) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath)(**22**),
 - (c) an offence under section 1 of the Fraud Act 2006 (fraud)(**23**), or
 - (d) an offence under section 2 or 3 of the Forgery and Counterfeiting Act 1981 (offence of copying or using a false instrument)(**24**).
- (4) Paragraph (2) does not apply if, in the proceedings—
- (a) evidence relating to the information is adduced by or on behalf of the person who provided it, or
 - (b) a question relating to the information is asked by or on behalf of that person.

PART 6

Review and expiry

Review of requirements

18. The Welsh Ministers must review the need for the requirements imposed by these Regulations, and whether those requirements are proportionate to what the Welsh Ministers seek to achieve by them—

- (a) at least once in the period of 28 days beginning with 11 February 2022;
- (b) at least once in each subsequent period of 28 days.

Expiry of Regulations

19.—(1) These Regulations expire at the end of 31 May 2022.

(2) The expiry of these Regulations does not affect the validity of anything done pursuant to these Regulations before they expire.

(22) 1911 c. 6. Section 5 was amended by section 1(2) of the Criminal Justice Act 1948 (c. 58).

(23) 2006 c. 35.

(24) 1981 c. 45.

At 2.56 p.m. on 10 February 2022

Eluned Morgan
Minister for Health and Social Services, one of
the Welsh Ministers