

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, PUBLIC HEALTH INFORMATION FOR PASSENGERS TRAVELLING TO ENGLAND) (AMENDMENT) REGULATIONS 2020

2020 No. 1090

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The instrument amends the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to England) Regulations 2020 (“the Passenger Information Regulations”) (S.I. 2020/567) to specify, in more detail, the information that operators of commercial transport services by sea, air or rail must provide to passengers at specified stages of the passenger journey. The instrument also introduces a requirement to provide specified information 24 – 48 hours before the scheduled departure time of services to the UK.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 The entire instrument applies to England only.

4. Extent and Territorial Application

- 4.1 The territorial extent of the instrument is England and Wales.
4.2 The territorial application of the instrument is England.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The full legislative context is set out in paragraphs 6.1 to 6.7 of the Explanatory Memorandum to the Passenger Information Regulations, available online at https://www.legislation.gov.uk/ukxi/2020/567/pdfs/ukxiem_20200567_en.pdf.
6.2 The instrument is made under Part 2A of the Public Health (Control of Disease) Act 1984 (as inserted by the Health and Social Care Act 2008), in exercise of the powers conferred by sections 45B(1)(a) and (2)(e) and (g), and 45F(2) and 45P(2).

- 6.3 Section 45B of the Act provides for the making of health protection regulations concerning international travel etc. Under section 45B(1)(a), the appropriate Minister may by regulations make provision for preventing danger to public health from vessels, aircraft, trains or other conveyances arriving at any place. Under section 45B(2)(e), regulations made under subsection (1) may include provision for regulating the arrival of conveyances. The Passenger Information Regulations impose a requirement on operators of commercial transport services for passengers travelling to England by sea, air or rail to ensure provision of information so as to increase public awareness of, and compliance with, public health measures to be taken to reduce the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).
- 6.4 Section 45F(2)(a) contains supplementary provision relating to regulations made under section 45B and provides that regulations made under section 45B may confer functions on persons. S.I. 2020/567 conferred a function on the Secretary of State which could be performed by placing a statement on the gov.uk website. The Secretary of State had the function of specifying the information to be provided by operators and the manner in which it was to be provided at each stage of the passenger journey. The instrument removes that function and prescribes, by substituting regulation 4, the required information and the manner in which it is to be provided.

7. Policy background

What is being done and why?

- 7.1 The Passenger Information Regulations were made on an urgent basis in order to ensure that those wishing to travel to England are fully informed of the latest public health guidance and duties under new secondary legislation, which is designed to prevent the spread of coronavirus and coronavirus disease, so that only those who are willing and able to comply with the relevant requirements and public health guidance complete their travel.
- 7.2 One such requirement is the requirement, under the Health Protection (Coronavirus, International Travel) (England) Regulations 2020, to complete a Passenger Locator Form. Compliance with this requirement is considered to be vital for the Government's coronavirus response, however levels of compliance are currently sub-optimal. Evidence has shown that lack of awareness is the most commonly cited reason for non-compliance with the requirement to complete the Passenger Locator Form.
- 7.3 Although there is high compliance with the Passenger Information Regulations, there is an inconsistency across operators on implementation which does not meet the policy aim. Enhancing the information requirement that operators must give to passengers should increase awareness and compliance with the health guidance and measures. Introducing an extra stage that information has to be provided to passengers (close in time to arrival in England) will have a more impactful effect for passengers to comprehend the information provided to them.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 No consolidation is planned.

10. Consultation outcome

10.1 There has been no public consultation in relation to this instrument. The transport industry was consulted on the amendments made by this instrument.

11. Guidance

11.1 The Department for Transport is updating operational guidance to transport operators across all modes on how to implement the measures in the amended regulations. The Department has also issued a Notice to Airmen (NOTAM) to alert pilots to the measures in the Passenger Information Regulations.

12. Impact

12.1 A full Impact Assessment, scrutinised by the Regulatory Policy Committee, has not been conducted due to the urgency of this measure and is not required due to the minor amendments being made to the Passenger Information Regulations and as the measures will be in force for less than 12 months. For Parliamentary scrutiny, limited analysis has been conducted and signed off by the Better Regulation Unit. However, given the amendments we expect the impact on operators is low.

12.2 The costs and benefits of this policy cannot be fully quantified due to the nature of the pandemic. This policy forms one part of a larger package of measures that seek to minimise the health impacts of COVID-19 – the degree to which each policy has an impact can be difficult, if not impossible, to disaggregate.

12.3 Operators will incur familiarisation costs when the Passenger Information Regulations are amended. This is the cost of employees reading the regulations and disseminating across the organisation. There will also be additional costs to amend the systems and processes in place in order to meet the requirements of providing specific text and prompts.

12.4 It is not possible to directly attribute any specific benefit of the policy to a public health outcome, as these measures act as a vehicle to communicate and enable other health measures. Without the requirement to provide information set out in the Passenger Information Regulations, the full benefits of these guidelines and advice may not be realised.

12.5 Under the Passenger Information Regulations, operators were asked to provide information to passengers, however had more discretion as to the form of the information and the manner in which it was to be provided. Accordingly, transition and familiarisation costs arising from the amendments made by these Regulations are expected to be low. As operators already have systems in place to provide information to passengers at the booking, 48 hours prior to departure to the UK, check-in and on-board stages of the passenger journey, the requirement to provide the information specified in these Regulations is expected to have minimal impact.

13. Regulating small business

13.1 The instrument applies to all transport operators carrying international passengers into England, including small businesses.

13.2 The impact on small businesses is low. Transport operators have already had to comply with the measures in the Regulations, and have continued to provide updated information to passengers.

14. Monitoring & review

14.1 A statutory review clause is included in the Passenger Information Regulations, requiring a review at least every 28 days.

14.2 While the Regulations are in force, the Secretary of State will consider whether the requirement in the Passenger Information Regulations is necessary or expedient for preventing danger to public health as a result of coronavirus or coronavirus disease from vessels, aircraft or trains arriving at a port in England.

15. Contact

15.1 Sevy Palmer at the Department for Transport email: sevy.palmer@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Lydia Strawson, Deputy Director for Airport Policy at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Secretary of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.