

## EXPLANATORY MEMORANDUM TO

### THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL) (ENGLAND) (AMENDMENT) (NO. 26) REGULATIONS 2020

2020 No. 1337

#### 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 This instrument amends the Health Protection (Coronavirus, International Travel) (England) Regulations 2020 (“the International Travel Regulations”) to allow travellers arriving in England from non-exempt countries, territories or regions to shorten the period for which they must self-isolate under those regulations, by opting to take a COVID-19 test 5 days after their arrival in England or since they were last in a non-exempt country, territory or region, and where the results of such test are negative.

#### 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 This entire instrument applies to England only.

#### 4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.  
4.2 The territorial application of this 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 legislative context is set out in paragraphs 6.1 to 6.5 of the Explanatory Memorandum to the International Travel Regulations, available online [here](#). In summary, 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. Section 45B(1) of the 1984 Act enables the appropriate Minister 2 (defined in section 45T as, for England, the Secretary of State) to make regulations for preventing danger to public health from vessels, aircraft, trains or other conveyances arriving at any place. Section 45F(2)(b) provides that health protection regulations may create offences.

- 6.2 On 2nd June 2020, the Secretary of State for Health and Social Care made the International Travel Regulations under sections 45B, 45F(2) and 45P(2) of the 1984 Act. The International Travel Regulations came into force on 8th June 2020 and introduced a self-isolation requirement for people arriving into England from outside the Common Travel Area. This was implemented urgently to reduce the likelihood that an increase in COVID-19 infections would arise as a result of imported cases. Failure to comply with the requirement is a criminal offence.
- 6.3 The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel and Public Health Information) (England) (Amendment) Regulations 2020 (S.I. 2020/691). With effect from 10th July 2020, these amendments exempt passengers arriving in England from the requirement to self-isolate where, during the 14 days preceding their arrival, they have only been in “exempt countries or territories” which are listed in Schedule A1. Passengers who have departed from or transited through a non-exempt country or territory must self-isolate until 14 days have elapsed since the day after they last left a non-exempt country or territory.
- 6.4 Further amendments have been made to (i) amend the definitions of “exempt country or territory” and “non-exempt country or territory” to allow the Government to take a regional approach to removals and additions to the list of exempt countries and territories (see S.I. 2020/959), (ii) add or remove countries and territories from Schedule A1 as appropriate, and (iii) add or amend “sectoral” exemptions from the requirements to self-isolate and/or provide information as appropriate (see S.I. 2020/724, 799, 805, 819, 841, 866, 890, 913, 959, 980, 1013, 1039, 1076, 1094, 1129, 1161, 1190, 1227, 1238, 1277, 1292 and 1323).
- 6.5 The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel) (England) (Amendment No. 16) Regulations S.I. 2020/1070 to introduce a ladderred fixed penalty notice regime for repeated non-compliance with the self-isolation requirements in place for people arriving into England from outside the common travel area. The fixed penalty payable for a first offence remains £1,000, and increases to £2,000, £4,000, then £10,000 for subsequent offences.
- 6.6 This instrument makes a number of changes to regulation 4 of the International Travel Regulations (Requirement to self-isolate) to enable persons (“travellers”) arriving in England from non-exempt countries and territories to cease self-isolating where they receive a negative test result to a COVID-19 test taken for the purposes of the regulations (as amended by this instrument). The amendments also allow travellers to leave their place of self-isolation for the purposes of or in connection with taking a test, and for other persons to visit travellers in order to administer a test.
- 6.7 This instrument inserts a new Schedule 2A into the International Travel Regulations, which sets out the requirements to be met in relation to any test taken for the purposes of the regulations (as amended by this instrument).
- 6.8 This instrument amends regulation 6 of the International Travel Regulations (Offences and penalties) to provide that a person does not contravene the requirements of regulation 4 (Requirement to self-isolate) in the circumstances specified (for example, leaving their place of self-isolation to take a test) where they reasonably believed that the test was an “appropriate test” for the purposes of the new Schedule 2A.

- 6.9 The instrument also makes certain amendments to regulation 9 (Power to use and disclose information) of the International Travel Regulations to enable the disclosure and use of information relating to the tests for the purposes of enforcement.
- 6.10 Finally, this instrument: (a) amends Schedule 1 to the International Travel Regulations to require persons who intend to take a test for the purposes of the new Schedule 2A, to include on their passenger locator form the name of the test provider and the test reference number provided to them by that provider; and (b) amends the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to England) Regulations 2020 (S.I. 2020/567) to require transport operators to notify passengers about the new testing scheme.

## 7. Policy background

### *What is being done and why?*

- 7.1 The amendments made by this instrument are designed to allow international arrivals to test for COVID-19, at their own choice and cost, in order to reduce the period for which they must self-isolate on arrival to the UK from a non-exempt country, territory or region, on the condition that they receive a negative result to such test. Receipt of a negative test result taken on or after 5 full days after their departure from a non-exempt country, territory or region will allow a traveller to cease self-isolation. The test will be supplied by private providers and paid for by the traveller. Upon receipt of an inconclusive test result, the individual will be required to complete the full self-isolation period (i.e. counted from arrival and until 14 days have elapsed since the day after they last left a non-exempt country, territory or region). If the international arrival receives a positive test result, they will be required to isolate in accordance with the Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020 (S.I. 2020/1045).
- 7.2 International arrivals will be able to book a test both before and after arrival in England. If they book a test before their arrival, they will be asked to indicate this on their passenger locator form. If they book a test after arriving, they will be required to resubmit their passenger locator form as required by regulation 3(8) of the International Travel Regulations.
- 7.3 The amendments to the International Travel Regulations described above are designed to reduce the amount of time spent self-isolating on arrival to the UK from a non-exempt country, territory or region. This will allow more imminent return to work for those self-isolating, alongside wellbeing benefits associated with a reduced self-isolation time.
- 7.4 The policy will additionally identify infected individuals who test positive and allow contacts to be traced and told to isolate.
- 7.5 ‘Test to release’ may also increase economic activity in the travel sector. The option to reduce self-isolation will give consumers greater confidence to book travel, with the knowledge that they are able to opt in should a country, territory or region move off the Travel Corridor list.
- 7.6 By allowing travellers to take a test for COVID-19 which may, if negative, shorten their isolation time under the International Travel Regulations, the policy aims to encourage:
- increased economic activity in the travel sector

- enable those who have to travel for essential reasons an option to reduce the self-isolation period, which is a significant burden, including a more rapid return to work. Self-isolation is a significant restriction on personal liberty and this scheme will allow for that restriction to be relaxed in a safe manner.

*How will this policy be enforced?*

- 7.7 The instrument leaves unchanged the applications of fixed penalty notices (FPN), specified in the International Travel Regulations, to any individual who does not comply with the self-isolation requirements that apply to them upon arrival from a non-exempt country, territory or region. FPNs will not be issuable under the International Travel Regulations if an individual has ceased to self-isolate having received a negative test result on or after day 5 after their departure from a non-exempt country, territory or region and where such test complies with Schedule 2A. However, a FPN may be issuable under the Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020 (S.I. 2020/1045) if the individual has received a positive test result and is found not to be self-isolating in accordance with those regulations.

*Minimum standards for test providers*

- 7.8 In order to be an ‘appropriate test’ for the purposes of the amending instrument, the requirements set out in new Schedule 2A must be met. These requirements include requirements as to the technical standards to be met in relation to test itself and also requirements as to the person providing the test (the “test provider”).
- 7.9 Providers must not issue tests to international arrivals before the end of the 4th full day after the international arrival left a non-exempt country, territory or region, on the basis of the day of departure the international arrival declares on their booking form. This is to ensure that the international arrival takes their test on or after the 5th full day after they left a non-exempt country, territory or region.
- 7.10 For the purposes of enforcing compliance with the self-isolation requirement under the International Travel Regulations, test providers will be required, on request, to corroborate with the police the positive and negative test results received by individuals who have taken a test for the purposes of the new Schedule 2A.
- 7.11 Additionally, test providers will be required to issue the result of tests to individuals in a set format which instructs the international arrival on whether they are required to self-isolate.
- 7.12 From 23rd November 2020, all test providers are required to report the results of any test for COVID-19 pursuant to the Health Protection (Notification) Regulations 2010, as amended by S.I. 2020/1175. This instrument will require test providers supplying tests to international arrivals for the purposes of the new Schedule 2A to report additional information to PHE for the purposes of monitoring the effectiveness of the new regime, and for diseases surveillance.

**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 There are no plans to consolidate the International Travel Regulations.

## **10. Consultation outcome**

10.1 There has been no public consultation in relation to this instrument.

## **11. Guidance**

11.1 The guidance for international arrivals who intend to opt into test and release is [here](#). There is existing guidance for requirements to self-isolate on arrival from non-exempt countries that can be found [here](#). A list of private providers who self-declare they meet minimum standards will be published on gov.uk.

## **12. Impact**

- 12.1 The option for international arrivals travelling from a non-exempt country, territory or region to opt into test to release is expected reduce the period of self-isolation for passengers arriving into the UK who, in the last 14 days, have been in non-exempt country, territory or region, is likely to generate economic benefits, including to the travel and tourism industry. The protective effect of testing to release international arrivals after 5 days of self-isolation is only marginally less effective than 14 days of self-isolation, assuming full compliance under both scenarios. The introduction of testing to release is therefore expected to continue to deliver the public health benefits of the measures implemented by the International Travel Regulations.
- 12.2 Reduced isolation time would encourage social, religious and economic activity (as and when permitted by national and/or local Covid-19 restrictions), all of which may benefit wellbeing as well as having a positive economic impact in the UK as travellers return to work and leisure activities a week sooner than they would have done if testing to release weren't in place.
- 12.3 The travel industry is expected to benefit from increased demand for travel as testing offers greater flexibility, the, hospitality, arts and entertainment industries are also predicted to profit from increased travel into the country and associated tourist spending. The UK diagnostic industry is also expected to benefit from enabling this testing market.
- 12.4 A full impact assessment scrutinised by the Regulatory Policy Committee has not been prepared for the introduction of testing as this statutory provision does not impose or amend requirements, restrictions or conditions on business activity and therefore does not constitute a regulatory provision under Section 22(3) of the SBEE Act 2015.
- 12.5 The amendments to the prescribed messaging constitute a regulatory provision and therefore we have assessed the impact on business. The Department for Transport's analysis has shown the impact to be below the 'de minimis' threshold of £5m direct cost to business per year. We had identified approximately 140 operators who will have these amendments placed on them. These requirements are to update the specific information, which is already being provided, and we therefore expect the costs to be minimal.
- 12.6 Light-touch analytical assessments have been provided to inform the decision-making process and have been deemed proportionate to the impact of the policies.

### **13. Regulating small business**

- 13.1 Subject to specific exemptions, the International Travel Regulations apply to all persons arriving in England from outside of the Common Travel Area, and to those who have arrived in England from within the Common Travel Area having been outside the Common Travel Area in the last 14 days, including people travelling for commercial reasons for small businesses. The optional nature of the policy implemented by this instrument allows employees to choose whether to opt for a test with the potential to allow them to cease self-isolating, or to self-isolate for the full period required by the International Travel Regulations.
- 13.2 A shortened isolation period will allow a more imminent return to normal business procedure outside of the home of the person isolating. This will allow small business employees to carry out their usual role more quickly after arrival from a non-exempt country, territory or region. Increased levels of travelling, as a result of reduced isolation time, will also benefit small businesses in the travel, tourism and hospitality sectors due to increased consumer engagement and spending.

### **14. Monitoring & review**

- 14.1 The International Travel Regulations include a statutory review provision requiring them to be reviewed by 27th July 2020, and at least every 28 days thereafter. Those review provisions are unaffected by this amending instrument.
- 14.2 The International Travel Regulations cease to have effect at the end of the period of twelve months beginning on the day on which they came into force (8th June 2020).
- 14.3 Monitoring of the legislation will be informed by regular scientific advice on the domestic incidence and prevalence of coronavirus, relative to the incidence, prevalence, and trajectory of coronavirus in countries and territories overseas. This will contribute to ascertaining whether the International Travel Regulations are having a material or a marginal impact on the incidence of coronavirus in the United Kingdom, and whether the amendments made by this instrument remain appropriate.

### **15. Contact**

- 15.1 Alice MacFarlan, [alice.macfarlan@dft.gov.uk](mailto:alice.macfarlan@dft.gov.uk), can be contacted with any queries regarding the instrument.
- 15.2 Lola Fadina, Deputy Director for the International Travel Programme, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Secretary of State for Transport, Rt Hon Grant Shapps MP, can confirm that this Explanatory Memorandum meets the required standard.