

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL AND PUBLIC HEALTH INFORMATION) (ENGLAND) (AMENDMENT) (NO. 2) REGULATIONS 2020

2020 No. 1517

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.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument amends the Health Protection (Coronavirus, International Travel) (England) Regulations 2020 (S.I. 2020/568) (“the International Travel Regulations”) and the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to England) Regulations 2020 (S.I. 2020/567) (“the Passenger Information Regulations”). It also corrects drafting errors in the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 26) Regulations 2020 (S.I. 2020/1337) which themselves amend the International Travel Regulations with effect from 15th December 2020. Accordingly, this instrument has been published under the free issue procedure.
- 2.2 The amendments to the International Travel Regulations: i) alter the travel information that passengers arriving in England are required to provide under regulation 3 of the International Travel Regulations; ii) shorten the period for which passengers who have been in or transited through non-exempt countries, territories or regions are required to self-isolate under regulation 4 of the International Travel Regulations; and iii) add Botswana and Saudi Arabia to, and remove the Canary Islands from, the list of exempt countries and territories from which passengers arriving in England are not required to self-isolate on arrival. The changes described in iii) come into force at 4.00 a.m. on Saturday 12th December 2020 and those described in i) and ii) come into force on 14th December 2020.
- 2.3 The amendments to the Passenger Information Regulations are consequential amendments, altering the information which operators are required to give to passengers travelling on services from outside the common travel area to England.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The Department regrets that this instrument breaches the rule that statutory instruments subject to the negative procedure should normally be laid, and copies provided to the Committee, 21 days before the instrument comes into force (“the 21-day rule”). Having reviewed the latest assessment of public health risk presented by arrivals to England, the Government is acting promptly to re-impose the self-isolation

requirement on passengers arriving from the Canary Islands and to lift it for passengers arriving from Botswana and Saudi Arabia.

- 3.2 Following advice from the UK Chief Medical Officers (“CMOs”) that the likelihood of a person being infectious after 10 days of self-isolation is low, the Government is acting promptly to shorten the self-isolation period from 14 to 10 days to ensure that the self-isolation requirement remains proportionate. No savings provision is included in respect of the amendments to the self-isolation period so that the requirement to self-isolate for 10, rather than 14 days, applies to all people required to self-isolate under regulation 4 of the International Travel Regulations, rather than those whose self-isolation period began after the coming into force date for those amendments (14th December 2020).
- 3.3 The Department recognises that the breach of the 21-day rule in relation to the consequential amendments to the Passenger Information Regulations means that operators required to comply with the information requirement (regulation 3(1) of those Regulations) will have a very short window in which to take the necessary steps to comply with the Passenger Information Regulations as amended by this instrument. Noting that a breach of the information requirement is a criminal offence, regulation 4(2) of this instrument inserts a defence into the Passenger Information Regulations where operators can show that it was not reasonably practicable for the amended information to be provided. The Department does not consider that an alternative approach of delaying the commencement of the relevant amendments would be desirable as this would have the effect of requiring operators to provide outdated information to passengers in the period before the commencement.
- 3.4 The correction of defects in S.I. 2020/1337 are also being brought into force quickly so that they take effect before that instrument comes into force on 15th December.

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)

- 3.5 The 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 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 (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.
- 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.

- 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 been in or transited through a non-exempt country or territory were required to self-isolate until 14 days (amended by this instrument to 10 days) have elapsed since the day after they last left a non-exempt country or territory. 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 countries and territories to, or remove them from, Schedule A1 as appropriate, and (iii) introduce a “test to release” regime which allows individuals to shorten their self-isolation period by taking an approved test (see S.I. 2020/724, 799, 805, 819, 841, 866, 890, 913, 959, 980, 1013, 1039, 1076, 1094 and 1129, 1161, 1190, 1227, 1238, 1277, 1292, 1323, 1337 and 1360).
- 6.4 On 3rd June 2020 the Secretary of State for Transport made the Passenger Information Regulations under sections 45B(1)(a) and (2)(e) and (g), 45F(2) and 45P(2) of the 1984 Act. The Passenger Information Regulations came into force on 8th June 2020 and introduced a requirement for operators of commercial transport services transporting passengers from outside the common travel area to England to provide specific information to those passengers at specified points in the passenger journey. The Passenger Information Regulations were amended by the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to England) (Amendment) Regulations 2020 (S.I. 2020/1090) so as to specify the information to be provided in the Schedule to the Passenger Information Regulations. The required information is information about coronavirus, coronavirus disease and related duties and public health guidance, including information about the self-isolation requirement under the International Travel Regulations. Accordingly, as amendments have been made to the self-isolation requirement, consequential amendments have been made to the Passenger Information Regulations (see S.I. 2020/1090).
- 6.5 On 23rd November 2020 the Secretary of State for Transport made the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 26) Regulations 2020 under sections 45B, 45F(2) and 45P(2) of the 1984 Act. Those Regulations will come into force on 15th December 2020 and will make amendments to the International Travel Regulations required for the introduction of the “test to release” regime referenced in paragraph 6.3, above.

7. Policy background

What is being done and why?

- 7.1 The International Travel Regulations were made on an urgent basis in order to reduce the likelihood that an increase in COVID-19 infections would arise as a result of imported cases. Passengers who have only been in exempt countries and territories are

considered to present and acceptable level of risk, from a public health perspective, to enter England without being required to self-isolate on arrival.

- 7.2 The Joint Biosecurity Centre, together with Public Health England, have updated their public health assessments based on the latest data. Having reviewed the latest assessments, the Government has decided to add Botswana and Saudi Arabia to the list of exempt countries and territories and to remove the Canary Islands. These amendments will not affect passengers who arrive in England before 4.00 a.m. on 12th December 2020.
- 7.3 The UK CMOs have reviewed the current available evidence relating to the effectiveness of the self-isolation requirement as a measure for limiting the spread of coronavirus and coronavirus disease. Having done so, the UK CMOs consider that the likelihood of being infectious after 10 days of contact with coronavirus is low (albeit higher than at 14 days if all other factors remain the same). They have therefore advised that the self-isolation period is shortened from 14 to 10 days based on their view that this is the appropriate balance of risk given the current data and the current stage of the epidemic.
- 7.4 The Government has accepted this recommendation to ensure that the self-isolation requirement remains suitable and proportionate.
- 7.5 The Passenger Information Regulations were introduced to ensure that passengers arriving in England from outside the common travel area have the latest public health information. As the length of the self-isolation requirement is being shortened, consequential amendments are made to the information that operators are required to provide.
- 7.6 These Regulations also correct drafting errors in the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 26) Regulations 2020 before they come into force on 15th December 2020. Those errors relate to the omission of an ISO standard in the new Schedule 2A to be inserted into the International Travel Regulations.

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 relevant instruments.

10. Consultation outcome

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

11. Guidance

- 11.1 Guidance for the public and affected sectors has not yet been published but will be published as soon as possible.

12. Impact

- 12.1 An Impact Assessment has not been prepared for the instrument because the International Travel Regulations, which it amends, make urgent and temporary provision as part of the Government's response to COVID-19 and these amendments have the effect of removing restrictions on the people affected.

13. Regulating small business

- 13.1 The International Travel Regulations apply to passengers travelling in the course of activities undertaken for small businesses, unless they are within any of the exceptions in Schedule 2 to those Regulations.
- 13.2 That Schedule includes a number of exceptions for particular categories of occupation.

14. Monitoring & review

- 14.1 The International Travel Regulations and the Passenger Information Regulations include statutory review provisions requiring them to be reviewed at least every 28 days. Those review provisions are unaffected by the amending instrument.
- 14.2 Both the International Travel Regulations and the Passenger Information 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 and the Passenger Information Regulations are having a material or a marginal impact on the incidence of coronavirus in the United Kingdom.

15. Contact

- 15.1 Alice MacFarlan at the Department for Transport, email: Alice.MacFarlan@dft.gov.uk, telephone: 07584 586599, can be contacted with any queries regarding the instrument.
- 15.2 Lola Fadina, Deputy Director for the policy area at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Grant Shapps MP, Secretary of State for Transport, can confirm that this Explanatory Memorandum meets the required standard.