

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, TRAVEL FROM SOUTH AFRICA) (ENGLAND) REGULATIONS 2020

2020 No. 1644

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”) to: (i) extend the requirement to self-isolate to anyone in the same household as a person who, during the 10 days preceding their arrival in England, has departed from or transited through South Africa (“South Africa arrival”); (ii) remove exemptions from the requirement to self-isolate for South Africa arrivals and members of their household; (iii) remove exemptions from the requirement to complete a Passenger Locator Form for South Africa arrivals; and (iv) exclude South Africa arrivals and members of their household from the “Test to Release” regime.
- 2.2 This instrument also prohibits aircraft whose last departure point was in South Africa from landing in England, subject to limited exceptions.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The Department regrets that the 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. In the particular circumstances of this case, the Government considers it necessary to act with urgency and to bring regulations 1, 3 and 4 of the instrument into force at 9.00 p.m. on 23rd December 2020, and the remaining regulations into force at 9.00 a.m. on 24th December 2020, before the instrument is laid before Parliament. The instrument will be laid at the earliest possible opportunity.

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 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 Health Protection (Coronavirus, International Travel) (England) Regulations 2020 (S.I. 2020/568) (“the International Travel Regulations”), available at https://www.legislation.gov.uk/ukxi/2020/568/pdfs/ukxiem_20200568_en.pdf. 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 (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 This instrument is made under sections 45B, 45F(2) and 45P(2) of the 1984 Act to enable certain public health measures to be taken for the purpose of reducing the public health risks arising from a new variant strain of the virus known as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (“Coronavirus”).

7. Policy background

What is being done and why?

- 7.1 A new variant strain of Coronavirus has been identified in South Africa. The effects of this new strain are not yet known and, accordingly, the Government is implementing a number of precautionary measures.
- 7.2 This instrument amends the International Travel Regulations to: (i) extend the requirement to self-isolate to anyone in the same household as a person who, during the 10 days preceding their arrival in England, has departed from or transited through South Africa (“South Africa arrival”); (ii) remove exemptions from the requirement to self-isolate for South Africa arrivals and members of their household; (iii) remove exemptions from the requirement to complete a Passenger Locator Form for South Africa arrivals; and (iv) exclude South Africa arrivals and members of their household from the “Test to Release” regime.
- 7.3 This instrument also prohibits all aircraft whose last departure point was South Africa from landing in England. The prohibition does not apply to aircraft which (i) are commercially operated and carry no passengers (i.e. those with unaccompanied freight), or (ii) are operated by or in support of Her Majesty’s Government in the United Kingdom. Exceptions are also provided for landing where reasonably necessary to secure the safety of the aircraft or the health and safety of any person aboard it and landing for the purpose of refuelling, aircraft maintenance or transporting a person for medical treatment.
- 7.4 The instrument makes it an offence to contravene the arrival prohibition, punishable on summary conviction by a fine. The policy intention is that:
- i) for aircraft operated for commercial purposes, liability will fall on the company managing the service, rather than the pilot operating the aircraft. As the pilot would be acting under the direction of their employer, fault for causing or permitting the

aircraft to land is considered to sit with their employer rather than with them as an individual. Regulation 1(3)(a) reflects this intention;

ii) for other aircraft, liability will fall on the individual operating the aircraft. As they would not be acting under the direction of their employer, fault for causing or permitting the aircraft to land is considered to sit with them as an individual. Regulation 1(3)(b) reflects this intention.

7.5 The measures only affect (i) a person who arrives in England after 9.00 p.m. on 23rd December 2020, and (ii) aircraft that land in England after 9.00 a.m. on 24th December 2020.

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 None.

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 due to the urgency of the measures introduced by the instrument. Guidance will be published as soon as possible.

12. Impact

12.1 An Impact Assessment has not been prepared for this instrument because it makes urgent and temporary provision as part of the Government's response to Coronavirus.

12.2 The measures enacted by this instrument will have an impact on affected passengers, members of their households and businesses but that impact is set against the role that these precautionary measures play in reducing the spread of the new variant strain of Coronavirus.

13. Regulating small business

13.1 The instrument applies to passengers travelling in the course of activities undertaken for small businesses.

14. Monitoring & review

14.1 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Robert Courts MP, the Parliamentary Under Secretary of State, has made the following statement: "In my view, it is not appropriate to provide for a review of this instrument as it is an urgent, short-term measure that will be kept under constant review and revoked when no longer needed. This instrument makes amendments to the International Travel Regulations, which are subject to statutory review at least once every 28 days."

15. Contact

- 15.1 Elizabeth O'Donoghue at the Department for Transport, email: Elizabeth.O'Donoghue@dft.gov.uk, telephone: 07917 092917, can be contacted with any queries regarding the instrument.
- 15.2 Lola Fadina, Deputy Directors for the policy area at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Robert Courts MP, Under Secretary of State, can confirm that this Explanatory Memorandum meets the required standard.