

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL)
(ENGLAND) (AMENDMENT) (NO. 4) REGULATIONS

2020 No. 805

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport (“the Department”) 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 remove Spain from the list of exempt countries or territories from which passengers arriving in England are not required to self-isolate on arrival.

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 self-isolation requirements on passengers arriving from Spain. In the particular circumstances of this case, the Government considers it necessary to act with extreme urgency and to bring this instrument into force before it is laid before Parliament; it will of course 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 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.
- 6.2 Part 2A of the 1984 Act, inserted by the Health and Social Care Act 2008 (“the 2008 Act”), provides a legal basis to protect the public from threats arising from infectious disease or contamination from chemicals or radiation, and includes powers to impose restrictions or requirements on people, and in relation to things and premises. Overall, the amended 1984 Act sets out a framework for health protection which requires much of the detailed provisions to be delivered through regulations.
- 6.3 Section 45B(1) of the 1984 Act enables the appropriate Minister (defined in section 45T as the Secretary of State for England, or the Welsh Ministers for Wales) to make regulations for preventing danger to public health from vessels, aircraft, trains or other conveyances arriving at any place. Section 45B(2) provides that regulations under section 45B(1) may include, for example, provision for the isolation of persons and for regulating the entry of persons. Section 45F(2) sets out the type of supplementary provision that may be made, including for example the power to create offences. Section 45P(2) provides that the power to make regulations includes power to make different provision for different cases or different areas.
- 6.4 On 3rd 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.
- 6.5 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.
- 6.6 Further amendments have been made to remove Serbia from the list of exempt countries or territories with effect from 11th July 2020 (S.I. 2020/724), and to add Estonia, Latvia, Saint Vincent and the Grenadines, Slovakia and Slovenia with effect from 28th July 2020 (S.I. 2020/799).

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 an 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 remove Spain from the list of exempt countries and territories.

7.3 The amendments do not affect passengers who arrived in England before 26th July 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 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 Guidance for the public and affected sectors has been published and can be found at: <https://www.gov.uk/government/publications/coronavirus-covid-19-how-to-self-isolate-when-you-travel-to-the-uk/coronavirus-covid-19-how-to-self-isolate-when-you-travel-to-the-uk>

12. Impact

12.1 An Impact Assessment has not been prepared for this instrument because the International Travel Regulations, which it amends, make urgent and temporary provision as part of the Government's response to COVID-19.

12.2 The amendments made by this instrument will impact passengers arriving from Spain, but that impact is set against the role self-isolation measures play in reducing the spread of COVID-19.

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. In addition, paragraph 37 provides an exception for employed or self-employed persons who reside in the United Kingdom but work abroad or vice versa, where they travel in or out of the United Kingdom at least once a week.

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 exemptions to the Regulations remain sufficiently safe.

15. Contact

- 15.1 Victoria Judd at the Department for Transport, email: Victoria.Judd@dft.gov.uk telephone: 07825 227731, can be contacted with any queries regarding the instrument.
- 15.2 Jack Goodwin, Deputy Director for the policy area at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Kelly Tolhurst MP, Parliamentary Under Secretary of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.