

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL)
(ENGLAND) (AMENDMENT) (NO. 5) REGULATIONS

2020 No. 813

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 makes certain amendments to the Health Protection (Coronavirus, International Travel) (England) Regulations 2020 (“S.I. 2020/568”) (“the International Travel Regulations”) to take into account the outcome of the second statutory review of those regulations, which was completed on 27th July 2020.
- 2.2 This instrument also makes amendments to certain references to time periods in the International Travel Regulations, as amended by the Health Protection (Coronavirus, International Travel and Public Health Information) (England) (Amendment) Regulations 2020 (S.I. 2020/691) (“S.I. 2020/691”), to ensure that those time periods are capable of being identified more precisely. S.I. 2020/568 can be found at: <https://www.legislation.gov.uk/ukxi/2020/568/made> and S.I. 2020/691 can be found at: <https://www.legislation.gov.uk/ukxi/2020/691/made>. This instrument will be issued free of charge to all known recipients of S.I. 2020/568.

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”). It was not possible to make these amending regulations earlier, since they arise following the statutory review of the need for the requirements imposed by the International Travel Regulations that was completed on 27th July. These regulations have been laid as quickly as possible following the conclusion of that review, with a short interval before commencement, so as to ensure that the requirements of the International Travel Regulations remain appropriate and proportionate.
- 3.2 In a letter dated 22nd July 2020, the Committee asked the Department of Health and Social Care for a memorandum identifying the end of the 14-day period referred to in paragraph 24 of Schedule 2 to the International Travel Regulations, as amended by regulation 8(9)(a)(ii) of S.I. 2020/691, in a given situation. In a memorandum dated 28th July 2020, the Department of Health and Social Care provided that clarification and explained that the wording of the amendment was consistent with that of existing provisions in the International Travel Regulations. However, the Department of Health and Social Care acknowledged that the drafting could have been clearer and

undertook to amend the provisions in question. This instrument accordingly amends paragraphs 2, 3, 4, 13 and 24 of Schedule 2 to the International Travel Regulations.

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)

3.3 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, as 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 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 conveyances (or the persons or articles on those conveyances) arriving at any place or for preventing the spread of infection or contamination by conveyances leaving 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. Under those regulations, as amended by S.I. 2020/691 (see paragraph 6.5 below), the Secretary of State must review the need for the requirements imposed by the regulations at least once every 28 days. This instrument makes a number of changes to the International Travel Regulations following the second review of those regulations which concluded on 27th July 2020.

6.5 The International Travel Regulations were amended by 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 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 were made by: i) the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/724) to remove Serbia from the list of exempt countries and territories with effect from 11th July 2020; ii) the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 3) Regulations 2020 (S.I. 2020/799) to add Estonia, Latvia, Saint Vincent and the Grenadines, Slovakia and Slovenia to the list of exempt countries and territories with effect from 28th July; and iii) the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 4) Regulations 2020 (S.I. 2020/805) to remove Spain from the list of exempt countries and territories with effect from 26th July 2020.
- 6.7 This instrument makes further amendments to the International Travel Regulations. It amends regulation 4 of those regulations, inserting new paragraph (8A). This new paragraph makes explicit that, just as they may leave the place where they are self-isolating for certain, limited, reasons, individuals who are self-isolating may also receive visitors for certain, limited reasons. Paragraph (8A)(b) makes it explicit that individuals who are self-isolating may receive care or assistance as defined in that paragraph. The Department does not consider that the amendments to regulation 4 change the effect of the regulations, rather they provide clarification of the existing legal position.
- 6.8 This instrument also amends Part 2 of Schedule 2, to make certain changes to the categories of persons who are exempt from the requirement in regulation 4 to self-isolate. This instrument removes paragraph 30 of Schedule 2 to remove the exemption for registered health and care professionals following an assessment that it is no longer necessary. It also modifies the exemptions for workers engaged in essential or emergency works related to: water supplies and sewerage; and flood and coastal erosion risk management.
- 6.9 This instrument amends Schedule 2 to clarify the references to the 14-day period in relation to several exemptions to the requirement to self-isolate (see paragraph 3.2 above).
- 6.10 This instrument amends the list of specified competitions in Schedule 3, which applies for the purposes of the exemption for elite athletes at paragraph 39 of Schedule 2.

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. The measure was applied to people arriving in England from all countries outside of the common travel area, however the requirement has been kept under constant review with a view to ensuring that disadvantages arising from it can be minimised wherever appropriate and proportionate.

- 7.2 The Department does not consider that the amendments made to regulation 4 constitute a change in the effect of the regulations. The amendments have been made to clarify the existing effect.
- 7.3 The exemption from the requirement to self-isolate has been removed for registered health and care professionals. The need to retain this exemption was reassessed following amendments to the legislation to include exempt countries and territories, and was no longer deemed necessary for ensuring a sufficient flow of health and care professionals into health and care settings.
- 7.4 The modification made to the exemption in paragraph 17A of Schedule 2 for workers engaged in essential or emergency works relating to flood and coastal erosion risk management has been made to establish a consistent definition across the nations of the United Kingdom.
- 7.5 The modification made to the exemption in paragraph 17 of Schedule 2 for workers engaged in essential or emergency works relating to water supplies or sewerage services has been made to clarify the definition of the term “sewerage licensee”.
- 7.6 The amendments this instrument makes to paragraphs 2(1)(a), 3(1)(b), 4(a), 13(1)(a), and 24(1) of Schedule 2 clarify the duration of the 14-day period for the purposes of the exemptions set out in those provisions. The amendments address comments from the JCSI (see paragraph 3.2) and the Department does not consider that these amendments constitute a change in the effect of the regulations.
- 7.7 Amendments to the list of specified competitions in Schedule 3, which applies for the purposes of the exemption for elite athletes at paragraph 39 of Schedule 2, have been made to remove sporting events which have already taken place and to add sporting events which will take place before the International Travel Regulations expire.

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 The impact of coronavirus on businesses, charities or voluntary bodies has been significant. The purpose of the International Travel Regulations is to reduce the domestic incidence of coronavirus.

- 12.2 These measures will be reviewed every 28 days and maintained only for as long as necessary. In any event, they will cease to have effect twelve months from coming into force, as provided by the sunset clause in the International Travel Regulations.
- 12.3 An Impact Assessment has not been prepared for this instrument because this instrument is an urgent and temporary provision as part of the Government's response to 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 exemptions in Schedule 2 to those Regulations.
- 13.2 That Schedule includes a number of exemptions for particular categories of occupation. In addition, paragraph 37 provides an exemption 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 instrument does include a statutory review clause.
- 14.2 This instrument amends the International Travel Regulations and the expiry and review provisions set out in those regulations will continue to apply. 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). Prior to their expiry, the Secretary of State must review the need for restrictions imposed by the Regulations every 28 days. The first review was carried out by 29th June 2020, the second review by 27th July 2020 and the next review will be carried out by 24th August 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 these Regulations are having a material or marginal impact on the incidence of coronavirus within the UK.

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 The Rt Hon Grant Shapps MP, Secretary of State for Transport can confirm that this Explanatory Memorandum meets the required standard.