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STATUTORY INSTRUMENTS

2021 No. 1463

PUBLIC HEALTH, ENGLAND

The Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 26) Regulations 2021

Made - - - - *16th December 2021*
Laid before Parliament *17th December 2021*
Coming into force - - *at 4.00 a.m. on 18th December 2021*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 45B, 45C, 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984(a).

In accordance with section 45Q(3) of that Act, the Secretary of State is of the opinion that these Regulations do not contain any provision made by virtue of section 45C(3)(c) of the Act which imposes or enables the imposition of a special restriction or requirement or any other restriction or requirement which would have a significant effect on a person's rights.

Citation, commencement, extent, application and interpretation

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 26) Regulations 2021.

(2) These Regulations come into force at 4.00 a.m. on 18th December 2021.

(3) These Regulations extend to England and Wales, and apply in relation to England only.

(4) In these Regulations “the International Travel Regulations” means the Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021(b).

Amendment of the International Travel Regulations

2. The International Travel Regulations are amended in accordance with regulations 3 to 10.

Amendment of regulation 3J

3. In regulation 3J (testing requirements on eligible travellers (non-workers)), in paragraph (9A), after sub-paragraph (f) insert—

(a) 1984 c. 22. Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14).

(b) S.I. 2021/582 amended by S.I. 2021/589, 670, 682, 731, 766, 795, 865, 914, 923, 966, 974, 1003, 1033, 1066, 1107, 1130, 1155, 1179, 1210, 1213, 1289, 1323, 1331, 1339, 1367, 1371, 1434 and 1449.

“(fa)a person described in paragraph 12 (transit passengers) of Schedule 4;”.

Amendment of regulation 3K

- 4.**—(1) Regulation 3K (self-isolation requirements on eligible travellers) is amended as follows.
- (2) In paragraph (1)—
- (a) for “An eligible” substitute “Subject to paragraphs (9) to (9D), an eligible”;
 - (b) after “(“P”)” insert “, other than an eligible traveller described in regulation 3I (workers),”.
- (3) In paragraph (3)—
- (a) for sub-paragraph (a) substitute—
 - “(a) the time at which—
 - (i) P is notified in accordance with paragraph 11(2) of Schedule 8 that the result of a day 2 test taken in accordance with regulation 3J is negative;
 - (ii) where P is a relevant child and is accompanied by a person who is required by regulation 3J or 6 to take a day 2 test—
 - (aa) that person is notified in accordance with paragraph 11(2) of Schedule 8 of the result of that test, or
 - (bb) where P is accompanied by two or more such persons, the first of them is notified in accordance with paragraph 11(2) of Schedule 8 of the result of that test;
 - (iii) where—
 - (aa) P is a relevant child and is not accompanied by any person who is required by regulation 3J or 6 to take a day 2 test, and
 - (bb) P undertakes an optional day 2 test,
an adult responsible for P receives notification that the result of that test is negative;
 - (iv) where it is not reasonably practicable for P to undertake a day 2 test in accordance with regulation 3J due to a disability and P is accompanied by a person who is required by regulation 3J or 6 to take a day 2 test—
 - (aa) that person is notified in accordance with paragraph 11(2) of Schedule 8 of the result of that test, or
 - (bb) where P is accompanied by two or more such persons, the first of them is notified in accordance with paragraph 11(2) of Schedule 8 of the result of that test;”;
 - (b) in sub-paragraph (b)(ii), after “(5)(b)” insert “or (5A)(a)”;
 - (c) in sub-paragraph (b)(iii), after “(5)(c)” insert “or (5A)(b)”.
- (4) After paragraph (5) insert—
- “(5A) Where P is a relevant child who undertakes an optional day 2 test and—
- (a) an adult with responsibility for P receives notification that the test has generated an inconclusive result, paragraph (7) applies;
 - (b) an adult with responsibility for P receives notification that the test has generated a positive result, paragraph (8) applies.”.
- (5) In paragraph (7)—
- (a) in paragraph (b)(i)—
 - (i) after “test”, in first place it occurs, insert “or, where P is a relevant child, a replacement optional day 2 test”;
 - (ii) after “test”, in the second place it occurs, insert “or the optional day 2 test”;

- (b) in paragraph (b)(ii), after “test” insert “, or, where P is a relevant child, a replacement optional day 2 test,”;
 - (c) in paragraph (b)(iii)—
 - (i) after “test”, in the first place it occurs, insert “, or, where P is a relevant child, a replacement optional day 2 test,”;
 - (ii) after “2 test”, in the second place it occurs, insert “or the optional day 2 test”.
- (6) For paragraph (9) substitute—
- “(9) If P is an exempted person, P is not required to comply with this regulation.
- (9A) For the purposes of paragraph (9), P is an exempted person if, were P not an eligible traveller, P would not be required to comply with regulation 9 by virtue of paragraph (15) of that regulation.
- (9B) If P is a person described in any paragraph of Schedule 4 specified in paragraph (9C), P is not required to comply with this regulation while undertaking the work or activity described in that paragraph of Schedule 4.
- (9C) The paragraphs of Schedule 4 mentioned in paragraph (9B) are paragraphs 4A, 21, 22, 23, 24, 25, 26, 28, 29, 31, 32, 35, 36, 37, 38, 39, 40 and 41.
- (9D) If P is a person described in paragraph 42 of Schedule 4 (critical work related activity), P is not required to comply with this regulation while undertaking, in England, the work-related activity for which P usually travels to another country at least once a week.
- (9E) If P is a person described—
- (a) in paragraph 33 of Schedule 4 (healthcare), paragraph (1) does not require P to remain in isolation in the circumstances set out in that paragraph of that Schedule;
 - (b) in paragraph 44 of Schedule 4 (elite sportsperson), P satisfies the requirements of paragraph (1) if P complies with the relevant conditions specified in paragraph 44(4) of Schedule 4;
 - (c) in paragraph 50 of Schedule 4 (performing arts professionals), paragraph (1) does not—
 - (i) prevent P from travelling between the place where P is self-isolating and the place or places where the performing arts event is, or activities related to the performing arts event are, taking place, or
 - (ii) require P to remain in isolation from any other person who is working on the same performing arts event;
 - (d) in paragraph 51 of Schedule 4 (film or high end TV production), paragraph (1) does not—
 - (i) prevent P from travelling between the place where P is self-isolating and the place or places where the production is, or activities related to the production are, taking place, or
 - (ii) require P to remain in isolation from any other person who is working on the same production.”.
- (7) In paragraph (10)—
- (a) before sub-paragraph (a), insert
 - “(za) “optional day 2 test”, in relation to a relevant child (“C”), means a test meeting the requirements of a day 2 test (within the meaning of regulation 3J) save as to the fact that C is not required by that regulation to take the test;”;
 - (b) after sub-paragraph (a), insert—
 - “(aa) “relevant child” means a child who is under the age of five upon arrival in England;”;
 - (c) after sub-paragraph (b), insert—

“(c) “replacement optional day 2 test”, in relation to a relevant child (“C”), means a test meeting the requirements of a day 2 test (within the meaning of regulation 3J) save as to the time at which it is to be taken and the fact that C is not required by that regulation to take the test.”.

Amendment of regulation 17

5. In regulation 17(3), in the definition of “required notification”, in sub-paragraph (e), after “that provider” insert “or, where the notification is issued by a country or territory which is an approved third country or territory for the purposes of Part 1B (see regulation 3A(2A)), the country or territory in which the test was carried out”.

Amendment of regulation 19

6. In regulation 19 (offences and penalties), after paragraph (6) insert—

“(6A) A person (“P”) who knowingly gives false information pursuant to any relevant provision of the Self-Isolation Regulations^(a) as it applies to P by virtue of paragraph 3(2A) of Schedule 8 commits an offence.

(6B) For the purposes of paragraph (6A), the relevant provisions of the Self-Isolation Regulations are—

- (a) regulation 2A(2)(b);
- (b) regulation 2A(3)(b);
- (c) regulation 2A(7).”.

Amendment of Schedule 5

7. In Schedule 5 (list of sporting events), at the end insert—

“Netball Quad Series
Professional Darts Corporation Q School
Professional Darts Corporation Masters
Equestrian Jumping – Northcote Stud
Classic Chase Day (horse-racing)
Clarence House Chase Raceday (horse-racing)
Festival Trials Day Cheltenham (horse-racing)
Birmingham 2022 Commonwealth Games
English Football League Fixtures Season 2021/22
Women’s Super League Fixtures Season 2021/22
Britannia Cup (ice-skating)
National Track Championships (cycling)”.

Amendment of Schedule 7

8. In Schedule 7 (testing before arrival in England), in paragraph 2(e), after “that provider” insert “or, where the notification is issued by an approved third country or territory, the country or territory in which the test was carried out”.

(a) “The Self-Isolation Regulations” is defined in regulation 2(1).

Amendment of Schedule 8

9. In Schedule 8 (mandatory testing after arrival in England), in paragraph 3(1)(a)(ii), for “sub-paragraph (2)” substitute “sub-paragraphs (2) and (2A)”.

Amendment of Schedule 14

10. In Schedule 14 (amount of fixed penalties), after paragraph 3 insert—

“Regulation 19(6A)

3A. Breach of regulation 19(6A) (knowingly giving false information pursuant to a provision of regulation 2A of the Self-Isolation Regulations as it applies by virtue of paragraph 3(2A) of Schedule 8)—

- (a) in the case of the first fixed penalty notice, £1,000;
- (b) in the case of the second fixed penalty notice, £2,000;
- (c) in the case of the third fixed penalty notice, £4,000;
- (d) in the case of the fourth or subsequent fixed penalty notice, £10,000.”.

Amendment of the Health Protection (Notification) Regulations 2010

11.—(1) The Health Protection (Notification) Regulations 2010(a) are amended as follows.

- (2) In regulation 4(1)(b), omit the words from “, other than a” to “applies,”.
- (3) In regulation 4A(1), omit the words from “, other than a” to “applies,”.

Transitional provisions and savings

12.—(1) In relation to any person who arrived in England before the coming into force of these Regulations, the International Travel Regulations apply as if the amendments made by the provisions of these Regulations, other than regulation 4, had not been made.

(2) Where—

- (a) a person (“P”) is a relevant child who immediately before the commencement day was required to self-isolate in accordance with regulation 3K of the International Travel Regulations, and
- (b) before that day, a person (“A”) who accompanied P when P travelled to England was notified, in accordance with paragraph 11(2) of Schedule 8 to the International Travel Regulations, of the result of a day 2 test which A was required to take by regulation 3J or 6 of those Regulations,

the period for which P is required to self-isolate in accordance with regulation 3K of those Regulations ends on the commencement day.

(3) Where—

- (a) it was not reasonably practicable for a person (“P”) to undertake a day 2 test in accordance with regulation 3J of the International Travel Regulations due to a disability,
- (b) immediately before the commencement day, P was required to self-isolate in accordance with regulation 3K of those Regulations, and
- (c) before that day, a person (“A”) who accompanied P when P travelled to England was notified, in accordance with paragraph 11(2) of Schedule 8 to the International Travel Regulations, of the result of a day 2 test which A was required to take by regulation 3J or 6 of those Regulations,

(a) S.I. 2010/659; amended by S.I. 2020/1175 and 1179. There are other amending instruments but none is relevant.

the period for which P is required to self-isolate in accordance with regulation 3K of those Regulations ends on the commencement day.

(4) Where—

- (a) a person (“P”) is a relevant child who immediately before the commencement day was required to self-isolate in accordance with regulation 3K of the International Travel Regulations and was not accompanied by any person when they travelled to England who was required by regulation 3J or 6 of those Regulations to take a day 2 test, and
- (b) P undertakes a replacement test on or after the commencement day,

P is to be treated as if P had undertaken an optional day 2 test for the purposes of regulation 3K of those Regulations as amended by these Regulations.

(5) In this regulation—

“the commencement day” means 4.00 a.m. on 18th December 2021;

“relevant child” means a child who was under the age of five upon arrival in England;

“replacement test” means a test meeting the requirements of a day 2 test (within the meaning of regulation 3J of the International Travel Regulations) save as to the time at which it is to be taken and the fact that P is not required by that regulation to take the test.

16th December 2021

Kamall
Parliamentary Under-Secretary of State,
Department of Health and Social Care

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021 (S.I. 2021/582) (“the International Travel Regulations”).

Regulation 3 amends regulation 3J of the International Travel Regulations so that eligible travellers in transit are not required to take a day 2 test under that provision.

Regulation 4 amends regulation 3K of the International Travel Regulations—

- (a) to make clear that those persons to whom the work place testing regime in regulation 7 or 8 of the International Travel Regulations applies are not required to comply with that regulation;
- (b) to ensure that the other exemptions from the requirement to self-isolate under that regulation are consistent with those in regulation 9(15);
- (c) so that eligible travellers who are not required by reason of their age, or are not able by reason of a disability, to take a day 2 test can stop self-isolating when a member of the party which they travelled with receives the result of their day 2 test;
- (d) to enable a child who is under the age of 5 and travels unaccompanied to take an optional day 2 test following their arrival in England. If the result of that test is negative, they may cease to self-isolate.

Amendments are made to the definition of “required notification” for the purposes of regulations 3ZA and 17 of the International Travel Regulations so that a notification issued by an approved third country or territory may be accepted if it states the name of the country or territory in which the relevant test was carried out (regulations 5 and 8).

Regulation 6 amends regulation 19 of the International Travel Regulations to create an offence of knowingly giving false information pursuant to regulation 2A of the Self-Isolation Regulations, as it applies by virtue of paragraph 3(2A) of Schedule 8. Consequential amendments are made to Schedule 14 to the Regulations (amount of fixed penalties) (regulation 9).

Regulation 7 adds additional sporting events to the list in Schedule 5 to the International Travel Regulations.

These Regulations also make other minor and consequential amendments to the International Travel Regulations.

These Regulations also make minor amendments to the Health Protection (Notification) Regulations 2010, to remove obsolete cross references.

An impact assessment has not been produced for this instrument. An explanatory memorandum has been published alongside this instrument at www.legislation.gov.uk.

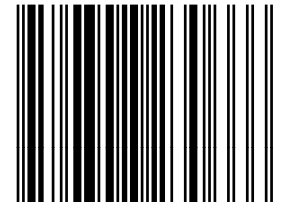
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