

**EXPLANATORY MEMORANDUM TO**  
**THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL)**  
**(ENGLAND) (AMENDMENT) (NO. 3) REGULATIONS 2021**

**2021 No. 47**

**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 introduce new measures in relation to several countries and territories where there are concerns about a new variant of COVID-19, namely Argentina, Bolivia, Brazil, Cape Verde, Chile, Colombia, Ecuador, French Guiana, Guyana, Madeira, Panama, Paraguay, Peru, Portugal, Suriname, the Azores, Uruguay and Venezuela (“the affected areas”).
- 2.2 This instrument removes Chile, Madeira and the Azores from the list of exempt countries or territories from which passengers arriving in England are not required to self-isolate on arrival. People arriving in England who have, within the 10 days preceding their arrival departed from or transited through the remaining affected areas are already required to self-isolate on arrival.
- 2.3 In addition, this instrument: i) prohibits, subject to limited exemptions, aircraft whose last departure point was Argentina, Brazil, Chile, Cape Verde, Madeira, the Azores or Portugal from landing in England; ii) prohibits, subject to limited exemptions, vessels whose last point of departure was Madeira, the Azores or Portugal from mooring in England; iii) subjects people arriving in England at or after 4.00 a.m. on 15th January 2021 to the additional measures introduced into the International Travel Regulations by the Health Protection (Coronavirus, Travel from South Africa) (England) Regulations 2020 (S.I. 2020/1644) if, within the 10 days preceding their arrival in England, they have departed from or transited through an affected area. Those additional measures are described below in paragraph 7.3.
- 2.4 Aside from the measures relating to the affected areas, this instrument: i) removes Aruba, Qatar, and Bonaire, Sint Eustatius & Saba from the list of exempt countries or territories from which passengers arriving in England are not required to self-isolate on arrival; ii) amends the exemption from the requirement to self-isolate for seasonal workers so that it covers ornamental horticulture; and iii) increases the levels of fixed penalties that may be issued to a person who fails to comply with the requirement to provide information on the Passenger Locator Form (“PLF”) (regulation 3 of the International Travel Regulations).

### **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, the Government is acting promptly to reintroduce the self-isolation requirement for passengers arriving from Aruba, Qatar, and Bonaire, Sint Eustatius & Saba and to prevent, insofar as possible, the spread of a new variant of COVID-19, first identified in Brazil, from the affected areas to England.
- 3.2 According to Border Force estimates, since the introduction of the PLF in June 2020 to 23 November 2020, an average of approximately 15,000 passengers per week are estimated to have arrived in England without having provided the required information. As data collected in PLFs is used to facilitate the domestic contact tracing programme and is important for monitoring and enforcing the self-isolation requirement (regulation 4 of the International Travel Regulations), high levels of PLF completion are important for safeguarding public health. Accordingly, the Government considers that it is urgent that the increased penalties are brought into force as soon as possible to drive up PLF completion rates. 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 legislative context is set out in paragraphs 6.1 to 6.5 of the Explanatory Memorandum to the International Travel Regulations, available online at [https://www.legislation.gov.uk/uksi/2020/568/pdfs/uksiem\\_20200568\\_en.pdf](https://www.legislation.gov.uk/uksi/2020/568/pdfs/uksiem_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 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. The International Travel Regulations also introduced a

requirement (“the requirement to provide information”) for people: i) arriving in England from outside the common travel area; or ii) arriving in England from elsewhere in the common travel area where they have been outside the common travel area in the past 10<sup>1</sup> days, to provide their personal and contact details, and travel information. This information must be provided on a PLF. These requirements were 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 10 days<sup>2</sup> 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 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 or remove countries and territories from Schedule A1 as appropriate, and (iii) add or amend “sectoral” exemptions from the requirements to self-isolate and/or provide information as appropriate (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, 1360, 1424, 1517, 1595 and 1644 and S.I. 2021/18 and 25).
- 6.4 The International Travel Regulations were further amended by the Health Protection (Coronavirus, Pre-Departure Testing and Operator Liability) (England) (Amendment) Regulations 2021 (S.I. 2021/38) so as to require people arriving in England from outside the common travel area to possess notification of a negative coronavirus test result.
- 6.5 Schedule B1, which sets out countries and territories from which arrivals are subject to additional measures, was introduced by the Health Protection (Coronavirus, Travel from South Africa) (England) Regulations 2020 (S.I. 2020/1644) following the identification of a new variant of coronavirus in South Africa. Angola, Botswana, Eswatini, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, Zambia and Zimbabwe were added to Schedule B1 by the Health Protection (Coronavirus, International Travel) (England) (Amendment) Regulations 2021 (S.I. 2021/18).

## **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

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<sup>1</sup>Note that following advice from the Chief Medical Officer the period of 14 days was shortened to 10 days by the Health Protection (Coronavirus, International Travel and Public Health Information) (England) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/1517).

<sup>2</sup> Ibid.

considered to present an acceptable level of risk, from a public health perspective, to enter England without being required to self-isolate on arrival. 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 Aruba, Qatar, and Bonaire, Sint Eustatius & Saba from the list of exempt countries and territories. These amendments will not affect passengers who arrive in England before 4.00 a.m. on 16th January 2021.

- 7.2 A new variant of COVID-19, first detected in Brazil, has been identified in the affected areas. The Government is acting urgently on advice from Public Health England to prevent, insofar as possible, the new variant from spreading from the affected areas to England by removing Chile, Madeira and the Azores from the list of exempt countries or territories and subjecting arrivals from affected areas to additional measures.
- 7.3 The additional measures are: i) extending 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 an affected area; ii) removing exemptions from the requirement to self-isolate for arrivals from those countries and members of their household, with the exception of the exemption for hauliers where the affected area concerned is Portugal, Madeira or the Azores to allow transport of essential goods; iii) remove exemptions from the requirement to complete a Passenger Locator Form for arrivals from the affected areas; and iv) exclude arrivals from affected areas, and members of their household, from the “Test to Release” regime. These amendments will not affect passengers who arrive in England before 4.00 a.m. on 15th January 2021.
- 7.4 A full explanation of the additional measures, which were initially introduced in response to a different variant of COVID-19, first identified in South Africa, can be found in the explanatory memorandum to S.I. 2020/1644.
- 7.5 In order to reduce the number of people arriving in England from the affected areas, this instrument introduces a prohibition on the arrival of aircraft which have flown directly from Argentina, Brazil, Chile, Cape Verde, Madeira, the Azores or Portugal and vessels which have sailed directly from Madeira, the Azores or Portugal.
- 7.6 A prohibition on flights arriving directly from South Africa was introduced by regulation 2 of S.I. 2020/1644. This instrument revokes that regulation, but the prohibition is preserved by the inclusion of South Africa on the list of countries and territories (Schedule B2, inserted by this instrument) from which direct flights are prohibited.
- 7.7 The exemption for seasonal workers is being extended from workers carrying out specified activities in edible horticulture to those carrying out specified activities in ornamental horticulture. Without enough seasonal workers it is likely that daffodil stems will be left unpicked and wasted, impacting on the financial viability of the businesses affected.

## **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**

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 the provisions affecting business will have effect for a period of less than 12 months.

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

## **13. Regulating small business**

13.1 The International Travel Regulations apply to people 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 The measures enacted by this instrument will have an impact on affected travellers, members of their households and small businesses but that impact is set against the role that these measures play in reducing the spread of the new variant of coronavirus.

## **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 made by the instrument remain sufficiently safe.

## **15. Contact**

15.1 Elizabeth O'Donoghue at the Department for Transport, (Elizabeth.O'Donoghue@dft.gov.uk), 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 Robert Courts MP, Parliamentary Under Secretary of State for Transport, can confirm that this Explanatory Memorandum meets the required standard.