

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL
AND OPERATOR LIABILITY) (ENGLAND) (AMENDMENT) (NO. 9)
REGULATIONS 2021

2021 No. 966

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care (DHSC) 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 and Operator Liability) (England) Regulations 2021 (S.I. 2021/582) (“the Regulations”) to:
 - update the category 1 and 3 country and territory listing;
 - add Newcastle to the list of designated red list ports and a reasonable defence for passengers who arrive at places other than designated ports in limited circumstances;
 - introduce penalties for private providers of international testing and update reporting mechanisms;
 - introduce exemptions for London Fashion Week, COP 26 and the World Leaders Summit;
 - introduce a duty for an unaccompanied minor to have a booking for a nominated person and a requirement for that person to join the minor in managed quarantine and;
 - provide an exemption from managed quarantine to allow unaccompanied minors to quarantine in further and higher education accommodation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 DHSC 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 assessments of public health risk and the impact of vaccinations on transmission, the Government considers these measures are urgently necessary to protect public health whilst ensuring that restrictions in place remain proportionate. Where it has been possible, the coming into force of provisions in the instrument have been delayed to follow the 21-day rule. The regulations implementing changes to obligations on private providers of testing and the Health Protection (Notification) Regulations 2010, and the addition of Newcastle International Airport to the list in paragraph 4 of Schedule 11, are not urgent measures and so will come into force in accordance with this rule.

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 only.

5. European Convention on Human Rights

- 5.1 As this instrument is subject to the 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 7.1 to 7.7 of the [explanatory memorandum to the International Travel Regulations](#) published on www.legislation.gov.uk.
- 6.2 The amendments to the Health Protection (Notification) Regulations 2010 are made subject to the negative resolution procedure because the Secretary of State and the Minister of State are satisfied that it does not contain any provision imposing or enabling the imposition of restrictions or requirements having a significant effect on a person's rights.

7. Policy background

What is being done and why?

- 7.1 This amending instrument updates the Regulations to limit the risk of importation of harmful variants of Covid-19 from destinations where there is a higher incidence, in line with the latest epidemiological data. Additionally, this instrument introduces a number of amendments to operational and reporting requirements to ensure that the Regulations maintain a high level of effectiveness in achieving a public health response to tackle the threat posed by the spread from international travellers of SARS-CoV-2.
- 7.2 It introduces a number of time-limited exemptions to self-isolation requirements for events of national importance in the UK to allow the events to be successfully delivered whilst robustly protecting public health.
- 7.3 This amending instrument updates the countries and territories by adding Montenegro and Thailand to the 'red list' and Denmark, Lithuania, Finland, Switzerland, Liechtenstein, the Azores, and Canada to the 'green list'. The revisions to the country listing reflect the latest epidemiological data following the recent three-weekly RAG review. In consequence of these changes it is necessary to introduce an exemption from the additional requirements for red list arrivals including managed quarantine for road haulage workers who have been in Montenegro in the 10 days before they arrive in England to ensure that there is no disruption to the supply chain. It is also necessary to add Montenegro and Thailand to the list of red list countries or territories to ensure that direct flights from these countries are only permitted to arrive in London Heathrow Airport Terminal 4 and Birmingham Airport.
- 7.4 This amending instrument adds a defence for a red list passenger to arrive at a place other than a designated red list port in certain specified circumstances. These are where it is necessary to secure the safety or security of the aircraft or any person aboard the aircraft, where the pilot has been given an instruction by an authorised

person, or where the aircraft is an air ambulance and this is necessary for transporting a person for medical treatment. This amendment is necessary to ensure that passengers are not prosecuted for arriving at a place other than a red list port in circumstances out of their control. This instrument adds an exception to the obligation on controllers of direct flights from red list countries to permit an aircraft to land at a place other than a red list port where the pilot is instructed to do so by an authorised person.

- 7.5 It adds Newcastle airport to the list of designated ports under Schedule 11 so that indirect passengers are permitted to arrive there from ‘red list’ countries. This will ensure that there is enough capacity to safely manage returning volumes of international students across the region in the autumn and mitigate the risk of increased transmission of variants of concern.
- 7.6 This amending instrument introduces a duty for an unaccompanied minor arriving from a red-list country to nominate and to have a booking for a responsible adult to join them in managed quarantine. It also adds a corresponding duty for a responsible adult to join an unaccompanied minor in managed quarantine. This provision seeks to ensure that unaccompanied minors are adequately cared for and supported in managed quarantine.
- 7.7 This amending instrument introduces an exemption to allow unaccompanied minors to quarantine in further and higher education accommodation. This change is necessary as minors arriving for further or higher education are unlikely to have a responsible adult who can join them in managed quarantine. There will be robust guidance to ensure that the risk to public health is mitigated by the exemption.
- 7.8 This amending instrument updates the reporting mechanisms for minimum standards and reporting times required from private providers. This will improve the ability to expedite clean and accurate data from End-to-End Testing Providers to the UK Health Security Agency (UKHSA), ensure that providers of international arrivals testing provide a more timely and thorough service to international arrivals testing, ensure a quicker response to any new variants identified and potentially reduce customer complaints. It will also remove the requirement on private providers to include Passenger Locator Forms (PLFs) in their reporting data. This will significantly lessen the burden for the private providers reporting to UKHSA and negate the logistical difficulties experienced by providers in asking for the PLF reference when people are booking tests.
- 7.9 It introduces penalties for private providers of international travel testing, to align their regulation with domestic penalties. This change ensures that there is a comprehensive compliance mechanism covering all private testing providers, not just those governed by the Health Protection Regulations.
- 7.10 This amending instrument introduces exemptions for the summit known as “COP26” which is an international climate conference hosted by the UK in Glasgow. This comprises the 26th session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC), the 16th session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, and the third session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. COP26 will bring countries together to accelerate action towards the goals of the Paris Agreement and the UNFCCC. COP26 is taking place from 31st October to 12th November 2021, with pre-sessional meetings running

from 25th to 30th October. The instrument also provides exemptions for the COP26 World Leaders Summit (WLS) which will take place from 1st to 2nd of November.

- 7.11 COP26 and the WLS need to be attended in person because of the complex nature of negotiations and the need for secure discussions. In order for in-person events to take place, attendees will require exemptions from travel restrictions.
- 7.12 Although COP26 and the WLS are taking place in Glasgow, those facilitating and attending the events may fly into England. Therefore, exemptions to the regulations are needed in England.
- 7.13 For all persons attending or facilitating the WLS, and all persons attending or facilitating COP26 who are to be granted privileges and immunities in connection with COP26 or who will be representatives of an international organisation accorded privileges and immunities in the UK, the following exemptions apply:
- exemptions from the requirement to self-isolate;
 - exemptions from the enhanced requirements for those entering from red list countries including managed quarantine and the requirement to enter through a designated port;
 - exemptions from day 2 and day 8 testing requirements;
 - exemption from the requirement to complete a Passenger Locator Form.
- 7.14 The same exemptions also apply to persons that have been invited to attend both COP26 and the WLS by Her Majesty's Government.
- 7.15 For the WLS, persons will need to be confirmed by the relevant Department as attending or facilitating the WLS. For COP26, persons will need to have been registered to attend COP26, have received confirmation of registration from the secretariat of the UNFCCC, and have been confirmed by the relevant Department as attending or facilitating COP26.
- 7.16 More limited exemptions apply for persons attending or facilitating COP26 who are not to be granted privileges and immunities in connection with COP26 or to be a representative of an organisation described above, and who have not been invited to attend both COP26 and the WLS by Her Majesty's Government. The exemptions are:
- Unvaccinated persons that have been in a country or territory on the amber list in the 10 days before arrival in England will not be required to self-isolate.
 - Fully vaccinated persons that have been in a country or territory on the red list in the 10 days before arrival in England will be required to undertake 5 days of managed quarantine, rather than 10 days.
- 7.17 There is no exemption to the pre-arrival testing requirement for any person arriving in England to possess a negative result from a qualifying test.
- 7.18 In order for the exemptions for COP26 and the WLS to apply, the relevant head of mission or post, relevant foreign representative office, relevant organization, or the individual themselves will be required to provide written confirmation that they will comply with the health protocols for the events. The health protocols will mitigate the additional public health risks arising from holding in-person events in the UK and the exemptions to travel restrictions.
- 7.19 These health protocols will require measures including: a rigorous daily testing regime with procedures for tracing and isolating positive cases and their close

contacts; social distancing where possible, face coverings and provision of detailed contact information to ensure that testing and tracing procedures can be effectively implemented. Testing, tracing and any necessary isolation will play a crucial role in the safety of the event by minimising the risk of transmission of infection at the event and to the wider population.

- 7.20 This amending instrument introduces an exemption from self-isolation requirements for London Fashion Week invitees (and their carers) from amber list countries who are working at the event for the limited purpose of travelling to or attending the events. The exemption will permit around 130 fashion professionals to attend London Fashion Week events. The UK fashion sector is worth £35bn and generates more than 880,000 jobs, London Fashion Week is its premier event and critical to the sector's international reputation. It is estimated that the event generates alone generates over 13,000 job orders and sales orders are typically in excess of £100m. This exemption is necessary in order to secure the success of the event, allowing brands to bring in the top talent they need for the event to take place and buyers to attend in person which is likely to be important for sales. There will be strict health protocols and exempt persons will be required to isolate when not attending events.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

- 9.1 This instrument does not consolidate any legislation and there are no plans to do so at this time.

10. Consultation outcome

- 10.1 There has been no public consultation in relation to this instrument.

11. Guidance

- 11.1 The Government has published guidance in relation to COVID-19 at <http://www.gov.uk/coronavirus> and this guidance will include any updated information in relation to these amendments.

12. Impact

- 12.1 An Impact Assessment has not been prepared for this instrument because it is a temporary measure which is part of the Government's response to COVID-19. As the International Travel and Operator regulations (ITOLs) – the Regulations which this instrument amends, will cease to have effect on 16th May 2022 a Regulatory Impact Assessment is not required and would be disproportionate

13. Regulating small business

- 13.1 This instrument applies to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The Secretary of State must review the need for the requirements imposed by the Regulations, which this instrument amends, at least every 28 days as a result of a statutory review clause.

15. Contact

- 15.1 Jessica Sterling at the Department of Health and Social Care, Email: Jessica.Sterling@dhsc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Sue Young, Director for MQS, at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.
- 15.3 Nadine Dorries MP, Minister of State for Patient Safety, Mental Health and Suicide Prevention at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.