

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL)
(ENGLAND) (AMENDMENT) (NO. 25) REGULATIONS

2020 No. 1323

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 add Bonaire, Sint Eustatius & Saba, Israel, Jerusalem, Namibia, Northern Mariana Islands, Rwanda, Sri Lanka, Uruguay and the United States Virgin Islands to the list of exempt countries or territories from which passengers arriving in England are not required to self-isolate on arrival.
- 2.2 The instrument also makes amendments to the International Travel Regulations following the sixth statutory review which was completed on 16 November 2020, namely amendments to exemptions from the requirement to self-isolate in Schedule 2 and amendments to the list of specified competitions in Schedule 3.
- 2.3 The amendments to Schedule 2: i) amend the exemption for Crown Servants and government contractors; and ii) add an exemption for people working on subsea fibre optic telecommunications infrastructure.

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 remove the self-isolation requirement for passengers arriving from Bonaire, Sint Eustatius & Saba, Israel, Jerusalem, Namibia, Northern Mariana Islands, Rwanda, Sri Lanka, Uruguay and the United States Virgin Islands.
- 3.2 The other amendments arise following the statutory review of the need for the requirements imposed by the International Travel Regulations, which was completed on 16 November 2020. These regulations have been laid as quickly as possible following conclusion of that review so as to ensure that the requirements of the International Travel Regulations remain appropriate and proportionate.

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/ukxi/2020/568/pdfs/ukxiem_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 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.

6.3 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 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. 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 and 1292).

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 add Bonaire, Sint Eustatius & Saba, Israel, Jerusalem, Namibia, Northern Mariana Islands, Rwanda, Sri Lanka, Uruguay and the United States Virgin Islands to the list of exempt countries and territories. These amendments will not affect passengers who arrive in England before 4.00 a.m. on 21st November 2020.
- 7.3 The exemption from the requirement to self-isolate applies for Israel in its entirety, and Jerusalem in its entirety. For the Occupied Palestinian Territories, only East Jerusalem is included in the exemption. The remainder of the Occupied Palestinian Territories are not included.
- 7.4 The United Kingdom's position on the status of Jerusalem is clear and long-standing: it should be determined in a negotiated settlement between the Israelis and the Palestinians, and Jerusalem should ultimately be the shared capital of the Israeli and Palestinian states. In line with relevant Security Council Resolutions, we regard East Jerusalem as part of the Occupied Palestinian Territories. The addition of Israel and Jerusalem to the list of exempt countries and territories in Schedule A1 is driven by public health considerations based on epidemiological evidence.
- 7.5 The exemption for Crown servants and government contractors has been amended so that it also applies to individuals who have returned to the United Kingdom following essential state business overseas and those whose return to the United Kingdom is necessary to facilitate the functioning of a diplomatic mission or consular post, or military or other official posting.
- 7.6 An exemption has been added for those working on subsea fibre optic telecommunications infrastructure so as to avoid delays caused by personnel shortages during the winter months, when infrastructure is more likely to break.

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 the instrument because the International Travel Regulations, which it amends, make urgent and temporary provision as part of the Government's response to COVID-19 and these amendments have the effect of removing restrictions on the people affected.

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.

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 the 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, email: Elizabeth.O'Donoghue@dft.gov.uk, telephone: 07917 092917, 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 The Rt Hon Grant Shapps MP, Secretary of State for Transport, can confirm that this Explanatory Memorandum meets the required standard.