

**EXPLANATORY MEMORANDUM TO**  
**THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL)**  
**(ENGLAND) (AMENDMENT) (NO. 8) REGULATIONS 2021**

**2021 No. 166**

**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 make changes to the application of existing exemptions from the self-isolation requirement. Exempt persons are separated into three categories: i) those who are entirely exempt from the requirement; ii) those who are entirely exempt only if they are ordinarily resident in the United Kingdom; iii) those who are only exempt whilst undertaking the work or activity relevant to their exempt status.
- 2.2 In addition, the required content of the notification of a negative test result that passengers are required to show upon arrival in England has been changed.

**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. Having reviewed the latest assessment of public health risk, the Government considers that implementing these measures promptly is necessary to protect public health.

*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)*

- 3.2 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 Part 2A of the Public Health (Control of Disease) Act 1984 (“the 1984 Act”) provides a legislative framework for health protection in England and Wales. Section 45B(1) 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. Further information on Part 2A of the 1984 Act is provided 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](https://www.legislation.gov.uk/ukxi/2020/568/pdfs/ukxiem_20200568_en.pdf).
- 6.2 The International Travel Regulations came into force on 8th June 2020 and required people arriving into England from (i) outside the common travel area or (ii) elsewhere in the common travel area where they had been outside the common travel area in the previous 14 days to (a) self-isolate and (b) provide their personal details and travel information. On 10th July 2020, the International Travel Regulations were amended by S.I. 2020/691 to exempt passengers from the requirement to self-isolate where, during the 14 days preceding their arrival into England, they had only been in “exempt countries or territories” listed in Schedule A1. The 14 day period (for the purposes of both self-isolation and providing information) was shortened to 10 days by S.I. 2020/1517 following advice from the Chief Medical Officer.
- 6.3 Amendments have been made to the list of (i) exempt countries and territories in Schedule A1, (ii) exemptions from the requirements to self-isolate and provide information in Schedule 2 and (iii) specified competitions in Schedule 3, which is relevant to the exemption from the requirement to self-isolate for elite sportspersons. A full list of amending instruments is included in this instrument (in the footnote, in regulation 1, for the International Travel Regulations).
- 6.4 Significant amendments to the International Travel Regulations include:
- requiring people arriving into England from outside the common travel area to possess notification of a negative coronavirus test result (“Pre-Departure Testing”; S.I. 2021/38);
  - introducing enhanced measures for arrivals from countries and territories (listed in Schedule B1) assessed as posing (or potentially posing) an acute risk to public health (S.I. 2020/1644);
  - the removal of all countries and territories from Schedule A1 on 18th January 2021 (S.I. 2021/49);
  - allowing a person arriving from a non-exempt country or territory (and not listed in Schedule B1) to leave self-isolation upon receipt of a negative test result (“Test to Release”; S.I. 2020/1337);
  - prohibiting the arrival of vehicles into England from countries and territories listed in Schedule B2 (S.I. 2021/47);
  - amending the definitions of “exempt country or territory” and “non-exempt country or territory” to allow the Government to take a regional approach to changes to the list of exempt countries and territories (S.I. 2020/959).
- 6.5 Additionally, the Health Protection (Coronavirus, Pre-Departure Testing and Operator Liability) (England) (Amendment) Regulations 2021 (S.I. 2021/38) (“Operator Liability Regulations”) require the operators of commercial transport services to

ensure that passengers have complied with the requirements to possess a negative test result and provide information.

- 6.6 Furthermore, the Health Protection (Coronavirus, International Travel) (England) (Amendment) No.7) Regulations 2021 (S.I. 2021/150) introduced a new system of managed quarantine for travellers who have been in one of the designated countries which poses high risk to the UK from importation of a variant of concern (a “red-list country”) in the 10 days prior to arrival in England and mandatory testing for all travellers who have been outside the Common Travel Area in the 10 days prior to arrival in England. A full explanation of these changes can be found in the Explanatory Memorandum for that instrument at paragraphs 6.7 to 6.21.

## 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. Following Ministerial agreement on 12 February, the Government has decided that individuals eligible for certain sectoral exemptions should be required to self-isolate at all times except when they are conducting the exempt activity (“the presumption of self-isolation”).
- 7.2 A review of all sectoral exemptions from the self-isolation requirement, for those individuals who have not be in a ‘red list’ country in 10 days prior to arriving in England, was undertaken in early February. It concluded that it was not possible to restrict the application of all exemptions to require those relying on the exemptions to self-isolate other than when they are undertaking the exempt activity. Therefore, this instrument splits the sectoral exemptions into three categories (regulation 2(3)). Category A where the presumption of self-isolation when the individual is not carrying out the exempt activity could be wholly applied; Category B where the presumption of self-isolation when the individual is not carrying out the exempt activity could only be applied to those not ordinarily resident in the UK; and Category C where the presumption of self-isolation cannot be applied.
- 7.3 The first category of exemption (Category A) is dealt with at the new regulation 4(13)(f) and covers the exemptions at paragraphs 17, 17A, 18, 19, 20, 21, 23, 24, 26, 27, 29, 31, 32, 33, 34, 35, 36, 36A and 46 of Schedule 2. These workers will not have to self-isolate when they are undertaking the work or activity described in their exemption, but otherwise will have to self-isolate. This category includes the following exemptions:
- Water supplies and sewerage services workers
  - Network Rail workers
  - Environment Agency relating to flood and coastal erosion risk management
  - Specialist technical workers – power infrastructure
  - Nuclear personnel
  - Nuclear emergency responder
  - OPCW, IAEA and Euratom inspectors
  - Chemical weapons inspectors
  - Specialist technical workers - space infrastructure

- Downstream oil facility workers
- Offshore oil and gas
- Specialist technical workers - goods
- Specialist technical workers - waste
- Transporting human cells or blood
- Quality assurance inspectors for human and veterinary medicines
- Clinical studies and trials
- Medicines - human and veterinary
- Electronic communications networks
- Data infrastructure maintenance
- IT and telecoms workers
- BBC broadcasting transmission network and services
- Specialist technical workers - sub-sea telecommunications infrastructure
- High-speed rail workers
- Domestic elite sportspersons (paragraph 39 of Schedule 2 to the International Travel Regulations) and people travelling to the UK for medical treatment (paragraph 28) are also within Category A, but are not included in the new regulation 4(13)(f). The relevant provisions in the International Travel Regulations for domestic elite sportspersons are regulation 4(13)(ca) and paragraph 39(4) of Schedule 2. The relevant provisions for people travelling for medical treatment are regulation 4(13)(b) and paragraph 28 of Schedule 2. The instrument made no amendment to the exemption for people travelling for medical treatment.

7.4 The second category of exemption (Category B) is dealt with in a new regulation 4(13)(d) and (e) of the International Travel Regulations, and covers the exemptions at paragraphs 4, 4A, 4B, 4C, 4D, 4E, 4F (insofar as it relates to international passenger train drivers and crew), 6, 11, 14, 15, 16 and 22 of Schedule 2 to the International Travel Regulations. If these workers are ordinarily resident in the United Kingdom, then they will not have to self-isolate. If they are not ordinarily resident, then they will not have to self-isolate whilst they are carrying out their work or exempt activity, but otherwise will have to self-isolate. This distinction has been applied where it would be wholly unreasonable to place a self-isolation requirement on a UK-based person as they would essentially be required to self-isolate constantly between work-related travel. Conversely, a person based overseas who will be entering England for a rest break, changeover, or training purposes, can reasonably be expected to self-isolate for the short time they are in England. This category includes exemptions where the presumption of self-isolation when the individual is not carrying out the exempt activity will be partially applied:

- Border security duties - non-UK officials and contractors
- Bus and coach drivers
- Seamen and masters
- Maritime pilots
- Inspectors and surveyors of ships
- Aircraft pilots and crew

- Eurostar International workers
- Drivers of goods vehicles
- Civil aviation inspectors
- International prison escorts
- Aerospace engineers

7.5 The third category of exemption (Category C) is dealt with at new paragraph 4(13)(g), and covers the exemptions at paragraphs 1, 2, 3, 4F (insofar as it relates to shuttle, tunnel and rail freight workers), 5, 12, 13, 13A, 25 and 37. These persons are not required to self-isolate. In addition to the UK-based persons eligible for sectoral exemptions in Category B, this category includes exemptions where international or security obligations prevent the imposition of additional requirements:

- Diplomatic missions, international organisations and conferences
- Representatives of a foreign country or territory or British Overseas Territories
- Eurotunnel and rail freight workers
- Transit passengers
- Channel Tunnel system workers
- Crown servants or government contractors
- Defence personnel, visiting forces and defence government contractors
- Border security duties - UK officials and contractors
- Persons returning from essential state business
- Postal workers
- Frontier workers
- Seasonal agricultural workers are in a different category to those set out above. The exemption for these workers means that they are not required to self-isolate from other workers living and working on the same farm. The instrument made no amendments to this exemption.

7.6 The amendments set out above relate to the sectoral exemptions from the self-isolation requirement only, they have no direct impact on the measures introduced as part of the new managed quarantine system or on the mandatory testing regime. However, to make the legislative changes which narrow the sectoral exemptions from self-isolation, regulation 3B (the requirement to book and take tests after arriving in England) was required to be amended to maintain the current scope of the testing exemption. A technical amendment is also made to ensure those falling within the exemption in paragraph 22 (aerospace engineers) of Schedule 2 have been added to the testing exemption, which brings regulation into line with the policy intent that this group would be exempt from the mandatory testing regime

7.7 The instrument also changes the required content of the result notification for the negative test result that passengers are required to show under the requirements of regulation 3A and that operators are obliged to check under the Operator Liability Regulations. This change follows feedback that the majority of passengers are unable to provide the name of the test device used for Polymerase Chain Reaction (PCR) tests. PCR tests can meet a very high standard with rates of 97% for sensitivity and 99% for specificity and are of a higher standard than other types of tests. Therefore, it

was deemed acceptable to amend the regulations to only require passengers to provide proof of a PCR test and not the name of the test device. This change will make it easier for passengers to comply with the Regulations. For all other tests the requirement is still to specify the name of the test device used.

## **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**

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

## **11. Guidance**

11.1 Guidance on international travel for the public and affected sectors is available online at <https://www.gov.uk/government/collections/coronavirus-covid-19-transport-and-travel-guidance#overseas-travel>. Guidance on the changes made by this instrument will be published in concert with it coming into force.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies. There is no, or no significant, impact on the public sector.

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

12.3 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.

## **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 small businesses but that impact is set against the role that these measures play in reducing the spread 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 7th June 2021.

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 any exemptions remain sufficiently safe.

**15. Contact**

- 15.1 Claire Rackley at the Department for Transport, (Claire.Rackley@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.