

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

2021 No. 223

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Health (“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) (England) Regulations 2020 (S.I. 2020/568) (“International Travel Regulations”) to make:
 - (a) changes to the managed self-isolation package to allow children (and those who were children at the beginning of the current school year) who are travelling unaccompanied for the purpose of attending boarding school in England to complete their self-isolation at school under controlled conditions;
 - (b) changes to the managed self-isolation package for unaccompanied children (for whom there is no responsible adult who can join them in accommodation designated for their self-isolation). Unaccompanied children will be able complete their self-isolation in an environment suitable to their specific needs as confirmed by the Secretary of State;
 - (c) changes to the mandatory testing regime in relation to private providers and reporting requirements; and
 - (d) technical and clarificatory changes.
- 2.2 The measures are part of a package of measures designed to reduce the public health risks posed by the spread from international travellers of acute severe respiratory syndrome coronavirus 2 (“SARSCoV-2”) which causes the disease COVID-19, in particular with respect to the possibility of a variant of concern being imported to the UK.

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”). Amendments relating to boarding school children are needed to come into force urgently before children are due to be returning to school from the 8 March 2021. Amendments relating to other unaccompanied children are needed to come into force urgently to deal with specific cases which have been already been identified at the border. Amendments relating to private sector testing are needed to come into force urgently so as to extend from 1 March 2021 until 26 April 2021 the point at which

private providers can begin to tests in relation to arrivals required to obtain a managed self-isolation package.

- 3.2 This instrument also amends the Health Protection (Notification) Regulations 2010 (“the Notification Regulations”). Although the main purpose of this instrument is to make amendments to the International Travel Regulations, it also corrects various minor and technical drafting errors contained in the International Travel Regulations. Despite the minor nature of these corrections, DHSC has determined that because this instrument is short, it is appropriate to adopt the free issue procedure in respect of this instrument.

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 As this instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

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 this 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 published on www.legislation.gov.uk.
- 6.2 The International Travel Regulations came into force on 8 June 2020 and introduced a requirement for people arriving into England who have been outside the Common Travel Area in the past 14 days to provide their personal and contact details and travel information (called “passenger information”) by completing the Passenger Locator Form (“PLF”), and to self-isolate for a period of 14 days.
- 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 10 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. There are currently no exempt countries or territories in Schedule A1.
- 6.4 Following the UK Chief Medical Officers decision to change the self-isolation period from 14 to 10 days for contacts of those who test positive, the period of 14 days was also 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).
- 6.5 Further amendments to the International Travel Regulations were made to:

- (i) amend the definitions of “exempt country or territory” to allow the Government to take a regionalised approach (see S.I. 2020/959);
- (ii) add or remove countries or territories from Schedule A1, as appropriate; and
- (iii) add or amend exemptions from the requirements to self-isolate (and/or provide information) in Schedule 2 of the International Travel Regulations, as appropriate.

6.6 The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 7) Regulations 2021 (S.I. 2021/150) to introduce a new system of:

- (i) managed self-isolation – 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 in the 10 days prior to arrival in England and is therefore subject to additional measures; and
- (ii) mandatory testing – for all travellers who have been outside the Common Travel Area in the 10 days prior to arrival in England.

Amendments to the Managed Quarantine Service

6.7 Children are due to be returning to school from 8 March 2021. Regulation 8 amends paragraph 18 of Schedule B1A by adding children (and those who were children at the beginning of the current school year) who are travelling unaccompanied from countries subject to additional measures for the purposes of attending boarding school in England to the category of relevant persons in relation to whom the provisions of Schedule B1A are modified. This would be to allow the Secretary of State to modify the managed self-isolation package (i.e. requirements on accommodation, travel and testing) as appropriate, to enable these children to undertake self-isolation at boarding school premises rather than a usual designated managed accommodation, in accordance with an agreed operating procedure.

6.8 There may be other children who are travelling unaccompanied from countries subject to additional measures, for whom different arrangements for managed self-isolation may be appropriate and in the best interests of the child. Regulation 8 amends paragraph 18 of Schedule B1A by adding unaccompanied children (for whom there is no responsible adult who can join them in managed quarantine) to the category of relevant persons in relation to whom the provisions of Schedule B1A are modified. This would be to allow the Secretary of State to modify the managed self-isolation package (i.e. requirements on accommodation, travel and testing) as appropriate, to enable these children to undertake self-isolation under different arrangements more suitable to their specific needs rather than the usual designated managed accommodation. These accommodation arrangements for unaccompanied children would be confirmed by the Secretary of State.

Amendments to the Mandated Testing Regime

6.9 Regulation 9 amends Schedule 2C so as, primarily, to extend until 26 April 2021 the point at which private providers can begin to provide tests in relation to arrivals required to obtain a managed self-isolation package. It also introduces a requirement for private providers to notify the Secretary of State of the number of tests they sell each day and the date on which the individual who has purchased the tests will arrive in England.

- 6.10 Regulation 10 amends the Health Protection (Notification) Regulations 2010 to correct an erroneous cross-reference, and to delay the requirement for laboratories to notify technical information about certain samples until 15 March 2021.

Technical and Clarificatory Amendments

- 6.11 This instrument includes minor corrections to regulations 4(3)(a), 4(14)(a), 4B(2)(c) and 7(10)(b), as well as paragraph 2(2)(a) of Schedule B1A and paragraphs 7(1)(k)(ii), 9(1)(f)(ii), 11(3), 13(2)(a) and 13(2)(b)(ii) of Schedule 2C. There is also a correction to regulation 4ZA(1)(c) of the Notification Regulations.
- 6.12 In addition to the above, this instrument makes minor drafting changes to clarify that:
- (i) constables can request a person to provide evidence of their testing package if requested to do so (regulation 3 of this instrument);
 - (ii) a direction in respect of the quarantine regime may not be given to a person described in paragraph 1 of Schedule 2 (regulation 6 of this instrument); and
 - (iii) immigration officers have the power to issue a Fixed Penalty Notice to a person for the offence of contravening – without a reasonable excuse – a requirement in or imposed under regulation 5 (enforcement of the requirement to self-isolate), apart from paragraph (1A) of that regulation (powers to direct and remove persons in respect of the designated arrangements in Schedule B1A) (regulation 7(b) of this instrument).
- 6.13 Regulation 9(7) provides for the following persons, who are undertaking essential policing or essential government work, or returning from essential state business, to be exempt from mandatory testing in addition to or separately from being exempt from managed quarantine or self-isolation.

7. Policy background

What is being done and why?

- 7.1 The identification of new variants of SARS-CoV-2 and the possibility of a variant of concern arising with higher transmission rates or the potential to affect vaccine efficacy could have significant adverse effects on the UK's public health. In response to this threat, the Government mandated a new Managed Quarantine System ("MQS") – managed self-isolation - which set out new requirements for people who had travelled from a country subject to additional measures or been in one in the 10 days prior to arrival in England to self-isolate in designated accommodation for 10 days (subject to specified exemptions). The countries subject to additional measures are those judged to pose a high risk to the UK from importation of a variant of concern. Requiring self-isolation in designated accommodation will help prevent community transmission and result in important public health benefits.
- 7.2 This instrument supports the implementation of this new system by making amendments to the International Travel Regulations. The extension provided to private providers and delay for laboratories in Regulation 9 and 10 respectively will support the successful implementation and operation of these new requirements.
- 7.3 Changes to allow children (and those who were children at the beginning of the current school year) who are travelling unaccompanied from countries subject to additional measures for the purposes of attending boarding school to self-isolate at boarding school premises where the standard operating procedure at these schools is

in line with managed self-isolation accommodation and so self-isolation in this environment is safe and effective, both for the child and on public health grounds.

7.4 The technical and clarificatory amendments ensure that the International Travel Regulations continue to reflect policy intent.

8. European Union (Withdrawal) Act 2018/ 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 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 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 Regulations, which this instrument amends, will cease to have effect on 8 June 2021 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 A statutory review clause is included in the International Travel Regulations. The Secretary of State must review the need for the requirements imposed by the Regulations, which this instrument amends, at least every 28 days.

15. Contact

15.1 James Harrison at the Department of Health and Social Care email: James.Harrison@dhsc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Andrew Vereker, Deputy Director at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.

15.3 Lord Bethell, Parliamentary Under-Secretary of State for Innovation at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.