

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL) (ENGLAND) (AMENDMENT) (NO. 13) REGULATIONS 2021

2021 No. 498

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) (England) Regulations 2020 (S.I. 2020/568) (“International Travel Regulations”) to:
 - (a) add India to the list of Countries and Territories subject to additional measures at Schedule B1A;
 - (b) add a new power for immigration officers to require someone who has not presented valid notification of a negative pre-departure test and tried to evade immigration control, or been arrested, detained or granted immigration bail by an immigration officer to take a day 0 test;
 - (c) provide exemptions from managed quarantine for internationally trained nurses who are coming to the UK to take up NHS employment and for people transporting human blood, organs, tissues and cells;
 - (d) provide an exemption from self-isolation, managed quarantine, day 2 and day 8 testing requirements and the Passenger Locator Form for all persons confirmed by the relevant Department as attending or facilitating the G7 Presidency events hosted by the UK;
 - (e) amend the testing regime in Schedules 2A and 2C to update testing requirements;
 - (f) add Bristol Airport to the list of designated Managed Quarantine Service ports.
- 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 convention 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, the Government considers these measures are urgently necessary to protect public health and is acting accordingly to prevent the ingress from overseas of high risk variants of investigation.

Delaying the implementation of certain measures such as adding India to the list of countries subject to additional measures could allow a high risk variant under investigation to spread. Other measures introduce exceptions into the system which are urgently required to ensure that the system can function effectively and are 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 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 only.

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 a 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.
- 6.7 The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 8) Regulations 2021 (S.I. 2021/166) to make changes to the application of exemptions from the self-isolation requirement. Exempt persons were 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. The S.I. also changed the required content of the result notification for the negative test result that passengers are required to show under regulation 3A of the International Travel Regulations and that operators are obliged to check under the Operator Liability Regulations. This change followed 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.
- 6.8 The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 9) Regulations 2021 (S.I. 2021/150) to make:
 - (i) 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;
 - (ii) 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;
 - (iii) changes to the mandatory testing regime in relation to private providers and reporting requirements; and
 - (iv) technical and clarificatory changes.
- 6.9 The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 10) Regulations 2021 (S.I. 2021/348) to make:

- (i) changes to remove the requirement to enter managed self-isolation from travellers from or passing through Portugal (including Madeira and the Azores) and Mauritius, and to reinstate direct flights and shipping;
- (ii) changes to require international arrivals from Ethiopia, Oman, Somalia and Qatar to enter managed self-isolation, and to ban direct flights from Oman, Ethiopia and Qatar;
- (iii) exemptions for aviation and maritime crew from managed self-isolation, to support the resilience of freight routes and supply chains and crew welfare;
- (iv) further medical exemptions for non-urgent medical and vulnerable cases from entering managed self-isolation, when medical evidence is provided and in limited circumstances; and
- (v) technical and clarificatory changes.

6.10 The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 11) Regulations 2021 (S.I. 2021/442) to:

- (i) introduce a system of self-isolation for some road haulage workers;
- (ii) mandatory testing for international arrivals who are exempt from quarantine where they are travelling with a sectoral exemption, including a duty on employers to take reasonable steps to facilitate this testing and a new workforce regime;
- (iii) amend the minimum standards for providers of international travel testing, including a requirement for laboratory operators to secure consistent numbering of specimens tested, to take pre-payment for test results and to issue Passenger Locator Form reference number in a set format; and
- (iv) make technical and clarificatory changes.

6.11 The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 12) Regulations 2021 (S.I. 2021/447) to:

- add Bangladesh, Kenya, Pakistan and the Philippines to the list of countries subject to enhanced measures listed in Schedule B1 of the regulations. In contrast to other countries subject to such measures, a pilot was introduced whereby these countries were not also added to the list countries where the arrival of aircraft and vessels is prohibited at Schedule B2, therefore direct flights have continued.

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 service – 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 country (India) that is being added to the list of countries subject to additional measures is judged to pose a high risk to the UK from

importation of a high risk variant under investigation. 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 system by making amendments to the International Travel Regulations. This instrument adds the following exemptions and modifications from the duty to self-isolate in a managed quarantine facility:

Exemptions

- (i) Human blood, organs, tissues and cells are used in life saving and life changing treatments and are often imported into the UK via couriers. Any delay in the transportation of such medical resources could be detrimental to the materials being transported with consequential effects for the patients. Therefore, couriers of human blood, organs, tissues and cells, currently described in Schedule 2, paragraph 29 are exempt from the duty to self-isolate in a managed quarantine facility.
- (ii) There is also an exemption for those attending G7 Presidency events in the UK (see paragraph 7.3).

Modifications

- (i) The National Health Service is currently increasing nursing staff by 50,000, many of these recruits are immigrants arriving from across the world. To ensure the effective supply of new staff it is necessary to add a further modification to the duty to attend a managed quarantine facility for nurses who have been recruited by the National Health Service. Instead of attending a managed quarantine facility maintained by the Secretary of State, such individuals will be permitted to quarantine in facilities provided by their future employer. The addition of paragraph 19 to Schedule B1A amends the relevant duties in relation to the managed self-isolation package that each arrival has a duty to obtain before or on their arrival in England.
 - (ii) Adds Bristol Airport as a managed quarantine service port. The rationale for Bristol is two-fold: firstly it allows some pressure to be taken from the other designated airports, offering more choice for travellers. Secondly it provides some coverage for the West of England: except for Birmingham all other ports are currently in the South East corner of England. In addition, broadening the geographic base for our designated ports will help increase hotel availability.
- 7.3 As part of the G7 Presidency, the UK will host a number of in-person events in the UK, which cannot be held virtually to unite leading democracies to help the world fight, and then build back better from, coronavirus. Though many of the Presidency events are virtual, certain key events will be ‘in person’ events 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. In order to rely on the exemption, the relevant person in respect of a delegation, or the individual concerned, will need to confirm that they will comply with the strict health protocols that will be in place for G7 events.
- 7.4 This instrument adds an exemption from self-isolation, enhanced measures for those entering from red list countries including managed quarantine and the requirement to enter through a designated port, the prohibition on aircrafts entering from certain countries, day 2 and day 8 testing requirements and completing the Passenger Locator

Form for all persons confirmed by the relevant Department as attending or facilitating the G7 Presidency events hosted by the UK. In England, the exemption is necessary for a small number of Ministerial events where the Minister leading the meeting is clear the event cannot be held virtually, specifically: G7 Foreign and Development Ministers; G7 Trade Ministers; G7 Health Ministers; G7 Finance Ministers and the G7 Leaders Summit.

- 7.5 All G7 Ministerial events and the Leaders Summit will comply strictly with the regulations set out in the Government’s roadmap, and other relevant guidance and delegates will be required to adhere to England’s social distancing, face covering and hand hygiene requirements. 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.
- 7.6 In order for the G7 events exemption to apply, the relevant head of mission, foreign representative office or the individual themselves will be required to provide written confirmation that they will comply with strict health protocols for G7 events. The public health protocols will mitigate the additional public health risks arising from holding in-person events in the UK and the exemptions to travel restrictions. These protocols will require measures including: a rigorous daily testing regime with procedures for tracing and isolating positive cases and their close contacts; provision of detailed contact information to ensure that testing and tracing procedures can be effectively implemented; minimising interaction to what is necessary for the event in order to limit contact with the local population and reduce the risk of transmission between groups. 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.
- 7.7 The Instrument amends the duty in regulation 3A (Requirement to possess a notification of a negative test result) to add a power for immigration officers to request that individuals who arrive in England and attempted to evade immigration controls, or have been arrested detained or granted immigration bail by an immigration officer, and failed to provide notification of a negative test result to an immigration officer to take a day 0 test for coronavirus. Day 0 test is defined within the regulation by reference to Schedule 2B.
- 7.8 This instrument makes the following amendments to the testing regime set out in the International Travel Regulations:
- (i) Updates the definition of “validation” in paragraph 2(2)(d) of Schedule 2A (Optional testing after arrival in England). For a test to qualify for use as a mandatory day 2 or day 8 test under regulation 3B and Schedule 2C, or an optional test under regulation 4 and Schedule 2A, it must meet the relevant prescribed technical requirements. Requirements for optional tests are set out in paragraph 2 of Schedule 2A. Requirements for mandatory day 2 and day 8 tests are set out in paragraphs 6 and 8 of Schedule 2C respectively. Any device used for the purposes of providing any of these tests must be validated within the definition in paragraph 2(2)(d) of Schedule 2A. This instrument amends that definition to permit appropriately-accredited laboratories outside the UK to validate devices.
 - (ii) Amends the language of paragraph 3(1)(i) of Schedule 2A to mirror the language of paragraph 4(a) of that Schedule. Under paragraph 3(1)(i), private providers may not administer or provide tests until after the end of the fourth

day calculated by reference to P's day of departure. However, under paragraph 4(a) (which was amended by the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 7) Regulations 2021) P may not undertake a test until the fifth day calculated by reference to P's day of arrival. This difference could lead to situations where there is a gap between the day on which the private provider may administer or provide the test and the day on which P may undertake the test. The amendment corrects that position.

- (iii) Removes references to private providers being able to supply tests to arrivals from red list countries in Schedule 2C (Mandatory testing after arrival in England). The Health Protection (Coronavirus, International Travel) (England) Amendment) (No. 9) Regulations 2021 inserted into Schedule 2C new paragraphs 6(1)(b)(i) and 8(1)(b)(i) to prevent private providers from providing testing services to arrivals from red list countries after 2 March 2021, and permit them to do so from 26 April 2021. This was done because it is operationally and digitally complex for private providers to provide such services to people in the Managed Quarantine System and time was needed to update the system. Further time is required to permit private providers to provide these services so this instrument removes the dates to ensure that private provide are not permitted to provide such tests.

7.9 On the recommendation of the Joint Committee on Statutory Instruments the instrument makes a technical amendment to Schedule B1A Paragraph 18 sub-paragraphs (3A) and (3C) to include the word “and” between sub-sections (c) and (d).

7.10 The instrument makes a number of technical or clarificatory changes:

- (i) Corrects the language of Schedule 2A paragraph (3)(1)(i) which referred to the period beginning when P had left a red-list country and not when they arrived in England in error.
- (ii) Corrects the listing of sub-paragraphs in Schedule 2C paragraph 6, sub-paragraph (1) which had two sub-paragraph (c) in error.
- (iii) Corrects a cross-reference in Schedule 2C paragraph 7(2) which referred to 7(1)(h) and not 7(1)(k) to cross-refer to the correct definition.

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 Paul Walsh at the Department of Health and Social Care email: paul.walsh@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 at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.