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STATUTORY INSTRUMENTS

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**2021 No. 582**

**The Health Protection (Coronavirus, International Travel  
and Operator Liability) (England) Regulations 2021**

**PART 5**

Offences, proceedings and information

**Offences and penalties**

**19.**—(1) A person (“P”) commits an offence where—

- (a) without reasonable excuse P contravenes a requirement in regulation 3 (requirement to provide information);
- (b) without reasonable excuse P contravenes a requirement in regulation 4 (requirement to possess notification of negative test result);
- (c) without reasonable excuse P contravenes a requirement in regulation 6 (requirement to book and undertake tests);
- (d) without reasonable excuse P contravenes a requirement in regulation 7 (requirement to undertake workforce tests);
- (e) without reasonable excuse P contravenes a requirement in regulation 8 (requirement for offshore installation workers to take tests);
- (f) P contravenes a requirement in regulation 9 (requirement to self-isolate);
- (g) without reasonable excuse P contravenes a requirement in or imposed under regulation 11 (enforcement of requirement to self-isolate) apart from paragraph (2) of that regulation;
- (h) without reasonable excuse P contravenes a requirement in or imposed under regulation 11(2);
- (i) without reasonable excuse P contravenes a requirement in paragraph 5 or 16(a), so far as it relates to paragraph 5, of Schedule 11 (requirement to possess managed self-isolation package);
- (j) P contravenes any other requirement in Schedule 11 (except paragraph 15); or
- (k) without reasonable excuse P contravenes a requirement in paragraph 4 of Schedule 9 (employers’ obligations relating to workforce tests).

(2) But P does not commit an offence where P contravenes a requirement in—

- (a) paragraph (1), (2), (3) or (4) of regulation 4, if P reasonably believed at the time of the contravention that the notification of a negative result was valid and from a qualifying test;
- (b) regulation 9 in the circumstances described in paragraph (9)(d), (10)(f), (13)(j) or (16) of that regulation, if P reasonably believed at the time of the contravention that the test was an appropriate test (within the meaning given in paragraph 2 of Schedule 10); or
- (c) Schedule 11 if accommodation or transport booked is no longer available for reasons beyond the P’s control.

- (3) For the purposes of paragraph (1)(b), reasonable excuses include, in particular, where—
- (a) P was medically unfit to provide a sample for a qualifying test and possessed a document, in English or accompanied by a certified English translation, signed by a medical practitioner entitled to practise in the country or territory in which that practitioner was based, to that effect;
  - (b) it was not reasonably practicable for P to obtain a qualifying test due to a disability;
  - (c) P required medical treatment with such urgency that obtaining a qualifying test was not reasonably practicable;
  - (d) P contracted coronavirus and required emergency medical treatment;
  - (e) P was accompanying, in order to provide support, whether medical or otherwise, a person described in sub-paragraph (c) or (d) where it was not reasonably practicable for P to obtain a qualifying test;
  - (f) P began the journey to England in a country or territory in which a qualifying test was not available to the public, with or without payment, or in which it was not reasonably practicable for P to obtain a qualifying test due to a lack of reasonable access to a qualifying test or testing facility and it was not reasonably practicable for P to obtain a qualifying test in P's last point of departure if this was different to where P began the journey;
  - (g) the time it has taken P to travel from the country or territory where P began the journey to the country or territory of their last point of departure prior to arriving in England meant that it was not reasonably practicable for P to meet the requirement in paragraph 1(c) of Schedule 7, and it was not reasonably practicable for P to obtain a qualifying test in P's last point of departure.
- (4) For the purposes of paragraph (1)(c)—
- (a) reasonable excuses for contravening regulation 6(3), (4) or (5) include, in particular, where—
    - (i) it was not reasonably practicable for P to book a test due to a disability,
    - (ii) P reasonably considered before arriving in England that it would not be reasonably practicable for P (or, as the case may be, the child for whom P has responsibility) to provide a sample for a test in accordance with regulation 6 due to a disability,
    - (iii) P required medical treatment with such urgency that booking a test was not reasonably practicable,
    - (iv) P was accompanying, in order to provide support, whether medical or otherwise, a person described in paragraph (i) or (iii) where it was not reasonably practicable for P to book a test,
    - (v) P began the journey to England in a country or territory in which P did not have reasonable access to the facilities or services required to book a test, with or without payment, and such facilities or services were not reasonably accessible in P's last point of departure if this was different to where P began the journey;
  - (b) reasonable excuses for contravening regulation 6(6) include, in particular, where—
    - (i) it is not reasonably practicable for P to undertake a test due to a disability,
    - (ii) P requires medical treatment with such urgency that undertaking a test is not reasonably practicable,
    - (iii) a test is cancelled for reasons beyond P's control,
    - (iv) P has left England in accordance with regulation 9(11)(b), or left the common travel area in accordance with paragraph 13(a) of Schedule 11.

(5) For the purposes of paragraph (1)(d), reasonable excuses for contravening regulation 7 include, in particular, where—

- (a) it is not reasonably practicable for P to undertake a test due to a disability;
- (b) P requires medical treatment with such urgency that undertaking a test is not reasonably practicable;
- (c) a test is cancelled for reasons beyond P’s control;
- (d) P has left England;
- (e) P is employed as air crew and is undertaking a rest period for a continuous, uninterrupted and defined period of time, following duty or prior to duty, during which P is free of all duties, standby or reserve (and for these purposes, “duties” “standby” and “reserve” have the meanings given in paragraph ORO.FTL.105 of [Commission Regulation \(EU\) No. 965/2012](#)).

(6) A person who intentionally or recklessly provides false or misleading passenger information, except for reasons of national security, commits an offence.

(7) An operator commits an offence where it fails to comply with the requirements in—

- (a) regulation 13(1);
- (b) regulation 16(1);
- (c) regulation 17(1); or
- (d) regulation 18(1).

(8) In relation to the offence in paragraph (7)(a) and the requirement to provide information at the times set out in regulation 13(2)(a), (b) or (c) it is a defence if the operator can demonstrate that—

- (a) the booking or check-in process was not managed directly by the operator; and
- (b) the operator took reasonable steps to ensure that the person managing the process would provide the required information at that time and in the required manner.

(9) In relation to the offence in paragraph (7)(b), it is a defence for an operator to show that they recorded a unique passenger reference number for the passenger before that passenger—

- (a) presented at immigration control at the Channel Tunnel shuttle terminal area; or
- (b) boarded the relevant service,

as the case may be.

(10) In relation to the offence in paragraph (7)(c), it is a defence for an operator to show that the relevant passenger presented a document purporting to be a required notification which the operator, or a person acting on behalf of the operator, could not reasonably have been expected to know was not a required notification.

(11) In relation to the offence in paragraph (7)(d), it is a defence for an operator to show that the operator, or a person acting on behalf of the operator, could not have reasonably been expected to know that a passenger was a Schedule 11 passenger.

(12) If, following the coming into force of any provision which amends the information required to be provided by regulation 14, an operator provides information to a passenger that would have complied with the requirements in regulation 13(1) but for the coming into force of that amending provision, it is a defence for the operator to show that it was not reasonably practicable for the amended information to be provided.

(13) An operator who, without reasonable excuse, fails to comply—

- (a) with the requirement to keep records in regulation 15(1); or
- (b) with a request under regulation 15(2) to provide records or information within the period specified for the purposes of regulation 15(3),

commits an offence.

(14) A person who, without reasonable excuse, wilfully obstructs any person carrying out a function under these Regulations commits an offence.

(15) An offence under paragraph (13) is punishable on summary conviction by a fine not exceeding level 4 on the standard scale.

(16) An offence under these Regulations apart from under paragraph (13) is punishable on summary conviction by a fine.

(17) Section 24 of the Police and Criminal Evidence Act 1984<sup>(1)</sup> applies in relation to an offence under this regulation as if the reasons in subsection (5) of that section included—

- (a) to maintain public health;
- (b) to maintain public order.

(18) In paragraph (9), “unique passenger reference number” means a reference number which has been provided by or on behalf of a passenger and which includes the letters “UKVI” followed immediately by an underscore and thirteen alphanumeric characters.

(19) In paragraphs (9) and (11), “relevant passenger” means a passenger who fails, without reasonable excuse—

- (a) to provide evidence of having provided passenger information when requested to do so by an immigration officer pursuant to regulation 3(7); or
- (b) to produce a valid notification of a negative result from a qualifying test when requested to do so by an immigration officer pursuant to regulation 4(4).

### **Fixed penalty notices**

**20.**—(1) An authorised person may issue a fixed penalty notice to any person that the authorised person has reasonable grounds to believe—

- (a) has committed an offence specified in regulation 19; and
- (b) if an individual, is aged 18 or over.

(2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the designated officer.

(3) Where a person is issued with a notice under this regulation in respect of an offence—

- (a) no proceedings may be taken for the offence before the end of the period of 28 days following the date of the notice;
- (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(4) A fixed penalty notice must—

- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
- (b) state the period during which (because of paragraph (3)(a)) proceedings will not be taken for the offence;
- (c) specify the amount of the fixed penalty in accordance with Schedule 14;
- (d) state the name and address of the person to whom the fixed penalty may be paid; and
- (e) specify permissible methods of payment.

(1) 1984 c. 60. Section 24 was substituted by section 110(1) of the Serious Organised Crime and Police Act 2005 (c. 15).

(5) Subject to paragraph (7), whatever other method may be specified under paragraph (4)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under paragraph (4)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).

(6) Where a letter is sent as described in paragraph (5), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(7) Paragraph (5) does not apply in the case of—

- (a) an offence under regulation 19(7); or
- (b) an offence under regulation 19(14) (obstruction) in relation to an offence under regulation 19(7).

(8) In any proceedings, a certificate that—

- (a) purports to be signed by or on behalf of the designated officer; and
- (b) states that the payment of a fixed penalty was, or was not, received by the date specified in the certificate,

is evidence of the facts stated.

(9) For the purposes of this regulation—

- (a) other than in relation to an operator offence, “authorised person” means—
  - (i) a constable,
  - (ii) an immigration officer, but only in relation to the issue of a fixed penalty notice in respect of an information offence or an offence described in regulation 19(1)(a), (b), (c), (g), (h), (i), (j), (5) and (6), or
  - (iii) a person designated by the Secretary of State for the purposes of this regulation;
- (b) in relation to an operator offence, “authorised person” means—
  - (i) in relation to passengers arriving by sea, the Secretary of State for Transport,
  - (ii) in relation to passengers arriving by air, the Civil Aviation Authority,
  - (iii) in relation to passenger arriving by rail, the Office of Rail and Road;
- (c) “the designated officer” means—
  - (i) in relation to an offence other than an operator offence, an officer designated by the Secretary of State for the purposes of this regulation,
  - (ii) in relation to an operator offence, the authorised person;
- (d) “operator offence” means an offence—
  - (i) under regulation 19(7),
  - (ii) under regulation 19(13), or
  - (iii) under regulation 19(14) (obstruction) in relation to a function relating to an offence under regulation 19(7).

## **Prosecutions**

**21.**—(1) Proceedings for an offence under these Regulations, apart from an operator offence, may be brought by the Crown Prosecution Service and any person designated by the Secretary of State.

(2) Proceedings for an operator offence may be brought by an authorised person.

(3) In this regulation—

- (a) “authorised person” means—
  - (i) in relation to passengers arriving by sea, the Secretary of State for Transport,

- (ii) in relation to passengers arriving by air, the Civil Aviation Authority,
- (iii) in relation to passenger arriving by rail, the Office of Rail and Road;
- (b) “operator offence” means an offence—
  - (i) under regulation 19(7),
  - (ii) under regulation 19(13),
  - (iii) under regulation 19(14) (obstruction) in relation to a function relating to an offence under regulation 19(7), or
  - (iv) under paragraph 2(1) or 3(1) of Schedule 13.

### **Power to use and disclose information**

**22.**—(1) This regulation applies to a person (“A”) who holds information described in paragraph (2) (“relevant information”), including where A holds that information as a result of disclosure made in accordance with paragraph (4).

- (2) The information referred to in paragraph (1) is—
- (a) information provided on the Passenger Locator Form;
  - (b) DA information received for a purpose described in paragraph (4)(a)(i);
  - (c) the result of any test undertaken in accordance with Schedule 10 and any information A obtained under paragraph 4(b) or (c) of that Schedule;
  - (d) where a person (“P”) is required to self-isolate under these Regulations—
    - (i) the details of any such period of self-isolation (including the start and end dates of that period and the reason it was imposed),
    - (ii) a copy of any notice given to P which contains information about the requirement to self-isolate,
    - (iii) information generated where P books, or attempts to book, accommodation as part of a managed self-isolation package,
    - (iv) the details of any location in which P undertakes any period of managed self-isolation (including the name and address of the location),
    - (v) information relating to P obtained by A in the course of providing accommodation to B pursuant to a managed self-isolation package (including P’s room number, the personal details of any of P’s co-habitants, and the details of any absence of P, authorised or otherwise, from the place where P is self-isolating),
    - (vi) information relating to P obtained by A in the course of providing transport to a location at which P undertakes, or is due to undertake, any period of managed self-isolation,
    - (vii) information relating to P obtained by A in the course of providing any service in connection with a managed self-isolation package;
  - (e) where P is required to obtain a testing package or undertake a test under regulation 6 or Schedule 8—
    - (i) information generated where P books, or attempts to book, a testing package for the purposes of regulation 6,
    - (ii) a copy of any notice given to P which contains information about the requirement to book a testing package or to undertake a test,
    - (iii) information A obtained under paragraph 10(3) or (4) of Schedule 8,

- (iv) the results of a test undertaken by P in accordance with Schedule 8 (whether or not that test was provided as part of a testing package),
  - (v) information obtained by A in the course of providing a test that falls within paragraph (iv) and is undertaken, or in the course of arranging for such a test to be undertaken, by P (including confirmation that the test was undertaken, details of when and where it was undertaken, any reasons for a test not being undertaken and the details of any replacement test to be undertaken);
  - (f) information provided to an immigration officer pursuant to regulations 3(7), 4(4) or 6(11);
  - (g) where a sample taken in respect of a day 2 test under regulation 6 has been sequenced, the sorted BAM file relating to that sample containing all reads aligning to the SARS-CoV-2 reference genome with unaligned and human reads removed;
  - (h) information provided by, or on behalf of, A by way of explanation for failing to comply with regulation 3, 4 or 6, or paragraph 3 of Schedule 8; or
  - (i) information about any steps taken in relation to A, including details of any fixed penalty notice issued under these Regulations.
- (3) A may only use relevant information where it is necessary—
- (a) for the purpose of carrying out a function under these Regulations;
  - (b) for the purpose of—
    - (i) preventing danger to public health as a result of the spread of infection or contamination with coronavirus or coronavirus disease,
    - (ii) monitoring the spread of infection or contamination with coronavirus or coronavirus disease, or
    - (iii) giving effect to any international agreement or arrangement relating to the spread of infection or contamination with coronavirus or coronavirus disease; or
  - (c) for a purpose connected with, or otherwise incidental to, a purpose described in sub-paragraph (a) or (b).
- (4) Subject to paragraph (7), A may only disclose relevant information to another person (the “recipient”) where it is necessary for the recipient to have the information —
- (a) for the purpose of carrying out a function of the recipient under—
    - (i) these Regulations, or
    - (ii) an enactment which, in Scotland, Wales or Northern Ireland, has the effect of requiring the isolation or quarantine of persons who have been outside the common travel area, for any of the purposes described in sub-paragraph (b);
  - (b) for the purpose of—
    - (i) preventing danger to public health as a result of the spread of infection or contamination with coronavirus or coronavirus disease,
    - (ii) monitoring the spread of infection or contamination with coronavirus or coronavirus disease, or
    - (iii) giving effect to any international agreement or arrangement relating to the spread of infection or contamination with coronavirus or coronavirus disease; or
  - (c) for a purpose connected with, or otherwise incidental to, a purpose described in sub-paragraph (a) or (b).
- (5) A constable or a person responsible for arranging or providing services (including security services) in respect of accommodation as part of a managed self-isolation package may, where

necessary for the purpose of carrying out a function under these Regulations, request from B the following information—

- (a) confirmation that P possesses a testing package for the purposes of regulation 6 and the details of that testing package (including the time and date of the tests);
  - (b) confirmation that P has undertaken any test in accordance with a testing package and, if not, an account of the reasons;
  - (c) the result of any test P has undertaken in accordance with a testing package.
- (6) Subject to paragraph (8), disclosure which is authorised by this regulation does not breach—
- (a) an obligation of confidence owed by the person making the disclosure; or
  - (b) any other restriction on the disclosure of information (however imposed).
- (7) This regulation does not limit the circumstances in which information may otherwise lawfully be disclosed under any other enactment or rule of law.
- (8) Nothing in this regulation authorises the use or disclosure of personal data where doing so contravenes the data protection legislation.
- (9) For the purposes of this regulation—
- (a) “data protection legislation” and “personal data” have the same meanings as in section 3 of the Data Protection Act 2018<sup>(2)</sup>;
  - (b) “DA information” means information provided in accordance with, or as described in, an enactment which, in Scotland, Wales or Northern Ireland, has the effect of requiring the isolation or quarantine of persons who have been outside the common travel area, for any of the purposes described in paragraph (3)(b);
  - (c) “managed self-isolation” means self-isolation in accordance with Schedule 11.

### **Self-incrimination**

**23.**—(1) Information provided by a person in accordance with, or as described in, regulation 3 may be used in evidence against the person, subject to paragraphs (2) to (4).

- (2) In criminal proceedings against the person—
- (a) no evidence relating to the information may be adduced by or on behalf of the prosecution; and
  - (b) no question relating to the information may be asked by or on behalf of the prosecution.
- (3) Paragraph (2) does not apply if the proceedings are for—
- (a) an offence under these Regulations;
  - (b) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath)<sup>(3)</sup>;
  - (c) an offence under section 1 of the Fraud Act 2006 (fraud)<sup>(4)</sup>.
- (4) Paragraph (2) does not apply if, in the proceedings—
- (a) evidence relating to the information is adduced by or on behalf of the person who provided it; or
  - (b) a question relating to the information is asked by or on behalf of that person.

<sup>(2)</sup> 2018 c. 12; relevant amendments to the definition of “data protection amendment” were made by S.I. 2019/419.

<sup>(3)</sup> 1911 c. 6. Section 5 was amended by section 1(2) of the Criminal Justice Act 1948 (c. 58).

<sup>(4)</sup> 2006 c. 35.



