

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL AND OPERATOR LIABILITY) (ENGLAND) (AMENDMENT) (NO. 3) REGULATIONS 2021

2021 No. 731

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 and Operator Liability) (England) Regulations 2021 (“Coronavirus, I TOLs”) to:
 - Add an exemption to the requirement to complete the passenger locator form (PLF) for those arriving in the UK under, the Afghan Relocations and Assistance Policy or the Afghan Locally Employed Staff Ex-Gratia Scheme.
 - Add a modification of the requirement to self-isolate for the following groups of people attending the EURO 2020 football competition:
 - Members of the UEFA Executive and/or other UEFA Committees.
 - Members of the FIFA and other Confederations Executive bodies.
 - Executives and Board Members of UEFA Member Federations.
 - Senior executives of Sponsors and Partners (for example broadcasters.
 - Other relevant senior figures. E.g. representatives of competing countries.

The purpose of this modification is to permit them to attend Euro 2020 event only. They remain subject to the remaining three passenger duties set out in ITOLs without modification.

- Add an exemption to the requirement to self-isolate, managed quarantine, mandatory testing and the passenger locator form, for those attending or facilitating the COP26 Ministerial or the Global Education Summit. Exemption criteria include confirmation of agreement to comply with specific health protocols in place for each event, which include rigorous daily testing and tracing procedures.
- Correct a technical error which stated that the amount of a Fixed Penalty Notice for failure to adhere to the duty to possess a managed self-isolation package on arrival in England in the first instance was £5,000 instead of £500. Matters of special interest to Parliament

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”). The Government considers these measures are required to enable locally engaged staff and their families, who are at risk in Afghanistan, to be relocated urgently as a consequence of the drawdown.

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 the 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 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 ITOLs published on www.legislation.gov.uk.
- 6.2 The Health Protection (Coronavirus, International Travel) (Regulations) (England) 2020 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 Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021 sets out requirements for persons arriving in England from outside of the Common Travel Area (directly or indirectly) and imposes related obligations on the operators of commercial transport services bringing such passengers to England directly.
- 6.4 Detail on the requirements imposed on passengers are as follows:

6.4.1 Requirement to provide information (regulation 3)

- Persons who arrive in England from outside the common travel area, irrespective of whether they have arrived from a red, amber or green country, are required to provide information about themselves, their journey and accommodation on their arrival using the Passenger Locator Form.

6.4.2 Possession of negative test result (regulation 4)

- Pre-departure testing reduces the number of people travelling to and entering England while they are infectious, thereby reducing danger to public health from international arrivals.
- People travelling to England from outside the common travel area are required to possess notification of a negative COVID-19 test result upon arrival in England, or, if travelling on a shuttle service through the Channel Tunnel, upon

presenting at UK immigration control at the Channel Tunnel shuttle terminal area in France.

- A person who is travelling with a child aged 11 or over, for whom they have responsibility for, must possess notification of a negative result for that child.

6.4.3 Requirement to book and undertake tests (regulations 5(1) and 6)

- Arrivals from amber-list or red-list countries who remain in England for 2 days or more are required to possess a booking for a day 2 test and a day 8 test upon arrival and provide evidence of such, if requested by an immigration officer or constable. Amber list arrivals who intend to leave England either on or before the 7th day of their arrival are only required to possess a booking for a day 2 test. If such a person in fact stays for 8 days or more, they are required to undertake a day 8 test. Green-list arrivals are only required to possess a booking for a day 2 test on arrival if they intend to remain in England for 2 days or more).
- If a day 2 test generates a positive result, the person who has tested positive will need to self-isolate or remain in quarantine for 10 days after the day on which they took the test. They will not be required to undertake a day 8 test.

6.4.4 Requirements relating to self-isolation (regulation 9)

- Arrivals in England must self-isolate if they have travelled from (a) an amber (category 2) country or territory or (b) from a green (category 1) country or territory and, within the 10 days preceding their arrival, they have departed from or transited through an amber (category 2) country or territory. They must remain in self-isolation until 10 days have elapsed since the day after they left an amber country or territory. Additionally, the limited number of red-list arrivals who are exempt from managed self-isolation must comply with the normal self-isolation rules.
- A person may not leave, or be outside of, the place where they are self-isolating except for reasons set out in regulation 9(11).
- A person who arrives in England from a country or territory listed in Schedule 3 (category 3 countries or territories – commonly known as the red list), or has in the 10 days before their arrival in England departed from or transited through a country or territory listed in that Schedule, must be in possession of a “managed self-isolation package” upon arrival.
- A managed self-isolation package is a booking for a place in accommodation designated by the Secretary of State. Arrivals from category 3 / red list countries or territories must enter England at a designated port and travel directly to the booked accommodation using the approved transport.

6.5 These measures are designed to reduce the public health risks posed by the spread of COVID-19, in particular with respect to the possibility of a variant of concern or high-risk variant under investigation being imported to the UK.

6.6 On 17 May a change was made to the regulations to:

- Exclude seafarers and inspectors and surveyors of ships who work on cruise ships from the exemptions for such roles from the requirements imposed by Schedule 11 to those Regulations (managed self-isolation for category 3/red list arrivals);

- Correct errors in those Regulations, namely a typographical error in regulation 9, two inaccurate cross-references in Schedule 6, and provisions that do not clearly apply all of the operator liability requirements (in Part 4 of the Regulations) to journeys by rail and sea (in addition to journeys by air, which are unaffected by the issue).

6.7 On 8 June a change was made to the regulations to:

- Add London Biggin Hill airport to the list of designated Managed Quarantine Service ports.
- Require direct flights from ‘Red List’ countries to arrive at airport terminals which only accept ‘Red List’ direct flights.
- Remove Portugal (including the Azores and Madeira) from the list of category 1 countries and territories are referred to colloquially and in guidance as “Green List” countries and territories.
- Add Afghanistan, Sudan, Sri Lanka, Bahrain, Trinidad and Tobago, Costa Rica and Egypt to the list of category 3 countries and territories are referred to colloquially and in guidance as “Red List” countries and territories.
- Require ‘category 1’ arrivals, without work-based exemptions from quarantine, to book a day 2 test, even if staying for less than this period.
- Require arrivals from a ‘category 2’ country, without work-based exemptions from quarantine, to book a day 2 and day 8 test, even if staying for less than this period.
- Provide that transit passengers from category 1 countries are not under an obligation to book or undertake day 2 tests.

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).
- 7.2 This instrument adds an exemption to the requirement to complete the PLF for those arriving in the UK pursuant to urgent arrangements made to relocate Afghan locally engaged staff and their families. This is due to the particular challenge these individuals would face in completing the required PLF owing to security, linguistic and other barriers. Equivalent information regarding these individuals will in any event generally be held by the relevant departments owing to the facilitated nature of their travel arrangements.
- 7.3 This instrument adds an exemption to the requirement to self-isolate to the following groups of people attending the EURO 2020 football competition. This exemption is required in order to ensure the successful running of the tournament.
- Members of the UEFA Executive and/or other UEFA Committees.

- Members of the FIFA and other Confederations Executive bodies.
 - Executives and Board Members of UEFA Member Federations.
 - Senior executives of Sponsors and Partners (such as broadcasters).
 - Other relevant senior figures. E.g. representatives of competing countries.
- 7.4 The groups referred in para 6.3 would be temporarily exempted to leave self-isolation in order to carry out the following activities:
- attend an official Euro 2020 event or training,
 - a meeting with the UK Government or the English Football Association. This would, for example, allow officials to attend a match, but also to attend an official UEFA meeting,
 - a meeting with Ministers or a controlled event at Number 10.
- 7.5 The purpose of this modification is to permit the groups referred to in para 6.3 to attend Euro 2020 events only. They remain subject to the remaining three passenger duties set out in ITOLs without modification. All those subject to this exemption will need to comply with strict protocols to limit contact with the local population, between attendees and to reduce the risk of transmission between groups. This will include daily testing, private transport and limiting their stay in the UK. Heads of delegation will need to provide assurance of compliance to the FA, and individuals will be required to sign a code of conduct.
- 7.6 This instrument adds an exemption to the requirement to self-isolate in managed quarantine facility, mandatory testing and the passenger locator form, for those who have travelled to the UK for the purpose of attending or facilitating the COP26 Ministerial event or the Global Education Summit. This exemption is identical to the one used in order to successfully deliver G7 Presidency events. In particular, the exemption criteria include confirmation of agreement to comply with specific health protocols in place for each event, which include rigorous daily testing and tracing procedures.
- 7.7 This instrument corrects an error regarding the penalty for non-completion of the passenger locator form.
- 8. European Union Withdrawal and Future Relationship**
- 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 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 ITOLs, which this instrument amends, will cease to have effect on 16 May 2022 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 ITOLs 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 Nathan Hepburn at the Department of Health and Social Care email: Nathan.Hepburn@dhsc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Ronnie Haynes, Deputy Director at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.
- 15.3 Lord Bethell at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.