

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL AND OPERATOR LIABILITY) (ENGLAND) (AMENDMENT) (NO. 4) REGULATIONS 2021

2021 No. 766

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 These Regulations amend the Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021 (S.I. 2021/582) (“the International Travel Regulations”) to introduce additional limited exemptions from the requirements imposed by those Regulations, update the 'green' and 'red' lists of countries, and make other minor changes.

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”). 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 variants of concern. Delaying the implementation of these measures could allow a variant of concern to spread. The Government considers that the other measures are urgent for the public policy reasons detailed below.

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 the 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. A detailed description of the requirements on passengers is set out in paragraphs 7.5 onwards.

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 International Travel Regulations set out various requirements for persons returning from foreign countries or territories including requirements to self-isolate and additional requirements for people who had travelled or have been in red list countries in the 10 days prior to arrival in England including the requirement to self-isolate in designated accommodation for 10 days.
- 7.2 The instrument adds Anguilla, Antigua and Barbuda, the Balearic Islands, Barbados, Bermuda, the British Antarctic Territory, the British Indian Ocean Territory, the British Virgin Islands, the Cayman Islands, Dominica, Grenada, Madeira, Malta, Montserrat, the Pitcairn Islands, the Turks and Caicos Islands to the "green list" and adds the Dominican Republic, Eritrea, Haiti, Mongolia, Tunisia and Uganda to the "red list".
- 7.3 This instrument also provides for the replacement of Heathrow Terminal 3 as the designated 'Red List' terminal with Heathrow Terminal 4 in order to transition red terminal operations to a facility that is available beyond the summer 2021. The instrument permits direct flights from Tunisia and the Dominican Republic, on the condition that they arrive at one of the two dedicated Red terminals. This is an extension to the pilot for dedicated red list terminals.
- 7.4 The International Travel Regulations also provide for a small number of exemptions from various requirements for individuals whose jobs are critical to maintaining the flow of critical goods, protecting essential services or facilitating Government work. A full list of exemptions is available online at: <https://www.gov.uk/government/publications/coronavirus-covid-19-travellers-exempt-from-uk-border-rules/coronavirus-covid-19-travellers-exempt-from-uk-border-rules>.
- 7.5 The amending Regulations introduce further limited exceptions to the requirements imposed by the International Travel Regulations including exemptions -
- (a) from the requirements for those who have been in a red list or an amber list country in the 10 days prior to arriving in England for relevant foreign policy interlocutors including persons supporting government policy priorities such as human rights and climate action. This exemption is necessary so that the UK can engage with international partners to advance key UK foreign policy priorities which protect and promote the security and prosperity of people both in the UK and across the world.
 - (b) from requirements for those that have been in an amber list country in the 10 days prior to arriving in England for essential workers for the operation of

ferry services. This exemption will ensure that critical staff can travel to overseas ferry ports to undertake essential work that cannot be done remotely. This will ensure the continued operation of ferry routes to England, maintaining the supply of critical freight to the UK.

- (c) from requirements applying to arrivals from red countries only for In-Flight Security Officers (IFSOs) also known as Sky Marshalls with countries with whom the UK has formal agreements in place.
- (d) from the requirement to self-isolate for certain senior executives when they are undertaking specific business activity in the UK which is more likely than not to create new or contribute to the preservation of a significant number of UK workers' jobs (at least 500) or will deliver a significant economic benefit to the UK. To benefit from the exemption a person must have received written confirmation from the Secretary of State that they qualify for the exemption. This step is being taken to exempt a limited number of persons to facilitate critical business activity which will create and contribute to the preservation of UK workers' jobs and boost business investment.
- (e) from the requirement to self-isolate for a category of attendee at the final of the UEFA European Championships (EURO 2020) on 11 July 2021. This exemption will permit attendees – specially accredited by either of the two football associations for the teams participating in the final – to attend this event, exempt from the isolation requirements. They will require possession of a ticket and will only be permitted to travel directly from the port where they arrive in England to Wembley stadium and then to return directly to that port after the Final. These attendees will still be subject to the wider requirements, including pre-departure test and passenger locator form. Although not a statutory obligation in these regulations, they will also be managed under strict public health protocols, such as dedicated transport and segregated seating, and will not have the opportunity to interact with members of the local population during their brief stay in the UK (other than where necessary, such as airport and stadium staff, and coach drivers). The number of those exempted will also be limited and closely managed by the English Football Association and the Department for Culture Media and Sport, in liaison with the overseas football associations – in line with the processes around the existing elite sport exemption.
- (f) from the requirement to book a day 2 and day 8 test before arrival for foreign border personnel working at juxtaposed controls in England (e.g. at St Pancras) and passengers transiting to Guernsey, Jersey or the Isle of Man via England from amber list countries.

7.6 The Regulations also remove an operator's liability for bringing a passenger who has not completed a Passenger Locator Form or is not in possession of a negative pre-departure test result to England if that passenger is being lawfully compelled to travel in the course of an extradition, prisoner transfer or deportation; update the list of sports events relevant to the exemption for elite sportspersons arriving from amber and red list countries and revises the onboard public health announcement on commercial passenger conveyances arriving in England.

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 ITOLRs 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 Jessica Sterling at the Department of Health and Social Care email: Jessica.Sterling@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, Parliamentary Under Secretary of State at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.