

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (SELF-ISOLATION) (ENGLAND) (AMENDMENT) REGULATIONS 2021

2021 No. 851

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 makes provision for the easing of public health measures and amends the Health Protection (Coronavirus, Restrictions) (Self- Isolation) (England) Regulations 2020 (b) (the "Self-Isolation Regulations") to reflect new policy.
- 2.2 The amendments to the Self-Isolation Regulations support Step 4 of the Roadmap and the continued roll out of the vaccination programme. They update the circumstances in which a person can leave self-isolation to include the posting of an antibody test. They also exempt persons from the requirement to self-isolate if they have come into contact with a positive case, depending on their vaccination status. They also remove the requirement on children to self-isolate where they have had that close contact.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument is made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c.22) ("the 1984 Act"). This instrument is made without a draft having been laid and approved by a resolution of each House of Parliament. It is the opinion of the Secretary of State that, by reason of urgency, it is necessary to make this instrument without a draft being so laid and approved.
- 3.2 The instrument was laid on 15 July 2021 and published on www.legislation.gov.uk later that day. Regulation 2(2)(a)(i) come into force on 19th July 2021 and the remaining provisions come into force on 16 August 2021. This instrument will cease to have effect at the end of the period of 28 days beginning with the day it was made (but excluding any period of more than 4 days in which both Houses are adjourned) unless, during that period, it is approved by a resolution of each House of Parliament. The Self-Isolation Regulations which this instrument amends will expire on 28 September 2021.

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 This entire instrument applies to England only, including the English territorial sea.

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 The Secretary of State for Health and Social Care, Sajid Javid MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) (Amendment) Regulations 2021. are compatible with the Convention rights.”

6. Legislative Context

Background

- 6.1 The 1984 Act, and regulations made under it, provide a legislative framework for health protection in England and Wales.
- 6.2 Part 2A of the 1984 Act, as inserted by the Health and Social Care Act 2008, provides a legal basis to protect the public from threats arising from infectious diseases, or contamination from chemicals or radiation. Part 2A includes powers to impose restrictions or requirements on people, and in relation to things and premises. Overall, the amended 1984 Act sets out a framework for health protections which requires much of the detailed provisions to be delivered through regulations.
- 6.3 Section 45C of the 1984 Act provides a power for the appropriate Minister to make regulations to prevent, protect against, control or provide a public health response to the incidence or spread of infection or contamination in England and Wales. The threat of infection or contamination can come from outside England and Wales.
- 6.4 This instrument is made under section 45C to enable a number of public health measures to be taken for the purpose of reducing the public health risks posed by the incidence and spread of severe acute respiratory coronavirus 2 (SARS-CoV-2).
- 6.5 In accordance with section 45R of the Act, the Secretary of State is of the opinion that, by reason of urgency, it is necessary to make this instrument without a draft having been laid before, and approved by a resolution of, each House of Parliament.

Legislative Changes

- 6.6 Regulation 1 provides when the provisions come into force and the instrument’s application. In particular, the amendment providing an exemption to the duty to self-isolate to post an antibody test comes into force on 19 July 2021. The amendments in respect of exemptions to the legal duty to self-isolate that relate to vaccine status and the removal of the duty to self-isolate on children come into force on 16 August 2021.
- 6.7 Regulation 2 sets out the following amendments to the Self-Isolation Regulations:
- A person can leave self-isolation to post an antibody test.
 - A person is not required to self-isolate if they have come into close contact with a person who has tested positive if the person has completed a course of an authorised vaccine administered in the UK, has participated or is participating in an authorised clinical trial of a coronavirus vaccine, or can evidence that they are unable to be vaccinated for clinical reasons. An approved vaccination is defined under Regulation 2(8). ‘Completing a course’

means that the person is two weeks post-completion of their vaccine course as at the date they had close contact.

- A removal of the duty on a child under the age of 18 to self-isolate where they have had close contact with a person who has tested positive.

6.8 Regulation 2 also sets out a transitional provision to provide that where a child or a person who falls within the above exemptions, is under a duty to self-isolate at the time these amendments come into force, that duty will fall away.

7. Policy background

What is being done and why?

Posting an antibody test

7.1 This amendment expands the existing provision for a person to leave self-isolation to post a coronavirus test to enable a person to also leave self-isolation to post an antibody test. This exemption is intended to enable participation in antibody testing schemes, which in turn will improve return rates of the antibody tests and help to give an indication of the rate of antibodies in the general population.

Vaccine Exemption

7.2 Self-isolation is a key tool to break the chain of transmission. However, given the significant burden it can place on individuals, particularly in terms of their mental and physical wellbeing, it should only be used where it is necessary and proportionate to do so.

7.3 The vaccine deployment programme continues successfully:

- Since announcing a four week pause at Step 3 on 14 June and as of 10 July, 3,529,521 first and 3,557,363 second doses have been administered in England.
- We met our target of offering all adults a first dose early and remain on target to have two thirds of adults double jabbed by 19 July.
- Up until 11 July, 87.2% of the UK adult population had received one dose (45,923,721) and 66.2% (34,872,131) had received two doses.

7.4 Evidence shows vaccines are sufficiently effective in reducing hospitalisations and deaths in those vaccinated with confidence in vaccine effectiveness against the Delta variant in particular increasing significantly. Furthermore:

- 88.1% of the adult population have COVID-19 antibodies from either infection or vaccination, compared to 16.1% from infection alone. More than 95% of those over 40 have antibodies
- For the Delta variant, PHE estimates that vaccine effectiveness against symptomatic disease is ~35% after one dose of Pfizer or AstraZeneca. After two doses, this increases to ~79%.
- One dose of either vaccine reduces hospitalisations by ~80%. A second dose boosts protection to ~96%. Protection against hospitalisation is similar for the Alpha and Delta variants.
- For the Alpha variant, transmission by a vaccinated individual to household members is reduced by 35-50% (for symptomatic cases).

- 7.5 Infection rates do not risk a surge in hospitalisations which would put unsustainable pressure on the NHS:
- Nationally, infections have increased sharply and admissions are steadily increasing following slows in the rate of increase last week.
 - The ratio of cases to hospitalisations has continued to decrease in recent weeks and is at the lowest level since the beginning of the pandemic and significantly lower than previous peaks.
 - SPI-M modelling suggests that the scale of the next wave in hospital admissions is highly uncertain and extremely sensitive to behaviour change, but most modelled scenarios have peaks lower than in previous waves
- 7.6 Our assessment of the risks is not fundamentally changed by new Variants of Concern:
- Delta accounts for c.99% of cases in England. Variants of Concern (VoC) and Variants Under Investigation (VUI) excluding Delta remain at a very low level.
 - The Delta AY.1 mutation (provisionally assigned a VoC), has the potential for increased transmissibility and immune escape when compared to Delta. Investigation is underway.
 - The risks Delta poses has not changed significantly since the last review point, but has been mitigated by delaying step 4 for 4 weeks and delivering an additional c.7 million vaccine doses as of 10 July.
- 7.7 Self-isolation is a significant burden on individuals and given the effectiveness of the vaccines, it is right that we look to lift this burden at the earliest opportunity, based on public health advice. Although not everyone may be fully vaccinated when these exemptions are introduced, the risk of onward transmission in the general population will be significantly reduced. Introducing this exemption in August will allow more people to be fully vaccinated, reducing the risk of severe illness. Furthermore, public health modelling suggests that the rise in case numbers we are experiencing will have peaked by mid-August so introducing this change then will reduce the risk of transmission, hospitalisations and deaths.
- 7.8 Currently if an individual is contacted by a relevant person and notified that they have had close contact with a positive case, they are legally required to self-isolate. This amendment allows for the introduction of an exemption from the legal duty to self-isolate for close contacts of a positive case in the following circumstances:
- Where the individual has received a full course of an authorised vaccination, administered in the UK, and where more than 14 days has elapsed between the final dose and the date of contact with the positive case. Vaccinated individuals will not be required to self-isolate but will be advised to get a PCR test to ensure that they are not infectious. Should that PCR test be positive the individual will then be required to self-isolate.
 - Where the individual has participated or is participating in an approved clinical trial for a vaccine against coronavirus in the UK., This is to ensure that those who take part in these vital trials, are not disadvantaged. This will be a relatively small number of people, and only those who were in the control group would not have been vaccinated. The risk presented by this group not being required to self-isolate needs to be balanced against the significant

public benefit to participants continuing to take part in these trials. They will be offered a PCR test to check if they are infectious.

- Where the individual is able to provide evidence that, for clinical reasons, they should not be vaccinated with any authorised vaccine. This is to ensure those who cannot be vaccinated for medical reasons are not disadvantaged. In some cases, these individuals will have an underlying disability which means they cannot be vaccinated. This will also be a relatively small number of people, and they will be offered a PCR test to check if they are infectious.

Exemption for children

- 7.9 This amendment removes the requirement on children to self-isolate where they have had close contact with a person who has tested positive.
- 7.10 At present those under 18 are unable to be vaccinated but have experienced a significant impact on their social and educational development as well as their physical and mental health through having to self-isolate. Removing the requirement to self-isolate will significantly improve a range of outcomes for this cohort.
- 7.11 The risks of hospitalisation and intensive care admission in children due to infection is very low (approximately 8 per 100,000 population under 18 are admitted to hospital). The incidence of mortality in children as a result of Covid is extremely low with ONS recording 13 deaths in children, all of which had serious comorbidities. The main benefit therefore in children self-isolating is to prevent transmission to the wider community and in particular to households with vulnerable adults. By 19 July, the Government expects that every adult will have had the chance to receive a first dose of vaccine, and two thirds of adults will have received their second dose. The Government is now accelerating the vaccine roll out by bringing forward the dose interval to 8 weeks for all groups. This means that by 16 August we expect a very significant proportion of the adult population to be vaccinated, reducing the risk of lifting the requirement to self-isolate from children who are close contacts. This risk will be further mitigated by advising children to take a PCR test. Arrangements will be set out in guidance for those who turn 18 after the provision comes into force, so that they have an opportunity to be vaccinated before being treated as an adult for these purposes.

8. European Union (Withdrawal) Act/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.

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 updated information in relation to the 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.

13. Regulating small business

- 13.1 This instrument does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) (Amendment) Regulations 2021 that this instrument establishes will expire and cease to have effect on 28 September 2021 unless renewed.

15. Contact

- 15.1 Sophie George (Sophie.George@DHSC.gov.uk) at the Department of Health and Social Care can be contacted with any queries regarding the instrument.
- 15.2 Tony Thomas, Deputy Director for Contact Tracing and Self- Isolation Policy at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Sajid Javid MP at the Department for Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.