

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (SELF-ISOLATION) (ENGLAND) (AMENDMENT) (No. 2) REGULATIONS 2021

2021 No. 864

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 a correction to a typographical error in Regulation 1(2) of the Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) (Amendment) Regulations 2021 (the "Amending Regulations"), which were laid on 15 July 2021. The Amending Regulations amend the Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020 (the "Self-Isolation Regulations") and come into force in accordance with regulation 1. Regulation 1(2) of the Amending Regulations provides that regulations 1 and 2(2)(a)(i) of those Regulations come into force on 19 July 2021. The reference to regulation 2(2)(a)(i) was an error and should have read regulation 2(2)(a).
- 2.2 The purpose of this instrument is to correct the error in the Amending Regulations, to make clear that the provisions in regulation 2(2)(a) of the Amending Regulations come into force on 19 July. This instrument comes into force before the Amending Regulations in order to do this. The effect of the amendment in regulation 2(2)(a) of the Amending Regulations is to ensure that the exemption from the duty to self-isolate for the purpose of posting Coronavirus tests in the Self-Isolation Regulations is extended to include tests for antibodies.

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 In the particular circumstances, to ensure that there is no ambiguity regarding the coming into force provisions of the Amending Regulations, the Government considers it necessary to act with urgency and to bring these provisions into force before the instrument is laid in parliament.
- 3.3 This instrument was laid at the earliest opportunity on 19 July 2021 and published on www.legislation.gov.uk later that day. 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 were amended by the Amending Regulations will expire on 28 September 2021 unless extended.

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)

3.4 Not applicable.

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 Parliamentary Under Secretary of State for Prevention, Public Health and Primary Care, Jo Churchill MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) (Amendment) (No. 2) 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 2 corrects a typographical error in regulation 1(2) of the Amending Regulations – the Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) (Amendment) Regulations 2021 – to remove any ambiguity and to make it clear that regulation 2(2)(a) of the Amending Regulations comes into force on 19 July

2021. Regulation 2(2)(a) of the Amending Regulations amends the Self-Isolation Regulations to provide that the exemption from the duty to self-isolate for the purpose of posting Coronavirus tests in the Self-Isolation Regulations is extended to include tests for antibodies.

7. Policy background

What is being done and why?

Posting an antibody test

- 7.1 The Amending Regulations make a number of amendments to the Self-Isolation Regulations. This includes a provision that the exemption from the duty to self-isolate for the purpose of posting Coronavirus tests is extended to include tests for antibodies. It is important that this exemption is in force from 19 July to enable participation in antibody testing schemes. This will in turn improve return rates of the antibody tests and help to give an indication of the rate of antibodies in the general population.
- 7.2 The purpose of this instrument is to correct the ambiguity in the Amending Regulations which were laid on 15 July 2021, regarding the coming into force date of the above provision. It ensures the exemption is in force from 19th July 2021.

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.

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 Self-Isolation Regulations, that were amended by the Amending Regulations 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 Jo Churchill, the Parliamentary Under Secretary of State for Prevention, Public Health and Primary Care at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.