

This Statutory Instrument corrects errors in S.I. 2021/582 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2021 No. 865

PUBLIC HEALTH, ENGLAND

**The Health Protection (Coronavirus, International
Travel and Operator Liability) (England)
(Amendment) (No. 6) Regulations 2021**

<i>Made</i>	- - - -	<i>18th July 2021</i>
		<i>at 11.00 a.m. on 19th</i>
<i>Laid before Parliament</i>		<i>July 2021</i>
		<i>at 4.00 a.m. on 19th</i>
<i>Coming into force</i>	- -	<i>July 2021</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 45B, 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984(1).

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 6) Regulations 2021.

(2) These Regulations come into force at 4.00 a.m. on 19th July 2021.

(3) These Regulations extend to England and Wales, and apply in relation to England only.

Amendment to the Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021

2. The Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021(2) are amended in accordance with regulations 3 to 22.

Amendment of regulation 2

3. In regulation 2 (interpretation) after the definition of “disability” insert—
““eligible category 2 arrival” has the meaning given in regulation 2A;”.

(1) 1984 c. 22. Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14).
(2) S.I. 2021/582 amended by S.I. 2021/589, 670, 731, 766 and 795.

Insertion of new regulation 2A

4. In Part 1, after regulation 2 (interpretation and introduction of Schedules 1 to 4) insert—

“Exemptions for vaccinated travellers and others

2A.—(1) In these Regulations, a person (“P”) is an eligible category 2 arrival if P meets the requirements of paragraph (2) and any of paragraphs (3) to (6) of this regulation.

(2) In the period beginning with the 10th day before the date of P’s arrival in England—

- (a) P has been in a category 2 country or territory other than Metropolitan France; and
- (b) P has not been in Metropolitan France or a category 3 country or territory.

(3) P—

- (a) has completed a course of doses of an authorised vaccine with the final dose having been received before the start of the period beginning with the 14th day before the date of their arrival in England;
- (b) received that course of doses in the United Kingdom;
- (c) is able to provide proof if required by an immigration officer or the operator of the relevant service on which P travels to England of meeting the requirement in subparagraph (a) through the NHS COVID pass, or equivalent from NHS Scotland, NHS Wales or the Department of Health in Northern Ireland; and
- (d) has declared on the Passenger Locator Form that P meets the COVID-19 vaccination eligibility criteria for reduced isolation and testing requirements.

(4) P—

- (a) has participated, or is participating, in a clinical trial of a vaccine for vaccination against coronavirus carried out in accordance with the requirements of the Medicines for Human Use (Clinical Trials) Regulations 2004(3);
- (b) is able to provide proof of such participation; and
- (c) has declared on the Passenger Locator Form that P meets the COVID-19 vaccination eligibility criteria for reduced isolation and testing requirements.

(5) P is—

- (a) under the age of 18 years upon arrival in England; and
- (b) ordinarily resident in the United Kingdom.

(6) P is either—

- (a) a person who—
 - (i) has completed a course of doses of a vaccine under the United Kingdom vaccine roll-out overseas, with the final dose having been received before the start of the period beginning with the 14th day before the date of their arrival in England,
 - (ii) is able to provide proof if required by an immigration officer or the operator of the relevant service on which P travels to England of meeting the requirements in paragraph (i), and

(3) S.I. 2004/1031, amended by s. 116 of the Care Act 2014 (c. 23) and by S.I. 2004/3224; 2005/2754, 2759; 2006/562, 1928, 2984; 2007/289, 3101; 2008/941; 2010/ 231, 551, 1882; 2011/2581; 2012/134, 504, 1641, 1916; 2013/532; 2016/190, 696; 2019/593, 744, 1094; 2020/1488.

- (iii) has declared on the Passenger Locator Form that P meets the COVID-19 vaccination eligibility criteria for reduced isolation and testing requirements; or
 - (b) a dependant of a person of the description in any of paragraphs (a) to (c) of the definition of “United Kingdom vaccine roll-out overseas” and is under the age of 18 years upon arrival in England.
- (7) For the purposes of paragraphs (3) and (6), P has completed a course of doses if P has received the complete course of doses specified—
- (a) in the summary of product characteristics approved as part of the marketing authorisation for the authorised vaccine; or
 - (b) in the instructions for usage approved as part of the authorisation by the licensing authority on a temporary basis under regulation 174 (supply in response to spread of pathogenic agents etc) of the Human Medicines Regulations 2012⁽⁴⁾ for the authorised vaccine.
- (8) For the purposes of paragraph (6), where P has received a dose of an authorised vaccine in the United Kingdom and a dose of a vaccine under the United Kingdom vaccine roll-out overseas, P is deemed to have received a course of doses of a vaccine under the United Kingdom vaccine roll-out overseas.
- (9) For the purposes of this regulation—
- (a) a child is to be treated as making a declaration on a Passenger Locator Form, and providing any proof required, if that declaration is made, and the proof provided, by a person who is travelling with and has responsibility for that child;
 - (b) a person is not treated as having been in a country or territory if that person would not be treated as having departed from or transited through that country or territory by virtue of regulation 2(3).
- (10) In this regulation—
- “authorised vaccine” means a medicinal product for vaccination against coronavirus—
- (a) authorised for supply in the United Kingdom in accordance with a marketing authorisation, or
 - (b) authorised by the licensing authority on a temporary basis under regulation 174 of the Human Medicines Regulations 2012;
- “clinical trial” has the meaning given in regulation 2(1) of the Medicines for Human Use (Clinical Trials) Regulations 2004;
- “Crown servant” has the meaning given in section 12(1)(a) to (e) of the Official Secrets Act 1989⁽⁵⁾;
- “government contractor” has the meaning given in section 12(2) of the Official Secrets Act 1989;
- “the licensing authority” has the meaning given in regulation 6(2) (the licensing authority and the Ministers) of the Human Medicines Regulations 2012;
- “marketing authorisation” has the meaning given in regulation 8(1) (general interpretation) of the Human Medicines Regulations 2012;
- “medicinal product” has the meaning given in regulation 2 (medicinal products) of the Human Medicines Regulations 2012;

⁽⁴⁾ S.I. 2012/1916.

⁽⁵⁾ 1989 c. 6.

“NHS COVID pass” means the COVID-19 records on the NHS smartphone app developed and operated by the Secretary of State, through the website at NHS.uk or a COVID-19 post vaccination letter obtained from the NHS;

“NHS” means the health service continued under section 1(1) of the National Health Service Act 2006⁽⁶⁾;

“NHS Scotland” means the health service continued under section 1(1) of the National Health Service (Scotland) Act 1978⁽⁷⁾;

“NHS Wales” means the health service continued under section 1(1) of the National Health Service (Wales) Act 2006⁽⁸⁾;

“United Kingdom vaccine roll-out overseas” means the administration of vaccination against coronavirus to—

- (a) Crown servants, government contractors or other personnel posted or based overseas and their dependants under the scheme known as the Foreign, Commonwealth and Development Office staff COVID-19 vaccination programme;
- (b) residents of the British overseas territories, the Channel Islands and the Isle of Man, as part of a programme agreed in the overseas territory, any of the Channel Islands, or the Isle of Man with the United Kingdom government; or
- (c) military or civilian personnel, government contractors and their dependants at a military posting overseas, including the British overseas territories, the Channel Islands and the Isle of Man, under the vaccination scheme provided or approved by the UK Defence Medical Services.”.

Amendment of regulation 3

5. In regulation 3(10) (persons not required to provide passenger information), after subparagraph (b) insert—

“(bza) a category 1 arrival who would have been a person described in paragraph 2 or 4 of Schedule 4 if that person had arrived from a category 2 country or territory;”.

Amendment of regulation 4

6. In regulation 4(6) (requirement to possess notification of negative test result), after subparagraph (b) insert—

“(ba) a category 1 arrival who would have been a person described in paragraph 2 or 4 of Schedule 4 if that person had arrived from a category 2 country or territory;”.

Amendment of regulation 5

7. In regulation 5 (requirements relating to tests)—

(a) in paragraph (1)—

(i) in subparagraph (a)—

(aa) after “category 1 arrival” insert “or an eligible category 2 arrival”,

(bb) after “”paragraph (4)” insert “or (5)”,

(ii) in subparagraph (c)(iii), omit the words from “except where” to the end,

⁽⁶⁾ 2006 c.41; section 1 was substituted by section 1 of the Health and Social Care Act 2012 (c. 7).

⁽⁷⁾ 1978 c. 29.

⁽⁸⁾ 2006 c. 42.

- (iii) in sub-paragraph (e)—
 - (aa) in paragraph (i), omit the words from “except where” to the end,
 - (bb) after paragraph (xix) insert—
 - “(xixa) paragraph 41 (subsea telecommunications workers);”;
- (b) in paragraph (3)—
 - (i) after sub-paragraph (k) insert—
 - “(ka) paragraph 20 (foreign representative taking a person into custody);”;
 - (ii) after sub-paragraph (n) insert—
 - “(o) paragraph 45 (essential railway worker);”;
- (c) for paragraph (4) substitute—
 - “(4) Regulation 7 also applies to—
 - (a) a category 1 arrival who would have been a person to whom paragraph (3) applied if that person had arrived from a category 2 country or territory; and
 - (b) an eligible category 2 arrival who would have been a person to whom paragraph (3) applied if that person had not met the requirements of regulation 2A.”;
- (d) in paragraph (5), at the end insert “or to a category 1 arrival who would have been a person of that description if that person had arrived from a category 2 country or territory”;
- (e) in paragraph (6), after sub-paragraph (h) insert—
 - “(i) an official of a foreign government within the meaning of paragraph 4 of Schedule 4 who is engaged pursuant to a binding bilateral or multilateral agreement concerning controls at St Pancras, Ebbsfleet, Cheriton, Ashford or Dover.”.

Amendment of regulation 6

8. In regulation 6(12)(c)(i) (requirement to book and undertake tests), after “category 1 countries or territories” insert “and eligible category 2 arrivals”.

Amendment of regulation 8

- 9.** In regulation 8 (test requirements: offshore installation workers)—
- (a) in paragraph (1), for “5(4)” substitute “5(5)”;
 - (b) in paragraph (7), for “Subject to paragraph (8)” substitute “Except where P is a category 1 arrival or an eligible category 2 arrival, and subject to paragraph (8)”;
 - (c) for paragraph (12) substitute—
 - “(12) Except where P is a category 1 arrival or an eligible category 2 arrival, if P returns to England from the offshore installation on or before the 8th day after the day P arrived in England, P must undertake a day 8 test on, or as soon as reasonably practicable after, the 8th day after the day P arrived in England.”.

Amendment of regulation 9

10. In regulation 9(1)(b) (further requirements in arrivals from category 2 countries and territories), at the end insert “or an eligible category 2 arrival”.

Insertion of new regulation 17A

11. After regulation 17 (requirement to ensure passengers possess notification of negative test result) insert—

“Requirement to ensure passengers possess evidence of vaccination

17A.—(1) An operator must ensure that a passenger other than a category 1 arrival or a Schedule 11 passenger (“P”)—

- (a) who is on a relevant service; and
- (b) has indicated on the Passenger Locator Form that P meets the COVID-19 vaccination eligibility criteria for reduced isolation and testing requirements,

is in possession of the required evidence when P arrives at a port in England.

(2) In paragraph (1) “the required evidence” means—

- (a) evidence of the description in regulation 2A(3)(c), (4)(b), or (6)(a)(ii); or
- (b) where P intends to take advantage of the exemption in regulation 2A(5) or (6)(b) (P aged under 18 years) evidence of P’s age.

(3) An operator must implement and maintain processes and systems to ensure that the requirement in paragraph (1) is complied with.

(4) An operator must retain records and information of the steps that they have taken to comply with paragraph (3).

(5) An authorised person may request copies of the records and such other information from an operator as is necessary for the authorised person to determine whether the requirements under paragraph (3) have been complied with.

(6) A request under paragraph (5) must specify the period within which the operator must provide the information to the authorised person.

(7) In this regulation “authorised person” means—

- (a) in relation to passengers arriving by sea, the Secretary of State for Transport;
- (b) in relation to passengers arriving by air, the Civil Aviation Authority;
- (c) in relation to passengers arriving by rail, the Office of Rail and Road.

(8) This regulation does not apply in the case of the operator of a relevant service which commences in Metropolitan France.”.

Amendment to regulation 19

12. In regulation 19 (offences and penalties)—

(a) in paragraph (7) in sub-paragraph (c), omit the terminal “or” and after that insert—

- “(ca) regulation 17A(1);
- (cb) regulation 17A(3); or”;

(b) after paragraph (10) insert—

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

(10B) In relation to the offence in paragraph (7)(cb) it is a defence for the operator to show that it was not reasonably practicable to have the processes and systems in place at the relevant time.”;

(c) after paragraph (13) insert—

“**13A.** An operator who without reasonable excuse fails to comply—

- (a) with the requirement to keep records in regulation 17A(4); or
- (b) with a request under regulation 17A(5) to provide records of information within the period specified for the purposes of regulation 17A(6),

commits an offence.”.

Amendment of regulation 20

13. In regulation 20(9)(d) (fixed penalty notices), after paragraph (ii), omit the terminal “or” and then insert—

“(ia) under regulation 13A, or”.

Amendment of Schedule 1

14.—(1) Schedule 1 (category 1 countries and territories) is amended as follows.

(2) Omit the entries for “Balearic Islands” and “British Virgin Islands”.

(3) In the appropriate places insert—

- (a) “Bulgaria”;
- (b) “Croatia”;
- (c) “Hong Kong”;
- (d) “Taiwan”.

Amendment of Schedule 3

15. In Schedule 3 (category 3 countries and territories) in the appropriate places insert—

- (a) “Cuba”;
- (b) “Indonesia”;
- (c) “Myanmar”;
- (d) “Sierra Leone”.

Amendment of Schedule 4

16. In Schedule 4 (exemptions)—

- (a) in paragraph 2(1)(a) after “this paragraph” insert “or regulation 2A”;
- (b) in paragraph 4(a) after “this paragraph” insert “or regulation 2A”;
- (c) in paragraph 29(1), in the opening words, after “this paragraph” insert “or regulation 2A”.

Amendment of Schedule 6

17. In Schedule 6 (passenger information) after paragraph 3 insert—

“**3A.** Where the passenger meets the COVID-19 vaccination eligibility criteria for reduced isolation and testing requirements, and indicates that on the Passenger Locator Form, the fact that the passenger meets those criteria.”.

Amendment of Schedule 8

18. In Schedule 8 (mandatory testing after arrival in England)—

- (a) in paragraph 7(1)(g)(ii) (day 2 tests: private provider requirements), omit the terminal “and” after paragraph (aa), at the end of paragraph (bb) insert “and”, and after that insert—
 - “(cc) whether the person in respect of whom the test was sold is an eligible category 2 arrival or not;”;
- (b) in paragraph 10(3)(a) (required circumstances for undertaking day 2 test), for “(xiii)” substitute “(xiv)”;
- (c) in paragraph 11 (notification of test results)—
 - (i) in sub-paragraph (3)—
 - (aa) in the words below the heading “Form A”, for the words from “If you are travelling from an amber list country” to “10-day quarantine period” on the second occasion it arises, substitute—

“If you are travelling from an amber list country and are within the exempt category you are not required to quarantine or take a day 8 test.

If you are travelling from an amber list country and are not within the exempt category, if you took the test on or before day 2 of your quarantine period, you must continue to quarantine until you have completed the 10 day quarantine period and received a negative result for a test taken on day 8. If you took the test on day 8 you may stop quarantine when you have completed your 10-day quarantine period.”
 - (bb) in the words below the heading “Form B”, after “people you are travelling with” insert “, unless they are within the exempt category,”;
 - (ii) in sub-paragraph (4)(a), for “or 4A” substitute “, 4ZA or 4A”;
 - (iii) in sub-paragraph (5)(e), for sub-paragraph (ii) substitute—
 - “(ii) a day 2 test for an eligible category 2 arrival,
 - (iia) a day 2 test for a person who is neither a category 1 arrival nor an eligible category 2 arrival, or”.

Amendment of Schedule 10

19. In Schedule 10 (optional testing after arrival in England)—

- (a) in paragraph 4(b), at the end insert—
 - “(xiv) information as to whether or not P has received a vaccine against SARS-CoV-2.”;
- (b) in paragraph 5(6), at the end insert—
 - “(f) whether or not P has received a vaccine against SARS-CoV-2.”.

Amendment of Schedule 12

20. In Schedule 12 (information for passengers)—

- (a) in Part 1, in the section headed “Amber list passengers”, at the end before the heading “Green list passengers” insert—

“If you are arriving from an Amber country, and have been fully vaccinated through an approved vaccination programme at least 14 days before your arrival in England, you must:

1. Book a test for day 2

2. Complete a Passenger Locator Form”.
- (b) in Part 2, in the second sentence, after “within the first two days after you arrive” insert “even if you have been fully vaccinated”.

Amendment of Schedule 13

21. In Schedule 13 (prohibition on arrival of aircraft and vessels into England), in paragraph 4—

- (a) after sub-paragraph (d), insert—
“(dza) Cuba;”;
- (b) after sub-paragraph (ea), insert—
“(eza) Indonesia;”.

Amendment of Schedule 14

22. In Schedule 14 (amounts of fixed penalties)—

- (a) in paragraph 15 after “17(1)” insert “, 17A(1)”;
- (b) after paragraph 15 insert—

“Regulation 19(7)(cd)

15A. Breach of requirement under regulation 17A(3) (operator systems offence), £4,000.”;

- (c) after paragraph 16 insert—

“Regulation 19(13A)

16A. Breach of requirement under regulation 17A(4) or (5) (operator systems records), £4,000.”.

Transitional and saving provision

23. In relation to any person who arrived in England on or after 4.00 a.m. on 17th May 2021 but before 4.00 a.m. on 19th July 2021, the Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021 apply as if the amendments made by these Regulations had not been made.

18th July 2021

Jo Churchill
Parliamentary Under Secretary of State
Department of Health and Social Care

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021 (“the principal Regulations”).

Regulation 4 makes amendments to the principal Regulations to introduce a new category of “eligible category 2 arrival”. A person who is in this category is exempt from the requirement to self-isolate that would otherwise apply. (Category 2 countries are specified in Schedule 2 to the principal Regulations).

In order to benefit from the exemption, the person in question must have proof of their exemption status and must make the appropriate declaration on their Passenger Locator Form. (The Passenger Locator Form contains information about persons arriving in England and must be completed and produced if so required by the principal Regulations.)

Regulation 5 amends regulation 3 of the principal Regulations so that certain Crown Servants and government contractors working outside the UK and certain officials of, or contractors working for, foreign Governments are not required to complete a Passenger Locator Form if they acquire “eligible category 2 arrival” status.

Regulation 6 amends regulation 4 of the principal Regulations to keep an existing exemption from the requirement to have a negative coronavirus test on arrival in England so that it applies to eligible category 2 arrivals.

Regulations 7 and 8 amend regulations 5 and 6 of the principal Regulations so that an eligible category 2 arrival is subject to the same requirements relating to testing for Coronavirus as an arrival from a Category 1 country; in particular an eligible category 2 arrival is no longer generally required to have booked or undertake a Day 8 Coronavirus test on arrival in England.

Regulation 9 amends regulation 8 of the principal Regulations so as reduce the Coronavirus testing requirements relating to offshore installation workers who are category 1 arrivals and eligible category 2 arrivals; it also corrects a cross-reference.

Regulation 10 amends regulation 9 of the principal Regulations so that an eligible category 2 arrival does not need to self-isolate in accordance with that regulation.

Regulation 11 imposes obligations on travel operators to check the evidence held by travellers claiming exempt status under regulation 2A to have systems and processes, and regulations 12, 13 and 21 make provision for the penalties applicable in case of breaches of those obligations.

Regulations 14 and 15 make amendments to the lists of countries in respectively Schedule 1 and Schedule 3 to the principal Regulations.

Regulation 16 makes amendments to Schedule 4 (exemptions) to the principal Regulations as a consequence of the introduction of the new category of eligible Category 2 arrival.

Regulation 17 amends Schedule 6 (passenger information) to the principal Regulations so that a person who wishes to take advantage of the new exemption must make an appropriate declaration on their Passenger Locator Form.

Regulations 18 and 19 amend Schedules 8 and 10 (testing) to the principal Regulations as a consequence of the introduction of the new category of eligible Category 2 arrival.

Regulation 20 amends Schedule 12 (information for passengers) as a consequence of the fact that eligible category 2 arrivals will be exempt from the requirement to self-isolate.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 21 amends Schedule 13 to add to the list of countries and territories from which the arrival of aircraft and vessels into England is prohibited.

Regulation 23 makes transitional provision relating to persons arriving in England before these Regulations come into force.

An impact assessment has not been produced for this instrument. An explanatory memorandum has been published alongside this instrument at www.legislation.gov.uk.