

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL AND OPERATOR LIABILITY) (ENGLAND) (AMENDMENT) (NO. 7) REGULATIONS 2021

2021 No. 914

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 (“the Regulations”). It introduces an exemption to the self-isolation and day 8 test requirements for individuals who have been fully vaccinated in the United States, the European Union and other relevant countries when arriving in England from an amber list country. This exemption applies to individuals providing that they have not been in or transited through a red list country or territory or mainland France (including Corsica) in the 10 days prior to arrival in England.
- 2.2 This instrument excludes certain individuals operating transport services from the requirement to undertake workforce tests and requires operators to ensure that passengers have evidence to support an exemption.
- 2.3 This instrument also makes a number of amendments that relate to testing to improve data accuracy, test result reporting and to require day 8 tests to be genome sequenced.

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 and the impact of vaccinations on transmission, the Government considers these measures are urgently necessary to protect public health whilst ensuring that restrictions in place remain proportionate.
- 3.2 In the case of vaccinations, the Government is acting to minimise the impact of these Regulations on individuals to reflect the positive impact of the UK vaccination programme on transmission rates and change in public health advice. The Government is acting as swiftly as possible to minimise the obligation to isolate at home and the cost of additional testing for passengers eligible for this exemption.

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 International Travel Regulations](#) published on www.legislation.gov.uk. A detailed description of the requirements on passengers is set out in paragraph 7 onwards of that explanatory memorandum.

7. Policy background

What is being done and why?

7.1 This instrument amends the Regulations to introduce a relaxation to the self-isolation and day 8 test requirements for the following individuals who have been fully vaccinated in the United States, the European Union and other relevant countries when arriving in England from an amber list country. The relaxation to the self-isolation and day 8 test requirements does not apply to individuals who have been in or transited through a red list country or territory or mainland France (including Corsica) in the 10 days prior to arrival in England. It applies to:

i. Individuals who meet **all** of the following requirements:

- have completed their course of an US Food and Drug administration (FDA) approved vaccination with the final dose having been received more than 14 days prior to arrival in England;
- have received that course of doses in the United States;
- are ordinarily resident in the United States;
- have declared on their Passenger Locator Form (PLF) that they meet the criteria for the exemption; and
- are able to provide proof of COVID-19 vaccination if requested by an appropriate official by way of a Centers for Disease Control (CDC) and Prevention vaccination card.

ii. Individuals not vaccinated with an authorised COVID-19 vaccine who are one of the following:

- individuals who have participated, or are participating, in an FDA authorised clinical trial in the United States of a vaccine for vaccination against coronavirus and are able to provide proof of such participation through a CDC vaccination card; or
- an individual who is ordinarily resident in the United States and under the age of 18 on arrival in England.

iii. Individuals who meet all of the following requirements:

- have completed their course of a European Medicines Agency (EMA), or Swissmedic, approved COVID-19 vaccination, with the final dose having been received at least 14 days prior to arrival in England;

- have received that course of doses in the Member States of the European Union (“the EU27”), the European Free Trade Association (EFTA) countries (Norway, Switzerland, Iceland and Liechtenstein), Andorra, Monaco, San Marino, or Vatican City State (collectively referred to as “the European Countries”);
 - have declared on their Passenger Locator Form (PLF) that they meet the criteria for the exemption; and
 - are able to provide proof of vaccination if requested by an appropriate official by way of an EU Digital Covid Certificate (DCC).
- iv. Individuals who are ordinarily resident in the European Countries and are under the age of 18 on arrival in England.
- 7.2 These changes will make it easier for those vaccinated in Europe or United States to return to the England and unite with family and friends and will help to support the economy. This change is designed to continue to drive forward the reopening of international travel, set out as part of the second Global Travel Taskforce checkpoint review. It is one of the first careful steps to reopening international travel while ensuring that public health remains protected throughout the UK.
- 7.3 This instrument also excludes certain people operating transport services from the requirement to undertake workforce tests.
- 7.4 It requires operators to check for evidence for those that are exempt from borders restrictions which seeks to minimise public health risk by ensuring that people do not benefit from an exemption where they do not genuinely meet the criteria.
- 7.5 The instrument updates testing requirements to ensure that private testing providers:
- provide Public Health England (PHE)/NHS Test & Trace (T&T) with the required information with regards to reporting of test results and identifying cases for compliance with regulations;
 - provide PHE sequencing information to identify variants of concern and variants under investigation; and
 - provide tests which meet the required clinical standard.
- 7.6 These changes are required to improve data accuracy, test result reporting and to require day 8 tests to be genome sequenced.
- 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 2018.

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 <http://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 International Travel and Operator Liability regulations (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 The Secretary of State must review the need for the requirements imposed by the Regulations, which this instrument amends, at least every 28 days as a result of a statutory review clause.

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 Helen Whately MP, Minister of State for Care at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.