

## EXPLANATORY MEMORANDUM TO

### THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL AND OPERATOR LIABILITY) (ENGLAND) (AMENDMENT) (NO. 8) REGULATIONS 2021

2021 No. 923

#### 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 (S.I. 2021/582) (“the Regulations”) to:
  - 2.1.1 introduce amendments to the red, amber and green (RAG) list of countries, to limit the risk of importation of harmful variants of Covid-19 from destinations where there is a higher incidence, in line with the latest epidemiological data;
  - 2.1.2 remove the required to self-isolate and take a day 8 test (or equivalent under the workforce testing regime) for fully vaccinated individuals arriving from, or transiting through, Metropolitan France, following improvements in their epidemiological assessment conducted by the Joint Biosecurity Centre (JBC);
  - 2.1.3 amend the Regulations to allow HMG staff who have been vaccinated in the UK overseas vaccine roll-out using locally sourced vaccine stock to qualify for relaxed inbound travel measures when arriving from amber list countries;
  - 2.1.4 amend Schedule 5 of the Regulations to remove sporting events which have finished and add events which will take place later in the year. These are events at which elite sportspeople arriving from amber list countries will participate and in respect of which they will enjoy a temporary exemption from self-isolation;
  - 2.1.5 amend paragraph 18(3) of Schedule 11 to the Regulations to enable boarding school students arriving at England from red list countries to travel to a boarding school in one of the devolved nations;
  - 2.1.6 amend paragraph 2(1)(g)(x) of Schedule 11 to the Regulations so that road hauliers travelling from or through Georgia will not be subject to the additional measures in Schedule 11. This will prevent disruption of the supply of food and goods via road haulage;
  - 2.1.7 amend paragraph 4 of Schedule 13 to edit the list of red list countries from which direct flights are prohibited; and
  - 2.1.8 amend an erroneous cross-reference in paragraph 2(1)(g)(x) of Schedule 11.
- 2.2 The instrument also makes a minor amendment to the Health Protection (Notification) Requirements Regulations 2010 confirm that the obligation on private providers of

Covid-19 testing to report sequencing data to Public Health England (PHE) applies also to positive sequenced day 8 tests. This corrects an oversight in amendments made to that instrument by the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 7) Regulations 2021 (S.I. 2021/914).

### **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.

### **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 7.1 to 7.7 of the [explanatory memorandum to the International Travel Regulations](#) published on [www.legislation.gov.uk](http://www.legislation.gov.uk).

### **7. Policy background**

#### *What is being done and why?*

- 7.1 This amending instrument updates the Regulations to limit the risk of importation of harmful variants of Covid-19 from destinations where there is a higher incidence, in line with the latest epidemiological data. Additionally, the amendments look to minimise the imposition of restrictions on public liberty and ensure that the Regulations and the restrictions they impose are proportionate, necessary and justifiable in the interest of public health.

#### *Explanations*

#### *What did any law do before the changes to be made by this instrument?*

- 7.2 The identification of new variants of Covid-19 with the possibility of higher transmission rates or the potential to affect vaccine efficacy could have significant adverse effects on the UK’s public health and vaccination programme. As a result, ministers created the Regulations to deliver a package of enhanced border measures, which came into force on 17 May. This included setting out the requirement for persons returning from foreign countries or territories to self-isolate upon arrival in England if, within the 10 days preceding their arrival, they have been to or made a

transit stop in a category 2 (amber list) country/territory. This also included the requirement to take, and show the negative result of, a pre-departure, day 2 and day 8 Covid-19 test from an approved private provider.

- 7.3 The Regulations were later updated to minimise the imposition of restrictions on individuals to reflect the positive impact of the UK vaccination programme on transmission risk, whilst ensuring that provisions remain proportionate, in line with the latest epidemiological data. Accordingly, the sixth set of amendments to the Regulations (S.I. 2021/865) relaxed border restrictions for eligible fully vaccinated travellers arriving from amber list countries. The seventh set of amending regulations (S.I. 2021/914) relaxed border restrictions for individuals that are fully vaccinated under authorised programmes in the US, EU27, EFTA and European Microstates travelling from amber list countries (except for France).
- 7.4 Individuals arriving from or transiting through mainland France (including Corsica) in the 10 days prior to arrival in England were not able to enjoy the inbound relaxation to border restrictions. This meant that arrivals from France continued, regardless of their vaccination status, to be subject to self-isolation and day 8 test requirements. The intention of this policy was to reduce the risk of such arrivals, who might still be infected with the potentially vaccine-escaping Beta variant, transmitting that infection within England.
- 7.5 Individuals subject to the vaccine relaxation and exemption are still required to fill in the Passenger Locator Form (PLF), take a pre-departure polymerase chain reaction (PCR) test and a Day 2 PCR test, in line with those requirements on individuals arriving from “green list” countries and territories. Where individuals are unable to provide evidence of vaccination at point of travel, they are required to complete a new PLF and follow the unvaccinated amber travel pathway (self-isolation and testing). It is currently not possible for individuals to remove themselves from the unvaccinated pathway once in country under these Regulations. This is because it is not currently operationally possible to verify in-country vaccination status in a way that is linked to amber route enforcement routes (e.g. follow up calls).

*Why is it being changed?*

- 7.6 The Regulations are being updated to limit the risk of importation of harmful variants of Covid-19 from destinations where there is a higher incidence, in line with the latest epidemiological data. There is a significant public health benefit in requiring arrivals from destinations which have a higher incidence of Covid-19 than the UK to self-isolate as well as those where there is a risk of importation of harmful variants. Accordingly, this amending instrument will make the necessary changes to the RAG inbound travel risk ratings.
- 7.7 It is also important that the Regulations and the restrictions they impose on public liberty are proportionate, necessary and justifiable in the interest of public health. Therefore, this instrument updates the Regulations to permit arrivals from France who otherwise meet the eligibility criteria to enjoy the same relaxed border restrictions as fully vaccinated arrivals arriving from other nations. This is in line with the latest data which shows that, while case rates in France are still rising, the dominant variant is now Delta, with absolute numbers of Beta cases remaining steady. Further, there has been some uncertainty around errors in sequencing uploads to GISAID, which appear to have possibly resulted in some overseas variants of concern (VOC) cases being misattributed to Metropolitan France.

- 7.8 Arising out of changes to the RAG lists is the need for two further changes:
- 7.8.1 permitting road hauliers who travel from or through Georgia (which will move to the 'Red List' at 4:00 a.m. on Sunday 8 August 2021) to avoid going into managed quarantine when they arrive in England. This is akin to what is already done for road hauliers travelling from or through Turkey and has been deemed necessary to avoid disruption to an essential freight route; and
- 7.8.2 editing the list of countries in the Regulations from which direct flights are not permitted. This is a necessary public health measures taking into account the risks posed by flights from red list countries.
- 7.9 This instrument also updates the Regulations to ensure that HMG staff fully vaccinated in the UK overseas vaccine roll-out using locally sourced vaccine stock are able to qualify for relaxed inbound travel measures when arriving from amber list countries. This amendment is being made to ensure that the entirety of HMG overseas staff vaccinated under the overseas staff programme are able to benefit from the relaxation.
- 7.10 Amendments are made in this instrument to bring Schedule 5 of the Regulations up to date, by removing sporting events which have already taken place and adding events which have been authorised to take place later in the year.
- 7.11 This instrument also makes an amendment to reflect a development in policy towards children arriving in England from a red list country to attend boarding school in one of the Devolved Nations. Currently, children arriving in England from a red list country are permitted to undertake their 10 day quarantine period at their boarding school if their school is in England. It has been agreed across the four nations that this should be amended to provide that these arrivals should be permitted to undertake their quarantine period at their boarding school wherever it is across the UK.
- 7.12 This instrument also makes minor amendments to correct (1) an erroneous cross-reference and (2) an oversight in changes made by the No. 7 Regulations (S.I. 2021/914) which came into force on Monday 2 August 2021. Accordingly, the free issue procedure applies to this instrument.

What will it now do?

- 7.13 The instrument amends the Regulations to:
- Make the following changes to the RAG inbound travel risk ratings:
    - Add Austria, Germany, Latvia, Norway, Romania, Slovakia and Slovenia to the green list.
    - Remove Bahrain, India, Qatar and the United Arab Emirates (UAE) from the red list.
    - Add Georgia, Mayotte, Mexico and La Reunion to the red list.
  - Add Georgia and Mexico to the list of countries from which direct flights are not permitted. Both countries will be added to the on-going pilot of permitting commercial flights to arrive at designated terminals in London Heathrow and Birmingham airports. The government continues to assess the efficacy of the pilot and whether permitting direct flights to facilities dedicated to receiving red-list passengers is beneficial to public health.
  - Create an exemption from managed quarantine for road hauliers travelling through or from Georgia.

- Remove the additional restriction on individuals arriving from France to apply the same travel measures as applicable to individuals arriving from amber list countries and territories.
- Change the definition of completed course of dose for the UK vaccine roll-out overseas to only require the doses as specified in the manufacturer's guidance for the vaccine.
- Amend Schedule 5 of the Regulations to add and remove specific exemptions for elite sportspersons participating in specific events in England.
- Amend the exemption for children arriving from red list countries who attend boarding school so that it permits those children to quarantine at their boarding school wherever it is across the four nations. This is provided the children utilise transport designated by the Secretary of State to travel from a designated port to their place of self-isolation.
- Update reporting requirements to confirm that the obligation on private testing providers to report sequencing data to PHE applies also to positive sequenced day 8 tests.

## **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 regulations (ITOLs) regulations, 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 for MQS, at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.
- 15.3 Jo Churchill MP, 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.