
STATUTORY INSTRUMENTS

2022 No. 125

**The Health Protection (Coronavirus, International
Travel and Operator Liability) (England)
(Amendment) (No. 2) Regulations 2022**

Substitution of Schedule 4

25. For Schedule 4 substitute—

“SCHEDULE 4

Regulation 2(5)

Exemptions

PART 1

Seasonal and temporary horticultural and food processing workers

1.—(1) A person who has an offer of employment—

- (a) for seasonal work to carry out specified activities in horticulture at specified premises;
- (b) to carry out specified pork processing activities at specified premises.

(2) For the purposes of sub-paragraph (1)(a)—

(a) “horticulture” means growing—

- (i) protected vegetables grown in glasshouse systems,
- (ii) field vegetables grown outdoors, including vegetables, herbs, leafy salads and potatoes,
- (iii) soft fruit grown outdoors or under cover,
- (iv) trees that bear fruit,
- (v) vines and bines,
- (vi) mushrooms,
- (vii) bulbs and cut flowers grown outdoors and indoors,
- (viii) pot plants, including seasonal bedding plants,
- (ix) hardy ornamental nursery stock, including Christmas trees,
- (x) trees and saplings in tree and forest nurseries;

(b) “seasonal work” is employment which fluctuates or is restricted due to the season or time of the year;

(c) “specified activities” means—

- (i) crop cultivation,
- (ii) crop maintenance,

- (iii) crop harvesting,
 - (iv) crop husbandry,
 - (v) tunnel construction and dismantling,
 - (vi) irrigation installation and maintaining,
 - (vii) packing and processing of crops on employer's premises,
 - (viii) preparing and dismantling growing areas and media,
 - (ix) general primary production work in horticulture,
 - (x) activities relating to supervising teams of horticulture workers;
- (d) "specified premises" means the farm, nursery or glasshouse named in the offer of employment.
- (3) For the purposes of sub-paragraph (1)(b)—
- (a) "specified pork processing activities" means—
 - (i) slaughtering and butchering pigs,
 - (ii) preparing and processing pig meat;
 - (b) "specified premises" means the slaughterhouse, processing site or farm named in the offer of employment.

PART 2

Transport workers

2.—(1) A member of aircraft crew where they have travelled to the United Kingdom in the course of their work or are otherwise required to travel to the United Kingdom for work purposes.

- (2) For the purposes of this paragraph—
- (a) "member of aircraft crew" means a person who—
 - (i) acts as a pilot, flight navigator, flight engineer or flight radiotelephony operator of an aircraft,
 - (ii) is carried on the flight deck and is appointed by the operator of the aircraft to give or to supervise the training, experience, practice and periodical tests required for the flight crew under article 114(2) of the Air Navigation Order 2016⁽¹⁾ or under Annex III or Annex VI of the Air Operations Regulation, or
 - (iii) is carried on the flight for the purpose of performing duties to be assigned by the operator or the pilot in command of the aircraft in the interests of the safety of passengers or of the aircraft;
 - (b) travel for work purposes includes, in particular—
 - (i) where the member of aircraft crew resides outside the United Kingdom, travelling to the United Kingdom to work on an aircraft departing from the United Kingdom,
 - (ii) travelling to attend work-related training in the United Kingdom,
 - (iii) returning to the United Kingdom following work-related training outside the United Kingdom;
 - (iv) returning to the United Kingdom following work as a member of aircraft crew outside of the United Kingdom;

(1) S.I. 2016/765.

(c) “Air Operations Regulation” has the meaning given in paragraph 1 of Schedule 1 to the Air Navigation Order 2016.

3. A civil aviation inspector, as defined in Annex 9 to the Convention on International Civil Aviation signed at Chicago on 7th December 1944⁽²⁾, where they have travelled to the United Kingdom when engaged on inspection duties.

4.—(1) A road passenger transport worker where they have travelled to the United Kingdom in the course of their work.

(2) For the purposes of this paragraph—

(a) “road passenger transport worker” means—

(i) the driver of a public service vehicle, or

(ii) a person who is employed by the holder of a Community licence issued under Article 4 of Regulation^{(EC) No 1073/2009} of the European Parliament and of the Council⁽³⁾;

(b) “driver” includes a person who is travelling in a vehicle as a relief driver;

(c) “public service vehicle” has the meaning given in section 1 of the Public Passenger Vehicles Act 1981⁽⁴⁾.

5.—(1) A road haulage worker where they have travelled to the United Kingdom in the course of their work.

(2) For the purposes of this paragraph—

(a) “driver” includes a person who is travelling in a vehicle as a relief driver;

(b) “goods vehicle” has the meaning given in section 192 of the Road Traffic Act 1988⁽⁵⁾;

(c) “road haulage worker” means—

(i) the driver of a goods vehicle that is being used in connection with the carriage of goods, other than goods for non-commercial personal use by the driver, or

(ii) a person who is employed by the holder of a Community licence issued under Article 4 of Regulation^{(EC) No 1072/2009} of the European Parliament and of the Council⁽⁶⁾.

6. Operational, rail maintenance, safety and security workers working on the tunnel system who have travelled to the United Kingdom in the course of their work.

7. Any of the following who have travelled to the United Kingdom in the course of their work—

(a) drivers and crew on shuttle services and on services for the carriage of passengers or goods by way of the tunnel system;

(b) other workers carrying out essential roles for the safe or efficient operation of the tunnel system, shuttle services or services for the carriage of passengers or goods by way of the tunnel system, or relating to the security of the tunnel system or any such services.

8.—(1) A seafarer.

(2) For the purposes of this paragraph—

(2) The latest edition of Annex 9, which is published by the International Civil Aviation Organization, is the 15th edition, which applied from 23rd February 2018 (ISBN 978-92-9258-301-9).

(3) OJ L 300 14.11.2009, p. 88.

(4) 1981 c. 14; section 1 was amended by section 139(3) of and Schedule 8 to the Transport Act 1985 (c. 67).

(5) 1988 c. 52. There are amendments to section 192 but none is relevant.

(6) OJ No. L 300, 14.11.2009, p. 72.

- (a) “seafarer” means—
- (i) a seaman or master, as defined in section 313(1) of the Merchant Shipping Act 1995⁽⁷⁾, where they have travelled to the United Kingdom in the course of their work or have been repatriated to the United Kingdom in accordance with the Maritime Labour Convention, 2006 or the Work in Fishing Convention, 2007,
 - (ii) a pilot, as defined in paragraph 22(1) of Schedule 3A to the Merchant Shipping Act 1995⁽⁸⁾, where they have travelled to the United Kingdom in the course of their work or have been repatriated to the United Kingdom, or
 - (iii) an inspector, or a surveyor of ships, appointed under section 256 of the Merchant Shipping Act 1995, or by a government of a relevant British possession as defined in section 313(1) of that Act, where they have travelled to the United Kingdom in the course of their work.
- (b) “the Maritime Labour Convention, 2006” means the Convention adopted on 23rd February 2006 by the General Conference of the International Labour Organisation;
- (c) “the Work in Fishing Convention, 2007” means the Convention adopted at Geneva on 14th June 2007 by the International Labour Organisation.

9.—(1) A person who has travelled to the United Kingdom in the course of their work carrying out an essential role at a port for the safe or efficient operation of ferry services which cannot be done remotely.

(2) In sub-paragraph (1), “ferry services” means the services operating on any maritime shipping routes between England and Belgium, Denmark, France, Germany, Ireland, the Netherlands, Spain or Sweden where the service is or will be operated at least once a week.

10.—(1) A government contractor who—

- (a) is employed or engaged to provide support and advice—
 - (i) about border controls and preparedness for those controls,
 - (ii) to road haulage workers, and
 - (iii) on board a vessel during any voyage between a port in England and the port of Bilbao, Caen, Calais, Cherbourg, Dieppe, Dunkirk, Hook of Holland, Rotterdam or Santander, and
- (b) has travelled to the United Kingdom in the course of that work.

(2) For the purposes of sub-paragraph (1), “road haulage worker” has the meaning given in paragraph 5(2)(c).

PART 3

Border security duties

11.—(1) A Crown servant or government contractor where they are—

- (a) required to undertake essential government work related to the United Kingdom border in the United Kingdom; or
- (b) undertaking essential government work related to the United Kingdom border outside of the United Kingdom but—

(7) 1995 c. 21.

(8) Schedule 3A was inserted by Schedule 1 to the Marine Safety Act 2003 (c. 16).

- (i) are required to return to the United Kingdom temporarily,
- (ii) will thereafter depart to undertake essential government work related to the United Kingdom border outside of the United Kingdom.

(2) For the purposes of sub-paragraph (1), “essential government work” means work which has been designated as such by the relevant Department or employer.

12. An official of a foreign Government, required to travel to the United Kingdom to undertake essential border security duties, or a contractor directly supporting these essential border security duties where—

- (a) they are in possession of a written notice signed by a senior member of their foreign Government confirming that they are required to undertake essential border security duties in the United Kingdom; or
- (b) their deployment is pursuant to a standing bilateral or multilateral agreement with Her Majesty’s Government on the operation of the Border controls within the United Kingdom.

PART 4

Law enforcement

13. An official of a foreign police force, required to travel to the United Kingdom to undertake policing activities, or a contractor directly supporting policing activities, where the relevant Department or police force in the United Kingdom has certified that the activities are essential to the foreign police force.

14. A person responsible for escorting a person for the purposes of the Repatriation of Prisoners Act 1984⁽⁹⁾, the Colonial Prisoners Removal Act 1884⁽¹⁰⁾ or the Extradition Act 2003⁽¹¹⁾.

15. A person who is being lawfully compelled to travel to the United Kingdom in the course of an extradition, prisoner transfer or deportation.

PART 5

Other work-related exemptions

16.—(1) A person who has travelled to the United Kingdom for the purpose of transporting material which consists of, or includes, human cells or blood and which is to be used for the provision of healthcare by a healthcare provider.

(2) For the purposes of sub-paragraph (1)—

- (a) “blood” includes blood components;
- (b) “healthcare” means all forms of healthcare provided for individuals, whether relating to mental or physical health, including healthcare in connection with giving birth.

17.—(1) Any person in respect of whom the relevant Department has certified—

- (a) as being a person who is—

⁽⁹⁾ 1984 c.47.
⁽¹⁰⁾ 1884 c.31.g
⁽¹¹⁾ 2003 c. 41.

- (i) a Crown servant or government contractor who is required to undertake essential government work or essential policing whilst in the United Kingdom or is returning from conducting such work outside of the United Kingdom,
 - (ii) a person who is required to undertake essential state business in the United Kingdom or is returning from conducting such business outside of the United Kingdom, or
 - (iii) a person returning to the United Kingdom where this is necessary to facilitate essential government operations and includes, in particular, the functioning of a diplomatic mission or consular post of Her Majesty or of a military or other official posting on behalf of Her Majesty, and
- (b) that, as a result, the person cannot reasonably comply with the requirements of one or more of the following—
- (i) regulation 3ZA (requirement to possess notification of negative test result);
 - (ii) regulation 6 (requirement to book and undertake tests);
 - (iii) regulation 9 (self-isolation requirements on arrivals other than eligible travellers);
 - (iv) Schedule 11 (additional measures applicable to arrivals from category 3 countries and territories).
- (2) For the purposes of sub-paragraph (1)—
- (a) “consular post” means any consulate-general, consulate, vice-consulate or consular agency;
 - (b) “essential government operations” means activity which has been designated as essential to the United Kingdom or Her Majesty’s Government by the relevant Department, and, includes, in particular, activity relating to the functioning of a diplomatic mission or consular post of Her Majesty or of a military or other official posting on behalf of Her Majesty;
 - (c) “essential government work” means work which has been designated as such by the relevant Department, and includes, in particular, work related to national security, the work of the National Crime Agency in pursuance of its statutory functions, and work related to immigration, the coronavirus disease or any other crisis response, but does not include work of the description in paragraph 11 of this Schedule (essential work related to the United Kingdom border);
 - (d) “essential policing” means policing which has been designated as such on behalf of the relevant chief officer or chief constable;
 - (e) “essential state business” means activity which has been designated as essential to the United Kingdom or Her Majesty’s Government by the relevant Department, and includes, in particular, bilateral or multilateral discussions with another state or international organisation and visits to another state on behalf of the United Kingdom or Her Majesty’s Government.

18.—(1) Any person in respect of whom the relevant Department has certified—

- (a) as being a person who is required to undertake essential or emergency work in the United Kingdom which is necessary to facilitate essential government work, or is returning from undertaking such work outside of the United Kingdom, and
- (b) that, as a result, the person cannot reasonably comply with the requirements of one or more of the following—
 - (i) regulation 3ZA (requirement to possess notification of negative test result);
 - (ii) regulation 6 (requirement to book and undertake tests);

- (iii) regulation 9 (self-isolation requirements on arrivals other than eligible travellers);
- (iv) Schedule 11 (additional measures applicable to arrivals from category 3 countries and territories).

(2) For the purposes of sub-paragraph (1) “essential government work” has the same meaning as in paragraph 17.

19.—(1) A person (“P”) who is—

- (a) a member of a diplomatic mission in the United Kingdom;
- (b) a member of a consular post in the United Kingdom;
- (c) passing through the United Kingdom to commence or continue their functions at a diplomatic mission or consular post in another country or territory, or to return to the country of their nationality;
- (d) a sovereign or other head of State who enjoys immunities and privileges by virtue of the State Immunity Act 1978⁽¹²⁾;
- (e) a member of the family forming part of the household of a person falling within any of paragraphs (a) to (d);
- (f) a diplomatic courier or a consular courier.

(2) A person (“P”) described in paragraph (a) of sub-paragraph (5) who meets the conditions set out in sub-paragraph (6).

(3) A person (“P”) who is travelling to the United Kingdom to conduct official business who—

- (a) if P is described in paragraph (b) to (e) of sub-paragraph (5), meets the conditions set out in sub-paragraph (7);
- (b) if P is described in paragraph (f) of sub-paragraph (5), meets the conditions set out in sub-paragraph (8).

(4) A person (“P”) described in paragraphs (f) to (h) of sub-paragraph (5) who is travelling to the United Kingdom to conduct official business with the United Kingdom and meets the conditions set out in sub-paragraph (9).

(5) A person who—

- (a) enjoys relevant immunities and privileges in the United Kingdom and is not described in sub-paragraph (1);
- (b) is an officer or servant of an international organisation;
- (c) is employed by an international organisation as an expert or on a mission;
- (d) is a representative to an international organisation;
- (e) is a member of the official staff of a representative to an international organisation;
- (f) is a representative of a foreign country or territory;
- (g) is a representative of the government of a British overseas territory;
- (h) is a specified person.

(6) The conditions referred to in sub-paragraph (2) are that—

- (a) the stipulated person, or a person acting on their authority, confirms in writing to the Foreign, Commonwealth and Development Office that P is travelling to the United Kingdom, the office held by P, the capacity in which P is travelling to the United Kingdom and that the person considers that one or more of the relevant provisions does not apply to P, and

- (b) prior to P's arrival in the United Kingdom, the Foreign, Commonwealth and Development Office has confirmed in writing to the person referred to in paragraph (a) that it considers P to fall within the description in sub-paragraph (5)(a) and that one or more of the relevant provisions do not apply to P.
- (7) The conditions referred to in sub-paragraph (3)(a) are that—
- (a) the stipulated person, or a person acting on their authority, confirms in writing to the Foreign, Commonwealth and Development Office that P is required to undertake relevant work and that P cannot reasonably undertake the relevant work while complying with one or more of the relevant provisions, and
 - (b) prior to P's arrival in the United Kingdom, the Foreign, Commonwealth and Development Office has confirmed in writing to the person referred to in paragraph (a) that it considers P to be travelling to the United Kingdom to conduct the relevant work and that P cannot reasonably undertake the work while complying with one or more of the relevant provisions.
- (8) The conditions referred to in sub-paragraph (3)(b) are that—
- (a) the stipulated person, or a person acting on their authority, confirms in writing to the Foreign, Commonwealth and Development Office that—
 - (i) P is required to undertake relevant work relating to—
 - (aa) essential maintenance and repair of an information technology or security system necessary for the functioning of a mission or consular post in the United Kingdom which represents the relevant foreign country, or
 - (bb) the holding of an election or referendum in accordance with the laws or regulations of a foreign country or territory, and
 - (ii) P cannot reasonably undertake the relevant work while complying with one or more of the relevant provisions, and
 - (b) prior to P's arrival in the United Kingdom, the Foreign, Commonwealth and Development Office has confirmed in writing to the person referred to in paragraph (a) that it considers P to be travelling to the United Kingdom to conduct the relevant work and that P cannot reasonably undertake the work while complying with one or more of the relevant provisions.
- (9) The conditions referred to in sub-paragraph (4) are that—
- (a) where P is not a specified person—
 - (i) the stipulated person, or a person acting on their authority, confirms in writing to the Foreign, Commonwealth and Development Office that P is required to undertake relevant work and that P cannot reasonably undertake the relevant work while complying with one or more of the relevant provisions, and
 - (ii) prior to P's arrival in the United Kingdom, the Foreign, Commonwealth and Development Office has confirmed in writing to the person referred to in paragraph (a)(i) that P is travelling to the United Kingdom to conduct official business with the United Kingdom and that P cannot reasonably undertake the work while complying with one or more of the relevant provisions;
 - (b) where P is a specified person—
 - (i) P has been invited to the United Kingdom by the Secretary of State for Foreign, Commonwealth and Development Affairs; and
 - (ii) prior to P's arrival in the United Kingdom, the Foreign, Commonwealth and Development Office has confirmed in writing to P that they are travelling to the United Kingdom to conduct official business with the United Kingdom and

cannot reasonably conduct that business while complying with one or more of the relevant provisions.

- (10) For the purposes of this paragraph—
- (a) “consular courier” means a person who has been provided by the State on behalf of which they are acting with an official document confirming their status as a consular courier in accordance with Article 35(5) of the Vienna Convention on Consular Relations of 1963;
 - (b) “consular post” means any consulate-general, consulate, vice-consulate or consular agency;
 - (c) “diplomatic courier” means a person who has been provided by the State on behalf of which they are acting with an official document confirming their status as a diplomatic courier in accordance with Article 27(5) of the Vienna Convention on Diplomatic Relations of 1961;
 - (d) “international organisation” means an international organisation accorded privileges and immunities in the United Kingdom;
 - (e) “member of a consular post” means a “consular officer”, “consular employee” and “member of the service staff” as defined in Schedule 1 to the Consular Relations Act 1968(13), and “head of consular post” has the meaning given in that Schedule;
 - (f) “member of a diplomatic mission” means the “head of the mission”, “members of the diplomatic staff”, “members of the administrative and technical staff” and “members of the service staff” as defined in Schedule 1 to the Diplomatic Privileges Act 1964(14);
 - (g) “relevant immunities and privileges” means inviolability, immunity from arrest or detention, or any immunity or privilege with equivalent effect which is accorded to any person under the law of England and Wales;
 - (h) “relevant provisions” means—
 - (i) regulation 3 (requirement to provide passenger information);
 - (ii) regulation 3ZA (requirement to possess notification of negative test result);
 - (iii) regulation 6 (requirement to book and undertake tests);
 - (iv) regulation 9 (self-isolation requirements on arrivals other than eligible travellers);
 - (v) Schedule 11 (additional measures applicable to arrivals from category 3 countries and territories);
 - (i) “relevant work” means—
 - (i) where P is a person described in sub-paragraph (5)(b), (c), (d) or (e), work which the relevant stipulated person confirms in writing to the Foreign, Commonwealth and Development Office is essential to the functioning of the relevant international organisation;
 - (ii) where P is a person described in sub-paragraph (5)(f), work which the relevant stipulated person confirms in writing to the Foreign, Commonwealth and Development Office is essential to the foreign country represented by the relevant mission or consular post in the United Kingdom or the foreign territory represented by the relevant office in the United Kingdom (as the case may be);
 - (iii) where P is a person described in sub-paragraph (5)(g), work which the relevant stipulated person confirms in writing to the Foreign, Commonwealth and Development Office is essential to the relevant British overseas territory;

(13) 1968 c. 18. There are amendments but none is relevant.

(14) 1964 c. 81. There are amendments but none is relevant.

- (j) “specified person” means a person who is a member of the democratic opposition in a foreign country or territory, a member of a political party in a foreign country or territory, or who undertakes activities in a foreign country or territory that support government policy related to national security, the promotion and protection of human rights, the mitigation of, or adaptation to, climate change, the maintenance of international peace and security, or the maintaining or enhancing of biodiversity;
- (k) “stipulated person” means—
 - (i) where P is a person described in sub-paragraph (5)(a), the head of the relevant international organisation, the relevant head of the mission or head of consular post in the United Kingdom or the relevant head of the office representing a foreign territory in the United Kingdom (as the case may be);
 - (ii) where P is a person described in sub-paragraph (5)(b), (c), (d) or (e), the head of the relevant international organisation;
 - (iii) where P is a person described in sub-paragraph (5)(f), the relevant head of the mission or head of consular post in the United Kingdom or the relevant head of the office representing a foreign territory in the United Kingdom (as the case may be);
 - (iv) where P is a person described in sub-paragraph (5)(g), the relevant Governor of a British overseas territory.

(11) Any exemption provided for in this Schedule or any other provision of these Regulations from the duties that arise under Parts 1 or 2 of these Regulations is without prejudice to any immunity or privilege which is accorded to any person under the law of England and Wales.

20.—(1) A person who is a Crown servant, a government contractor, or a member of a visiting force, who—

- (a) is required to undertake work necessary to the delivery of essential defence activities;
- (b) has travelled from a point of origin within the common travel area or from a category 2 country or territory on a vessel or aircraft operated by, or in support of, Her Majesty’s armed forces or by, or in support of, a visiting force and that vessel or aircraft has not taken on any persons, docked in any port or landed in any category 3 country or territory; or
- (c) has undertaken a continuous period of at least 10 days ending with the day immediately preceding the day of their arrival in the United Kingdom aboard a vessel operated by or in support of Her Majesty’s Naval Service or by, or in support of, a visiting force, where they have not disembarked and that vessel has not taken on any persons or docked in any port outside of the common travel area for a period of at least 10 days ending with the day of its arrival in the United Kingdom.

(2) For the purposes of sub-paragraph (1)—

- (a) “defence” has the meaning given in section 2(4) of the Official Secrets Act 1989;
- (b) “visiting force” means any body, contingent or detachment of the forces of a country, being a body, contingent or detachment for the time being present in the United Kingdom (including United Kingdom territorial waters), on the invitation of Her Majesty’s Government in the United Kingdom.

21. An in-flight security officer deployed pursuant to an international agreement to which the United Kingdom is a party.

PART 6

Other exemptions

22.—(1) A non-disembarking cruise passenger.

(2) For the purposes of sub-paragraph (1), “non-disembarking cruise passenger” means a person, including a crew member, who travels to a port in England on a cruise ship but does not disembark from the cruise ship at any point while it is—

- (a) moored at a port in England, or
- (b) in the territorial waters adjacent to England.

23.—(1) A non-CTA transit passenger.

(2) For the purposes of sub-paragraph (1), “non-CTA transit passenger” means a person who on arrival in the United Kingdom—

- (a) passes through to another country or territory outside the common travel area without entering the United Kingdom; or
- (b) enters the United Kingdom for the sole purpose of continuing a journey to a country or territory outside the common travel area and—
 - (i) remains within their port of entry until their departure from England, or
 - (ii) travels directly from their port of entry to another port of departure in England.

24.—(1) A CTA transit passenger.

(2) For the purposes of sub-paragraph (1), “CTA transit passenger” means a person other than a Schedule 11 passenger who on arrival in the United Kingdom—

- (a) passes through to Guernsey, Jersey or the Isle of Man without entering the United Kingdom; or
- (b) enters the United Kingdom for the sole purpose of continuing a journey to Guernsey, Jersey or the Isle of Man and—
 - (i) remains within their port of entry until their departure from England, or
 - (ii) travels directly from their port of entry to another port of departure in England.

25.—(1) A short-stay cruise passenger.

(2) For the purposes of sub-paragraph (1), “short-stay cruise passenger” means a person other than a Schedule 11 passenger who arrives in England on a cruise ship and is due to depart from England on the same cruise ship within 48 hours of their arrival.”