
STATUTORY INSTRUMENTS

2023 No. 2

**The Health Protection (Coronavirus, International
Travel from China) (England) Regulations 2023**

PART 1

Introductory

Citation, commencement, extent, application and interpretation

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus, International Travel from China) (England) Regulations 2023.

(2) These Regulations come into force at 4.00 a.m. on 5th January 2023.

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

(4) In these Regulations, “mainland China” means the People’s Republic of China excluding—

- (a) the Hong Kong Special Administrative Region;
- (b) the Macao Special Administrative Region.

PART 2

Requirement to possess notification of a negative result from a pre-departure test

Application of Part to persons arriving from mainland China

2.—(1) This Part applies to a person (“P”) who arrives in England on a flight from mainland China.

(2) This Part does not apply to a person described in the Schedule.

(3) In paragraph (1), “a flight from mainland China” means—

- (a) in the case of a commercial flight—
 - (i) a flight that, having departed from mainland China, does not land in any country or territory (other than England), or
 - (ii) a flight to which P transits having arrived in a country or territory (“the third country or territory”) on a flight which departed from mainland China;
- (b) in any other case, a flight on an aircraft that departs from mainland China whether or not the aircraft lands, for any purpose, in any other country or territory in the course of its journey to England.

(4) For the purposes of paragraph (3)(a)(ii), P transits to a flight if, having arrived in the third country or territory—

- (a) P continues their journey to England on that flight,

- (b) the flight is—
 - (i) with the same flight operator, or
 - (ii) with a different flight operator under an arrangement by which the entire journey to England is treated as a single journey, and
- (c) P remains, at all times whilst waiting to depart from the third country or territory, within the airport at which they arrived and departs on the flight from that airport without first passing through immigration control.

Requirement to possess notification of a negative result from a pre-departure test

3.—(1) A person to whom this Part applies (“P”) must, when they arrive in England, possess valid notification of a negative result from—

- (a) where P is an adult—
 - (i) a pre-departure test undertaken by them;
 - (ii) who is accompanying a child aged 12 or over for whom they have responsibility, a pre-departure test undertaken by that child;
- (b) where P is a child aged 12 or over who is unaccompanied by an adult with responsibility for them, a pre-departure test undertaken by them,

unless P has a reasonable excuse.

(2) For the purposes of paragraph (1), reasonable excuses for not possessing valid notification of a negative test result in relation to a person (“M”) include, in particular, where—

- (a) M was medically unfit to provide a sample for a pre-departure test and possessed a document, in English or accompanied by a certified English translation, signed by a medical practitioner entitled to practise the country or territory in which that practitioner was based, to that effect;
- (b) it was not reasonably practicable for a pre-departure test to be obtained in relation to M due to a disability;
- (c) M required medical treatment with such urgency that obtaining a pre-departure test was not reasonably practicable;
- (d) M contracted coronavirus and required emergency medical treatment;
- (e) P was accompanying, in order to provide support, whether medical or otherwise, a person described in sub-paragraph (c) or (d) where it was not reasonably practicable for P to obtain a pre-departure test.

(3) A person who possesses valid notification of a negative result from a pre-departure test must produce that notification if requested to do so by an immigration officer.

(4) In this regulation—

“child” means a person under the age of 18;

“immigration officer” means—

- (a) a person appointed by the Secretary of State as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971(1);
- (b) a person appointed by the Secretary of State to perform the functions of an immigration officer under these Regulations;

(1) Paragraph 1 was amended by paragraph 3 of Schedule 3 to the Health Protection Agency Act 2004 (c. 17), and by S.I. 1993/1813. There are other amendments not relevant to this instrument.

“pre-departure test” means a test for the detection of SARS-CoV-2 that complies with regulation 4;

“valid notification of a negative result” means a notification that includes the information specified in regulation 5.

Pre-departure test criteria

- 4.—(1) For the purposes of regulation 3(4), a test complies with this regulation if—
- (a) it is undertaken using a device which the manufacturer states has—
 - (i) a sensitivity of at least 80%,
 - (ii) a specificity of at least 97%, and
 - (iii) a limit detection of less than or equal to 100,000 SARS-CoV-2 copies per millimetre,
 - (b) it is not provided or administered by a public provider, and
 - (c) the test sample is taken from the person no more than two days before the person’s deemed time of departure.

- (2) In this regulation,

“deemed time of departure” means—

- (a) in relation to a person travelling on a commercial flight—
 - (i) the flight’s scheduled departure time, if the person is arriving in England on a flight from mainland China within the meaning of regulation 2(3)(a)(i);
 - (ii) the scheduled time of departure of the flight that departs from mainland China, if the person is arriving in England on a flight from mainland China within the meaning of regulation 2(3)(a)(ii);
- (b) in any other case, the actual time of departure of the aircraft on which the person is travelling to England.

“public provider” means a test provider who provides or administers a test under the National Health Service Act 2006(2), the National Health Service (Wales) Act 2006(3), the National Health Service (Scotland) Act 1978(4), or the Health and Personal Social Services (Northern Ireland) Order 1972(5).

Form of notification of negative result

5. For the purposes of regulation 3(4), a notification of a negative test result is valid if it includes, in English, French or Spanish—

- (a) the name of the person from whom the sample was taken;
- (b) that person’s date of birth or age;
- (c) the negative result of the test;
- (d) the date the test sample was collected or received by the test provider;
- (e) the name of the test provider and information sufficient to contact that provider;
- (f) a statement—
 - (i) that the test was a polymerase chain reaction test, or
 - (ii) of the name of the device that was used for the test.

(2) 2006 c. 41.

(3) 2006 c. 42.

(4) 1978 c. 29.

(5) S.I. 1972/1265 (N.I. 14).

PART 3

Requirement for operators to implement and maintain processes and systems

Requirement to implement and maintain processes and systems

6.—(1) An operator who operates a commercial flight on which a relevant arrival arrives in England must implement and maintain adequate processes and systems to ensure each relevant arrival on the commercial flight is, when they arrive in England, in possession of the notification required by regulation 3.

(2) For the purposes of paragraph (1), a person is not to be treated as a relevant arrival if the operator, or a person acting on behalf of the operator, reasonably believes—

- (a) the person is not a relevant arrival;
- (b) the person has a reasonable excuse which would protect them from liability under regulation 8(1) for failing to comply with a requirement in regulation 3;
- (c) the person is being lawfully compelled to travel to the United Kingdom in the course of an extradition, prisoner transfer or deportation.

(3) In this regulation, “relevant arrival” means a person to whom Part 2 applies.

Requirement to retain and provide records and information

7.—(1) An operator to whom regulation 6(1) applies must, unless it has a reasonable excuse, retain such records and information as are required to show that it has complied with that regulation.

(2) The Civil Aviation Authority may request from an operator copies of such records and information as the Civil Aviation Authority considers are required to determine whether the operator has complied with regulation 6(1).

(3) A request under paragraph (2) must specify the period within which the operator must provide the records and information requested.

(4) An operator must, unless it has a reasonable excuse, comply with a request under paragraph (2) within the period specified under paragraph (3).

(5) In determining whether an operator has complied with regulation 6(1), the Civil Aviation Authority must have regard to the following matters so far as the Civil Aviation Authority has information about them—

- (a) the regime by which the operator checks that persons to whom Part 2 applies are in possession of the notification required by regulation 3, together with the approach to retaining contemporaneous evidence obtained as a result of such checks;
- (b) the information the operator has collected about persons to whom Part 2 applies who have not complied with regulation 3;
- (c) the existence and quality of any guidance or training programmes for those involved in the day-to-day operation of the processes and systems;
- (d) whether the operator has—
 - (i) appointed a named contact to assist the Civil Aviation Authority in determining whether the operator has complied with regulation 6(1), and
 - (ii) notified the Civil Aviation Authority of the identity of that contact;
- (e) the speed and effectiveness of any response the operator makes to any recommendations made by the Civil Aviation Authority intended to secure the operator’s compliance with regulation 6(1);

- (f) any failure to comply with a request under paragraph (2);
- (g) any other matter the Civil Aviation Authority considers appropriate.

PART 4

Enforcement and expiry

Offences and penalties

- 8.**—(1) A person commits an offence if they fail to comply with a requirement in regulation 3.
- (2) An operator commits an offence if it fails to comply with a requirement in—
- (a) regulation 6;
 - (b) regulation 7.
- (3) An offence under—
- (a) paragraph (1) is punishable on summary conviction by a fine;
 - (b) paragraph (2) is punishable on summary conviction by a fine not exceeding level 4 on the standard scale.

Fixed penalty notices

- 9.**—(1) An authorised person may issue a fixed penalty notice to any person whom the authorised person reasonably believes—
- (a) has committed an offence under regulation 8, and
 - (b) if an individual, is aged 18 or over.
- (2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the designated officer.
- (3) Where a person is issued with a notice under this regulation in respect of an offence—
- (a) no proceedings may be taken for the offence before the end of the period of 28 days following the date of the notice;
 - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.
- (4) A fixed penalty notice must—
- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence,
 - (b) state the period during which (because of paragraph (3)(a)) proceedings will not be taken for the offence,
 - (c) specify the amount of the fixed penalty in accordance with paragraphs (5) and (6),
 - (d) state the name and address of the person to whom the fixed penalty may be paid, and
 - (e) specify permissible methods of payment.
- (5) In the case of—
- (a) an offence under regulation 8(1)—
 - (i) the amount of the first fixed penalty notice is £500;
 - (ii) the amount of the second fixed penalty notice is £1,000;
 - (iii) the amount of the third fixed penalty notice is £2,000;

- (iv) the amount of the fourth fixed penalty notice is £4,000;
- (b) an offence under regulation 8(2), the amount of the fixed penalty notice is £4,000.
- (6) If—
 - (a) the fixed penalty notice is the first one issued to the person, and
 - (b) the amount is paid before the end of the period of 14 days following the date of the notice,
 the amount of the fixed penalty is 50% of the amount that is otherwise specified in paragraph (5).
- (7) Whatever other method may be specified under paragraph (4)(e), payment of a fixed penalty may be made in respect to an offence under regulation 8(1) by pre-paying and posting to the person whose name is stated under paragraph (4)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).
- (8) Where a letter is sent as described in paragraph (7), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (9) Where—
 - (a) a fixed penalty notice has been issued in respect of an offence under regulation 8(2) and paid in accordance with this regulation, and
 - (b) the breach of the requirements amounting to the offence in respect of which the fixed penalty notice was issued continues,
 an authorised person may issue another fixed penalty notice in relation to the offence.
- (10) In any proceedings, a certificate that—
 - (a) purports to be signed by or on behalf of the designated officer, and
 - (b) states that the payment of a fixed penalty was, or was not, received by the date specified in the certificate,
 is evidence of the facts stated.
- (11) In this regulation—
 - “authorised person” means—
 - (a) in relation to an offence under regulation 8(1)—
 - (i) a constable;
 - (ii) an immigration officer;
 - (b) in relation to an offence under regulation 8(2), the Civil Aviation Authority;
 - “the designated officer” means—
 - (a) in relation to an offence under regulation 8(1), an officer designated by the Secretary of State for the purposes of this regulation;
 - (b) in relation to an offence under regulation 8(2), the authorised person.

Prosecutions

- 10.** Proceedings for an offence under—
 - (a) regulation 8(1) may be brought by the Crown Prosecution Service and any person designated by the Secretary of State;
 - (b) regulation 8(2) may be brought by the Civil Aviation Authority.

Expiry

- 11.** These Regulations expire at the end of 4th April 2023.

At 1.02 p.m. on 4th January 2023

Mark Harper
Secretary of State
Department for Transport