

## SCHEDULE

Regulation 2(2)

### Descriptions of persons to whom Part 2 does not apply

#### **Transport workers**

**1.**—(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<sup>(1)</sup> 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;

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

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

#### **Other work-related exemptions**

**3.**—(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.

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

(a) as being a person who is—

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(1) [S.I. 2016/765](#).

**Status:** This is the original version (as it was originally made).

- (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) required to undertake essential state business in the United Kingdom or is returning from conducting such business outside of the United Kingdom, or
  - (iii) 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 His Majesty or of a military or other official posting on behalf of His Majesty, and
- (b) that, as a result, the person cannot reasonably comply with the requirements of regulation 3.
- (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 His Majesty’s Government by the relevant Department, and, includes, in particular, activity relating to the functioning of a diplomatic mission or consular post of His Majesty or of a military or other official posting on behalf of His 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;
  - (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 His 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 His Majesty’s Government.
- 5.—**(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 regulation 3.
- (2) For the purposes of sub-paragraph (1) “essential government work” has the same meaning as in paragraph 4(2)(c).
- 6.—**(1) A person (“P”) described in paragraph (a) of sub-paragraph (4) who meets the conditions set out in sub-paragraph (5).
- (2) 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 (4), meets the conditions set out in sub-paragraph (6);
  - (b) if P is described in paragraph (f) of sub-paragraph (4), meets the conditions set out in sub-paragraph (7).

(3) A person (“P”) described in paragraphs (g) or (h) of sub-paragraph (4) who is travelling to the United Kingdom to conduct official business with the United Kingdom and meets the conditions set out in sub-paragraph (8).

(4) A person who—

- (a) enjoys relevant immunities and privileges in the United Kingdom;
- (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.

(5) The conditions referred to in sub-paragraph (1) 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 regulation 3 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 (4)(a) and that regulation 3 does not apply to P.

(6) The conditions referred to in sub-paragraph (2)(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 regulation 3, 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 regulation 3.

(7) The conditions referred to in sub-paragraph (2)(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 regulation 3, 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 regulation 3.

*Status: This is the original version (as it was originally made).*

- (8) The conditions referred to in sub-paragraph (3) 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 regulation 3, 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 regulation 3;
  - (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 regulation 3.
- (9) For the purposes of this paragraph—
- (a) “consular post” means any consulate-general, consulate, vice-consulate or consular agency;
  - (b) “international organisation” means an international organisation accorded privileges and immunities in the United Kingdom;
  - (c) “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(2), and “head of consular post” has the meaning given in that Schedule;
  - (d) “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;
  - (e) “relevant work” means—
    - (i) where P is a person described in sub-paragraph (4)(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 (4)(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 (4)(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;
  - (f) “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

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(2) 1968 c. 18. There are amendments but none is relevant.

of, or adaptation to, climate change, the maintenance of international peace and security, or the maintaining or enhancing of biodiversity;

- (g) “stipulated person” means—
- (i) where P is a person described in sub-paragraph (4)(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 (4)(b), (c), (d) or (e), the head of the relevant international organisation;
  - (iii) where P is a person described in sub-paragraph (4)(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 (4)(g), the relevant Governor of a British overseas territory.

(10) Any exemption provided for in this Schedule is without prejudice to any immunity or privilege which is accorded to any person under the law of England and Wales.

7.—(1) A person who is a Crown servant, a government contractor, or a member of a visiting force, who is required to undertake work necessary to the delivery of essential defence activities.

- (2) For the purposes of sub-paragraph (1)—
- (a) “defence” has the meaning given in section 2(4) of the Official Secrets Act 1989<sup>(3)</sup>;
  - (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 His Majesty’s Government in the United Kingdom.

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(3) 1989 c. 6.