EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL AND INFORMATION FOR PASSENGERS) (ENGLAND) (AMENDMENT) (NO. 2) REGULATIONS 2021

2021 No. 452

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport 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) (England) Regulations 2020 (S.I. 2020/568) ("the International Travel Regulations") to update the list of specified competitions in Schedule 3, which is relevant to the exemption for elite sportspersons from self-isolation.

2.2 It also amends the Health Protection (Coronavirus, Public Health Information for International Passengers) (England) Regulations 2020 (S.I. 2020/567) ("the Passenger Information Regulations") to change the information that is required to be provided, by operators, to passengers departing from England following the removal of the 'Stay at Home' requirement.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The Department 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.

3.2 The amendments to the International Travel Regulations arise following the eleventh statutory review of those Regulations, which was completed earlier this month. This instrument has been laid, and will come into force, as soon as practicable after the conclusion of that review to ensure that the requirements of the International Travel Regulations remain appropriate and proportionate. The amendment to the Passenger Information Regulations is also being brought into force quickly to ensure that passengers are provided with accurate information.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.3 The entire instrument applies to England only.

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.

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 Part 2A of the Public Health (Control of Disease) Act 1984 ("the 1984 Act") provides a legislative framework for health protection in England and Wales. Section 45B(1) enables the appropriate Minister (defined in section 45T as, for England, the Secretary of State) to make regulations for preventing danger to public health from vessels, aircraft, trains or other conveyances arriving at any place. Further information on Part 2A of the 1984 Act is provided in paragraphs 6.1 to 6.5 of the explanatory memorandum to the International Travel Regulations, available online at: https://www.legislation.gov.uk/uksi/2020/568/pdfs/uksiem_20200568_en.pdf.

6.2 The International Travel Regulations came into force on 8th June 2020 and required people arriving into England from (i) outside the common travel area or (ii) elsewhere in the common travel area where they had been outside the common travel area in the previous 14 days to (a) self-isolate and (b) provide their personal details and travel information. On 10th July 2020, the International Travel Regulations were amended by S.I. 2020/691 to exempt passengers from the requirement to self-isolate where, during the 14 days preceding their arrival into England, they had only been in "exempt countries or territories" listed in Schedule A1. The 14 day period (for the purposes of both self-isolation and providing information) was shortened to 10 days by S.I. 2020/1517 following advice from the Chief Medical Officer.

6.3 Amendments have been frequently made to the list of (i) exempt countries and territories in Schedule A1, (ii) exemptions from the requirements to self-isolate and provide information in Schedule 2 and (iii) specified competitions in Schedule 3, which is relevant to the exemption from the requirement to self-isolate for elite sportspersons. A full list of amending instruments is included in this instrument (in the footnote for the International Travel Regulations).

6.4 Significant amendments to the International Travel Regulations include:

- requiring people arriving into England from outside the common travel area to possess notification of a negative coronavirus test result (S.I. 2021/38);
- introducing enhanced measures for arrivals from countries and territories (listed in Schedule B1) assessed as posing (or potentially posing) an acute risk to public health (S.I. 2020/1644);
- the removal of all countries and territories from Schedule A1 on 18th January 2021 (S.I. 2021/49);
- allowing a person arriving from a non-exempt country or territory (and not listed in Schedule B1) to leave self-isolation upon receipt of a negative test result ('Test to Release'; S.I. 2020/1337);
- prohibiting the arrival of vehicles into England from countries and territories listed in Schedule B2 (S.I. 2021/47);
- amending the definitions of "exempt country or territory" and "non-exempt country or territory" to allow the Government to take a regional approach to changes to the list of exempt countries and territories (S.I. 2020/959).

6.5 Additionally, the Health Protection (Coronavirus, Public Health Information for International Passengers) (England) Regulations 2020 (S.I. 2020/567) and the Health Protection (Coronavirus, Pre-Departure Testing and Operator Liability) (England) (Amendment) Regulations 2021 (S.I. 2021/38) require the operators of commercial transport services to (a) provide information on public health measures to passengers and (b) ensure that passengers have complied with the requirements to possess a negative test result and provide information.

6.6 In February 2021, S.I. 2021/150 introduced (a) a new system of managed quarantine for travellers who have been in a country posing a high risk to the UK from the importation of a variant of concern (a "red-list country") in the 10 days prior to arrival in England and (b) mandatory testing for all travellers who have been outside the common travel area in the 10 days prior to arrival in England. A full explanation of those changes can be found in the explanatory memorandum for that instrument at paragraphs 6.7 to 6.21. Certain sectoral workers were excluded from the general requirement to undergo mandatory testing – a bespoke testing regime for those workers was introduced on 6th April 2021 by S.I. 2021/442.

7. Policy background

What is being done and why?

7.1 The instrument amends Schedule 3 in the International Travel Regulations to remove sporting events which have already taken place and to add sporting events which will take place before the International Travel Regulations expire in June 2021. These events relate to the exemption to self-isolate for elite sportspersons.

7.2 This instrument also amends the Passenger Information Regulations to take into account the replacement of 'Stay at Home' in England with 'Stay in the UK' on 29th March 2021. Under 'Stay at Home', a person could be directed to return home if they did not have a reasonable excuse for being outside their home or refused to complete a travel declaration form. Now, if a person refuses to complete a travel declaration form, or if the completed form does not disclose a reasonable excuse for travelling outside the UK, that person can be directed to leave a port of departure/embarkation point. The information that is required to be provided to passengers is accordingly amended to remove a reference to directions to return home.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 The Department anticipates consolidating the amended instruments in June 2021 subject to Ministerial agreement.

10. Consultation outcome

10.1 There has been no public consultation in relation to this instrument.

11. Guidance

11.1 Guidance on international travel for the public and affected sectors is available online at https://www.gov.uk/government/collections/coronavirus-covid-19-transport-and-travel-guidance#overseas-travel.

12. Impact

12.1 An Impact Assessment has not been prepared for this instrument because the provisions affecting business will have effect for a period of less than 12 months.

12.2 The measures enacted by this instrument will have an impact on affected travellers and businesses but that impact is set against the role that these measures play in reducing the spread of coronavirus.

13. Regulating small business

13.1 The International Travel Regulations apply to people travelling in the course of activities undertaken for small businesses, unless they are within any of the exemptions in Schedule 2 to those Regulations.

13.2 The measures enacted by this instrument will have an impact on small businesses but that impact is set against the role that these measures play in reducing the spread of coronavirus.

14. Monitoring & review

14.1 The International Travel Regulations include a statutory review provision requiring them to be reviewed by 27th July 2020, and at least every 28 days thereafter. Those review provisions are unaffected by this amending instrument.

14.2 The International Travel Regulations cease to have effect at the end of 7th June 2021.

14.3 Monitoring of the legislation will be informed by regular scientific advice on the domestic incidence and prevalence of coronavirus, relative to the incidence, prevalence, and trajectory of coronavirus in countries and territories overseas. This will contribute to ascertaining whether the International Travel Regulations are having a material or a marginal impact on the incidence of coronavirus in the United Kingdom and whether any exemptions remain sufficiently safe.

15. Contact

15.1 Sevvy Palmer at the Department for Transport, email: Sevvy.Palmer@dft.gov.uk, telephone: 07464 496415, can be contacted with any queries regarding the instrument.

15.2 Lola Fadina, Deputy Director for the policy area at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Robert Courts MP, Parliamentary Under Secretary of State for Transport, can confirm that this Explanatory Memorandum meets the required standard.