EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL) (ENGLAND) (AMENDMENT) (NO. 10) REGULATIONS 2021

2021 No. 348

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) (England) Regulations 2020 (S.I. 2020/568) ("International Travel Regulations") to make:

(a) changes to remove the requirement to enter managed self-isolation from travellers from or passing through Portugal (including Madeira and the Azores) and Mauritius, and to reinstate direct flights and shipping;

(b) changes to require international arrivals from Ethiopia, Oman, Somalia and Qatar to enter managed self-isolation, and to ban direct flights from Oman, Ethiopia and Qatar;

(c) exemptions for aviation and maritime crew from managed self-isolation, to support the resilience of freight routes and supply chains and crew welfare;

(d) further medical exemptions for non-urgent medical and vulnerable cases from entering managed self-isolation, when medical evidence is provided and in limited circumstances; and

(e) technical and clarificatory changes.

2.2 The measures are part of a package of measures designed to reduce the public health risks posed by the spread from international travellers of acute severe respiratory syndrome coronavirus 2 ("SARSCoV-2") which causes the disease COVID-19, in particular with respect to the possibility of a variant of concern being imported to the UK.

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, the Government has decided that travellers from or passing through Ethiopia, Oman Somalia and Qatar are now required to enter managed self-isolation on arrival in England. Direct flights will also be banned from Ethiopia, Oman and Qatar. The requirement to enter managed self-isolation will be lifted from travellers from or passing through Portugal (including Madeira and the Azores) and Mauritius, including reinstating direct flights and shipping.

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)

3.2 As this instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

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 this 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 6.1 to 6.5 of the explanatory memorandum to the International Travel Regulations published on www.legislation.gov.uk.

6.2 The International Travel Regulations came into force on 8 June 2020 and introduced a requirement for people arriving into England who have been outside the Common Travel Area in the past 14 days to provide their personal and contact details and travel information (called "passenger information") by completing the Passenger Locator Form ("PLF"), and to self-isolate for a period of 14 days.

6.3 The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel and Public Health Information) (England) (Amendment) Regulations 2020 (S.I. 2020/691). With effect from 10 July 2020, these amendments exempt passengers arriving in England from the requirement to self-isolate where, during the 14 days preceding their arrival, they have only been in "exempt countries or territories" which are listed in Schedule A1. There are currently no exempt countries or territories in Schedule A1.

6.4 Following the UK Chief Medical Officers' decision to change the self-isolation period from 14 to 10 days for contacts of those who test positive, the period of 14 days was also shortened to 10 days by the Health Protection (Coronavirus, International Travel and Public Health Information) (England) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/1517).

6.5 Further amendments to the International Travel Regulations were made to:

(i) amend the definitions of "exempt country or territory" to allow the Government to take a regionalised approach (see S.I. 2020/959);

(ii) add or remove countries or territories from Schedule A1, as appropriate; and

(iii) add or amend exemptions from the requirements to self-isolate (and/or provide information) in Schedule 2 of the International Travel Regulations, as appropriate.

6.6 The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 7) Regulations 2021 (S.I. 2021/150) to introduce a new system of:

(i) managed self-isolation – for travellers who have been in one of the designated countries which poses a risk to the UK from importation of a variant of concern in the 10 days prior to arrival in England and is therefore subject to additional measures; and

(ii) mandatory testing – for all travellers who have been outside the Common Travel Area in the 10 days prior to arrival in England.

6.7 The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 8) Regulations 2021 (S.I. 2021/166) to make changes to the application of exemptions from the self-isolation requirement. Exempt persons were separated into three categories:

(i) those who are entirely exempt from the requirement;

(ii) those who are entirely exempt only if they are ordinarily resident in the United Kingdom;

(iii) those who are only exempt whilst undertaking the work or activity relevant to their exempt status.

The S.I. also changed the required content of the result notification for the negative test result that passengers are required to show under regulation 3A of the International Travel Regulations and that operators are obliged to check under the Operator Liability Regulations. This change followed feedback that the majority of passengers are unable to provide the name of the test device used for Polymerase Chain Reaction (PCR) tests. PCR tests can meet a very high standard with rates of 97% for sensitivity and 99% for specificity and are of a higher standard than other types of tests. Therefore, it was deemed acceptable to amend the regulations to only require passengers to provide proof of a PCR test and not the name of the test device.

6.8 The International Travel Regulations were amended by the Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 9) Regulations 2021 (S.I. 2021/150) to make:

(i) changes to the managed self-isolation package to allow children (and those who were children at the beginning of the current school year) who are travelling unaccompanied for the purpose of attending boarding school in England to complete their self-isolation at school under controlled conditions;

(ii) changes to the managed self-isolation package for unaccompanied children (for whom there is no responsible adult who can join them in accommodation designated for their self-isolation). Unaccompanied children will be able complete their self-isolation in an environment suitable to their specific needs as confirmed by the Under-Secretary of State;

(iii) changes to the mandatory testing regime in relation to private providers and reporting requirements; and

(iv) technical and clarificatory changes.

Amendments to the Managed Self-Isolation Service

6.9 This instrument will introduce three new cohorts of individual who will be exempt from the duty to self-isolate in a managed facility.

6.10 This instrument states that individuals who are performing the following professions will not be subject to the duty to enter a managed facility where they are travelling to

England in order to complete their employment obligations (i) seamen and masters (ii) pilots (iii) inspectors and surveyors of ships and (iv) members of aircraft crew.

6.11 This instrument creates two further exemptions from the duty to self-isolate in a managed facility which an individual can apply for before they travel to England. The first exemption is for those who suffer from a severe medical condition which makes it unreasonable and unpractical for them to self-isolate in a managed facility. The second is for those who have travelled to England with the express intention of visiting a severely ill or dying relative.

6.12 On the recommendation of the Joint Committee on Statutory Instruments the instrument makes a technical amendment to Schedule 1 paragraph 7(b) to refer to paragraph 10(5) of Schedule 2C and not paragraph 10(4).

6.13 The instrument makes another technical amendment to include a reference to refer to a cross-provision in the Health Protection (Coronavirus, Restrictions)(Self-isolation)(England) Regulations 2020.

6.14 The instrument adds persons described in paragraph 38 of Schedule 2 (seasonal agricultural workers) to the list of those who are exempt from the requirement to take a mandatory test on day two and day eight after their arrival. This group of individuals was omitted from this list in previous versions of the regulations in error.

7. Policy background

What is being done and why?

7.1 The identification of new variants of SARS-CoV-2 and the possibility of a variant of concern arising with higher transmission rates or the potential to affect vaccine efficacy could have significant adverse effects on the UK's public health. In response to this threat, the Government mandated a new managed self-isolation service – managed self-isolation - which set out new requirements for people who had travelled from a country subject to additional measures or been in one in the 10 days prior to arrival in England to self-isolate in designated accommodation for 10 days (subject to specified exemptions). The countries subject to additional measures have all been judged to pose a risk to the UK from importation of a variant of concern. Requiring self-isolation in designated accommodation will help prevent community transmission and result in important public health benefits.

7.2 This instrument supports the implementation of this new system by making amendments to the International Travel Regulations. This instrument updates the countries who will be required to enter managed self-isolation, and where there are direct flight bans. The Joint Biosecurity Centre, together with Public Health England, have updated their public health assessments based on the latest data. Having reviewed the latest assessments, the Government has decided that arrivals from Ethiopia, Oman Somalia and Qatar are now required to enter managed self-isolation. Direct flights will also be banned from Ethiopia, Oman and Qatar. The requirement to enter managed self-isolation will be lifted from travellers from or passing through Portugal (including Madeira and the Azores) and Mauritius, including reinstating direct flights and shipping.

7.3 This instrument adds an exemption for aviation and maritime crew for managed self-isolation support the resilience of freight routes and supply chains and crew welfare.

7.4 This instrument adds a further exemption for severe but non-urgent medical and vulnerable cases for entering managed self-isolation. This provides an exemption from managed self-isolation when medical evidence is provided. Further, there is an additional exemption from those who cannot practically self-isolation in a managed facility having travelled to visit a severely ill or dying their relative but demonstrate they will safely self-isolate in another location.

7.5 It also adds a technical amendment to clarify that this is to exempt seasonal agricultural workers (SAWs) from day 2 and day 8 testing.

7.6 Additionally, two minor technical amendments to make certain provisions within the regulations refer correctly to one another.

8. European Union (Withdrawal) Act 2018/ 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 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 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 Regulations, which this instrument amends, will cease to have effect on 8 June 2021 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 A statutory review clause is included in the International Travel Regulations. The Secretary of State must review the need for the requirements imposed by the Regulations, which this instrument amends, at least every 28 days.

15. Contact

15.1 Katie Sands at the Department of Health and Social Care email: katie.sands@dhsc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Andrew Vereker, Deputy Director at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.

15.3 Lord Bethell, Parliamentary Under-Secretary of State for Innovation at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.