



Department
of Health

Health protection (ships and aircraft) regulations

A consultation

July 2013

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Health protection (ships and aircraft) regulations

A consultation

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Executive summary

This consultation document sets out proposals for regulations to be made under the amended Public Health (Control of Disease) Act 1984. This work takes forward the process started by the Health and Social Care Act 2008 to modernise health protection legislation and implement the 'all hazards' approach. The regulations also further implement the International Health Regulations 2005, to which the UK is a State Party.

This consultation is on a set of reduced and consolidated regulations relating to ships and aircraft, to provide updated health protection powers and duties for use at England's ports and airports, replacing the existing ships and aircraft regulations (known as the 'port health' regulations) made in 1979. In summary, the proposed new regulations make updated provision for:

- local and port health authorities to be responsible for carrying out health protection functions under the regulations
- notification of possible infection or contamination on board an ship or an aircraft
- risk assessment of people, including medical examination, and detention for that purpose if necessary
- risk assessment, including inspection, of an ship or an aircraft (and anything on board)
- health measures such as disinfection or decontamination of an aircraft, a ship, or anything on board
- a ship or an aircraft to be safely and conveniently located for risk assessment or health measures
- ship sanitation inspections and certification
- the collection of necessary information
- notifying other countries of a risk where necessary
- general powers to provide information and advice
- charges for health measures, and
- sanctions and penalties for non-compliance.

These provisions differ from the current regulations in a number of respects. They:

- will apply in relation to any infection or contamination presenting a risk of significant harm to human health, not just the specific list of diseases in the current regulations
- simplify the provisions, removing over-specific or redundant regulations and allowing local authorities' proper officers greater discretion in decision-making
- are clearer about the time limits within which a person can be detained for risk assessment, and the process to be followed, to meet modern human rights requirements, and
- remove some regulations which allow the imposition of restrictions which are inappropriate in this context, such as requiring a person's health to be monitored.

We invite comments on these proposals and, in particular, responses to the questions set out in this document.

1. Introduction

Background

- 1.1 Within England, the Public Health (Control of Disease) Act 1984 ('the 1984 Act') provides the legal basis for health protection. Following a major review of health protection legislation, it was comprehensively updated by the Health and Social Care Act 2008 ('the 2008 Act') in order to provide a new, modern framework for the protection of public health from significant harm arising from infectious disease or contamination by chemical or radiological agents.
- 1.2 The 2008 Act replaced out-of-date provisions in the 1984 Act with new arrangements that:
 - have an 'all hazards approach' to health protection, rather than focusing only on specified diseases. This enables a quick response to new or unknown diseases or threats (for example, SARS or polonium 210)
 - take account of developing scientific understanding and provide for a more flexible and proportionate response to outbreaks of infectious disease or incidents of contamination' and
 - clearly take into account the needs and rights of people who might be affected by them.
- 1.3 The provisions in Part 2A of the updated 1984 Act came into force on 6 April 2010. Part 2A requires, or allows, a range of powers and duties in the new health protection framework to be delivered through regulations. Three sets of regulations covering the domestic, or 'in-country', aspects of the new powers and duties were introduced along with Part 2A with effect from 6 April 2010.
- 1.4 The International Health Regulations (IHR) 2005 were adopted by the World Health Assembly of the World Health Organization (WHO) in 2005, and came into effect in June 2007. Article 2 of the IHR sets out their purpose and scope as being 'to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade'. The IHR represent an important international agreement that contributes to global health security and helps State Parties respond to public health threats. As a State Party to the IHR, the UK is committed to implementing them.
- 1.5 The IHR recognise the particular risks of international travel, and set out some specific requirements on State Parties that should be reflected in national legislation. These include requirements for 'ship sanitation.' In England, the Public Health (Ships) Regulations 1979 and the Public Health (Aircraft) Regulations 1979 were amended in

2007 to reflect aspects of the IHR. However, they remain deficient in some respects, and notably do not provide a comprehensive 'all hazards' approach in line with the IHR.

Policy objectives for 'international travel' regulations

- 1.6 The overall aim is for England to have an effective and proportionate legislative framework to prevent the spread of infection or contamination either into the country or abroad, in line with our obligations under the IHR whilst avoiding unnecessary interference with international traffic and trade, as required by the IHR.
- 1.7 The objectives in developing new regulations are to:
- replace current 'ships' and 'aircraft' regulations with simpler, more flexible and up-to-date regulations
 - be consistent with the IHR, and to complete the process of implementation in England insofar as legislation is required
 - adopt the 'all-hazards' approach - replacing specific diseases in the current regulations with more general powers to protect public health, including from chemical or radioactive contamination
 - ensure new measures allow for more efficient use of resources and are overall cost-saving or cost-neutral
 - provide powers which are complementary to, and consistent with, the 'domestic' legislation applying in-country, and
 - avoid unnecessary regulation and hindrance to international travel and trade.
- 1.8 In order to meet the objectives, we have carefully reviewed all the existing requirements under the 1979 regulations. Some are arcane and have fallen into disuse (if they were ever used). We propose to dispose of out of date powers and requirements, so that only those duties and powers that remain relevant continue into the future, with appropriate modernisation.
- 1.9 We are consulting on a new set of regulations relating to ships and aircraft, to complete the process of updating health protection legislation in England.
- 1.10 The more recent Public Health (International Trains) Regulations 1994 relate to international journeys over a 'ground crossing' and therefore attract different requirements in the IHR. We do not propose to replace these regulations.

Major incidents

- 1.11 These regulations are not intended for large scale emergencies, such as large numbers of people on a ship or aircraft all requiring risk assessment or detention; or a declaration by WHO of a Public Health Emergency of International Concern (PHEIC), especially if stronger powers are required to deal with them. In the event of such an emergency, and

if the available domestic powers were inadequate to deal with the situation, further emergency regulations, tailored to deal with the particular circumstances arising could be made under section 45B or 45C of the 1984 Act.

The wider context

- 1.12 WHO estimated in 2008, that over 20% of all deaths worldwide occur because of infectious disease. In the UK, about 7% of deaths can be attributed to infectious disease. WHO has also said that new infectious diseases are emerging at a historically unprecedented rate. In addition, the world faces greater than ever risks of chemical or radiological contamination.
- 1.13 People do not usually need to be compelled to take action to protect their own or other people's health. Occasionally, however, voluntary measures are insufficient and legal powers are needed to deal with infections or contamination that present a significant risk to human health. Without effective powers to respond to such threats, there is a greater risk of suffering to individuals and families, and in extreme cases of damage to the UK economy, businesses, and public services.
- 1.14 The particular circumstances of international ports and airports, with large numbers of people (and cargo) coming from, or travelling to, destinations across the world, mean an increased risk of infection or contamination spreading widely in a short space of time. There is, therefore, a need for effective controls at the border, over and above those applying within the country.

Sea and air travel and trade

- 1.15 International travel and trade by sea and air to and from the UK remains high and is set to increase, which means that the risk of the spread of infection or contamination to and from the UK, and the speed by which it may spread, is also high and likely to increase.
- 1.16 **By sea** There were nearly 23 million international sea passenger journeys to and from the UK in 2010 - 21.1 million were short-sea ferry passengers, 1.6 million were cruise and other long-sea journey passengers. UK ports handled 519 million tonnes of freight traffic in 2010.¹
- 1.17 **By air** There were 2 million international air transport movements to and from the UK in 2010, and 172.6 million terminal passengers on international services. Worldwide,

¹ <https://www.gov.uk/government/publications/tsgb-2011-maritime>

Heathrow had the largest number of terminal passengers on international flights in 2010 at 61 million.²

The continuing role of local authorities and port health authorities in health protection

The White Paper, *Healthy lives, healthy people: Our strategy for public health in England* published in November 2010, sets out the government's proposals for a new, dedicated, national public health service – Public Health England (PHE). The Health and Social Care Act 2012 makes provisions to strengthen the national response on emergency preparedness and health protection, and provide a strong hub for evidence, information and evaluation, supporting local efforts.

Despite these changes local authorities and port health authorities will continue to play their key role in implementing health protection legislation. Local authorities will continue to be funded through formula grant for these functions, separately from the ring-fenced public health budget, which they will receive from PHE for their new public health responsibilities.

Regulatory reform

- 1.18 In framing these draft regulations, we have had regard to the government's intention of transforming the role of regulation in our society. We have aimed to ensure that the regulatory requirements included in these regulations are fully justified and do not impose an unnecessary burden. The impact assessment explains this in more detail and sets out how we have compared the impact of the current and proposed new regulations. We invite consultees' views on whether our assumptions are reasonable, or if not, what revisions we should make.
- 1.19 These regulations are outside the scope of the government's requirements to 'sunset' new regulations, because they do not impose any new net burdens on business or civil society organisations.
- 1.20 The government announced in March 2011 a regulatory moratorium for micro-businesses and start-ups. As international agreements and obligations are outside the scope of the moratorium we do not consider these regulations, because they implement the IHR, should exclude micro-businesses and start-ups.
- 1.21 The regulations, once made, will need to remain fit for purpose. We cannot envisage a scenario where regulations in this field will not be needed to deal with public health

² <https://www.gov.uk/government/publications/tsgb-2011-aviation>

contingencies and we will keep the regulations under review to ensure they are operating as expected to deal with public health issues.

Meaning of infection and contamination

1.22 The draft regulations provide powers to deal with 'infection' or 'contamination'. It should be noted that in this context this always means 'infection or contamination which presents or could present significant harm to human health', as in the Public Health (Control of Disease) Act 1984. It cannot be taken to mean an infection or contamination of less severity.

The 'proper officer'

1.23 The term 'proper officer' is used throughout the regulations and in this document. The draft regulations define a proper officer as meaning 'in relation to a purpose, an officer of the responsible authority appointed for that purpose.' This reflects the definition in section 74 of the 1984 Act.

1.24 The appointment of proper officers is well-established practice in local authorities and port health authorities, and it is the intention that such officers should continue to carry out the statutory functions of their authorities as they do now. Local and port health authorities will be responsible for ensuring that a proper officer appointed for the purpose is suitably trained and qualified in each case.

The draft regulations

1.25 We have had a range of discussions with stakeholders during the development of the draft regulations, including:

- Association of Port Health Authorities (APHA)
- All Leisure Holidays Ltd
- British Ports Association;
- Chartered Institute of Environmental Health (CIEH)
- Chamber of Shipping
- Civil Aviation Authority (Aviation Health Unit)
- Crawley Borough Council
- Health Protection Agency (HPA)
- Heathrow Airport
- Hill Dickinson (an international law firm specialising in shipping)
- James Button Solicitors
- Passenger Shipping Association

- Royal Caribbean International, Celebrity and Azamara Club Cruises, and
- UK Major Ports Group

1.26 We have also had discussions with consultants in communicable disease control, consultants in health protection, port health officers and medical officers, and with other government departments with an interest including the Department for Business, Innovation and Skills, Department for Communities and Local Government, the Ministry of Defence, the Home Office, the UK Border Agency, the Ministry of Justice and the Department for Transport.

The consultation documents

- 1.27 This consultation document summarises the content of, and the rationale for, the draft regulations, available from the Department of Health website (<https://www.gov.uk/government/organisations/department-of-health>). We have also published an impact assessment assessing the economic, equality, health and legal costs and benefits of the proposed regulations. These assessments informed the development of the proposed regulations.
- 1.28 Questions for consultation are included throughout the document, and are summarised in Annex B. We welcome general comments as well as specific responses to the questions.
- 1.29 This consultation closes on 4 October. You can contribute to the consultation by responding in three ways:

email: shipsandplanesregs@dh.gsi.gov.uk

post: Department of Health
Room 165
Richmond House
79 Whitehall
London SW1A 2NS

Online: <http://consultations.dh.gov.uk>

2. The health protection (ships and aircraft) regulations 2013

Summary of the draft regulations

The proposed new regulations make provision for:

- health protection functions to be carried out by local authorities or port health authorities through officers appointed for the purpose
- notification of a possible case of infection or contamination on board a ship or aircraft
- the harbour master or airport management to comply with local authority requests relating to accommodation, or location of a ship or aircraft within the port or airport
- the provision of information to local authorities/port health authorities
- a risk assessment of a person on an inbound or outbound international journey suspected of being infected or contaminated
- a risk assessment of a ship or aircraft or thing on board that ship or aircraft on an inbound international journey suspected of being infected or contaminated
- detention of a person suspected of being infected or contaminated within the port or airport for the purpose of the risk assessment or for an application for a Justice of the Peace's Order
- inspection of a ship or aircraft or a thing on board that ship or aircraft
- requirements to carry out health measures needed on the ship or aircraft such as disinfection or decontamination of a ship or aircraft, or a thing on board that ship or aircraft
- local/port health authorities to recover the costs of measures if they undertake them
- requirements for relevant operators to have regard to any guidelines issued by the Secretary of State and WHO guidelines about disinsection
- information to be sought from passengers to enable contact tracing
- offences and penalties for non-compliance, and
- ship sanitation certification processes as set out in the IHR.

2.1 These draft regulations aim to provide local authority or port health authority officers working in ports or airports with the tools they need to protect public health from infection or contamination. They are more transparent than the regulations they will replace and are designed to provide effective but proportionate powers, in line with the IHR. As now, local authority/port health authority 'proper officers' will be responsible for implementing the regulations.

- 2.2 The duties imposed on other parties by these regulations apply only where a contingency has arisen which could threaten public health, or where the proper officer reasonably believes that to be the case. The intention is that the regulations should not allow unnecessary interference with international traffic and trade.

Part 1 Preliminary matters

Interpretations – regulations 2 and 3

- 2.3 The regulations refer to 'aerodrome' rather than 'airport' because it is the accepted term that encompasses not just an 'airport' but also the surrounding area and buildings upon it. It also includes any place that is designed and equipped for the landing and departing of aircraft that might not be commonly thought as being an 'airport', such as helipads, which need to be covered by the regulations.
- 2.4 The regulations refer to an 'aerodrome operator' as the person who has overall management or control of the aerodrome. To take action under some of the regulations, such as a risk assessment or health measures, the aircraft must be in an area where the measure can be carried out safely and conveniently. As the person with overall management and control of the aerodrome, it is appropriate that these obligations fall on the 'aerodrome operator'.
- 2.5 The regulations refer to an 'aircraft operator' as the person who has the management of an aircraft. This is the person who has the overall responsibility and authority for that aircraft. This is different from the 'commander'. It is possible for a person to be both an aircraft operator and a commander, for example, where a person is commander of his or her own private aircraft. In having responsibility for the aircraft, the aircraft operator may be required to carry out health measures.
- 2.6 The 'responsible authority' in the regulations is the local authority or port health authority whose duty it is to enforce the regulations. The location of the airport determines who the responsible authority is. If that is not entirely within the area of one local or port health authority then it is to be decided by agreement by all parties who is responsible, where there is failure to reach such agreement the Secretary of State may decide.
- 2.7 The definition of 'international voyage' includes the Republic of Ireland in scope. The previous regulations did not do this, the result being that voyages from the Republic of Ireland were not covered by the regulations. We are happy to receive consultees' views on this proposed change.

Q. Do you agree that voyages from the Republic of Ireland should be included within the scope of these regulations?

Disapplication to armed forces – regulation 5

- 2.8 As with the current regulations, we do not propose that the new regulations should apply to the armed forces. For ships, we propose to retain the provision in the current regulations that allows a ship of the armed forces to make a request to be issued with a ship sanitation certificate by the proper officer.**

Part 2 In bound international voyages or flights

Requirement to notify – regulations 6 to 8

- 2.9 These provisions require a master of an inbound voyage or commander of an in bound international flight to ensure that the proper officer is notified if infection or contamination is present on the ship or aircraft, or if the master or commander suspects this to be the case. The requirements apply where a person on board, or who has disembarked at a previous stop, appears to be suffering from infectious disease or contamination, or where there has been a death on board other than through an accident (the aim being to identify where infection or contamination has caused the death).
- 2.10 The notification to the proper officer may be made directly by the master or commander or by the master or commander through a third party. The regulations do not specify how the notification is to be made in order to allow maximum flexibility. It is expected that the initial notification will be an oral report, but electronic means could be used. We propose to retain the legal duty on the crew to inform the master or commander of a case of infectious disease to ensure that the master or commander is able to make such a notification.

Q. Is it necessary to place a legal duty on the crew to inform the master or commander of a case of infectious disease, or would this happen through standard procedures?

- 2.11 The draft regulations provide clear criteria for determining whether a person may have an infectious disease, so that medical expertise is not essential. We understand that most commanders will have access to medical advice, but this may not always be accessible or conclusive. The criteria reflect those in the Maritime Declaration of Health or the Aircraft General Declaration.

- 2.12 In addition, the master or commander must make a report if there are other circumstances that suggest there may be infection or contamination on board. This allows the master or commander to exercise judgement as to what these circumstances might be, including whether the presence of any 'stowaway' animals presents a risk. Unlike in the current regulations, there are no specific requirements to report the presence of animals or captive birds on board the aircraft³.
- 2.13 The Maritime Declaration is set out in Annex 8 of the IHR and the Health Part of the Aircraft General Declaration is set out in Annex 9. Both are already routinely in use. The regulations require the completion of the relevant declaration in addition to the initial notification, and it may additionally be requested by the proper officer whether or not the initial notification has been made. The proper officer may make this request if he or she has reasonable grounds for believing that there is infection or contamination on board, for example, the ship or aircraft has arrived from an affected area as identified by the WHO (under Annex 5 to the IHR) as an area that poses a risk such that vector control measures are recommended. To date, the WHO has not identified any area in this way. The regulations define what is an affected area by reference both to the IHR and to whether or not the Secretary of State has declared an area to be 'affected' as above. There is a similar provision in the current regulations, and we are interested in consultee's views on whether this should be carried over.
- 2.14 European Directive 2010/65/EU on reporting formalities for ships⁴ aims to simplify and harmonise the administrative procedures applied to maritime transport by establishing a standard electronic transmission of information (a 'single window') and by rationalising reporting formalities for ships arriving in or departing from EU ports. The Maritime Declaration is one of the reporting formalities covered by the Directive; hence the Department of Health is working with Department for Transport (which has policy responsibility for the Directive) on its implementation.
- 2.15 The Directive requires that from 1 June 2015, the single window will be the place where all information may be reported once and made available to various competent authorities within Member States and in other EU countries. From that date, Member States are prohibited from receiving information from ships covered by the Directive, including the Maritime Declaration, in paper format. The UK single window is expected to

³ Regulation 14(1) of the [Trade in Animals and Related Products Regulations 2011](#) (SI 2011/1197) require the person responsible for a consignment of animals to notify its arrival to the border inspection post at least one working day before it is due to arrive.

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:283:0001:0010:EN:PDF>

be operational for a period before June 2015, during which period both reporting mechanisms will be in use.

Q. Is the process for notification from in bound flights and voyages sufficient to ensure that the proper officer is alerted to a potentially serious case of infection or contamination? Are there any gaps?

Location on arrival – regulation 9

- 2.16 A proper officer may decide that there is a need to carry out a risk assessment of an incoming ship or aircraft, if he or she has grounds for believing that the ship or aircraft or a person or thing on board may present a risk of spreading infection or contamination. This could happen as a result of the initial notification, submission of the Maritime Health Declaration or the Health Part of the Aircraft General Declaration or if the proper officer reasonably believes there is a risk.
- 2.17 The proper officer may consider it necessary for the ship or aircraft to be sited somewhere within the port or airport other than the place it would normally go to on arrival, so that the risk of spreading infection or contamination can be minimised while the risk is assessed. The proper officer may request the aerodrome operator or harbour master to ensure that the ship or aircraft is situated in a suitable place for this purpose.
- 2.18 This provision stops short of the current powers in regulations for an authorised officer or a customs officer to require a ship or an aircraft to be taken to a safe and convenient part of the port or airport for inspection, by placing the responsibility for the location of a ship or aircraft where it best sits with the harbour master or aerodrome operator.
- 2.19 We recognise that the harbour master or aerodrome operator may not always be in a position to agree with the proper officer as to where the ship or aircraft should go, for sound operational reasons. The regulations allow for this possibility in that the harbour master or aerodrome operator is under a duty to comply with the proper officer's request, but only insofar as he or she is reasonably able to do so.

Q: Is it reasonable to impose a duty on the aerodrome operator or harbour master to comply with a request to site a ship or aircraft somewhere suitable for risk assessment, subject to reasonable operational constraints?

Securing information – regulation 10

- 2.20 The IHR recognise that there may be a need for State Parties to require information from travellers for public health purposes (Article 23). In line with accepted international practice, we propose that the regulations should include powers for the proper officer to request information to enable passengers or crew to be contacted after leaving the ship or aircraft, in the event that there is a risk of spread of infection or contamination. This is generally agreed to be preferable to imposing delays on people while a risk is investigated.
- 2.21 The regulations provide that the proper officer may request the master or commander to secure the information needed to identify which passengers or crew are at risk, and how to contact them. This allows the proper officer to ask about travel history, if relevant.
- 2.22 For aircraft, the use of Passenger Locator Cards – designed by the International Civil Aviation Authority - is already well established internationally for this purpose, and we would expect this to continue to be the mechanism for securing information, with travel history added if that were needed to identify people at risk.
- 2.23 Gathering information about ships' passengers and crew is not straightforward, as passengers are able to move freely around the ship, and are not generally confined to a certain seat. We also understand that on some voyages, such as on ferries, little or no information about passengers is routinely held, and some passengers buy a ticket on boarding. Some details of cruise ship passengers will be on the ship's manifest. However, serious situations such a Public Health Emergency of International Concern (PHEIC) mean that the power to request passenger and crew information is necessary to protect public health.
- 2.24 The proper officer can require that the master secure the stipulated information, insofar as the master is reasonably able to do so, therefore taking into account the practicalities and circumstances that might apply. The information requested is proportionate to the problem and limited to identifying or contacting passengers or crew at risk of infection or contamination. The proper officer may need information about certain passengers or crew, or all the passengers and crew, depending on the circumstances.
- 2.25 The regulations recognise that the master or commander may not be in a position to secure the information sought in some or all cases, by requiring only that the master or commander use his or her best endeavours to do so. There is no compulsion on an individual passenger to provide the information if they do not wish to, though it is obviously in a person's best interests to comply, so that if it emerges that they are at risk of illness they can be reached quickly and enabled to seek treatment.
- 2.26 The requirements of the Data Protection Act will apply to the information collected, ensuring that the information will be processed lawfully and fairly.

Q. Are the provisions for securing information reasonable? Should they be modified in any way?

Ship to be allowed to carry out embarkation or disembarkation of passengers etc – regulation 11

- 2.27 This regulation reflects Article 28 of the IHR. It sets out how the proper officer may prevent essential activities, such as embarking or disembarking passengers or taking on supplies, only if they are carrying out a risk assessment of persons, the ship or a thing on board, if health measures are being undertaken or if the proper officer reasonably believes that preventing such measures are necessary to prevent the spread of infection or contamination.
- 2.28 Under the current regulations, this provision applies only to ships. We are proposing to bring this in line with the IHR and interested in consultees' views as to whether this provision should also apply to aircraft.

Ship sanitation certificates - regulations 12 to 16

- 2.29 The draft regulations contain provisions to implement Article 39 of the IHR on ship sanitation certificates. Many of the requirements of the IHR relating to ship sanitation are already in force in the current (amended) ships regulations.
- 2.30 The master must be able to produce a valid Ship Sanitation Control Certificate or Ship Sanitation Exemption Certificate if requested by the proper officer. If the master is unable to produce a valid certificate then the proper officer, if at an authorised port, must risk assess and inspect the ship using the powers in regulations 23 and 24 before issuing a new certificate. If health measures are required then the proper officer will have them carried out under regulation 25 and annotate the new certificate accordingly.
- 2.31 If the port is unauthorised for issuing ship sanitation certificates then the proper officer is still able to risk assess, inspect or require health measures under the powers in regulations 23, 24 and 25. This would only happen if the proper officer suspected that the ship posed a threat of infection or contamination. The intention is that despite not being at an authorised port the proper officer is still able to carry out the health protection functions within the rest of these draft regulations.
- 2.32 The draft regulations also set out how a master is able to request a new ship sanitation certificate. If the port is authorised, then the proper officer will risk assess, inspect or require health measures under the powers in regulations 23, 24 and 25 before issuing a

new certificate. If the port is not authorised then the proper officer is able to refer the master on to another authorised port.

- 2.33 If for any reason, a proper officer is unable to carry out a risk assessment or health measures pursuant to issuing a certificate, whether requested or because the master does not have a valid certificate, then the proper officer must inform the ship's next port of call of the risk posed (if any) and annotate the current certificate.
- 2.34 A ship sanitation certificate may be extended by one month if the proper officer is satisfied there is no threat of infection or contamination.
- 2.35 The responsible authority will continue to be able to charge for issuing ship sanitation certificates. The draft regulations set out that the responsible authority must publish its tariff of charges at least ten days before the charge is levied and that the tariff must not exceed actual costs incurred.
- 2.36 As with the current regulations, ship sanitation certificates must conform to the model in Annex 3 of the IHR and are valid for six months, subject to a possible extension of one month. The responsible authority is also to keep a copy of issued certificates for one year from their date of issue.

Part 3 Out bound international voyages or flights

- 2.37 This provision (regulation 17) reflects that in Article 28(4) of the IHR, which provides for onward notification of risks. The intention is to help to prevent the spread of infection or contamination abroad, in line with the aims of the IHR.
- 2.38 The draft regulations place a duty on the proper officer to notify a destination aerodrome if he or she believes that a departing aircraft, or person or anything on board, presents a risk of spreading infection or contamination, or may do so. The proper officer must give reasons for their view and an indication of the steps he or she thinks should be taken to address the risk.
- 2.39 There is no need for the proper officer to be certain that there is a risk for this duty to apply, although it must be his or her reasonable view that such a risk exists.
- 2.40 The draft regulations do not specify who is to be notified at the destination aerodrome, referring only to the appropriate authority, which is defined as a person or body who has a role in relation to the spread of infection or contamination. The intention is to allow for the differing arrangements that will exist in airports around the world, and to allow the proper officer to contact a person based at the airport rather than, say, in a health administration building some distance away. We wish to ensure the provision is flexible and does not impose an unreasonable burden on proper officers.

Part 4 Dealing with risks arising from people

2.41 Part 4 of the regulations provides the means for the local or port health authority to deal with the situation where a person at an aerodrome or port presents a risk to others, but is unwilling voluntarily to take the necessary steps to address the risk.

Risk assessment – regulation 18

2.42 Article 30 of the IHR provides that travellers who are in transit and who are suspected of being a source of spread of infection may continue with an international journey if they do not pose an imminent public health risk. We interpret this to mean that if a person intending to travel poses a current risk of spread of infection or contamination (as opposed to a less immediate risk) then the proper officer may carry out a risk assessment. This seems the right approach to protect the health of others, including those in the destination country. The current regulations provide that a 'medical officer' may prohibit a person from embarking if they have been exposed to, and are capable of spreading, an infectious disease.

2.43 The proper officer may carry out a risk assessment of a person, provided that:

- the officer has reasonable grounds for believing that the person presents a risk of spreading infection or contamination to others, or may do so, and
- a person is on an incoming voyage or flight or at the port or aerodrome having arrived on an incoming voyage or flight, or (less likely) where the person proposes to depart on an international voyage or flight.

2.44 The powers outlined below will apply only where a person with an infection or contamination arrives in the country, or proposes to leave, and either refuses to go to hospital or does not need to be admitted, and the person refuses to take steps to avert a risk of infecting or contaminating others. It is anticipated that this situation will arise infrequently.

Detention for the purposes of risk assessment - regulation 19

2.45 As soon as the proper officer decides it is necessary to detain someone for risk assessment, he or she must notify the person formally. The regulations require this notification to cover the reason for the detention, the legal powers for this, the fact that the need for detention will be kept under review, and the next steps the officer proposes to take. The person must be advised of the penalty for absconding from detention.

- 2.46 Throughout the whole period of detention, a proper officer (either the original officer or another officer who is conducting a medical examination as a registered medical practitioner) must keep the need for detention under review. A continuous duty, rather than a duty for a formal review after a set period of time, is more likely to ensure that a person is not detained for any longer than necessary.
- 2.47 Throughout any period of detention, the proper officer must have regard to the person's wellbeing. We are confident that this would happen as a matter of course, but making this a legal requirement puts the importance of this aspect beyond doubt. This provision is intended to ensure that the person is given access to food and drink, suitable facilities, and any medical treatment he or she might need, if the person is willing to accept it. Suitable arrangements should also be put in place for people who do not understand English or who, for example, have learning disabilities. We would not expect the proper officer to administer treatment, although a registered medical practitioner may do so if the person agrees. Any NHS treatment would be subject to the relevant legislation on overseas visitors charging.
- 2.48 The person can, if necessary be detained in the aerodrome for this purpose for a maximum of two hours. However, if the proper officer decides that a medical examination is needed to assess the risk the person poses, the person may be detained for a maximum of six hours altogether. Any medical examination must be carried out by a registered medical practitioner.
- 2.49 The maximum periods for detention have been set at a level that we think is the shortest possible time in which the risk assessment and medical examination, if needed, can be carried out, recognising that these measures are a restriction on the liberty of the person concerned. The level needs to strike a balance between the need to protect public health and the rights of individuals. We invite comments on whether we have struck the right balance.

Q. Are the proposed detention times sufficient to allow for a risk assessment and medical examination where necessary?

Hospitalisation – regulation 20

- 2.50 In the vast majority of cases where someone arrives in the country with a serious infection or contamination, they will be unwell and are likely to be taken to hospital immediately. The proper officer's powers to take action do not apply in this case, and cannot interfere with the healthcare provided to the person. Under regulation 20, all that the proper officer is required to do is to notify the relevant officer within the hospital of such information as is available, to allow that officer to arrange any steps necessary to reduce any risk to others (such as advising that the person is isolated for a period on arrival at the hospital).

Continued detention for purposes of application for Justice of the Peace's Order – regulation 21

- 2.51 If a registered medical practitioner, who has examined a person under these regulations, believes that the person was presenting a significant risk to human health and refusing to agree to measures to remove or reduce the risk, the medical practitioner could apply for an order by a Justice of the Peace (JP) for a compulsory restriction or requirement under Section 45G of the Public Health (Control of Disease) Act 1984. Such a measure could be detention in hospital, isolation or quarantine.
- 2.52 Once the decision is made to apply for a JP order, the person may be detained for a maximum of a further three hours to allow the application to be made. We have aimed to set this time period at the shortest possible duration to allow the application to be made. Once the application is determined – or the proper officer decides not to proceed, which could happen if the situation changes during this period – the person must be allowed to leave.

Q. Is a detention time of three hours sufficient to allow for an application to a JP to be made?

Provision of information by person subject to risk assessment - regulation 22

- 2.53 The proper officer may need information from the person in order to assess the risk, including information about other people, or things, which may have been the source of the infection or contamination (or people who, in turn, the person may have infected or contaminated). The person concerned has a duty to provide the information as far as they reasonably can – it is possible they will not know the answer to some of the questions that might arise, depending on the circumstances, and the draft regulations make allowance for this.
- 2.54 The information supplied is subject to the provisions of the Data Protection Act and so must be processed lawfully and fairly.

Part 5 Dealing with risks arising from aircraft, ship or 'things'

- 2.55 Part 5 of the draft regulations addresses the risks that may arise from the ship or aircraft itself, or anything on board.

Risk assessment by proper officer – regulation 23

- 2.56 The proper officer may carry out a risk assessment if he or she has reasonable grounds for believing that there is a risk of spread of infection or contamination. This could

happen if a notification of a problem has been received or if the ship or aircraft has arrived from an 'affected area'. The powers in this section relate to an incoming ship or aircraft from an international voyage or flight at any point after arrival.

Inspection as part of carrying out a risk assessment – regulation 24

- 2.57 The risk assessment may include an inspection of the ship or aircraft or anything on board. If the proper officer decides to carry out an inspection, he or she must notify the harbour master or aerodrome operator and the master of the ship or commander of the aircraft. In addition, if necessary, the proper officer may request the harbour master or aerodrome operator to ensure that the ship or aircraft is located somewhere within the port or aerodrome where the inspection can be carried out safely and conveniently. The harbour master or aerodrome operator must comply with this request if reasonably able to do so. There is no separate power to detain a ship or aircraft as in the current regulations on the basis that a proper officer's request and the harbour master's or aerodrome operator's duty to comply, as above, should suffice.
- 2.58 It is expected that in the vast majority of cases the proper officer will be permitted to enter the ship or aircraft by the consent of the master or commander. The draft regulations include a duty on the commander to allow immediate access to any part of the ship or aircraft which the proper officer reasonably wishes to inspect, as far as the master or commander is reasonably able to. This allows for a situation where the master or commander may have good reason not to permit access.
- 2.59 However, it is possible that consent may not be given. In that event, the proper officer, if he or she believes that entry to the ship or aircraft is necessary for public health reasons, will need to have recourse to powers of entry in section 61 of the 1984 Act. In this context, the proper officer would need either to give 24 hours notice or obtain a JP warrant due to urgency. While these scenarios seem impractical in the aerodrome or port situation, the powers are included in the regulations to cater for the unlikely event of such an unusual but urgent public health problem.
- 2.60 Once on board the ship or aircraft the proper officer has powers under the draft regulations that are similar to those in the 1984 Act. These are to take people or equipment as necessary for the inspection, carry out a search, take measurements or carry out tests, and take samples. In addition, the proper officer may seize and detain or remove anything from the ship or aircraft if it presents a risk of spreading infection or contamination, or the proper officer suspects it of so doing and needs to examine it further. The proper officer must, however, return anything seized in this way to its owner or the person in charge of it as soon as practicable after the inspection is over (unless the proper officer takes further action under section 45H of the 1984 Act). If the proper officer establishes at the port or aerodrome that action is needed to deal with a risk of infection or contamination, he or she may require this to be done by the owner or person in charge.

- 2.61 The proper officer's powers cover anything on the ship or aircraft, including cargo. We recognise that there is already considerable legislation relating to cargo, so that the result could be an overlap of powers. It is not our intention to duplicate powers. However, the criteria for use of many powers in this area are rather different from public health concerns, and we need to ensure that there are always suitable powers available to deal with a public health risk. We would welcome consultees' views on this issue.

Q. Are specific regulations required to deal with health protection issues related to cargo on ships and aircraft?

- 2.62 Once the inspection is over, the proper officer must inform the harbour master or aerodrome operator and the master or commander without delay. This is in addition to the proper officer's general duty under draft regulation xx to have regard to the need to restore the ship or aircraft to use as soon as possible.

Power to require master or aircraft operator to carry out health measures – regulation 25

- 2.63 The proper officer may find in the course of the inspection that measures are required to prevent the spread of infection or contamination, such as disinfection, disinsection or decontamination. The draft regulations refer to such measures as 'health measures', reflecting the definition in the IHR. Any measures required must be necessary to prevent the spread of infection or contamination, and must be proportionate.
- 2.64 The proper officer may require the aircraft operator to carry out, or to arrange to have carried out, the measures needed. This is to be done by written notice to the operator. The draft regulations set out what must be included in the notice. As well as the proper officer's contact details the notice must cover what measures are required; why they are needed and why they are believed to be proportionate; the time and date by which they must be completed; and the penalty for failing to comply.
- 2.65 There is some debate about identifying the right person to be accountable for implementation of any health measures required in respect of an aircraft or anything on board the aircraft. The current regulations apply this duty to the commander, but the commander may not always be available at the point the proper officer imposes the measures. The aircraft operator – defined as the person who has the management of the aircraft at the relevant time – seems the most appropriate person (the duty can only be applied to one person, not to alternatives). We would prefer to place the duty on a person in a professional role rather than on a company (e.g. the airline) to ensure it is clear who is responsible in any given case. However, we would be grateful for consultees' views on whether this is the best option.

Q. Should the person accountable for implementation of any health measures be the aircraft operator, as defined in para 2.5? If not, who should be accountable?

- 2.66 The duty to carry out or arrange the measures rests with the operator not the proper officer. However, in some circumstances the operator may request the proper officer to carry out or arrange the measures needed, on their behalf, or may simply fail to comply (a failure to comply without reasonable excuse is an offence). In such circumstances, the proper officer may carry out or arrange the measures needed, and may charge for this. The proper officer may do anything appropriate for facilitating the measures.
- 2.67 If the ship or aircraft is not at the time located somewhere where the measures needed can be safely and conveniently carried out, the proper officer may request the aerodrome operator or harbour master to ensure that the ship or aircraft is located somewhere within the aerodrome or port where this can happen. The operator must comply with this request if reasonably able to do so. As for inspections, there is no specific power to detain the ship or aircraft for the purpose of health measures, and the regulations rely on the harbour master's or aerodrome operator's duty to comply with a request.

Power to charge in connection with health measures – regulation 26

- 2.68 The draft regulations provide that in most cases where a proper officer carries out or arranges health measures on behalf of a ship or an aircraft operator, the local or port health authority may impose a charge on the operator. There are some conditions attached to this. In line with the requirements of article 41 of the IHR, the regulations specify that the authority must have published a tariff of its charges for health measures at least ten days in advance of levying any charges, and that the charges must conform to the tariff. The IHR stipulate that there should only be one tariff per State Party and that charges should not exceed the actual costs of the service rendered. However, costs of measures are likely to vary from one part of England to another, which may mean it is impossible to comply with both these requirements. A standard tariff applying across the country could not be consistent with actual costs incurred in all areas.
- 2.69 We think it is fairer to require that charges should not exceed actual costs and allow the tariff to vary from one authority to another. This will allow the tariff to reflect actual costs. However, we think it is reasonable to require authorities to publish their tariffs. The authority must provide a free written explanation of the work done and the charges levied in respect of it. This is similar to a provision in the current regulations.
- 2.70 The 'actual costs' will include staff costs [and overheads], and also allow the authority to pass on in full the amount it has to pay a contractor, if relevant.

- 2.71 In line with the IHR (see Article 40(1)(e)), the draft regulations prohibit any charges in respect of measures applied to a passenger's baggage.

Q. Do you agree that actual charges for health measures should conform to a previously published tariff and that charges should not exceed actual costs?

Part 6 The proper officer's general powers

- 2.72 The draft regulations include provision for the proper officer to carry out a range of functions, and are included to put beyond doubt the proper officer's role in managing health protection risks in an aerodrome or port setting.

Providing information and advice – regulation 28

- 2.73 There are likely to be occasions when the proper officer needs to provide information and/or advice to people at the aerodrome or port about infection or contamination generally, or about specific incidents of infection or contamination.
- 2.74 The draft regulations set out that the information and advice may include whether there is a risk in relation to a specific incident; how to protect against infection and contamination generally, or in relation to a specific incident; what the symptoms of infection or contamination are and the steps to take to address it, if necessary.

Power to carry out health measures on request – regulation 29

- 2.75 The draft regulations provide powers for the proper officer to undertake health measures on request, whether in relation to a person, anything at the port or aerodrome or premises at the port or aerodrome.
- 2.76 This allows the proper officer to take such measures wherever the person or item happens to be, provided it is in the aerodrome or port. This power is not confined to people or things actually on a ship or aircraft at the time, unlike the powers to require compulsory measures.
- 2.77 The local authority or port health authority may charge for any measure carried out on request provided that the person requesting it has been made aware of the charge before the measure is carried out and has agreed to pay it.

Power to request information – regulation 30

- 2.78 There may be occasions where the proper officer needs information about a person, a ship, and aircraft or something else at the port or aerodrome in order to assess whether

there is a risk of spread of infection or contamination, or in order to remove or reduce a risk. The proper officer may request information only for these purposes.

- 2.79 The draft regulations provide that the proper officer may request information from anyone at the port or aerodrome, and that the person must provide the information if it is known to them. The proper officer may also ask anyone else who he or she has reasonable grounds for believing has the information, but who is not at the port or aerodrome. The person asked is not under any obligation to find out anything they do not already know.
- 2.80 The information that may be included in the proper officer's request is, for a person, name, address, medical condition, travel history and the circumstances giving rise to the risk, or possible risk. Where the risk is connected with a ship or aircraft the information may include where it came from and the circumstances giving rise to the risk; and in the case of anything else, what the item is, what it is made of, what it is for, where it came from and the circumstances giving rise to the risk.
- 2.81 The proper officer's power to request information applies in respect of people and things anywhere in the port or aerodrome, not just on board a ship or aircraft, and there is no requirement for an international journey to be involved.

Power to request accommodation – regulation 31

- 2.82 This regulation allows the proper officer to request the aerodrome operator or harbour master to make accommodation available to enable the officer to carry out functions under these regulations. This is intended to provide for circumstances where, for example, the proper officer needs somewhere suitable to carry out a risk assessment of a person or something found on a ship or aircraft.
- 2.83 The harbour master or aerodrome operator is under a duty to comply with any such request, if it is reasonable, unless he or she has a reasonable excuse not to do so. We do not think that compliance would be a problem in practice at larger ports or airports. However, the draft regulation allows for the possibility that the harbour master or aerodrome operator may not be in a position to comply if, for example, accommodation is not available or is in use for other operationally important purposes. The intention is to strike a balance between the proper officer's health protection functions and the operational realities of the port or airport.

Duty to inform an officer of Revenue and Customs – regulation 32

- 2.84 This draft regulation requires the proper officer to inform the customs officer if he or she exercises any functions under the regulations that impinge on the customs officer's work, for example, if the proper officer requests a ship or aircraft to be located in a suitable place for risk assessment, or carries out any functions relating to risks arising from people, ship or aircraft, including on request. It is important to promote effective liaison

between proper officers and officers of Revenue and Customs and this regulation provides for these officers to be duly informed about matters that affect them.

Part 7 Miscellaneous

WHO and Secretary of State Guidance on the disinsection of aircraft – regulation 33

- 2.85 The regulations require the aircraft operator to have regard to any guidelines issued by the Secretary of State for Health or WHO, in relation to the disinsection of aircraft. The regulation is intended to promote best practice in the process of disinsecting aircraft, which is a vital measure to protect against the spread of malaria and other diseases spread by insect vectors. It is designed to reflect the importance of proper disinsection, duly carried out where needed. Many aircraft operators already carry out disinsection measures.
- 2.86 WHO have said (in Annex 5 of the IHR) that it will publish a list of areas where disinsection or other vector control measures are recommended for 'conveyances' arriving from those areas. It is these 'guidelines' that this regulation seeks to address, although no such list has as yet been published. Any list would help in identifying the need for disinsection, but would not assist the technical processes. It is possible that WHO might choose to issue other guidelines relating to disinsection, which this requirement would also cover.
- 2.87 The Secretary of State for Health has no current plans to issue guidelines relating to disinsection, but the possibility that this could happen in the future is acknowledged in the draft regulation. In the unlikely event that any guidelines issued by the Secretary of State were inconsistent with WHO guidelines, the Secretary of State's would have priority. Any such guidelines would be likely to be issued in the form of a list of affected areas.

Part 8 Enforcement, offences and penalties

Fake or misleading information and obstruction – regulations 34 and 35

- 2.88 The draft regulations include a number of offences for non-compliance and appropriate penalties, linked to specific duties. This differs from the current regulations that impose only a general duty to comply. It is not now considered acceptable legislative practice to impose a legal duty without making non-compliance a corresponding offence, with an appropriate penalty - to do so would call into question the need for a legal duty in the first place.
- 2.89 We have considered carefully what duties the regulations should impose, and have not included any for which we do not see a clear rationale. The majority are applicable only in a contingency where there is potential or actual threat to public health. Wherever the draft regulations impose a duty, we consider that the public health interest justifies it, together with a corresponding offence for non-compliance. It is not our aim to criminalise

people on whom duties are placed but to encourage compliance. We think the existence of offences and penalties linked to specific duties provides clarity for all concerned and makes both compliance and enforcement a simpler matter than in the current regulations.

- 2.90 We have aimed to make suitable allowance in the draft regulations for situations where a person in a professional role (such as an aerodrome operator or harbour master) is unable for sound operational reasons to comply with a request made by a proper officer. It is not our intention that a proper officer should be able to trump the judgement of such professionals, who will usually be acting for reasons of safety or security. Therefore, for most duties imposed under the regulations, the duty applies only as far as the person responsible is reasonably able to comply, or alternatively an offence is committed only if non-compliance occurs without reasonable excuse. We cannot prejudge each case where it might be reasonable to refuse a request made for public health reasons, but our intention is that the 'reasonableness of compliance would be considered by all concerned in the light of the circumstances at the time.
- 2.91 We have not included any exception for 'reasonableness' in the case of a person who absconds from detention under the regulations, because we cannot envisage any possible circumstances where there could be a reasonable excuse for so doing. Similarly, it does not seem feasible that there could be a reasonable excuse for the offences of providing false or misleading information, or wilful obstruction.
- 2.92 Duties applied to public bodies or people employed by them do not attract offences or penalties in the regulations because they are enforced through the process of judicial review.
- 2.93 In setting the amounts of fines applicable on summary conviction for an offence, we have worked with the Ministry of Justice to determine what might be appropriate in the circumstances. Our aim is to achieve a proportionate level of penalty reflecting the difference between private individuals and those working for corporate bodies. We welcome consultees' views on the proposed penalties set out below.

Q: Are the proposed offences and penalties a proportionate response to the risks posed to public health? If not, what approach would you suggest, bearing in mind that all duties should be associated with corresponding penalties for breach?

- 2.94 We are aware that there is support for civil, rather than criminal, penalties, such as 'fixed penalty notices'. However, we cannot include civil penalties in the regulations because our legal powers do not permit this.

Summary of proposed offences and penalties

Proposed offence	Who would commit the offence?	Proposed penalty
Failure to comply with duty to notify infection/contamination on in bound flights/voyages	A commander of aircraft/master of ship	Fine not exceeding £5000 (level 5)
Failure to submit Health Part of Aircraft General Declaration or Maritime Declaration of Health	A commander of aircraft/master of ship	Fine not exceeding £5000 (level 5)
Failure to comply with request to ensure aircraft/ship is suitably located for risk assessment, if reasonably able to do so	An aerodrome operator or harbour master	Fine not exceeding £5000 (level 5)
Failure to comply, without reasonable excuse, with request to use best endeavours to secure information for contact tracing	A commander of aircraft/master of ship	Fine not exceeding £5000 (level 5)
Absconding from detention under the regulations for risk assessment or refusing to be detained	Anyone detained by a proper officer under this regulation	Fine not exceeding £1000 (level 3)
Failure to provide information relating to their health or related circumstances	Anyone detained by a proper officer under this regulation	Fine not exceeding £1000 (level 3)
Absconding from detention under the regulations for the purpose of an application for a JP order	Anyone detained by a proper officer under this regulation	Fine not exceeding £1000 (level 3)
Failure to comply with request to ensure aircraft/ship is suitably located for inspection, if reasonably able to do so	The aerodrome operator or harbour master	Fine not exceeding £5000 (level 5)
Failure to comply with duty to allow access to ship or aircraft for inspection	A commander of aircraft/master of ship	Fine not exceeding £5000 (level 5)
Failure to comply with a notice requiring health measures to be carried out	An aircraft operator or ship's master	Fine not exceeding £20,000
Failure to comply with request to ensure aircraft/ship is suitably located for health measures to be carried out, if reasonably able to do so	The aerodrome operator or harbour master	Fine not exceeding £5000 (level 5)
Failure to comply, without reasonable excuse, with request for information about a public health risk	Anyone at the aerodrome or port who has been asked for such information by the proper officer	Fine not exceeding £5000 (level 5)
Failure to comply, without reasonable excuse, with a reasonable request for accommodation at the aerodrome or port	The aerodrome operator or harbour master	Fine not exceeding £5000 (level 5)

Health protection (ships and aircraft) regulations

Failure to comply with duty to have regard to guidelines about disinsection of ship or aircrafts	An aircraft operator or ship's master	Fine not exceeding £5000 (level 5)
Provision of false or misleading information to proper officer carrying out functions under the regulations	Anyone who provides such information	Fine not exceeding £20,000
Wilful obstruction of proper officer carrying out functions under the regulations	Anyone who wilfully obstructs a proper officer	Fine not exceeding £20,000

3. The costs and benefits of the proposed regulations

- 3.1 Published alongside this consultation document is a draft impact assessment, which attempts to assess the extra costs and benefits of the proposed changes to the existing regulations. We welcome comments on the impact assessment as part of this consultation, and particularly your response to the question below.

Q: Do the assessments and assumptions in the impact assessment appear reasonable? Please give reasons if you do not consider this to be the case, with evidence if possible.

- 3.2 Overall, we believe that the proposed updated regulations would create minimal extra costs above those already incurred under the existing regulations, and that they are outweighed by the benefits. Please see the impact assessment for details.

Annex A The consultation process

Criteria for consultation

This consultation aims to:

- formally consult at a stage where there is scope to influence the policy outcome
- consult for at least 12 weeks with consideration given to longer timescales where feasible and sensible
- be clear about the consultations process in the consultation documents, what is being proposed, the scope to influence, and the expected costs and benefits of the proposals
- ensure the consultation exercise is designed to be accessible to, and clearly targeted at, those people it is intended to reach
- keep the burden of consultation to a minimum to ensure consultations are effective and to obtain consultees' 'buy-in' to the process
- analyse responses carefully and give clear feedback to participants following the consultation
- ensure officials running consultations are guided in how to run an effective consultation exercise and share what they learn from the experience.

Comments on the consultation process itself

If you have concerns or comments that you would like to make relating specifically to the consultation process itself please:

contact Consultations Coordinator
Department of Health
3E48, Quarry House
Leeds
LS2 7UE

e-mail consultations.co-ordinator@dh.gsi.gov.uk

Please do not send consultation responses to this address.

Confidentiality of information

We manage the information you provide in response to this consultation in accordance with the Department of Health's [Information Charter](#).

Information we receive, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and, in most circumstances, this will mean that your personal data will not be disclosed to third parties.

Summary of responses to the consultation

A summary of the response to this consultation will be made available before or alongside any further action, such as laying legislation before Parliament, and will be placed on the Consultations website at

<http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/index.htm>

Consultation response

The response will outline how the responses to the consultation have been taken account of in the production of the final regulations to be laid before Parliament. Parliament will have the opportunity to debate the regulations within 40 days if it chooses, and may vote to annul them as a result. If they are not annulled, they will come into force on a date specified in the regulations.

Subject to the regulations proceeding, guidance will be developed in collaboration with stakeholders to help local authorities, port health authorities and others to implement them. This will be made available before the regulations come into force.

Annex B Consultation questions and response form

<p>Q1. Do you agree that voyages from the Republic of Ireland should be included within the scope of these regulations? (para 2.7)</p>
<p>Q2. Is it necessary to place a legal duty on the crew to inform the master or commander of a case of infectious disease, or would this happen through standard procedures? (para 2.10)</p>
<p>Q3. Is the process for notification from in bound flights and voyages sufficient to ensure that the proper officer is alerted to a potentially serious case of infection or contamination? Are there any gaps? (para 2.15)</p>
<p>Q4. Is it reasonable to impose a duty on the aerodrome operator or harbour master to comply with a request to site a ship or aircraft somewhere suitable for risk assessment, subject to reasonable operational constraints? (para 2.19)</p>
<p>Q5. Are the provisions for securing information reasonable? Should they be modified in any way? (para 2.26)</p>
<p>Q6. Are the proposed detention times sufficient to allow for a risk assessment and medical examination, if necessary? (para 2.49)</p>
<p>Q7. Is a detention time of three hours sufficient to allow for an application to be made to a JP? (para 2.52)</p>
<p>Q8. Are specific regulations required to deal with health protection issues related to cargo on ships and aircraft? (para 2.61)</p>
<p>Q9. Should the person accountable for implementation of any health measures be the aircraft operator, as defined in para 2.5. If not, who should be accountable? (para 2.65)</p>
<p>Q10. Do you agree that actual charges for health measures should conform to a previously published tariff and that charges should not exceed actual costs? (para 2.71)</p>
<p>Q11. Are the proposed offences and penalties a proportionate response to the risks posed to public health? If not, what approach would you suggest, bearing in mind that all duties should be associated with corresponding penalties for breach? (para 2.93)</p>
<p>Q12. Do the assessments and assumptions in the Impact Assessment appear reasonable? Please give reasons if you do not consider this to be the case, with evidence if possible. (para 3.1)</p>