

INTRODUCTION

[The Health Protection \(Coronavirus, Restrictions\) \(Self-Isolation\) \(England\) Regulations 2020](#) came into force on 28 September 2020 and apply to England only.

The Regulations make the requirement to [self-isolate](#) a legal duty and impose criminal sanctions for breach on both employers and workers.

This brief will explain the main requirements of the regulations and how they apply to agency workers.

This brief is not exhaustive nor a substitute for legal advice. ALP and its advisors exclude all liability for any claim or loss alleged to have arisen from or in connection with use of the information included within. Businesses rely on this at their own risk.

SELF ISOLATION AND THE REQUIREMENT TO NOTIFY THE SECRETARY OF STATE

An adult who is notified after 28 September 2020, and by a means other than through the NHS Test and Trace app that:

- they have a positive COVID- 19 test result; or
- they have come into close contact with a person who has tested positive

must self- isolate for a period of at least

- 10 days from the date of a positive test result, or from the instruction to self-isolate where the person has come into close contact with a person who has tested positive

And if requested by the Secretary of State or a health or local authority representative, must inform the Secretary of State of where they will serve their period of self-isolation, and the details of any other person living in the same space. There is no detail as to how an individual may inform the Secretary of State, so it is assumed that instruction would be given at the point of such request being made.

Exceptions from Self-Isolation

People who have received two doses of a Covid vaccine or who are aged under 18 are no longer legally required to self-isolate if they are identified as a close contact of a positive case. This means that fully vaccinated contacts will routinely be able to attend work if they do not have symptoms. Instead of self-isolating, those who are identified as close contacts of positive Covid cases are advised to get a free PCR test as soon as possible. Anyone who tests positive following the PCR test will still be legally required to self-isolate, regardless of their vaccination status or age.

Additionally, the [workplace daily contact testing scheme](#) is designed to offer an alternative to self-isolation for contacts of confirmed COVID-19 cases in England. Staff can choose to take part in daily contact testing, rather than self-isolate, where they have been identified as the close contact of someone outside their household who has tested positive for COVID-19. The initial roll-out covers workplaces in sectors that provide essential services, including food distribution and production, but is only available to workplaces that have been approved to take part in the workplace daily contact testing scheme.

NHS Test and Trace have provided ALP with an [overview](#) of setting up and running daily contact testing in your organisation.

People self-isolating may not leave the place where they are self-isolating, for the period of self-isolation except:

- To seek medical assistance, where this is required urgently or on the advice of a registered medical practitioner, including access to



- Services from dentists, opticians, audiologists, chiropodists, chiropractors, osteopaths and other medical or health practitioners
- Services relating to mental health
- To access veterinary services, where this is required urgently or on the advice of a veterinary surgeon
- To fulfil a legal obligation, including attending court or satisfying bail conditions, or participating in legal proceedings
- To avoid risk of harm
- To attend a funeral of a close family member
- To obtain basic necessities such as food or medical supplies for those in the same household (including any pets or animals in the household) where it is not possible to obtain these provisions in any other manner
- To access critical public services including social services and services provided to victims (such as victims of crime)
- To move to a different place where it becomes impracticable to remain at the address at which they are.

WORKER RESPONSIBILITIES

Workers who are self-isolating, or aware of the requirement to self-isolate are required to notify their employer that they are required to self-isolate, including the start and end date of the isolation period. Workers must notify their employer as soon as reasonably practicable, and in any case, before their next day of work if this is within the isolation period.

Agency workers who are self-isolating must notify their labour provider, the principal (labour user) or their employer (where that person is not the labour provider or a principal, for example an umbrella), of the requirement to self-isolate including the start and end dates of the isolation period.

LABOUR PROVIDER AND LABOUR USER RESPONSIBILITIES

Employers will be guilty of an offence if they knowingly allow a worker or agency worker who is required to self-isolate to attend any place for a purpose relating to their employment (other than the address where they should be self-isolating). For the purposes of this requirement, 'employer' is defined as both the labour provider and labour user – both may be in breach.

A labour provider who is informed by an agency worker of their self-isolation, must inform the labour user(s) where the worker has been on assignment, or is due to be on assignment during the period of isolation, and the employer of the agency worker, if the employer is not the labour provider, for example if the agency worker is employed by an umbrella.

A labour user who is informed by an agency worker of their self-isolation must inform the labour provider and the employer of the agency worker if the employer is not the labour provider.

If the agency worker informs their employer, and that employer is not the labour provider, then the employer must inform the labour provider and the labour user(s).

ENFORCEMENT AND SANCTIONS

Breach of the Regulations is a criminal offence liable to a fine ranging from £1,000 (for a first offence) up to £10,000 (for repeated infringements). Both employers and workers can be liable for this fine.



In the first instance, fixed penalty notices will be issued and no further proceedings may be taken if the penalty is paid within 28 days of issue.

Proceedings may be brought by a local authority or the Crown Prosecution Service.

Giving false information is also an offence under these Regulations and individuals who work for the employer can be subject to prosecution as well as the company they work for.

The Regulations can be enforced by “authorised persons” - such as police officers or an officer acting for the local authority – who are able to direct those who are required to self-isolate to return, or remove them to the place where they are self-isolating.

CONSEQUENCES OF BREACH

Aside from the financial costs associated, breach of the Regulations may also result in reputational damage and a breach of health and safety legislation. Concerns raised by workers about health and safety in the workplace may constitute “protected disclosures” for the purposes of the [whistleblowing](#) legislation; and employers should ensure that those who raise such concerns are not subjected to a detriment or dismissed as a consequence of raising such concerns.

ACTION

Labour providers and labour users should agree the correct route of communication for a worker to inform them of the requirement to self-isolate and advise their staff and workers of their obligations under the Regulations, including:

- the requirement to notify the organisation as soon as they are required to self-isolate
- the relevant dates that this will apply.
- The fact that a failure by staff to comply with this instruction will not only amount to a criminal offence under the Regulations but may also result in termination of assignment/disciplinary action (dependent upon the contractual status of the worker)

These Regulations must be reviewed every 6 months and will expire after 12 months.

© *ALP Briefs and Guidance are available free of charge to members from the [ALP Help Centre](#)*