

## POLICY NOTE

### THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL) (SCOTLAND) REGULATIONS 2020

#### SSI 2020/169

The above instrument was made in exercise of the powers conferred by Section 94 of the Public Health (Scotland) Act 2008 (“the 2008 Act”).

Section 122(5) of the 2008 Act states that regulations under section 94(2) are subject to the affirmative procedure. However, section 122(6) provides that the affirmative procedure will not apply if the Scottish Ministers consider that the regulations need to be made urgently. In such situations section 122(7) applies.

**Purpose of instrument.** This instrument makes provision for the purpose of enabling a number of emergency public health measures to be taken in relation to people arriving into Scotland from outside the common travel area, to reduce the public health risks posed by the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Scotland which causes the disease Covid-19.

#### Policy Objectives

1. It is critical for the Scottish Government to take all reasonable steps to prevent the community transmission of disease, where possible. Severe acute respiratory coronavirus 2 (SARS-CoV-2) has been declared by World Health Organisation a Public Health Emergency of International Concern. These measures are deemed necessary to maintain compliance with the public health guidance and limit the further spread of the disease.
2. The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (“the Regulations”) provide for measures in respect of international travellers arriving from outside the Common Travel Area at the UK Border in Scotland or elsewhere in the UK and then travelling on to Scotland in order to reduce the risk of the introduction of new infections of COVID-19 into the community.
3. The Regulations contain provisions to require international travellers to provide journey details, contact details and details of their intended onward travel, in order to support “contact tracing”, and to stay in specified premises for a period of 14 days following arrival in the UK, at home or in other suitable accommodation, in order to limit risks of transmission.
4. In relation to the requirement to stay in specified premises, the Regulations may be distinguished from the the requirements in the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (“the Health Protection Regulations”). The traveller is required to remain in the premises except in a small number of stated circumstances, which include seeking medical assistance, obtaining basic necessities and medical supplies. In contrast to the Health Protection Regulations, this does not include, for example, leaving the house to take exercise, to travel to work etc. Failure to comply with the requirement is an offence.

Failure to comply with the requirements to provide information is an offence (“information offence”).

5. The Regulations make provision for a limited number of exemptions from the requirement to provide contact details and a longer list of exemptions from the requirement to self-isolate. In relation to those exempted from the requirement to self-isolate, these are mainly prescribed critical national infrastructure and other economically essential workers, including pilots, seamen, emergency workers and oil rig workers.

6. The Regulations further provide for the issue of fixed penalty notices where there are reasonable grounds to suspect that an offence has been committed. Police Officers may issue a Fixed Penalty Notice to anyone over 18, if the Police Officer has reason to believe an offence has been committed under the Regulations. Immigration Officers may issue a fixed penalty notice to anyone over 18 if the Immigration Officer has reason to believe an offence has been committed in respect of an information offence. By a fixed penalty notice, a person may discharge any liability for the offence by payment of that penalty within a specified period. For an information offence, the levels of fine are set at £30 if paid within 28 days, or £60 thereafter in relation to the information offences, and this rate will increase if penalties have already been issued to the same person up to a maximum of £480. For a failure to remain at specified premises, the fine is fixed at £480, with no further escalation but followed by a report to the Procurator Fiscal for subsequent offences. The two sets of offences will carry with them maximum fines upon conviction of up to level 5 on the standard scale (£5000). The ability to prosecute in court is the most severe form of enforcement and is in place to be able to deal with very serious committal of the offences.

7. All measures contained in this instrument are time-limited and will expire at the end of the period of twelve months beginning with the day on which they come into force. The requirements imposed by the Regulations must be reviewed every 21 days with the first review being carried out by 29<sup>th</sup> June 2020.

8. Similar emergency public health measures have already been made in relation to England and also in Wales and Northern Ireland to come into force on 8<sup>th</sup> June. There are other global precedents: Germany and Ireland have introduced similar 14 day contact information linked with self-isolation requirements to limit community spread of severe acute respiratory coronavirus 2 (SARS-CoV-2).

### **Consultation**

9. This instrument is being made urgently in Scotland as part of a four nation approach of new public health measures at the UK border to help, as above, prevent further spread of the coronavirus and a possible second wave. The pace of the work on this has meant limited consultation with external stakeholders in Scotland, but there has been ongoing discussion and dialogue by Scottish Government with Police Scotland, COPFS, Border Force in Scotland, Public Health Scotland and the Office of the Information Commissioner as the policy on implementation of the policy in Scotland has been shaped. There has also been discussions between the Scottish Government, Public Health Scotland and airports in Scotland on some practical issues to alert passengers to the new requirements on arrival into Scotland.

## **Impact Assessments**

10. An Equality Impact Assessment and a Business Regulatory Impact Assessment will be made available by 12 June 2020. The provisions of the Regulations are however subject to a requirement on the Scottish Government to review the requirements.

Scottish Government  
COVID-19 Public Health Directorate

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