

2020 No. 170

PUBLIC HEALTH

**The Health Protection (Coronavirus, Public Health Information
for Passengers Travelling to Scotland) Regulations 2020**

Approved by the Scottish Parliament

Made - - - - 7th June 2020

Coming into force - - at 12.01 a.m. on 8th June 2020

Laid before the Scottish Parliament at 9.00 a.m. on 8th June 2020

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 94(1)(b)(i) of the Public Health etc. (Scotland) Act 2008(a), and all other powers enabling them to do so.

In accordance with section 122(6) and (7) of that Act, the Scottish Ministers consider that these Regulations need to be made urgently, without a draft having been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020.

(2) These Regulations come into force at 12.01 a.m. on 8 June 2020.

Interpretation

2. In these Regulations—

“common travel area” has the meaning given in section 1(3) of the Immigration Act 1971(b),

“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),

“coronavirus disease” means COVID-19 (the official designation of the disease which can be caused by coronavirus),

“international passenger service” means a commercial service by which passengers travel to a port in Scotland from outside the common travel area on a vessel or aircraft,

“operator” means operator of an international passenger service,

“port” means any port (including a seaport, airport or heliport), “required information” means the information specified in the schedule,

(a) 2008 asp 5.

(b) 1971 c.77. That section provides that the United Kingdom, the Channel Islands, the Isle of Man, and the Republic of Ireland are collectively referred to as “the common travel area”.

“required information” is the information specified in the Schedule,

“vessel” means a vessel which is 24 metres or more in length.

Provision of information before booking

3.—(1) Subject to the following provisions of this regulation an operator must ensure that, a passenger who arrives at a port in Scotland on an international passenger service provided by the operator, was provided with the required information before the booking was made.

(2) If another person (A) made the booking on behalf of the passenger (whether or not A is also a passenger on the service) the requirement in paragraph (1) is to be treated as complied with if the required information was provided to A, either orally or in writing, before the booking was made, along with a written request that A provide that information to the passenger, unless A considers that, by virtue of age or mental capacity, the passenger is unlikely to be capable of understanding it.

(3) Paragraph (1) applies only if the booking took place after these Regulations come into force.

Provision of information before check in

4.—(1) Subject to the following provisions of this regulation an operator must ensure that, a passenger who arrives at a port in Scotland on an international passenger service provided by the operator, was provided with the required information at the time that the passenger was checked in to travel on that service.

(2) If another person (B) checked in on behalf of the passenger (whether or not B is also a passenger on the service) the requirement in paragraph (1) is to be treated as complied with if the required information was provided to B, either orally or in writing, at the time of check-in, along with a written request that B provide that information to the passenger, unless B considers that, by virtue of age or mental capacity, the passenger is unlikely to be capable of understanding it.

(3) Paragraph (1) applies only if the check-in took place after these Regulations come into force.

Provision of information during journey

5. An operator must ensure that, every passenger who arrives at a port in Scotland on an international passenger service provided by the operator, has been provided with the required information before the vessel or aircraft arrives at that port..

Offences

6.—(1) An operator who fails to comply with regulations 3(1), 4(1) or 5 is guilty of an offence when the international passenger service arrives at a port in Scotland.

(2) A person who commits an offence under paragraph (1) is liable on conviction on indictment to a fine.

(3) In relation to the requirement to provide the required information in regulation 3(1) or 4(1) it is a defence for an operator to prove that—

- (a) the booking or check-in process was not managed directly by the operator, and
- (b) the operator took reasonable steps to ensure that the person managing the process would provide the required information at that booking or check-in time in the required manner.

(4) In relation to the requirement to provide the required information in regulation 5, it is a defence for an operator to prove that they had a reasonable excuse for failing to provide the required information.

(5) In paragraph (5) a “reasonable excuse” includes that a passenger who was not provided with the required information was, by virtue of age or mental capacity, unlikely to be able to understand the required information.

Extra-territorial jurisdiction

7.—(1) An offence can be committed under regulation 6(1) where the failure to provide the required information occurs wholly or partly outside Scotland.

(2) An operator may be prosecuted, tried and punished for an offence under regulation 6(1) upon the arrival of the international passenger service in Scotland—

- (a) in the sheriff court district within which the port of arrival is located, or
- (b) in such other sheriff court district as the Lord Advocate may direct,

as if the offence has been committed in that district (and the offence is, for all purposes incidental to or consequential on the trial and punishment, deemed to have been committed in that district).

Review

8. The Scottish Ministers must review the need for these Regulations at least once every 21 days, with the first review being carried out by 29 June 2020.

Expiry

9.—(1) These Regulations expire at the end of the period of 12 months beginning with the day on which they come into force.

(2) The expiry of these Regulations does not affect the validity of anything done pursuant to these Regulations before they expire.

JEANE FREEMAN
A member of the Scottish Government

St Andrew's House,
Edinburgh
7th June 2020

SCHEDULE

Regulation 2

REQUIRED INFORMATION

1. The required information to be provided under regulation 3(1) is—
 - (a) to be given in writing during an online booking and include—
 - (i) a link to www.gov.uk/uk-border-control embedded on the operator's website in a prominent place so that the link is visible prior to completion of the booking,
 - (ii) an instruction to travellers that they should read the latest public health advice that applies at the port of destination, or
 - (b) to be provided orally during telephone bookings, or orally or in writing during in-person bookings and include—
 - (i) advice that travellers on an international passenger service visit www.gov.uk/uk-border-control and read it before boarding that international passenger service,
 - (ii) confirmation by the operator that travellers have access to the information on the website referred to in paragraph 1(b)(i).
2. The required information to be provided under regulation 4(1) is—
 - (a) to be given in writing during a digital check-in and include—
 - (i) a link to www.gov.uk/uk-border-control embedded on an operator's digital check-in page in a prominent place so that the link is visible prior to completion of the booking, or included with an email confirmation,
 - (ii) an instruction to travellers, provided alongside the link to the website in paragraph 2(a)(i), that they should read the latest public health advice that applies at the port of destination, or
 - (b) to be provided orally during check-in at a port and include—
 - (i) advice that travellers on an international passenger service visit www.gov.uk/uk-border-control and read it before boarding that international passenger service,
 - (ii) confirmation by the operator that travellers have access to the information on the website referred to in paragraph 2(b)(i), and
 - (iii) advice that where travellers have not read the information on the website referred to in paragraph 2(b)(i), they should do so before travelling on that international passenger service.
3. The required information to be provided under regulation 5 is to be given via an on-board announcement or in writing and include—
 - (a) information about the symptoms of coronavirus,
 - (b) advice to passengers to inform the crew if they are experiencing any of those symptoms,
 - (c) advice to passengers of simple protective measures including—
 - (i) washing your hands,
 - (ii) avoiding touching your face with your hands,
 - (iii) catching coughs and sneezes in a tissue and disposing of those tissues immediately,
 - (d) instruction that everyone who arrives in Scotland must, by law, complete a Passenger Locator Form certain, on or before arrival and must self-isolate for a period of 14 days after arrival in the country unless they are in an exempt category. To view the exemptions list, visit gov.uk.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose requirements on persons (“operators”) operating commercial services for international passengers travelling to Scotland by sea and air from outside the open borders area comprising the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland (the “common travel area” by virtue of section 1(3) of the Immigration Act 1971 (c.77)).

Regulations 3, 4 and 5 require operators to ensure that passengers on such services who arrive in Scotland have been provided with certain public health information (“required information”) on three separate occasions.

Regulation 6 provides that breach of the requirements to provide required information in regulation 3(1), regulation 4(1) or 5 is an offence.

Regulation 9 provides that these Regulations expire 12 months after they come into force.

A full impact assessment has not been completed due to the urgent nature of this instrument.

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