

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL ETC.) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) (NO. 2) REGULATIONS 2021

SSI 2021/208

The above instrument was made in exercise of the powers conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”). Section 122(5) of the 2008 Act states that regulations under section 94(1) 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.

Summary Box

This instrument makes further amendments to the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 which impose requirements on international travellers to reduce the public health risks posed by the spread of coronavirus (severe acute respiratory syndrome coronavirus 2, or SARS-CoV-2) in Scotland which causes the coronavirus disease (COVID-19).

Regulation 5C is amended to extend regulations 5D to 5J to arrivals in Scotland from exempt countries and territories, requiring that they take a day 2 test only. Seasonal agricultural workers are also added to the list of persons to whom regulations 5D to 5J apply.

Regulation 6 is amended to require that all persons entering Scotland from a country or territory which is not either an exempt country or territory, or an acute risk country or territory, and have not within the preceding 10 days departed from or transited through an acute risk country or territory, are required to stay in specified premises. It also requires that those travellers entering Scotland under a UK refugee resettlement scheme, unaccompanied children, or children attending boarding school stay in specified premises if they have entered Scotland from a country or territory which is an acute risk country or territory.

Regulations 6A and 6B are amended so that the requirements to possess a managed self-isolation package and to stay in managed accommodation apply only to travellers arriving in Scotland from acute risk countries or territories or having travelled through an acute risk country or territory in the previous 10 days.

This instrument amends schedule A1 to add Australia, Brunei, Faroe Islands, Iceland, Israel and Jerusalem, New Zealand, Portugal and Singapore to the list of exempt countries and territories and Falkland Islands, Gibraltar, St Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands to the list of exempt United Kingdom Overseas Territories in schedule A1.

This instrument amends the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020 (SSI 2020/170) to update the passenger notices in schedule 2 to reflect the latest requirements on travellers.

Background

1. The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (SSI 2020/169) (“the principal Regulations”) were made on 7 June and came into force on 8 June, 2020, and were laid in the Scottish Parliament on 8 June 2020. This instrument makes further amendments to the principal Regulations.

2. The principal Regulations were made urgently in order to reduce the likelihood that an increase in coronavirus infections in Scotland would arise as a result of imported cases. Managed self-isolation for international travellers was introduced from 15 February 2021.

Policy Objectives

3. Regulation 5C is amended to impose testing requirements on travellers arriving in Scotland from exempt countries or territories (so called “green list” countries). Prior to this amendment there were no countries designated as exempt or “green list”. Persons arriving in Scotland from exempt countries or territories, or arriving in Scotland from elsewhere in the common travel area having departed from or transited through an exempt country or territory in the previous 10 days, are required to book and take the day 2 test only in accordance with the requirements in regulations 5D to 5J which are extended to these persons. Owing to the reduced public health risk posed by travellers arriving from an exempt country, a day 8 test is not required for these persons. The day 2 test provides the greatest likelihood of identifying positive cases after a negative pre-departure test.

4. Further consequential amendments are made to regulations 5E, 5F, 5G and 5H to reflect this change. Regulation 5E, the obligation to provide information, is updated to include in the information to be provided to the test provider the date on which a person last departed from or transited through an exempt country and to require arrivals from exempt countries to inform the test provider the address where they will be resident at the time they undertake their day 2 test if that address is not their home address. Regulation 5F is amended to provide that green list arrivals need to take a day 2 test only. Regulations 5G and 5H are amended so that they do not apply to arrivals from exempt countries and territories. If these persons test positive following their day 2 test, normal domestic self-isolation procedures will be applied.

5. Regulation 5C is further amended to require seasonal agricultural workers to undertake day 2 and day 8 tests (or day 2 tests only) in accordance with regulations 5D to 5J. Seasonal agricultural workers are required to isolate at named farms and undertake testing at that location.

6. Regulation 6 of the principal Regulations is amended so that persons arriving in Scotland from a country or territory which is neither an exempt country or territory, or an acute risk country or territory, and who have not within the preceding 10 days departed from or transited through an acute risk country or territory, are required to stay in specified premises. These “amber list” arrivals are not therefore required to stay in managed quarantine owing to the reduced public health risk posed by importation of the coronavirus from these countries and territories, in comparison to the acute risk countries and territories. They must however isolate at a specified premises, the same approach as is being taken by the United Kingdom Government regarding travellers arriving in England.

7. In addition, regulation 6 as amended requires travellers entering Scotland under a UK refugee resettlement scheme, certain sportspersons, unaccompanied children or children attending boarding school, to stay in specified premises if they have entered Scotland from a country or territory which is an acute risk country or territory.

8. Regulations 6A and 6B are amended so that the requirements to possess a managed self-isolation package and to stay in managed accommodation apply to travellers arriving from acute risk countries or territories only, or travellers who have departed from or transited through an acute risk country or territory in the previous 10 days (so called “red list” travellers). This requirement remains in place owing to the increased risk of importation of coronavirus and variants of concern and variants under investigation from these countries and territories.

9. This instrument amends schedule A1 (so called “green list” countries and territories) to add Australia, Brunei, Faroe Islands, Iceland, Israel and Jerusalem, New Zealand, Portugal and Singapore to the list of exempt countries and territories and Falkland Islands, Gibraltar, St Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands to the list of exempt United Kingdom Overseas Territories in schedule A1. Travellers are exempt from the quarantine requirement where, during the 10 days preceding their arrival in Scotland, they have only travelled in or through any other part of the common travel area or any “exempt countries or territories”. These countries and territories have been added to schedule A1 as the public health risk of importation of coronavirus to Scotland from these places has been deemed sufficiently low to merit an exemption. The list in schedule A1 will be subject to on-going review and further countries will be added or removed, informed by their risk status, when appropriate and proportionate to do so.

10. This instrument amends the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020 (SSI 2020/170) to update the passenger notices in schedule 2 to reflect the latest requirements on travellers.

Consultation

11. This instrument is being made urgently in Scotland to make further amendments to the public health measures in respect of international arrivals to the UK that were brought in on a UK-wide basis from 8 June 2020. The purpose of the principal Regulations is, as above, to help prevent further spread of the coronavirus. Each of the four nations is required under their own Regulations to conduct regular reviews, and as those reviews are conducted there is the possibility of divergence from that initial four nation aligned approach, either on the need for the Regulations themselves or for any of the measures imposed by those Regulations. Such policy divergence may include the Scottish Government, or any of the other three administrations in the UK, reaching a different view on exempt countries and territories or parts thereof under the Regulations, reflecting differences in the prevalence of COVID-19 in that particular nation at any review point.

12. This instrument makes further amendments to the principal Regulations to take into account the outcome of a review of those regulations. The continued pace of the work on this and changing circumstances both in Scotland and other countries 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 key airports in Scotland as the policy has continued to be shaped.

Impact Assessments

13. Impact assessments will be made available on www.legislation.gov.uk.

Scottish Government
COVID-19 Public Health Directorate
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