

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL) (SCOTLAND) AMENDMENT (NO. 14) REGULATIONS 2021

SSI 2021/256

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. Section 122(7) sets out that “emergency regulations” must be laid before the Scottish Parliament and cease to have effect on the expiry of the period of 28 days beginning with the date on which the regulations were made unless, before the expiry of that period, the emergency regulations have been approved by a resolution of the Parliament.

Summary Box

These Regulations amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (the “International Travel Regulations”).

These Regulations amend the International Travel Regulations to make provision for certain persons carrying out work in connection with the Edinburgh International Festival. A person who is an essential infrastructure worker or a performing arts professional is required to comply with regulations 5D to 5J of the International Travel Regulations (testing following arrival in Scotland).

However, such a person is not required to comply with regulation 6(2) of the International Travel Regulations (requirement to stay in specified premises) where that person is outside of the place where they are staying to travel directly to, from or attend the location of the essential work or performing arts event.

Background

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

Policy Objectives

3. This instrument provides for an exemption for certain persons carrying out work in connection with, or performing at, the Edinburgh International Festivals (“EIF”). The effect of the amendments is that a person who is an essential infrastructure worker or a performing arts professional is required to comply with regulations 5D to 5J of the principal Regulations. Such a person is not required to comply with regulation 6(2) of

the principal Regulations (requirement to stay in specified premises) where that person is outside of the place where they are staying to travel directly to, from or attend the location of the essential work or performing arts event. They would be subject to a pre-departure and day 2 and 8 tests, and must self-isolate when not undertaking this activity.

4. If no exemption can be provided, the outcome is that the Festival will have to cancel most of their programme, due to the loss of time and resource that would be incurred due to quarantining individuals. Cancellation would pose significant issues to the reputation of the EIF and Edinburgh's standing as a world-leading festival city, especially following the cancellation of the EIF's opening event too. With 74 years of experience of presenting the EIF, officials and clinicians have confidence in EIF's planning to safely manage the relevant exemptions they require.
5. EIF are expected to comply with the following requirements in relation to this exemption:
 - a. Exempted individuals must have a valid negative test result before departure,
 - b. Exempted individuals must complete a Passenger Locator Form (PLF),
 - c. Exempted individuals must undertake mandatory PCR tests on day 2 and day 8 while in Scotland (and must self-isolate if they test positive while here),
 - d. Exempted individuals must present a letter certified by EIF on arrival as written evidence of their permission to enter, complete with conditions of their stay,
 - e. Exempted individuals would also be required to self-isolate in their accommodation when not undertaking professional activity,
 - f. EIF are required to ensure compliance with the health and safety measures and guidance in place at the time of arrival.

Consultation

6. 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 in the UK is required under their own relevant 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 principal 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.
7. 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

8. A Business and Regulatory Impact Assessment and an Equality Impact Assessment have been prepared. Copies may be obtained online at www.legislation.gov.uk.

Scottish Government
COVID Co-ordination Directorate
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