

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL ETC.) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) (NO. 5) REGULATIONS 2021

SSI 2021/264

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”), the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 (“the Operator Liability Regulations”) and the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020 (“the Passenger Information Regulations”).

Regulation 4 inserts a new regulation 2A into the International Travel Regulations to define an eligible vaccinated arrival. Passengers meeting the definition do not require to take a day 8 test for coronavirus or quarantine for 10 days on arrival in Scotland.

Regulation 6 makes a minor amendment to correct the formatting of regulation 6(1)(e) of the International Travel Regulations.

This instrument adds Antarctica, Bulgaria, Croatia, Hong Kong and Taiwan to the list of exempt countries and territories specified in schedule A1 of the International Travel Regulations and removes The Balearic Islands and the British Virgin Islands from the list of exempt countries and territories specified in schedule A1. Cuba, Indonesia, Myanmar and Sierra Leone are added to the list of acute risk countries and territories specified in schedule A2.

Regulation 10 amends the passenger information specified in schedule 1 of the International Travel Regulations so that a person must declare on the passenger locator form whether they are an eligible vaccinated arrival within the meaning of new regulation 2A.

Regulation 11 amends the Operator Liability Regulations to place a duty on operators of relevant transport services to check that a person who has declared that they are an eligible vaccinated arrival within the meaning of regulation 2A of the International Travel Regulations has the evidence required to support that declaration. This instrument creates a criminal offence in respect of failure to comply with this duty.

Regulation 12 makes amendments to the Passenger Information Regulations that are consequential upon the changes made to the International Travel Regulations.

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. This instrument makes amendments to the principal Regulations, the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 and the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020.
3. 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

4. This instrument amends the International Travel Regulations to provide that an eligible vaccinated passenger is required to take a coronavirus test only on the second day following their arrival in Scotland, as opposed to on the second day and the eighth day. It provides that certain arrivals from non-exempt but not acute risk countries (“eligible vaccinated passengers”) are not required to quarantine for 10 days in specified premises on arrival in Scotland.
5. These changes apply to a passenger arriving in Scotland having departed from or transited through a non-exempt but not acute risk country or territory (known as “an amber list” country or territory) who—
 - has completed a course of doses of an authorised coronavirus vaccine,
 - has participated in, or is participating in, a clinical trial for an authorised vaccine,
 - is a child who is ordinarily resident in the UK,
 - has completed a course of vaccine under the UK overseas vaccine roll-out programme, or who is a dependant of such a person.

The passenger is required to produce proof of eligible vaccinated status to immigration or an operator by way of letter of certification produced by NHS Scotland or equivalent certification, where applicable, from NHS England, NHS Wales or the Department for Health in Northern Ireland.

6. Additionally, these regulations make amendments to the list of exempt countries and territories in schedule A1 of the International Travel Regulations. Antarctica, Bulgaria, Croatia, Hong Kong and Taiwan are added to the list of exempt countries and territories specified in schedule A1, and the Balearic Islands and the British Virgin Islands are removed from that list. The entry for the Faroe Islands is moved into the correct alphabetical order. Further changes are made to the list of acute risk countries and

territories in schedule A2 of the International Travel Regulations to add Cuba, Indonesia, Myanmar and Sierra Leone.

7. As of 4.00 a.m. on 19 July 2021, passengers arriving to Scotland from Antarctica, Bulgaria, Croatia, Hong Kong and Taiwan will no longer be required to quarantine in accordance with regulation 6 of the International Travel Regulations, nor will they be required to take a test for coronavirus on day 8 following their arrival in Scotland. Travellers arriving from the Balearic Islands and the British Virgin Islands after 4.00 a.m. on 19 July 2021 will, unless they are eligible vaccinated arrivals within the meaning of new regulation 2A, be required to quarantine at specified premises in accordance with regulation 6 of the International Travel Regulations, and take a coronavirus test on days 2 and 8 following their arrival in Scotland.
8. A minor amendment to regulation 6(1)(e) has also been made to correct a formatting issue.
9. This instrument also amends the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 to place a duty on operators to check evidence of double vaccination status where a passenger makes a declaration on the Passenger Locator Form that they are an eligible vaccinated arrival. There is a defence for an operator to show that the passenger presented a document purporting to be the required evidence which the operator, or a person acting on behalf of the operator, could not reasonably have been expected to know was not the required evidence. This offence on operators is punishable either on summary complaint (where maximum fine would be £10,000) or on indictment (where an unlimited fine can be imposed).
10. Finally, the instrument amends the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020 to require carriers to provide an updated passenger announcement on board vessels setting out the testing and isolation requirements for vaccinated and unvaccinated passengers travelling from a non-exempt but not acute risk country or territory in light of the amendments on eligible vaccinated passengers.

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, to ensure that those restrictions remain appropriately targeted in light of relevant and continuously evolving clinical evidence. 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.

12. 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. Assessment of the impact of the changes to country status as set out in this instrument, was previously undertaken and following reconsideration, no changes are required. You can access the assessment via [The Health Protection \(Coronavirus\) \(International Travel etc.\) \(Miscellaneous Amendments\) \(Scotland\) \(No. 2\) Regulations 2021 \(legislation.gov.uk\)](#). Impact Assessments for vaccine certification will be published on Legislation.gov.uk in due course.

Scottish Government
COVID Co-ordination Directorate
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