

## POLICY NOTE

### THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL ETC.) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) (NO. 7) REGULATIONS 2021

#### SSI 2021/278

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”) and the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 (“the Operator Liability Regulations”).

#### **Amendments to the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020**

Regulation 3 amends regulation 2A of the International Travel Regulations to remove the exclusion of passengers who have departed from, or transited through Metropolitan France, from status as “eligible vaccinated arrivals”. Regulation 3 also amends regulation 2A of the International Travel Regulations to make clear that a passenger purporting to meet the criteria to qualify as an eligible vaccinated arrival must provide proof of this if requested to do so by an immigration officer or the operator of the service on which they travel.

Regulation 4 amends regulation 5C of the International Travel Regulations in relation oil and gas workers covered by the sectoral exemption in paragraph 25 of schedule 2 of those Regulations. This makes provision for their exemption from requirements under those Regulations in relation to the purchase of day 2 and day 8 tests.

Regulation 5 amends regulation 6(1)(f) of the International Travel Regulations to permit students arriving in Scotland from an acute risk country or territory in order to attend boarding school anywhere in the United Kingdom to avoid entering managed self-isolation and instead self-isolate upon arrival at their boarding school.

Regulation 6 makes amendments to the list of exempt countries, territories and parts of countries or territories in schedule A1 of the International Travel Regulations. Austria, Germany, Latvia, Norway, Romania, Slovakia and Slovenia are added to the list of exempt countries and territories specified in schedule A1.

Regulation 7 amends the list of acute risk countries, territories and part of countries or territories in schedule A2 of the International Travel Regulations. Georgia, Réunion,

Mayotte and Mexico are added to that list and Bahrain, India, Qatar and the United Arab Emirates are removed from that list.

Regulation 8 amends paragraph 25 of schedule 2 of the International Travel Regulations, to remove from the scope of the sectoral exemption for oil and gas workers, those workers returning from an installation in the North Sea who have transited via a non-acute risk country (but have not entered that country or territory).

Regulation 9 amends the list of specified competitions in schedule 3A of the International Travel Regulations to amend the name of the Guinness PRO14 and Challenge Cup Rugby Union to reflect its new name – United Rugby Championship, and to add events.

### **Amendments to the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021**

Regulation 10 amends regulation 6 of the Operator Liability Regulations to require persons operating commercial transport services (“operators”) to ensure that passengers seeking to rely on certain exemptions in schedule 2 of the International Travel Regulations possess evidence that they are eligible for the exemption. It also amends regulation 8 of the Operator Liability Regulations to add a defence to the offence in regulation 8(1)(a) of those Regulations. In addition, it expands the duty on operators 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.

### **Background**

1. The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (SSI 2020/169) (“the International Travel Regulations”) were made on 7 June 2020. The International Travel Regulations were laid in the Scottish Parliament and came into force on 8 June, 2020.
2. This instrument makes amendments to the International Travel Regulations and the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 (“the Operator Liability Regulations”).
3. The International Travel 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 makes amendments to the International Travel Regulations to remove the exclusion of passengers who have departed from, or transited through Metropolitan France, from status as “eligible vaccinated arrivals” and also makes clear that a passenger purporting to meet the criteria to qualify as an eligible vaccinated arrival must provide proof of this if requested to do so by an immigration officer or the operator of the service on which they travel to Scotland.
5. This instrument also makes amendments to the list of exempt countries, territories and parts of countries or territories in schedule A1 of the International Travel Regulations. Austria, Germany, Latvia, Norway, Romania, Slovakia and Slovenia are added to the list of exempt countries and territories specified in schedule A1. Amendments are also

made to the list of acute risk countries, territories and parts of countries or territories in schedule A2 of the International Travel Regulations. As of 4.00 am on 8 August 2021 the following changes apply: Georgia, Réunion, Mayotte and Mexico are added to the list of acute risk countries and territories in that schedule, and Bahrain, India, Qatar and the United Arab Emirates are removed from that list.

6. Changes are made in relation to oil and gas workers covered by the sectoral exemption to make provision for their exemption from requirements relating to the purchase of day 2 and day 8 tests. An additional change was made to remove superseded provision in relation to workers returning from an installation in the North Sea who have transited via a non-acute risk country (but have not entered that country or territory).
7. Changes are made to permit students arriving in Scotland from an acute risk country or territory in order to attend boarding school anywhere in the United Kingdom to avoid entering managed self-isolation and instead self-isolate upon arrival at their boarding school, provided that they travel to their boarding school without undue delay as required by regulation 6(2) of the International Travel Regulations.
8. Amendments are also made to the list of specified competitions in schedule 3A of the International Travel Regulations to amend the name of the Guinness PRO14 and Challenge Cup Rugby Union to reflect its new name – United Rugby Championship, and to add events.
9. Finally this instrument amends the Operator Liability Regulations to require operators to ensure that passengers seeking to rely on certain exemptions possess evidence that they are eligible for the exemption. It also makes an amendment to the Operator Liability Regulations to provide that an operator who can show that a passenger presented a document purporting to be appropriate evidence of eligibility for such an exemption and which the operator could not reasonably have been expected to know was not appropriate evidence will have a defence to the offence at regulation 8(1)(a) of those Regulations. In addition, it expands the duty on operators 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.

## **Consultation**

10. 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. 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 International Travel 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.

11. 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**

12. Impact Assessments have been prepared and will be published on Legislation.gov.uk.

Scottish Government  
COVID Co-ordination Directorate  
5 August 2021