

2021 No. 357

PUBLIC HEALTH

The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 4) Regulations 2021

Approved by the Scottish Parliament

Made - - - - at 9.00 a.m. on 8th October 2021

Laid before the Scottish Parliament at 1.00 p.m. on 8th October 2021

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008^(a), and all other powers enabling them to do so.

In accordance with section 122(6) 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) (International Travel and Operator Liability) (Scotland) Amendment (No. 4) Regulations 2021.

(2) Subject to paragraph (3), these Regulations come into force at 4.00 a.m. on 9 October 2021.

(3) Regulations 13 and 14 come into force at 4.00 a.m. on 11 October 2021.

Amendment of the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021

2. The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021^(b) are amended in accordance with regulations 3 to 15.

Amendment to regulation 2

3. In regulation 2 (interpretation: general), at the end insert—

“(5) Schedule 5A (COP 26) contains provisions relating to the COP and the COP World Leaders summit event, and these Regulations are to be read subject to the specific provisions of schedule 5A.”.

(a) 2008 asp 5.

(b) S.S.I. 2021/322 was amended by S.S.I. 2021/343 and 2021/350.

Amendment to regulation 3

4. In regulation 3 (interpretation: eligible vaccinated arrivals), at the end insert—

“(13) Where a course of doses of an authorised vaccine has been administered to a person (“P”) by a person acting on behalf of the United Nations and authorised to administer the vaccination in that capacity, P is to be treated as if they have received those doses in a relevant country listed in schedule 1A, and any reference to doses received in a relevant country, or to the competent health authority of a relevant country in these Regulations is to be construed as a reference to doses administered by the United Nations, and to the person acting on behalf of the United Nations.”.

Amendment to regulation 6

5. In regulation 6 (persons not required to comply with passenger information requirements)—

- (a) in paragraph (1) for “paragraphs (2) and (3)” substitute “paragraph (2)”, and
- (b) omit paragraph (3).

Amendment to regulation 7

6. In regulation 7 (testing prior to arrival: interpretation), in paragraph (2)(b), omit the words after “valid if” and insert—

- “(i) it is provided through the EU Digital Covid Certificate, or
- (ii) it includes the information specified in regulation 9(2).”

Amendment to regulation 18

7. In regulation 18 (persons not required to comply with testing requirements)—

- (a) in paragraph (1), for “Subject to paragraph (3), a” substitute “A”, and
- (b) omit paragraph (3).

Amendment to regulation 25

8. In regulation 25 (persons not required to comply with managed isolation requirements)—

- (a) in paragraph (1) omit sub-paragraph (b), and
- (b) omit paragraphs (3) to (7).

Amendment to regulation 27

9.—(1) Regulation 27 (persons not required to comply with self isolation requirement) is amended as follows.

(2) For sub-paragraph (e) substitute—

- “(e) a person described in paragraph 1(1)(c) to (g) or (i) or (j) of schedule 4 where the conditions in paragraph 1(2) of that schedule are met,
- (ea) a person in paragraph 1(1)(a), (b), (h) or (k) of schedule 4 or a person who is a member of the family forming part of the household of a person described in paragraph 1(1)(a), (b) or (h) of schedule 4.”.

Amendment to regulation 42

10.—(1) Regulation 42 (requirement to ensure passengers have completed a Passenger Locator Form) is amended as follows.

- (2) In paragraph (1), for “(5) and (6)” substitute “(5), (6), and (6A)”.
- (3) In paragraph (2), for “(6) and (7)” substitute “(6), (6A) and (7)”.

(4) In paragraph (3), for “(6) and (8)” substitute “(6), (6A), and (8)”.

(5) After paragraph (6), insert—

“(6A) Paragraphs (1) to (4) do not apply in relation to a passenger to whom schedule 5A applies who is in possession of the written confirmation described in paragraph 1(4)(b) or (8)(d) of that schedule.”.

Amendment to regulation 43

11.—(1) Regulation 43 (requirement to ensure passengers possess notification of a negative test result) is amended as follows.

(2) In paragraph (3), after sub-paragraph (b) insert—

“(ba) to whom schedule 5A applies who is in possession of the written confirmation described in paragraph 1(4)(b) or (8)(d) of that schedule,”.

Amendment to regulation 44

12.—(1) Regulation 44 (requirement to ensure that certain passengers arrive only at designated ports) is amended as follows.

(2) The current regulation 44 becomes regulation 44(1).

(3) After paragraph (1) insert—

“(2) This regulation does not apply in relation to a passenger to whom schedule 5A applies who is in possession of the written confirmation described in paragraph 1(4)(b) or (8)(d) of that schedule.”.

Amendments to schedule 1 (red list countries)

13. In schedule 1 (red list countries) omit all countries, territories, or parts of a country or territory specified in schedule 1, with the exception of Colombia, Dominican Republic, Ecuador, Haiti, Panama, Peru and Venezuela.

Amendments to schedule 1A (relevant countries)

14. In schedule 1A(a) (relevant countries) in the appropriate places in alphabetical order insert—

“Albania”,

“Bahamas”,

“Bangladesh”,

“Bosnia and Herzegovina”,

“Brazil”,

“Chile”,

“Colombia”,

“Egypt”,

“Georgia”,

“Ghana”,

“Grenada”,

(a) Schedule 1A was inserted by S.S.I. 2021/350.

“Hong Kong”,
“India”,
“Indonesia”,
“Jamaica”,
“Jordan”,
“Kenya”,
“Kosovo”,
“Maldives”,
“Moldova”,
“Montenegro”,
“Morocco”,
“Namibia”,
“Nigeria”,
“North Macedonia”,
“Oman”,
“Pakistan”,
“Serbia”,
“South Africa”,
“St Kitts and Nevis”,
“St Lucia”,
“St Vincent and the Grenadines”,
“Thailand”,
“The Philippines”,
“Turkey”,
“Ukraine”,
“Vietnam”.

Amendment to schedule 4 and insertion of schedule 5A

15.—(1) In schedule 4 (exemptions), for paragraph 1(4) substitute—

“(4) Any exemption provided for in this schedule or any other provision of these Regulations from the duties that arise under schedule 5 or 5A is without prejudice to any immunity or privilege which is accorded to any person under the law of Scotland.”.

(2) After schedule 5 (COP 26 Representatives), insert—

Application of Regulations to COP 26 participants

1.—(1) These Regulations apply in relation to participants in the COP World Leaders summit event (“the WLS event”) and the COP with the modifications contained in this schedule.

(2) A person (“P”) is a participant in the WLS event for the purposes of sub-paragraph (1) where sub-paragraph (3) and (4) apply in relation to P.

(3) P—

(a) either—

(i) travelled to the United Kingdom for the purpose of attending or facilitating the WLS event, and P is in Scotland for the purpose of attending or facilitating the WLS event or of travelling in order to leave the United Kingdom, or

(ii) travelled to the United Kingdom for another purpose, and after their arrival is attending, facilitating, or travelling to or from the WLS event, and

(b) has been invited by Her Majesty’s Government to attend or facilitate the WLS event.

(4) The relevant person has—

(a) provided written confirmation to the Foreign, Commonwealth and Development Office that P will comply with the health protocols for the WLS event, and

(b) received written confirmation from the Foreign, Commonwealth and Development Office that P is a person described in sub-paragraph (2) and the Foreign, Commonwealth and Development Office has not withdrawn the confirmation.

(5) Where P is—

(a) attending or facilitating the WLS event on behalf of a State, the relevant person for the purposes of sub-paragraph (4) is the relevant head of the mission or head of consular post in the United Kingdom, or, where no such person exists, the Minister for Foreign Affairs or a person acting on their authority,

(b) attending or facilitating the WLS event on behalf of a foreign territory, the relevant person for the purposes of sub-paragraph (4) is the head of the office representing the foreign territory in the United Kingdom,

(c) attending or facilitating the WLS event on behalf of an organisation, the relevant person for the purposes of sub-paragraph (4) is the head of the organisation,

(d) attending or facilitating the WLS event on their own behalf, the relevant person for the purposes of sub-paragraph (4) is P.

(6) For the purposes of sub-paragraph (5) “head of the mission” and “head of consular post” has the same meaning as in paragraph 1(5) of schedule 4.

(7) A person (“P”) is a participant in the COP for the purposes of sub-paragraph (1) where sub-paragraph (8) applies in relation to P.

(8) P—

(a) either—

(i) travelled to the United Kingdom for the purpose of attending or facilitating the COP, and P is in Scotland for the purpose of attending or facilitating the COP or of travelling in order to leave the United Kingdom, or

(ii) travelled to the United Kingdom for another purpose, and after their arrival is attending, facilitating, or travelling to or from the COP,

(b) is a person who has been registered to attend the COP with the secretariat of the United Nations Framework Convention on Climate Change, and has confirmation of their registration from the secretariat,

- (c) has provided written confirmation to the Cabinet Office that P will comply with the health protocols for the COP, and
- (d) has received written confirmation from the Cabinet Office that P is a person described in this sub-paragraph and the Cabinet Office has not withdrawn the confirmation.

World Leaders summit event invitees and COP 26 representatives

- 2.—(1) This paragraph applies to a person (“P”) where P is—
- (a) a person described in paragraph 1(3) of schedule 4, who is attending the COP, and
 - (b) a person—
 - (i) invited by Her Majesty’s Government to attend the WLS event,
 - (ii) invited by Her Majesty’s Government to attend both the COP World Leaders summit event and the COP, or
 - (iii) described in schedule 5 (COP 26 representatives).
- (2) Where this paragraph applies—
- (a) P is not required to comply with regulations 4 to 6 (passenger information),
 - (b) P is required to comply with regulations 7 to 10 (testing prior to arrival in Scotland),
 - (c) P is not required to comply with regulations 11 to 18 (testing following arrival in Scotland),
 - (d) P is not required to comply with regulations 19 to 25 (managed isolation),
 - (e) P is not required to comply with regulations 26 and 27 (self-isolation).

Eligible COP participant who is not a red list arrival

- 3.—(1) This paragraph applies to a person (“P”) where—
- (a) P is not a person to whom paragraph 2 (World Leaders summit event invitees and COP 26 representatives) applies,
 - (b) P is a person described in paragraph 1(3) of schedule 4, who is attending the COP,
 - (c) P is not a red list arrival,
 - (d) P—
 - (i) satisfies the requirements in regulation 3(2)(a), (b), (c) and (f), (3)(a) and (c), (4)(a) and (c), (5), (6)(a) and (c) or (7),
 - (ii) has completed a course of doses of an authorised vaccine, and P received the final dose before the start of the period beginning with the 14th day before the date of P’s arrival in the United Kingdom,
 - (iii) has participated, or is participating, in a clinical trial regulated by the regulator in the country where the trial is carried out of a vaccine against coronavirus, or
 - (iv) is under the age of 18 when P enters the United Kingdom for the purposes of attending or facilitating the COP, and
 - (e) P has declared on the Passenger Locator Form that P meets the applicable requirement in paragraph (d).
- (2) For the purposes of paragraph (1)(d)(ii)—
- (a) P has completed a course of doses of an authorised vaccine if P has received the complete course of doses of the authorised vaccine as specified in the manufacturer’s guidance for that vaccine,

- (b) “authorised vaccine” means a vaccine against coronavirus authorised, in relation to doses received in a country other than the United Kingdom,
 - (i) in the case of doses received in a relevant country listed in regulation 3(12), following evaluation by the relevant regulator for that country, or otherwise by the government of that country or pursuant to its authority,
 - (ii) in the case of doses received in a relevant country listed in schedule 1A, in the United Kingdom in accordance with head (i) or (ii) of paragraph (a) of the definition of “authorised vaccine” in regulation 3(11), or by the government of the relevant country or pursuant to its authority,
 - (iii) in the case of doses received in another country, following evaluation by the regulator for that country or otherwise by the government of that country, or pursuant to its authority,
 - (c) in paragraph (b)(i), “relevant country” and “relevant regulator” have the meanings given in regulation 3(11),
- (3) Where this paragraph applies—
- (a) notwithstanding regulation 6(1), P is required to comply with regulations 4 to 6 (passenger information),
 - (b) notwithstanding regulation 10(1), P is required to comply with regulations 7 to 10 (testing prior to arrival in Scotland),
 - (c) P is required to comply with regulations 11, 14, 15, and 16 (testing following arrival in Scotland) as if—
 - (i) P were an eligible vaccinated arrival, and
 - (ii) “testing package” means a day 2 test arranged for P by virtue of being a person described in paragraph 1(3) of schedule 4,
 - (d) P is not required to comply with regulations 19 to 25 (managed isolation),
 - (e) P is not required to comply with regulations 26 and 27 (self-isolation).

Non-eligible COP participant who is not a red list arrival

- 4.—(1) This paragraph applies to a person (“P”) where—
- (a) P is not a person to whom paragraph 2 (world leader summit invitees and COP 26 representatives) applies,
 - (b) P is a person described in paragraph 1(3) of schedule 4, who is attending the COP,
 - (c) P is not a red list arrival,
 - (d) P does not meet the requirements described in paragraph 3(1)(d) and (e).
- (2) Where this paragraph applies—
- (a) notwithstanding regulation 6(1), P is required to comply with regulations 4 to 6 (passenger information),
 - (b) notwithstanding regulation 10(1), P is required to comply with regulations 7 to 10 (testing prior to arrival in Scotland),
 - (c) P is required to comply with regulations 11, 14, 15, and 16 (testing following arrival in Scotland) as if—
 - (i) P were an eligible vaccinated arrival, and
 - (ii) “testing package” means a day 2 test arranged for P by virtue of being a person described in paragraph 1(3) of schedule 4,
 - (d) P is not required to comply with regulations 19 to 25 (managed isolation),
 - (e) P is not required to comply with regulations 26 and 27 (self-isolation).

Eligible COP participant who is a red list arrival

- 5.—(1) This paragraph applies to a person (“P”) where—
- (a) P is not a person to whom paragraph 2 applies (world leader summit invitees and COP 26 representatives),
 - (b) P is a person described in paragraph 1(3) of schedule 4, who is attending the COP,
 - (c) P is a red list arrival,
 - (d) P—
 - (i) satisfies the requirements in regulations 3(2)(a), (b), (c) and (f), (3)(a) and (c), (4)(a) and (c), (5), (6)(a) and (c) or (7),
 - (ii) has completed a course of doses of an authorised vaccine, and P received the final dose before the start of the period beginning with the 9th day before the date of P’s arrival in the United Kingdom,
 - (iii) has participated, or is participating, in a clinical trial regulated by the regulator in the country where the trial is carried out of a vaccine for vaccination against coronavirus, or
 - (iv) is under the age of 18 when P enters the United Kingdom for the purposes of attending or facilitating the COP, and
 - (e) P has declared on the Passenger Locator Form that P meets the applicable requirement in paragraph (d).
- (2) Where this paragraph applies—
- (a) the reference to “the 14th day” in regulation 3(2)(a) and in regulation 3(6)(a) is to be read as if it were a reference to “the 9th day”,
 - (b) notwithstanding regulation 6(1), P is required to comply with regulations 4 to 6 (passenger information),
 - (c) notwithstanding regulation 10(1), P is required to comply with regulations 7 to 10 (testing prior to arrival in Scotland),
 - (d) P is required to comply with regulations 11, 14, 15, and 16 (testing following arrival in Scotland) as if P is not an eligible vaccinated arrival and with the modifications in sub-paragraph (3),
 - (e) P is required to comply with regulations 19 to 25 (managed isolation) as if, in regulation 21(1)(a), the reference to “the 10th day” were a reference to “the 5th day”,
 - (f) P is not required to comply with regulations 26 and 27 (self-isolation).
- (3) The modifications are as follows—
- (a) “testing package” means a day 2 test arranged for P by virtue of being a person described in paragraph 1(3) of schedule 4,
 - (b) regulation 21(1)(a) applies as if the reference to “the 10th day” were a reference to “the 5th day”,
 - (c) where P’s day 2 test generates a negative result, P must remain in the designated accommodation until the end of the 5th day after the day on which P arrived in Scotland,
 - (d) where P’s day 2 test generates an inconclusive result, P must remain in the designated accommodation—
 - (i) until the end of the 10th day after the day P undertook the test,
 - (ii) where P undertakes a test to which regulation 16(8) applies and the test generates a negative result, until the end of the 5th day after the day on which P arrived in Scotland or, if later, the day on which P receives the negative result.

- (iii) where P undertakes a test to which regulation 16(8) applies and the test generates a positive result, until the end of the 10th day after the day P undertook the test (in which case P is not required to undertake a day 8 test),
- (e) regulation 16 does not apply in relation to the result generated from P's day 8 test.

Non-eligible COP participant who is a red list arrival

- 6.—(1) This paragraph applies to a person (“P”) where—
- (a) P is not a person to whom paragraph 2 (World Leader summit event invitees and COP 26 representatives) applies,
 - (b) P is a person described in paragraph 1(3) of schedule 4, who is attending the COP,
 - (c) P is a red list arrival,
 - (d) P does not meet the requirements described in paragraph 5(1)(d) and (e).
- (2) Where this paragraph applies—
- (a) notwithstanding regulation 6(1), P is required to comply with regulations 4 to 6 (passenger information),
 - (b) notwithstanding regulation 10(1), P is required to comply with regulations 7 to 10 (testing prior to arrival in Scotland),
 - (c) P is required to comply with regulations 11, 14, 15, and 16 (testing following arrival in Scotland), as if—
 - (i) P is not an eligible vaccinated arrival, and
 - (ii) “testing package” means a day 2 test and day 8 test arranged for P by virtue of being a person described in paragraph 1(3) of schedule 4,
 - (d) P is required to comply with regulations 19 to 25 (managed isolation),
 - (e) P is not required to comply with regulations 26 and 27 (self-isolation).”.

Saving

16.—(1) Subject to paragraph (2), the amendments made by these Regulations do not apply in relation to a person who arrived in Scotland before 4.00 a.m. on 9 October 2021 and the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 continue to apply to such persons as if the amendments made by these Regulations had not been made.

(2) The amendments made by regulations 13 and 14 do not apply in relation to any person who arrived in Scotland before 4.00 a.m. on 11 October 2021 and the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 continue to apply to such persons as if the amendments made by regulations 13 and 14 of these Regulations had not been made.

GRAEME DEY

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
At 9.00 a.m. on 8th October 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 (“the International Travel Regulations”).

Regulations 3, 5, 7, 8, 10, 11, 12 and 15 make changes to the International Travel Regulations in their application to participants at the “Conference of the Parties” relating to climate change and the World Leaders Summit in November 2021. A new schedule 5A is introduced to the International Travel Regulations, setting out the requirements which apply to such participants.

Regulation 4 provides that where a person authorised by and acting on behalf of the United Nations administers a vaccine to a person, that person is treated as if they have received those doses in a relevant country listed in schedule 1A.

Regulation 6 allows the EU Digital Covid Certificate to be used as evidence of a negative coronavirus test.

Regulation 9 amends the exemption for diplomats and their dependents in relation to the Passenger Locator Form.

Regulation 13 amends the list of red list countries in schedule 1 of the International Travel Regulations. With effect from 4.00 a.m. on 11 October 2021, all countries have been removed from the red list with the exception of Colombia, Dominican Republic, Ecuador, Haiti, Panama, Peru and Venezuela.

Regulation 14 adds to the list of countries which are “relevant countries” meaning that persons who receive vaccines in those countries can count as “eligible travellers” for the purposes of the International Travel Regulations. These changes also take effect from 4.00 a.m. on 11 October 2021.

Regulation 16 makes saving provisions which set out the circumstances in which a person arriving in Scotland must comply with the International Travel Regulations as they had effect before the changes in these Regulations were made.

An impact assessment has not been produced for this instrument.

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