

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL AND OPERATOR LIABILITY) (SCOTLAND) AMENDMENT (NO. 5) REGULATIONS 2021

SSI 2021/359

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) of the 2008 Act 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.

This instrument amends the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 to make minor amendments to the diplomatic exemption; make minor amendments for travellers who meet the COVID-19 vaccination eligibility criteria; make amendments to include persons in Scotland or England who are not vaccinated for medical reasons in that category; remove the requirement for passengers to provide their seat number on the Passenger Locator Form (PLF); and to make amendments relating to the COP26 exemptions in Schedule 5A.

Background

1. The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 (S.S.I. 2021/322) (“the International Travel Regulations”) were made on 16 September 2021. They were laid in the Scottish Parliament on 16 September and came into force on 20 September 2021.
2. The International Travel Regulations revoked and replaced the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (SSI 2020/169), the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020 (SSI 2020/170) and Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 (SSI 2021/20).
3. Since coming into force, the International Travel Regulations have been updated by various amending regulations. Both the International Travel Regulations and the amending 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. They also sought to ease restrictions as appropriate.

4. The amendments made by these Regulations come into force at 04:00 on 15 October 2021.

Policy Objectives

5. The overarching policy aim of this instrument is to update Scotland's approach to international travel, removing or lessening restrictions where that approach is consistent with clinical evidence and advice while balancing the need for continued public health measures to be applied where needed.
6. This instrument makes a number of primarily minor amendments. These specifically are:
 - to make technical changes to update the terms of the exemption for diplomatic staff and their dependents;
 - to expand the category of persons who meet the definition of "eligible vaccinated arrival" in terms of regulation 3 of the International Travel Regulations to include persons in Scotland or England who are not vaccinated for medical reasons;
 - to make technical amendments which update the requirements in relation to how some individuals should complete the PLF. This relates specifically to travellers who meet the COVID-19 vaccine eligibility criteria (which means those persons are eligible vaccinated arrivals), including those who are participating in clinical trials or who are not vaccinated for medical reasons;
 - to remove the requirement for passengers to provide their seat number on the PLF; and
 - to make outstanding amendments that relate to the COP26 exemption in Schedule 5A.

Consultation

7. 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.
8. 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 nations 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 any aspect of the regulations, reflecting differences in the prevalence of COVID-19 in that particular nation at any review point.
9. 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, Crown Office and Procurator Fiscal Service, Border Force in Scotland, Public Health Scotland and key airports in Scotland as the policy has continued to be shaped.

Impact Assessments

10. Impact assessments will be published on legislation.gov.uk in due course.

Scottish Government
COVID Co-ordination Directorate
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