

2021 No. 382

PUBLIC HEALTH

The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 6) Regulations 2021

Approved by the Scottish Parliament

Made - - - - at 10.30 a.m. on 29th October 2021

Laid before the Scottish Parliament at 2.00 p.m. on 29th 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. 6) Regulations 2021.

(2) Subject to paragraph (3), these Regulations come into force at 4.00 a.m. on 31 October 2021.

(3) Regulations 4 and 5 come into force at 4.00 a.m. on 1 November 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 7.

Amendment of regulation 14

3.—(1) Regulation 14 (requirement to undertake tests) is amended in accordance with paragraphs (2) to (4).

(a) 2008 asp 5.

(b) S.S.I. 2021/322 was relevantly amended by S.S.I. 2021/328, 2021/350, 2021/357.

(2) After paragraph (1), insert—

“(1A) If a test is to be self-administered, P must undertake a test in accordance with the manufacturer’s instructions for use.”.

(3) For paragraph (9)(b), substitute—

“(b) the test is—

- (i) where P is a red list arrival or not an eligible vaccinated arrival, a test which complies with paragraph (9A),
- (ii) where P is an eligible vaccinated arrival, a test which complies with paragraph (9B).”.

(4) After paragraph (9), insert—

“(9A) For the purposes of paragraph (9)(b)(i), a test complies with this paragraph if it is a semi-quantitative test for the detection of coronavirus which targets a minimum of two distinguishable SARS-CoV-2 genes other than the S gene and performance reference controls.

(9B) For the purposes of paragraph (9)(b)(ii), a test complies with this paragraph if—

- (a) it is a test for the detection of coronavirus which uses one or more of—
 - (i) mid-turbinate or anterior nares nasal swabbing,
 - (ii) tonsillar swabbing,
 - (iii) saliva,
- (b) the test is uniquely identifiable,
- (c) the test is provided in accordance with the test manufacturer’s instructions for use including, in particular, instructions as to the target use, target user and target use settings, and
- (d) any device used for the purposes of the test can be put into service in accordance with Part 4 of the Medical Devices Regulations 2002(a), other than solely by virtue of regulation 39(2) of those Regulations.”.

New regulations 16A and 16B

4. After regulation 16 (consequences of test results), insert—

“Eligible vaccinated arrivals: notification of result of self-administered test

16A.—(1) This regulation applies where P—

- (a) is an eligible vaccinated arrival,
- (b) undertakes a day 2 test but it is not a test that complies with regulation 14(9A), and
- (c) the test is not administered—
 - (i) by the test provider, or
 - (ii) at a site operated for the purposes of administering such tests by a test provider.

(2) Subject to paragraph (3), P must provide the test provider with the information set out in paragraph (5) within 15 minutes of the test’s read time as determined by the manufacturer’s instructions for use.

(3) If P is—

- (a) a child, or

(a) S.I. 2002/618, as amended by S.I. 2003/1697.

- (b) a person with a disability who is unable for that reason to provide the information to the test provider,

regulation 13(2) and (4) applies instead of paragraph (2).

(4) For the purposes of paragraph (3)—

- (a) regulation 13(2) is to be read as if it referred to the information set out in paragraph (5),
- (b) regulation 13(2)(b) is to be disregarded.

(5) The information is—

- (a) a single photograph clearly showing—
 - (i) the test device in such a way that it is identifiable as having been provided by the test provider,
 - (ii) the test reference number provided pursuant to regulation 13(3), and
 - (iii) the test result, and
- (b) the address at which P is able to receive a confirmatory test pursuant to regulation 16B.

Eligible vaccinated arrivals: confirmatory test

16B.—(1) This regulation applies where P—

- (a) is an eligible vaccinated arrival,
- (b) undertakes a day 2 test but it is not a test that complies with regulation 14(9A), and
- (c) receives notification that the test has generated a positive result.

(2) P must as soon as reasonably practicable undertake a confirmatory test provided by a public provider.

(3) For the purposes of paragraph (1)(c), a person who self-administers a test is deemed to receive notification of a result in relation to the test when the person determines the result in accordance with the test manufacturer’s instructions for use.”.

Amendment of regulation 30

5. In regulation 30(1) (Part 4: offences and penalties)—

- (a) omit “or” after sub-paragraph (b),
- (b) after sub-paragraph (c), insert—
 - “(d) regulation 16A(2) (notification of self-administered test),
 - (e) regulation 16B(2) (confirmatory test).”.

Amendment of schedule 1

6. In schedule 1 (red list countries) omit—

- (a) “Colombia”,
- (b) “Dominican Republic”,
- (c) “Ecuador”,
- (d) “Haiti”,
- (e) “Panama”,
- (f) “Peru”,
- (g) “Venezuela”.

Amendment of schedule 1A

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

“Angola”
“Anguilla”
“Argentina”
“Armenia”
“Azerbaijan”
“Belize”
“Bermuda”
“Botswana”
“Cambodia”
“Cayman Islands”
“Costa Rica”
“Djibouti”
“Eswatini”
“Gibraltar”
“Guyana”
“Honduras”
“Lebanon”
“Lesotho”
“Madagascar”
“Mauritius”
“Mongolia”
“Nepal”
“Occupied Palestinian Territories”
“Panama”
“Peru”
“Rwanda”
“Seychelles”
“Sierra Leone”
“Sri Lanka”
“Suriname”
“Tanzania”
“Trinidad and Tobago”
“Tunisia”

“Uganda”

“Uruguay”.

St Andrew’s House,
Edinburgh
At 10.30 a.m. on 29th October 2021

GRAEME DEY
Authorised to sign by the Scottish Ministers

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”).

Regulation 3 amends regulation 14 of the International Travel Regulations to enable the use of lateral flow device tests for the detection of SARS-CoV-2 in persons who are eligible vaccinated arrivals as an alternative to existing requirements to undertake day 2 polymerase chain reaction tests.

Regulation 4 inserts new regulations 16A and 16B into the International Travel Regulations to deal with circumstances arising in cases enabled by the amendments to regulation 14 described above. New regulation 16A provides for the notification of the results of self-administered tests. New regulation 16B requires a person to undertake a confirmatory test where the conditions set out in that regulation are met.

Regulation 5 makes consequential amendments to regulation 30 of the International Travel Regulations, arising from the insertion of new regulations 16A and 16B.

Regulation 6 amends the list of red list countries in schedule 1 of the International Travel Regulations.

Regulation 7 amends schedule 1A of the International Travel Regulations. It adds to the list of countries which are “relevant countries” meaning that persons who receive vaccines in those countries can count as “eligible vaccinated arrivals” for the purposes of the International Travel Regulations.

Impact assessments are being prepared and will be published online at www.legislation.gov.uk.

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