

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL AND OPERATOR LIABILITY) (SCOTLAND) AMENDMENT (NO. 13) REGULATIONS 2021

SSI 2021/470

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 remove countries currently included in the “red list” for the purposes of testing and isolation requirements.

This instrument also makes amendments to permit an eligible vaccinated arrival who is a child aged under 11 to leave self-isolation if their accompanying adult receives a negative test result for their day 2 Polymerase Chain Reaction (PCR) test.

Background

1. The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 (SSI. 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 at the earliest opportunity as appropriate.

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

Policy Objectives

5. The overarching policy aim of this instrument is to update Scotland's approach to international travel by, in this case, removing and lessening the emergency restrictions introduced as a direct result of the emergence of the Omicron variant of COVID-19. These changes are made in recognition of the fact that maintaining them would no longer be a proportionate response.

Amendments to Country Status

6. This instrument removes countries currently on the "red list".
7. This instrument removes Angola, Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, Nigeria, South Africa, Zambia and Zimbabwe from the list of acute countries or territories, the "red list". This has the effect that, from the date the instrument comes into force, there are no acute countries or territories on the "red list".

Isolation Post Arrival

8. This instrument also makes a technical amendment to ensure an eligible vaccinated arrival who is a child under 11 years old is able to leave self-isolation if their accompanying adult receives a negative test result from their day 2 PCR test.

Consultation

9. 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.
10. 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.
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, 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

12. Impact assessments will be published on the Legislation.gov.uk website.

Scottish Government
COVID Co-ordination Directorate
14 December 2021