

2021 No. 74

PUBLIC HEALTH

**The Health Protection (Coronavirus) (International Travel)
(Managed Accommodation and Testing) (Scotland) Regulations
2021**

Approved by the Scottish Parliament

Made - - - - 14th February 2021

Coming into force - -at 04.00 a.m. on 15th February 2021

Laid before the Scottish Parliament 15th February 2021

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 94(1)(b) and 122(2) of the Public Health etc. (Scotland) Act 2008^(a) (“the 2008 Act”), paragraph 1(1) of schedule 19 of the Coronavirus Act 2020 (“the 2020 Act”)^(b) and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with section 122(6) of the 2008 Act and paragraph 6(2) and (3) of schedule 19 of the 2020 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) (Managed Accommodation and Testing) (Scotland) Regulations 2021.

(2) These Regulations come into force at 04.00 a.m. on 15 February 2021.

Interpretation

2. In these Regulations—

(a) 2008 asp 5.

(b) 2020 c.7.

“the International Travel Regulations” means the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020(a).

Amendment of the International Travel Regulations

3. The International Travel Regulations are amended in accordance with regulations 4 to 14.

Amendment of regulation 2

4. In regulation 2 (interpretation)—

- (a) after the definition of “information offence”, insert—
 - ““managed self-isolation package” has the meaning given in regulation 6A(6),” and
- (b) after the definition of “Passenger Locator Form”, insert—
 - ““port” means any port (including a seaport, an airport or heliport),”.

Insertion of regulations 5C to 5K - testing following arrival in Scotland

5. After regulation 5B (pre-departure testing: offences and penalties), insert—

“Testing following arrival in Scotland: general

5C.—(1) Regulations 5D to 5K apply to a person to whom—

- (a) regulation 6(2) (requirement to stay in specified premises) or 6B(2) (requirement to stay in managed accommodation) applies, or
- (b) subject to regulation 5K (exclusion of certain diplomatic etc. personnel), the provisions mentioned in paragraph (a) do not apply only by virtue of any of the following provisions of schedule 2—
 - (i) paragraph 14(1)(c) (persons returning to facilitate diplomatic missions etc.),
 - (ii) paragraphs 18 to 28 (essential infrastructure etc. personnel),
 - (iii) paragraphs 31 to 34 (medical etc. personnel),
 - (iv) 35 to 36 (telecoms etc. personnel).

(2) For the purposes of regulations 5D to 5J—

- (a) “day 2 test” means a test provided in a package with a day 8 test which complies with regulation 5F(7) and is undertaken in accordance with regulation 5F(2)(a),
- (b) “day 8 test” means a test provided in a package with a day 2 test which complies with regulation 5F(7) and is undertaken in accordance with regulation 5F(2)(b),
- (c) “testing package” means a booking for a day 2 test and a day 8 test,
- (d) “test provider” means a public provider who provides a test in accordance with regulation 5F(7),
- (e) “P” means a person to whom regulations 5D to 5J apply by virtue of paragraph 1,
- (f) “relevant self-isolation provisions” means—
 - (i) in relation to those required to comply with regulation 6(2), regulation 6,
 - (ii) in relation to those required to comply with regulation 6B(2), regulation 6B.

(a) S.S.I. 2020/169, as amended by S.S.I. 2020/171, S.S.I. 2020/184, S.S.I. 2020/209, S.S.I. 2020/221, S.S.I. 2020/224, S.S.I. 2020/229, S.S.I. 2020/233, S.S.I. 2020/235, S.S.I. 2020/242, S.S.I. 2020/252, S.S.I. 2020/263, S.S.I. 2020/271, S.S.I. 2020/274, S.S.I. 2020/280, S.S.I. 2020/288, S.S.I. 2020/301, S.S.I. 2020/307, S.S.I. 2020/326, S.S.I. 2020/330, S.S.I. 2020/343, S.S.I. 2020/354, S.S.I. 2020/358, S.S.I. 2020/378, S.S.I. 2020/404, S.S.I. 2020/431, S.S.I. 2020/444, S.S.I. 2020/474, S.S.I. 2021/5, S.S.I. 2021/6, S.S.I. 2021/7, S.S.I. 2021/19, S.S.I. 2021/20, S.S.I. 2021/21, S.S.I. 2021/34 and S.I. 2020/942.

Testing following arrival in Scotland: requirement to book and pay for tests

5D.—(1) Where P is an adult, P must on their arrival in Scotland possess a testing package—

- (a) for themselves, and
- (b) for any child aged 11 or older with whom they are travelling and for whom they have responsibility.

(2) Where P is an adult who arrives in Scotland without possessing a testing package required under paragraph (1), P must obtain such a testing package as soon as is practicable.

(3) Where P is a child aged 11 or older and who is unaccompanied by an adult who has responsibility for P, an adult with responsibility for P must obtain a testing package as soon as is practicable after P arrives in Scotland.

(4) A person who possesses a testing package must provide evidence of it if requested by an immigration officer.

Testing following arrival in Scotland: obligation to provide information

5E.—(1) Subject to paragraph (2), at the time the testing package is booked, P must notify the test provider that P is required to undertake the test under these Regulations, and provide the test provider with—

- (a) their full name,
- (b) their sex,
- (c) their date of birth,
- (d) their NHS number (if known and applicable),
- (e) their ethnicity,
- (f) the date of their arrival in the United Kingdom,
- (g) their coach number, flight number or vessel name (as appropriate),
- (h) the date on which they last departed from or transited through a non-exempt country or territory,
- (i) the country or territory they were travelling from when they arrived in the United Kingdom, and any country or territory they transited through as part of that journey,
- (j) their email address,
- (k) their telephone number,
- (l) their passport number, or travel document reference number (as appropriate),
- (m) their home address, and—
 - (i) where P is a person to whom regulation 6(2) applies, the address or addresses of the specified premises in accordance with regulation 6 (if different from their home address), or
 - (ii) where P is a person to whom regulation 6B(2) applies, the address of the accommodation designated for the purposes of regulation 6A.

(2) Where P is a child, or a person with a disability who is unable for that reason to provide the notification and information set out or referred to in paragraph (1) to the test provider—

- (a) the notification and information set out or referred to in paragraph (1), other than the information set out in paragraph (1)(j) and (k), must be provided to the test provider on P's behalf by another person ("X"), and
- (b) either the information set out in paragraph (1)(j) and (k) must be provided by X to the test provider or, where appropriate, X must provide their own telephone number and email address to the test provider.

(3) At the time the testing package is booked the test provider must give a test reference number to P and, where appropriate, also give that test reference number to X.

Testing following arrival in Scotland: requirement to undertake tests

5F.—(1) P must undertake the tests specified in paragraph (2) in accordance with this regulation.

(2) The tests specified in this paragraph are—

- (a) a day 2 test undertaken no later than the end of the 2nd day after the day on which P arrived in Scotland,
- (b) a day 8 test undertaken no earlier than the end of the 7th day after the day on which P arrived in Scotland.

(3) Where P is a child, any person who has responsibility for P must, so far as reasonably practicable and subject to paragraph (4), ensure that P undertakes a day 2 test and a day 8 test.

(4) Where P's day 2 test generates a positive result, P is not required to undertake a day 8 test.

(5) Where P does not undertake a test as required by this regulation by reason of a reasonable excuse (see regulation 5J(3)), P must, as soon as practicable after the matters giving rise to the reasonable excuse no longer pertain, undertake a replacement test complying with the requirements that apply to the test that was missed.

(6) Where a replacement test is undertaken instead of—

- (a) a day 2 test, P is to be treated as if they had undertaken a day 2 test in accordance with this regulation,
- (b) a day 8 test, P is to be treated as if they had undertaken a day 8 test in accordance with this regulation.

(7) The requirements of this regulation are that—

- (a) the test is provided by a public provider,
- (b) 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.

(8) In this regulation, “public provider” means a test provider who provides or administers a test under the National Health Service Act 2006^(a), the National Health Services (Wales) Act 2006^(b), the National Health Service (Scotland) Act 1978^(c) or the Health and Personal Social Services (Northern Ireland) Order 1972^(d).

Testing following arrival in Scotland: requirement to self-isolate on failure to undertake a test

5G.—(1) This regulation applies where—

- (a) either—
 - (i) P fails to undertake a day 2 test, or
 - (ii) P's day 2 test generates a negative or inconclusive result, and
- (b) P fails to undertake a day 8 test.

(a) 2006 c.41.
(b) 2006 c.42.
(c) 1978 c.29.
(d) S.I. 1972/1265 (N.I. 14).

(2) Where P is subject to the provisions of regulation 6(2), P must remain in the specified premises under regulation 6 until the end of the 14th day after the day on which they arrived in Scotland.

(3) Where P is subject to the provisions of regulation 6B(2), P must remain in the designated accommodation under regulation 6B until the end of the 14th day after the day on which they arrived in Scotland.

Testing following arrival in Scotland: consequences of test results

5H.—(1) Where a test undertaken by P in accordance with regulation 5F(1) or (3) generates a positive result—

- (a) regulation 9(6)(a) or, as the case may be, regulation 9(7)(a) (leaving specified premises or designated accommodation to travel in order to leave Scotland) do not apply,
- (b) P and, subject to paragraph (2), any person who is sharing specified premises or designated accommodation with P must continue to remain in the specified premises or designated accommodation as the case may be, in accordance with regulation 6 or 6B (as the case may be) until the end of the 10th day after the day P undertook the test.

(2) Where a person (“B”) who is sharing specified premises or designated accommodation with P, the requirement to remain in such premises or accommodation under paragraph (1)(b) does not apply to B where—

- (a) the test referred to in sub-paragraph (1) is P’s day 8 test, and
- (b) B undertook a day 2 test that generated a positive result.

(3) Where P’s day 2 test and day 8 test both generate a negative result, P must remain in the specified premises or designated accommodation (as the case may be) in accordance with the relevant self-isolation provisions until the later of—

- (a) the date specified in regulation 6(2)(a) or regulation 6B(2)(a) (as the case may be), or
- (b) the day on which P receives the result of their day 8 test.

(4) Where a test undertaken by P generates an inconclusive result, P must remain in the specified premises or designated accommodation (as the case may be) in accordance with the relevant self-isolation provisions—

- (a) until the end of the 10th day after the day P undertook the test,
- (b) where P undertakes a test to which paragraph (6) applies and the test generates a negative result, the later of—
 - (i) the end of the period of 10 days beginning with the day after P’s arrival in Scotland,
 - (ii) the day on which P receives the negative result, or
- (c) where P undertakes a test to which paragraph (6) applies and the test generates a positive result, until the end of the 10th day after the day P undertook the test.

(5) Where paragraph (4)(c) applies, P is not required to undertake a day 8 test in accordance with regulation 5F(1) or (3).

(6) This paragraph applies to—

- (a) a day 8 test,
- (b) a replacement test—
 - (i) complying with the requirements for a day 8 test specified other than the requirement that the test be administered or provided to P no earlier than the beginning of the 7th day after the day on which P arrived in Scotland,
 - (ii) undertaken in the circumstances specified in regulation 5F, and

- (iii) undertaken during the period in paragraph (4)(a).

Testing following arrival in Scotland: charge for day testing packages

5I.—(1) The Scottish Ministers or a person designated by the Scottish Ministers may impose a charge in respect of a testing package provided by a test provider in accordance with regulation 5F(7).

(2) The Scottish Ministers—

- (a) must publish details of the charges in such manner as the Scottish Ministers consider appropriate,
- (b) may recover any sum owed by a person pursuant to such a charge as a debt.

Testing following arrival in Scotland: offences and penalties

5J.—(1) It is an offence to contravene a requirement, without a reasonable excuse, in—

- (a) regulation 5D,
- (b) regulation 5E(1) and (2),
- (c) regulation 5F(1).

(2) Reasonable excuses for contravening regulation 5D include, in particular, where—

- (a) it was not reasonably practicable for a person to book a test due to a disability,
- (b) a person reasonably considered before arriving in Scotland that it would not be reasonably practicable for the person (or, as the case may be, the child for whom the person has responsibility) to provide a sample for a test in accordance with regulation 5F due to a disability,
- (c) a person required medical treatment with such urgency that booking a test was not reasonably practicable,
- (d) a person was accompanying, in order to provide support, whether medical or otherwise, a person described in paragraph (a) or (c) where it was not reasonably practicable for the accompanying person to book a test,
- (e) a person began their journey to Scotland in a country or territory in which the person did not have reasonable access to the facilities or services required to book a test, with or without payment, and such facilities or services were not reasonably accessible in their last point of departure if this was different to where they began their journey.

(3) Reasonable excuses for contravening regulation 5F(1) or (3) include, in particular, where—

- (a) it is not reasonably practicable for P to undertake a test due to a disability,
- (b) P requires medical treatment with such urgency that undertaking a test is not reasonably practicable,
- (c) a test is cancelled for reasons beyond P's control,
- (d) P has left Scotland in accordance with regulation 6(2)(b), or left the common travel area in accordance with regulation 9(7)(a).

(4) A person who commits an offence under paragraph (1) is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

Exclusion of certain diplomatic etc. personnel

5K.—(1) Regulations 5D to 5J do not apply where P is—

- (a) a person described in paragraph 1(1)(a) to (h) or (k)(a) of schedule 2 or a member of the family forming part of their household,
- (b) a person described in paragraph 1(1)(i) or (j) of schedule 2 where the conditions in paragraph (2) are met,
- (c) a member of the family forming part of the household of a person to whom sub-paragraph (b) applies, where—
 - (i) the conditions in paragraph (2) are met in relation to the person to whom sub-paragraph (b) applies,
 - (ii) the Foreign, Commonwealth and Development Office has been notified of P’s arrival, and
 - (iii) the Foreign, Commonwealth and Development Office has confirmed that P is not required to comply with regulations 5D to 5J.

(2) The conditions specified in this paragraph are that, prior to P’s departure to the United Kingdom—

- (a) the relevant head of the mission, consular post, or office representing a foreign territory in the United Kingdom, or a Governor of a British overseas territory (as the case may be), or a person acting on their authority, confirms in writing to the Foreign, Commonwealth and Development Office that P is required to undertake work in the United Kingdom which is essential to the foreign territory represented by the mission or consular post, the foreign territory represented by the office or the British overseas territory, and
- (b) the Foreign, Commonwealth and Development Office has then confirmed in writing to the person giving the confirmation referred to in sub-paragraph (a) that—
 - (i) it has received that confirmation, and
 - (ii) P is travelling to the United Kingdom to conduct official business with the United Kingdom and is not required to comply with regulations 5D to 5J.

(3) Where a word or expression is defined for the purposes of schedule 2 and is used in this regulation, the same definition applies for the purposes of this regulation.”.

Amendment of regulation 6

6.—(1) In regulation 6 (requirement for travellers or others to stay in specified premises)—

- (a) in the title, omit “or others”,
- (b) in paragraph (1)(a), after “a non-exempt country or territory” insert “which is not an acute risk country or territory, where P meets any of the descriptions in regulation 7(1)(ba) to (d)”,
- (c) in paragraph (1)(b), omit “or from an exempt country or territory”,
- (d) omit paragraphs (1A) and (2A),
- (e) in paragraph (2)—
 - (i) for “earlier” substitute “later”,
 - (ii) for sub-paragraph (b) substitute—

“(b) the end of the period specified in regulation 5G or, as the case may be, 5H.”.

(a) Paragraph 1 was amended by S.S.I. 2020/184.

(2) After regulation 6, insert—

“Requirement for certain travellers to possess managed self-isolation package

6A.—(1) This regulation applies where a person (“P”) arrives in Scotland from—

- (a) outside the common travel area, or
- (b) the Republic of Ireland and has within the preceding 10 days departed from or transited through an acute risk country or territory.

(2) P may only enter Scotland at one of the following ports—

- (a) Aberdeen Airport,
- (b) Edinburgh Airport,
- (c) Glasgow Airport,
- (d) any military airfield or port.

(3) Paragraph (2) does not apply to P where the aircraft on which P is travelling lands at an airport not mentioned in paragraph (2) for—

- (a) a reason relating to the safety or security of the aircraft, or any person aboard it,
- (b) any other emergency reason, or
- (c) the reason that military personnel disembark at an airport not mentioned in paragraph (2).

(4) P must be in possession of a managed self-isolation package.

(5) The requirement in paragraph (4) may be complied with by P obtaining a managed self-isolation package either before P’s arrival in Scotland or immediately upon P’s arrival in Scotland.

(6) In this regulation, a “managed self-isolation package” means—

- (a) a booking for a place in accommodation designated by the Scottish Ministers for the purposes of this regulation in relation to P’s port of arrival in Scotland,
- (b) a booking for transport facilitated by the Scottish Ministers from P’s port of arrival in Scotland to the accommodation referred to in sub-paragraph (a), and
- (c) a testing package within the meaning given in regulation 5C.

(7) If P is a child, any person who has responsibility for P when P is travelling to Scotland must ensure, so far as is reasonably practicable, that P complies with paragraph (4).

(8) The Scottish Ministers, or a person designated by the Scottish Ministers, may impose a charge for the managed self-isolation package and the Scottish Ministers—

- (a) must publish details of such charges in such manner as they consider appropriate, and
- (b) may recover any sum owed by P pursuant to such a charge as a debt.

Requirement for certain travellers to stay in managed accommodation

6B.—(1) This regulation applies where a person (“P”) arrives in Scotland from—

- (a) outside the common travel area, or
- (b) the Republic of Ireland and has within the preceding 10 days departed from or transited through an acute risk country or territory.

(2) P must, on arrival in Scotland or, as the case may be, immediately after obtaining a managed self-isolation package, travel directly to the accommodation designated in the package using the means of transport designated in the package (where relevant) and, except to the extent that a defence would be available under regulation 9(7), P must not leave the place they are staying within that accommodation until whichever is the later of—

- (a) the end of the 10th day after the day on which P arrived in Scotland, or
 - (b) the end of the period specified in regulation 5G or, as the case may be, 5H.
- (3) The place referred to in paragraph (2) means—
- (a) the room in the designated accommodation where P is staying, including any balcony,
 - (b) if connected to the room where P is staying, the room of any person with whom P travelled to Scotland.

(4) The place referred to in paragraph (3) does not include the communal areas within the accommodation except to the extent that P requires to move through any such area in order to access any part of the place where P is staying.

(5) Where P is a child, any person who has responsibility for P during the period P is required to comply with paragraph (2) must ensure, so far as is reasonably practicable, that P complies with the requirement in that paragraph.

(6) A person (“B”), may reside in the place where P is residing pursuant to this Regulation in order to provide assistance P reasonably requires by reason of—

- (a) P being a child, or
- (b) any disability of P’s,

and paragraph (2) applies to B as it applies to P for the same period that it applies to P.

Appeals

6C.—(1) While P is or would be required by regulation 6B(2) to stay in the accommodation designated in P’s managed self-isolation package, P may appeal to the sheriff or the summary sheriff against the requirement that P—

- (a) possess a managed self-isolation package, or
- (b) remain in the accommodation so designated.

(2) An appeal under paragraph (1) is to be made by way of summary application.

(3) The court must determine an appeal brought under paragraph (1) within 3 working days beginning with the day after the day on which the summary application was lodged with the court.

Modification of regulations 6A and 6B where P is a relevant person

6D.—(1) Where P is a relevant person, the reference in regulation 6A(6) to a managed self-isolation package is to be read as a reference to a self-isolation package containing such provisions as to accommodation, transport and testing as the Secretary of State or the Scottish Ministers consider appropriate, and regulations 6A and 6B are to be read accordingly.

(2) P is a relevant person if—

- (a) P is—
 - (i) a person requiring urgent medical assistance,
 - (ii) a person on immigration bail,
 - (iii) a person who has been detained by an immigration officer,
 - (iv) a person who has been refused leave to enter the UK,
 - (v) an illegal entrant,
 - (vi) an asylum seeker,
 - (vii) a person who is in police custody,
 - (viii) a prisoner,
 - (ix) a potential victim of human trafficking,

- (x) a person whose arrival in the United Kingdom has been arranged, for safeguarding or welfare reasons, by the Foreign, Commonwealth and Development Office,
- (xi) a person whom the Scottish Ministers consider requires exceptional arrangements to be made on compassionate grounds, and
- (b) the Secretary of State has, or the Scottish Ministers have, confirmed in writing that P is a relevant person, and that confirmation has not been withdrawn.”.

Amendment of regulation 7

7.—(1) Regulation 7 (persons not required to comply with regulation 6) is amended in accordance with paragraphs (2) to (7).

(2) In paragraph (1), omit “and paragraph (2) of this regulation”.

(3) In paragraph (1)(b), after “in Scotland” insert “from elsewhere within the common travel area”.

(4) After paragraph (1)(b), insert—

“(ba) any person who has arrived from the Republic of Ireland described in regulations 6A(1)(b) and 6B(1)(b),”.

(5) Omit paragraphs (1)(cba) and (cc).

(6) In paragraph (1)(d)—

(a) at the beginning, insert “Subject to paragraph (2)”, and

(b) for “, a domestic ancillary sportsperson or a multinational ancillary sportsperson” substitute “or a domestic ancillary sportsperson”.

(7) For paragraph (2) substitute—

“(2) A person (“P”) described in any of the following paragraphs of schedule 2 is exempt from the requirement in regulation 6(2) when P is outside of the specified premises where P is staying in accordance with that regulation in order to travel directly to or from any place where P’s presence is required for the purposes of P’s work or activity (as the case may be), and when P is in attendance at that place—

(a) 12,

(b) 17 to 25,

(c) 27 to 29 (except for paragraph 29(1)(b)),

(d) 31 to 36A.

(3) Paragraph (2) does not apply to a person described in head (b) of paragraph 29(1) of schedule 2, but the requirements of that head apply to that person.”.

(8) After regulation 7 insert—

“Persons not required to comply with regulation 6A or 6B

7A.—(1) The persons mentioned in paragraphs (2) and (3) are not required to comply with regulation 6A or 6B.

(2) A person who, by virtue of regulation 6(1), is required to comply with regulation 6(2).

(3) A person who arrives in Scotland from outside the common travel area or from the Republic of Ireland and who, at any time in the period beginning with the 10th day before the date of their arrival in Scotland, departed from, or transited through, an acute risk country or territory, where that person is—

(a) a person described in paragraph 1(1)(a) to (k) of schedule 2 and meets the conditions set out in paragraph 1(2) of that schedule,

(b) described in any of paragraphs 2(1), 3(1), 14(1), 14A(1), 15, 16, or 17 of schedule 2.”.

Amendment of regulation 8

8.—(1) Regulation 8 (enforcement of requirement in regulation 6) is amended in accordance with paragraphs (2) to (6).

(2) In the title, after “regulation 6”, insert “and 6B”.

(3) In paragraph (1), in each place where it occurs, for “6(2A)” substitute “6B(2)”.

(4) In paragraph (4), for “6(2A)” in both places it occurs, substitute “6B(2)”.

(5) In each of paragraphs (5) and (6), for “6(2A)”, substitute “6B(2)”.

(6) After paragraph (7), insert—

“(8) Where P is a person who falls within regulation 6B(2), an authorised person may give a direction to P to ensure that P complies with the requirements of that regulation, including a direction—

(a) that P remain in a particular area of a port to await transportation to P’s designated accommodation,

(b) that P move to a particular place to board P’s designated transportation,

(c) that P board P’s designated transportation to travel to P’s designated accommodation,

(d) that P remain in, or return to, the place where P is required to stay in accordance with regulation 6B(2).

(9) For the purposes of paragraph (8), an “authorised person” means a person authorised by the Scottish Ministers for the purposes of this Regulation.”.

Amendment of regulation 9

9.—(1) Regulation 9 (offences and penalties – Parts 3 and 4) is amended in accordance with paragraphs (2) to (5).

(2) In paragraph (1)(a), omit “or 6(2A), or”.

(3) After paragraph (1)(b), insert—

“(c) regulation 6B(2),

(d) regulation 6B(5).”.

(4) In paragraph (6)—

(a) omit “or 6(2A)” in both places it occurs,

(b) in sub-paragraph (a), at the end insert “(except where regulation 5H(1)(a) applies in relation to P).”.

(5) After paragraph (6) insert—

“(7) It is a defence to a charge of committing an offence under paragraph (1)(c) or (d) for the person to show that they are outside of the place where they are staying in accordance with regulation 6B(2) for one of the following reasons—

(a) to travel in order to leave the common travel area, provided that they do so directly,

(b) to fulfil a legal obligation, including attending court or satisfying bail conditions, or to participate in legal proceedings,

(c) on compassionate grounds, to attend a funeral of—

(i) a member of the person’s household,

(ii) a close family member, or

(iii) if no-one within sub-paragraphs (i) or (ii) is attending, a friend,

(e) on compassionate grounds, for reasons relating to the end of a person’s life,

(f) for exercise,

- (g) with permission from a person authorised by the Scottish Ministers to grant permission,
- (h) in other exceptional circumstances, such as—
 - (i) to seek medical assistance where this is required urgently or on the advice of a registered medical practitioner including to access services from dentists, opticians, audiologists, chiropodists, chiropractors, osteopaths and other medical and health practitioners, including services relating to mental health,
 - (ii) to access critical public services including social services or services provided to victims (such as victims of crime),
 - (iii) to avoid injury or illness or to escape risk of harm,
 - (iv) to access veterinary services where this is required urgently or on the advice of a veterinary surgeon.

(8) The person may only leave or be outside of the place where they are self-isolating in reliance on the grounds mentioned in paragraph (7)(c), (e) or (f)—

- (a) if P has been given prior permission by a person authorised by the Secretary of State or the Scottish Ministers for this purpose;
- (b) if P complies with any reasonable requirements imposed by the person so authorised in relation to the exercise, the visit to the person or attendance at the funeral.”.

Amendment of regulations 11 and 12 – fixed penalty notices

10.—(1) In regulation 11(2)(a) (fixed penalty notices)

- (a) after head (ii), omit “or”
- (b) before head (iii), insert—
 - “(iia) an offence under regulation 5J(1),”.

(2) In regulation 12 (fixed penalty notices – penalty amounts)—

- (a) in paragraph (1)—
 - (i) omit “, subject to paragraph (2),”, and
 - (ii) for “£60”, substitute “£480”,
- (b) omit paragraphs (2) and (3), and
- (c) in paragraph (4), after sub-paragraph (za) insert
 - “(zai) regulation 5J(1),”.

Amendment of regulation 13

11. In regulation 13 (power to use and disclose information)—

- (a) omit “or” after paragraph (2)(b),
- (b) at the end of paragraph (2) insert—
 - “(c) where a person (“B”) is required to self-isolate under these Regulations—
 - (i) the details of any such period of self-isolation (including the start and end dates of that period and the reason it was imposed);
 - (ii) a copy of any notice given to B which contains information about the requirement to self-isolate;
 - (iii) information generated where B books, or attempts to book, accommodation as part of a managed self-isolation package;
 - (iv) the details of any location in which B undertakes any period of managed self-isolation (including the name and address of the location);

- (v) information relating to B obtained by P in the course of providing accommodation to B pursuant to a managed self-isolation package (including B's room number, the personal details of any of B's co-habitants, and the details of any absence of B, authorised or otherwise, from the place where B is self-isolating);
- (vi) information relating to B obtained by P in the course of providing transport to a location at which B undertakes, or is due to undertake, any period of managed self-isolation;
- (vii) information relating to B obtained by P in the course of providing any service in connection with a managed self-isolation package,
- (d) where B is required to obtain a testing package (within the meaning of regulation 5C) or undertake a post-arrival test under these Regulations—
 - (i) information generated where B books, or attempts to book, a testing package;
 - (ii) a copy of any notice given to B which contains information about the requirement to book a testing package or to undertake a test;
 - (iii) the results of a test undertaken by B (whether or not that test was provided as a part of a testing package);
 - (v) information obtained by P in the course of providing a test that falls within paragraph (iii) and is undertaken, or in the course of arranging for such a test to be undertaken, by B (including confirmation that the test was undertaken, details of when and where it was undertaken, any reasons for a test not being undertaken and the details of any replacement test to be undertaken),
- (f) information provided to an immigration officer pursuant to these Regulations, or
- (g) where a sample taken in respect of a day 2 test (within the meaning of regulation 5C) has been sequenced, the sorted BAM file relating to that sample containing all reads aligning to the SARS-CoV-2 reference genome with unaligned and human reads removed.”;
- (c) after paragraph (4) insert—

“(4A) A constable or a person responsible for arranging or providing services (including security services) in respect of accommodation as part of a managed self-isolation package may, where necessary for the purpose of carrying out a function under these Regulations, request from B the following information—

 - (a) confirmation that B possesses a testing package (within the meaning of regulation 5C) and the details of that testing package (including the time and date of the tests);
 - (b) confirmation that B has undertaken any test in accordance with a testing package and, if not, an account of the reasons;
 - (c) the result of any test B has undertaken in accordance with a testing package.”.

Amendment of schedule 1

12. In schedule 1 (passenger information)—

- (a) in paragraph 2(a)(i)—
 - (i) after “regulation 6(2)” insert “or 6B(2)”,
 - (ii) for “that regulation” substitute “those regulations”,
- (b) after sub-paragraph (a) insert—

“(ba) in the case of a person who is required to comply with regulation 6B(2), the booking reference number for the managed self-isolation package booked by or on behalf of that person,”,

- (c) after paragraph 4 insert—
 - 4A.** Where regulation 5D requires a testing package to be booked—
 - (a) the name of the provider of the tests, and
 - (b) the reference number for the tests provided to them by the test provider in accordance with regulation 5C.”.

Amendment of schedule 2

- 13.** In schedule 2 (persons not required to comply with regulation 3 or regulation 6)—
- (a) in paragraph 17, for “order” where it occurs for the second time, substitute “ordered”,
 - (b) in paragraph 29(1)(a)(iv), omit from “or is” to the end,
 - (c) in paragraph 29(1)(d), omit from “or is” to the end,
 - (d) omit “or” at the end of paragraph 34(b),
 - (e) omit paragraph 34(c),
 - (f) in paragraph 38(1), for “, an international ancillary sportsperson or a multinational ancillary sportsperson” substitute “or an international ancillary sportsperson”,
 - (g) in paragraph 38(2), omit the definition of “multinational ancillary sportsperson”,
 - (h) in paragraph 38(2), in the definition of “domestic elite sportsperson”, in sub-paragraph(f)(i)—
 - (i) omit “train for, or”,
 - (ii) after “elite sporting event” insert “, or to participate in training for an elite sporting event in which the participants compete to qualify for the right to represent Great Britain and Northern Ireland at the Tokyo or Beijing Olympic or Paralympic Games,”,
 - (i) omit paragraph 38A, and
 - (j) omit paragraph 41.

Amendment of schedule 3A

- 14.** In schedule 3A (specified competitions)(a), insert after paragraph 26—
- “27. UEFA Youth League fixtures.”.

Amendment to the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020

- 15.—**(1) The Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020(b) are amended in accordance with paragraphs (2) to (4).
- (2) In the definition of “international passenger service” in regulation 2 (interpretation), after “common travel area” insert “or from the Republic of Ireland”.
- (3) In schedule 1 (required information)—
- (a) in paragraph 1(c)(iii)—
 - (i) after “negative test result(c)” insert “, to book, pay for and undertake tests”,
 - (ii) for “and 6” substitute “, 5D to 5F, 6 and 6A”,

(a) Schedule 3A was substituted for schedule 3 by S.S.I. 2020/274.
 (b) S.I. 2020/170, amended by S.S.I. 2020/328, S.S.I. 2020/444 and S.S.I. 2021/34.
 (c) Inserted by S.S.I. 2021/34.

- (b) in paragraph 2(b), after head (iv) insert—
 - “(v) text which informs passengers of the requirement to book, pay for and undertake tests in regulations 5D to 5F of the International Travel Regulations,”, and
- (c) in paragraph 3(b)(iii)—
 - (i) after “negative test result” insert “, to book, pay for and undertake tests”,
 - (ii) for “and 6” substitute “5D to 5F, 6 and 6A”.
- (4) In Schedule 2 (passenger notices)—
 - (a) in Part 1—
 - (i) for “3) All arrivals must self-isolate for 10 days unless exempt. Check the list of exempt countries immediately before travel.” substitute—

“3) All arrivals must self-isolate for 10 days unless exempt. If you are a direct international arrival, or have arrived from the Republic of Ireland and travelled through an acute risk country or territory in the last 10 days, you must quarantine for 10 days unless exempt and must have a valid Managed Quarantine Facility booked prior to departure. For information please visit: www.gov.uk/travel-quarantine-and-testing. Check the list of work-related exemptions if travelling for work.

4) Everyone is required to take a coronavirus test on days 2 and 8 of their quarantine. You must have this booked prior to departure. For information please visit: www.gov.uk/travel-quarantine-and-testing,”
 - (ii) for “4) It” substitute “5) It”,
 - (b) in Part 2, for the words from “Before entering the UK” to “Visit gov.uk for more information.” substitute—

“Before entering the UK, you must complete a passenger locator form online, regardless of where you are arriving from. You must also quarantine for the first 10 days after you arrive, unless you are in an exempt category. This is to protect yourself and others. This includes booking hotel quarantine if you are (a) a direct international arrival into Scotland, or (b) from the Republic of Ireland and have travelled through an acute risk country or territory in the last 10 days, or booking home quarantine tests if not.

Visit gov.uk/coronavirus for more information.”.

Amendment of the Health Protection (Coronavirus, Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021

16.—(1) The Health Protection (Coronavirus, Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 (a) are amended in accordance with paragraphs (2) to (7).

- (2) In regulation 5 (interpretation of Part 2), after the definition of “port”, insert—
 - ““Regulation 6A passenger” means a passenger to whom regulation 6A of the International Travel Regulations applies,”.
- (3) In regulation 6 (requirement to ensure passengers have completed a Passenger Locator Form)—
 - (a) after paragraph (1) insert—
 - “(1A) An operator must ensure that a passenger to whom regulation 5D of the International Travel Regulations applies, who arrives at a port in Scotland on a relevant service, has included in their Passenger Locator Form the information required by paragraph 4A of schedule 1 of the International Travel Regulations.

(a) S.S.I. 2021/20.

(1B) An operator must ensure that a Regulation 6A passenger who arrives at a port in Scotland on a relevant service has included in their Passenger Locator Form the booking reference for the managed self-isolation package booked by or on behalf of the person as required by paragraph 2(ba) of schedule 1 of the International Travel Regulations.”,

- (b) in paragraph (2)—
 - (i) for “Paragraph (1) does” substitute “Paragraphs (1), (1A) and (1B) do”, and
 - (ii) omit sub-paragraph (c),
 - (c) after paragraph (2), insert—

“(3) In addition—

 - (a) paragraph (1A) does not apply in relation to a passenger (“P”) where the operator, or a person acting on behalf of the operator, reasonably believes that—
 - (i) regulation 5D (testing following arrival in Scotland: requirement to book and pay for tests) of the International Travel Regulations does not apply to P, or
 - (ii) P has a reasonable excuse for failing to comply with the requirement in regulation 5D of the International Travel Regulations to arrive in Scotland in possession of a testing package,
 - (b) paragraph (1B) does not apply in relation to a passenger (“P”) where the operator, or a person acting on behalf of the operator, reasonably believes—
 - (i) P is not a Regulation 6A passenger, or
 - (ii) P is a Regulation 6A passenger, but has a reasonable excuse for failing to comply with the requirement in regulation 6A(4) of the International Travel Regulations (requirement to possess managed self-isolation package).”.
- (4) After regulation 7 insert—

“Requirement to ensure that certain passengers arrive only at certain ports

7A.—(1) An operator must take all reasonable steps to ensure that no Regulation 6A passenger enters Scotland except at a port in accordance with regulation 6A(2) and (3) of the International Travel Regulations.”.

- (5) In regulation 8 (offences)—
- (a) in paragraph (1)—
 - (i) omit “or” at the end of sub-paragraph (a),
 - (ii) after that sub-paragraph, insert—

“(aa) regulation 6(1A),

(ab) regulation 6(1B),”.
 - (iii) insert “or” at the end of sub-paragraph (b), and
 - (iv) after sub-paragraph (b) insert—

“(c) regulation 7A.”.
- (b) after paragraph (4) insert—

“(4A) In addition, in relation to the offence in paragraph (1)(aa) or (ab), it is a defence for an operator to show that the operator, or a person acting on behalf of the operator, could not have reasonably been expected to know that the relevant information provided by a passenger on their Passenger Locator Form was false or incorrect in any respect or incomplete.

(4B) For the purposes of paragraph (4A) “relevant information” means the information mentioned in regulation 6(1A) or 6(1B) (as the case may be).

(4C) In relation to the offence in paragraph (1)(c), it is a defence for an operator to show that the operator, or a person acting on behalf of the operator, could not have reasonably been expected to know that a passenger was a Regulation 6A passenger.”.

(6) In regulation 9 (extra-territorial jurisdiction)—

(a) after paragraph (1), insert—

“(1A) An offence can be committed under regulation 6(1A) or 6(1B) where the failure to ensure that a passenger who arrives at a port in Scotland on a relevant service has completed the information in a Passenger Locator form as required by either of those regulations occurs wholly or partly outside Scotland.”,

(b) after paragraph (2), insert—

“(2A) An offence can be committed under regulation 7A where the failure to take all reasonable steps to ensure that no Regulation 6A passenger enters Scotland except at a port in accordance with regulation 6A(2) and (3) occurs wholly or partly outside Scotland.”,

(c) in paragraph (3), for “regulation 6(1) or 7(1)” substitute “regulation 6(1), 7(1) or 7A”.

(7) In regulation 11 (review), for “and 7” substitute “, 7 and 7A”.

Saving

17. The amendments made by these Regulations do not apply in relation to any person who arrived in Scotland during the period beginning at 12.01 a.m. on 8 June 2020 and ending immediately prior to the coming into force of these Regulations, and the International Travel Regulations continue to apply to such persons as if the amendments made by these Regulations had not been made.

MICHAEL MATHESON

A member of the Scottish Government

St Andrew's House,
Edinburgh
14th February 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (the “International Travel Regulations”).

Regulation 5 inserts regulation 5C to 5K into the International Travel Regulations. Those regulations specify requirements for certain persons to book and pay for two tests for the detection of coronavirus provided by a public provider prior to or immediately upon the person’s arrival in Scotland; to provide information in relation to the tests; and to undertake the tests following arrival. Those regulations also provide for the consequences of a positive, negative or inconclusive test; requirements to continue to remain in the specified premises or designated accommodation upon failure to undertake a test and a positive test result. The provisions enable charging for tests. New regulation 5J provides for an offence of contravening requirements in relation to testing, without a reasonable excuse.

Regulation 6(1) amends regulation 6 (requirement for travellers or others to stay in specified premises) of the International Travel Regulations. The requirements in regulation 6(2) of those Regulations for travellers to stay in “specified premises” will now apply to a person who (i) arrives in Scotland from the common travel area having transited from or transited through a non-exempt country and (ii) arrives in Scotland from a non-exempt country or territory (excluding an acute risk country or territory) where the person has an exemption in accordance with regulation 7(1)(ba) to (d) of schedule 2 of the International Travel Regulations. A person may in some circumstances require to stay in “specified premises” at times, even though they have an exemption in accordance with regulation 7 and schedule 2.

Regulation 6(2) inserts new regulations 6A to 6D of the International Travel Regulations. New regulation 6A requires certain persons who arrive in Scotland from outside the common travel area (“CTA”) or from the Republic of Ireland who has within the preceding 10 days departed from or transited through an acute risk country or territory, to enter Scotland at one of Aberdeen, Edinburgh or Glasgow Airports, or a military airfield or port, and to be in possession of a managed self-isolation package, either before the person’s arrival in Scotland, or immediately upon arrival. There are exceptions which permit entry at another airport in Scotland, as described in regulation 6A(3). A “managed self-isolation package” is described in regulation 6A(6).

New regulation 6B requires certain travellers arriving in Scotland from outside the CTA or from the Republic of Ireland having transited through an acute risk country to travel directly to the accommodation designated in the package, using transport as so designated where relevant, and to stay in the accommodation until the earlier of the end of the 10th day after arrival, or the date of the person’s departure from the common travel area. New regulation 6C enables a person to appeal to the sheriff or summary sheriff against the requirement to possess a managed self-isolation package or to remain in the accommodation designated in that package. New regulation 6D makes provision to modify the application of regulations 6A and 6B for certain relevant persons as defined in that regulation.

Regulation 7 makes amendments to the persons who are exempted from the requirements of regulation 6(2) for persons to stay in “specified premises”. This provides that some of the persons listed in schedule 2 are exempt from the requirement in regulation 6(2), when the person is outside of the specified premises where the person is staying in accordance with that regulation, in order to travel directly to or from any place where the person’s presence is required for the purposes of their work or activity, and when the person is in attendance at that place. Further amendments are made in consequence of that provision.

Regulation 7 also inserts new regulation 7A of the International Travel Regulations, to list certain persons who are not required to comply with the managed accommodation provisions in new regulations 6A and 6B.

Regulations 8 and 9 and 10 make amendments to the enforcement, offences and penalties provisions in the International Travel Regulations.

Regulation 11 amends the powers to disclose information in connection with the additional tests required by these Regulations.

Regulation 12 amends schedule 1 (passenger information) of the International Travel Regulations, to add in requirements to provide information in the Passenger Locator Form, in relation to the booking reference number for a managed self-isolation package, and the name of the provider and reference number of tests provided in accordance with these Regulations.

Regulation 13 amends schedule 2 of the International Travel Regulations concerning persons not required to comply with the passenger information or isolation at home requirements in regulation 3 or regulation 6 of those Regulations following a review of those exemptions.

Regulation 14 adds UEFA Youth League fixtures to the list of specified competitions in schedule 3A of the International Travel Regulations.

Regulation 15 amends the Health Protection (Coronavirus) (Public Health Information for Passengers Travelling to Scotland) Regulations 2020 to update the information that operators are required to provide to passengers who arrive in Scotland.

Regulation 16 makes various amendments to the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021, in consequence of the amendments made to the International Travel Regulations, so as to—

- a) require persons operating commercial transport services (“operators”) for passengers travelling to Scotland from outside the common travel area to ensure that passengers who arrive in Scotland on such services have included in their Passenger Locator Form details of the test booking arrangements and managed self-isolation package,
- b) require operators for passengers travelling to Scotland from outside the common travel area to take reasonable steps to ensure that passengers to whom regulation 6A of the International Travel Regulations applies arrive in Scotland only in accordance with that regulation 6A (see new regulation 7A),
- c) create offences for the breach of those requirements, and
- d) make consequential amendments.

Regulation 17 makes a saving provision, so that the amendments made to the International Travel Regulations by these Regulations do not apply to any person who arrives in Scotland before the time of coming into force of these Regulations.

An impact assessment is being prepared and will be available at www.legislation.gov.uk.

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Printed in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, The Queen’s Printer for Scotland

£6.90

www.legislation.gov.uk/ssi/2021/74

ISBN 978-0-11-130201-9



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