

Final Business and Regulatory Impact Assessment

Title of Legislation: **The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Revocation Regulations 2022**

Introduction

1. The Scottish Government, along with the UK Government and the other Devolved Administrations, introduced emergency public health measures at the UK border, designed to reduce the public health risks posed by coronavirus (COVID-19), by limiting the further spread of the disease.
2. [The Coronavirus \(Covid-19\): Framework for Decision-Making](#) published in 2020 made clear that COVID-19 is first and foremost a public health crisis, and the measures to combat it have been necessary to save lives. The Framework identified four main categories of harm: **direct health impacts, non-COVID-19 health harms, societal impacts and economic impacts**. These harms are deeply inter-related: health harms impact on society and the economy, just as the societal and economic effects impact on physical and mental health and wellbeing.
3. On February 2022, the Scottish Government published the coronavirus (COVID-19) Strategic Framework Update¹, which set out plans to restore, in a phased way, greater normality to our everyday lives taking account of important developments.
4. Our strategic intent was previously to suppress the virus to the lowest possible level whilst we sought to minimise the broader harms of the virus. Now that the direct health harms caused by the virus are reducing, the broader harms of the crisis grow relatively more important in our decision-making.
5. This assessment has sought to use existing and emerging information, evidence and analysis, as part of the decision making process and sets out our current understanding of the policy impact. We have worked closely with a number of our partners to bring this policy and the accompanying regulations together including Police Scotland, the Crown Office and Procurator Fiscal Service, Border Force in Scotland, Public Health Scotland and key airports in Scotland.

Purpose and intended effect:

Legislative background

6. The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 and the Health Protection (Coronavirus, Public Health information for Passengers Travelling to Scotland) Regulations 2020 came into force on 8 June 2020.
7. The Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 generally came into force on 15 January 2021 (with some specified provisions coming into force on 1 February 2021).
8. The above Regulations were due to expire on 20 September 2021 and were revoked and replaced by the Health Protection (Coronavirus) (International Travel and Operator Liability)

¹ [Coronavirus \(COVID-19\): Scotland's Strategic Framework update - June 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/strategic-framework-update-2022/pages/1-introduction.aspx)

(Scotland) Regulations 2021 (“the consolidated International Travel Regulations”) on that date. The consolidated International Travel Regulations consolidated the provisions of the Regulations it replaced.

9. The consolidated International Travel Regulations set out requirements for people arriving into Scotland including:-

- to provide particular passenger information before or on arrival into Scotland;
- to possess a notification of a negative coronavirus test taken prior to departure;
- to possess a testing package for the detection of coronavirus before or upon arrival into Scotland and to undertake such tests;
- to stay in specified premises (e.g. at home) for a specified period upon arrival into Scotland;
- to stay in managed isolation accommodation for a specified period upon arrival into Scotland.

10. The application of these requirements varies depending on a person’s vaccination status, which country outside the Common Travel Area a person arrived from or travelled through, as well as whether any particular exemption is applicable. It is a criminal offence to fail to comply with the requirements in accordance with the consolidated International Travel Regulations.

11. The consolidated International Travel Regulations also impose related requirements on persons (“operators”) operating commercial services for international passengers travelling to Scotland.

12. The consolidated International Travel Regulations have been amended on a number of occasions since their introduction on 20 September 2021 to ease the level of restriction. This has included provision to expand the ways in which a person may be considered an “eligible vaccinated arrival” for the purposes of the Regulations and so benefit from fewer restrictions. There has also been an easing of the testing requirements applicable to both those considered “eligible vaccinated arrivals” and those who do not fall within the definition

13. The consolidated International Travel Regulations are also time limited and were due to expire on 16 May 2022.

Purpose and intended effect:

Revocation of the Legislation

14. The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Revocation Regulations 2022 revokes the consolidated International Travel Regulations and the amending instruments. The key effects of this revocation will be to:

- remove the distinction by vaccination status and associated testing measures for unvaccinated arrivals, such that no arrivals will be required to possess proof of a pre-departure test, to undertake testing arrival in Scotland or to isolate, and
- remove the requirement for arrivals (of all kinds) to complete the passenger locator form (PLF)

15. This Impact Assessment looks at the impact of this revocation from a Business and Regulatory perspective

Consultation:

Officials and Ministers have engaged with Scotland's key aviation and airline stakeholders through the Aviation Working Group.

Members of the Aviation Working Group have regularly discussed the negative impacts that the remaining restrictions have on travellers and the economic recovery of the sector. Removing the remaining testing requirements for non-eligible travellers is welcomed by these stakeholders.

The group have advised of the negative impact that completing the PLF has on travellers and the added administration required adds further reluctance to travel overseas. Removing the requirement for travellers to complete the PLF is welcomed by these stakeholders.

Options:

Option 1 – Retain Current Measures (The ‘Do Nothing’)

At earlier stages in the pandemic where there was no four nations alignment, Scotland lost airline capacity to English airports due to a stronger demand, which supports a four nations' approach where possible.

Taking this approach would result in a misalignment between Scotland and the rest of the UK. It would also result in the need for a separate passenger locator form which may cause confusion for travellers and potential problems with stakeholders, such as Border Force.

Retaining any testing requirements for unvaccinated travellers would encourage those affected to travel from English airports and, with open borders in the UK, it would have little positive impact in Scotland from a health perspective but a significant negative impact in economic recovery.

Option 2 - Implement the easing of travel restrictions

We recognise that border health measures are most effective on a four nations basis. The revocation of the consolidated International Travel Regulations will impact mostly on market confidence and therefore bookings for the summer.

International visitors have been critical to the development of Scottish tourism, spending well above the average of UK visitors; on average US visitors spend four times more than UK visitors, with European visitors spending twice as much. In 2019 international visitors were responsible for over 3.5 million visits to Scotland generating 43% of the total tourism spend that year. The detrimental impact of the COVID-19 pandemic on this critical contributor to Scottish tourism has been significant².

These changes are expected to be beneficial for families, international students and frequent travellers arriving in Scotland. International travel restrictions will also impact on broader

² <https://committees.parliament.uk/writtenevidence/42308/pdf/>

business travel. On average between 2017 and 2019, around 436,000 (8%) of total overseas visits by Scottish residents were for business purposes each year³.

Conclusion and recommendation

Due to the volume of international travel that the main commercial Scottish airports have, maintaining a more stringent set of measures to the UKG will inevitably lead to Scottish residents and travellers coming to Scotland, using English airports for their international travel which will have an economic impact.

In light of the impact on the aviation and tourism industries in Scotland, as well as the minimal (if any) public health benefit from maintaining a more stringent approach to testing of international travellers, officials recommend Option 2 and aligning with the changes to the travel restrictions, and revoking the consolidated International Travel Regulations.

Scottish Firms Impact Test:

Airports

There has been engagement with Edinburgh Airport and AGS Airports through the Aviation Working Group comprising of representatives from the sector and government officials.

Measures that reduce any travel restrictions and promotes the aviation sector recovery are very much welcomed.

Private companies offering testing packages for international travel will have a reduction in business, due to the remaining testing requirements being lifted. The majority of these businesses were set up during the pandemic and operate on a UK wide basis.

Competition Assessment:

Does the policy affect the essential services market, such as energy or water? No

Does the policy involve storage or increased use of consumer data? No

Does the policy increase opportunities for unscrupulous suppliers to target consumers? No

Consumer Assessment:

The following assessment sets out the Scottish Government's initial view on the impact of easing restrictions for international travel on consumers.

Does the policy affect the quality, availability or price of any goods or services in a market?

No

Does the policy affect the essential services market, such as energy or water?

There is no expected impact on markets for essential services.

³ ONS (2021): Scottish Residents' Visits Abroad, 2017-2019 (ad hoc request provided by ONS)

Does the policy involve storage or increased use of consumer data?

No

Does the policy increase opportunities for unscrupulous suppliers to target consumers?

No

Test run of business forms:

N/A

Digital Impact Test:

N/A

Legal Aid Impact Test:

N/A

Enforcement, sanctions and monitoring:

N/A

Implementation and delivery plan and post-implementation review:

Regulations and guidance will come into effect as follows

- 04:00 am 18 March 2022

Declaration and publication

Sign-off for BRIA:

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the measures set out in the regulations and guidance. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Michael Matheson

Date: 17 March 2022

Minister's name: Michael Matheson

Minister's title: Cabinet Secretary for Net Zero, Energy and Transport