

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL AND OPERATOR LIABILITY) (SCOTLAND) REVOCATION REGULATIONS 2022

SSI 2022/99

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”) and paragraph 1(1) of schedule 19 of the Coronavirus Act 2020 (“the 2020 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 would ordinarily 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. Section 122(8) dis-applies the requirement that Parliament approve emergency regulations by resolution if all that the emergency regulations in question are doing is revoking previous emergency regulations, and making incidental provision in relation to that revocation. Section 122(8) applies to this instrument such that the instrument will not require to be approved by a resolution of the Parliament.

There are equivalent procedure provisions in paragraph 6 of schedule 19, in relation to the enabling power in paragraph 1(1) of schedule 19 of the 2020 Act.

This instrument revokes the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 and all Regulations which amend those Regulations.

It removes all restrictions and requirements placed on travellers arriving in Scotland and operators providing transport services to, or via, Scotland by those Regulations.

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 the 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 revocations made by these Regulations come into force at 0400 on 18 March 2022

Policy Objectives

5. The overarching policy aim of this instrument is to update Scotland's approach to international travel, removing restrictions where that approach is consistent with clinical evidence and advice. Based on the clinical evidence presented, Ministers have agreed on a UK-wide basis that all remaining border health measures should now be removed, and that the border health contingency toolkit should be developed.

Revocation of Regulations

6. This instrument revokes the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 and all Regulations which amend those Regulations. It removes all restrictions and requirements placed on travellers arriving in Scotland and operators providing transport services to, or via, Scotland by those Regulations.
7. Regulation 3 makes savings provision such that the revocations made by these Regulations do not apply to any person who arrived in Scotland before 0400 on 18 March 2022. Any person who arrived in Scotland before that time who is required by the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 (as they applied at the time of the person's arrival) to comply with a requirement, such as by completing a day 2 test after their arrival, must still comply with that requirement even if the date on which they must carry out the requirement occurs after 18 March.
8. These revocations do not affect the requirements under the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 (S.S.I. 2021/277) which require a person using a passenger transport service, or at passenger transport service premises, to wear a face covering unless an exemption applies. Travellers on a flight in Scottish airspace which took off from, or is to land, in Scotland, will continue to be required to wear face coverings unless an exemption applies.

Consultation

9. This instrument is being made urgently in Scotland to remove the public health measures in respect of international arrivals to the UK.

10. 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

11. Impact assessments will be published on Legislation.gov.uk.

Scottish Government
COVID Co-ordination Directorate
17 March 2022