
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 169

**The Health Protection (Coronavirus)
(International Travel) (Scotland) Regulations 2020**

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020.

(2) These Regulations come into force on 8 June 2020.

Interpretation

2.—(1) In these Regulations—

“child” means a person under the age of 16,

“common travel area” has the meaning given in section 1(3) of the Immigration Act 1971(1),

“constable” has the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012(2),

“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),

“immigration officer” means a person appointed by the Secretary of State as an immigration officer under paragraph 1 of schedule 2 of the Immigration Act 1971(3),

“information offence” means an offence under regulation 5(1) or (2) or an offence under regulation 9(4) where the person is believed to have intentionally obstructed an immigration officer carrying out a function in relation to Part 2,

“passenger information” means the information specified in schedule 1, and

“Passenger Locator Form” means the electronic form published by the Secretary of State for the provision of passenger information(4).

(2) For the purposes of these Regulations, an individual has responsibility for a child if the individual has—

(a) custody or charge of the child for the time being, or

(1) 1971 c.77. Section 1(3) provides that the United Kingdom, the Channel Islands, the Isle of Man, and the Republic of Ireland are collectively referred to in that Act as “the common travel area”.

(2) 2012 asp 8.

(3) 1971 c.77. Paragraph 1 was amended by paragraph 3 of schedule 3 of the Health Protection Agency Act 2004 (c.17), and by S.I. 1993/1813.

(4) The Passenger Locator Form is available on www.gov.uk. No hard copy version is available but, where a person arrives at a place staffed by Immigration Officers, they will be provided with the ability to complete the form electronically on their arrival in Scotland if not completed in advance; assistance will be available for completion of the electronic form if required.

- (b) parental responsibilities or parental rights in relation to the child (see sections 1(3) and 2(4) of the Children (Scotland) Act 1995)(5).

PART 2

Requirement to provide information

- 3.—(1) This regulation applies where a person (“P”) arrives in Scotland—
- (a) from outside the common travel area, or
 - (b) from within the common travel area, if P has been outside the common travel area at any time in the period beginning with the 14th day before P’s arrival into Scotland.
- (2) P must provide to the Secretary of State—
- (a) P’s passenger information, and
 - (b) where P is accompanied by any child for whom P has responsibility, passenger information pertaining to that child.
- (3) The requirement in paragraph (2) can be complied with—
- (a) by P prior to P’s arrival into Scotland submitting electronically to the Secretary of State a Passenger Locator Form containing—
 - (i) P’s passenger information, and
 - (ii) where P is accompanied by any child for whom P has responsibility, passenger information pertaining to that child,
 - (b) where P has arrived in Scotland from England, Wales or Northern Ireland by P prior to P’s arrival into England, Wales or Northern Ireland having submitted electronically to the Secretary of State a Passenger Locator Form containing—
 - (i) P’s passenger information, and
 - (ii) where P is accompanied by any child for whom P has responsibility, passenger information pertaining to that child, or
 - (c) by P as soon as reasonably practicable upon arriving in Scotland submitting electronically, using a facility provided by the Secretary of State for this purpose, a Passenger Locator Form, containing—
 - (i) P’s passenger information, and
 - (ii) where P is accompanied by any child for whom P has responsibility, passenger information pertaining to that child.
- (4) P is not required to comply with the requirement in paragraph (2) where P is—
- (a) a child and the child’s passenger information has been provided under paragraph (3)(a)(ii), (b)(ii) or (c)(ii) by another person,
 - (b) a person described in described in regulation 7(1)(a), or
 - (c) a person described in any of paragraphs 1 to 4 of schedule 2.
- (5) A person who has provided passenger information in accordance with paragraph (3)(a) or (b) must provide evidence that they have done so if requested by an immigration officer.
- (6) Nothing in this regulation requires P to provide passenger information if the information is not within P’s knowledge or possession or under P’s control.

(5) 1995 c.36. Section 1 was amended by paragraph 48 of schedule 6(2) of the Human Fertilisation and Embryology Act 2008 (c.22). Section 2 was amended by paragraph 49 of schedule 6(2) of the Human Fertilisation and Embryology Act 2008.

Requirement to update passenger information

4.—(1) Paragraph (2) applies where—

- (a) P is required to comply with the requirement in regulation 6(2), and
- (b) prior to the expiry of the period referred to in regulation 6(2)(a),
 - (i) the passenger information provided by P in accordance with regulation 3 is no longer accurate, or
 - (ii) passenger information relating to P or a child accompanying P comes within P's knowledge or possession or under P's control.

(2) P must, as soon as reasonably practicable, take all reasonable steps to provide the updated passenger information to the Secretary of State using the Passenger Locator Form.

(3) Nothing in this regulation requires P to provide passenger information if the information is not within P's knowledge or control.

Passenger information: offences and penalties

5.—(1) A person who contravenes the requirement in regulation 3 or 4(2) commits an offence.

(2) It is an offence for P to provide false or misleading information for the purposes of regulation 3 or 4, where P—

- (a) knows that the information is false or misleading, or
- (b) is reckless as to whether the information is false or misleading.

(3) It is a defence to a charge of committing an offence under paragraph (1) or (2) to show that the person, in the circumstances, had a reasonable excuse.

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

PART 3

Requirement for travellers to stay in specified premises

6.—(1) This regulation applies where a person (“P”)—

- (a) arrives in Scotland from outside the common travel area, or
- (b) arrives in Scotland from elsewhere within the common travel area, and has within the preceding 14 days been outside the common travel area.

(2) P must, on their arrival in Scotland, travel without undue delay to specified premises in Scotland and, except to the extent that a defence would be available under regulation 9(6), must not leave those premises until whichever is the earlier of—

- (a) the end of the fourteenth day after the day on which they arrived in the common travel area, or
- (b) their departure from Scotland.

(3) For the purposes of this regulation, the “specified premises” are—

- (a) unless paragraph (b) or (c) applies—
 - (i) an address specified in P's Passenger Locator Form as the place they intend to stay in for the duration of the period specified in paragraph (2) as required by regulation 3, where P has completed a Passenger Locator Form,

- (ii) an address specified as the place they intend to stay for the duration of the period specified in paragraph (2) where P has completed a form equivalent to a Passenger Locator Form pursuant to an enactment in England, Wales or Northern Ireland,
 - (iii) the premises at which they intend to stay for such part of the period specified in paragraph (2) as will apply while in Scotland where P is a person described in paragraph (1)(b) who has not completed a Passenger Locator Form or equivalent form as described in head (ii),
 - (iv) the premises at which they intend to stay for such part of the period specified in paragraph (2) as will apply while in Scotland, where P is a person described in paragraph 1 of schedule 2 (other than one described in regulation 7(1)(c)(i)), or
 - (v) where it is not possible for P to stay at a place in accordance with paragraph (i) to (iv), in accommodation facilitated by the Secretary of State for P for the purposes of paragraph (2),
- (b) where P is an asylum seeker, in accommodation provided or arranged under section 4, 95 or 98 of the Immigration and Asylum Act 1999⁽⁶⁾, or
- (c) where P is a person described in paragraph 9(1) of schedule 10 of the Immigration Act 2016⁽⁷⁾ (powers of Secretary of State to enable person to meet bail conditions), in accommodation provided or arranged under that paragraph.
- (4) For the purposes of this regulation, where the specified premises are residential premises those premises include any garden, yard, passage, stair, garage, outhouse or other appurtenance of such premises.
- (5) Where P is a person described in paragraph 38 of schedule 2, paragraph (3)(a)(i) applies with the modification that the address at which P intends to stay for the purposes of regulation 6(2) must be the named farm (within the meaning of paragraph 38 of schedule 2).
- (6) P may not leave, or be outside of, the premises where they are staying in accordance with paragraph (2) in reliance on any reasonable excuse described in regulation 8(4) or (5) of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (offences and penalties) except to the extent that such excuse falls within the reasons specified in regulation 10(4)⁽⁸⁾.
- (7) If P is a child, any person who has responsibility for the child must ensure, so far as reasonably practicable, that the child complies with this regulation.
- (8) Nothing in this regulation affects the operation of any requirement or restriction on P by virtue of schedule 21 of the Coronavirus Act 2020⁽⁹⁾ (powers relating to potentially infectious persons) or by virtue of an order made under Part 4 of the Public Health etc. (Scotland) Act 2008⁽¹⁰⁾.

Persons not required to comply with regulation 6

7. The following persons are not required to comply with the requirements in regulation 6—
- (a) any person described in regulation 6(1)(b) who—
 - (i) has arrived from England, and
 - (ii) is in Scotland, temporarily, for a reason specified in regulation 9(6),

⁽⁶⁾ 1999 c.33. Section 4 was amended by section 49 of the Nationality, Immigration and Asylum Act 2002 (c.41), by section 10(1) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), by section 43(7) of the Immigration, Asylum and Nationality Act 2006 (c.13), and by paragraph 1 of schedule 11 of the Immigration Act 2016 (c.19). Section 95 was amended by section 50(1) of the Nationality, Immigration and Asylum Act 2002 and by paragraph 29 of schedule 10 of the Immigration Act 2016.

⁽⁷⁾ 2016 c.19.

⁽⁸⁾ 2020/103, as amended by S.S.I. 2020/106, S.S.I. 2020/126 and S.S.I. 2020/164.

⁽⁹⁾ 2020 c.7.

⁽¹⁰⁾ 2008 asp 5.

- (b) any person who has arrived at a port in Scotland in order to travel immediately onwards to—
 - (i) another part of the United Kingdom, or
 - (ii) elsewhere outside of the United Kingdom,
- (c) any person described in paragraph 1(1)(a) to (k) of schedule 2 who meets the conditions set out in paragraph 1(2) of that schedule, any person described in paragraph 38 of schedule 2 where that person is required to work in fields or other property under the control of the farming enterprise, but only to the extent specified in that paragraph, or
- (d) any person described in any other paragraph of schedule 2.

PART 4

Enforcement of Part 3

Enforcement of requirement in regulation 6(2)

8.—(1) Where a constable has reasonable grounds for suspecting that a person (“P”) has contravened the requirement in regulation 6(2) the constable may—

- (a) direct P to return to the place where P is staying in accordance with regulation 6(2),
- (b) remove P to the place where P is staying in accordance with regulation 6(2), or
- (c) where it is not practicable or appropriate in the circumstances to take the action in subparagraph (a) or (b), remove P to a hotel or other accommodation facilitated by the Secretary of State.

(2) Paragraph (1)(b) and (c) do not apply where P is a person described in paragraph 1 of schedule 2.

(3) A constable exercising the power in paragraph (1) may use reasonable force, if necessary, in doing so.

(4) Where a child is outside of the place where they are staying in accordance with regulation 6(2) and is accompanied by an individual who has responsibility for the child (“A”)—

- (a) a constable may direct A to take the child to the place where the child is staying in accordance with regulation 6(2), and
- (b) A must, so far as reasonably practicable, ensure that the child complies with any direction or instruction given by a constable to the child.

(5) Where a constable has reasonable grounds for suspecting that a child has repeatedly contravened the requirement in regulation 6(2), the constable may direct any individual who has responsibility for the child to ensure, so far as reasonably practicable, that the child complies with that requirement.

(6) A constable may only exercise a power in paragraph (1), (4), or (5) if the constable considers that it is a necessary and proportionate means of ensuring compliance with the requirement in regulation 6(2).

(7) A constable exercising a power under paragraph (1), (4) or (5) may give to P or A any direction or instruction the constable considers necessary and proportionate.

Offences and penalties - Parts 3 and 4

9.—(1) It is an offence to contravene a requirement in—

- (a) regulation 6(2), or

- (b) regulation 6(7).
- (2) It is an offence to contravene a requirement in or imposed under regulation 8.
- (3) It is an offence for P to provide false or misleading information for the purposes of Part 3 or 4 where P—
- (a) knows that the information is false or misleading, or
 - (b) is reckless as to whether the information is false or misleading.
- (4) A person who deliberately obstructs any person carrying out a function under these Regulations commits an offence
- (5) It is a defence to a charge of committing an offence under paragraph (1)(b), (2) (3) or (4) to show that the person, in the circumstances, had a reasonable excuse.
- (6) It is a defence to a charge of committing an offence under paragraph (1)(a) for the person to show that they are outside of the place where they are staying in accordance with regulation 6(2) for one of the following reasons—
- (a) to travel in order to leave Scotland, provided that they do so directly,
 - (b) to obtain basic necessities, including food and medical supplies for those in the same household (including any pets or animals in the household),
 - (c) to seek medical assistance, including to access any of the services referred to in paragraph 37 or 38 of schedule 1 of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020(11),
 - (d) 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) to fulfil a legal obligation, including attending court or satisfying bail conditions, or to participate in legal proceedings,
 - (f) to access public services (including social services or victims’ services) where—
 - (i) access to the service is critical to P’s well-being, and
 - (ii) the service cannot be provided if P remains at the premises,
 - (g) to avoid injury, illness or to escape a risk of harm, or
 - (h) to move to a different place for the purposes of regulation 6(2) where—
 - (i) a legal obligation requires P to change the premises at which P resides for the purposes of regulation 6(2), or
 - (ii) P is otherwise unable to remain at the premises at which P is residing for the purpose regulation 6(2).

Penalties for offences under regulation 9

10. A person who commits an offence under regulation 9 is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

Fixed penalty notices

11.—(1) A constable may issue a fixed penalty notice to anyone that the constable has reasonable grounds to believe—

(11) [S.S.I. 2020/103](#), as amended by [S.S.I. 2020/106](#), [S.S.I. 2020/126](#) and [S.S.I. 2020/164](#).

- (a) has committed an offence under these Regulations, and
- (b) is aged 18 or over.

(2) Subject to regulation 12(3) an immigration officer may issue a fixed penalty notice to anyone that the immigration officer has reasonable grounds to believe—

- (a) has committed an information offence, and
- (b) is aged 18 or over.

(3) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty in accordance with these Regulations.

(4) For the purposes of these Regulations—

- (a) the form of a fixed penalty notice,
- (b) the effect of a fixed penalty notice, and
- (c) the procedure that applies to a fixed penalty notice,

are the same as those that apply to a fixed penalty notice given under section 129(1) of the Antisocial Behaviour etc. (Scotland) Act 2004⁽¹²⁾, as provided for in sections 129 to 134 of that Act, and section 226B and 226I of the Criminal Procedure (Scotland) Act 1995⁽¹³⁾ subject to the modification in paragraph (5).

(5) The modifications are—

- (a) section 129(1) is to be disregarded,
- (b) the definitions of “fixed penalty notice” in sections 129(2) and 134 are to be construed as a reference to a notice under paragraph (1),
- (c) the definition of “prescribed area” in section 129(2) is to be disregarded,
- (d) section 130(1), (2) and (3)(f) is to be disregarded,
- (e) the references to “section 129” in section 131(1) and section 133(1) are to be construed as references to this regulation,
- (f) the reference in section 131(5) to “in accordance with this Part” is to be construed as a reference to these Regulations and the reference to “a sum equal to one and a half times” is to be disregarded,
- (g) the definition of “fixed penalty offence” in section 134 is to be construed as though it referred to an offence of the type referred to in paragraph (1)(a),
- (h) the reference to “by virtue of section 131(5) of the Antisocial Behaviour etc. (Scotland) Act 2004” in section 226B(5)(a)(ii) of the Criminal Procedure (Scotland) Act 1995 is to be construed as a reference to that section as modified by this paragraph, and
- (i) the reference to “a fixed penalty notice given under section 129 (fixed penalty notices) of the Antisocial Behaviour etc. (Scotland) Act 2004” is to be construed as a reference to that section as modified by this paragraph.

Fixed penalty notices – penalty amounts

12.—(1) The penalty payable in respect of a fixed penalty notice issued in respect of an information offence, subject to paragraph (2), is £60.

⁽¹²⁾ 2004 asp 8. Sections 130, 131, 132 were amended by para 32(b) of schedule 1 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6). Section 132 was amended by para 32(c) of schedule 1 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

⁽¹³⁾ 1995 c. 46. Sections 226B and 226I were inserted by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 asp 6 (Scottish Act) Pt 3 s.55. Sections 226B and 226I have been amended by none is relevant.

(2) Unless paragraph (3) applies, if £30 is paid before the end of the period of 28 days beginning with the date of the fixed penalty notice, then that is the amount of the fixed penalty (and the fixed penalty notice must make known the effect of this paragraph).

(3) If the person to whom a fixed penalty notice in respect of an information offence is given has already received a fixed penalty notice under these Regulations—

- (a) paragraph (1) does not apply, and
- (b) the penalty payable in the case of—
 - (i) the second fixed penalty notice received is £120,
 - (ii) the third and subsequent fixed penalty notice received is double the amount specified in the last fixed penalty notice received by that person, to a maximum of £480.

(4) The penalty payable is £480 in respect of a fixed penalty notice issued in respect of an offence under—

- (a) regulation 9(1), or
- (b) regulation 9(2) (where the person is believed to have intentionally obstructed any person carrying out a function in relation to regulation 6 or 8).

PART 5

Information sharing

Power to use and disclose information

13.—(1) This regulation applies to a person in Scotland (“P”) who holds relevant information, including where P holds that information as a result of disclosure made in accordance with paragraph (4).

(2) For the purposes of this regulation, “relevant information” is—

- (a) information provided in accordance with regulation 3, or
- (b) passenger information from elsewhere in the UK.

(3) P may only use the relevant information where it is necessary for the purpose of—

- (a) carrying out a function under these Regulations,
- (b) preventing danger to public health as a result of the spread of infection or contamination with coronavirus,
- (c) monitoring the spread of infection or contamination with coronavirus or the incidence of coronavirus disease,
- (d) giving effect to any international agreement or arrangement relating to the spread of infection or contamination with coronavirus or the incidence of coronavirus disease, or
- (e) for a purpose connected with, or otherwise incidental to a purpose described in subparagraph (a) to (d).

(4) Subject to paragraph (6), P may only disclose relevant information to another person (the “recipient”) where it is necessary for the recipient to have the information—

- (a) for the purpose of carrying out a function of the recipient under—
 - (i) these Regulations, or
 - (ii) regulations made as respects England, Wales or Northern Ireland (as the case may be) that is equivalent to provision made under these Regulations,
- (b) for the purpose of—

- (i) preventing danger to public health as a result of the spread of infection or contamination with coronavirus,
 - (ii) monitoring the spread of infection or contamination with coronavirus or the incidence of coronavirus disease,
 - (iii) giving effect to any international agreement or arrangement relating to the spread of infection or contamination with coronavirus or the incidence of coronavirus disease, or
- (c) a purpose connected with, or otherwise incidental to, a purpose described in paragraph (a) or (b).
- (5) Subject to paragraph (7), disclosure which is authorised by this regulation does not breach an obligation of confidence owed by the person making the disclosure.
- (6) Despite paragraphs (3), (4) and (5), this regulation does not limit the circumstances in which information may otherwise lawfully be disclosed under any other enactment or rule of law.
- (7) Nothing in this regulation authorises the use or disclosure of personal data where doing so contravenes the data protection legislation.
- (8) For the purposes of this regulation—
- (a) “data protection legislation” and “personal data” have the same meanings as in section 3 of the Data Protection Act 2018⁽¹⁴⁾, and
 - (b) “passenger information from elsewhere in the UK” means information provided to a person in accordance with provision in regulations made as respects England, Wales or Northern Ireland (as the case may be) that is equivalent to provision made under these Regulations.

PART 6

Review and expiry of Regulations

Review of need for restrictions

14. The Scottish Ministers must review the need for the requirements imposed by these Regulations at least once every 21 days, with the first review being carried out by 29 June 2020.

Expiry of Regulations

15.—(1) These Regulations expire at the end of the period of 12 months beginning with the day on which they come into force.

(2) The expiry of these Regulations does not affect the validity of anything done pursuant to these Regulations before they expire.

St Andrew’s House,
Edinburgh
7th June 2020

JEANE FREEMAN
A member of the Scottish Government

⁽¹⁴⁾ 2018 c.12.