

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL) (SCOTLAND) AMENDMENT (NO. 3) REGULATIONS 2020

SSI 2020/209

The above instrument was made in exercise of the powers conferred by section 94(1) of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”).

Section 122(5) of the 2008 Act states that regulations under section 94(1) are subject to the affirmative procedure. However, section 122(6) provides that the affirmative procedure will not apply if the Scottish Ministers consider that the regulations need to be made urgently. In such situations, section 122(7) applies.

This instrument makes further amendments to the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (SSI 2020/169, “the principal Regulations”), which impose requirements on international travellers, to reduce the public health risks posed by the spread of coronavirus (severe acute respiratory syndrome coronavirus 2, or SARS-CoV-2) in Scotland which causes the coronavirus disease (COVID-19). This instrument exempts persons arriving in Scotland from the requirement in regulation 6 of the principal Regulations for travellers to stay in specified premises if, during the 14 days preceding their arrival, they have only departed from or transited through “exempt countries or territories”. This instrument also adds to the categories of information to be provided on arrival and the categories of persons who are otherwise exempt from the requirements in regulations 3 to 6 of those principal Regulations.

Background

1. The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (SSI 2020/169) (“the principal Regulations”) were: made on 7 June; came into force on 8 June 2020; and were laid in the Scottish Parliament on 8 June 2020.
2. Minor amendments were made to the original Regulations, including as regards seamen and masters by: the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment Regulations 2020 (SSI 2020/171); and by the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 2) Regulations 2020 (SSI 2020/184).
3. This instrument makes certain further amendments to the original Regulations to take into account the outcome of the statutory review of those regulations, which was completed on 29th June 2020.
4. The principal Regulations were urgently implemented in order to reduce the likelihood that an increase in coronavirus infections in Scotland would arise as a result of imported cases. The Scottish Government introduced a requirement for people arriving into Scotland from all countries outside of the common travel area to remain at specified premises for 14 days after the day of their arrival (“the quarantine requirement”). However, this requirement has been kept under constant review with a view to ensuring it can be minimised wherever appropriate and proportionate.

Policy Objectives

5. The first key amendment made by this instrument to the original Regulations is to now exempt people from the quarantine requirement where, during the 14 days preceding their arrival in Scotland, they have only been in “exempt countries or territories”. Such countries and territories have been added to a list in the new Schedule A1, as the public health risk of importation of coronavirus infection to Scotland from those places has been deemed sufficiently low to merit an exemption. The list in Schedule A1 will be subject to ongoing review and further countries will be added or removed informed by their risk status when it is appropriate and proportionate to do so.

6. Neither the amendments to the exemptions (Schedule 2 of the principal Regulations) nor the new country exemptions (new Schedule A1 of those regulations), which both come into force on 10 July 2020, will affect the quarantine requirement for persons arriving in Scotland before the coming into force of those respective amendments.

7. The second set of key amendments made by this instrument to the principal Regulations is to also make a number of changes to the existing Schedules 1 and 2:

- Schedule 1 of the principal Regulations is amended to make certain changes to the information that must be provided in the Passenger Locator Form;
- Parts 1 and 2 of Schedule 2 of the principal Regulations are amended, to make certain changes to: the categories of persons who are exempt from the requirement in regulation 3 to provide passenger information, and the requirement to update passenger information in regulation 4; or from the quarantine requirement in regulation 6.

8. The Passenger Locator Form (in Schedule 1 of the principal Regulations) will now ask people for the details of which countries or territories they have departed from or transited through in the last 14 days, and the dates they were there. This will enable effective enforcement of the quarantine requirement if someone has been in a non-exempt country in the last 14 days (and will ensure it is clear when a person benefits from an exemption from the requirement where they have not). The quarantine requirement applies from 14 days from the day after a person has last departed from or transited through a non-exempt country or territory.

9. The principal Regulations also contained exemptions from the quarantine requirement and the requirement to provide passenger information for certain people and categories of person to maintain essential supply chains, key infrastructure or to contribute to crisis response. These Regulations introduce a small number of additional exemptions, including:

- exemptions from the quarantine requirement under regulation 6 of the principal Regulations for international elite sportspersons (and persons who provide support to them) and persons engaged in film production or high-end TV production; and
- exemptions from the obligation to provide and update passenger information for persons such as transport workers and crew who do not come into contact with passengers in the course of their work in specified circumstances. Those specified circumstances are where transport crew are travelling on their journey to Scotland only on a conveyance which does

not carry passengers, in an area of a conveyance which is not accessible by passengers or if accessible by passengers in vehicles, where passengers remain in their vehicles (while the crew is present in that area of the conveyance).

Consultation

10. This instrument is being made urgently in Scotland to the public health measures in respect of international arrivals to the UK that were brought in on a UK-wide basis from 8 June 2020. The purpose of the principal Regulations was, as above, to help prevent further spread of the coronavirus and a possible second wave. Each of the four nations is required under their own Regulations to conduct regular reviews, and as those reviews are conducted there is the possibility of divergence from that initial four nation aligned approach, either on the need for the Regulations themselves or for any of the measures imposed by those Regulations. Such policy divergence may include the Scottish Government, or any of the other three administrations in the UK, reaching a different view on exempt countries and territories under the Regulations, reflecting differences in the prevalence of COVID-19 in that particular nation at any review point.

11. This instrument makes certain further amendments to the principal Regulations to take into account the outcome of the statutory review of those regulations, which was completed on 29th June 2020. 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, COPFS, Border Force in Scotland, Public Health Scotland and key airports in Scotland as the policy on implementation of the policy in Scotland has continued to be shaped. There have also been discussions between the Scottish Government, Public Health Scotland and airports in Scotland on some practical issues to alert passengers to the changing requirements on arrival into Scotland.

Impact Assessments

12. The impact of the coronavirus pandemic on the travel and tourism industries has been significant, and it is challenging to disaggregate the impact of the principal Regulations from the wider consequences of the pandemic. The amendments being made by this instrument will, by exempting travellers who have been in particular countries and territories in the 14 days prior to their arrival to Scotland from the quarantine requirement, and by introducing further sectoral exemptions, help balance the imposition of requirements on international arrivals in Scotland with the economic and social costs.

13. The need for the Regulations will continue to be reviewed every 21 days and they will be maintained only for as long as judged necessary. In any event, they will cease to have effect twelve months from the coming into force of the principal Regulations, as provided by the sunset clause in regulation 15.

14. An Equality Impact Assessment and a Business and Regulatory Impact Assessment will be published in respect of the principal Regulations as amended by this instrument.

Scottish Government
COVID-19 Public Health Directorate
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