

CRWIA – Stage 3

CRWIA title: Allowing unaccompanied under 18s coming from outwith the common travel area to self-isolate rather than enter managed isolation Date of publication: 31 March 2021	
Executive summary	<p>The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 8) Regulations 2021 allow unaccompanied children under the age of 18 arriving in Scotland from outwith the common travel area not to have to enter managed isolation. Instead, they would enter self-isolation at home.</p> <p>This document builds upon the work undertaken in the past months to ensure that children’s rights and wellbeing are at the centre of our response to Coronavirus (Covid-19) and the previous Children’s Rights and Wellbeing Impact Assessments (CRWIAs) which have been published. It sets out our efforts to mitigate the wider harms on children, through decisions that are necessary at this stage to keep our country safe.</p>
Background	<p>The Health Protection (Coronavirus) (International Travel) (Managed Accommodation and Testing) (Scotland) Regulations 2021¹ came into force on 15 February 2021 and made amendments to introduce the policy of managed isolation into the principal Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020². As amended by the above and subsequent regulations, the principal Regulations require a person arriving in Scotland from outside the Common Travel Area, or from elsewhere within the Common Travel Area having within the preceding 10 days departed from or transited through an acute risk country or territory, to be in possession of a managed isolation package (which includes a booking for a place in a quarantine hotel) and to stay in that accommodation for a minimum 10 day period. There is a list of limited exemptions in the Regulations from the requirement to be in possession of a managed isolation package. There is no general exemption for children.</p>
Scope of the CRWIA, identifying the children and young people affected by the policy, and summarising the evidence base	<p>The CRWIA considers whether the provisions allowing under 18s who are arriving from outwith the common travel area to self-isolate rather than enter managed isolation impacts upon the rights and wellbeing of children and young people in Scotland. In preparing this CRWIA, the Scottish Government has considered all of the UNCRC articles and listed the articles which it considers most important in this context.</p>
Children and young people’s views and experiences	<p>There has been no direct engagement with children and young people given the need to act quickly. However, the Scottish Government has discussed with the Children & Young People’s Commissioner Scotland about the human rights implications for unaccompanied children</p>
Key Findings, including an assessment of the	<p>It was necessary to make and lay these regulations urgently to ensure that unaccompanied children and young people arriving into Scotland from</p>

¹ [The Health Protection \(Coronavirus\) \(International Travel\) \(Managed Accommodation and Testing\) \(Scotland\) Regulations 2021 \(legislation.gov.uk\)](#)

² [The Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Regulations 2020 \(legislation.gov.uk\)](#)

<p>impact on children's rights, and how the measure will contribute to children's wellbeing</p>	<p>outwith the common travel area are allowed to self-isolate rather than enter managed quarantine.</p> <p>The policy will have a positive impact for unaccompanied children who are arriving from outwith the common travel area as it will allow them to self-isolate at home rather than be in possession of a managed isolation package.</p> <p>By not extending any exemption to all under 18s arriving from outwith the common travel area this will have a negative impact on those children arriving with a parent or guardian. However, this has to be balanced with the need to protect the population from importation of new variants of Covid19.</p>			
<p>Monitoring and review</p>	<p>The Scottish Government will keep this policy under review.</p>			
<p>Regulation</p>	<p>Aims of measure</p>	<p>Likely to impact on . . .</p>	<p>Compliance with UNCRC requirements</p>	<p>Contribution to local duties to safeguard, support and promote child wellbeing</p>
<p>The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 8) Regulations 2021</p>	<p>To allow unaccompanied under 18s who are arriving in Scotland from outwith the common travel area to self-isolate instead of enter managed isolation.</p>	<p>All children under 18 travelling unaccompanied from outwith the common travel area.</p> <p>Unaccompanied includes a child who travels with one adult where that adult intends to hand the child over to another adult when they arrive in Scotland.</p>	<p>Article 1 Article 1 defines a child as every human below the age of 18 unless under the law applicable to the child majority is attained earlier. This policy covers all unaccompanied children under the age of 18.</p> <p>Article 2 Article 2 requires that States Parties shall respect and ensure the rights set forth in the Convention to each child without discrimination irrespective of the child's or</p>	<p>The following wellbeing indicators are relevant:</p> <p>Safe: the policy allows unaccompanied under 18s to self-isolate at home rather than in managed isolation. This may allow for them to receive support from a family member who will self-isolate at home with them.</p> <p>Nurtured: the policy allows unaccompanied under 18s to self-isolate at home rather than in managed isolation. This may allow for them to receive support from a family member</p>

			<p>his or her parents or legal guardian's race, national, ethnic or social origin (amongst others).</p> <p>Allowing unaccompanied under 18s to self-isolate rather than enter managed isolation could benefit children who were born or whose parents were born outwith the common travel area and who are returning to Scotland.</p> <p>Article 3 Article 3 requires that in all actions concerning children the best interests of the child shall be a primary consideration.</p> <p>Allowing unaccompanied under 18s to self-isolate rather than enter managed isolation may be in the child's best interest as they could receive support and assistance from a family member if they were able to self-isolate at their home.</p> <p>Article 5</p>	<p>who will self-isolate at home with them.</p>
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			<p>Article 5 requires States Parties to respect the responsibilities, rights and duties of parents.</p> <p>Allowing unaccompanied under 18s to self-isolate rather than enter managed isolation could allow parents more flexibility on how they exercise their parental responsibilities and rights. If the child self-isolates at home with their parents, it may, for example, be more straightforward for a parent to exercise the parental responsibility [section 1(1)(a) of the Children (Scotland) Act 1995 refers] to “safeguard and promote the child’s health, development and welfare”.</p> <p>Article 9 Article 9 provides that States Parties shall respect the right of the child who is separated from one or both parents to maintain</p>	
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			<p>personal relations and direct contact with both parents on a regular basis.</p> <p>The Scottish Government accepts that entering managed isolation may have a negative impact on a child's ability to maintain direct contact with both parents where one of the parents lives outwith the common travel area. However, this right is balanced with the risk of importation of new variants of Covid19. If a child is unable to maintain in person contact with a parent then this could be facilitated by virtual contact. We will also keep these restrictions under regular review.</p> <p>This amendment will though allow an unaccompanied child to self - isolate and this could be done in the home of a parent – as long as the parent and</p>	
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			<p>anyone else in the household also self isolates.</p> <p>Article 10 Article 10 provides that a child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. The Scottish Government accepts that entering managed isolation may have a negative impact on a child's ability to maintain direct contact with both parents where one of the parents lives outwith the common travel area. However, this right is balanced with the risk of importation of new variants of Covid19. If a child is unable to maintain in person contact with a parent then this could be facilitated by virtual contact. We will also keep these</p>	
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			<p>restrictions under regular review.</p> <p>This amendment will though allow an unaccompanied child to self-isolate and this could be done in the home of a parent – as long as the parent and anyone else in the household also self isolates.</p> <p>However, shared parenting is not one of the exceptions for the ban on travel from outwith the common travel area.</p> <p>Article 16 Article 16 provides that no child shall be subjected to arbitrary or unlawful interference with his or her privacy or family home. Allowing unaccompanied under 18s to self-isolate rather than enter managed isolation may allow the child to self-isolate at home.</p> <p>Article 18</p>	
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			<p>Article 18 provides that States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child.</p> <p>The Scottish Government accepts that entering managed isolation may have a negative impact on a child's ability to maintain direct contact with both parents where one of the parents lives outwith the common travel area. However, this right is balanced with the risk of importation of new variants of Covid19. If a child is unable to maintain in person contact with a parent then this could be facilitated by virtual contact. We will also keep these restrictions under regular review.</p>	
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			<p>This amendment will though allow an unaccompanied child to self-isolate and this could be done in the home of a parent – as long as the parent and anyone else in the household also self isolates.</p> <p>However, shared parenting is not one of the exceptions for the ban on travel from outwith the common travel area.</p> <p>Article 31 Article 31 states that every child has a right to rest and leisure, to engage in play and recreational activities, and to take part in a range of cultural and artistic activities.</p> <p>Allowing unaccompanied children arriving from outwith the common travel area to self-isolate at home may mean that they could access a private garden or balcony for rest and/or leisure. They may also</p>	
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			<p>have access to their usual games and activities whilst in isolation.</p> <p>Article 37 Article 37 provides that no child shall be deprived of his or her liberty unlawfully or arbitrarily and every child deprived of their liberty shall be treated with humanity and respect.</p> <p>Allowing unaccompanied under 18s to self-isolate rather than enter managed isolation may allow them more freedom as they may be able to self - isolate in their own home rather than in a managed isolation facility.</p>	
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CRWIA Declaration

Authorisation

Policy lead

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Date

30/03/2021

Deputy Director or equivalent

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Civil Law and Legal System Division

Date

30/03/2021