

POLICY NOTE

The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 4) Regulations 2021

SSI 2021/261

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”). 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) sets out that “emergency regulations” must be laid before the Scottish Parliament and 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.

Summary Box

These Regulations amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (the “International Travel Regulations”) and the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 (“the Operator Liability Regulations”).

These Regulations amend the International Travel Regulations to make provision for specified persons on official business, in-flight security officers and sportspersons attending events for the purpose of qualification for any future Olympic, Paralympic and Commonwealth Games. These Regulations also amend the Operator Liability Regulations to include an exception in respect of extradition, prisoner repatriation or deportation.

Background

1. The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (S.S.I. 2020/169) (“the principal Regulations”) were made on 7 June 2020. The principal Regulations were laid in the Scottish Parliament and came into force on 8 June 2020.
2. The principal 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.

Policy Objectives

3. This instrument amends the International Travel Regulations to make provision for specified persons who have been invited to travel to the United Kingdom by the Secretary of State for Foreign, Commonwealth and Development Affairs to conduct official business. Such persons are not required to comply with regulation 5A (possession of notification of negative test result) and, where the Secretary of State has confirmed so in writing to the person, they are also not required to comply with regulations 5D to 5J (testing following arrival in Scotland) or 6 (staying in specified

premises). An exemption is introduced for the family of specified persons from the requirement to provide passenger information as required in regulation 3. It is understood that only in extreme circumstances will an exemption to the testing requirements be granted. The amendments define “specified person” as including opposition leaders and members of political parties, and persons promoting human rights or policy related to climate change.

4. These Regulations also make provision for an exemption to certain requirements in the International Travel Regulations for in-flight security officers. The effect of the amendment is that a person who has travelled to the United Kingdom in this capacity would not require to possess notification of a negative test; would not require to stay in specified premises and would not require to undertake testing in accordance with regulations 5D to 5J.
5. This instrument removes references to host cities of the Olympic, Paralympic and Commonwealth Games. This extends the existing exceptions for sportspersons competing to qualify for the next Olympic, Paralympic or Commonwealth games to cover sportspersons competing to qualify for any future such games (for example, the Olympic and Paralympic Games due to take place in 2024 in Paris).
6. This instrument amends regulations 6 and 7 of the Operator Liability Regulations to provide that the duties for operators to ensure passengers have completed a Passenger Locator Form and possess notification of a negative test result do not apply in relation to a passenger who is being compelled to travel to the United Kingdom during an extradition, prisoner repatriation or deportation.

Consultation

7. This instrument is being made urgently in Scotland to make further amendments 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 is, as above, to help prevent further spread of the coronavirus. Each of the four nations in the UK is required under their own relevant 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 principal 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 or parts thereof under the Regulations, reflecting differences in the prevalence of COVID-19 in that particular nation at any review point.
8. 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 has continued to be shaped. There has also been specific engagement with sportscotland on the relevant amendment outlined above.

Impact Assessments

9. Impact assessments have not been prepared for these changes.

Scottish Government
COVID Co-ordination Directorate
7 July 2021