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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 322**

**The Health Protection (Coronavirus) (International Travel  
and Operator Liability) (Scotland) Regulations 2021**

**PART 1**

**General**

**Citation and commencement**

**1.—**(1) These Regulations may be cited as the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021.

(2) These Regulations come into force on 20 September 2021.

**Interpretation: general**

**2.—**(1) In these Regulations—

“amber list arrival” means a person who arrives in Scotland from—

- (a) an amber list country,
- (b) a green list country where that person has, within the preceding 10 days, departed from or transited through an amber list country, or
- (c) elsewhere within the common travel area where that person has, within the preceding 10 days, departed from or transited through an amber list country,

“amber list country” means any country, territory or part of a country or territory which is—

- (a) not in the common travel area, and
- (b) not a red list country or a green list country,

“child” means a person under the age of 18,

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

“Conference of the Parties” means, except in relation to the Kyoto Protocol and the Paris Agreement, the Conference of the Parties to the United Nations Framework Convention on Climate Change,

“constable” has the meaning given in section 99(1) of the Police and Fire Reform (Scotland) Act 2012<sup>(2)</sup>,

“COP” means the conference convened by the Conference of the Parties, comprising—

- (a) the 26th session of the Conference of the Parties,
- (b) the 16th session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol,

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<sup>(1)</sup> 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”.

<sup>(2)</sup> 2012 asp 8.

- (c) the third session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement,
- (d) all related pre-sessional meetings, sessions of subsidiary bodies and additional meetings, convened in the United Kingdom,

“COP World Leaders summit event” means—

- (a) the event organised by Her Majesty’s Government between 1 and 2 November 2021 in connection with the COP,
- (b) any meeting connected with that event between representatives of states, territories or organisations which are represented at that event,

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

“coronavirus disease” means COVID-19 (the official designation of the disease which can be caused by coronavirus),

“eligible vaccinated arrival” has the meaning given in regulation 3,

“green list arrival” means a person who arrives in Scotland from—

- (a) a green list country where that person has not, within the preceding 10 days, departed from or transited through a red list country or an amber list country, or
- (b) elsewhere within the common travel area where that person—
  - (i) has been outside the common travel area within the preceding 10 days, and
  - (ii) while outside the common travel area during those 10 days, has only been in green list countries.

“green list country” means a country, territory or part of a country or territory specified in schedule 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),

“Kyoto Protocol” means the Protocol to the United Nations Framework Convention on Climate Change signed in Kyoto on 11 December 1997(4),

“managed isolation package” (other than in regulation 22) has the meaning given in regulation 20(6),

“Paris Agreement” means the agreement adopted at the 21st Conference of the Parties of the United Nations Framework Convention on Climate Change, signed in Paris on 12 December 2015(5),

“passenger information” means the information specified in schedule 3 for the purposes of Part 2 of these Regulations (see regulation 4(2)) (requirement to provide passenger information),

“Passenger Locator Form” means the electronic form published by the Secretary of State for the provision of passenger information (6),

“port” means any port, and includes a seaport, airport or heliport),

“qualifying test” means a test that is a qualifying test for the purposes of Part 3 (see regulation 7(2)) (testing prior to arrival in Scotland),

“red list arrival” means a person who arrives in Scotland from—

(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) Cm. 6485.

(5) Cm. 9338.

(6) The Passenger Locator Form is available on [www.gov.uk](http://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.

- (a) a red list country,
- (b) an amber list country or a green list country where that person has, within the preceding 10 days, departed from or transited through a red list country, or
- (c) elsewhere within the common travel area where that person has, within the preceding 10 days, departed from or transited through a red list country,

“red list country” means a country, territory or part of a country or territory specified in schedule 1,

“relevant service” means a commercial transport service carrying passengers travelling to Scotland from outside the common travel area,

“specified competition” means a competition listed in schedule 6 for the purposes of regulations 25(1)(e) and 27(1)(h) and paragraph 42 of schedule 4,

“United Nations Framework Convention on Climate Change” means the United Nations Framework Convention on Climate Change adopted in New York on 9 May 1992(7).

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

- (a) custody or charge of the child for the time being, or
- (b) parental responsibilities or parental rights in relation to the child (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995)(8).

(3) For the purposes of these Regulations, a person (“P”) is not treated as departing from, or transiting through, a country or territory, or part of a country or territory if, at all times whilst in that country, territory or part thereof—

- (a) P remains on a conveyance on which no other passenger is permitted to be taken on board, or
- (b) P is kept separated from passengers who did not arrive on the same conveyance as P, and no such passengers are permitted to be taken on board the conveyance on which P leaves that country, territory or part thereof.

### **Interpretation: eligible vaccinated arrivals**

3.—(1) A person (“P”) is an eligible vaccinated arrival if P—

- (a) is an amber list arrival, and
- (b) meets any of the descriptions in paragraphs (2) to (7).

(2) P—

- (a) has completed a course of doses of an authorised vaccine with the final dose having been received before the start of the period beginning with the 14th day before the date of P’s arrival in Scotland,
- (b) received that course of doses in the United Kingdom or a relevant country,
- (c) if the course of doses was received in the United States of America, is ordinarily resident in the United States of America,
- (d) is able to provide proof, if requested to do so by an immigration officer or the operator of the relevant service on which P travels to Scotland, of meeting the requirement in sub-paragraph (a), through—

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(7) Cm. 2833.

(8) 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 that Act.

- (i) letter of certification issued by NHS Scotland, or equivalent certification issued, in paper or electronic form, by NHS England, NHS Wales or the Department of Health in Northern Ireland, including through the NHS COVID pass,
  - (ii) the EU Digital COVID certificate, or
  - (iii) the Centers for Disease Control and Prevention vaccination card,
- (e) is able to provide proof if requested by an immigration officer or the operator of the relevant service on which P travels to Scotland of meeting the requirement in subparagraph (c), and
- (f) has declared on P's Passenger Locator Form that P has completed a course of doses of an authorised vaccine.
- (3) P—
- (a) has participated, or is participating, in a clinical trial of a vaccine for vaccination against coronavirus carried out in accordance with the requirements of the Medicines for Human Use (Clinical Trials) Regulations 2004<sup>(9)</sup>,
  - (b) is able to provide proof of such participation if requested to do so by an immigration officer or the operator of the relevant service on which P travels to Scotland, and
  - (c) has declared on P's Passenger Locator Form that P has participated, or is participating, in such a trial.
- (4) P—
- (a) has participated or is participating in a clinical trial regulated in the United States of America by the Food and Drugs Administration of a vaccine for vaccination against coronavirus,
  - (b) is able, if requested to do so by an immigration officer or the operator of the relevant service on which P travels to Scotland, to provide proof of such participation through the Centers for Disease Control and Prevention vaccination card,
  - (c) has declared on the Passenger Locator Form that P has completed a course of doses of an authorised vaccine, and
  - (d) is ordinarily resident in the United States of America and is able to provide proof of that residence if requested to do so by an immigration officer or the operator of the relevant service on which P travels to Scotland.
- (5) P is—
- (a) under the age of 18 on arrival in Scotland, and
  - (b) ordinarily resident in the United Kingdom or a relevant country.
- (6) P—
- (a) has completed a course of doses of a vaccine under the United Kingdom vaccine roll-out overseas, with the final dose having been received before the start of the period beginning with the 14th day before the date of P's arrival in Scotland,
  - (b) is able to provide proof, if requested to do so by an immigration officer or the operator of the relevant service on which P travels to Scotland, of meeting the requirement in subparagraph (a), and
  - (c) has declared on P's Passenger Locator Form that P has completed a course of doses of a vaccine as described in sub-paragraph (a).
- (7) P is—

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(9) [S.I. 2004/1031](#), to which there are amendments not relevant to these Regulations.

- (a) a dependant of a person described in any of paragraphs (a) to (c) of the definition of “United Kingdom vaccine roll-out overseas” in paragraph (11), and
  - (b) under the age of 18 on arrival in Scotland.
- (8) For the purposes of paragraphs (2) and (6), P has completed a course of doses if P has received the complete course of doses specified—
- (a) in the summary of product characteristics approved as part of the marketing authorisation for the authorised vaccine, or
  - (b) in the instructions for usage approved as part of the authorisation by the licensing authority on a temporary basis under regulation 174 (supply in response to spread of pathogenic agents etc.) of the Human Medicines Regulations 2012<sup>(10)</sup> for the authorised vaccine.
- (9) For the purposes of paragraph (6), where P has received a dose of an authorised vaccine in the United Kingdom and a dose of a vaccine under the United Kingdom vaccine roll-out overseas, P is deemed to have completed a course of doses of a vaccine under the United Kingdom vaccine roll-out overseas.
- (10) For the purposes of this regulation, a child is to be treated as making a declaration on the Passenger Locator Form, and possessing any evidence required if that declaration is made, and that evidence possessed, by a person who is travelling with, and has responsibility for, that child.
- (11) In this regulation—
- “authorised vaccine” means a medicinal product for vaccination against coronavirus authorised—
- (a) in relation to doses received in the United Kingdom—
    - (i) for supply in the United Kingdom in accordance with a marketing authorisation, or
    - (ii) by the licensing authority on a temporary basis under regulation 174 of the Human Medicines Regulations 2012 (supply in response to spread of pathogenic agents etc.),
  - (b) in relation to doses received in a relevant country, for supply in that country following evaluation by the relevant regulator for that country,
- “clinical trial” has the meaning given in regulation 2(1) of the Medicines for Human Use (Clinical Trials) Regulations 2004 (interpretation),
- “Crown servant” has the meaning given in section 12(1)(a) to (e) of the Official Secrets Act 1989<sup>(11)</sup>,
- “government contractor” has the meaning given in section 12(2) of the Official Secrets Act 1989,
- “the licensing authority” has the meaning given in regulation 6(2) (the licensing authority and the Ministers) of the Human Medicines Regulations 2012,
- “marketing authorisation”—
- (a) in relation to a vaccine authorised for supply in the United Kingdom or in a member State, has the meaning given in regulation 8(1) (general interpretation) of the Human Medicines Regulations 2012,

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<sup>(10)</sup> S.I. 2012/1916.

<sup>(11)</sup> 1989 c. 6. Section 12 was amended by paragraph 22 of schedule 10 of the Reserve Forces Act 1996 (c. 14), by paragraph 30 of schedule 12 of the Government of Wales Act 1998 (c. 38), by paragraph 26 of schedule 8 of the Scotland Act 1998 (c. 46), by paragraph 9(3) of schedule 13 of the Northern Ireland Act 1998 (c. 47), by paragraph 9 of schedule 6 of the Police (Northern Ireland) Act 2000 (c. 32), by paragraph 6 of schedule 14 of the Energy Act 2004 (c. 20), by paragraph 58 of schedule 4 of the Serious Organised Crime and Police Act 2005, by paragraph 34 of schedule 10, and paragraph 1 of schedule 12, of the Government of Wales Act 2006 (c. 32), and by paragraph 36 of schedule 8 of the Crime and Courts Act 2013 (c. 22).

(b) in relation to a vaccine authorised for supply in a relevant country other than a member State, means a marketing authorisation granted by the relevant regulator for the country, “medicinal product” has the meaning given in regulation 2 (medicinal products) of the Human Medicines Regulations 2012,

“NHS COVID pass” means the COVID-19 records on the NHS smartphone app developed and operated by the Secretary of State, through NHS.uk,

“NHS England” means the health service continued under section 1(1) of the National Health Service Act 2006(12),

“NHS Scotland” means the health service continued under section 1(1) of the National Health Service (Scotland) Act 1978(13),

“NHS Wales” means the health service continued under section 1(1) of the National Health Service (Wales) Act 2006(14),

“relevant country” means a country listed in the first column of the table in paragraph (12),

“relevant regulator”, in relation to a relevant country, means the regulator identified in the corresponding row of the second column of the table in paragraph (12), and a reference to a regulator in that table is a reference to the regulatory authority of that name designated as a Stringent Regulatory Authority by the World Health Organisation pursuant to the operation of the COVAX Facility(15),

“United Kingdom vaccine roll-out overseas” means the administration of vaccine against coronavirus to—

- (a) Crown servants, government contractors or other personnel posted or based overseas and their dependants under the scheme known as the Foreign, Commonwealth and Development Office staff COVID-19 vaccination programme,
- (b) residents of the British overseas territories, the Channel Islands and the Isle of Man as part of a programme agreed in the overseas territory, any of the Channel Islands or the Isle of Man with the United Kingdom government, or
- (c) military or civilian personnel, government contractors and their dependants at a military posting overseas, including the British overseas territories, the Channel Islands and the Isle of Man, under the vaccination scheme provided or approved by the UK Defence Medical Services.

(12) The table referred to in the definitions of “relevant country” and “relevant regulator” follows—

<i>Relevant country</i>	<i>Relevant regulator</i>
a member State	European Medicines Agency
Andorra	European Medicines Agency
Iceland	European Medicines Agency
Liechtenstein	European Medicines Agency
Monaco	European Medicines Agency
Norway	European Medicines Agency

(12) 2006 c. 41.

(13) 1978 c. 29.

(14) 2006 c. 42.

(15) A list of the national regulatory authorities designated as Stringent Regulatory Authorities has been published by the World Health Organization and is available online at [https://extranet.who.int/pqweb/sites/default/files/documents/Product-Eligibility\\_COVAX-Facility\\_Dec2020\\_0.pdf](https://extranet.who.int/pqweb/sites/default/files/documents/Product-Eligibility_COVAX-Facility_Dec2020_0.pdf).

<i>Relevant country</i>	<i>Relevant regulator</i>
San Marino	European Medicines Agency
Switzerland	Swissmedic
the United States of America	United States Food and Drug Administration
Vatican City State	European Medicines Agency

## PART 2

### Passenger Information

#### Requirement to provide passenger information

4.—(1) Subject to regulation 6 (persons not required to comply), this regulation applies to a person (“P”) who is—

- (a) a red list arrival,
- (b) an amber list arrival, or
- (c) a green list arrival.

(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, that child’s passenger information.

(3) The requirement in paragraph (2) can be complied with—

- (a) by P, prior to P’s arrival in 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, that child’s passenger information,
- (b) where P has arrived in Scotland from England, Wales or Northern Ireland, by P prior to P’s arrival in England, Wales or Northern Ireland 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, that child’s passenger information,
- (c) by P, as soon as reasonably practicable upon arriving in 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, that child’s passenger information.

(4) Where P has provided passenger information in accordance with paragraph (3)(a) or (b), P must provide evidence that P has done so if requested to do so by an immigration officer.

(5) Where paragraph (2) has not been complied with prior to the arrival in Scotland of a child who is travelling unaccompanied, a Passenger Locator Form containing passenger information relating to the child must be provided to the Secretary of State as soon as reasonably practicable by any person who has responsibility for the child following the child’s arrival in Scotland.

**Requirement to update passenger information**

5.—(1) Subject to regulation 6, paragraph (3) applies where a person (“P”) is—

- (a) an amber list arrival,
- (b) a red list arrival who, in accordance with regulation 25, is not required to comply with Part 5 of these Regulations (managed isolation),

and the condition in paragraph (2) applies.

(2) The condition referred to in paragraph (1) is that prior to the expiry of the later of the periods referred to in regulation 26(2) (requirement to stay in specified premises) (where applicable) or, in all other cases, prior to the expiry of the period of 10 days beginning on the day after the date of arrival in Scotland—

- (a) the passenger information provided by P in accordance with regulation 4 is no longer accurate, or
- (b) passenger information relating to P or to a child accompanying P comes within P’s knowledge or possession or under P’s control.

(3) 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.

(4) Paragraph (5) applies where a person (“P”) is—

- (a) a child referred to in regulation—
  - (i) 25(1)(g) (unaccompanied children), or
  - (ii) 25(1)(h) (boarding school pupils), and,
- (b) prior to the expiry of the later of the periods referred to in regulation 26(2)—
  - (i) the passenger information provided by or on behalf of P in accordance with regulation 4 is no longer accurate, or
  - (ii) passenger information relating to P comes within the knowledge, possession or control of any person who has responsibility for P.

(5) The person with responsibility for 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.

**Part 2: persons not required to comply**

6.—(1) Subject to paragraphs (2) and (3), a person (“P”) is not required to comply with this Part where P is—

- (a) a child and that child’s passenger information has been provided under regulations 4 or 5 (requirements to provide and update passenger information) by another person,
- (b) a person who—
  - (i) has arrived from England, and
  - (ii) is in Scotland, temporarily, for a reason specified in regulation 32(2)(a) to (j),
- (c) a person described in any of the following paragraphs of schedule 4—
  - (i) paragraphs 1 to 4 or 7 (Crown servants, government contractors etc.), or
  - (ii) paragraph 14 (Channel Tunnel system workers),
- (d) a member of the family forming part of the household of a person falling within paragraph 7 of schedule 4,
- (e) a person described in of the following paragraphs of schedule 4—



- (i) paragraph 8 (road passenger transport worker),
  - (ii) paragraph 9 (seamen and masters etc.),
  - (iii) paragraph 10 (aircraft crew), or
  - (iv) paragraph 12 (tunnel system transport workers),
- where the condition in paragraph 16 of that schedule is met.

(2) Paragraphs (1)(b) to (e) do not apply where P is a red list arrival except in the case of a person described in paragraph 1(1) of schedule 4.

(3) Notwithstanding paragraph (1), P is required to comply with this Part if—

- (a) P is a person described in paragraph 1(3) of schedule 4, who is attending the COP, and
- (b) P is not—
  - (i) a person invited by Her Majesty’s Government to attend both the COP World Leaders summit event and the COP,
  - (ii) a person described in schedule 5 (COP representatives).

## PART 3

### Testing prior to arrival in Scotland

#### **Part 3: interpretation**

7.—(1) In this Part—

“device” means an in vitro diagnostic medical device within the meaning given in regulation 2(1) of the Medical Devices Regulations 2002(16),

“sensitivity”, in relation to a device, means how often the device correctly generates a positive result, and

“specificity”, in relation to a device, means how often the device correctly generates a negative result.

(2) For the purposes of this Part—

- (a) a test is a qualifying test if it complies with regulation 9(1), and
- (b) a notification of a negative result is valid if it includes the information specified in regulation 9(2).

#### **Requirement to possess notification of negative test result**

8.—(1) Subject to regulation 10 (persons not required to comply), this regulation applies to a person (“P”) who is—

- (a) a red list arrival,
- (b) an amber list arrival, or
- (c) a green list arrival.

(2) P must possess, on arrival in Scotland, valid notification of a negative test result from a qualifying test taken by P.

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(16) [S.I. 2002/618](#) to which there are amendments not relevant to these Regulations.

(3) Where P is travelling with a child aged 11 or over and for whom P has responsibility, P must, on arrival in Scotland, possess valid notification of a negative test result from a qualifying test taken by that child.

(4) Where P possesses valid notification of a negative result from a qualifying test, P must produce that notification, physically or digitally, if requested to do so by a constable or an immigration officer.

### **Qualifying test and valid notification**

9.—(1) A test complies with this regulation if—

- (a) it is a test for the detection of coronavirus undertaken using a device which the manufacturer states has—
  - (i) a sensitivity of at least 80%,
  - (ii) a specificity of at least 97%, and
  - (iii) a limit of detection of less than or equal to 100,000 SARS-CoV-2 copies per millilitre,
- (b) it is not a test provided or administered under—
  - (i) the National Health Service (Scotland) Act 1978<sup>(17)</sup>,
  - (ii) the National Health Service Act 2006<sup>(18)</sup>,
  - (iii) the National Health Service (Wales) Act 2006<sup>(19)</sup>, or
  - (iv) the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(20)</sup>, and
- (c) the test sample is taken from the person no more than 3 days before—
  - (i) in the case of that person travelling to Scotland on a commercial transport service, the service’s scheduled time of departure, or
  - (ii) in any other case, the actual time of departure of the vessel or aircraft on which that person is travelling to Scotland.

(2) Notification of a negative test result must include, in English, French or Spanish, the following information—

- (a) the name of the person from whom the sample was taken,
- (b) that person’s date of birth or age,
- (c) the negative result of the test,
- (d) the date the test sample was collected or received by the test provider,
- (e) the name of the test provider and information sufficient to contact that provider, and
- (f) the name of the device that was used for the test.

### **Part 3: persons not required to comply**

10.—(1) A person (“P”) is not required to comply with this Part where P is—

- (a) a child (without prejudice to regulation 8(3)),
- (b) a person described in any of the following paragraphs of schedule 4—
  - (i) 2, 3, 4 or 7 (Crown servants, government contractors etc.),
  - (ii) 9 (seamen and masters etc.),

<sup>(17)</sup> 1978 c. 29.

<sup>(18)</sup> 2006 c. 41.

<sup>(19)</sup> 2006 c. 42.

<sup>(20)</sup> S.I. 1972/1265 (N.I.14).

- (iii) 10 (aircraft crew),
  - (iv) 13 (civil aviation inspectors),
  - (v) 15 (road haulage workers),
  - (vi) 36 (persons transporting blood or human cells),
  - (c) a person described in paragraph 5(1)(b) or 6 of schedule 4 (essential government workers etc.) where, prior to P's departure to the United Kingdom, the relevant Department or the Scottish Ministers have certified that P—
    - (i) meets the description in paragraph 5 or, as the case may be, 6, and
    - (ii) is not required to comply with this Part,
  - (d) a Crown servant or government contractor who is required to undertake essential policing or essential government work in the United Kingdom or is returning from conducting such work outside the United Kingdom where, prior to P's departure to the United Kingdom, the relevant Department or the Scottish Ministers have certified that P meets this description and is not required to comply with this Part,
  - (e) a representative of a foreign country or territory, or of the government of a British overseas territory, who is travelling to the United Kingdom to conduct official business with the United Kingdom where, prior to P's departure to the United Kingdom—
    - (i) the relevant head of the mission, consular post, or office representing a foreign territory in the United Kingdom, or a Governor of a British overseas territory (as the case may be), or a person acting on their authority, confirms in writing to the Foreign, Commonwealth and Development Office that P is required to undertake work which is essential to the foreign country represented by the mission or consular post, the foreign territory represented by the office or the British overseas territory, and
    - (ii) the Foreign, Commonwealth and Development Office has confirmed in writing to the person giving the notification in head (i) that—
      - (aa) it has received that confirmation, and
      - (bb) P is travelling to the United Kingdom to conduct official business with the United Kingdom and is not required to comply with this Part,
  - (f) a worker with specialist technical skills, where those specialist technical skills are required for emergency works or services (including commissioning, maintenance, and repairs and safety checks) to ensure the continued production, supply, movement, manufacture, storage or preservation of goods or services, where they have travelled to the United Kingdom in the course of their work or otherwise to commence or resume their work.
- (2) In paragraph (1)—
- (a) in sub-paragraph (d), the following expressions have the meanings given in paragraph 5(2) of schedule 4—
    - “Crown servant”,
    - “essential government work”,
    - “essential policing”,
    - “government contractor”,
  - (b) in sub-paragraph (e), the following expressions have the meanings given in paragraph 1(5) of schedule 4—
    - “consular post”,
    - “head of consular post”,
    - “head of the mission”.

## PART 4

### Testing following arrival in Scotland

#### Part 4: application and interpretation

11.—(1) Subject to paragraph (2) and regulation 18 (persons not required to comply), this Part applies to a person (“P”) who is—

- (a) a red list arrival,
- (b) an amber list arrival, or
- (c) a green list arrival.

(2) Regulations 15 and 16 apply to a person (“P”) who is—

- (a) a red list arrival, or
- (b) an amber list arrival who is not an eligible vaccinated arrival.

(3) For the purposes of this Part—

“day 2 test” means a test which complies with regulation 14(9) and is undertaken in accordance with regulation 14(2),

“day 8 test” means a test provided in a testing package with a day 2 test which complies with regulation 14(9) and is undertaken in accordance with regulation 14(4),

“testing package” means—

- (a) in the case of a red list arrival or an amber list arrival who is not an eligible vaccinated arrival, a booking for a day 2 test and a day 8 test,
- (b) in the case of a green list arrival or an amber list arrival who is an eligible vaccinated arrival, a booking for a day 2 test,

“test provider” means a provider who provides a test in accordance with regulation 14(9).

(4) In regulations 15 and 16, references to sharing designated accommodation means sharing the place where such persons are staying (as defined by regulation 21(3) and (4)).

#### Requirement to possess testing package

12.—(1) Where P is an adult, P must, on arrival in Scotland, possess a testing package—

- (a) for P, and
- (b) for any child aged 11 or over with whom P is travelling and for whom P has responsibility.

(2) Where P is an adult who arrives in Scotland without possessing a testing package in accordance with paragraph (1), P must obtain a testing package as soon as practicable on arrival.

(3) Where P is a child aged 11 or over and who is unaccompanied by an adult who has responsibility for P, a person with responsibility for P must obtain a testing package for P as soon as is practicable after P arrives in Scotland.

(4) A person who possesses a testing package must provide evidence of it if requested to do so by an immigration officer.

(5) Where P is required to comply with Part 5 (managed isolation), P is deemed to have complied with this regulation where P purchases a testing package as part of a managed isolation package in accordance with that Part.

### **Requirement to provide information**

**13.**—(1) Subject to paragraph (2), at the time the testing package is booked, P must notify the test provider that P is required to undertake the test or tests to which the testing package relates under these Regulations, and provide the test provider with—

- (a) P’s full name,
- (b) P’s sex,
- (c) P’s date of birth,
- (d) P’s NHS number (if known and applicable),
- (e) P’s ethnicity,
- (f) the date of P’s arrival in the United Kingdom,
- (g) P’s coach number, flight number or vessel name (as appropriate),
- (h) the date on which P last departed from or transited through—
  - (i) a red list country,
  - (ii) failing which an amber list country, or
  - (iii) failing which a green list country,
- (i) the country or territory P was travelling from when P arrived in the United Kingdom, and any country or territory P transited through as part of that journey,
- (j) P’s email address,
- (k) P’s telephone number,
- (l) P’s passport number or travel document reference number (as appropriate), and
- (m) P’s home address, and, where relevant, the address or addresses of the specified premises where P intends to stay in accordance with Part 6 (self-isolation).

(2) Where P is a child, or a person with a disability who is unable for that reason to provide the notification and information set out or referred to in paragraph (1) to the test provider—

- (a) the notification and information set out or referred to in paragraph (1), other than the information set out in paragraph (1)(j) and (k), must be provided to the test provider on P’s behalf by another person (“X”), and
- (b) either the information set out in paragraph (1)(j) and (k) must be provided by X to the test provider or, where appropriate, X must provide their own telephone number and email address to the test provider.

(3) At the time the testing package is booked, the test provider must give a test reference number to P and, where appropriate, also give that test reference number to X.

(4) For the purposes of paragraphs (2) and (3), where P is a child, “X” means a person who has responsibility for P.

### **Requirement to undertake tests**

**14.**—(1) P must undertake the test or tests in their testing package in accordance with this regulation.

(2) P must undertake the day 2 test no later than the end of the 2nd day after the day on which P arrived in Scotland.

(3) Where P’s day 2 test generates a positive result and P would otherwise be required to take the day 8 test, P is not required to undertake the day 8 test.

(4) Where P is required to undertake the day 8 test, P must undertake that test no earlier than the end of the 7th day after the day on which P arrived in Scotland.

(5) Where P is a child aged 11 or over, any person who has responsibility for P must, so far as reasonably practicable ensure that P undertakes a day 2 test and, where relevant, a day 8 test.

(6) Where P does not undertake either a day 2 test or a day 8 test by reason of a reasonable excuse (see regulation 30), P must, as soon as practicable after the matters giving rise to the reasonable excuse no longer apply, undertake a replacement test complying with the requirements of paragraph (9).

(7) Where a replacement test is undertaken instead of—

- (a) a day 2 test, P is to be treated as if P had undertaken a day 2 test in accordance with this regulation,
- (b) a day 8 test, P is to be treated as if P had undertaken a day 8 test in accordance with this regulation.

(8) Where a test is undertaken by P after this regulation applies, and that test meets the requirements of paragraph (9) and generates a positive result, P is not required to undertake a subsequent day 2 test or day 8 test, as the case may be.

(9) The requirements of this regulation are that—

- (a) the test is provided by a public provider, or where P is a green list arrival or an amber list arrival, a public provider or a private provider, and
- (b) the test is a semi-quantitative test for the detection of coronavirus which targets a minimum of two distinguishable SARS-CoV-2 genes other than the S gene and performance reference controls.

(10) In this regulation, “public provider” means a test provider who provides or administers a test under—

- (a) the National Health Service (Scotland) Act 1978,
- (b) the National Health Service Act 2006,
- (c) the National Health Service (Wales) Act 2006, or
- (d) the Health and Personal Social Services (Northern Ireland) Order 1972.

(11) In this regulation “private provider” means a day 2 test and a day 8 test provider, other than a public provider, who—

- (a) has made a self-declaration to the Department of Health and Social Care that the provider meets the minimum standards that private sector providers must meet for coronavirus tests for persons arriving in England in terms of schedule 8 to the Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021<sup>(21)</sup> and DHSC guidance, and
- (b) is currently on the UK Government published list of private day 2 test and day 8 test providers for persons arriving in England<sup>(22)</sup>.

### **Requirement to self-isolate on failure to undertake a test**

15.—(1) Paragraphs (2) to (4) apply where—

- (a) either—
  - (i) P fails to undertake a day 2 test, or
  - (ii) P’s day 2 test generates a negative or inconclusive result, and

<sup>(21)</sup> S.I. 2021/582. Relevant amending instruments to schedule 8 are S.I. 2021/682, S.I. 2021/865 and S.I. 2021/914.

<sup>(22)</sup> The list can be accessed through this web-site: <https://www.gov.uk/find-travel-test-provider>.

(b) P fails to undertake a day 8 test.

(2) Where P is required to comply with Part 5 (managed isolation), P must remain in the accommodation designated as part of P's managed isolation package in accordance with regulation 21 until the end of the 14th day after the day on which P arrived in Scotland.

(3) Where P is required to comply with Part 6 (self-isolation), P must remain in the specified premises in accordance with regulation 26 until the end of the 14th day after the day on which P arrived in Scotland.

(4) Where P is a child, any person who is sharing designated accommodation or specified premises with P must remain in such accommodation or premises until the expiry of the period mentioned in paragraph (2) or (3) (as the case may be).

### **Consequences of test results**

**16.**—(1) Where a test undertaken by a person ("P") in accordance with regulation 14(2) or (4) generates a positive result—

(a) P no longer has a defence under—

(i) regulation 31(3)(a), where P is required to comply with Part 5, or

(ii) regulation 32(2)(a), where P is required to comply with Part 6, and

(b) P and, subject to paragraph (2), any person who is sharing designated accommodation or specified premises with P ("B"), must remain in that accommodation or premises in accordance with regulation 21 or 26 (as the case may be) until the end of the 10th day after the day P undertook the test.

(2) Paragraph (1)(b) does not apply to B where—

(a) the test referred to in paragraph (1) is P's day 8 test, and

(b) B undertook a day 2 test that generated a positive result.

(3) Where an earlier test undertaken by P after this regulation applies meets the requirements of regulation 14(9) and generates a positive result, the requirement for P to remain in such premises or accommodation under paragraph (1)(b) only applies until the end of the 10th day after the day P undertook that earlier test.

(4) Where an earlier test undertaken by B after this regulation applies meets the requirements of regulation 14(9) and generates a positive result, the requirement for B to remain in such premises or accommodation under paragraph (1)(b) only applies until the end of the 10th day after the day B undertook that earlier test.

(5) Where P's day 2 test and P's day 8 test both generate a negative result, P must remain in the designated accommodation or specified premises until—

(a) the later of—

(i) the date specified in regulation 21(1), where P is required to comply with Part 5, or

(ii) the date specified in regulation 26(2), where P is required to comply with Part 6, or

(b) the day on which P receives the result of P's day 8 test.

(6) Subject to regulation 15, where a test undertaken by P generates an inconclusive result, P must remain in the designated accommodation or specified premises until—

(a) the end of the 10th day after the day P undertook the test,

(b) where P undertakes a test to which paragraph (8) applies and the test generates a negative result, the later of—

(i) the end of the period of 10 days beginning with the day after the day of P's arrival in Scotland, or

- (ii) the day on which P receives the negative result, or
- (c) where P undertakes a test to which paragraph (8) applies and the test generates a positive result, until the end of the 10th day after the day P undertook the test.
- (7) Where paragraph (6)(c) applies, P is not required to undertake a day 8 test.
- (8) This paragraph applies to—
  - (a) a day 8 test, and
  - (b) a replacement test—
    - (i) complying with the requirements for a day 8 test other than the requirement that the test be administered or provided to P no earlier than the beginning of the 7th day after the day on which P arrived in Scotland,
    - (ii) undertaken in the circumstances specified in regulation 14, and
    - (iii) undertaken during the period referred to in paragraph (6)(a).

#### **Charge for testing package**

- 17.**—(1) The Scottish Ministers, or a person designated by the Scottish Ministers, may impose a charge in respect of a testing package provided by a test provider in accordance with regulation 14(9).
- (2) The Scottish Ministers—
- (a) must publish details of the charges in such manner as they consider appropriate, and
  - (b) may recover any sum owed by a person pursuant to such a charge as a debt.

#### **Part 4: persons not required to comply**

- 18.**—(1) Subject to paragraph (3), a person (“P”) is not required to comply with this Part where P is—
- (a) a child (without prejudice to regulations 12(1)(b) and (3), 13(2), 15 and 16),
  - (b) a person who—
    - (i) has arrived from England, and
    - (ii) is in Scotland, temporarily, for a reason mentioned in regulation 32(2)(a) to (j),
  - (c) a person who has arrived in Scotland from elsewhere within the common travel area in order to travel immediately onwards to—
    - (i) another part of the United Kingdom, or
    - (ii) elsewhere outside of the United Kingdom,
  - (d) a person who enters the UK for the sole purpose of continuing a journey to a country or territory outside the common travel area and—
    - (i) remains within their port of entry until their departure from Scotland, or
    - (ii) travels directly from their port of entry to another port of departure in Scotland,
  - (e) a person described in paragraph 1(1)(a) to (h) or (k) of schedule 4 or a member of the family forming part of their household,
  - (f) a person described in paragraph 1(1)(i) or (j) of schedule 4 where the conditions in paragraph (2) are met,
  - (g) a member of the family forming part of the household of a person referred to in subparagraph (f) where the Foreign, Commonwealth and Development Office—
    - (i) has been notified of P’s arrival, and



- (ii) has confirmed that P is not required to comply with this Part,
  - (h) a specified person travelling to the United Kingdom to conduct official business with the United Kingdom, where—
    - (i) P was invited to the United Kingdom by the Secretary of State for Foreign, Commonwealth and Development Affairs, and
    - (ii) Prior to P's departure to the United Kingdom, the Foreign, Commonwealth and Development Office has confirmed in writing to P that they are travelling to the United Kingdom to conduct official business with the United Kingdom and are not required to comply with this Part,
  - (i) a member of the family forming part of the household of a person to whom sub-paragraph (h) applies, where—
    - (i) the Foreign, Commonwealth and Development Office has been notified of P's arrival, and
    - (ii) the Foreign, Commonwealth and Development Office has confirmed that P is not required to comply with this Part,
  - (j) a person described in any of the following provisions of schedule 4—
    - (i) paragraph 1(3) (relevant international event),
    - (ii) paragraphs 2 to 6 (except for paragraph 5(1)(c)) (Crown servants, government contractors etc.),
    - (iii) paragraphs 8 to 15 (except for paragraph 11) (transportation),
    - (iv) paragraphs 17 to 19 (extradition),
    - (v) paragraph 28 (oil workers),
    - (vi) paragraph 34 (telecommunications),
    - (vii) paragraphs 35 or 36 (healthcare and human tissue carriers), or
    - (viii) paragraph 42 (elite sportspersons).
- (2) The conditions referred to in paragraph (1)(f) are that, prior to P's departure to the United Kingdom—
- (a) the relevant head of the mission, consular post, or office representing a foreign territory in the United Kingdom, or a Governor of a British overseas territory (as the case may be), or a person acting on their authority, confirms in writing to the Foreign, Commonwealth and Development Office that P is required to undertake work in the United Kingdom which is essential to the foreign territory represented by the mission or consular post, the foreign territory represented by the mission or consular post, the foreign territory represented by the office or the British overseas territory, and
  - (b) the Foreign Commonwealth and Development office has then confirmed in writing to the person giving the confirmation referred to in sub-paragraph (a) that—
    - (i) it has received that confirmation, and
    - (ii) P is travelling to the United Kingdom to conduct official business with the United Kingdom and is not required to comply with this Part.
- (3) Notwithstanding paragraph 1(j)(i), this Part applies to a person—
- (a) described in paragraph 1(3) of schedule 4, who is attending the COP, and
  - (b) who is not—
    - (i) a person invited by Her Majesty's Government to attend both the COP World Leaders summit event and the COP,

- (ii) a person described in schedule 5 (COP representatives).
- (4) A word or expression used in this regulation has the same meaning as it has in schedule 4.

## PART 5

### Managed isolation

#### **Part 5: application**

**19.** Subject to regulation 25 (persons not required to comply), this Part applies to a person (“P”) who is a red list arrival.

#### **Requirement to enter Scotland at a designated port and possess a managed isolation package**

- 20.**—(1) Subject to paragraph (2), P may only enter Scotland at one of the following ports—
- (a) Aberdeen Airport,
  - (b) Edinburgh Airport,
  - (c) Glasgow Airport, or
  - (d) a military airfield or port.
- (2) Paragraph (1) does not apply to P where the aircraft on which P is travelling lands at an airport not mentioned in that paragraph for—
- (a) a reason relating to the safety or security of the aircraft, or any person aboard it,
  - (b) any other emergency reason, or
  - (c) the reason that military personnel disembark at an airport not mentioned in that paragraph.
- (3) P must, on arrival in Scotland, be in possession of a managed isolation package.
- (4) The requirement in paragraph (3) may be complied with by P obtaining a managed isolation package either—
- (a) before P’s arrival in Scotland, or
  - (b) immediately upon P’s arrival in Scotland.
- (5) Where P is a child, any person who has responsibility for P when P is travelling to Scotland must ensure, so far as is reasonably practicable, that P complies with paragraph (3).
- (6) A “managed isolation package” means—
- (a) a booking for a place in accommodation designated by the Scottish Ministers for the purposes of this regulation in relation to P’s port of arrival in Scotland,
  - (b) a booking for transport facilitated by the Scottish Ministers from P’s port of arrival in Scotland to the accommodation referred to in sub-paragraph (a), and
  - (c) a testing package within the meaning of regulation 11(3) (Part 4: application and interpretation).

#### **Requirement to stay in managed accommodation**

**21.**—(1) P must, on arrival in Scotland or, as the case may be, immediately after obtaining a managed isolation package, travel directly to the accommodation designated in the package using the means of transport designated in the package (where relevant) and, except to the extent that a defence would be available under regulation 31(3), and subject to paragraph (2), P must not leave the place they are staying within that accommodation until whichever is the later of—

- (a) the end of the 10th day after the day on which P arrived in Scotland, or
  - (b) the end of the relevant period specified in regulation 15(2) or, as the case may be, 16(1)(b), (3), (5) or (6).
- (2) Where regulation 16(3) results in a shorter period than that specified in paragraph (1)(a), that shorter period applies.
- (3) The place referred to in paragraph (1) means—
- (a) the room in the designated accommodation where P is staying, including any balcony,
  - (b) if connected to the room where P is staying, the room of any person with whom P travelled to Scotland.
- (4) The place referred to in paragraph (3) does not include the communal areas within the accommodation except to the extent that P requires to move through any such area in order to access any part of the place where P is staying.
- (5) Where P is a child, any person who has responsibility for P during the period P is required to comply with paragraph (1) must ensure, so far as is reasonably practicable, that P complies with the requirement in that paragraph.
- (6) A person (“B”), may stay in the place where P is staying pursuant to this Part in order to provide assistance P reasonably requires by reason of—
- (a) P being a child, or
  - (b) any disability of P’s,
- and paragraphs (1) and (2) apply to B as it applies to P for the same period that it applies to P.

### **Modification of regulations 20 and 21: relevant persons**

**22.**—(1) Where a person (“P”) is a relevant person, the reference in regulation 20 to a managed isolation package is to be read as a reference to a package containing such provisions as to accommodation, transport and testing as the Secretary of State or the Scottish Ministers consider appropriate, and regulations 20 and 21 are to be read accordingly.

- (2) P is a relevant person if—
- (a) P is—
    - (i) a person requiring urgent medical assistance,
    - (ii) a person on immigration bail,
    - (iii) a person who has been detained by an immigration officer,
    - (iv) a person who has been refused leave to enter the UK,
    - (v) an illegal entrant,
    - (vi) an asylum seeker,
    - (vii) a person who is in police custody,
    - (viii) a prisoner,
    - (ix) a potential victim of human trafficking,
    - (x) a person whose arrival in the United Kingdom has been arranged, for safeguarding or welfare reasons, by the Foreign, Commonwealth and Development Office, or
    - (xi) a person whom the Scottish Ministers consider requires exceptional arrangements to be made on compassionate grounds, and
  - (b) the Secretary of State has, or the Scottish Ministers have, confirmed in writing that P is a relevant person, and that confirmation has not been withdrawn.

**Charge for managed isolation package**

**23.** The Scottish Ministers, or a person designated by the Scottish Ministers, may impose a charge for a managed isolation package and the Scottish Ministers—

- (a) must publish details of such charges in such manner as they consider appropriate, and
- (b) may recover any sum owed by P pursuant to such a charge as a debt.

**Appeals**

**24.—**(1) While a person (“P”) is or would be required by regulation 21(1) to stay in the accommodation designated in P’s managed isolation package, P may appeal to the sheriff or the summary sheriff against the requirement that P—

- (a) possess a managed isolation package, or
- (b) remain in the accommodation so designated.

(2) An appeal under paragraph (1) is to be made by way of summary application.

(3) The court must determine an appeal brought under paragraph (1) within 3 working days beginning with the day after the day on which the summary application was lodged with the court.

**Part 5: persons not required to comply**

**25.—**(1) A person (“P”) is not required to comply with this Part where P is—

- (a) a person described in paragraphs 1(1)(a) to (k) of schedule 4 where the conditions in paragraph 1(2) of that schedule are met,
- (b) subject to paragraph (3), a person described in paragraph 1(3) of schedule 4,
- (c) a person described in any of the following paragraphs of schedule 4—
  - (i) paragraph 2(1) (border activities),
  - (ii) paragraph 3(1) (defence activities),
  - (iii) paragraph 4 (border security),
  - (iv) paragraphs 5(1) and 6(1) (essential government work etc.),
  - (v) paragraph 9(2) (pilot),
  - (vi) paragraph 10(1) (aircraft crew),
  - (vii) paragraph 11 (in-flight security officer),
  - (viii) paragraphs 17 to 19 (extradition), or
  - (ix) paragraph 36 (human tissue carrier),
- (d) a person described in paragraph 9(1) or (3) (seamen and masters and inspectors and surveyors of ships) of schedule 4, unless that person has travelled to the United Kingdom in order to work, or has been repatriated to the United Kingdom after working, on board a cruise ship,
- (e) a person who meets the description in paragraph 42 of schedule 4 (elite sportspersons) where that person has—
  - (i) travelled to Scotland in order to participate in an event specified in Part 2 of schedule 6 (specified competitions), or
  - (ii) returned to Scotland having travelled abroad in order to participate in an event specified in Part 2 of schedule 6 (specified competitions),
- (f) a person whose arrival in the United Kingdom has been arranged under a UK refugee resettlement scheme,

- (g) a child who is either—
    - (i) accompanied by an adult on arrival in Scotland but that adult ceases to accompany P beyond their port of arrival, or
    - (ii) unaccompanied by an adult,
  - (h) a person who has travelled to the United Kingdom for the purpose of receiving education at a boarding school in the United Kingdom at which education and training is due to be provided for P,
  - (i) a person who within the preceding 10 days has completed a period in managed accommodation equivalent to that required by this Part pursuant to an enactment in England, Wales or Northern Ireland.
- (2) For the purposes of this regulation—
- “boarding school” means a school which—
- (a) provides accommodation for its pupils on its own premises, or
  - (b) arranges accommodation for its pupils to be provided elsewhere (other than in connection with a residential trip away from school), and
- “school” has the meaning given by section 135(1) of the Education (Scotland) Act 1980(23).
- (3) Notwithstanding paragraph (1), this Part applies to P where P—
- (a) is a person described in paragraph 1(3) of schedule 4, who is attending the COP, and
  - (b) is not—
    - (i) a person invited by Her Majesty’s Government to attend both the COP World Leaders summit event and the COP,
    - (ii) a person described in schedule 5 (COP representatives).
- (4) Where this Part applies by virtue of paragraph (3), and P satisfies—
- (a) the requirements in regulation 3(2),(3), (4), (5), (6) or (7), or
  - (b) the requirements in paragraphs (5) and (6) below,
- these Regulations apply to P as if, in regulation 26(2)(a), the reference to “the 10th day” were a reference to “the 5th day”.
- (5) P satisfies the requirements in this paragraph if—
- (a) P has completed a course of doses of an authorised vaccine, and P received the final dose before the start of the period beginning with the 9th day before the date of P’s arrival in the United Kingdom,
  - (b) P has participated, or is participating, in a clinical trial regulated by the relevant regulator in the country where the trial is carried out of a vaccine for vaccination against coronavirus, or
  - (c) P is under the age of 18 when P enters the United Kingdom for the purposes of attending or facilitating the COP.
- (6) P satisfies the requirements of this paragraph if P has declared on the Passenger Locator Form that P meets the applicable requirement in paragraph (5).
- (7) For the purposes of paragraph (5)—
- (a) P has completed a course of doses of an authorised vaccine if P has received the complete course of doses of that vaccine as specified in the manufacturer’s guidance for that vaccine,

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(23) 1980 c. 4. The definition of ‘school’ in section 135 has been amended by the Standards in Scotland’s Schools etc. Act 2000 (asp 6), schedule 3.

- (b) “authorised vaccine” means a vaccine against coronavirus authorised, in relation to doses received in another country, for supply in that country—
  - (i) following evaluation by the relevant regulator for that country, or
  - (ii) otherwise by the government of that country, or pursuant to its authority,
- (c) in sub-paragraph (b), “another country” means a country other than the United Kingdom or a relevant country for the purposes of regulation 3 (interpretation: eligible vaccinated arrivals).

## PART 6

### Self-isolation

#### Requirement to stay in specified premises

**26.—(1)** Subject to regulation 27 (persons not required to comply), this regulation applies to a person (“P”) who is—

- (a) an amber list arrival,
- (b) a red list arrival described in—
  - (i) regulation 25(1)(e) (elite sportsperson) (subject to regulation 27(1)(h)),
  - (ii) regulation 25(1)(f), (refugee),
  - (iii) regulation 25(1)(g), (unaccompanied child),
  - (iv) regulation 25(1)(h) (boarding school pupil),
  - (v) subject to regulation 27(1)(i), the following paragraphs of schedule 4—
    - (aa) paragraph 4 (border security),
    - (bb) paragraph 11 (in-flight security officer), or
    - (cc) paragraph 19 (extradition), or
- (c) not otherwise required to comply with this regulation (by virtue of sub-paragraphs (a) or (b) as read with regulation 27), and either—
  - (i) contravenes a requirement in regulation 8(2) (notification of negative test result), or
  - (ii) is a child in respect of whom the person responsible contravenes a requirement in regulation 8(3).

(2) P must, on 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 32(2), must not leave those premises until whichever is the later of the end of the—

- (a) 10th day after the day on which they last departed from or transited through an amber list country or, as the case may be, a red list country, or
- (b) relevant period specified in regulation 15(3) or, as the case may be, 16(1)(b), (3), (5) or (6).

(3) Where regulation 16(3) results in a shorter period than that specified in paragraph (2)(a), that shorter period applies.

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

- (a) unless paragraph (b), (c) or (d) applies—
  - (i) an address specified in P’s Passenger Locator Form in accordance with paragraph 2(a) of schedule 3, as required by regulation 4, where P, or if P is a child any person who has responsibility for P, has completed a Passenger Locator Form,

- (ii) an address specified as the place P intends to stay for the duration of the period referred to in paragraph (2) where P, or if P is a child any person who has responsibility for 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 P intends to stay for such part of the period specified in paragraph (2) as will apply while in Scotland where P has not completed a Passenger Locator Form or equivalent form as described in head (ii),
  - (iv) the premises at which P intends 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 4 (other than one described in regulation 27(1)(e)), or
  - (v) where it is not possible for P to stay at a place in accordance with heads (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 of at least 18 years or age, in accommodation provided or arranged under section 4, 95 or 98 of the Immigration and Asylum Act 1999**(24)**,
  - (c) where P is a person described in paragraph 9(1) of schedule 10 of the Immigration Act 2016**(25)** (powers of Secretary of State to enable person to meet bail conditions), in accommodation provided or arranged under that paragraph, or
  - (d) where P is an unaccompanied child for whom it is not possible to stay at a place in accordance with sub-paragraph (a)(i) to (iii), in accommodation provided or arranged by a local authority**(26)**.
- (5) 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.
- (6) Where P is a person described in paragraph 41 of schedule 4 (seasonal agricultural worker), paragraph (4)(a) applies with the modification that the address at which P intends to stay for the purposes of this regulation must be—
- (a) the named farm (within the meaning of paragraph 41 of schedule 4), or
  - (b) where it is not possible to stay at the named farm, the accommodation which the employer or farming enterprise concerned has provided or arranged for P for the purposes of this regulation.
- (7) Where P is a red list arrival mentioned in regulation 25(1)(h) (boarding school pupil), paragraph (4)(a) applies with the modification that the address at which P intends to stay for the purposes of this regulation must be the boarding school at which education and accommodation is due to be provided for P.
- (8) Where P is a child, any person who has responsibility for P must ensure, so far as reasonably practicable, that P complies with this regulation.
- (9) Where P is a red list arrival mentioned in regulation 25(1)(g) (unaccompanied child) who travels to any specified premises referred to in paragraph (4)(a)(i) to (iii) in compliance with paragraph (2), any person who is sharing those premises with P must remain in the premises until

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**(24)** 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.

**(25)** 2016 c. 19.

**(26)** “local authority” is defined in schedule 1 (definitions) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

the expiry of the period referred to in paragraph (2)(a), or the later of the periods referred to in paragraph (2)(b), depending on which of those periods applies to P.

(10) Nothing in this regulation affects the operation of any requirement or restriction applying to P by virtue of schedule 21 of the Coronavirus Act 2020<sup>(27)</sup> (powers relating to potentially infectious persons) or by virtue of an order made under Part 4 of the Public Health etc. (Scotland) Act 2008<sup>(28)</sup>.

### **Part 6: persons not required to comply**

**27.**—(1) Subject to regulation 26(1)(c), the following persons are not required to comply with regulation 26—

- (a) a person who—
  - (i) has arrived from England, and
  - (ii) is in Scotland, temporarily, for a reason mentioned in regulation 32(2)(a) to (j),
- (b) a person who has arrived in Scotland from elsewhere within the common travel area in order to travel immediately onwards to—
  - (i) another part of the United Kingdom, or
  - (ii) elsewhere outside of the United Kingdom,
- (c) a person who enters the UK for the sole purpose of continuing a journey to a country or territory outside the common travel area and—
  - (i) remains within their port of entry until their departure from Scotland, or
  - (ii) travels directly from their port of entry to another port of departure in Scotland.
- (d) a person who is an eligible vaccinated arrival within the meaning of regulation 3,
- (e) a person described in paragraph 1(1)(a) to (k) of schedule 4 (diplomats etc.), where the conditions in paragraph 1(2) of that schedule are met,
- (f) a person described in paragraph 7 of schedule 4 (specified persons on official business),
- (g) a person described in paragraph 41 of schedule 4 (seasonal agricultural worker), but only—
  - (i) if the person is staying at the named farm, within the meaning of that paragraph (and not in any other accommodation mentioned in regulation 26(6)), and
  - (ii) while the person is carrying out the work or activities specified in that paragraph in fields or other property under the control of the farming enterprise,
- (h) an international elite sportsperson or an international ancillary sportsperson within the meaning of paragraph 42 of schedule 4, where that person is—
  - (i) travelling directly to or from, or attending the location of, the specified competition or training for the specified competition (as the case may be), or
  - (ii) travelling between different locations where the specified competition or training for the specified competition (as the case may be) is taking place,
- (i) a person described in any paragraph of schedule 4 mentioned in paragraph (2), but only where that person is—
  - (i) travelling directly to or from any place where that person's presence is required in connection with the work or activity (as the case may be) referred to in the relevant paragraph of schedule 4, or
  - (ii) attending the location of that work or activity (as the case may be),

<sup>(27)</sup> 2020 c. 7.

<sup>(28)</sup> 2008 asp 5.



- (j) a person described in any paragraph of schedule 4 that is not otherwise mentioned in this regulation, including any person who is a domestic elite sportsperson or a domestic ancillary sportsperson within the meaning of paragraph 42 of that schedule.
- (2) The paragraphs of schedule 4 referred to in paragraph (1)(i) are—
- (a) 4 (border security)
  - (b) 11 (in-flight security officers),
  - (c) 13 (civil aviation inspectors),
  - (d) 19 (extradition escorts),
  - (e) 20 to 28 (essential and emergency workers etc.),
  - (f) 30 to 34 (specialist technical and communications workers),
  - (g) 35 (except for paragraph 35(1)(b)) (persons with pre-arranged healthcare),
  - (h) 37 to 40 (healthcare workers etc.),
  - (i) 43 (Edinburgh International Festival worker).
- (3) Paragraph (2) does not apply to a person described in head (b) of paragraph 35(1) of schedule 4, but the requirements of that head apply to that person.

## PART 7

### Parts 2 to 6: enforcement

#### **Part 2 (information): offences and penalties**

- 28.**—(1) A person who contravenes a requirement in—
- (a) regulation 4(2), (4) or (5), or
  - (b) regulation 5(3) or (5),
- commits an offence (unless that person is a child).
- (2) A person who provides false or misleading information for the purposes of regulations specified in paragraph (1)(a) and (b) commits an offence where that person—
- (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) For the purposes of paragraph (3), a reasonable excuse includes, in particular where—
- (a) the information to be provided is not within P's knowledge or possession or under P's control,
  - (b) P is accompanied by any child for whom P has responsibility and the child's passenger information has been submitted by someone else with responsibility for the child.
- (5) 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 (testing before arrival in Scotland): offences and penalties**

- 29.**—(1) A person who contravenes a requirement in regulation 8 (requirement to possess notification of negative test result) commits an offence.

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

(3) For the purposes of paragraph (2), a reasonable excuse includes, in particular where—

- (a) a person was medically unfit to provide a sample for a qualifying test and possessed a document, in English or accompanied by a certified English translation, signed by a medical practitioner entitled to practise in the country or territory in which that practitioner was based, to that effect,
- (b) it was not reasonably practicable for a person to obtain a qualifying test due to a disability,
- (c) a person required medical treatment with such urgency that obtaining a qualifying test was not reasonably practicable,
- (d) a person contracted coronavirus and required emergency medical treatment,
- (e) a person was accompanying, in order to provide support, whether medical or otherwise, a person described in sub-paragraph (c) or (d) where it was not reasonably practicable for the accompanying person to obtain a qualifying test,
- (f) a person began their journey to Scotland in a country or territory in which—
  - (i) a qualifying test was not available to the public, with or without payment, or in which it was not reasonably practicable for a person to obtain a qualifying test due to a lack of reasonable access to a qualifying test or testing facility, and
  - (ii) it was not reasonably practicable for them to obtain a qualifying test in their last point of departure if this was different to where they began their journey,
- (g) the time it has taken a person to travel from the country or territory where they began their journey to the country or territory of their last point of departure prior to arriving in Scotland meant that it was not reasonably practicable for them to meet the requirement in regulation 9(1)(c), and it was not reasonably practicable for them to obtain a qualifying test in their last point of departure.

(4) A person does not commit an offence where they contravene a requirement in regulation 8 if they reasonably believed at the time of the contravention that the notification of a negative result was valid and from a qualifying test.

(5) 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 4 (testing following arrival in Scotland): offences and penalties**

**30.**—(1) It is an offence to contravene a requirement, without reasonable excuse, in—

- (a) regulation 12 (requirement to possess testing package),
- (b) regulation 13(1) or, in the case of a person with responsibility for a child, regulation 13(2) (requirement to provide information), or
- (c) regulation 14(1) or (5) (requirement to undertake tests).

(2) Reasonable excuses for contravening regulation 12 include, in particular where—

- (a) it was not reasonably practicable for a person to book a test due to a disability,
- (b) a person reasonably considered, before arriving in Scotland, that it would not be reasonably practicable for the person (or, as the case may be, the child for whom the person has responsibility) to provide a sample for a test in accordance with regulation 14 due to a disability,
- (c) a person required medical treatment with such urgency that booking a test was not reasonably practicable,

- (d) a person was accompanying a person described in paragraph (a) or (c) in order to provide support, where it was not reasonably practicable for the accompanying person to book a test,
- (e) a person began their journey to Scotland in a country or territory in which the person—
  - (i) did not have reasonable access to the facilities or services required to book a test, with or without payment, and
  - (ii) such facilities or services were not reasonably accessible in their last point of departure if this was different to where they began their journey.
- (3) Reasonable excuses for contravening regulation 14(1) or (5) include, in particular, where—
  - (a) it is not reasonably practicable for P to undertake a test due to a disability,
  - (b) P requires medical treatment with such urgency that undertaking a test is not reasonably practicable,
  - (c) a test is cancelled for reasons beyond P's control,
  - (d) P has left the common travel area in accordance with regulation 31(3)(a),
  - (e) P has left Scotland in accordance with regulation 32(2)(a).
- (4) A person who commits an offence under paragraph (1) is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### **Part 5 (managed isolation): offences and penalties**

- 31.**—(1) It is an offence for a person to contravene a requirement in—
- (a) regulation 20(1) (requirement to enter at designated port),
  - (b) regulation 20(3) (requirement to possess managed isolation package),
  - (c) regulation 21(1) (requirement to travel to and remain in managed accommodation), or
  - (d) regulation 21(5) (requirement in relation to a child).
- (2) It is a defence to a charge of committing an offence under paragraph (1)(a), (b) or (d) to show that the person, in the circumstances, had a reasonable excuse.
- (3) It is a defence to a charge of committing an offence under paragraph (1)(c) for a person (“P”) to show that they are outside of the place where they are staying in accordance with regulation 21(1) for one of the following reasons—
- (a) to travel, in order to leave the common travel area, provided that P does so directly, (except where regulation 16(1)(a)(i) applies in relation to P),
  - (b) to fulfil a legal obligation, including attending court or satisfying bail conditions, or to participate in legal proceedings,
  - (c) on compassionate grounds, to attend a funeral of—
    - (i) a member of P's household,
    - (ii) a close family member, or
    - (iii) if no-one within heads (i) or (ii) is attending, a friend,
  - (d) on compassionate grounds, for reasons relating to the end of a person's life,
  - (e) for exercise,
  - (f) with permission from a person authorised by the Scottish Ministers to grant permission,
  - (g) in other exceptional circumstances, such as—
    - (i) to seek medical assistance where this is required urgently or on the advice of a registered medical practitioner, including to access services from dentists, opticians,

audiologists, chiropodists, chiropractors, osteopaths and other medical and health practitioners, including services relating to mental health,

- (ii) to access critical public services, including social services or services provided to victims (such as victims of crime),
- (iii) to avoid injury, illness or to escape risk of harm,
- (iv) to access veterinary services where this is required urgently or on the advice of a veterinary surgeon.

(4) A person may only leave or be outside of the place where they are staying in reliance on the grounds mentioned in paragraph (3)(c), (d) or (e)—

- (a) if P has been given prior permission by a person authorised by the Secretary of State or the Scottish Ministers for this purpose;
- (b) if P complies with any reasonable requirements imposed by the person so authorised in relation to the exercise, the visit to the person or the attendance at the funeral.

(5) 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 6 (self-isolation): offences and penalties**

**32.**—(1) It is an offence for a person to contravene a requirement in—

- (a) regulation 26(2) (requirement to travel to and stay in specified premises), or
- (b) regulation 26(8) (requirement in relation to a child).

(2) It is a defence to a charge of committing an offence under paragraph (1)(a) for a person (“P”) to show that they are outside of the place where they are staying in accordance with regulation 26(2) for one of the following reasons—

- (a) to travel, in order to leave Scotland, provided that P does so directly (except where regulation 16(1)(a)(ii) applies in relation to P),
- (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 services from dentists, opticians, audiologists, chiropodists, chiropractors, osteopaths and other medical and health practitioners, including services relating to mental health,
- (d) to access veterinary services,
- (e) on compassionate grounds, to attend a funeral of—
  - (i) a member of P’s household,
  - (ii) a close family member, or
  - (iii) if no-one within heads (i) or (ii) is attending, a friend,
- (f) on compassionate grounds, for reasons relating to the end of a person’s life,
- (g) to fulfil a legal obligation, including attending court or satisfying bail conditions, or to participate in legal proceedings,
- (h) 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 P’s specified premises,
- (i) to avoid injury, illness or to escape risk of harm,
- (j) to move to a different place for the purposes of regulation 26(2) where—

- (i) a legal obligation requires P to change the specified premises where P is staying for the purposes of that regulation, or
- (ii) P is otherwise unable to remain at the specified premises where P is staying for the purposes of that regulation.

(3) It is a defence to a charge under paragraph (1)(b) to show that P, 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.

### **Powers of direction and removal**

**33.**—(1) Where a constable has reasonable grounds for suspecting that a person (“P”) has contravened the requirement in regulation 21(1) (requirement to stay in managed accommodation) or 26(2) (requirement to stay in specified premises), the constable may—

- (a) direct P to return to the place where P is staying,
- (b) remove P to the place where P is staying,
- (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 or the Scottish Ministers.

(2) Paragraph (1)(b) and (c) do not apply where P is a person described in paragraph 1 of schedule 4.

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

(4) Where a child (“C”) is outside of the place where they are staying in accordance with regulation 21(1) or 26(2) and is accompanied by a person who has responsibility for the child (“A”)—

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

(5) Where a constable has reasonable grounds for suspecting that a child (“C”) has repeatedly contravened the requirement in regulation 21(1) or 26(2), the constable may direct any person who has responsibility for C to ensure, so far as reasonably practicable, that C complies with that requirement.

(6) A constable may only exercise a power under 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 21(1) or 26(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.

(8) Where P is a person required to comply with regulation 21(1), an authorised person may give a direction to P to ensure that P complies with the requirements of that regulation, including a direction—

- (a) that P remain in a particular area of a port to await transportation to P’s designated accommodation,
- (b) that P move to a particular place to board P’s designated transportation,
- (c) that P board P’s designated transportation to travel to P’s designated accommodation, or
- (d) that P remain in, or return to, the place where P is staying in accordance with regulation 21(1).

(9) For the purposes of paragraph (8), “authorised person” means a person authorised by the Scottish Ministers for the purposes of this regulation.

### **Further offences and penalties**

**34.**—(1) It is an offence for a person to contravene a requirement imposed in or under regulation 33 (powers of direction and removal).

(2) It is an offence for a person to provide false or misleading information for the purposes of Parts 5, 6 or 7 where that person—

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

(3) A person who deliberately obstructs any person carrying out a function under these Regulations commits an offence.

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

(5) 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.

### **Fixed penalty notices**

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

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

(2) An immigration officer may issue a fixed penalty notice to anyone that the immigration officer has reasonable grounds to believe—

- (a) has committed—
  - (i) an information offence,
  - (ii) an offence under regulation 29(1) (testing before arrival in Scotland),
  - (iii) an offence under regulation 30(1)(a) (requirement to possess testing package),
  - (iv) an offence under regulation 31(1)(a) (requirement to enter at designated port),
  - (v) an offence under regulation 31(1)(b) (requirement to possess managed isolation package), or
  - (vi) an offence under regulation 34(3) (deliberate obstruction), 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<sup>(29)</sup>, as provided for in sections 129 to 134 of that Act, and sections 226B and 226I of the Criminal Procedure (Scotland) Act 1995<sup>(30)</sup> subject to the modifications 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” in section 226I(1) of the Criminal Procedure (Scotland) Act 1995 is to be construed as a reference to that section as modified by this paragraph.

(6) In paragraph (2)(a)(i), “information offence” means an offence under Part 2 (passenger information) or an offence under regulation 34(3) where the person is believed to have intentionally obstructed an immigration officers carrying out a function in relation to Part 2.

### **Fixed penalty notices: penalty amounts**

**36.** The penalty payable in respect of a fixed penalty notice issued under these Regulations is £480.

## **PART 8**

### **Duties on operators**

#### **Part 8: Interpretation**

**37.** In this Part—

“coronavirus notification” means notification of the result of a test for the detection of coronavirus which includes, in English, French or Spanish, the following information—

- (a) the name of the person from whom the test sample was taken,

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<sup>(29)</sup> 2004 asp 8. Sections 130(3), 131(6) and 132(1) were amended by paragraph 32(b) of schedule 1 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6) (“the 2007 Act”) and section 132(6) was repealed by paragraph 32(c) of schedule 1 of the 2007 Act.

<sup>(30)</sup> 1995 c. 46. Section 226B and 226I were inserted by section 55 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2006 (asp 6) and amended by S.S.I. 2020/339.

- (b) that person's date of birth or age,
- (c) the negative result of that test,
- (d) the date the test sample was collected or received by the test provider,
- (e) the name of the test provider and information sufficient to contact that provider, and
- (f) the name of the device that was used for the test.

“international passenger service” means a commercial service by which passengers travel to a port in Scotland from outside the common travel area on a vessel or aircraft,

“operator” means an operator of an international passenger service,

“passenger” means a person travelling on a conveyance who is not a member of the conveyance's crew,

“relevant passenger” means a passenger who fails, without reasonable excuse—

- (a) to provide evidence of having provided passenger information when requested to do so by an immigration officer pursuant to regulation 4(4) of these Regulations, or
- (b) to produce a valid notification of a negative result when requested to do so by a constable or an immigration officer pursuant to regulation 8(4) of these Regulations.

“required information” means the information specified in schedule 7 and, where appropriate, schedule 8 as required by regulations 38 to 41 of these Regulations,

“vessel” means a vessel which is 24 metres or more in length.

#### **Provision of information before booking**

**38.**—(1) Subject to paragraphs (2) and (3), an operator must ensure that a passenger (“P”) who arrives at a port in Scotland on an international passenger service provided by the operator, was provided with the required information before the booking was made.

(2) If another person (“A”) made the booking on behalf of P (whether or not A is also a passenger on the service) the requirement in paragraph (1) is to be treated as complied with if the required information was provided to A before the booking was made, along with a written request that A provide that information to P, unless A considers that, by virtue of P's age or mental capacity, P is unlikely to be capable of understanding it.

(3) Paragraph (1) applies only if the booking was made after these Regulations come into force.

#### **Provision of information between 24 and 48 hours before scheduled departure**

**39.**—(1) Subject to paragraphs (2) and (3), an operator must ensure that a passenger (“P”) who arrives at a port in Scotland on an international passenger service provided by the operator was provided with the required information between 24 and 48 hours prior to the scheduled departure time of that service.

(2) If another person (“A”) made the booking on behalf of P (whether or not A is also a passenger on the service), the requirement in paragraph (1) is to be treated as complied with if the required information was provided to A between 24 and 48 hours prior to the scheduled departure time of the relevant service, along with a written request that A provide that information to P, unless A considers that, by virtue of P's age or mental capacity, P is unlikely to be capable of understanding it.

(3) Paragraph (1) applies only if the booking was made for P to travel on the relevant service at least 48 hours prior to the scheduled departure time.



### **Provision of information before check-in**

**40.**—(1) Subject to paragraphs (2) and (3), an operator must ensure that, a passenger (“P”) who arrives at a port in Scotland on an international passenger service provided by the operator was provided with the required information at the time that P was checked in to travel on that service.

(2) If another person (“A”) checked in on behalf of P (whether or not A is also a passenger on the service) the requirement in paragraph (1) is to be treated as complied with if the required information was provided to A at the time of check-in, along with a written request that A provide that information to P, unless A considers that, by virtue of P’s age or mental capacity, P is unlikely to be capable of understanding it.

(3) Paragraph (1) applies only if the check-in took place after these Regulations come into force.

### **Provision of information during journey**

**41.** An operator must ensure that, every passenger who arrives at a port in Scotland on an international passenger service provided by the operator, has been provided with the required information before the vessel or aircraft arrives at that port.

### **Requirement to ensure passengers have completed a Passenger Locator Form**

**42.**—(1) Subject to paragraphs (5) and (6), an operator must ensure that—

- (a) a passenger who arrives at a port in Scotland on a relevant service (“P”) has completed a Passenger Locator Form, and
- (b) P possesses evidence that they are a person described in a paragraph of schedule 4 (exemptions), where they have indicated on the Passenger Locator Form that they are such a person.

(2) Subject to paragraphs (6) and (7), an operator must ensure that, where P is a person to whom Part 4 of these Regulations (testing following arrival in Scotland) applies, P has included in their Passenger Locator Form the information required by paragraph 4 of schedule 3 (testing package details).

(3) Subject to paragraphs (6) and (8), an operator must ensure that, where P is required to comply with Part 5 of these Regulations (managed isolation), P has included in their Passenger Locator Form the booking reference for the managed isolation package booked by or on behalf of P as required by paragraph 2(b) of schedule 3.

(4) An operator must ensure that, where P has indicated on the Passenger Locator Form that P is an eligible vaccinated arrival, that P is in possession of the required evidence.

(5) Paragraph (1)(b) does not apply in relation to a person described in paragraph 15 of schedule 4 (road haulage worker) who is the driver of a goods vehicle that has been or will be conveyed to Scotland on the relevant service.

(6) Paragraphs (1) to (3) do not apply in relation to a passenger—

- (a) whom the operator, or a person acting on behalf of the operator, reasonably believes is not required to comply with the requirement to provide information under regulation 4(2) of these Regulations,
- (b) who informs the operator, or a person acting on behalf of the operator, that they have a disability which prevents them from completing the Passenger Locator Form, or
- (c) who is being lawfully compelled to travel to the United Kingdom in the course of an extradition, prisoner repatriation or deportation.

(7) Paragraph (2) does not apply where the operator, or a person acting on behalf of the operator, reasonably believes that—

- (a) P is not required to comply with Part 4 of these Regulations (testing following arrival in Scotland), or
  - (b) P has a reasonable excuse for failing to comply with regulation 12(1) of these Regulations to arrive in Scotland in possession of a testing package.
- (8) Paragraph (3) does not apply where the operator, or a person acting on behalf of the operator, reasonably believes that—
- (a) P is not required to comply with Part 5 of these Regulations (managed isolation), or
  - (b) P has a reasonable excuse for failing to comply with the requirement in regulation 20(3) (requirement to possess managed isolation package).
- (9) In paragraph (4), “the required evidence” means—
- (a) evidence of the description in regulation 3(2)(d) or (e), (3)(b), (4)(b) and (d) or (6)(b) (where relevant), or
  - (b) where P meets the description in regulation 3(5) or (7), evidence of P’s age.

#### **Requirement to ensure passengers possess notification of a negative test result**

**43.**—(1) Subject to paragraph (3), an operator must ensure that a passenger who arrives at a port in Scotland on a relevant service is in possession of a coronavirus notification.

(2) A child is to be treated as possessing a coronavirus notification if such a notification is possessed by a person who is travelling with, and has responsibility for, that child.

(3) Paragraph (1) does not apply in relation to a passenger—

- (a) whom the operator, or a person acting on behalf of the operator, reasonably believes—
  - (i) is not required to comply with Part 3 of these Regulations (testing prior to arrival in Scotland), or
  - (ii) has a reasonable excuse for failing to comply with the requirements of that Part,
- (b) who is being lawfully compelled to travel to the United Kingdom in the course of an extradition, prisoner repatriation or deportation,
- (c) who is a child, travelling without a responsible adult, or
- (d) who is a transit passenger, who does not have the right to enter the country or territory from which the relevant service departs.

(4) In this regulation, “transit passenger” means a person who has arrived in the country or territory from which the relevant service departs with the intention of passing through to Scotland without entering that country or territory.

#### **Requirement to ensure that certain passengers arrive only at certain ports**

**44.** An operator must take all reasonable steps to ensure that no passenger who is required to comply with Part 5 of these Regulations (managed isolation) enters Scotland except in accordance with regulation 20(1) (requirement to enter Scotland at a designated port).

#### **Part 8: offences and penalties**

**45.**—(1) An operator commits an offence if that operator fails to comply with—

- (a) regulation 38(1) (provision of information before booking),
- (b) regulation 39(1) (provision of information before departure),
- (c) regulation 40(1) (provision of information before check-in), or
- (d) regulation 41 (provision of information during journey).

- (2) An operator commits an offence if that operator fails to comply with—
  - (a) regulation 42(1)(a) (requirement to ensure completion of PLF),
  - (b) regulation 42(1)(b) (possession of evidence of an exemption),
  - (c) regulation 42(2) (requirement to ensure completion of PLF: testing package),
  - (d) regulation 42(3) (requirement to ensure completion of PLF: managed isolation package),
  - (e) regulation 42(4) (requirement to ensure completion of PLF: eligible vaccinated arrivals),
  - (f) regulation 43(1) (requirement to possess coronavirus notification), or
  - (g) regulation 44 (requirement to ensure certain passengers arrive only at certain ports).
- (3) An offence under paragraph (1) or (2) is committed when the relevant service arrives at a port in Scotland.
- (4) In relation to the offences in paragraph (1)(a), (b) and (c), it is a defence for an operator to show that—
  - (a) the booking or check-in process was not managed directly by the operator, and
  - (b) the operator took reasonable steps to ensure that the person managing the booking or check-in process would provide the required information at the booking, pre-departure or check-in time (as the case may be), in the required manner.
- (5) In relation to the offence in paragraph (1)(d), it is a defence for an operator to show that they had a reasonable excuse for failing to provide the required information.
- (6) For the purposes of paragraph (5), “reasonable excuse” includes that a passenger who was not provided with the required information was, by virtue of age or mental capacity, unlikely to be able to understand the required information.
- (7) In relation to the offence in paragraph (2)(a) or (b), it is a defence—
  - (a) for an operator alleged to have failed to ensure that a passenger has completed a Passenger Locator Form, to show they recorded a unique passenger reference number for the relevant passenger before that passenger boarded the relevant service, or
  - (b) for an operator alleged to have failed to ensure that a passenger possesses evidence of eligibility for an exemption claimed in a Passenger Locator Form, to show that the passenger presented a document purporting to be appropriate evidence which the operator, or a person acting on behalf of the operator, could not reasonably have been expected to know was not appropriate evidence, before that passenger boarded the relevant service.
- (8) In relation to the offences in paragraph (2)(c) and (d), it is a defence for an operator to show that the operator, or a person acting on behalf of the operator, could not have reasonably been expected to know that the relevant information provided by a passenger on their Passenger Locator Form was false, incorrect or incomplete.
- (9) In relation to the offence in paragraph (2)(e), it is a defence for an operator to show that the passenger presented a document purporting to be the required evidence which the operator, or a person acting on behalf of the operator, could not reasonably have been expected to know was not the required evidence.
- (10) In relation to the offence in paragraph (2)(f), it is a defence for an operator to show that the relevant passenger presented a document purporting to be a coronavirus notification which the operator, or a person acting on behalf of the operator, could not reasonably have been expected to know was not a coronavirus notification.
- (11) In relation to the offence in paragraph (2)(g), it is a defence for an operator to show that the operator, or a person acting on behalf of the operator, could not have reasonably been expected to know that a passenger was required to comply with Part 5 (managed isolation).

(12) If, following the coming into force of any provision which amends the required information, an operator provides information to a passenger that would have complied with this Part but for the coming into force of the amending provision, it is a defence for the operator to show that it was not reasonably practicable for the amended required information to be provided.

(13) An offence under paragraph (1) or (2) is punishable—

- (a) on summary conviction, by a fine not exceeding the statutory maximum,
- (b) on conviction on indictment, by a fine.

(14) For the purposes of paragraph (7), “unique passenger reference number” means a reference number which has been provided by or on behalf of the relevant passenger and which includes the letters “UKVI” followed immediately by an underscore and 13 alphanumeric characters.

(15) For the purposes of paragraph (8), “relevant information” means the information mentioned in regulation 42(2) or 42(3) (as the case may be).

### **Extra-territorial jurisdiction**

**46.—**(1) An offence can be committed under regulation 45(1) (provision of information) where the failure to provide the required information occurs wholly or partly outside Scotland.

(2) An offence can be committed under regulation 45(2)(a) or (b) where the failure to ensure that a passenger who arrives at a port in Scotland on a relevant service has completed a Passenger Locator Form occurs wholly or partly outside Scotland.

(3) An offence can be committed under regulation 45(2) (c) to (e) where the failure to ensure that a passenger who arrives at a port in Scotland on a relevant service has completed the information in a Passenger Locator form as required by any of those regulations occurs wholly or partly outside Scotland.

(4) An offence can be committed under regulation 45(2)(f) where the failure to ensure that a passenger who arrives at a port in Scotland on a relevant service is in possession of a coronavirus notification occurs wholly or partly outside Scotland.

(5) An offence can be committed under regulation 45(2)(g) where the failure to take all reasonable steps to ensure that no passenger required to comply with Part 6 enters Scotland except at a port in accordance with regulation 20(1) occurs wholly or partly outside Scotland.

(6) An operator may be prosecuted, tried and punished for an offence under regulation 45(1) or (2) upon the arrival of the international passenger service or relevant service, as the case may be, in Scotland—

- (a) in the sheriff court district within which the port of arrival is located, or
- (b) in such other sheriff court district as the Lord Advocate may direct,

as if the offence has been committed in that district (and the offence is, for all purposes incidental to or consequential on the trial and punishment, deemed to have been committed in that district).

## **PART 9**

### **Information sharing**

#### **Power to use and disclose information**

**47.—**(1) This Part 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 (3).

(2) P may only use relevant information where it is necessary—

- (a) for the purpose of carrying out a function 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,
  - (c) for a purpose connected with, or otherwise incidental to, a purpose described in subparagraphs (a) or (b).
- (3) 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 have the effect of requiring the isolation or quarantine of persons who have been outside the common travel area, for any of the purposes mentioned in subparagraph (b),
  - (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) for a purpose connected with, or otherwise incidental to, a purpose described in paragraph (a) or (b).
- (4) A constable or a person responsible for arranging or providing services (including security services) in respect of accommodation as part of a managed isolation package may, where necessary for the purpose of carrying out a function under these Regulations, request from B (see regulation 48(1)(c)) the following information—
- (a) confirmation that B possesses a testing package (within the meaning of regulation 11(3)) and the details of that testing package (including the time and date of the tests),
  - (b) confirmation that B has undertaken any test in accordance with the testing package and, if not, an account of the reasons,
  - (c) the result of any test B has undertaken in accordance with a testing package.
- (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) Nothing in this regulation limits 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) In paragraph (7), “the data protection legislation” and “personal data” have the meanings given in section 3 of the Data Protection Act 2018(31).

### Meaning of “relevant information”

- 48.**—(1) For the purposes of regulation 47, “relevant information” means—
- (a) passenger information,
  - (b) passenger information from elsewhere in the UK,
  - (c) where a person (“B”) is required to comply with Part 5 or Part 6 of these Regulations—
    - (i) the details of any period of self-isolation (including the start and end dates of that period and the reason it was imposed),
    - (ii) a copy of any notice given to B which contains information about the requirement to self-isolate,
    - (iii) information generated where B books, or attempts to book, accommodation as part of a managed isolation package,
    - (iv) the details of any location in which B undertakes any period of managed isolation (including the name and address of the location),
    - (v) information relating to B obtained by P in the course of providing accommodation to B pursuant to a managed isolation package including—
      - (aa) B’s room number,
      - (bb) the personal details of any of B’s co-habitants,
      - (cc) the details of any absence of B, authorised or otherwise, from the place where B is self-isolating,
    - (vi) information relating to B obtained by P in the course of providing transport to a location at which B undertakes, or is due to undertake, any period of managed isolation,
    - (vii) information relating to B obtained by P in the course of providing any service in connection with a managed isolation package,
  - (d) where B is required to obtain a testing package (within the meaning of regulation 11(3), or undertake a day 2 or day 8 test under these Regulations—
    - (i) information generated where B books, or attempts to book, a testing package,
    - (ii) a copy of any notice given to B which contains information about the requirement to book a testing package or to undertake a test,
    - (iii) the results of a test undertaken by B (whether or not that test was provided as part of a testing package),
    - (iv) information obtained by P in the course of providing a test that falls within paragraph (iii) and is undertaken, or in the course of arranging for such a test to be undertaken, by B including—
      - (aa) confirmation that the test was undertaken,
      - (bb) details of when and where it was undertaken,
      - (cc) any reasons for a test not being undertaken,
      - (dd) the details of any replacement test to be undertaken,

- (e) where a sample taken in respect of a day 2 test (within the meaning of regulation 11(3)) has been sequenced, the sorted BAM file relating to that sample containing all reads aligning to the SARS-CoV-2 reference genome with unaligned and human reads removed,
- (f) information provided to an immigration officer pursuant to these Regulations,
- (g) information provided by, or on behalf of, a person by way of explanation of for failing to comply with regulation 4 or 8,
- (h) information about the steps taken, pursuant to these Regulations, in relation to a person, including details of any fixed penalty notice issued under these Regulations.

(2) In this regulation, “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 10

### Review, expiry, revocations, transitionals and savings

#### **Review of need for restrictions**

**49.** The Scottish Ministers must review the need for the requirements imposed by these Regulations at least once every 28 days, with the first review being carried out by 18 October 2021.

#### **Expiry**

**50.—**(1) These Regulations expire at the end of 16 May 2022.

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

#### **Revocations**

**51.** The instruments listed in schedule 9 are revoked, subject to regulation 52(2).

#### **Transitional and savings provisions**

**52.—**(1) Schedule 10 makes transitional provisions.

(2) Nothing in these Regulations applies in relation to a person who arrived in Scotland before on 20 September 2021 (and accordingly, the regulations mentioned in schedule 9 continue to have effect in relation to such a person), subject to paragraph (1).

St Andrew’s House,  
Edinburgh  
At 10.35 a.m. on 16th September 2021

*MICHAEL MATHESON*  
A member of the Scottish Government