
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate, with amendments, the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (“the International Travel Regulations”), the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020 (“the Information Regulations”), and the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 (“the Operator Liability Regulations”).

The International Travel Regulations, the Information Regulations and the Operator Liability Regulations have been extensively amended and are all due to expire on 20 September 2021. These Regulations revoke and replace those three sets of Regulations from 20 September 2021, and do not apply in relation to a person who arrived in Scotland before then.

For the purpose of preventing the spread of infection or contamination with coronavirus, these Regulations set out requirements for people arriving in Scotland, directly or indirectly, from outside the common travel area (that is, the open borders area comprising the United Kingdom, the Republic of Ireland, the Isle of Man, and the Channel Islands). The Regulations also impose related requirements on persons (“operators”) operating commercial services for international passengers travelling to Scotland by sea and air directly from outside the common travel area. In addition to minor and drafting amendments to clarify the application of the travel rules, these Regulations amend the application of the travel rules to In-flight Security Officers.

Part 1 of these Regulations, regulations 1 to 3, makes general provision, in particular for the meaning of terms used in these Regulations. Regulation 2 includes the meaning of red list country, green list country and amber list country, and red list arrival, green list arrival, and amber list arrival. Red lists countries are listed in schedule 1. Green list countries are listed in schedule 2. Amber list countries are countries or territories outside the common travel area that are not listed in schedule 1 or schedule 2. Different travel rules applies depending on whether a person is a red list, amber list or green list arrival.

Part 2, regulations 4 to 6, requires red list arrivals, amber list arrivals and green list arrivals to provide information listed in schedule 3 on a Passenger Locator Form (“passenger information”) before or on arrival in Scotland. Passengers are required to keep their passenger information up-to-date. Persons who are not required to comply with this Part are specified in regulation 6. This includes persons described in specified paragraphs of schedule 4. Schedule 4 provides a list of persons subject to specific exemptions in these Regulations.

Part 3, regulations 7 to 10, requires red list arrivals, amber list arrivals and green list arrivals to possess a notification of a negative coronavirus test upon arrival in Scotland. Persons not required to comply with this part are specified in regulation 10. This includes persons described in specified paragraphs of schedule 4.

Part 4, regulations 11 to 18, requires red list arrivals, amber list arrivals and green list arrivals to possess a testing package for the detection of coronavirus on arrival in Scotland or to obtain one as soon as possible on arrival. The provisions provide instructions in respect of the timings of tests, which differ depending upon whether a person is (a) a red list arrival or an amber list arrival, or (b) a green list arrival or an amber list arrival who is an eligible vaccinated arrival. The regulations provide for the consequences of obtaining a positive, negative or inconclusive test result with implications for the length of time relevant persons must remain in the specified premises or designated accommodation. These provisions enable charges to be imposed in respect of testing

packages. Persons not required to comply with this part are specified in regulation 18. This includes persons described in specified paragraphs of schedule 4.

Part 5, regulations 19 to 25, requires red list arrivals, subject to limited exceptions, to enter Scotland through Aberdeen, Edinburgh, or Glasgow Airports, or a military airfield or port and to possess a “managed isolation package”, as defined in regulation 20(6). Persons to whom this Part applies are required to travel directly to the accommodation designated in the package using transport designated for this purpose (where relevant), and, with certain exceptions, to stay in the accommodation until the earlier of the end of the 10th day after arrival, or the date of the person’s departure from the common travel area. The application of these provisions may be modified in respect of ‘relevant persons’ listed in regulation 22. Regulation 23 enables charges to be imposed in respect of a managed isolation package. Regulation 24 enables persons to appeal to the sheriff or summary sheriff against the requirement to possess a managed isolation package or to remain in the accommodation designated in that package. Persons who are exempted are listed in regulation 25, including persons described in specified paragraphs of schedule 4.

Part 6, regulations 26 and 27, requires amber list arrivals and red list arrivals specified in regulation 26(1)(b) to travel, without undue delay, on their arrival to Scotland to specified premises and stay there until whichever is the later of (a) the end of the 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) the end of the relevant period specified in the Regulations. Regulation 26(4) provides a definition of “specified premises” for the purpose of this regulation. Persons not required to comply with this part are specified in regulation 27. This includes persons described in specified paragraphs of schedule 4, and international elite sportspersons attending specified competitions. Schedule 5 provides a list of COP 26 representatives and schedule 6 provides a list of specified competitions.

Part 7, regulations 28 to 36, lists the offences and penalties for contravening specified regulations in the various parts of these Regulations. The provisions provide where a reasonable excuse or a specific defence is relevant in relation to specific offences. Constables are provided with powers of direction and removal and are able to issue fixed penalty notices to persons aged 18 years or over who they have reasonable grounds to believe have committed an offence under these Regulations. Immigration officers are able to issue fixed penalty notices if they have reasonable ground to believe that a person has committed specified offences under these Regulations. The penalty payable in respect of a fixed penalty notice issued under these Regulations is £480.

Part 8, regulations 37 to 46, consolidate requirements on operators operating commercial services for international passengers travelling to Scotland by sea and air from outside the common travel area. Regulations 38 to 41 require operators to ensure that passengers who arrive in Scotland have been provided with certain public health information (“required information”) on three separate occasions, before they book their travel, when they check-in and whilst they are on board the vessel or aircraft. The required information is specified in schedules 7 and 8. Regulation 42 requires operators to ensure that passengers who arrive in Scotland have completed a Passenger Locator Form and possess evidence that they are a person described in the schedule 4 list of exemptions where they have indicated on their form that they are such a person. Regulation 43 requires operators to ensure that passengers possess notification of a negative coronavirus test. Regulation 44 requires operators to take all reasonable steps to ensure that passengers who are required to comply with the managed isolation requirements of Part 5 arrive only at ports designated in regulation 20. Regulation 45 provides offences and penalties in respect of the requirements on operators. Regulation 46 sets out the circumstances under which an offence can be committed under this Part where the offence occurs wholly or partly outside Scotland.

Part 9, regulations 47 to 48, sets out when specific information in relation to these Regulations can be disclosed and used in Scotland.

Part 10 requires Scottish Ministers to review the need for the requirements imposed by these Regulations at least once every 28 days. The first review is to be carried out by 18 October 2021. These Regulations expire at the end of 16 May 2022. They revoke the instruments listed in schedule

9. The instruments that are revoked are the International Travel Regulations, the Information Regulations and the Operator Liability Regulations and the instruments that have amended them. Schedule 10 makes transitional provision in respect of specified matters, such as passenger information, testing following arrival in Scotland, managed self-isolation packages, enforcement and exemptions, which were undertaken pursuant to the International Travel Regulations. The effect of these provisions is that the specified matters are to be treated as if they were undertaken pursuant to the corresponding provisions in these Regulations.

An impact assessment has not been produced for this instrument.