SCOTTISH STATUTORY INSTRUMENTS

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(**1**),

"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(**2**),

"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,

(**1**) 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".

(**2**) 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. 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—

(**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(**9**),

(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 sub-paragraph (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—

(**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(**10**) 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(**11**),

"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,

(**10**) S.I. 2012/1916.

(**11**) 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—

Relevant country	*Relevant regulator*
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.

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