
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 322

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

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⁽¹⁾ and DHSC guidance, and

(1) [S.I. 2021/582](#). Relevant amending instruments to schedule 8 are [S.I. 2021/682](#), [S.I. 2021/865](#) and [S.I. 2021/914](#).

- (b) is currently on the UK Government published list of private day 2 test and day 8 test providers for persons arriving in England(2).

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
- (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—

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

- (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 subparagraph (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.