
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 322

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

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,
- (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).