

2021 No. 350

PUBLIC HEALTH

The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 3) Regulations 2021

Approved by the Scottish Parliament

Made - - - - at 10.35 a.m. on 1st October 2021

Laid before the Scottish Parliament at 1.30 p.m. on 1st October 2021

Coming into force - - - at 4.00 a.m. on 4th October 2021

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008^(a), and all other powers enabling them to do so.

In accordance with section 122(6) of that Act, the Scottish Ministers consider that these Regulations need to be made urgently, without a draft having been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 3) Regulations 2021 and come into force at 4.00 am on 4 October 2021.

Amendments of the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021

2. The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021^(b) are amended in accordance with regulations 3 to 16.

Amendments to Part 1 (general)

3.—(1) In regulation 2 (interpretation: general)—

(a) in paragraph (1)—

(i) before the definition of “child” insert—

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

(a) 2008 asp 5.

(b) S.S.I. 2021/322. Regulation 3 was amended by S.S.I. 2021/343.

- (a) a country, territory or part of a country or territory which is not in the common travel area, or
- (b) elsewhere in the common travel area where that person has, within the preceding 10 days, departed from or transited through a country, territory or part of a country or territory which is not in the common travel area,”
- (ii) omit the definitions of “amber list arrival”, “amber list country”, “green list arrival”, and “green list country”,
- (iii) after the definition of “coronavirus disease” insert—

““cruise ship” means a vessel, certified to carry more than 200 passengers, engaged on a voyage primarily for leisure or recreation during which passengers stay overnight on board for at least two nights,”
- (iv) in the definition of “red list arrival”—
 - (aa) at the end of paragraph (a) insert “or”
 - (bb) for sub-paragraphs (b) and (c) substitute—

“(b) another country, territory or part of a country or territory (whether or not within the common travel area) where that person has, within the preceding 10 days, departed from or transited through a red list country,”
- (b) after paragraph (3) insert—

“(4) For the purposes of these Regulations, a person (“P”) on a cruise ship, including a crew member, is not treated as arriving in Scotland if P travels to Scotland but does not disembark from the cruise ship at any point while it is—

 - (a) moored at a port in Scotland, or
 - (b) in the territorial waters adjacent to Scotland.”
- (2) In regulation 3 (interpretation: eligible vaccinated arrivals)—
 - (a) for paragraph (1)(a) substitute—

“(a) is not a red list arrival, and”,
 - (b) in paragraph (2)(d)—
 - (i) in head (ii) omit “or”,
 - (ii) at the end of head (iii) insert—

“, or
 - (iv) a vaccine certificate”,
 - (c) after paragraph (7) insert—

“(7A) For the purposes of paragraph (2), where P has received a dose of one authorised vaccine and a dose of a different authorised vaccine, P is deemed to have completed a course of doses of an authorised vaccine.”
 - (d) after paragraph (8) insert—

“(8A) For the purposes of paragraph (6), where P has received a dose of one vaccine under the United Kingdom vaccine roll-out overseas, and a dose of a different 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.”
 - (e) in paragraph (11)—
 - (i) for the definition of “authorised vaccine” substitute—

““authorised vaccine” means a medicinal product for vaccination against coronavirus which—

 - (a) in relation to doses received in the United Kingdom, is authorised—
 - (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.)(a),
- (b) in relation to doses received in a relevant country listed in paragraph (12), is authorised for supply in that country following evaluation by the relevant regulator for that country,
- (c) in relation to doses received in a relevant country listed in schedule 1A (relevant countries), is authorised in the United Kingdom in accordance with head (i) or (ii) of paragraph (a),”,
- (ii) in sub-paragraph (b) of the definition of “marketing authorisation” after “relevant country” insert “listed in the table in paragraph (12)”,
- (iii) in the definition of “relevant country” after “paragraph (12)” insert “or a country listed in schedule 1A (relevant countries)”
- (iv) in the definition of “relevant regulator” after “relevant country” insert “listed in the table in paragraph (12)”,
- (v) at the end of the definition of “United Kingdom vaccine roll-out overseas” insert—
“
“vaccine certificate” means a certificate in English, French or Spanish issued by the competent health authority of a relevant country which contains—
(a) P’s full name,
(b) P’s date of birth,
(c) the name and manufacturer of the vaccine that P received,
(d) the date that P received each dose of the vaccine, and
(e) details of either the identity of the issuer of the certificate or the country of vaccination, or both.”
- (f) in paragraph (12), after the row in the table for “Andorra” insert—

“Australia	The Therapeutic Goods Administration
Canada	Health Canada”.

Amendments to Part 2 (passenger information)

- 4.—(1) For regulation 4(1) (requirement to provide passenger information) substitute—
“(1) Subject to regulation 6 (persons not required to comply) this regulation applies to a person (“P”) who is an arrival.”.
- (2) In regulation 5(1) (requirement to update passenger information) for paragraph (a) substitute—
“(a) an arrival who is—
(i) not an eligible vaccinated arrival, and
(ii) not a red list arrival, or”.

Amendment to Part 3 (testing prior to arrival in Scotland)

5. For regulation 8(1) (requirement to possess notification of negative test result) substitute—
“(1) Subject to regulation 10 (persons not required to comply), this regulation applies to a person (“P”) who is—
(a) a red list arrival, or

(a) S.I. 2012/1916.

- (b) an arrival who is not an eligible vaccinated arrival.”.

Amendments to Part 4 (testing following arrival in Scotland)

- 6.—(1) In regulation 11 (part 4: application and interpretation)—
- (a) for paragraph (1) substitute—
 - “(1) Subject to paragraph (2) and regulation 18 (persons not required to comply), this Part applies to a person (“P”) who is an arrival.”,
 - (b) in paragraph (2)(b) omit “amber list”,
 - (c) in paragraph (3) in the definition of “testing package”—
 - (i) in sub-paragraph (a) omit “amber list”,
 - (ii) in sub-paragraph (b) omit “a green list arrival or an amber list arrival who is”.
- (2) In regulation 13(1)(h)(requirement to provide information)—
- (a) at the end of head (i), insert “or”,
 - (b) for heads (ii) and (iii) insert—
 - “(ii) failing which another country, territory or part of a country or territory which is not in the common travel area.”.
- (3) In regulation 14(9)(a) (requirement to undertake tests) for “a green list arrival or an amber” substitute “not a red”.
- (4) In regulation 18(1)(part 4: persons not required to comply)—
- (a) after sub-paragraph (d) insert—
 - “(da) a person who—
 - (i) arrives in Scotland on a cruise ship, and
 - (ii) is due to depart from Scotland on the same cruise ship within 48 hours of their arrival,”,
 - (b) in sub-paragraph (j)(ii) for “paragraph 5(1)(c)” insert “paragraphs 4A and 5(1)(c)”.

Amendment to Part 5 (managed isolation)

7. After regulation 25(1)(c)(iii) (part 5: persons not required to comply) insert—
 - “(iia) paragraph 4A (essential foreign policing),”.

Amendments to Part 6 (self-isolation)

- 8.—(1) In regulation 26 (requirement to stay in specified premises)—
- (a) in paragraph (1)—
 - (i) for sub-paragraph (a) substitute—
 - “(a) an arrival other than a red list arrival,”,
 - (ii) after sub-paragraph (b)(v)(a) insert—
 - “(ab) paragraph 4A (essential foreign policing),”.
 - (b) in paragraph (2)(a) for “an amber list country or, as the case may be, a red list country” substitute “another country, territory or part of a country or territory which is not in the common travel area”.
- (2) In regulation 27 (part 6: persons not required to comply)—
- (a) after paragraph (2)(a) insert—
 - “(aa) 4A (essential foreign policing),”.
 - (b) for paragraph (2)(i) substitute—
 - “(i) 43 and 44 (performing arts, film and TV production, etc).”.

Amendment to Part 7 (enforcement)

9. At the end of regulation 29(3)(g) (testing before arrival in Scotland: offences and penalties) insert—

- “
- (h) a person undertook a qualifying test on board the cruise ship on which the person arrived in Scotland, the result of the test was positive, and it was not reasonably practicable for the person to disembark in a country or territory other than Scotland”.

Amendments to Part 8 (duties on operators)

10.—(1) For regulation 42(4) (requirement to ensure passengers have completed a Passenger Locator Form) substitute—

“(4) An operator must ensure that P is in possession of the required evidence if—

- (a) P has indicated on the Passenger Locator Form that P is an eligible vaccinated arrival, and
- (b) the fact that P is an eligible vaccinated arrival is not indicated on the Passenger Locator Form as having been electronically verified.”.

(2) For regulation 45(10) (offences and penalties) substitute—

“(10) In relation to the offence in paragraph (2)(f), it is a defence for an operator to show that the relevant passenger—

- (a) 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, or
- (b) undertook a qualifying test on board a cruise ship on which the relevant passenger arrived in Scotland, the result of that test was positive, and it was not reasonably practicable for the relevant passenger to disembark in a country or territory other than Scotland.”.

Addition of schedule 1A (relevant countries)

11. After schedule 1 (red list countries) insert—

“SCHEDULE 1A

Regulation 3

Relevant countries

Antigua and Barbuda

Bahrain

Barbados

Brunei

Dominica

Israel

Japan

Kuwait

Malaysia

New Zealand

Qatar
Saudi Arabia
Singapore
South Korea
Taiwan
the United Arab Emirates.”.

Omission of schedule 2 (green list countries)

12. Omit schedule 2 (green list countries).

Amendments to schedule 3 (passenger information)

13. In paragraph 2 of schedule 3 (passenger information)—

- (a) in sub-paragraph (i)—
 - (i) in head (i) omit “or 2”,
 - (ii) in head (ii) for “either schedule 1 or 2” substitute “schedule 1”,
- (b) in sub-paragraph (k)—
 - (i) in head (i) omit “or 2”,
 - (ii) in head (ii) for “either schedule 1 or 2” substitute “schedule 1”.

Amendments to schedule 4 (exemptions)

14.—(1) In paragraph 1 of schedule 4 (exemptions: diplomats, Crown Servants, visiting forces etc.)—

- (a) in sub-paragraph (1)—
 - (i) omit head (f),
 - (ii) in head (g), omit “, or of a person falling within head (f)”,
- (b) in the definition of “relevant person” in sub-paragraph (5)—
 - (i) in head (a)—
 - (aa) after “event” insert “, other than the COP”,
 - (bb) before “post” insert “consular”,
 - (ii) for head (b) substitute—
“(b) in all other cases, P.”.

(2) In paragraph 3(1) of schedule 4—

- (a) at the end of paragraph (a) insert “or”,
- (b) omit paragraph (b).

(3) After paragraph 4 of schedule 4 insert—

“4A. An official of a foreign police force, required to travel to the United Kingdom to undertake policing activities, or a contractor directly supporting policing activities, where the relevant Department, the chief constable of the Police Service of Scotland or other police force in the United Kingdom has certified that the activities are essential to the foreign police force.”.

(4) For paragraph 43 of schedule 4 (exemptions: sport and culture) substitute—

“43.—(1) A performing arts professional working in connection with a performing arts event.

- (2) For the purposes of this paragraph—
- (a) “performing arts professional” means an individual who—
 - (i) derives a living from the performing arts, and
 - (ii) holds a certificate issued in accordance with the document titled ‘Travelling or returning to Scotland for work as a performing arts professional during COVID-19: Self-isolation Exemptions Guidance’ published by Creative Scotland on 30 September 2021(a),
 - (b) “performing arts event” means an event—
 - (i) at which a performing arts activity takes place, and
 - (ii) for which the performing arts professional is paid,
 - (c) “performing arts activity” means—
 - (i) a dramatic production, including a performance of a play, opera, musical or other dramatic piece,
 - (ii) a performance of live music,
 - (iii) a recording of a performance of live music which is—
 - (aa) broadcast, at the time of performance or later, to the general public, or
 - (bb) released, at the time of the performance or later, to the paying public (by digital or other means),
 - (iv) a music video production, or
 - (v) a performance of dance.

44.—(1) A person engaged in film production or high end TV production.

- (2) For the purposes of sub-paragraph (1)—
- (a) a person is engaged in film production if engaged in the making of a film which is a British film for the purposes of schedule 1 of the Films Act 1985(b), and
 - (b) a person is engaged in high end TV production if working on the making of a television programme which is a British programme for the purposes of Part 15A of the Corporation Tax Act 2009(c).”.

Amendment to schedule 6 (specified competitions)

15. In Part 1 of schedule 6 (specified competitions), after paragraph 38 insert—

“**38A.** International Boxing – British Boxing Board of Control.”.

Amendments to schedule 8 (passenger notices)

16. For schedule 8 (passenger notices) substitute—

(a) The document is available at <https://www.creativescotland.com/resources/professional-resources/guidance-and-toolkits/performing-arts-self-isolation-exemption-scotland>.

(b) 1985 c. 21. Relevant amendments to schedule 1 were made by part 2 of schedule 5 of the Finance Act 2006 (c. 25), paragraph 319 of part 2 of schedule 1 of the Corporation Tax Act 2009 (c. 4) and S.I. 1999/2386, S.I. 2006/643 and 3430, S.I. 2015/86 and S.I. 2018/1105.

(c) 2009 c. 4. Part 15A was inserted by paragraph 1 of schedule 16 of the Finance Act 2013 (c. 29).

Passenger Notices

PART 1

ESSENTIAL INFORMATION TO ENTER THE UK FROM OVERSEAS

Fill in your Passenger Locator Form before arrival. You must declare all countries you have visited or transited through in the 10 days prior to your arrival on your Passenger Locator Form.

Before departure check the list of red countries, as the list can change regularly.

Red list passengers (including passengers who are fully vaccinated)

1. Provide proof of a negative COVID-19 test taken within 3 days of departure to the UK
2. Book a managed quarantine package
3. Complete a Passenger Locator Form

You can only enter if you are a British or Irish National, or you have residency rights in the UK. You must enter through a designated port and quarantine in a government approved hotel for 10 days.

Unvaccinated passengers or passengers vaccinated with unauthorised vaccines

1. Provide proof of a negative COVID-19 test taken within 3 days of departure to the UK
2. Book tests for day 2 and 8.
3. Complete a Passenger Locator Form
4. Make plans to self-quarantine in private accommodation for 10 full days after arrival (or full duration of stay if less than 10 days)

Fully vaccinated passengers who are not red-list passengers

1. Book a test for day 2
2. Complete a Passenger Locator Form
3. Have evidence of your vaccination status with you during travel

These measures apply to all persons (including UK nationals and residents) arriving in the UK from outside the common travel area comprising the United Kingdom, Ireland, the Isle of Man, and the Channel Islands. The British Overseas Territories are not in the common travel area. Public health requirements may vary depending upon in which nation of the UK you are staying.

England: <https://www.gov.uk/uk-border-control>

Northern Ireland: <https://www.nidirect.gov.uk/articles/coronavirus-covid-19-international-travel-advice>

Scotland: <https://www.gov.scot/publications/coronavirus-covid-19-international-travel-quarantine/>

Wales: <https://gov.wales/arriving-wales-overseas>

Failure to comply with these measures is a criminal offence and you could be fined. There are a limited set of exemptions from these measures. Check the [list of exemptions](#) carefully. You may be fined if you fraudulently claim an exemption.”

PART 2

The following is a public health message on behalf of the UK’s public health agencies.

Unless exempt, however long you intend to stay in the UK, everyone must take a pre-booked Covid-19 test within the first two days after you arrive, even if you have been fully vaccinated. Unvaccinated passengers must take a further test on day 8 after they arrive and self-quarantine.

If you have been in or transited through any countries on the red list within the previous 10 days, you must quarantine in a managed quarantine facility for the first 10 days after arrival and also take another test 8 days after arrival.

The symptoms of coronavirus are a new continuous cough, a high temperature or a loss of, or change in, normal sense of taste or smell. If you experience any of these symptoms, however mild, you are advised to make yourself known to the crew.

Please follow the Public Health guidance for the area you are living or travelling in.

Visit gov.uk/coronavirus for more advice.”.

Saving

17. The amendments made by these Regulations do not apply in relation to any person who arrived in Scotland before 4 a.m. on 4 October 2021, and the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 continue to apply to such persons as if the amendments made by these Regulations had not been made.

GRAEME DEY

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
At 10.35 a.m. on 1st October 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 (“the International Travel Regulations”).

Regulation 3 amends provision in Part 1 of the International Travel Regulations on the meaning of terms used in those Regulations.

Regulation 3(1)(a)(i),(ii) and (iv) remove definitions related to amber list arrivals, amber list countries, green list arrivals and green list countries, and insert and amend other definitions accordingly. Further consequential amendments are made by regulation 4(1), 6(1)(a), (2) and (3), 12 and 13 of these Regulations. As a result of other amendments made by these Regulations, the travel rules which apply when a person arrives in Scotland, directly or indirectly, from a country or territory outside the common travel area, do not differ depending on the country or territory travelled from, unless it is a red list country. Regulation 3(1)(b) inserts provision regarding circumstances in which a non-disembarking cruise ship passenger will not be treated as arriving in Scotland (see also regulation 3(1)(a)(iii)).

Where a person is not travelling from a red list country, different travel rules apply depending on whether or not the person is an eligible vaccinated arrival. Regulation 3(2)(a) amends the meaning of eligible vaccinated arrival to provide that the person must not be a red list arrival. Regulation 3(2)(c) and (d) amend the meaning of an eligible vaccinated arrival to include people who have received doses of different vaccines in the UK or a relevant country, or in the UK vaccine roll-out overseas. Regulation 3(2)(b) and (e) and (f), and regulation 11 make provision regarding additional countries where a person vaccinated with an authorised vaccine may be an eligible vaccinated arrival, and how they may provide proof of vaccination. Vaccines received in Australia and Canada and approved by relevant regulators in those countries are added, as are vaccines authorised for use in the UK which have been received in Antigua and Barbuda, Bahrain, Barbados, Brunei, Dominica, Israel, Japan, Kuwait, Malaysia, New Zealand, Qatar, Saudi Arabia, Singapore, South Korea, Taiwan and the UAE.

Regulation 4 makes amendments to the requirements to provide passenger information before, or on, arrival in Scotland in Part 2 of the International Travel Regulations. Regulation 4(2) amends the people required to keep their passenger information up-to-date. Prior to these amendments, the requirements did not apply to green list arrivals. The requirements now apply to non-red list arrivals who are not eligible vaccinated arrivals (as well as to red list arrivals who are exempt from the requirements for managed isolation).

Regulation 5 makes an amendment to the requirements to possess a notification of a negative coronavirus test upon arrival in Scotland in Part 3 of the International Travel Regulations. Regulation 5 amends these to provide that these requirements do not apply to an eligible vaccinated arrival.

Regulation 6 makes amendments to the requirements to possess a testing package for the detection of coronavirus on arrival in Scotland in Part 4 of the International Travel Regulations. Regulation 6(1)(b) amends the people that requirements to self-isolate on failure to undertake a test, and relating to the consequences of test results, apply to. Those requirements did not apply to green list arrivals, and now apply to all arrivals who are not eligible vaccinated arrivals. Regulation 6(1)(c) provides that for any red list arrival or person who is not an eligible vaccinated arrival, the testing package is to be for a day 2 and a day 8 test. The testing package for eligible vaccinated arrivals is to be for a day 2 test. Regulation 6(4)(a) provides an exemption from the requirements of Part 4 of the International Travel Regulations for short stay cruise ship passengers (see also regulation 3(1)(a)(iii)).

Regulation 8 makes amendments to the requirements to travel to, and self-isolate at, specified premises on arrival in Scotland in Part 6 of the International Travel Regulations. These requirements did not apply to green list arrivals. Regulation 8(1)(a)(i) and (b) applies these requirements to all arrivals (other than red list arrivals subject to managed isolation) unless they

are eligible vaccinated arrivals or other persons that Part 6 of the International Travel Regulations does not apply to.

Regulations 9 and 10(2) amend Part 7 and Part 8 of the International Travel Regulations to provide a defence, in certain circumstances where a positive test was taken on a cruise ship, to the offence of failing to possess a notification of a negative coronavirus test upon arrival in Scotland, and to the offence of failing to ensure that a passenger is in possession of one (see also regulation 3(1)(a)(iii)).

Regulation 10(1) amends Part 8 of the International Travels Regulations to provide that an operator is not under an obligation to ensure that a person who has indicated on a Passenger Locator Form that they are an eligible vaccinated arrival is in possession of the required evidence of that fact, where the fact that the person is an eligible vaccinated arrival is indicated as having been electronically verified on the Passenger Locator Form.

Regulation 14 amends the exemptions from certain requirements in Parts 2 to 6 of the International Travel Regulations. These include amendments to the exemptions for representatives at international events and conferences (regulation 14(1)), Crown Servants and visiting forces (regulation 14(2)), and new exemptions for foreign police officials (regulation 14(3) and see also regulation 6(4)(b), 7, 8(1)(a)(ii), 8(2)(a)) and performing arts professionals and those engaged in film and TV production (regulation 14(4) and see also regulation 8(2)(b)).

Regulation 15 amends Part 1 of schedule 6 (specified competitions) of the International Travel Regulations to add international boxing events overseen by the British Board of Boxing Control to the list of elite sports events in relation to which elite sportspersons (as defined in paragraph 42 of schedule 4 of the International Travel Regulations) may be exempted from requirements for managed isolation or self-isolation to participate in (see regulation 25(1)(e) and 27(1)(h) of the International Travel Regulations).

Regulation 16 substitutes a new schedule 8 in the International Travel Regulations specifying required information to be given by operators of international passenger services to passengers to reflect the changes made by these Regulations.

Regulation 17 makes saving provision to the effect that a person arriving in Scotland before these Regulations come into effect must comply with the International Travel Regulations as they had effect at the time of the person's arrival in Scotland. The amendments made by these Regulations apply only in relation to persons arriving in Scotland at or after 04.00 a.m. on 4 October 2021.

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