

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL AND OPERATOR LIABILITY) (SCOTLAND) AMENDMENT (NO. 4) REGULATIONS 2021

SSI 2021/357

The above instrument was made in exercise of the powers conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”). Section 122(5) of the 2008 Act states that regulations under section 94(1) are subject to the affirmative procedure. However, section 122(6) provides that the affirmative procedure will not apply if the Scottish Ministers consider that the regulations need to be made urgently. In such situations, section 122(7) applies.

Section 122(7) of the 2008 Act sets out that emergency regulations must be laid before the Scottish Parliament and cease to have effect on the expiry of the period of 28 days beginning with the date on which the regulations were made unless, before the expiry of that period, the emergency regulations have been approved by a resolution of the Parliament.

This instrument amends the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 to update the countries included in the red list for the purposes of testing and isolation requirements.

This instrument also expands the list of countries from where a person vaccinated with an authorised vaccine may be an eligible vaccinated arrival and the proof needed for this. It provides also for those vaccinated with approved vaccines administered on behalf of the United Nations.

This instrument provides for the manner in which the International Travel Regulations apply in relation to participants at the “Conference of the Parties” relating to climate change and the World Leaders Summit in November 2021.

It also allows the EU Digital Covid Certificate to be used as evidence of negative test status. This allows passengers to use this as a way to demonstrate test status where this is required.

Background

1. The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 (S.S.I. 2021/322) (“the International Travel Regulations”) were made on 16 September 2021. They were laid in the Scottish Parliament on 16 September and came into force on 20 September 2021.
2. The International Travel Regulations revoked and replaced the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (SSI 2020/169), the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020 (SSI 2020/170) and Health Protection

(Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 (SSI 2021/20).

3. Since coming into force, the International Travel Regulations have been updated by various amending regulations. Both the International Travel Regulations and the amending regulations were made urgently in order to reduce the likelihood that an increase in coronavirus infections in Scotland would arise as a result of imported cases. They also sought to ease restrictions as appropriate.
4. The amendments made by these Regulations come into force at 04:00 on 9 October 2021 as regards the amendments relating to COP26 and at 04:00 on 11 October 2021 for the remaining amendments.

Policy Objectives

Amendments to country status and sectoral exemptions

5. The aim of this instrument is to update Scotland's approach to international travel system to further reduce the number of countries on the 'red list'. Requirements in terms of testing and managed isolation for travellers from red list countries are not amended by this instrument. The policy intention is to recognise the reduced risk now presented by some countries in terms of COVID-19 and instead focus on the vaccine status of the individual traveller as what defines the requirements on arrival into Scotland. The instrument makes these changes.
6. This instrument reduces the number of countries on the 'red list' so that only Peru, Ecuador, Colombia, Panama, Dominican Republic, Haiti and Venezuela remain on the red list. The measures relating to testing and managed isolation for travellers arriving from a red list country remain the same.
7. A minor amendment is also made to the exemption for diplomats and their dependents meaning that those travelling from non-red list countries are automatically exempt from certain restrictions without prior certification of their travel.

Eligible Vaccinated Traveller Programme

8. The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 3) Regulations 2021, expanded the list of countries listed under the eligible vaccinated traveller programme. This instrument expands this further to include further countries whose vaccination programmes meet the necessary criteria.
9. It also allows for recognition of Medicines and Healthcare products Regulatory Agency (MHRA) approved vaccines administered on behalf of the United Nations (UN). In this case, the UN is considered on a similar basis to a country/territory. This is to recognise that the UN provides vaccines for its staff and volunteers working around the world.
10. The regulations do not exempt eligible fully vaccinated individuals from pre-departure tests or managed quarantine upon arrival if they have been in any red list

country in the preceding 10 days. Any eligible traveller would only benefit if they arrive from a non-red list country and have not transited through a red list country within the 10 days prior to arrival in Scotland. This will not result in permitting red list arrivals who are fully vaccinated to avoid managed quarantine.

COP26

11. This instrument provides for the manner in which the International Travel Regulations apply in relation to participants at the “Conference of the Parties” relating to climate change and the World Leaders Summit in November 2021.

Pre-departure testing

12. This instrument allows the EU Digital Covid Certificate to be used as evidence of negative test status. This allows passengers to use this as a way to demonstrate test status where this is required.

Consultation

13. This instrument is being made urgently in Scotland to make further amendments to the public health measures in respect of international arrivals to the UK.
14. Each of the four nations in the UK is required under their own relevant regulations to conduct regular reviews, and as those reviews are conducted there is the possibility of divergence from that initial four nations aligned approach, either on the need for the International Travel Regulations themselves or for any of the measures imposed by those Regulations. Such policy divergence may include the Scottish Government, or any of the other three administrations in the UK, reaching a different view on any aspect of the regulations, reflecting differences in the prevalence of COVID-19 in that particular nation at any review point.
15. The continued pace of the work on this and changing circumstances both in Scotland and other countries has meant limited consultation with external stakeholders in Scotland, but there has been ongoing discussion and dialogue by Scottish Government with Police Scotland, Crown Office and Procurator Fiscal Service, Border Force in Scotland, Public Health Scotland and key airports in Scotland as the policy has continued to be shaped.

Impact Assessments

16. Impact assessments have previously been prepared in relation to the individual components that have been changed via this instrument. As such, no further impact assessment has been carried out. All previous impact assessments are available via [Legislation.gov.uk](https://www.legislation.gov.uk).