

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL AND OPERATOR LIABILITY) (SCOTLAND) AMENDMENT (NO. 10) REGULATIONS 2021

SSI 2021/443

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 impose specific requirements on some international travellers, in an effort to reduce the public health risks posed by the spread of coronavirus (severe acute respiratory syndrome coronavirus 2, or SARS-CoV-2) which causes the coronavirus disease (COVID-19) within Scotland.

This instrument requires that all eligible vaccinated travellers from non-red list countries arriving into Scotland purchase and take a Polymerase Chain Reaction (“PCR”) COVID-19 test by the end of day two following their arrival as opposed to using a Lateral Flow Device (“LFD”) test.

All eligible vaccinated travellers are required to self-isolate at a specified address until the results are known. The need to continue to isolate is dependent on the result.

There are no changes to the testing and isolation requirements for unvaccinated travellers or those arriving from red list countries as a result of this instrument.

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 a.m. on 30 November 2021 and will be reviewed after three weeks.

Policy Objectives

5. The overarching policy aim of this instrument is to ensure that proportionate restrictions are introduced in recognition of an increased risk of imported infections of COVID-19 resulting from the Omicron variant, and the potential impact this could have on public health within the UK.
6. This instrument requires that all passengers deemed to be eligible vaccinated travellers from non-red list countries arriving into Scotland purchase and take a Polymerase Chain Reaction (“PCR”) COVID-19 test by the end of day two following their arrival as opposed to using a Lateral Flow Device (“LFD”) test. Tests purchased via private providers are acceptable.
7. The requirement to take a PCR test applies to all people who are currently eligible for testing and upholds any existing exemptions including on the grounds of age and medical reasons.
8. If the individual receives a positive result from the PCR test then they must isolate for a full 10 days from the date which they received positive test result. If the individual receives a negative result then they are not required to continue to self-isolate. If the individual receives an inconclusive result, they are required to take a further PCR test and isolate until the results are known.
9. Stringent testing measures, including a pre-departure test, day 2 PCR test and day 8 PCR test when arriving in Scotland, are retained for non-vaccinated travellers returning from non-red list countries and those arriving from red list countries.

Consultation

10. 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.
11. 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

12. Impact assessments have been completed for this instrument and will be made available at www.legislation.gov.uk.

Scottish Government
COVID Co-ordination Directorate
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