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SCOTTISH STATUTORY INSTRUMENTS

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**2022 No. 2**

**PUBLIC HEALTH**

**The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment Regulations 2022**

*Approved by the Scottish Parliament*

Made - - - - 6th January 2022  
Laid before the Scottish  
Parliament - - - - 7th January 2022  
Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008(1) 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.—(1) These Regulations may be cited as the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment Regulations 2022.

(2) Subject to paragraphs (3) and (4), these Regulations come into force at 4.00 a.m. on 7 January 2022.

(3) Regulations 6, 7 and 10 come into force at 4.00 a.m. on 9 January 2022.

(4) Regulation 11 comes into force at 4.00 a.m. on 10 January 2022.

**Amendment 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(2) are amended in accordance with regulations 3 to 12.

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(1) 2008 asp 5.  
(2) S.S.I. 2021/322; amending instruments are S.S.I. 2021/328, S.S.I. 2021/343, S.S.I. 2021/350, S.S.I. 2021/357, S.S.I. 2021/359, S.S.I. 2021/382, S.S.I. 2021/425, S.S.I. 2021/440, S.S.I. 2021/441, S.S.I. 2021/443, S.S.I. 2021/454, S.S.I. 2021/455, S.S.I. 2021/470, and S.S.I. 2021/478.

### **Amendment of regulation 3**

3. In regulation 3(1) (interpretation of part), in the definition of “WHO List vaccine”—
- (a) for “10, 11 or 13” substitute “10, 11, 12, 13 or 14”,
  - (b) for “11 November 2021” substitute “23 December 2021<sup>(3)</sup>”.

### **Amendment of regulation 8**

4. In regulation 8 (requirement to possess notification of negative test result), in paragraph (1) for “is an arrival” substitute—
- “is—
- (a) a red list arrival, or
  - (b) an arrival who is not an eligible vaccinated arrival.”.

### **Amendment of regulation 11**

5. In regulation 11 (part 4: application and interpretation), after paragraph (1) insert—
- “(1A) Regulations 15 and 16 apply to a person (“P”) who is—
- (a) a red list arrival, or
  - (b) an arrival who is not an eligible vaccinated arrival.”.

### **Amendment of regulation 14**

6. In regulation 14 (requirement to undertake tests)—
- (a) for paragraph (9)(b) substitute—
    - “(b) the test is—
      - (i) where P is a red list arrival or not an eligible vaccinated arrival, a test which complies with paragraph (9A), or
      - (ii) where P is an eligible vaccinated arrival, a test which complies with paragraph (9B).”.
  - (b) in paragraph (9A) for “paragraph (9)(b)” substitute “paragraph (9)(b)(i)”,
  - (c) after paragraph (9A) insert—
    - “(9B) For the purposes of paragraph (9)(b)(ii), a test complies with this paragraph if—
      - (a) it is a test for the detection of coronavirus which uses one or more of—
        - (i) mid-turbinate or anterior nares nasal swabbing,
        - (ii) tonsillar swabbing,
        - (iii) saliva,
      - (b) the test is uniquely identifiable,
      - (c) the test is provided in accordance with the test manufacturer’s instructions for use including, in particular, instructions as to the target use, target user and target use settings, and

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(3) The date refers to the day on which the relevant version of the Guidance Document “Status of COVID-19 Vaccines within WHO EUL/PQ evaluation process” was published. A copy of the relevant version may be downloaded from [https://extranet.who.int/pqweb/sites/default/files/documents/Status\\_COVID\\_VAX\\_23Dec2021.pdf](https://extranet.who.int/pqweb/sites/default/files/documents/Status_COVID_VAX_23Dec2021.pdf).

- (d) any device used for the purposes of the test can be put into service in accordance with Part 4 of the Medical Devices Regulations 2002(4), other than solely by virtue of regulation 39(2) of those Regulations.”.

### **New regulations 16A and 16B**

- 7. After regulation 16 (consequences of test results), insert—

#### **“Eligible vaccinated arrivals: notification of result of self-administered test**

**16A.**—(1) This regulation applies where P—

- (a) is an eligible vaccinated arrival,
- (b) undertakes a day 2 test but it is not a test that complies with regulation 14(9A), and
- (c) the test is not administered—
  - (i) by the test provider, or
  - (ii) at a site operated for the purposes of administering such tests by a test provider.

(2) Subject to paragraph (3), P must provide the test provider with the information set out in paragraph (5) within 15 minutes of the test’s read time as determined by the manufacturer’s instructions for use.

(3) If P is—

- (a) a child, or
- (b) a person with a disability who is unable for that reason to provide the information to the test provider,

regulation 13(2) and (4) applies instead of paragraph (2).

(4) For the purposes of paragraph (3)—

- (a) regulation 13(2) is to be read as if it referred to the information set out in paragraph (5),
- (b) regulation 13(2)(b) is to be disregarded.

(5) The information is—

- (a) a single photograph clearly showing—
  - (i) the test device in such a way that it is identifiable as having been provided by the test provider,
  - (ii) the test reference number provided pursuant to regulation 13(3), and
  - (iii) the test result, and
- (b) the address at which P is able to receive a confirmatory test pursuant to regulation 16B.

#### **Eligible vaccinated arrivals: confirmatory test**

**16B.**—(1) This regulation applies where P—

- (a) is an eligible vaccinated arrival,
- (b) undertakes a day 2 test but it is not a test that complies with regulation 14(9A), and
- (c) receives notification that the test has generated a positive result.

(2) P must as soon as reasonably practicable undertake a confirmatory test provided by a public provider. In this regulation “public provider” has the same meaning as in regulation 14(10).

(3) For the purposes of paragraph (1)(c), a person who self-administers a test is deemed to receive notification of a result in relation to the test when the person determines the result in accordance with the test manufacturer’s instructions for use.”.

#### **Amendment of regulation 26**

8. In regulation 26 (requirement to stay in specified premises)—
- (a) omit paragraphs (2A), (2B) and (2C),
  - (b) in paragraph (3), omit “paragraph (2A), (2B) or”.

#### **Amendment of regulation 27**

9. For regulation 27(1)(ca) (part 6: persons not required to comply) substitute—
- “(ca) a person who is an eligible vaccinated arrival,”.

#### **Amendment of regulation 30**

10. In regulation 30(1) (part 4: offences and penalties), after sub-paragraph (c), insert—
- “(d) regulation 16A(2) (notification of self-administered test),
  - (e) regulation 16B(2) (confirmatory test).”.

#### **Amendment of schedule 1A**

11. In schedule 1A (relevant countries), in the appropriate places in alphabetical order insert—
- “Bhutan”,
  - “Cameroon”,
  - “Cote d’Ivoire”,
  - “Cyprus, northern”,
  - “Fiji”,
  - “Iraq”,
  - “Liberia”,
  - “Mali”,
  - “Mauritania”,
  - “Niger”,
  - “Palau”,
  - “Papua New Guinea”,
  - “Paraguay”,
  - “Solomon Islands”,
  - “The Gambia”,
  - “Uzbekistan”.

### **Amendment of schedule 8**

- 12.**—(1) In Part 1 of schedule 8 (passenger notices)—
- (a) after “(including UK nationals and residents)” in the first place where it occurs insert “other than fully vaccinated passengers who are not red-list passengers”,
  - (b) in the requirements applying to fully vaccinated passengers who are not red-list passengers—
    - (i) in head 1, for “PCR” substitute “COVID-19”,
    - (ii) omit head 3.
- (2) In Part 2 of schedule 8—
- (a) for “PCR” substitute “COVID-19”,
  - (b) omit “You must self-isolate on arrival and may only leave self-isolation if the result of the test is negative.”,
  - (c) for “Unvaccinated passengers must self-isolate for 10 days and take a test on day 2 and day 8 after you arrive.” substitute “Unvaccinated passengers must self-isolate for 10 days and take a PCR test on day 2 and day 8 after you arrive.”.

### **Savings provision**

**13.**—(1) Subject to paragraphs (2) and (3), the amendments made by these Regulations do not apply in relation to any person who arrived in Scotland before 4.00 a.m. on 7 January 2022, 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.

(2) The amendments made by regulations 6, 7 and 10 do not apply in relation to any person who arrived in Scotland before 4.00 a.m. on 9 January 2022, and the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 continue to apply to such persons as if regulations 6, 7 and 10 had not been made.

(3) The amendments made by regulation 11 do not apply in relation to any person who arrived in Scotland before 4.00 a.m. on 10 January 2022, and the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 continue to apply to such persons as if regulation 11 had not been made.

St Andrew’s House,  
Edinburgh  
6th January 2022

*MICHAEL MATHESON*  
A member of the Scottish Government

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## 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 the definition of “WHO List vaccine” in regulation 3(1) of the International Travel Regulations to include additional vaccines (Novavax and Covovax).

Regulation 4 amends regulation 8 of the International Travel Regulations so that the requirement to possess notification of a negative test result on arrival in Scotland does not apply to eligible vaccinated arrivals.

Regulation 5 amends regulation 11 of the International Travel Regulations so that the self-isolation requirements set out in regulation 15 and 16 of those regulations will not apply to eligible vaccinated arrivals.

Regulation 6 amends regulation 14 of the International Travel Regulations to enable the use of lateral flow device tests for the detection of SARS-CoV-2 in persons who are eligible vaccinated arrivals as an alternative to existing requirements to undertake day 2 polymerase chain reaction tests.

Regulation 7 inserts new regulations 16A and 16B into the International Travel Regulations to deal with circumstances arising in cases enabled by the amendments to regulation 14 described above. New regulation 16A provides for the notification of the results of self-administered tests. New regulation 16B requires a person to undertake a confirmatory test where the conditions set out in that regulation are met.

Regulations 8 and 9 amend regulations 26 and 27 of the International Travel Regulations to remove the existing requirement for eligible vaccinated arrivals to stay in specified premises on arrival in Scotland until receiving notification of a negative test result

Regulation 10 makes consequential amendments to regulation 30 of the International Travel Regulations, arising from the insertion of new regulations 16A and 16B.

Regulation 11 adds to the list of countries which are “relevant countries” so persons who have a vaccine certificate from those countries can count as “eligible vaccinated arrivals” for the purposes of the International Travel Regulations.

Regulation 12 makes consequential amendments to the required information specified in schedule 8 of the International Travel Regulations, arising from the amendments made by these Regulations.

Regulation 13 makes savings 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 4.00 a.m. on 7 January 2022, with the exception of the amendments made by regulations 6, 7 and 10 which apply only in relation to persons arriving in Scotland at or after 4.00 a.m. on 9 January 2022, and the amendments made by regulation 11 which apply only in relation to persons arriving in Scotland at or after 4.00 a.m. on 10 January 2022.