POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL AND OPERATOR LIABILITY) (SCOTLAND) AMENDMENT (NO. 2) REGULATIONS 2021

SSI 2021/343

The above instrument was made in exercise of the powers conferred by sections 94(1)(b)(i) 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 Operators Liability) (Scotland) Regulations 2021 to allow for electronic certification issued by NHS Scotland to be used as proof of COVID vaccination status for the purpose of international travel. This will enable use of the use of the NHS Scotland COVID Status App.

This instrument also corrects an error in those regulations relating to the exemption applicable to members of aircraft crew where they have travelled to the United Kingdom in the course of their work or are otherwise required to travel to the United Kingdom for work purposes.

Background

1. The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 (SSI 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. The above named 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.

Policy Objectives

4. The policy intention behind this instrument is to enable passengers travelling to Scotland to use elecronic certification issued by NHS Scotland, including the NHS Scotland COVID Status App ("the app"), as a form of certification to demonstrate their COVID vaccination status. The app becomes available on 30th September for the purposes of international travel.

5. Vaccination status directly impacts the testing and isolation requirements a person must follow upon arrival in Scotland, subject to any exemptions which may apply. Following the implementation of these amendments, the app as well as paper and electronic versions of certifiction issued by NHS Scotland are acceptable for this purpose. Previously this was only available in the form of a letter or via a downloadable PDF.

6. This instrument also makes minor amendments to correct an error. This updates the exemption applicable to members of aircraft crew where they have travelled to the United Kingdom in the course of their work or are otherwise required to travel to the United Kingdom for work purposes. These amendments bring the wording of the provision in line with that across the rest of the United Kingdon.

Consultation

7. 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.

8. 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

9. While no impact assessment has been produced for this instrment, impact assessments on the introduction of the app as part of domestic certification in Scotland have been prepared and will be published on Legislation.gov.uk.

Scottish Government
COVID Co-ordination Directorate
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