POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL AND OPERATOR LIABILITY) (SCOTLAND) AMENDMENT (NO. 8) REGULATIONS 2021

SSI 2021/440

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 adds Botswana, Eswatini, Lesotho, Namibia, South Africa and Zimbabwe to the "red list countries" contained in schedule 1 effective from 11.59 a.m. on 26 November 2021.

However, due to the urgency with which the changes have been made, interim measures will be in place from 11.59 a.m. on 26 November 2021 until 04:00 a.m. on 27 November 2021.

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 11.59 a.m. on 26 November 2021.

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 and the threat this poses to vaccine efficacy.

6. This instrument adds Botswana, Eswatini, Lesotho, Namibia, South Africa and Zimbabwe to the "red list countries" contained in schedule 1, effective from 11.59 a.m. on 26 November 2021. These countries have been added in recognition of the existence and prevalence within these counties of variant b.1.1.529 which is deemed by clinicians as posing a very serious threat to public health in the UK due to the specific mutations identified.

7. This means persons who have departed from or transited through these countries and territories, or parts thereof, in the previous 10 days immediate to their arrival into Scotland, will be required to take a pre-departure test, take further PCR tests on day 2 and 8 after their arrival and to possess a managed quarantine package.

8. However, due to the urgency with which the changes have been made, interim measures will be in place from 11.59 a.m. on 26 November 2021 until 04:00 a.m. on 27 November 2021.

9. These interim measures preclude individual travellers who have departed from or transited through schedule 1 countries and territories, or parts thereof, in the previous 10 days immediate to their arrival into Scotland being classed as an eligible vaccinated arrival and so requires them take a pre-departure test, to purchase and take day 2 and day 8 PCR tests and to self isolate at a specified address upon arrival in Scotland.

10. The list of countries and territories in schedule 1 of the principal Regulations will be subject to on-going review and further countries and territories will be added or removed, informed by their risk status, when it is appropriate and proportionate to do so.

Consultation

11. 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.

12. 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

13. We have previously assessed the impact of adding countries to the red list and these can be found at www.legislation.gov.uk.

Scottish Government
COVID Co-ordination Directorate
26 November 2021