POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL ETC.) (SCOTLAND) AMENDMENT REGULATIONS 2021

SSI 2021/158

The above instrument was made in exercise of the powers conferred by sections 94(1)(b)(i) and 122(2)(b) 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.

Summary Box

This instrument makes further amendments to the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (SSI 2020/169, "the principal Regulations"), which impose requirements on international travellers, to reduce the public health risks posed by the spread of coronavirus (severe acute respiratory syndrome coronavirus 2, or SARS-CoV-2) in Scotland which causes the coronavirus disease (COVID-19).

Regulations 5F, 6 and 6B of the principal Regulations are amended so that a person who tests positive for coronavirus earlier than the day on which they take a day 2 or day 8 test under the regulations must only continue to isolate until the end of the 10th day following the day on which the earlier test was taken.

This instrument amends Regulation 7A to exempt aviation and maritime crew from the requirement to stay in managed accommodation if they have travelled in an acute risk country or territory in the course of their work. It also adds a category of "specified competitions" to schedule 3A at which participating persons are exempted from the requirement to stay in managed accommodation where they travel to, through or from acute risk countries or territories to take part in that competition, through amendment to Regulation 7A. A further technical drafting adjustment to the definition of a "domestic elite sportsperson" is made in schedule 2.

This instrument adds Ethiopia, Oman, Qatar and Somalia to the "acute risk countries and territories" in schedule A2 and removes Mauritius and Portugal from that list.

This instrument amends the expiry provisions of the principal Regulations, the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020 and Part 2 of the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 so they each expire on 20 September 2021.

Background

1. The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (SSI 2020/169) ("the principal Regulations") were made on 7 June and came into force on 8 June, 2020, and were laid in the Scottish Parliament on 8 June 2020.

2. This instrument makes a further amendment to the principal Regulations to take into account periodic review of data on point prevalence and other data on coronavirus in other countries and territories.

3. The principal Regulations were urgently implemented in order to reduce the likelihood that an increase in coronavirus infections in Scotland would arise as a result of imported cases. A regime of managed self-isolation for international travellers was introduced from 15 February 2021.

Policy Objectives

4. This instrument amends the requirement to undertake tests following arrival in Scotland provided for in regulations 5D to 5K of the principal Regulations to provide that if a person tests positive following arrival in Scotland, using a qualifying test, they are not required to undertake a day 2 or a day 8 test. If the test is undertaken prior to day 2, or day 8 as the case may be, the person is required to isolate in the specified premises or managed accommodation until the 10th day after they undertook the test. This clarifies the position relating to persons who may, for example, become symptomatic whilst travelling to Scotland and be tested prior to day 2, or on another day between day 2 and day 8.

5. The exemptions for aviation and maritime crew are extended so that crew travelling to Scotland in the course of their work who have been in an acute risk country or territory in the 10 days prior to arrival in Scotland are not required to enter managed isolation. This aligns with a change in the England regulations which came into force at 0400 on 19 March, and correlates to an equivalent change in the Wales regulations due to come into force at 0400 on 20 March. (There is no managed quarantine in Wales, as there are no direct international flights, but their regulations ordinarily make it unlawful for a 'red list' arrival to enter Wales.) Although limited "shore leave" is in scope of the exemption when crew arrive in Scotland before embarking on a vessel within the time they otherwise would have been required to isolate, it does not cover circumstances where leave, R&R or other non-work activities are the reason for travel.

6. This instrument amends the principal Regulations so that persons participating in certain events requiring travel to, from or through an acute risk country are exempt from the requirement to stay in managed isolation. The UEFA European Championship is the only event added to this list of events at part 2 of schedule 3A, looking ahead to the games in the tournament being hosted in Glasgow in June and July 2021 with the intent of clarifying that fixtures can proceed should any future changes to the list of acute risk countries and territories include participating nations. The drafting amendment to the definition of "domestic elite sportsperson" makes clearer the criteria an individual must meet to be eligible and the conditions that apply to their travel to Scotland, but does not change policy.

7. This instrument amends schedule A2 to add Ethiopia, Oman, Qatar and Somalia to the list of "acute risk countries and territories". A person who has departed from or transited through countries and territories, or parts thereof, which are an "acute risk country or territory"

in schedule A2 are required to stay in managed accommodation and sector-specific exemptions from that requirement, as well as exemptions to the requirement to complete the Passenger Locator Form, do not apply.

8. These countries and territories have been added following assessment of the risk of transmission within countries or territories, prevalence of variants of concern, evidence of exporting the variants, sequencing capacity and proximity or strong travel links to other high risk countries or territories.

9. This instrument amends the principal Regulations to remove Mauritius and Portugal from the "acute risk countries and territories" in schedule A2. Persons arriving in Scotland having travelled from or transited through an acute risk country and territory in the preceding 10 days are required to stay in managed accommodation. The latest assessment of the epidemiological position in these countries, in addition to the effective travel bans they have implemented from countries of concern, mean that the risk assessment has reduced.

10. The list of countries and territories in schedule A2 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.

11. This instrument amends the expiry provisions of the principal Regulations, the Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020 and the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 so they each expire on 20 September 2021. This was agreed and notified to Parliament in the last 28-day review of the regulations, and is intended to remove the risk of post-election Parliamentary procedure and government formation running up against the expiry limit.

Consultation

12. This instrument is being made urgently in Scotland to make a further amendment to the public health measures in respect of international arrivals to the UK that were brought in on a UK-wide basis from 8 June 2020. The purpose of the principal Regulations is, as above, to help prevent further spread of the coronavirus. Each of the four nations is required under their own Regulations to conduct regular reviews, and as those reviews are conducted there is the possibility of divergence from that initial four nation aligned approach, either on the need for the 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 exempt countries and territories or parts thereof under the Regulations, reflecting differences in the prevalence of COVID-19 in that particular nation at any review point.

13. This instrument makes a further amendment to the principal Regulations to take into account the outcome of a review of those regulations. 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, COPFS, Border Force in Scotland, Public Health Scotland and key airports in Scotland as the policy has continued to be shaped.

Impact Assessments

14. No further impact assessments have been undertaken.

Scottish Government
COVID-19 Public Health Directorate
19 March 2021