POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (INTERNATIONAL TRAVEL) (SCOTLAND) AMENDMENT (NO. 17) REGULATIONS 2021

SSI 2021/301

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) 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.

Summary Box

These Regulations amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 ("the International Travel Regulations").

Amendments 3 and 4 open up covid-19 day 2 and 8 to private sector test providers for the purposes of travellers complying with the requirements in the International Travel Regulations, provided they are on a UK Government published list of day 2 and 8 test providers for persons arriving in England.

Amendments 5 to 7 update an exception for seasonal agricultural workers in paragraph 37 of schedule 2 of the International Travel Regulations in relation to the location at which they are required to self-isolate.

Background

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

2. The International Travel 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

3. Currently the International Travel Regulations provide that covid-19 day 2 and 8 tests must be carried out by public providers, that is, by the NHS in Scotland. These amendments (regulations 3 and 4) allow those tests to be provided by private sector test providers, provided they are on a UK Government published list of day 2 and 8 test providers for persons arriving in England. To get on the list the providers must self-

declare compliance with relevant regulations and Department of Health and Social Care (DHSC) guidance. The listed providers are also monitored by DHSC for compliance and if in default removed from the list.

4. The International Travel Regulations also provide that travellers to Scotland must stay in specified premises. These amendments (regulations 5 to 7) amend an exception for seasonal agricultural workers in paragraph 37 of schedule 2 of the International Travel Regulations. As currently drafted, the Regulations make clear that those to whom the exemption applies must self-isolate at the named farm where they will be working after arrival in Scotland. The exemption allows such people to work straight away although they must isolate on the named farm for 10 days.

5. A small but significant number of these workers are not isolating on the 'named farm' where they have the offer of employment for seasonal work. This is due to insufficient accommodation for the workers on the farm and accordingly the employers of these seasonal agricultural workers are organising and supervising accommodation for the workers which is separate to the farm. In such circumstances, the workers are not self-isolating on the named farm throughout their 10-day period of isolation but are effectively isolating to the same standards as any amber list arrival who does not have a sectorial exemption. The amendments allow for this.

Consultation

6. 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 that were brought in on a UK-wide basis from 8 June 2020. Each of the four nations in the UK is required under their own relevant 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 International Travel 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 or acute 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.

7. 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

8. Impact Assessments have been prepared and will be published on Legislation.gov.uk.

Scottish Government
COVID Co-ordination Directorate
2 September 2021