

This publication will be available in accessible HTML on the [gov.scot](https://www.gov.scot) website

Business and Regulatory Impact Assessment

**Health Protection (Coronavirus)
(International Travel) (Scotland)
Regulations 2020**

August 2020

The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020

Purpose and intended effect

Background

Summary of the Regulations

It is critical for the Scottish Government to take all reasonable steps to prevent the community transmission of the disease, where possible. Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) has been declared by World Health Organisation a Public Health Emergency of International Concern. These measures are deemed necessary to limit the further spread of the disease.

The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (“the Regulations”)¹ as amended provide for measures in respect of international travellers arriving from outside the Common Travel Area (or within it if outside it in the previous 14 days prior to arrival) from a non-exempt country or territory (or from an exempt country or territory having departed from or transited through a non-exempt country or territory in the previous 14 days prior to their arrival) at the UK Border in Scotland, or elsewhere in the UK and then travelling on to Scotland, in order to reduce the risk of the introduction of new infections of coronavirus into the community.

The Regulations contain provisions to require international travellers on, or before, arrival into Scotland to provide journey details, contact details and details of their intended onward travel via a Passenger Locator Form, in order to support “contact tracing”, subject to certain exceptions. Failure to comply with the requirements to provide information on arrival at the border, which in practice is being collected on behalf of the Scottish Government by the Home Office (Border Force) for these public health measures, is an offence.

¹ [The Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Regulations 2020](#), as amended by the [Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Amendment Regulations 2020](#), the [Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Amendment \(No.2\) Regulations 2020](#), the [Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Amendment \(No. 3\) Regulations 2020](#), the [Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Amendment \(No. 4\) Regulations 2020](#), the [Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Amendment \(No. 5\) Regulations 2020](#), the [Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Amendment \(No. 6\) Regulations 2020](#), the [Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Amendment \(No. 7\) Regulations 2020](#), the [Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Amendment \(No. 8\) Regulations 2020](#), the [Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Amendment \(No. 9\) Regulations 2020](#), the [Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Amendment \(No.10\) Regulations 2020](#).

The Regulations contain provisions to require international travellers to stay in the premises named in their passenger locator form for a period of 14 days following arrival in Scotland from a non-exempt country or territory (or an exempt country or territory having departed from, or transited through, a non-exempt country or territory in the previous 14 days), at home or in other suitable accommodation, in order to limit risks of transmission, subject to certain exceptions. The Scottish Government has produced supplementary guidance to support the Regulations², and it may be noted that the guidance on the measures states that it is important to avoid contact with other people in their accommodation in order to reduce the risk of transmitting coronavirus.

In relation to the requirement to stay in specified premises, the international traveller is required to remain in the premises except in a small number of stated circumstances, which include seeking medical assistance, and obtaining basic necessities like food and medical supplies. Failure to comply with the requirement is an offence, unless one of the exceptions applies.

The Regulations make provision for a limited number of exemptions from the requirement to provide contact details and a longer limited list of exemptions from the requirement to self-isolate. In relation to those exempt from the requirement to self-isolate, these include prescribed critical national infrastructure and other economically essential workers, including pilots, seamen, emergency workers and oil rig workers.

The UK Government has committed to facilitating accommodation for any travellers (asymptomatic and symptomatic) who have no suitable accommodation in which they can self-isolate effectively.

Similar emergency public health measures have already been made in relation to England and also in Wales and Northern Ireland, which were similarly timed to come into force on 8th June. Countries across the world continue to implement public health measures to ensure imported transmission of coronavirus is minimised.

Objective

The Regulations are designed to reduce the public health risks posed by coronavirus by limiting the further spread of the disease, and are therefore designed to prevent harm to individuals in Scotland.

Rationale for Government intervention

The Scottish Government has made these Regulations as part of a four nation approach to tackling coronavirus. The Scottish Government is satisfied that all of the measures are appropriate and proportionate, but it recognises that they contain extraordinary measures required to respond to an emergency situation. The Regulations therefore contain the following safeguards:

² <https://www.gov.scot/publications/coronavirus-covid-19-public-health-checks-at-borders/>

- All measures contained in the instrument are time-limited and will expire at the end of the period of twelve months beginning with the day on which they come into force.
- Moreover, the need for the requirement in the Regulations is subject to a requirement to review restrictions or requirements at least every 21 days and for those to be lifted as soon as they are no longer deemed necessary to prevent, protect against or control the incidence or the spread of coronavirus.

This impact assessment recognises the need to keep in sight the changing nature of this situation. The Regulations have been subject to regular review to ensure that the effect of this legislation on people with one or more of the protected characteristics is kept in view, and will continue to be so.

Consultation

The pace of the work on this has meant limited consultation with external stakeholders in Scotland. However, there has been discussion and dialogue by the Scottish Government with Police Scotland, The Crown Office and Procurator Fiscal Service, Border Force in Scotland, Public Health Scotland and the Office of the Information Commissioner, which has shaped how the policy in Scotland will be implemented. The Scottish Government has also sought the views of other external organisations where possible.

Given the time constraints there has been no opportunity for a formal consultation process, however, there has been engagement and discussion at an operational level. These measures have been introduced across Scotland, Wales, Northern Ireland and England. The UK Government has undertaken engagement with key stakeholders who operate across the UK.

These measures will be subject to regular review and as part of that review process the Government will continue to explore opportunities to engage with stakeholders.

Options and summary of approach

It is critical for the Scottish Government to take all reasonable steps to prevent the community transmission of the disease, where possible. Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) has been declared by World Health Organisation a Public Health Emergency of International Concern. These measures are deemed necessary to limit the further spread of the disease.

The Scottish Government, along with the UK Government and the other Devolved Administrations, have therefore introduced emergency public health measures at the UK border, designed to reduce the public health risks posed by coronavirus, by limiting the further spread of the disease.

Sectors and groups affected

The measures are designed to protect the health of the population as a whole rather than a specific group or sector. However, it is assumed that some sectors of the economy and society will be impacted in different ways, depending on the composition of workforce and level of reliance on overseas travel.

A small number of people travelling to the UK from non-exempt countries in very limited circumstances do not need to self-isolate. Bar a small amount of exceptions all travellers will have to complete the passenger locator form. These can include if they are travelling to maintain essential supply chains, critical national infrastructure or to contribute to crisis response or other essential government work. If you are a seasonal agricultural worker, you must remain on the farm where you are working and staying for 14 days. Further guidance for seasonal agricultural workers has been provided.

A [list of exemptions to self-isolation requirements](#) is available.

For people travelling to Scotland the main sectoral difference from the exemptions in England, Wales and Northern Ireland is:

Frequent travellers for work: if you live in the UK but work in another country and travel between the UK and country of work at least once a week; and/or you live outside the UK but work in the UK and travel between your country of residence and the UK at least once a week - **will** need to self-isolate for 14 days if you are staying in Scotland.

It is recognised that the travel and tourism industries may particularly be adversely impacted by these measures. However, the need to safeguard public health and suppress transmission of the virus means that despite these impacts the regulations are required.

Since 10 July, the following sectors have also been included in the exemption from the self-isolation requirements work category list:

- elite sporting events - elite sportspersons and support workers on specified major sporting events.
- Film and TV production - personnel being engaged to work on a film or high-end TV programme which qualifies as culturally British

Benefits

As noted, above, these Regulations are intended to protect the Scottish population from the continuing risks of coronavirus. Given the potential damage to health associated with the virus (including pneumonia, respiratory failure, septic shock, and death) and its contagious nature, it is vital that the spread is limited as much as possible.

However, as noted in previous Scottish Government publications, we know that the overall package of restrictions, vital though they are, risk themselves causing harm to people, society and the economy. We are committed to containing and suppressing the virus in order to minimise the harm it can do, and to considering how we can achieve that objective while restoring as much normality to everyday life as possible.

The Regulations have now been reviewed on three occasions, 29 June, 20 July and 10 August and the Scottish Ministers have deemed that there remains a requirement

for them to remain in place. We are also continuously keeping countries under review and where there is clear evidence that it is safe to do so, we will add further countries to the exemption list. Likewise, if the evidence suggests an exempt country may provide increased risk, we will not hesitate to reinstate quarantine arrangements. Both additions and removals from the country exemptions list have occurred on a regular basis and have resulted in amendments to the regulations through statutory instruments at Parliament.

Costs

It is not possible to estimate the cost of these Regulations, as they are part of a wider set of measures that have been put in place to contain the spread of the coronavirus. While there is a clear and measurable economic cost of the restrictions that have been put in place (through GDP), the health and social costs are less straightforward.

Some businesses will be more exposed to the costs of these Regulations, including the travel, tourism and hospitality sectors. Again, however, it is not possible at this stage to calculate the costs of these Regulations separately from the other safety measures that have been put in place. Whilst there has been an increase in international travel during the summer months, travel in general during the pandemic has been significantly reduced.

We recognise that the border health measures – alongside Foreign and Commonwealth Office guidance and general restrictions on travel - are having an impact on passenger numbers and we continue to work constructively with travel operators.

Scottish Firms Impact Test

It has not been possible to carry out discussions in the normal way due to the pace of the work.

Competition Assessment

Will the measure directly or indirectly limit the number or range of suppliers?

- While the measure should not directly limit the number or range of suppliers, the impact of the entire package of health protection measures, including the border health measures, may create more challenging circumstances for smaller businesses.

Will the measure limit the ability of suppliers to compete?

- The ability of suppliers to compete internationally may be limited if the Regulations are in force for longer than equivalent measures in other countries.

Will the measure limit suppliers' incentives to compete vigorously?

- See above.

Will the measure limit the choices and information available to consumers?

- Not directly.

Consumer Assessment

The greatest impact is likely to be on consumers from overseas, primarily tourists and those seeking to work in Scotland. The measures will also apply to individuals resident in Scotland if they travel outwith the Common Travel Area (or within it if outside it in the previous 14 days) or travel to a non-exempt country and then return to the UK.

Test run of business forms

The Regulations do not require that businesses will need to complete any new forms.

Digital Impact Test

The Regulations contain provisions to require international travellers on, or before, arrival into Scotland to provide journey details, contact details and details of their intended onward travel via a Passenger Locator Form. This form will generally be completed on-line either prior to travel or on-arrival at the port of entry into the UK.

Legal Aid Impact Test

As one of the penalties for non-compliance with these measures is prosecution in a summary court then advice by way of representation (ABWOR) may be available in the event of a plea of guilty. If a plea of not guilty is tendered and the matter proceeds to trial then summary legal aid would be available. SLAB see no difficulty in satisfying the interests of justice test on the basis of novelty which would tick the complexity in law box.

Enforcement, sanctions and monitoring

As set out above, the Regulations contain provisions to require international travellers on, or before, arrival into Scotland to provide journey details, contact details and details of their intended onward travel via a Passenger Locator Form, in order to support "contact tracing". Failure to comply with the requirements to provide information on arrival at the border, which in practice will be collected on behalf of the Scottish Government by the Home Office (Border Force) for these public health measures, is an offence.

Border Force have been carrying out checks to ensure the forms have been completed. It is an offence to provide false or misleading information on the form and this offence is punishable, on summary conviction, to a fine not exceeding level 5 on the standard scale (the fine is set at £60 and can be doubled up for each subsequent offence up to a maximum of £480).

As set out above, the Regulations contain provisions to require international travellers to stay in the premises named in their passenger locator form for a period

of 14 days following arrival in the UK, at home or in other suitable accommodation, in order to limit risks of transmission. The Scottish Government has produced supplementary guidance to support the Regulations³, and it may be noted that the guidance on the measures states that it is important to avoid contact with other people in their accommodation in order to reduce the risk of transmitting coronavirus. A person who is subject to the Regulations must stay at premises specified on their form. If a person does not do so (without good reason as specified in the Regulations), this can result in a £480 fine under a fixed penalty notice and is punishable, on summary conviction, to a fine not exceeding level 5 on the standard scale. Police Scotland will use enforcement powers if they have reason to believe that anyone is breaching their mandatory self-isolation but will maintain a proportionate approach, seeking to engage, educate, and encourage compliance.

A sample of those self-isolating have been receiving follow-up calls from Public Health Scotland (PHS) officials. PHS offer public health advice, information and guidance rather than for the purpose of enforcement, which aligns to similar follow up measures deployed amongst the other home nations.

Implementation and delivery plan

The measures contained in the Regulations are time-limited and will expire at the end of the period of twelve months beginning with the day on which they come into force.

The measures came into force on 8 June 2020 and are subject to a requirement to review restrictions or requirements at least every 21 days and for those to be lifted as soon as they are no longer deemed necessary to prevent, protect against or control the incidence or the spread of coronavirus.

Declaration and publication

- **Sign-off for Final BRIAs:**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Humza Yousaf

Date: 24 August 2020

Minister's name: Humza Yousaf MSP

Minister's title: Cabinet Secretary for Justice

Scottish Government Contact point: Robert Mitchell

³ <https://www.gov.scot/publications/coronavirus-covid-19-public-health-checks-at-borders/>



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2020

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80004-011-3 (web only)

Published by The Scottish Government, August 2020

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS757606 (08/20)

w w w . g o v . s c o t