

# COVID-19 Recovery Committee

## 3rd Meeting, 2021 (Session 6), Thursday 9 September 2021

### Ministerial statement on COVID-19 and Subordinate legislation

#### Introduction

1. At this meeting, the Cabinet Secretary for Net Zero, Energy and Transport (“The Cabinet Secretary”), will give evidence under agenda item 2.
2. The Committee will take evidence under this agenda item on the policy announcements arising from the latest Ministerial statement on COVID-19, related to the Cabinet Secretary’s portfolio, which is due to take place on 8 September 2021.
3. The Committee will also take evidence on the following subordinate legislation under agenda item 2, before it considers the corresponding motions, under agenda item 2—
  - The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.13) Regulations 2021 (SSI 2021/237) (from here on referred to as "The No. 13 Regulations")
  - The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 3) Regulations 2021 (SSI 2021/254) (from here on referred to as "The No. 3 Regulations")
  - The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 14) Regulations 2021 (SSI 2021/256) (from here on referred to as "The No. 14 Regulations")
  - The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 4) Regulations 2021 (SSI 2021/261) (from here on referred to as "The No. 4 Regulations")
  - The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 5) Regulations 2021 (SSI 2021/264) (from here on referred to as "The No. 5 Regulations")

- The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 6) Regulations 2021 (SSI 2021/265) (from here on referred to as "The No. 6 Regulations")
- The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 15) Regulations 2021 (SSI 2021/275) (from here on referred to as "The No. 15 Regulations")
- The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 7) Regulations 2021 (SSI 2021/278) (from here on referred to as "The No. 7 Regulations")
- The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 16) Regulations 2021 (SSI 2021/290) (from here on referred to as "The No. 16 Regulations")

## Background

4. For more background information on the statutory powers being used by the Scottish Government to respond to COVID-19 and the Scottish Government's strategy for dealing with COVID-19 and COVID-19 recovery, see the [SPICe Blog](#).

## Agenda item 1: Ministerial statement on COVID-19 and Subordinate Legislation

### Ministerial statement on COVID-19: Wednesday, 8 September 2021

5. On 8 September 2021, the First Minister will set out the Scottish Government's most recent actions for dealing with COVID-19 in a statement to the Chamber. Members will take evidence on any policy announcements arising from this statement related to the Cabinet Secretary's portfolio under agenda item 2.

6. SPICe produces a weekly briefing entitled 'Weekly SPICe COVID-19 Update' (see **Paper 3**). This provides Members with links to the latest guidance and supporting information published by the Scottish Government, in addition to a selection of websites providing information on wider health and social and economic indicators in Scotland.

## Subordinate Legislation

### *Policy Background: The No. 13 Regulations*

7. On 10 June 2021, the Scottish Government laid [the No. 13 Regulations](#) and they came into force on 14 June 2021. According to the [policy note](#), the purpose of the instrument is as follows—

“The policy objective is to amend the principal Regulations (paragraph 38 of schedule 2 in the regulations) to take account of changing circumstances which is that athletes will soon begin to train and compete in events to qualify them to represent Scotland, England, Wales, Northern Ireland, Guernsey, Jersey or the Isle of Man at the Commonwealth Games in Birmingham. This amendment includes overseas training and qualifying events for athletes preparing for the Commonwealth Games including in respect of sports which are represented at the Olympic and Paralympic Games. The following are added to the list of specified competitions in schedule 3A of the regulations:

- Trust Golf Women’s Scottish Open
- Golf – AIG Women’s Open
- FIM Speedway Grand Prix qualifiers
- WTA Tour and ITF Tour Tennis”

8. The Scottish Government has not provided any associated impact assessments to accompany the No. 13 Regulations.

9. The Delegated Powers and Law Reform (DPLR) Committee considered the No. 13 Regulations at its meeting on 22 June 2021 and had [no points to raise](#).

### *Policy Background: The No. 3 Regulations*

10. On 25 June 2021, the Scottish Government laid [the No. 3 Regulations](#) and they came into force on 30 June 2021. According to the [policy note](#), the purpose of the instrument is as follows—

“This instrument amends schedule A1 (so called “green list” countries and territories) to add Antigua, the Balearic Islands, Barbados, Barbuda, Dominica, Grenada, Madeira, Malta, Anguilla, Bermuda, the British Antarctic Territory, the British Indian Ocean Territory, the British Virgin Islands, the Cayman Islands, Montserrat, Pitcairn and the Turks and Caicos Islands to the list of exempt countries, territories, and parts of countries or territories, including United Kingdom overseas territories, in Parts 1 and 2 respectively of schedule A1 of the International Travel Regulations

This instrument amends schedule A2 (so called “red list” countries and territories) to add Dominican Republic, Eritrea, Haiti, Mongolia, Tunisia and Uganda to the “acute risk countries and territories” in schedule A2. 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 certain sector-specific exemptions from that requirement, as well as exemptions to the requirement to complete the Passenger Locator Form, do not apply.”

11. The Scottish Government published an [Equality Impact Assessment](#) and a [Business and Regulatory Impact Assessment](#) to accompany the No. 3 Regulations.
12. The DPLR Committee considered the No. 3 Regulations at its meeting on 31 August and had [no points to raise](#).

### *Policy Background: The No. 14 Regulations*

13. On 1 July 2021, the Scottish Government laid [the No. 14 Regulations](#) and the provisions came into force on 5 July 2021. According to the [policy note](#), the purpose of the instrument is as follows—

“This instrument provides for an exemption for certain persons carrying out work in connection with, or performing at, the Edinburgh International Festivals (“EIF”). The effect of the amendments is that a person who is an essential infrastructure worker or a performing arts professional is required to comply with regulations 5D to 5J of the principal Regulations. Such a person is not required to comply with regulation 6(2) of the principal Regulations (requirement to stay in specified premises) where that person is outside of the place where they are staying to travel directly to, from or attend the location of the essential work or performing arts event. They would be subject to a predeparture and day 2 and 8 tests, and must self-isolate when not undertaking this activity.”

14. The Scottish Government provided an [Equality Impact Assessment](#) and a [Business Regulatory Impact Assessment](#) to accompany the No. 14 Regulations.
15. The DPLR Committee considered the No. 14 Regulations at its meeting on 31 August and had [no points to raise](#).

### *Policy Background: The No. 4 Regulations*

16. On 7 July 2021, the Scottish Government laid [the No. 4 Regulations](#) and they came into force on 8 July 2021. According to the [policy note](#), the purpose of the instrument is as follows—

“These Regulations amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (the “International Travel Regulations”) and the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 (“the Operator Liability Regulations”).

These Regulations amend the International Travel Regulations to make provision for specified persons on official business, in-flight security officers and sportspersons attending events for the purpose of qualification for any future Olympic, Paralympic and Commonwealth Games. These Regulations

also amend the Operator Liability Regulations to include an exception in respect of extradition, prisoner repatriation or deportation. “

17. The Scottish Government has not provided any associated impact assessments to accompany the No. 4 Regulations.

18. The DPLR Committee considered the No. 4 Regulations at its meeting on 31 August and had [no points to raise](#).

### *Policy Background: The No. 5 Regulations*

19. On 16 July 2021, the Scottish Government laid [the No. 5 Regulations](#) and they came into force on 19 July 2021. According to the [policy note](#), the purpose of the instrument is as follows—

“This instrument amends the International Travel Regulations to provide that an eligible vaccinated passenger is required to take a coronavirus test only on the second day following their arrival in Scotland, as opposed to on the second day and the eighth day. It provides that certain arrivals from non-exempt but not acute risk countries (“eligible vaccinated passengers”) are not required to quarantine for 10 days in specified premises on arrival in Scotland.

These changes apply to a passenger arriving in Scotland having departed from or transited through a non-exempt but not acute risk country or territory (known as “an amber list” country or territory) who—

- has completed a course of doses of an authorised coronavirus vaccine
- has participated in, or is participating in, a clinical trial for an authorised vaccine
- is a child who is ordinarily resident in the UK
- has completed a course of vaccine under the UK overseas vaccine roll-out programme, or who is a dependant of such a person.”

20. Further information on this instrument can be found in the policy note.

21. The Scottish Government states in the policy note that the assessment of the impact of the changes to country status as set out in this instrument, was previously undertaken and following reconsideration, no changes are required. You can access the assessment via [The Health Protection \(Coronavirus\) \(International Travel etc.\) \(Miscellaneous Amendments\) \(Scotland\) \(No. 2\) Regulations 2021 \(SSI 2021/208\)](#) .

22. According to the policy note “impact assessments for vaccine certification will be published on Legislation.gov.uk in due course”. At the time of writing, these impact assessments have not been published.

23. The DPLR Committee considered the No. 5 Regulations at its meeting on 31 August and had [no points to raise](#).

## *Policy Background: The No. 6 Regulations*

24. On 19 July 2021, the Scottish Government laid [the No. 6 Regulations](#) and they came into force on the same day. According to the [policy note](#), the purpose of the instrument is as follows—

“This instrument excludes passengers who have departed from, or transited through mainland France (including Corsica), from being “eligible vaccinated arrivals” exempt from certain restrictions in those Regulations within the meaning of regulation 2A of those Regulations. This means that those passengers will require to self-isolate in specified premises for 10 days and will require to take day 2 and day 8 tests, notwithstanding the changes made by the Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 5) Regulations 2021.

This change is being made following assessment of the risk of transmission within France, prevalence of variants of concern, evidence of exporting the variants and risk to sequencing capacity against the background of rising travel; double vaccinated travellers not being required to isolate from 0400 on 19 July; and rising case numbers domestically with associated risks to sequencing capacity. The Regulations also remove the duty on an operator of a relevant service which commences in mainland France (including Corsica) to check that such a passenger possesses the required evidence. The position as regards France will be kept under on-going review and any changes will be made depending on risk status as and when it is appropriate to do so.”

25. The Scottish Government has not provided any associated impact assessments to accompany the No. 6 Regulations.

26. The DPLR Committee considered the No. 6 Regulations at its meeting on 31 August and had [no points to raise](#).

## *Policy Background: The No. 15 Regulations*

27. On 30 July 2021, the Scottish Government laid [the No. 15 Regulations](#) and they came into force on 31 July 2021 and 2 August 2021 (in accordance with regulation 1 within the instrument). According to the [policy note](#), the purpose of the instrument is as follows—

“These Regulations amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (“the principal regulations”). Regulation 3 amends regulation 2A of the principal regulations to exclude certain arrivals from non-exempt but not acute risk countries or territories (primarily, those who have received a full course of vaccination in, or who are under 18 and ordinarily resident in, a specified country) from certain testing and self-isolation requirements.

Regulation 4 adds the European Tour Golf – Hero Open to the list of competitions that are specified in Part 1 of schedule 3A of the principal regulations for the purposes of elite sport. It also adds an entry to the list of specified events in Part 2 of schedule 3A of the principal regulations to provide that elite sportspersons who travel to Scotland having departed from or transited through Turkey within the preceding 10 days in order to participate in European club football fixtures are exempt from the managed isolation requirements in regulations 6A and 6B of the principal regulations.”

28. According to the policy note, “impact assessments will be published on Legislation.gov.uk in due course” to accompany the No. 15 Regulations. At the time of writing, the impact assessments have not been published.

29. The DPLR Committee considered the No. 15 Regulations at its meeting on 31 August and had [no points to raise](#).

### *Policy Background: The No. 7 Regulations*

30. On 6 August 2021, the Scottish Government laid [the No. 7 Regulations](#) and they came into force on 8 and 12 August 2021 (in accordance with regulation 1 of the instrument). According to the [policy note](#), the purpose of the instrument is as follows—

“These Regulations amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (“the International Travel Regulations”) and the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 (“the Operator Liability Regulations”).

#### **Amendments to the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020**

Regulation 3 amends regulation 2A of the International Travel Regulations to remove the exclusion of passengers who have departed from, or transited through Metropolitan France, from status as “eligible vaccinated arrivals”. Regulation 3 also amends regulation 2A of the International Travel Regulations to make clear that a passenger purporting to meet the criteria to qualify as an eligible vaccinated arrival must provide proof of this if requested to do so by an immigration officer or the operator of the service on which they travel.

Regulation 4 amends regulation 5C of the International Travel Regulations in relation oil and gas workers covered by the sectoral exemption in paragraph 25 of schedule 2 of those Regulations. This makes provision for their exemption from requirements under those Regulations in relation to the purchase of day 2 and day 8 tests.

Regulation 5 amends regulation 6(1)(f) of the International Travel Regulations to permit students arriving in Scotland from an acute risk country or territory in order to attend boarding school anywhere in the United Kingdom to avoid



entering managed self-isolation and instead self-isolate upon arrival at their boarding school.

Regulation 6 makes amendments to the list of exempt countries, territories and parts of countries or territories in schedule A1 of the International Travel Regulations. Austria, Germany, Latvia, Norway, Romania, Slovakia and Slovenia are added to the list of exempt countries and territories specified in schedule A1.

Regulation 7 amends the list of acute risk countries, territories and part of countries or territories in schedule A2 of the International Travel Regulations. Georgia, Réunion, Mayotte and Mexico are added to that list and Bahrain, India, Qatar and the United Arab Emirates are removed from that list.

Regulation 8 amends paragraph 25 of schedule 2 of the International Travel Regulations, to remove from the scope of the sectoral exemption for oil and gas workers, those workers returning from an installation in the North Sea who have transited via a non-acute risk country (but have not entered that country or territory).

Regulation 9 amends the list of specified competitions in schedule 3A of the International Travel Regulations to amend the name of the Guinness PRO14 and Challenge Cup Rugby Union to reflect its new name – United Rugby Championship, and to add events.

#### **Amendments to the Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021**

Regulation 10 amends regulation 6 of the Operator Liability Regulations to require persons operating commercial transport services (“operators”) to ensure that passengers seeking to rely on certain exemptions in schedule 2 of the International Travel Regulations possess evidence that they are eligible for the exemption. It also amends regulation 8 of the Operator Liability Regulations to add a defence to the offence in regulation 8(1)(a) of those Regulations. In addition, it expands the duty on operators to check that a person who has declared that they are an eligible vaccinated arrival within the meaning of regulation 2A of the International Travel Regulations has the evidence required to support that declaration.”

31. According to the policy note, “impact Assessments have been prepared and will be published on Legislation.gov.uk” to accompany the No. 7 Regulations. At the time of writing, the impacts assessments have not been published.

32. The DPLR Committee considered the No. 7 Regulations at its meeting on 31 August and had [no points to raise](#).



## *Policy Background: The No. 16 Regulations*

33. On 27 August 2021, the Scottish Government laid [the No. 16 Regulations](#) and they came into force on 30 August 2021. According to the [policy note](#), the purpose of the instrument is as follows—

“These Regulations amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (“the International Travel Regulations”). Regulation 3 amends the list of exempt countries, territories and parts of countries or territories in schedule A1 of the International Travel Regulations. The Azores, Canada, Denmark, Finland, Liechtenstein, Lithuania and Switzerland are now added to that list.

Regulation 4 amends the list of acute risk countries, territories and part of countries or territories in schedule A2 of the International Travel Regulations. Montenegro and Thailand are now added to that list. Regulation 5 amends schedule 3A of the International Travel Regulations to add to the list of specified competitions”

34. The Scottish Government’s policy note states that “the assessment of the impact of the changes to country status as set out in this instrument, was previously undertaken and following reconsideration, no changes are required. You can access the assessment via [The Health Protection \(Coronavirus\) \(International Travel etc.\) \(Miscellaneous Amendments\) \(Scotland\) \(No. 2\) Regulations 2021\(SSI 2021/208\).](#)”

35. The DPLR Committee expects to consider the No. 16 Regulations at its meeting on 7 September 2021. A copy of the DPLR Committee’s report will be provided to Members when it becomes available.

## Parliamentary Procedure

36. All the instruments on the Committee’s agenda are subject to the ‘made affirmative’ procedure.

### *Made affirmative instruments*

37. The regulations on this agenda were laid before the Scottish Parliament under 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.

38. 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 regulations have been approved by a resolution of the Parliament.

## Agenda item 3: Subordinate legislation

39. Under agenda item 3, the Cabinet Secretary will be invited to move motions—
- S6M-00699— That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 13) Regulations 2021 (SSI 2021/237) be approved.
  - S6M-00697— That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 3) Regulations 2021 (SSI 2021/254) be approved.
  - S6M-00696— That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 14) Regulations 2021 (SSI 2021/256) be approved.
  - S6M-00698— That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 4) Regulations 2021 (SSI 2021/261) be approved.
  - S6M-00727— That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 5) Regulations 2021 (SSI 2021/264) be approved.
  - S6M-00726— That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 6) Regulations 2021 (SSI 2021/265) be approved.
  - S6M-00903— That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 15) Regulations 2021 (SSI 2021/275) be approved.
  - S6M-00833— That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 7) Regulations 2021 (SSI 2021/278) be approved.
  - S6M-00976— That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 16) Regulations 2021 (SSI 2021/290) be approved.

## **Next steps**

40. The Committee will publish a report setting out its consideration of the motions under agenda item 3 in due course.

**Committee Clerks**  
**September 2021**