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## **COVID-19 Recovery Committee**

# **Subordinate Legislation Considered by the Committee on 9 September 2021**



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# COVID-19 Recovery Committee

To consider and report on matters relating to COVID-19 falling within the responsibility of the Cabinet Secretary for COVID Recovery and other Scottish Ministers where relevant, including—

- (a) Cross government coordination of COVID-19 recovery policies and strategic review;
- (b) the operation of powers under the Coronavirus (Scotland) Act, the Coronavirus Act and any other legislation in relation to the response to COVID-19;
- (c) any secondary legislation arising from the Coronavirus (Scotland) Act; and
- (d) and any other legislation or policy in relation to the response to COVID-19.



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# Committee Membership



**Convener**  
**Siobhian Brown**  
Scottish National Party



**Deputy Convener**  
**Murdo Fraser**  
Scottish Conservative  
and Unionist Party



**Jim Fairlie**  
Scottish National Party



**John Mason**  
Scottish National Party



**Alex Rowley**  
Scottish Labour



**Brian Whittle**  
Scottish Conservative  
and Unionist Party

# Introduction

1. This report sets out the COVID-19 Recovery Committee's consideration of Scottish Statutory Instruments (SSIs) at its meeting on 9 September 2021. The minutes of the meeting have been published on the Committee's [webpages](#). The Official Report of the meeting will be published on the Committee's [webpages](#) in due course.

# The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 13) Regulations 2021 (SSI 2021/237)

2. The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 13) Regulations 2021 (SSI 2021/237) were laid on 10 June 2021. The instrument was made in exercise of the power conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”). The instrument is subject to made affirmative procedure by virtue of section 122(6) of the 2008 Act.
3. The [policy note](#) states that—
  - ” 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
4. The Delegated Powers and Law Reform (DPLR) Committee considered SSI 2021/237 at its meeting on 22 June 2021 and had [no points to raise](#).
5. At the COVID-19 Recovery Committee's meeting on 9 September 2021, the Cabinet Secretary for Net Zero, Energy and Transport, Michael Matheson MSP moved Motion [S6M-00699](#) in his name—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.
6. The COVID-19 Recovery Committee agreed Motion S6M-00699 .

# The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 3) Regulations 2021 (SSI 2021/254)

7. The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 3) Regulations 2021 (SSI 2021/254) were laid on 25 June 2021. The instrument was made in exercise of the power conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”). The instrument is subject to made affirmative procedure by virtue of section 122(6) of the 2008 Act.
8. The [policy note](#) states that—
 

” 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.
9. The DPLR Committee considered SSI 2021/254 at its meeting on 31 August and had [no points to raise](#).
10. At the COVID-19 Recovery Committee's meeting on 9 September 2021, the Cabinet Secretary for Net Zero, Energy and Transport, Michael Matheson MSP moved Motion [S6M-00697](#) in his name—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.
11. The COVID-19 Recovery Committee agreed Motion S6M-00697.



# The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 14) Regulations 2021 (SSI 2021/256)

12. The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 14) Regulations 2021 (SSI 2021/256) were laid on 1 July 2021. The instrument was made in exercise of the power conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”). The instrument is subject to made affirmative procedure by virtue of section 122(6) of the 2008 Act.
13. The [policy note](#) states that—
  - ” 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 DPLR Committee considered SSI 2021/256 at its meeting on 31 August and had [no points to raise](#).
15. At the COVID-19 Recovery Committee's meeting on 9 September 2021, the Cabinet Secretary for Net Zero, Energy and Transport, Michael Matheson MSP moved Motion [S6M-00696](#) in his name—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.
16. The COVID-19 Recovery Committee agreed Motion S6M-00696.

# The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 4) Regulations 2021 (SSI 2021/261)

17. The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 4) Regulations 2021 (SSI 2021/261) were laid on 7 July 2021. The instrument was made in exercise of the power conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”). The instrument is subject to made affirmative procedure by virtue of section 122(6) of the 2008 Act.
18. The [policy note](#) states that—
 

” 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.
19. The DPLR Committee considered SSI 2021/261 at its meeting on 31 August and had [no points to raise](#).
20. At the COVID-19 Recovery Committee’s meeting on 9 September 2021, the Cabinet Secretary for Net Zero, Energy and Transport, Michael Matheson MSP moved Motion [S6M-00698](#) in his name—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.
21. The COVID-19 Recovery Committee agreed Motion S6M-00698.

# The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 5) Regulations 2021 (SSI 2021/264)

22. The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 5) Regulations 2021 (SSI 2021/264) were laid on 16 July 2021. The instrument was made in exercise of the power conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”). The instrument is subject to made affirmative procedure by virtue of section 122(6) of the 2008 Act.

23. The [policy note](#) states that—

” 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.

24. The DPLR Committee considered SSI 2021/264 at its meeting on 31 August and had [no points to raise](#).

25. At the COVID-19 Recovery Committee's meeting on 9 September 2021, the Cabinet Secretary for Net Zero, Energy and Transport, Michael Matheson MSP moved Motion [S6M-00727](#) in his name—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.

26. The COVID-19 Recovery Committee agreed Motion S6M-00727.

# The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 6) Regulations 2021 (SSI 2021/265)

27. The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 6) Regulations 2021 (SSI 2021/265) were laid on 19 July 2021. The instrument was made in exercise of the power conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”). The instrument is subject to made affirmative procedure by virtue of section 122(6) of the 2008 Act.

28. The [policy note](#) states that—

” 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.

29. The DPLR Committee considered SSI 2021/265 at its meeting on 31 August and had [no points to raise](#).

30. At the COVID-19 Recovery Committee's meeting on 9 September 2021, the Cabinet Secretary for Net Zero, Energy and Transport, Michael Matheson MSP moved Motion [S6M-00726](#) in his name—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.

31. The COVID-19 Recovery Committee agreed Motion S6M-00726.

# The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 15) Regulations 2021 (SSI 2021/275)

32. The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 15) Regulations 2021 (SSI 2021/275) were laid on 30 July 2021. The instrument was made in exercise of the power conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”). The instrument is subject to made affirmative procedure by virtue of section 122(6) of the 2008 Act.
33. The [policy note](#) states that—
- ” 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.
34. The DPLR Committee considered SSI 2021/275 at its meeting on 31 August and had [no points to raise](#).
35. At the COVID-19 Recovery Committee's meeting on 9 September 2021, the Cabinet Secretary for Net Zero, Energy and Transport, Michael Matheson MSP moved Motion [S6M-00903](#) in his name—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.
36. The COVID-19 Recovery Committee agreed Motion S6M-00903.

# **The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 7) Regulations 2021 (SSI 2021/278)**

37. The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 7) Regulations 2021 (SSI 2021/278) were laid on 6 August 2021. The instrument was made in exercise of the power conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”). The instrument is subject to made affirmative procedure by virtue of section 122(6) of the 2008 Act.
38. The [policy note](#) states that—

- ” 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.

39. The DPLR Committee considered SSI 2021/278 at its meeting on 31 August and had [no points to raise](#).
  40. At the COVID-19 Recovery Committee's meeting on 9 September 2021, the Cabinet Secretary for Net Zero, Energy and Transport, Michael Matheson MSP moved Motion [S6M-00833](#) in his name—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.
41. The COVID-19 Recovery Committee agreed Motion S6M-00833.



# The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 16) Regulations 2021 (SSI 2021/290)

42. The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 16) Regulations 2021 (SSI 2021/290) were laid on 27 August 2021. The instrument was made in exercise of the power conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”). The instrument is subject to made affirmative procedure by virtue of section 122(6) of the 2008 Act.
43. The [policy note](#) states—
- ” 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.
44. The DPLR Committee considered SSI 2021/290 at its meeting on 7 September 2021 and had [no points to raise](#).
45. At the COVID-19 Recovery Committee's meeting on 9 September 2021, the Cabinet Secretary for Net Zero, Energy and Transport, Michael Matheson MSP moved Motion [S6M-00976](#) in his name—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.
46. The COVID-19 Recovery Committee agreed Motion S6M-00976.

