

CVDR/S6/21/5/7

COVID-19 Recovery Committee

5th Meeting, 2021 (Session 6), Thursday 23 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 5.
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 21 September 2021.
3. The Committee will also take evidence on the following subordinate legislation under agenda item 5, before it considers the corresponding motions, under agenda item 6—
 - The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 17) Regulations 2021 (SSI 2021/301) (from here on referred to as "The No. 17 Regulations")
 - The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 18) Regulations 2021 (SSI 2021/307) (from here on referred to as "The No. 18 Regulations")
 - The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 19) Regulations 2021 (SSI 2021/319) from here on referred to as "The No. 19 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 5: Ministerial statement on COVID-19 and Subordinate Legislation

Ministerial statement on COVID-19: Tuesday, 21 September 2021

5. On 21 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 5.
6. SPICe produces a weekly briefing entitled 'Weekly SPICe COVID-19 Update' (see **Paper 8**). 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. 17 Regulations

7. On 3 September 2021, the Scottish Government laid [the No. 17 Regulations](#) and they came into force on 6 September 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”). 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.”
8. The policy note states that ‘Impact Assessments have been prepared and will be published on Legislation.gov.uk’ to accompany the No. 17 Regulations. At the time of writing, the impact assessments had not been published.
9. The Delegated Powers and Law Reform (DPLR) Committee considered the No. 17 Regulations at its meeting on 14 September 2021. It had the following points to raise in its report published on [15 September 2021](#)—

“The instrument amends the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020. Regulation 4(b) inserts a new paragraph

9 into regulation 5F of the International Travel Regulations. Paragraph 9 provides for the definition of “private provider” in respect of Covid-19 day 2 and day 8 test providers. However, paragraph 9(b) refers to “private day 2 and day 2 test providers” when this should instead refer to “private day 2 and day 8 test providers”.

In correspondence with the Scottish Government (please see the Annex), it advised that this error would be rectified in a forthcoming amending instrument. The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 18) Regulations 2021 (SSI 2021/307) was subsequently laid before the Parliament on Friday 10 September and includes provision rectifying the error. This instrument will be considered by the Committee in due course.

The Committee draws the instrument to the attention of the Parliament under the general reporting ground due to the typographical error in regulation 4(b). The Committee also notes that the Scottish Government has since rectified the error.”

10. The correspondence annexed to the DPLR Committee's report can be found in [the original report as published](#).

Policy Background: The No. 18 Regulations

11. On 10 September 2021, the Scottish Government laid [the No. 18 Regulations](#) and they came into force on 13 September 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. They provide for arrangements and exemptions from self-isolation, managed quarantine, day 2 and day 8 testing requirements and from completion of the Passenger Locator Form for persons attending or facilitating the international climate summit known as “COP26” and the COP26 World Leaders Summit, with the exemptions varying for different categories of attendees. They also correct a technical error in regulation 5F(9)(b) of the International Travel Regulations.”

12. The Scottish Government has prepared an Equalities Impact Assessment and it will be published on Legislation.gov.uk to accompany the No. 18 Regulations. At the time of writing, the impact assessment had not been published.

13. The DPLR Committee will consider the No. 18 Regulations at its meeting on 21 September 2021 and will publish its report shortly after that meeting. A copy of the DPLR Committee’s report will be provided to Members when it becomes available.

Policy Background: The No. 19 Regulations

14. On 15 September 2021, the Scottish Government laid [the No. 19 Regulations](#) and they came into force on the same day. 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. They provide an exemption from the requirement to possess and adhere to a managed self isolation package in respect of participation in European professional football club fixtures in Scotland where players in the professional club arriving to play the fixture have departed from or transited through an acute risk country or territory within the preceding 10 days.”

15. No Impact Assessments have been prepared to accompany the No. 19 Regulations.

16. The DPLR Committee will consider the No. 19 Regulations at its meeting on 21 September 2021 and will publish its report shortly after that meeting. A copy of the DPLR Committee’s report will be provided to Members when it becomes available.

Timetable for legislative scrutiny

17. All these instruments are subject to the ‘made affirmative’ procedure. This means that the regulations can come into force immediately and without any parliamentary scrutiny. The regulations can only remain in force for 28 days from the date they were made into law. To continue in force for longer than 28 days, parliamentary approval is required and must be granted within the first 28 days of the instrument being made.

18. As the No. 17 regulations were made on 2 September 2021, the Parliament must approve them by 30 September 2021 for them to remain in force. The No. 18 regulations were made on 9 September 2021, therefore the Parliament must approve them by 7 October 2021 for them to remain in force. The No. 19 regulations were made on 14 September 2021, therefore the Parliament must approve them by 28 October 2021 for them to remain in force. The Delegated Powers and Law Reform Committee and COVID-19 Recovery Committee will report on the instruments, before the whole Parliament considers motions to approve them.

Agenda item 6: Subordinate legislation

19. Under agenda item 6, the Cabinet Secretary will be invited to move motions—

- [S6M-01079](#)—That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 17) Regulations 2021 (SSI 2021/301) be approved.
- [S6M-01186](#)—That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 18) Regulations 2021 (SSI 2021/307) be approved.
- [S6M-01261](#)— That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 19) Regulations 2021 (SSI 2021/319) be approved.

Next steps

20. The Committee will publish a report setting out its consideration of the motions under agenda item 6 in due course.

Committee Clerks
September 2021