

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS) (SCOTLAND) AMENDMENT (NO. 6) REGULATIONS 2020

SSI 2020/199

The above instrument was made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020 (“the Act”). The instrument is subject to made affirmative procedure by virtue of paragraph 6(3) of schedule 19 of the Act.

These Regulations amend the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (“the principal regulations”) to provide that businesses listed in Part 1 of schedule 1 must close any indoor premises or part of those premises used for the consumption of food or drink on those premises. The Regulations also provide that accommodation providers may now provide self-catering accommodation in certain circumstances. A reasonable excuse relating to a person who owns a residential property other than the place where they are living is amended to reflect the wider changes around self-catering accommodation. Such persons now have a reasonable excuse to visit the property, either alone or with other members of their household.

Legislative background

1. The UK Coronavirus Act 2020 received Royal Assent on 25 March 2020. The Scottish Government immediately used powers conferred by that Act to bring forward the principal regulations, to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. The principal regulations came into force on Thursday 26 March.
2. The restrictions and requirements imposed by the principal regulations must be reviewed at least once every 21 days. As soon as the Scottish Ministers consider that any restriction or requirement is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in Scotland with coronavirus, the Scottish Ministers must revoke that restriction or requirement.
3. On 21 May 2020 the Scottish Government published a route map setting out a phased approach to easing lockdown restrictions while still suppressing coronavirus (COVID-19). The route map recognises that the restrictions and requirements in place have a negative impact on some aspects people’s lives, such as increasing loneliness and social isolation and have potential to deepen inequalities and damage our economy.

Policy Objectives

4. Following the review required by 18 June 2020, Scottish Ministers decided to progress to Phase 2 of the route map. The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 4) Regulations 2020 were made on 18 June and introduced a

number of Phase 2 changes. These were followed by the Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 5) Regulations 2020, which were made on 26 June.

5. Some further changes to the lockdown measures are made by this instrument and are described below. The Scottish Government's guidance has been updated to reflect these changes and to make other changes for the purpose of implementing proposals in the route map. The revised guidance is available at www.gov.scot/collections/coronavirus-covid-19-guidance.

Selling food and drink for consumption on the premises

6. Regulation 3(1) of the principal regulations requires businesses to close any premises, or part of the premises, where food or drink are sold for consumption on those premises. Regulation 2(2) of these Regulations amends that requirement so that businesses are only required to close any indoor premises, or indoor part of the premises, used for the consumption of food or drink. In practice this means businesses can sell food and drink to people for consumption on outdoor parts of their premises, as long as all reasonable measures are taken to ensure other physical distancing measures are maintained.

7. For the purposes of this regulation, a place is indoors if it would be considered to be wholly or substantially enclosed for the purposes of section 4(2) of the Smoking, Health and Social Care (Scotland) Act 2005, under the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006.

Providing self-catering accommodation

8. Regulation 4(4) of the principal regulations requires accommodation providers to cease carrying on their business of providing holiday accommodation, except in the circumstances described in paragraph (5) of that regulation. Regulation 2(3) of these Regulations adds a further exception to that list, with the effect that accommodation providers may provide certain types of self-catering accommodation to the general public.

Commencement

9. The regulations relating to self-catering accommodation came into force on Friday 3 July. The regulation relating to the outdoor consumption of food and drink outdoors will come into force on Monday 6 July.

Consultation

10. There has been no public consultation in relation to this instrument. Where possible, the Scottish Government has informally consulted with public bodies and other relevant stakeholders affected by the Regulations.

Impact Assessments

11. An Equality Impact Assessment and a Partial Business and Regulatory Impact Assessment have been completed and are attached. A Children's Rights and Welfare Impact Assessment has not been prepared, however any future changes to the principal regulations which do have a direct impact on children's rights or welfare will be assessed.

Scottish Government
Directorate for Constitution and Cabinet
2 July 2020