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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 169**

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

**PART 4**

**Enforcement of Part 3**

**Enforcement of requirement in regulation 6(2)**

**8.—(1)** Where a constable has reasonable grounds for suspecting that a person (“P”) has contravened the requirement in regulation 6(2) the constable may—

- (a) direct P to return to the place where P is staying in accordance with regulation 6(2),
- (b) remove P to the place where P is staying in accordance with regulation 6(2), or
- (c) where it is not practicable or appropriate in the circumstances to take the action in subparagraph (a) or (b), remove P to a hotel or other accommodation facilitated by the Secretary of State.

(2) Paragraph (1)(b) and (c) do not apply where P is a person described in paragraph 1 of schedule 2.

(3) A constable exercising the power in paragraph (1) may use reasonable force, if necessary, in doing so.

(4) Where a child is outside of the place where they are staying in accordance with regulation 6(2) and is accompanied by an individual who has responsibility for the child (“A”)—

- (a) a constable may direct A to take the child to the place where the child is staying in accordance with regulation 6(2), and
- (b) A must, so far as reasonably practicable, ensure that the child complies with any direction or instruction given by a constable to the child.

(5) Where a constable has reasonable grounds for suspecting that a child has repeatedly contravened the requirement in regulation 6(2), the constable may direct any individual who has responsibility for the child to ensure, so far as reasonably practicable, that the child complies with that requirement.

(6) A constable may only exercise a power in paragraph (1), (4), or (5) if the constable considers that it is a necessary and proportionate means of ensuring compliance with the requirement in regulation 6(2).

(7) A constable exercising a power under paragraph (1), (4) or (5) may give to P or A any direction or instruction the constable considers necessary and proportionate.

**Offences and penalties - Parts 3 and 4**

**9.—(1)** It is an offence to contravene a requirement in—

- (a) regulation 6(2), or

- (b) regulation 6(7).
- (2) It is an offence to contravene a requirement in or imposed under regulation 8.
- (3) It is an offence for P to provide false or misleading information for the purposes of Part 3 or 4 where P—
  - (a) knows that the information is false or misleading, or
  - (b) is reckless as to whether the information is false or misleading.
- (4) A person who deliberately obstructs any person carrying out a function under these Regulations commits an offence
- (5) It is a defence to a charge of committing an offence under paragraph (1)(b), (2) (3) or (4) to show that the person, in the circumstances, had a reasonable excuse.
- (6) It is a defence to a charge of committing an offence under paragraph (1)(a) for the person to show that they are outside of the place where they are staying in accordance with regulation 6(2) for one of the following reasons—
  - (a) to travel in order to leave Scotland, provided that they do so directly,
  - (b) to obtain basic necessities, including food and medical supplies for those in the same household (including any pets or animals in the household),
  - (c) to seek medical assistance, including to access any of the services referred to in paragraph 37 or 38 of schedule 1 of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020(1),
  - (d) on compassionate grounds, to attend a funeral of—
    - (i) a member of the person’s household,
    - (ii) a close family member, or
    - (iii) if no-one within sub-paragraphs (i) or (ii) is attending, a friend
  - (e) to fulfil a legal obligation, including attending court or satisfying bail conditions, or to participate in legal proceedings,
  - (f) to access public services (including social services or victims’ services) where—
    - (i) access to the service is critical to P’s well-being, and
    - (ii) the service cannot be provided if P remains at the premises,
  - (g) to avoid injury, illness or to escape a risk of harm, or
  - (h) to move to a different place for the purposes of regulation 6(2) where—
    - (i) a legal obligation requires P to change the premises at which P resides for the purposes of regulation 6(2), or
    - (ii) P is otherwise unable to remain at the premises at which P is residing for the purpose regulation 6(2).

### **Penalties for offences under regulation 9**

**10.** A person who commits an offence under regulation 9 is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

### **Fixed penalty notices**

**11.—(1)** A constable may issue a fixed penalty notice to anyone that the constable has reasonable grounds to believe—

- (a) has committed an offence under these Regulations, and
- (b) is aged 18 or over.

(2) Subject to regulation 12(3) an immigration officer may issue a fixed penalty notice to anyone that the immigration officer has reasonable grounds to believe—

- (a) has committed an information offence, and
- (b) is aged 18 or over.

(3) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty in accordance with these Regulations.

(4) For the purposes of these Regulations—

- (a) the form of a fixed penalty notice,
- (b) the effect of a fixed penalty notice, and
- (c) the procedure that applies to a fixed penalty notice,

are the same as those that apply to a fixed penalty notice given under section 129(1) of the Antisocial Behaviour etc. (Scotland) Act 2004(2), as provided for in sections 129 to 134 of that Act, and section 226B and 226I of the Criminal Procedure (Scotland) Act 1995(3) subject to the modification in paragraph (5).

(5) The modifications are—

- (a) section 129(1) is to be disregarded,
- (b) the definitions of “fixed penalty notice” in sections 129(2) and 134 are to be construed as a reference to a notice under paragraph (1),
- (c) the definition of “prescribed area” in section 129(2) is to be disregarded,
- (d) section 130(1), (2) and (3)(f) is to be disregarded,
- (e) the references to “section 129” in section 131(1) and section 133(1) are to be construed as references to this regulation,
- (f) the reference in section 131(5) to “in accordance with this Part” is to be construed as a reference to these Regulations and the reference to “a sum equal to one and a half times” is to be disregarded,
- (g) the definition of “fixed penalty offence” in section 134 is to be construed as though it referred to an offence of the type referred to in paragraph (1)(a),
- (h) the reference to “by virtue of section 131(5) of the Antisocial Behaviour etc. (Scotland) Act 2004” in section 226B(5)(a)(ii) of the Criminal Procedure (Scotland) Act 1995 is to be construed as a reference to that section as modified by this paragraph, and
- (i) the reference to “a fixed penalty notice given under section 129 (fixed penalty notices) of the Antisocial Behaviour etc. (Scotland) Act 2004” is to be construed as a reference to that section as modified by this paragraph.

### **Fixed penalty notices – penalty amounts**

**12.—**(1) The penalty payable in respect of a fixed penalty notice issued in respect of an information offence, subject to paragraph (2), is £60.

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(2) [2004 asp 8](#). Sections 130, 131, 132 were amended by para 32(b) of schedule 1 of the Criminal Proceedings etc. (Reform) (Scotland) Act [2007 \(asp 6\)](#). Section 132 was amended by para 32(c) of schedule 1 of the Criminal Proceedings etc. (Reform) (Scotland) Act [2007 \(asp 6\)](#).

(3) [1995 c. 46](#). Sections 226B and 226I were inserted by the Criminal Proceedings etc. (Reform) (Scotland) Act [2007 asp 6](#) (Scottish Act) Pt 3 s.55. Sections 226B and 226I have been amended by none is relevant.

(2) Unless paragraph (3) applies, if £30 is paid before the end of the period of 28 days beginning with the date of the fixed penalty notice, then that is the amount of the fixed penalty (and the fixed penalty notice must make known the effect of this paragraph).

(3) If the person to whom a fixed penalty notice in respect of an information offence is given has already received a fixed penalty notice under these Regulations—

(a) paragraph (1) does not apply, and

(b) the penalty payable in the case of—

(i) the second fixed penalty notice received is £120,

(ii) the third and subsequent fixed penalty notice received is double the amount specified in the last fixed penalty notice received by that person, to a maximum of £480.

(4) The penalty payable is £480 in respect of a fixed penalty notice issued in respect of an offence under—

(a) regulation 9(1), or

(b) regulation 9(2) (where the person is believed to have intentionally obstructed any person carrying out a function in relation to regulation 6 or 8).