

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS) (SCOTLAND) AMENDMENT (NO. 9) REGULATIONS 2020

SSI 2020/232

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”) with the effect that the persons responsible for the provision of education services are not required to take all reasonable measures to ensure the required distance is maintained between any two people where at least one of them is a pupil, where the premises being used are for the provision of school education. The Regulations also amend the definition of a shop to exclude cinemas, this means that the required distance to be maintained in a cinema is two metres. The Regulations also revoke the requirement to close community centres.

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 of 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 9 July 2020, Scottish Ministers decided to progress to phase 3 of the route map. The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 7) Regulations 2020 were made on 9 July and introduced a number of changes for the purposes of implementing certain phase 3 policies. The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 8) Regulations 2020 were made on 14 July and introduced a number of further changes for the purposes of implementing certain phase 3 policies.

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.

Physical distancing for the purpose of school education

6. Regulation 4(1) of the principal regulations provides that a person who is responsible for a place of worship, carrying on a business or providing a service must take all reasonable measures to ensure that the required distance is maintained between any persons on the premises except in certain cases. These Regulations amend regulation 4(1) of the principal regulations with the effect that the persons responsible for the provision of education services are not required to take all reasonable measures to ensure the required distance is maintained between any two people where at least one of them is a pupil, where the premises being used are for the provision of school education. Despite this change to physical distancing requirements, relevant Scottish Government guidance for schools should be adhered to.

Physical distancing in cinemas

7. Regulation 4(11) of the principal regulations sets a required distance of at least 1 metre to be maintained in passenger transport service premises or a shop. A shop is defined as a building, room or other premises used for the retail sale or hire of goods or services but does not include banks, building societies, credit unions, short-term loan providers, savings clubs, cash points and undertakings which by way of business operate a currency exchange office, transmit money (or any representation of money) by any means or cash cheques which are made payable to customers. These Regulations amend the definition of shop to exclude cinemas and therefore, require those responsible for the business to ensure 2 metres physical distancing can be maintained within cinema premises. As above, duties in relation to physical distancing and relevant guidance should be adhered to.

Community centres

8. The Regulations revoke regulation 4(8) of the principal regulations which require the person responsible for a community centre to ensure that the community centre is closed except in specific circumstances. The effect of this amendment is that community centres can now re-open subject to physical distancing requirements.

Consultation

9. 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

10. An Equality Impact Assessment has been completed and is attached. Other Impact Assessments have not been prepared for this instrument. The provisions of the Regulations

are however subject to strict obligations on the Scottish Government to review their necessity.

Scottish Government
Directorate for Constitution and Cabinet
30 July 2020