
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 279

The Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020

PART 1

Introduction and review

Citation, commencement and application

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 and come into force on 14 September 2020.

(2) These Regulations apply in—

- (a) Scotland, and
- (b) Scottish airspace, in relation to a person who is on a mode of transport which took off from, or is to land at, a place in Scotland.

(3) In paragraph (2)—

“Scotland” includes so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Scotland,

“Scottish airspace” means the airspace above Scotland.

Interpretation

2.—(1) In these Regulations—

“child” means a person who is under 16 years of age, and “childcare” is to be construed accordingly,

“constable” has the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012⁽¹⁾,

“emergency responder” has the meaning given by section 153A(6) of the Inheritance Tax Act 1984⁽²⁾,

“extended household” means two households—

- (a) which have chosen to be treated as a single household for the purpose of—
 - (i) these Regulations, or
 - (ii) the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020⁽³⁾,and
- (b) have not already chosen to be treated as a single household with any other household,

⁽¹⁾ 2012 asp 8.

⁽²⁾ 1984 c.51. Section 153A(6) was inserted by section 75 of the Finance Act 2015 (c.11).

⁽³⁾ S.S.I. 2020/103. Schedule 2 of these Regulations revokes S.S.I. 2020/103.

“face covering” means a covering of any type (other than a face shield) which covers a person’s nose and mouth,

“household” means—

- (a) one person living alone, or
- (b) a group of persons living together in the same place as a family or other unit (whether or not related) and who have the place as their only or main residence,

“indoors” means a place which 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⁽⁴⁾ under the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006⁽⁵⁾, and “outdoors” is to be construed accordingly,

“passenger transport service” means a service provided for the carriage of passengers by road, railway, tramway, air or sea,

“passenger transport service premises” means off-road premises where a passenger transport service may stop or terminate, allowing passengers on and off,

“a person who is responsible for carrying on a business”, and similar expressions, includes the owner, occupier and manager,

“premises” includes any building or structure and any land,

“private dwelling” means a caravan, houseboat or any building, or part of a building, used or intended to be used as a dwelling (including any garden or yard and any indoor passage or stair, outhouse or other structure of the dwelling) but does not include—

- (a) accommodation in a hotel, hostel, members club, boarding house or bed and breakfast,
- (b) accommodation provided by a care home service, within the meaning of paragraph 2 of schedule 12 of the Public Services Reform (Scotland) Act 2010⁽⁶⁾,
- (c) accommodation for children at a residential establishment, within the meaning of section 93(1) of the Children (Scotland) Act 1995⁽⁷⁾,
- (d) school boarding accommodation, within the meaning of paragraph 10(5) of schedule 16 of the Coronavirus Act 2020⁽⁸⁾,
- (e) accommodation intended for use by the army, navy or air force,
- (f) a prison,
- (g) a young offenders institution, within the meaning of section 19(1)(b) of the Prisons (Scotland) Act 1989⁽⁹⁾,
- (h) secure accommodation, within the meaning of section 108 of the Criminal Justice (Scotland) Act 2016⁽¹⁰⁾,
- (i) a remand centre, within the meaning of section 19(1)(a) of the Prisons (Scotland) Act 1989,

“public place” means a place to which the public, or a section of the public, has access whether on payment or otherwise,

“student accommodation” has the meaning given in paragraph 11(5) of schedule 16 of the Coronavirus Act 2020.

⁽⁴⁾ 2005 asp 13.

⁽⁵⁾ S.S.I. 2006/90.

⁽⁶⁾ 2010 asp 8.

⁽⁷⁾ 1995 c.36, relevantly amended by S.I. 2013/1465.

⁽⁸⁾ 2020 c.7.

⁽⁹⁾ 1989 c.45.

⁽¹⁰⁾ 2016 asp 1, relevantly amended by section 23(1) of the Criminal Justice (Scotland) Act 2003 (asp 7).

(2) For the purpose of these Regulations, unless the context otherwise requires, references to a household include an extended household.

Review of restrictions and requirements

3.—(1) The Scottish Ministers must review the need for the restrictions and requirements imposed by these Regulations at least once every 21 days.

(2) The first review under paragraph (1) must be carried out by 1 October 2020.

(3) As soon as the Scottish Ministers consider that any restriction or requirement set out in these Regulations 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.

PART 2

Businesses and premises

Requirement to close certain premises to members of the public

4.—(1) A person who is responsible for carrying on a listed business must—

- (a) close to members of the public any premises operated as part of the business, and
- (b) not carry on business at such premises otherwise than in accordance with this regulation.

(2) In paragraph (1), “listed business” means—

- (a) a nightclub or discotheque,
- (b) a sexual entertainment venue,
- (c) an indoor theatre,
- (d) a concert hall, or
- (e) a soft play centre.

(3) Paragraph (1) does not prevent the use of—

- (a) premises, while those premises remain closed to members of the public, to—
 - (i) record a performance,
 - (ii) broadcast a performance to persons outside the premises, whether over the internet or as part of a radio or television broadcast, or
 - (iii) rehearse or otherwise prepare for a performance,
- (b) any suitable premises to host blood donation sessions.

(4) Paragraph (1) does not prevent the use of premises, while those remain closed to members of the public, to take preparatory steps in pursuance of a requirement in regulation 5(1).

(5) If a listed business (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirement in paragraph (1)(a) if it closes down business A.

(6) In paragraph (2), “sexual entertainment venue” has the meaning given by section 45A of the Civic Government (Scotland) Act 1982(11).

(11) 1982 c.45. Section 45A was inserted by section 76(3) of the Air Weapons and Licensing (Scotland) Act 2015 (asp 10).

Requirement to take measures to minimise risk of exposure to coronavirus

5.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service must take—

- (a) measures to ensure, so far as reasonably practicable, that—
 - (i) the required distance is maintained between any persons on its premises (except between persons mentioned in paragraph (2)),
 - (ii) persons are admitted to its premises in sufficiently small numbers to make it possible to maintain the required distance,
 - (iii) the required distance is maintained between any persons waiting to enter its premises (except between persons mentioned in paragraph (2)),
- (b) all other measures which are reasonably practicable to minimise the risk of the incidence and spread of coronavirus on the premises, for example measures which limit close face to face interaction and maintain hygiene such as—
 - (i) changing the layout of premises including the location of furniture and workstations,
 - (ii) controlling the use of entrances, passageways, stairs and lifts,
 - (iii) controlling the use of shared facilities such as toilets and kitchens,
 - (iv) otherwise controlling the use of, or access to, any other part of the premises,
 - (v) installing barriers or screens,
 - (vi) providing, or requiring the use of, personal protective equipment, and
 - (vii) providing information to those entering or working at the premises about how to minimise the risk of exposure to coronavirus.

(2) The persons mentioned in paragraph (1)(a)(i) and (iii) are—

- (a) two or more members of the same household,
- (b) a carer and the person assisted by the carer, or
- (c) in relation to premises being used to provide school education, two or more persons where at least one of them is a pupil.

(3) In this regulation—

“carer” includes a person who provides care for the person assisted whether that care is provided—

- (a) by a carer within the meaning of section 1 of the Carers (Scotland) Act 2016⁽¹²⁾,
- (b) on a paid basis, or
- (c) on a voluntary basis,

“pupil” has the meaning given by section 135(1) of the Education (Scotland) Act 1980⁽¹³⁾,

“required distance” means—

- (a) in relation to reduced distance premises, at least one metre, or
- (b) in all other cases, at least two metres,

“school education” has the meaning given by section 1(5)(a) of the Education (Scotland) Act 1980⁽¹⁴⁾.

⁽¹²⁾ 2016 asp 9.

⁽¹³⁾ 1980 c.44.

⁽¹⁴⁾ Section 1(5)(a) was amended by schedule 3 of the Standards in Scotland’s Schools etc. Act 2000 (asp 6), paragraph 3(2)(a) of schedule 3 of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) and paragraph 2(2)(c) of schedule 5 of the Children and Young People (Scotland) Act 2014 (asp 8).

- (4) In the definition of “required distance” in paragraph (3), “reduced distance premises” means—
- (a) passenger transport service premises, or
 - (b) a building, room or other premises used for the retail sale or hire of goods, including—
 - (i) restaurants, including restaurants and dining rooms in hotels or members’ clubs,
 - (ii) cafes, including workplace canteens,
 - (iii) bars, including bars in hotels or members’ clubs,
 - (iv) public houses.

Requirement to collect and share information: restaurants, cafes, bars, public houses, etc.

6.—(1) A person who is responsible for a relevant hospitality premises must, in relation to the premises, take measures to—

- (a) obtain and record visitor information,
- (b) record visitor information in a filing system (which may be an electronic system) suitable for recording, storing and retrieving the information,
- (c) retain visitor information for a period of at least 21 days beginning with the date on which the visit occurred.

(2) A person who is responsible for a relevant hospitality premises must provide visitor information to a public health officer, as soon as reasonably practicable but in any event within 24 hours, if so requested by the public health officer for the purpose of—

- (a) preventing a threat to public health resulting from the spread of infection or contamination with coronavirus,
- (b) monitoring the spread of infection or contamination with coronavirus or the incidence of coronavirus disease.

(3) In this regulation—

“public health officer” has the meaning given by paragraph 3(2)(b) of schedule 21 of the Coronavirus Act 2020,

“relevant hospitality premises” means—

- (a) a restaurant, cafe, bar or public house, or
- (b) a hotel in which food or drink is sold for consumption on the premises,

“visitor information” means—

- (a) the name and telephone number of one member of each household visiting the premises,
- (b) the date of their visit and arrival time,
- (c) the number of members of that person’s household visiting the premises at that time.

Guidance on minimising exposure to coronavirus

7.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service must have regard to guidance issued by the Scottish Ministers about measures which should be taken in accordance with regulation 5(1)(b) relating to its premises, business or service.

(2) Guidance issued by the Scottish Ministers may—

- (a) make different provision for different cases or descriptions of case,
- (b) incorporate (by reference or transposition) guidance, codes of practice or other documents published by another person (for example, a trade association, a body representing members of an industry or a trade union).

(3) Regulation 14 (enforcement of requirements) does not apply to a contravention of the requirement in paragraph (1).

PART 3

Restrictions on gatherings

Restriction on public gatherings

- 8.—(1) A person must not participate in a gathering in a public place, unless the gathering—
- (a) consists of no more than six persons from no more than two households,
 - (b) is for the purpose of—
 - (i) work or providing voluntary or charitable services,
 - (ii) childcare, education or training,
 - (iii) attending a place of worship,
 - (iv) facilitating a house move,
 - (v) an organised activity which—
 - (aa) takes place outdoors, or
 - (bb) is for persons under 18 years of age (whether indoors or outdoors),
 - (vi) organised exercise,
 - (c) relates to a funeral, marriage ceremony or civil partnership registration,
 - (d) is taking place in student accommodation, where all the persons in the gathering—
 - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
 - (ii) have the accommodation as their only or main residence.
- (2) In this regulation, “gathering” means a situation where two or more persons, who are not members of the same household, are present together in a place in order to engage in any form of social interaction with each other.
- (3) For the purpose of paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons participating in a gathering but are to be included when counting the number of households participating in a gathering.
- (4) For the purpose of paragraph (1)(b)(v) and (vi), an activity or exercise is “organised” if it is organised by—
- (a) a person who is responsible for carrying on a business or providing a service,
 - (b) a person who is responsible for a place of worship,
 - (c) a charity or other not for profit organisation,
 - (d) a club or political organisation, or
 - (e) the governing body of a sport or other activity.

Restriction on gatherings in private dwellings

- 9.—(1) A person must not attend a gathering in a private dwelling, unless the gathering—
- (a) consists of no more than six persons from no more than two households,
 - (b) is for the purpose of—

- (i) work or providing voluntary or charitable services,
- (ii) childcare, education or training,
- (iii) facilitating a house move,
- (c) is a funeral, marriage ceremony or civil partnership registration,
- (d) is taking place in student accommodation, where all the persons in the gathering—
 - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
 - (ii) have the accommodation as their only or main residence.
- (2) For the purpose of paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons attending a gathering but are to be included when counting the number of households attending a gathering.
- (3) In this regulation, “gathering” has the meaning given by regulation 8(2).

Restriction on parties in private dwellings

- 10.**—(1) A person must not attend a party in a private dwelling.
- (2) In paragraph (1), “party” means a social gathering where 16 or more persons, who are members of more than one household, are present together in a place, unless the gathering is—
- (a) for the purpose of—
 - (i) work or providing voluntary or charitable services,
 - (ii) childcare, education or training,
 - (b) a funeral, marriage ceremony or civil partnership registration,
 - (c) taking place in student accommodation, where all the persons in the gathering—
 - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
 - (ii) have the accommodation as their only or main residence.
- (3) For the purpose of the definition of “party” in paragraph (2), children under 12 years of age are not to be included when counting the number of persons attending a gathering but are to be included when counting the number of households attending a gathering.

Power to enter a private dwelling

- 11.**—(1) A constable may enter a private dwelling if—
- (a) the constable reasonably suspects that—
 - (i) there is a contravention of regulation 9 or 10 going on there, and
 - (ii) it is necessary and proportionate to enter the dwelling for the purpose of preventing the continuation of the contravention, and
 - (b) a condition in paragraph (2) or (3) is met.
- (2) Where the constable reasonably suspects that there is a contravention of regulation 9 going on at the private dwelling, the condition mentioned in paragraph (1)(b) is that either—
- (a) the person who appears to be the occupier of the dwelling has consented, or
 - (b) the entry is effected under the authority of a warrant issued under paragraph (7).
- (3) Where the constable reasonably suspects that there is a contravention of regulation 10 going on at the private dwelling, the condition mentioned in paragraph (1)(b) is that—

- (a) the constable has requested any person reasonably suspected to be contravening regulation 10 to stop doing so, and
- (b) the person has failed to comply with the request.
- (4) The power of entry in this regulation—
 - (a) may be exercised at any time, and
 - (b) includes the power to use reasonable force.
- (5) The constable must, if requested to do so, provide a document or any other thing showing the constable's authority to exercise the power of entry in this regulation.
- (6) Paragraph (7) applies where—
 - (a) a constable has been refused entry or reasonably anticipates being refused entry, or
 - (b) the occupier of the dwelling is temporarily absent and the constable considers the situation to be urgent.
- (7) A sheriff or justice of the peace may by warrant authorise a constable to enter the private dwelling.
- (8) A warrant under this regulation continues in force until the purpose for which it is issued is fulfilled.

PART 4

Face coverings

Requirement to wear face coverings on public transport

- 12.—**(1) A person who uses a passenger transport service or passenger transport service premises must wear a face covering, unless the person is—
- (a) on a school transport service,
 - (b) on a cruise ship,
 - (c) a child who is under 5 years of age,
 - (d) a constable acting in the course of their duty,
 - (e) an emergency responder (other than a constable) acting in their capacity as an emergency responder,
 - (f) providing a passenger transport service, or an employee of that person, and—
 - (i) there is a partition between the person or employee and members of the public, or
 - (ii) the wearing of a face covering would materially impede communicating with other persons about a risk of harm or for other safety purposes,
 - (g) flying or otherwise operating a passenger transport service for the carriage of passengers by air,
 - (h) on a ferry, where—
 - (i) the person is on part of the ferry which is entirely outdoors, or
 - (ii) a distance of at least two metres is maintained between the person and other persons,
 - (i) seeking medical assistance, and—
 - (i) the wearing of a face covering would materially impede the seeking of the assistance,
 - or

- (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
 - (j) providing care or assistance to a vulnerable person, including emergency assistance, where—
 - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
 - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
 - (k) acting to avoid injury, or illness or to escape a risk of harm, where—
 - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
 - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
 - (l) unable to put on, wear or remove a face covering—
 - (i) because of any physical or mental illness or impairment or disability (within the meaning of section 6 of the Equality Act 2010⁽¹⁵⁾), or
 - (ii) without severe distress,
 - (m) communicating with a person who has difficulties communicating (in relation to speech, language or otherwise) and relies on lip reading or facial expression to be able to communicate,
 - (n) eating or drinking,
 - (o) taking medication, the taking of which reasonably requires that the person is not wearing a face covering,
 - (p) complying with a request by a relevant person or another person acting in the course of their duties, and in this sub-paragraph “relevant person” has the meaning given by regulation 14(10).
- (2) For the purpose of paragraph (1)—
- (a) a person uses a passenger transport service when—
 - (i) they are—
 - (aa) boarding any mode of transport by means of which a passenger transport service is provided, or
 - (bb) on board any mode of transport, whether or not for the purpose of travel, by means of which a passenger transport service is provided, and
 - (ii) that service is available for use by the public,
 - (b) a person uses passenger transport service premises when—
 - (i) they are present at premises where a passenger transport service may provide, stop or terminate their service, and
 - (ii) the part of those premises in which they are present is available for use by the public.

Requirement to wear face coverings in certain indoor public places

13. A person who enters or remains within a place listed in schedule 1 must wear a face covering, unless the person is—

(15) 2010 c.15.

- (a) a child who is under 5 years of age,
- (b) a constable acting in the course of the constable's duty,
- (c) an emergency responder (other than a constable) acting in the person's capacity as an emergency responder,
- (d) a person who is responsible for a place listed in schedule 1, an employee of that person or a volunteer at that place, where—
 - (i) there is a partition between the person, employee or volunteer and members of the public, or
 - (ii) a distance of at least two metres is maintained between the person, employee or volunteer and members of the public,
- (e) in a restaurant, cafe, bar or public house and seated at a table,
- (f) in a place of worship and leading an act of worship where—
 - (i) there is a partition between the person and any other person, or
 - (ii) a distance of at least two metres is maintained between the person and any other person,
- (g) at a funeral, marriage ceremony or civil partnership registration and leading the service, ceremony or registration where—
 - (i) there is a partition between the person and any other person, or
 - (ii) a distance of at least two metres is maintained between the person and any other person,
- (h) seeking medical assistance, and—
 - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
 - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
- (i) providing care or assistance to a vulnerable person, including emergency assistance, where—
 - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
 - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
- (j) acting to avoid injury, or illness or to escape a risk of harm, where—
 - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
 - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
- (k) unable to put on, wear or remove a face covering—
 - (i) because of any physical or mental illness or impairment or disability (within the meaning of section 6 of the Equality Act 2010), or
 - (ii) without severe distress,
- (l) communicating with a person who has difficulties communicating (in relation to speech, language or otherwise) and relies on lip reading or facial expression to be able to communicate,
- (m) eating or drinking,

- (n) taking part in exercise of a type which reasonably requires that the person is not wearing a face covering,
- (o) taking medication, the taking of which reasonably requires that the person is not wearing a face covering,
- (p) complying with a request by a relevant person or another person acting in the course of their duties, and in this sub-paragraph “relevant person” has the meaning given by regulation 14(10),
- (q) undertaking food handling tasks, to avoid risk to the hygiene or safety of food arising from or in connection with the wearing of a face covering.

PART 5

Enforcement

Enforcement of requirements

14.—(1) A relevant person may take such action as is necessary to enforce any requirement imposed by these Regulations.

(2) A relevant person may give a prohibition notice to a person if the relevant person reasonably believes that—

- (a) the person is contravening a requirement in these Regulations, and
- (b) it is necessary and proportionate to give the prohibition notice for the purpose of preventing that person from continuing to contravene the requirement.

(3) Where the person contravening a requirement in these Regulations is a child accompanied by an individual who has responsibility for the child—

- (a) the relevant person may direct that individual to take the child to the place where they are living, and
- (b) that individual must, so far as reasonably practicable, ensure that the child complies with a direction or instruction given by the relevant person to the child.

(4) Where a relevant person has reasonable grounds to believe that a child is repeatedly failing to comply with a restriction in regulation 8, 9 or 10, the relevant person may direct any individual who has responsibility for the child to secure, so far as reasonably practicable, that the child complies with that restriction.

(5) For the purpose of this regulation, an individual has responsibility for a child if the individual has—

- (a) care or control of the child for the time being, or
- (b) parental responsibilities, within the meaning of section 1(3) of the Children (Scotland) Act 1995(16), in relation to the child.

(6) Where a relevant person considers that persons are gathered together in contravention of regulation 8, 9 or 10, the relevant person may—

- (a) direct the gathering to disperse,
- (b) direct any person in the gathering to return to the place where the person is living, or
- (c) remove any person in the gathering to the place where the person is living.

(7) A relevant person may only exercise a power in paragraph (3), (4) or (6) if the relevant person considers that it is a necessary and proportionate means of ensuring compliance with the requirement.

(8) A relevant person exercising a power under paragraph (3), (4) or (6) may give the person concerned any reasonable instructions the relevant person considers necessary.

(9) A constable, exercising the power in paragraph (6)(c) to remove a person to the place where the person is living, may use reasonable force, if necessary, in exercise of the power.

(10) For the purpose of this regulation, a “relevant person” means—

- (a) a constable, or
- (b) subject to paragraph (11), a person designated by a local authority.

(11) A local authority may only designate a person for the purpose of this regulation in relation to a requirement in regulation 4, 5 or 6.

(12) For the purpose of this Part, references to a requirement include references to a restriction.

Offences and penalties

15.—(1) It is an offence for a person to contravene regulations 4, 5(1)(a), 6, 8, 9, 10, 12 or 13.

(2) It is an offence for a person to obstruct any person carrying out a function under these Regulations.

(3) It is an offence for a person to—

- (a) contravene a direction given under regulation 14, or
- (b) fail to comply with an instruction or prohibition notice given under regulation 14.

(4) It is a defence to a charge of committing an offence under paragraph (1), (2) or (3) to show that the person, in the circumstances, had a reasonable excuse.

(5) A person who commits an offence under this regulation is liable, on summary conviction, to a fine not exceeding the statutory maximum.

(6) If an offence under this regulation committed by a body corporate is proved to—

- (a) have been committed with the consent or connivance of an officer of the body, or
- (b) be attributable to any neglect on the part of such an officer,

the officer (as well as the body corporate) commits the offence and is liable to be prosecuted and proceeded against and punished accordingly.

(7) In paragraph (6), “officer” in relation to a body corporate means in the case of—

- (a) a company—
 - (i) a director, secretary, manager or similar officer, or
 - (ii) where the affairs of the company are managed by its members, a member,
- (b) a limited liability partnership, a member,
- (c) a partnership other than a limited liability partnership, a partner, or
- (d) another body or association, a person who is concerned in the management or control of its affairs.

Fixed penalty notices

16.—(1) A constable may issue a fixed penalty notice to a person the constable reasonably believes—

- (a) has committed an offence under these Regulations, and

(b) is 18 years of age or over.

(2) 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.

(3) The penalty payable in respect of a fixed penalty notice, subject to paragraphs (4) and (5), is £60.

(4) Unless paragraph (5) 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).

(5) If the person to whom a fixed penalty notice is given has already received a fixed penalty notice under these Regulations—

(a) paragraph (4) 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 £960.

(6) For the purpose of paragraph (5), a fixed penalty notice issued under the following provisions is to be treated as if it were issued under these Regulations—

(a) regulation 9 of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020(17),

(b) regulation 8 of the Health Protection (Coronavirus, Restrictions) (Aberdeen City) Regulations 2020(18),

(c) regulation 13 of the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020(19).

(7) For the purpose 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(20), as provided for in sections 129 to 134 of that Act and sections 226B and 226I of the Criminal Procedure (Scotland) Act 1995(21), subject to the modifications in paragraph (8).

(8) 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,

(17) S.S.I. 2020/103. Schedule 2 of these Regulations revokes S.S.I. 2020/103.

(18) S.S.I. 2020/234, as amended by S.S.I. 2020/253.

(19) S.S.I. 2020/262.

(20) 2004 asp 8.

(21) 1995 c.46. Sections 226B and 226I were inserted by section 55 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6). Sections 226B and 226I have been amended but none of the amendments are relevant to these Regulations.

- (e) the references to “section 129” in section 131(1) and section 133(1) are to be construed as references to this regulation,
- (f) in section 131(5)—
 - (i) the reference to “in accordance with this Part” is to be construed as a reference to these Regulations, and
 - (ii) 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) in section 226B(5)(a)(ii) of the Criminal Procedure (Scotland) Act 1995—
 - (i) the reference to “by virtue of section 131(5) of the Antisocial Behaviour etc. (Scotland) Act 2004” is to be construed as a reference to that section as modified by this paragraph, and
 - (ii) the reference to “a fixed penalty notice given under section 129 (fixed penalty notices) of that Act” is to be construed as a reference to section 129 of the Antisocial Behaviour etc. (Scotland) Act 2004 as modified by this paragraph.

PART 6

Expiry and revocations

Expiry

17.—(1) These Regulations expire on 31 March 2021.

(2) This regulation does not affect the validity of anything done pursuant to these Regulations before they expire.

Revocations

18. The Regulations listed in column 1 of the table in schedule 2 are revoked to the extent specified in the corresponding entry in column 3 of the table.

St Andrew’s House,
Edinburgh
At 10.58 a.m. on 11th September 2020

MICHAEL RUSSELL
A member of the Scottish Government