

Regulations made by the Scottish Ministers and laid before the Scottish Parliament under paragraph 6(3) of schedule 19 of the Coronavirus Act 2020 for approval by resolution of the Scottish Parliament within 28 days beginning with the day on which the Regulations were made, not taking into account any period of dissolution or recess for more than 4 days.

SCOTTISH STATUTORY INSTRUMENTS

2020 No. 325

PUBLIC HEALTH

The Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Amendment Regulations 2020

Made - - - - at 1.50 p.m. on 15th October 2020

Laid before the Scottish Parliament at 4.00 p.m. on 15th October 2020

Coming into force in accordance with regulation 1(2) and (3)

The Scottish Ministers make the following Regulations in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020(a) (“the Act”) and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with paragraph 6(2) and (3) of schedule 19 of the Act, the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft having been laid before, and approved by, a resolution of the Scottish Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Amendment Regulations 2020.

(2) Subject to paragraph (3), these Regulations come into force on 16 October 2020.

(3) Regulations 2(3) and (4) come into force on 19 October 2020.

Amendment of the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020

2.—(1) The Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020(a) are amended as follows.

(2) In regulation 24 (requirement to wear face coverings in certain indoor public places)—

(a) at the beginning of paragraph (d), insert “subject to regulation 24A,”,

(b) after paragraph (g), insert—

“(ga) at a marriage ceremony or civil partnership registration and is one of the parties to be married or entering into a civil partnership, where—

(i) there is a partition between the parties and any other person, or

(ii) a distance of at least two metres is maintained between the parties and any other person,”.

(3) After regulation 24, insert—

“Requirement to wear face coverings in communal areas in indoor workplaces

24A.—(1) A person who enters or remains within an indoor communal area in a workplace must wear a face covering, unless the person is—

(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) in an area where there are measures in place to keep that person separated from any other person by a—

(i) partition, or

(ii) distance of at least two metres,

(e) 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,

(f) 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,

(g) 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,

(a) S.S.I. 2020/318.

- (h) 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^(a)), or
 - (ii) without severe distress,
- (i) 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,
- (j) eating or drinking,
- (k) taking part in exercise of a type which reasonably requires that the person is not wearing a face covering,
- (l) taking medication, the taking of which reasonably requires that the person is not wearing a face covering,
- (m) 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 25(10),
- (n) 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, or
- (o) undertaking tasks in the course of their employment, where the wearing of a face covering would cause a material risk of harm.

(2) In this regulation—

“communal area” means an area where persons mingle or gather, such as—

- (a) passageways,
- (b) stairs,
- (c) lifts,
- (d) staff rooms,
- (e) training rooms,
- (f) changing rooms, or
- (g) entrances,

“school” has the meaning given by section 135(1) of the Education (Scotland) Act 1980^(b),

“workplace” excludes a school.”.

(4) In regulation 26 (offences and penalties), for “or 24” substitute “, 24 or 24A”.

(5) In paragraph 1(b) of the schedule (places where face coverings must be worn), for “except” substitute “including”.

JEANE FREEMAN

A member of the Scottish Government

St Andrew’s House,
Edinburgh
At 1.50 p.m. on 15th October 2020

^(a) 2010 c.15.

^(b) 1980 c.44, amended by section 2 of the Registered Establishments (Scotland) Act 1987 (c.40) and schedule 3 of the Standards in Scotland’s Schools etc. Act 2000 (asp 6).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020 (“the principal regulations”).

Regulation 2(5) amends the principal regulations to provide that face coverings must be worn in workplace canteens.

Regulation 2(2)(b) adds new paragraph (ga) to regulation 24 of the principal regulations, to provide that the parties to a marriage ceremony or civil partnership registration do not have to wear face coverings for the duration of the ceremony or registration, provided that there is either a partition between the parties and any other person or alternatively, a distance of at least two metres is maintained between the parties and any other person. There is no requirement for a partition, or a distance of at least two metres, to be maintained between the parties to the marriage ceremony or civil partnership registration.

Regulation 2(3) inserts a new regulation 24A into the principal regulations, to require persons to wear a face covering when in indoor communal areas in workplaces. This duty does not apply in certain circumstances or to certain groups of people, such as children under 5 years of age.

In accordance with the provision in the principal regulations about face coverings in certain indoor public places, regulation 2(4) creates offences connected to contravening new regulation 24A by failing to wear a face covering when in an indoor communal area in a workplace and where none of the exceptions apply. Regulation 26(4) of the principal regulations provides a defence where the person has a reasonable excuse.

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