

2021 No. 1

PUBLIC HEALTH

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021

Approved by the Scottish Parliament

Made - - - - 4th January 2021

Coming into force - - 5th January 2021

Laid before the Scottish Parliament 5th January 2021

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. These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021 and come into force on 5 January 2021.

Amendment of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020

2. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(b) are amended in accordance with regulations 3 to 4.

(a) 2020 c.7.

(b) S.S.I. 2020/344, amended by S.S.I. 2020/347, S.S.I. 2020/374, S.S.I. 2020/389, S.S.I. 2020/392, S.S.I. 2020/400, S.S.I. 2020/415, S.S.I. 2020/427, S.S.I. 2020/439, S.S.I. 2020/452 and S.S.I. 2020/471.

Amendment to Part 3 (enforcement)

3. In regulation 4 (enforcement of requirements), after paragraph (7), insert—

“(7A) Where a relevant person considers that a person is outside the place where that person is living, the relevant person may—

- (a) direct that person to return to the place where they are living, or
- (b) remove that person to the place where they are living.

(7B) A constable, exercising the power in paragraph (7A)(b) to remove a person to the place where that person is living, may use reasonable force, if necessary, in exercise of the power.”.

Amendment to Level 4: restrictions on gatherings and requirement to stay at home

4. In schedule 5 (level 4 restrictions)—

(a) in paragraph 11 (restriction on public gatherings indoors in a level 4 area) in sub-paragraph (1)(a), for “six” substitute “two”,

(b) in paragraph 12 (restriction on public gatherings outdoors in a level 4 area)—

(i) for sub-paragraph (1)(a) substitute—

“(a) consists of no more than two persons from different households,”

(ii) omit sub-paragraph (1)(b),

(iii) omit sub-paragraph (1)(d)(xii),

(iv) in sub-paragraph (1)(d)(xiii) for “18” substitute “12”, and

(v) in sub-paragraph (3) omit “(1)(d)(xii) and”,

(c) in paragraph 13 (restriction on gatherings in private dwellings in a level 4 area)—

(i) for sub-paragraph (1)(a) substitute—

“(a) takes place outdoors and consists of no more than two persons from different households,” and

(ii) omit sub-paragraph (1)(b)(i),

(d) omit paragraph 14 (restrictions on leaving level 4 area),

(e) for paragraph 16(1) (examples of reasonable excuse) substitute—

“16.—(1) For the purposes of regulation 15, examples of what constitutes a reasonable excuse (see regulation 5(4)) include entering or remaining in a Level 4 area that the person does not live in, for the purposes set out in sub-paragraph (2).” and

(f) after paragraph 16 (examples of reasonable excuse) insert—

“Requirement to stay at home in Level 4 areas

17.—(1) A person who is living in a Level 4 area must not leave the place where that person is living.

(2) For the purposes of sub-paragraph (1), the place where a person is living includes the premises where they live together with any garden, yard, passage, stair, garage, outhouse or other appurtenance of such premises.

(3) Sub-paragraph (1) does not apply to any person who is homeless.

Examples of reasonable excuse

18.—(1) For the purposes of regulation 17, examples of what constitutes a reasonable excuse (see regulation 5(4)) include leaving the place where the person is living, for the purposes set out in sub-paragraph (2).

(2) The purposes are to—

- (a) obtain or provide—
 - (i) food and medical supplies for those in the same household (including animals in the household) or for vulnerable persons,
 - (ii) supplies for the essential upkeep, maintenance and functioning of the household, or the household of a vulnerable person,
- (b) work or provide voluntary or charitable services, where it is not possible for the person to do so from home,
- (c) access, provide or receive childcare, education or training, including a support service for parents or expectant parents,
- (d) lead an act of worship,
- (e) provide care or assistance to a vulnerable person,
- (f) visit a person detained in a prison, young offenders institution, remand centre, secure accommodation or other place of detention,
- (g) provide or receive emergency assistance,
- (h) provide or obtain medical assistance, including accessing any of the following—
 - (i) audiology services,
 - (ii) chiropody services,
 - (iii) chiropractic services,
 - (iv) dental services,
 - (v) ophthalmic services,
 - (vi) osteopathic services,
 - (vii) services relating to mental health,
 - (viii) vaccination services,
- (i) accompany a person obtaining medical assistance, or visit a person receiving treatment in a hospital or who is residing in a hospice or care home,
- (j) avoid injury, illness or other risk of harm, or support someone who is doing so,
- (k) move home or undertake activities in connection with the maintenance, purchase, sale, letting, or rental of residential property that the person owns or is otherwise responsible for,
- (l) participate in or facilitate shared parenting arrangements,
- (m) fulfil a legal obligation or participate in legal proceedings where it is not possible for the person to do so from the place where the person is living,
- (n) vote, or register to vote, in an election (including to vote as proxy),
- (o) donate blood,
- (p) access public services, including any of the following, where it is not possible for the person to do so from the place where the person is living—
 - (i) social services,
 - (ii) services provided by the Department for Work and Pensions,
 - (iii) services provided to victims (such as victims of crime),
 - (iv) asylum and immigration services and interviews,
- (q) access services provided by voluntary or charitable services, including food banks,
- (r) access waste disposal or recycling facilities,
- (s) obtain money from or deposit money with a business mentioned in paragraph 2(3)(j) or (k), where it is not possible for the person to do so from the place where the person is living,
- (t) undertake exercise or recreation—

- (i) outdoors,
- (ii) that starts and ends at the same place, which place must be—
 - (aa) in the local government area in which that person lives, or
 - (bb) within 5 miles of such local government area, and
- (iii) is either undertaken—
 - (aa) alone,
 - (bb) with members of that person’s household,
 - (cc) in a gathering within the meaning of paragraph 12(1)(a), (b) or (c),
 - (dd) in a gathering within the meaning of paragraph 12(1)(d)(xiii),
 - (ee) in a gathering within the meaning of paragraph 13(1)(a), or
 - (ff) in a gathering within the meaning of paragraph 13(1)(b)(i) or (ii),
- (u) where the person is a professional sports person, or the coach of a professional sports person, coach, train or compete,
- (v) attend a solemnisation of a marriage or registration of a civil partnership,
- (w) attend a funeral or to travel for compassionate reasons which relate to the end of a person’s life,
- (x) feed or care for an animal, including obtaining veterinary services,
- (y) where the person is a member of an extended household, visit a member of the household which forms the other part of the extended household in the place where that other member is living, and
- (z) facilitate the formation of an end of term household, where either or both of the student or the other household which will make up the end of term household live outwith the same area or, as the case may be, in a Level 4 area.”.

MICHAEL RUSSELL
A member of the Scottish Government

St Andrew’s House,
Edinburgh
4th January 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (“the Local Levels Regulations”). These Regulations come into force on 5 January 2021.

Regulation 3 adds new paragraphs (7A) and (7B) into regulation 4 of the Local Levels Regulations to add to the enforcement powers of a constable. The amendment permits a relevant person, where they consider that a person is outside the place where they are living, to direct the person to return to the place where they are living or remove the person to that place. It also permits a constable, when exercising that power to remove a person, to use reasonable force, if necessary. The definition of “relevant person” in regulation 4(11) of the Local Levels Regulations means that this new power is only available to a constable and not a person designated by a local authority.

Regulations 4(a) and 4(b) amend paragraphs 11 and 12 of schedule 5 of the Local Levels Regulations so that the number of persons (including persons aged 12 to 17 years old) that may participate in either an indoor or an outdoor public gathering in a Level 4 area is reduced from six to two, but still from no more than two households. Regulation 4(b) also reduces the list of permitted purposes for outdoor public gatherings. In particular, regulation 4(b)(ii) removes the purposes of organised exercise which is either not a contact sport or is for persons under 18 years of age but which is not a public procession. The purpose of organised activity for persons under 12 years of age has been retained. As such, regulation 4(b)(iv) also makes a consequential amendment to the relevant definition of “organised”. Regulation 4(c) amends paragraph 13 of schedule 5 so that the number of persons (including persons aged 12 to 17 years old) that may participate in an outdoor gathering in a private dwelling is reduced from six to two.

Regulation 4(d) omits paragraph 14 of schedule 5 (restrictions on leaving level 4 area). Regulation 4(f) inserts new paragraphs 17 and 18 replacing restrictions on movement into a Level 4 area with a prohibition on a person who lives in a Level 4 area leaving the place where they live unless they have a reasonable excuse as listed in new paragraph 18.

An Equality Impact Assessment has been prepared. Copies may be obtained online at www.legislation.gov.uk.

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