

The Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (No. 2) (Scotland) Regulations 2021

ISLAND COMMUNITIES IMPACT ASSESSMENT

PURPOSE AND INTENDED EFFECT

Background

This Island Communities Impact Assessment (ICIA) is focused on the policy for amendments made by the Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2021 (“the Regulations”) to the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (“the Principal Regulations”). This ICIA also considers the extension of the expiry date of The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 (“the Directions Regulations”) made by the Regulations.

These Regulations extend the expiry date of the Principal Regulations and the Directions Regulations from 31 March 2021 to 30 September 2021. These changes bring the expiry of both instruments into line with the proposed extension of the Coronavirus (Scotland) Acts.

These Regulations remove the holiday gathering provisions as the period in which these provisions apply has now passed and they are no longer required. They also adjust the provisions relating to end of term households given semester 2 is now underway and many students have remained in their end of term household.

These Regulations adjust the restrictions on public libraries to ensure they can open in Level 4 areas for the purpose of providing free computer and internet access, where an appointment has been booked.

These Regulations remove the restriction on child contact centres, which meant they were required to close by law. This change is to ensure there is greater flexibility for children and families who require the use of these facilities for the safe and managed interaction between individuals.

These Regulations adjust the Principal Regulations to include a new definition of professional sportsperson and to clarify the use of premises, for the purposes of performances and for professional and non-professional sport, that are otherwise required to be closed to the public.

Regulations

These Regulations extend the expiry dates of the Principal Regulations and the Directions Regulations from 31 March 2021 to 30 September 2021. This change brings the expiry into line with the proposed extension of the Coronavirus (Scotland) Acts. We are still in a phase of the pandemic where restrictions are absolutely necessary and outbreak management remains the principal tool for control and suppression of the virus. The approach of applying different levels of restrictions to various

geographical areas is not a short term strategy, and the use of levels is expected to be required to slowly reduce restrictions well beyond the end of March. The importance of enabling action to be taken swiftly at a local level is still just as essential as it was when Directions Regulations were first brought forward. The Directions Regulations increase confidence that it is safe for sectors to be open and operate. Local action to control or close the premises or businesses at the centre of an outbreak is still, in most cases, one of the most efficient and proportionate responses and can avoid Scottish Ministers having to implement more wide-ranging and restrictive measures for full industries or sectors. While case numbers are still high, it is essential that any of the tools available to control or suppress the virus are not lost.

These Regulations remove provisions relating to holiday gatherings as the period in which these provisions apply has now passed and they are no longer required. The holiday gathering provisions applied on 25 December and allowed some increased socialisation on this date only.

The Regulations also adjust the provisions on formation of end of term households. Previously, they allowed students to form a new end of term household between semester one and semester two, over the festive break, but as semester two is now underway, the provisions have been adjusted. This ensures students who have remained in that household, due to lockdown and remote learning, are able to continue to remain in that household despite the festive break being over.

These Regulations adjust the Principal Regulations to include a new definition of professional sportsperson. The new definition makes clear that only those who train or compete in a sport for which a Resumption of Performance Sport Plan fall into the professional sportsperson category. This closes a loophole and brings the legislation into line with the true policy intention. Amendments have also been made to clarify the use of premises, for the purposes of performances and for professional and non-professional sport, that are otherwise required to be closed to the public. It clarifies that indoor fitness studios, gyms, swimming pools and other indoor fitness centres and facilities can only be open for specific purposes related to performances and professional sports.

These Regulations adjust the restrictions on public libraries to ensure they can open in Level 4 areas for the purpose of providing free computer and internet access, where an appointment has been booked.

These Regulations remove the restriction on child contact centres, which meant they were required to close by law. This change is to ensure there is greater flexibility for children and families who require the use of these facilities for the safe and managed interaction between individuals. Revised guidance will reflect that child contact centres are recommended to only provide essential services in person.

These changes will come into effect on 5 March 2021.

Objective

The measures contained in the Regulations are required for a number of purposes, all of which are intended to contribute to controlling the spread of Covid 19.

The extension of the Principal Regulations ensures we have the ability to apply differing levels of restrictions to various geographical areas is still possible as we move out of the current “lockdown”. This ensures more targeted action can be taken in areas with higher prevalence and areas such as the highlands and islands do not have to endure the same level of restrictions in areas where case numbers are low. On this basis it is important to retain these regulations.

The extension of the Directions Regulations ensures that local action to control outbreaks can continue. Local action to control or close the premises or businesses at the centre of an outbreak is still, in most cases, one of the most efficient and proportionate responses and can avoid Scottish Ministers having to implement more wide-ranging and restrictive measures for full industries or sectors.

The adjusted definition of professional sports person makes it clear that only those who train or compete in a sport for which a Resumption of Performance Sport Plan fall into the professional sports person category. This brings the legislation into line with the true policy intention and ensures that professional sportspeople whose participate in sports without a Resumption of Performance Sport Plan are not able to do so until such a plan exists for the same resumption of that sport. The changes also ensure that the use of gyms and other indoor fitness centres is restricted to the purposes of performance and professional sports.

These Regulations remove the restriction on child contact centres, which meant they were required to close by law. This change is to ensure there is greater flexibility for children and families who require the use of these facilities for the safe and managed interaction between individuals. Revised guidance will reflect that child contact centres are recommended to only provide essential services in person. This could be where it is not possible for virtual contact to take place either due to the age of the child concerned or due to safety concerns for either parent or the child themselves. The guidance will also say that where it is not considered essential for contact to take place in person then virtual communication should be facilitated where possible. The guidance will be kept under regular review.

These Regulations adjust the restrictions on public libraries to ensure they can open in Level 4 areas for the purpose of providing free computer and internet access, where an appointment has been booked. The purpose of the amendment is to address issues around access to IT services for those that may not have access to at home and the disadvantage of digital exclusion during the pandemic. IT service access is currently only permitted for university and college libraries in Scotland at level 4. We understand that this may affect individuals from lower income backgrounds (especially in areas of high SIMD) and older people who rely on internet access in public libraries for essential personal finance, such as checking and paying bills and to contact family and friends. Lack of access could also potentially see negative impacts on children and younger people who use IT access in libraries for educational purposes.

While the Scottish Government is of the view that restrictions on businesses and individuals are currently justified and a proportionate means of helping to achieve the legitimate aim of reducing the public health risks posed by coronavirus, thereby safeguarding the right to life, it is also recognised that these measures are only

required to respond to the current set of circumstances, and are only necessary as long as the potential public health benefits can justify any negative impacts caused.

GATHERING DATA AND IDENTIFYING STAKEHOLDERS

Due to the need to put measures in place quickly, no specific consultation with island communities has been undertaken. The Island Communities Impact Assessment prepared for COVID-19 Route Map Phase 3 has been a valuable resource in highlighting not just the current situation in the islands but also potential differences between islands.

ASSESSMENT

Overview

The Principal Regulations, as amended, already make a number of restrictions on business, gatherings and other activities that apply in Levels 3 and 4 areas.

At present, the Principal Regulations, as amended, directly impact those living on islands that are in Levels 3 and 4.

Currently, islands in Level 3 include, Orkney, Shetland and Comhairle nan Eilean Siar (with the exception of the Isles of Barra and Isle of Vatersay) and islands within Highland Council (with the exception of Skye). It also includes the following Argyll and Bute Islands: The Isle of Coll, the Isle of Colonsay, the Isle of Erraid, the Isle of Gometra, the Isle of Iona, the Isle of Islay, the Isle of Jura, the Isle of Mull, the Isle of Oronsay, the Isle of Tiree, and the Isle of Ulva.

All other islands are in Level 4.

Analysis

Extension of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 and the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020

The Regulations change the expiry date of these regulations, allowing the provisions in them to be used for a longer time period.

The extension of the Principal Regulations may have a positive impact on island communities as it ensures that a differential approach can be taken in areas where coronavirus cases and prevalence remains low.

The extension of the Directions Regulations is unlikely to have a differential effect on or between island communities, as all Local Authorities can use the powers if needed in relation to businesses in their areas. This ensures that island authorities can also take action to prevent the transmission of Covid 19.

Holiday gatherings

These Regulations remove provisions relating to holiday gatherings as the period in which the provisions were to apply has now passed and they no longer have any effect.

End of term households

These Regulations remove provisions relating to the formation end of term households to reflect the fact that semester two has commenced and they no longer have any effect.

Definition of professional sportsperson

These Regulations adjust the definition of professional sportsperson to close a loophole that exists in the legislation.

It is not considered that the provisions will have an adverse differential impact on the islands and the mainland, or between islands. As the provision does not change the overall policy intention, there is no positive or negative impact for island communities.

Access to libraries

These Regulations adjust the restrictions on public libraries to ensure they can open in Level 4 areas for the purpose of providing free computer and internet access, where an appointment has been booked. This will ensure those without computer or internet access at home are able to access these via a public library.

The provisions considered here will have a positive impact on those islands still in Level 4, as this will give greater connectivity to islanders living on the Isle of Bute, the Isle of Skye, the Isle of Arran and the Isle of Cumbrae who may have limited access to a computer or poor digital connectivity. This will help to align these islands with some of the library services already available to islanders in Level 3 areas listed above.

Child contact centres

The requirement for child contact centres to close at level 4 is removed in the Regulations. This will have limited effect on island communities as the child contact centre in Orkney has remained open as it is at level 3. There are no child contact centres on other Scottish Islands. Therefore, there is currently no positive or negative impact for Island Communities.

CONCLUSION

The following conclusions have been reached in the production of this ICIA:

- The Regulations take a proportionate approach in relation to Scotland's island communities, supporting a geographically variable approach to restrictions that are tailored to the risks of infection in different areas, thus reducing the likelihood of uniform, national restrictions.

- It is not considered that island communities will be differentially impacted by provisions in these Regulations.
- For these reasons, the provisions in these Regulations are not deemed likely to have effects on island communities that are significantly different from their effects on other communities (including other island communities) in Scotland.