

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS AND REQUIREMENTS) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) (NO. 2) REGULATIONS 2021

SSI 2021/117

The above instrument was made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020. 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 and Requirements) (Local Levels) (Scotland) Regulations 2020 to remove provisions relating to festive gatherings as they have now served their purpose. The provisions regarding end of term households are adjusted so they remain fit for purpose now that term two has begun. These regulations also remove the requirement for child contact centres to close in Level 4 areas. These Regulations also adjust the definition of professional sportsperson and to clarify that only those persons and performers can access indoor fitness facilities such as gyms. The Regulations also ease the restrictions on libraries to ensure they can open for the purpose of providing free computer and internet access, where an appointment has been booked.

Finally, these Regulations extend the expiry date 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 to 30 September 2021.

Legislative background

1. The UK Coronavirus Act 2020 received Royal Assent on 25 March 2020. Under that Act, the Scottish Government made regulations (in force from 26 March) to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. From 14 September they were replaced by the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020. From 9 October those regulations were suspended and replaced by the Health Protection (Coronavirus) Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020. A new levels-based approach was introduced on 2 November, when the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (“the principal regulations”) came into force and revoked the previous regulations.

Policy Objectives

Expiry of regulations

2. The principal regulations came into force on 2 November 2020 and include an expiry date of 31 March 2021. Similarly, the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 came into force on 28 August

2020 and are set to expire on 31 March 2021. This means that the both sets of regulations will automatically expire on 31 March 2021 if action is not taken.

3. Certain measures within the principal regulations may be required for some time to come, such as the requirement to wear a face covering in certain settings. The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 increase confidence that it is safe for sectors to be open and operate as local and targeted action can be taken in response to an outbreak. Given current data and analysis shows that restrictions are still proportionate and necessary, it is considered essential to extend the requirements and restrictions to 30 September 2021. These new dates are intended to bring the expiry date in line with the proposed new expiry dates of Parts 1 of the Coronavirus (Scotland) Act 2020 and Coronavirus (Scotland) (No.2) Act 2020.

4. Both sets of regulations are required to be reviewed on a regular basis. Ministers are also required to revoke any restrictions or requirements as soon as they are no longer necessary to ensure measures are only in place for as long as they are needed.

Holiday gatherings

5. These Regulations remove the holiday gathering provisions from the principal regulations. The holiday gathering provisions were introduced to allow a small and limited window for increased socialisation on 25 December in 2020 to combat potential increased loneliness and isolation at a time when many are used to spending time with family members. As these provisions are no longer necessary, they are now being removed from the regulations.

Definition of a professional sportsperson

6. These Regulations adjust the definition of profession sportsperson to ensure the provisions are not used in a way which does not align with the original policy intention. The adjustment enables professional sportspersons who are involved in sports which have a Resumption of Performance Sport Plan approved by sportscotland or the Scottish Ministers to continue to train and compete in that sport. This ensures any professional sportspersons who are continuing to train or compete at this time, are doing so in a way which has been approved by sportscotland or the Scottish Ministers. Any person undertaking a sport which does not have an approved Resumption of Performance Sport Plan is unable to make use of the exemption, as per the original policy intention.

7. The Regulations also amend the exceptions to the requirement for certain premises to be closed to members of the public to clarify the use of those premises for performances and for professional and non-professional sport. It sets out the purposes for which such premises can be accessed and clarifies that indoor fitness studios, gyms, swimming pools and other indoor leisure centres or facilities can open only for the purposes of professional sport and for performances.

End of term households

8. The principal regulations include provisions which allowed students to form a new household between term one and two of the 2020/21 academic year. This ensured that students were not forced to remain in student halls during the festive break in December

2020. As term two is now underway, the provisions have been adjusted to reflect the current position, with most students remaining in those households. This is a technical amendment and contains no policy change. Students are able to remain in the place where they are currently living and do not have to return to student halls as a result of this adjustment. The definition of end of term households has been amended to reflect this.

Child contact centres

9. 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 contact should be facilitated where possible. The guidance will be kept under regular review.

Access to libraries

10. These Regulations ease 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 at home, and the disadvantage of digital exclusion during the pandemic. IT service access is currently permitted for university and college libraries in Scotland at Level 4.

11. We understand that this may most affect individuals from lower income backgrounds (especially in areas of high SIMD) and older people. Individuals from these groups may 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.

Consultation

12. There has been no public consultation in relation to this instrument. The Scottish Government has informally consulted with the industry bodies affected.

Impact Assessments

13. An Island Communities Impact Assessment, an Equality Impact Assessment, a Children's Rights and Wellbeing Impact Assessment and a Business and Regulatory Impact Assessment have been prepared for this instrument. The provisions are also subject to strict obligations on the Scottish Government to review their necessity.

Scottish Government
Directorate for Constitution and Cabinet
4 March 2021