

## **POLICY NOTE**

### **THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS AND REQUIREMENTS) (LOCAL LEVELS) (SCOTLAND) AMENDMENT (NO. 12) REGULATIONS 2021**

**SSI 2021/17**

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 prohibit evictions from taking place in Level 3 or 4 areas. These Regulations also require the closure of child contact centres, with the exception of child contact centres which are provided by local authorities. An exception is also made for all contact centres to be allowed to open for the purpose of handovers of a child to a person with whom they do not or will not live, and their return from a handover to a person with whom they do or will live. The Regulations allow premises which are required to close to the public to open, if it is for the purposes of providing a venue for vaccination. These Regulations adjust the restrictions surrounding click and collect services. They also prohibit the consumption of alcohol in outdoor public places and do not allow customers to enter food takeaway outlets in Level 4 areas. These Regulations tighten the existing stay at home requirement to ensure non-essential activities are not undertaken when leaving the home for permitted activities and restrict the ability to carry out work or services for the upkeep, maintenance or functioning of other people's homes to essential work only in Level 4 areas. Finally, these Regulations make minor amendments to correct inaccuracies in the principal Regulations.

#### **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**

##### *Evictions*

2. The emergence of a new variant of the virus has significantly altered the public health landscape and led to the First Minister's announcement that from Tuesday 5 January,

mainland Scotland would move to a temporary Lockdown, with new guidance to stay at home except for essential purposes.

3. The continued rise in cases caused by the new variant of the virus means that we must continue to take unprecedented action to ensure everyone, including renters, are protected from the health, social and economic harms of the virus by being able to remain in their homes during this time.

4. Therefore, this change will ensure no eviction orders can be served or executed within an area under level 3 or 4 restrictions. These provisions will come into force from 22 January, when the existing ban on service and enforcement of eviction orders expires. Evictions on certain grounds are excepted from these provisions (meaning that those evictions may still proceed). Those grounds, which we consider are the most serious circumstances, are nuisance or annoyance, antisocial behaviour, and criminal behaviour including domestic abuse. The key purpose in stopping evictions at this time is to prevent households becoming at risk of homelessness and being forced to enter (possibly multiple) other households at a time when that is prohibited.

#### *Child contact centres*

5. These Regulations prohibit child contact centres from opening in Level 4 areas. At present, child contact centres have been advised to suspend face-to-face services but could decide to remain open in limited cases on the basis of the exception for public gatherings indoors, to facilitate shared parenting agreements. Given the new strain of coronavirus, we believe that child contact centres should be closed in law in Level 4 for supported and supervised contact. An exception is provided within the regulations, however, to allow child contact centres provided by local authorities to remain open. Child contact centres provided by local authorities facilitate contact for children in care, and are to be allowed to remain open to protect the wellbeing of these children. All child contact centres will also be allowed to remain open for the purpose of handovers of children to a person with whom they do not or will not live, as well as their return from a handover to a person with whom they do or will live. Handovers are encouraged to take place outdoors but may take place indoors if it would not be safe for this to happen outdoors.

6. Whilst contact centres have had additional hygiene and physical distancing measures in place during the pandemic, for example, to ensure that toys etc. are cleaned after each session and that families remain in separate areas, there may be an increased risk of households mixing. Requiring child contact centres to close by law also allows for certainty amongst providers and parents who use the centres. It will address concerns that some contact services have expressed around their safety of staff and volunteers at Level 4. Closing child contact centres may mean that some parents and children are unable to maintain in person contact. However, where in person contact is suspended child contact centres are encouraged to facilitate virtual or phone contact between the parent and the child or letter box contact where this is safe for the child and both parents.

#### *Hosting vaccination services*

7. These Regulations allow premises, which are usually required to remain closed to the public, to open for the purpose of hosting a vaccination service, where requested by the Scottish Ministers, a local authority or a health board. This change ensures any premises,

such as sport stadiums, which may be required for coronavirus vaccinations are able to open in order for the vaccination service to take place. The premises must still remain closed for their usual purpose.

#### *Adjustments to click and collect restrictions*

8. These Regulations adjust the current restrictions with regard to the provision of click and collect retail. The Regulations continue to allow essential retailers to provide click and collect services as well as remaining open to the public. The Regulations also allow a new list of retailers to provide a permitted collection service, but do not allow them to open to the public. This category includes -

- Clothing and footwear stores
- Homeware stores
- Garden centres/plant nurseries
- Baby equipment shops
- Electrical goods (including repairs)
- Key cutting and shoe repair shops
- Bookstores and libraries
- Outdoor motor vehicle lots

9. The Regulations restrict all other retailers from providing click and collect services during the current restrictions. They must also remain closed to the public as per the existing restrictions. These changes are required to ensure members of the public are only leaving their homes for the essential shopping. Allowing all retailers to provide click and collect services provides a temptation for members of the public to leave home to collect non-essential items despite the stay at home requirement. Creating a category of retailer which can provide a permitted collection service has been done in order to provide click and collect options for people who may need certain items urgently in specific circumstances. Allowing clothing retailers to operate click and collect means that parents are able to access new clothing for growing children or students to obtain educational literature while studying from home, for example. If obtaining goods from these retailers is not essential in an individual's circumstances then it is not permissible to leave the home to collect the items under the existing stay at home requirement.

#### *Public access to food takeaway outlets*

10. These Regulations prohibit food takeaway outlets from allowing customers to enter premises for collection of food or drink in Level 4 areas. This change is being introduced to allow these outlets to operate in a safer way for staff and customers, while recognising the importance of allowing them to remain open to provide an essential service for those who are unable to cook a hot meal. This is particularly important for essential workers, for example lorry drivers. Customers cannot enter the premises but food or drink can be provided to the customer via a hatch or through an opened door.

#### *Public alcohol consumption*

11. Takeaway alcohol from bars and pubs has been highlighted as a transmission risk as it encourages people to congregate in the area around the venue and consume any purchases. To address this, the Regulations introduce a ban on consumption of alcohol in outdoor public

places in Level 4 areas of Scotland, as is already the case in some local authority areas. This approach has been considered more appropriate than restricting some businesses from selling takeaway alcohol as it also removes the ability for individuals to purchase alcohol from other vendors, such as supermarkets, and gather with friends or family in public places to consume the products. Goods can still be purchased for consumption at home from all vendors consuming alcohol outside in any public place is now prohibited. For the purposes of enforcement of the restriction, there is a presumption that any liquid in a container conforms, or where the container is empty, the liquid did conform, to the description of the liquid on the container. Notice must be given if a person charged with an offence of breaching the restriction intends to rebut the presumption at trial.

#### *Adjustment to stay at home requirement*

12. These Regulations adjust the existing stay at home requirement in order to ensure that no ‘incidental’ activity otherwise not permitted, shopping for things that are not essential for example, is undertaken on a trip outside the home for essential purposes. This change tightens the existing rules to ensure any opportunities for non-essential social contact are limited even further.

#### *Work on the home*

13. The current Level 4 guidance is that only essential work should take place, these Regulations put that guidance into law. There is an increased risk of transmission associated with work carried out on the home, as it introduces additional person(s) into the home and takes place in an enclosed environment where less stringent measures may be in place. It is acknowledged, however, that restricting all work carried out on the home is not practical, since essential work will still need to be done, e.g. essential boiler maintenance/repair, emergency plumbing etc. Vulnerable people will also need carers and cleaners to have access. The regulations already permit leaving the home to provide supplies for the essential upkeep, maintenance and functioning of the household, or the household of a vulnerable person. To address the issue of households mixing for the purpose of non-essential home improvements, we are tightening the restrictions on gathering for the purpose of carrying out work on a private dwelling to allow this only where it is necessary for the essential upkeep, maintenance and functioning of the dwelling.

#### **Consultation**

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

#### **Impact Assessments**

15. An Equality Impact Assessment, a Business and Regulatory Impact Assessment, a Children’s Right and Wellbeing Impact Assessment and an Island Communities Impact Assessment have been prepared for this instrument. Other Impact Assessments have not been prepared for this instrument. The provisions are however subject to strict obligations on the Scottish Government to review their necessity.

Scottish Government  
Directorate for Constitution and Cabinet

*14 January 2021*