

POLICY NOTE

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 21) Regulations 2021

SSI 2021/193

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 implement the new local protection levels table (<https://www.gov.scot/publications/coronavirus-covid-19-protection-levels/>) that was published on 13 April 2021 and moves all parts of Scotland currently in Level 4 down to Level 3.

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 2020) to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. From 14 September 2020 they were replaced by the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020. From 9 October 2020 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 2020, 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

Levels allocation

2. These Regulations adjust Schedule 6 of the principal regulations to list Scotland as one area. This area is placed into Level 3 from 26 April.

Social gatherings

3. These Regulations adjust the limit on outdoor gatherings, both in public places and private gardens to allow increased groups to meet across Level 2, 1 and 0, those under 12 continue to be excluded from the limits. These Regulations also adjust the limit on gatherings in indoor public places and permit in-home socialising in limited numbers in Level 2, 1 and 0. These amendment are supported by the latest coronavirus data. Relaxing these limits to allow greater numbers to meet will provide individuals with much needed social benefits as social gatherings of larger numbers are now possible in outdoor settings, indoor public places and can now take place in small groups in private dwellings in Level 2 and below. The Regulations also reduce the outdoor gathering limits for adults in Level 4 back to 4 people from 2 households now that the transition from Level 4 to Level 3 has been achieved.

Travel restrictions

4. The Regulations remove England, Northern Ireland, Wales and Jersey from the Common Travel Area (CTA) travel restrictions. This is a result of increased travel throughout Scotland being possible and due to the broadly similar rates of coronavirus and levels of restrictions that are in place within these countries.

5. These Regulations also adjust the restrictions on travelling into Level 3 areas to ensure that places within the Common Travel Area, not set out in the restrictions in Schedule 7A, are able to enter Level 3 areas. These places are England, Northern Ireland, Wales, Guernsey, the Isle of Man and Jersey. As all of Scotland is now moving to Level 3 and intra-Scotland travel is permitted on an unrestricted basis, it is also proportionate to allow CTA travel into Level 3, where that CTA member is in a broadly similar position to Scotland and is therefore not restricted by Schedule 7A. These changes will allow many family and friends to travel for social purposes where they have been unable to see loved ones for a number of months. These changes also provide boost to Scottish tourism as we move into the summer months.

Hospitality

6. These Regulations adjust the restrictions placed on hospitality premises in Level 3, 2, 1 and 0. These Regulations remove any curfew that was in place across the levels for outdoor hospitality to close, this has been removed and local licensing now dictates the closing time for outdoor premises. The indoor curfew times have also been adjusted across the levels to allow hospitality businesses to remain open for longer in the evenings. Restrictions on last admission times and the requirements for “wet pubs” to close have been removed. The requirement for alcohol to only be served with a meal in some levels has also been removed. These changes allow the hospitality sector to operate more freely and in a way which is likely to be more financially viable going forward.

7. These Regulations also remove the special requirements for hospitality venues to operate under for the purposes of events relating to marriages, civil partnerships and funerals in Level 2 areas. As a result of the increased operating hours for hospitality, the special conditions on marriages, civil partnerships and funerals in Level 2, which allows events to conclude later than normal hospitality due to the closed nature of the events, are being removed as the hospitality curfew is now later than these conditions previously provided for these life events. This change allows these life events to conclude at 22:30 instead of 22:00.

Stadia, events and entertainment venues

8. These Regulations adjust restrictions in Level 2 which required a number of business premises to close to member of the public. A number of these businesses are now being removed from the list so that they can reopen in Level 2 for general business and as a result of stadia and events now being permitted in Level 2 areas, subject to capacity and attendance limits. The businesses now able to reopen to the public are –

- Concert halls
- Indoor and outdoor theatres
- Comedy clubs

- Sports stadia
- Conference or exhibition centres
- Other evening venues which are used for dance or music related events

9. These Regulations also adjust the restrictions in Level 3 to permit drive in events, these events were previously prohibited in Level 3 areas. As drive in events are of a slightly different nature to other events, with attendees being in private vehicles during the event, it has been possible to allow such events to take place in an higher level than the rest of the events sector.

Close contact services

10. These Regulations remove the restrictions on mobile close contact services in Level 3 and 2 so that mobile close contact services can now resume in these areas. Those providing such services are now able to travel and undertake these services across Scotland, with the exception of any areas which are moved to Level 4 in future.

Marriage and civil partnerships

11. These Regulations remove the legal limit on marriage and civil partnership ceremony attendance in Level 4 areas which was limited to 5 individuals plus an interpreter. As a result of the latest data, it is no longer considered necessary to restrict attendance to only the legal minimum. Going forward, numbers will be limited via guidance rather than in law. This increase in numbers reflects the importance of these life events for many cultures, religions and for families.

Consultation

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

Impact Assessments

13. A full refresh of Impact Assessments covering all restrictions within the principal regulations are being published alongside this legislation and outlines the impact of these specific amendments as part of those publications. This will include an Equality Impact Assessment, Children's Rights and Wellbeing Impact Assessment, Business and Regulatory Impact Assessment and Island Communities Impact Assessment. The provisions are also subject to strict obligations on the Scottish Government to review their necessity.

Scottish Government
Directorate for Constitution and Cabinet
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