
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 277

**The Health Protection (Coronavirus)
(Requirements) (Scotland) Regulations 2021**

PART 3

Stadia and live events

Capacity limits on stadia and live events

8.—(1) A person must not organise a live event, unless paragraph (2) applies, which takes place wholly or mainly—

- (a) outdoors at which more than five thousand persons are in attendance at any point in time during the event, or
- (b) indoors at which more than two thousand persons are in attendance at any point in time during the event.

(2) This paragraph applies where—

- (a) the event is either—
 - (i) ticketed, or
 - (ii) otherwise subject to an effective capacity control measure,
- (b) the event takes place at a location, premises or other setting whose entrances and exits are controlled for the purpose of crowd and capacity management, and
- (c) a local authority has approved a capacity exemption application (see regulation 9) in respect of the event.

(3) For the purposes of paragraph (2)(c) an approval of a capacity exemption application under paragraph 11 of schedule 1 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020⁽¹⁾ (decisions on applications for exemption from capacity limits in a Level 0 area) approved before 9 August 2021, is to be treated as if it were approved under these Regulations.

(4) For the purpose of paragraph (1) the following types of persons are not to be included when counting the number of persons in attendance at a live event—

- (a) persons who are working or providing voluntary or charitable services at the event, and
- (b) children under 5 years of age.

Applications for exemption from capacity limits

9.—(1) A person may apply to a local authority for an exemption from a requirement imposed by regulation 8(1).

(2) An application under paragraph (1) is referred to as a “capacity exemption application”.

- (3) A capacity exemption application may relate to a single event or a series of events.
- (4) A local authority may not charge any fee in respect of a capacity exemption application.
- (5) A capacity exemption application must be in writing and must include—
 - (a) a description of the type of event (or events) proposed,
 - (b) an event plan for the event (or events) proposed, and
 - (c) a risk assessment for the event (or events) proposed, including what measures are proposed relating to the prevention or minimisation of the risk of the incidence and spread of coronavirus arising from the event (or events).
- (6) For the purpose of paragraph (1), a capacity exemption application made under paragraph 10 of schedule 1 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (applications for exemption from capacity limits in a Level 0 area), which has not been decided before 9 August 2021, is to be treated as if it was made under these Regulations.

Decisions on applications for exemption from capacity limits

- 10.**—(1) A local authority must, in deciding whether to approve a capacity exemption application, have regard to—
- (a) the risk of the incidence and spread of coronavirus arising from the event (or events), and
 - (b) any other relevant circumstances.
- (2) A local authority may—
- (a) approve the application without conditions,
 - (b) approve the application with conditions relating to the prevention or minimisation of the risk of the incidence and spread of coronavirus arising from the event (or events), or
 - (c) refuse the application.
- (3) A local authority must, as soon as reasonably practicable after deciding an application, notify the person who made the application of—
- (a) its decision, and
 - (b) the reasons for its decision.

Guidance on applications for exemption from capacity limits

- 11.**—(1) A person specified in paragraph (3) must have regard to any guidance issued by the Scottish Ministers about capacity exemption applications.
- (2) Guidance issued by the Scottish Ministers may—
- (a) make different provision for different cases or descriptions of case,
 - (b) incorporate (by reference or transposition) guidance, codes of practice or other documents published by another person (for example, a trade association, a body representing members of an industry or a trade union).
- (3) The persons specified for the purpose of paragraph (1) are—
- (a) a person applying to a local authority for an exemption from a requirement imposed by regulation 8(1) or (2), and
 - (b) a person determining an application.

Revocation and variation of approval of exemption from capacity limits

12.—(1) Where a local authority approves a capacity exemption application, it must keep the approval under review.

(2) Where it has approved a capacity exemption application without conditions (whether under regulation 10 or this regulation), a local authority may—

- (a) add conditions relating to the minimisation of the risk of the incidence and spread of coronavirus arising from the event (or events), or
- (b) revoke its approval of the application.

(3) Where it has approved a capacity exemption application but imposed conditions (whether under regulation 10 or this regulation) relating to the minimisation of the risk of the incidence and spread of coronavirus arising from the event (or events), a local authority may—

- (a) vary any such condition,
- (b) add any such condition,
- (c) remove any such condition, or
- (d) revoke its approval of the application.

(4) A local authority must, in deciding whether to make a decision under paragraph (2) or (3), have regard to—

- (a) the risk of the incidence and spread of coronavirus arising from the event (or events), and
- (b) any other relevant circumstances.

(5) A local authority may make a decision under paragraph (2) or (3)—

- (a) of its own accord, or
- (b) on application by the person who made the capacity exemption application.

(6) A local authority must, as soon as reasonably practicable after making a decision under paragraph (2) or (3), notify the applicant of—

- (a) its decision, and
- (b) the reasons for its decision.

Scottish Ministers' power to call in applications for exemption from capacity

13.—(1) The Scottish Ministers may direct a local authority that a capacity exemption application must be referred by a local authority to the Scottish Ministers for decision.

(2) The Scottish Ministers may direct that a local authority must notify the Scottish Ministers when it receives a capacity exemption application where the capacity applied for exceeds a capacity specified in the direction.

(3) Where an application is referred to the Scottish Ministers for decision regulations 10 and 12 apply, subject to the modification that any reference to a local authority is to be read as a reference to the Scottish Ministers.

Offence of breaching conditions of approval to hold larger live event

14.—(1) It is an offence for a person to contravene a condition imposed—

- (a) by a local authority under regulation 10(2)(b), 12(2) or (3) or
- (b) by the Scottish Ministers by virtue of regulation 13(3).

(2) A person who commits an offence under paragraph (1) is liable, on summary conviction, to a fine not exceeding the statutory maximum.

Status: *This is the original version (as it was originally made).*
