

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (REQUIREMENTS) (SCOTLAND) AMENDMENT (NO. 2) REGULATIONS 2022

SSI 2022/13

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) (Requirements) (Scotland) Regulations 2021 (“the Principal Regulations”) to remove the capacity limits for live events held indoors and the definition of a live event. The Regulations also remove the requirement to take measures to ensure, so far as reasonably practicable, that a distance of 1 metre is maintained between people on or waiting to enter hospitality and leisure premises and that only enough people are admitted to the premises to allow the 1 metre distance to be maintained. The Regulations also remove the requirement for table service in premises where alcohol is sold for consumption on the premises, and that the customer must remain seated whilst consuming food and drink on the premises. The regulations also remove the requirement for the closure of nightclubs to members of the public and amend the definition of ‘late night premises’ in the Principal Regulations in relation to the certification requirements.

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 Local Levels Regulations”) came into force and revoked the previous regulations. On 9 August 2021 the Principal Regulations came into force and revoked the Local Levels Regulations.

Policy Objectives

Capacity limits for indoor events, physical distancing, table service and the closure of nightclubs

2. In response to the emergence of the Omicron variant of the SARS-CoV-2 virus and its transmission in Scotland in late 2021, the Scottish Government put in place protective measures to reduce the rates of transmission. These included the introduction of capacity limits for indoor live events; a requirement to take measures to ensure, so far as reasonably

practicable, that a distance of 1 metre is maintained between people on or waiting to enter hospitality and leisure premises and that only enough people are admitted to the premises to allow the 1 metre distance to be maintained; a requirement for table service in premises where alcohol is sold consumed on the premises, and that the customer must remain seated whilst consuming food and drink on the premises; and a requirement for nightclubs to close to members of the public.

3. The Scottish Government now considers that the protective measures introduced in December can be lifted in a phased way. The second phase, as set out in this instrument, is the removal of capacity limits on live events indoors as well as removal of the physical distancing requirements, table service requirements and requirements that nightclubs are closed. The first stage of lifting measures came into effect on 17 January 2022 by virtue of The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment Regulations 2022.

Definitions for Certification requirements

4. These regulations also amend paragraph (b) of the definition of ‘late night premises’ in regulation 7E (1) of the principal Regulations. This ensures that certification is required where “there is a dancefloor or space where dancing by customers takes place” (and the other requirements of that definition are met).

Consultation

5. We have continued to consult with stakeholders on the impacts of the pandemic as we seek to balance the 4 harms in relation to this instrument.

Impact Assessments

6. An Equality Impact Assessment, Children’s Rights and Wellbeing Impact assessment and Business and Regulatory Impact Assessment are being prepared for publication for these Regulations and will be published in January 2022. These impact assessments will encompass both these regulations and the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment Regulations 2022.

Scottish Government
Directorate for Covid Coordination
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