POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (REQUIREMENTS) (SCOTLAND) AMENDMENT (NO. 4) REGULATIONS 2022

SSI 2022/XXX

The above instrument is made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020. The instrument is subject to the affirmative procedure by virtue of paragraph 6(1) of schedule 19 of the Act.

These Regulations amend the date on which the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 ("the Principal Regulations") expire from 28 February 2022 to 24 September 2022.

Legislative background

1. The UK Coronavirus Act 2020 ("the Act") 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. The Principal Regulations have been amended a number of times, most recently on 27 January 2022, when they were amended by the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 3) Regulations 2022.

2. The power to make these Regulations and the Principal Regulations conferred by paragraph 1(1) of schedule 19 of the Act is due to expire on 24 March 2022. The Coronavirus Act 2020 (Alteration of Expiry Date) (Scotland) Regulations 2022 (S.S.I. 2022/40) extend the expiry date of certain provisions of the Act, including schedule 19, to 24 September 2022. Those Regulations were made and laid on 3 February 2022 under the made affirmative procedure and come into force on 24 March 2022.

Policy Objectives

3. Following the lifting of the protective measures put in place to reduce transmission in response to the emergence of the Omicron variant of the SARS-CoV-2 virus the Principal Regulations now contain the following baseline measures:- face covering requirements, requirements in relation to the Covid-19 vaccine certification scheme, requirement to collect and share customer information, requirement for businesses, service providers and places of worship to have regard to guidance on minimising exposure to coronavirus and to take

measures to minimise incidence and spread of coronavirus. Now that the effect of Omicron has become clearer, it is considered necessary and proportionate that these baseline measures should remain in place at this time as part of Scottish Ministers' ongoing response to the current pandemic.

4. The Principal Regulations are due to expire on 28 February 2022 if action is not taken. These Regulations amend the Principal Regulations to provide for the expiry date to be amended to 24 September 2022. This is in line with the extended expiry date of the power to make regulations in paragraph 1(1) of schedule 19 of the Act.

5. As required by regulation 18(1), the Principal Regulations will continue to be reviewed at least every 21 days and, as required by regulation 18(2), as soon as Scottish Ministers consider that any requirement in the Principal Regulations is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in Scotland with coronavirus, that requirement will be revoked.

6. Extending the expiry date of the Principal Regulations until 24 September 2022 will ensure that baseline measures are able to remain in place beyond 28 February 2022 if required and support the process of review of the baseline measures over a longer timeframe as we move into the next phase of pandemic response.

Consultation

7. No consultation has taken place in relation to these Regulations.

Impact Assessments

8. Impact assessments are not considered to be required for these Regulations.

Scottish Government
Directorate for Covid Coordination
9 February 2022