POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS AND REQUIREMENTS) (LOCAL LEVELS) (SCOTLAND) AMENDMENT (NO. 16) REGULATIONS 2021

SSI 2021/86

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 provide that driving lessonsand tests may be provided for, or undertaken by certain limited categories of workers in a Level 4 area. Those workers are the police and fire services and employees of bus companies where the company has been appointed to provide employee driving tests and training.

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

Adjustments to driving tests in Level 4

2. Currently, in a Level 4 area driving lessons and tests are not permitted unless all occupants are members of the same household. The practical effect of this has been the suspension of all driving tests across Scotland. The sustained period that mainland Scotland has required to remain in Level 4 and the ongoing uncertainty around how long Level 4 restrictions may be necessary, in many or all areas, has resulted in stakeholders reporting increasing concerns about the lack of availability of drivers in certain key sectors.

3. The prohibition on driver training and testing is leading to operational issues for blue light services and bus operators. This is, in turn causing concerns around the delivery of key public and transport services. This matter has been raised by the Scottish Fire and Rescue Service and bus operators.

4. The police and fire services operate under a separate regime of driver training and testing as they are appointed, under the Motor Vehicles (Driving Licences) Regulations 1999 to provide their own testing to their employees and this is not carried out by the DVSA. Driver training is also conducted by the services themselves. It is also possible for bus companies to have been appointed to provide their own in-house employee driving tests. This regime of driving examination is often referred to as "delegated authority" testing.

5. These Regulations amend the Level 4 restrictions to create exemptions to the prohibition of driving lessons and tests (other than within households) in order to enable the organisations with delegated authority to resume driver training and testing. This will address the concerns that those services have raised around driver numbers and support the operation of key services.

6. The issues raised by stakeholders warrant urgent action to ensure a variety of services – from bus services that will be required to get some people to vaccination centres to fire services in emergencies – are able to continue operating at the required level. While the effect of the amendments made by these regulations will mean that there is a lessening of restrictions on driver testing in Level 4 areas, this will be in a tightly controlled way and for very specific, essential, circumstances.

Consultation

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

Impact Assessments

8. An Island Communities Impact Assessment, an Equality Impact Assessment and a Business and Regulatory Impact Assessment have been prepared for this instrument. The provisions are also subject to strict obligations on the Scottish Government to review their necessity.

Scottish Government
Directorate for Constitution and Cabinet
18 February 2021