SCOTTISH STATUTORY INSTRUMENTS

2020 No. 374

PUBLIC HEALTH

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 2) Regulations 2020

Approved by the Scottish Parliament

Made - - - -at 12.57 p.m. on 12th November 2020

Laid before the Scottish Parliament at 3.00 p.m. on 12th November 2020

Coming into force - -at 6.00 a.m. on 13th November 2020

The Scottish Ministers make the following Regulations in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020(**a**) ("the Act") and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with paragraph 6(2) and (3) of schedule 19 of the Act, the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft having been laid before, and approved by, a resolution of the Scottish Parliament.

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 2) Regulations 2020 and come into force at 6.00 a.m. on 13 November 2020.

(**a**) 2020 c.7.

Amendment of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020

2. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(**a**) are amended in accordance with regulations 3 to 18.

PART 2

Restrictions

Changes to levels

3.—(1) In the table in schedule 6 (areas), in column 3 (level of area) of each of the entries mentioned in paragraph (2), for "2" substitute "3".

(2) The entries are 6 (Fife), 29 (Angus) and 31 (Perth and Kinross).

Modification of the restrictions in certain areas

4. After regulation 3 (application of the restrictions) insert—

"**Modification of the restrictions in certain areas**

3A.—(1) In its application in relation to the areas mentioned in paragraph (2), schedule 2, paragraph 9 (restriction on gatherings in private dwellings in a Level 1 area) has effect as if—

(a) before sub-paragraph (1)(a) there is inserted—

"(za) takes place indoors and consists of no more than six persons from no more than two households,", and

(b) after sub-paragraph (1) there is inserted—

"(1A) For the purpose of sub-paragraph (1)(za), children under 12 years of age are not to be included when counting the number of people attending a gathering but are to be included when counting the number of households attending a gathering.".

(2) The areas are those specified in column 2 of the following entries of the table in schedule 6—

(a) 27 (Orkney Islands),

(b) 28 (Shetland Islands), and

(c) 32 (Na h-Eileanan Siar).".

PART 3

Enforcement

Offences

5. In regulation 5(1) (offences)—

(a) in sub-paragraph (a), for "3(b)" substitute "3(1)(b)",

(b) in sub-paragraph (b), for "4(b)" substitute "4(1)(b)",

(c) in sub-paragraph (c), for "7(b) and 8" substitute "8(1)(b) and 9",

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(**a**) S.S.I. 2020/344, amended by S.S.I. 2020/347.

(d) in sub-paragraph (d), for "6(b) and 7" substitute "7(1)(b) and 8", and

(e) in sub-paragraph (e) for "8(b)" substitute "8(1)(b)".

Power of entry

6. In regulation 6(5) (requirement for reasonable suspicion before exercise of power of entry), for "paragraph 12 of schedule 3, paragraph 11" substitute "paragraph 13 of schedule 3, paragraph 12".

PART 4

Restrictions on gatherings

Restriction on public gatherings outdoors in a Level 0 area

7. In schedule 1, paragraph 7 (restriction on public gatherings outdoors located in a Level 0 area), in sub-paragraph (1)(b), for "15" substitute "eight".

Restriction on gatherings in private dwellings in a Level 0 area

8. In schedule 1, paragraph 8 (restriction on gatherings in private dwellings in a Level 0 area)—

(a) after sub-paragraph (1)(a) insert—

"(aa) takes place outdoors and consists of no more than 15 persons from no more than five households,",

(b) in sub-paragraph (2)—

(i) omit "or households", and

(ii) after "gathering" insert "but are to be included when counting the number of households attending a gathering", and

(c) after sub-paragraph (2) insert—

"(3) For the purpose of sub-paragraph (1)(aa), children under 12 years of age are not to be included when counting the number of people or households attending a gathering.".

Restriction on public gatherings outdoors in a Level 4 area

9. In schedule 5, paragraph 12 (restriction on public gatherings outdoors in a Level 4 area)—

(a) after sub-paragraph (1)(d)(xii) insert—

"(xiii) an organised activity which is for persons under 18 years of age, but which is not a public procession,", and

(b) in sub-paragraph (3), for "sub-paragraph (1)(d)(xii), exercise" substitute "sub-paragraph (1)(d)(xii) and (xiii), exercise or activity".

PART 5

Closure of premises and other restrictions on business

Restrictions on food and drink businesses in a Level 3 area

10. In schedule 4, paragraph 5 (restrictions on food and drink businesses in a Level 3 area)—

(a) omit sub-paragraph (3), and

(b) in sub-paragraph (4), for "(2)(d) to (g)" substitute "(2)(c) to (g)".

11. In schedule 4, paragraph 6 (exceptions to food and drink business restrictions for certain services), for sub-paragraph (1)(c) substitute—

"(c) sub-paragraph (2) is omitted.".

Provisions of the Local Levels Regulations having effect at other levels

12. In regulation 3 (application of the restrictions), after paragraph (5), insert—

"(5A) The requirements set out in paragraph 2A of each of schedules 3 and 4 and paragraph 4B of schedule 5 also apply (where they so indicate) in relation to other areas.".

Mobile close contact services in respect of Level 2 areas

13. In schedule 3, after paragraph 2, insert—

"**Requirement to cease mobile close contact services in respect of Level 2 areas**

2A.—(1) A person who is living in a Level 2 area who provides a mobile close contact service must not provide that service in any other local authority area.

(2) In this paragraph, "mobile close contact service" has the meaning given in paragraph 2(2).".

Mobile close contact services in respect of Level 3 areas

14. In schedule 4, after paragraph 2, insert—

"**Requirement to cease mobile close contact services in respect of Level 3 areas**

2A.—(1) A person who is living in a Level 3 area who provides a mobile close contact service must not provide that service in any other local authority area.

(2) In this paragraph, "mobile close contact service" has the meaning given in paragraph 2(2).".

Driving lessons and tests in a Level 4 area

15. In schedule 5—

(a) in paragraph 1(2) (requirement to close certain premises in a Level 4 area to members of the public), after head (s), insert—

"(sa) a driving instructor or examiner,", and

(b) after paragraph 4, insert—

"**Requirement to cease driving lessons and tests in a Level 4 area**

4A. A person who provides a driving lesson or driving test for which a motor vehicle is used (unless all occupants are members of the same household) must not provide that service in a Level 4 area.".

Mobile close contact services or driving lessons and tests in respect of Level 4 areas

16. In schedule 5, after paragraph 4A (inserted by regulation 15 of these Regulations), insert—

"**Requirement to cease mobile close contact services or vehicle driving lessons or tests in respect of Level 4 areas**

4B.—(1) A person responsible for carrying on a business, or who operates from premises, located in a Level 4 area who provides a mobile close contact service, must not provide that service in any other local authority area.

(2) A person responsible for carrying on a business, or who operates from premises, located in a Level 4 area who provides a driving lesson or test for which a motor vehicle is used (unless all occupants are members of the same household) must not provide that service in any other local authority area.

(3) A person who is living in a Level 4 area who provides a mobile close contact service must not provide that service in any other local authority area.

(4) A person who is living in a Level 4 area who provides a driving lesson or test for which a motor vehicle is used (unless all occupants are members of the same household) must not provide that service in any other local authority area.

(5) No person may provide a driving lesson or test for which a motor vehicle is used (unless all occupants are members of the same household) to a person who is living in a Level 4 area.

(6) In this paragraph, "mobile close contact service" has the meaning given in paragraph 4(2).".

PART 6

Face covering requirements

Face covering requirements

17. In schedule 7 (face covering requirements)—

(a) after paragraph 2(h) (requirement to wear face coverings in certain indoor places), insert—

"(ha) performing, presenting, addressing a public gathering, making a speech or being a panel member, where—

(i) there is a partition between the person and other persons, or

(ii) a distance of at least two metres is maintained between the person and other persons,",

(b) in paragraph 3(1)(d) (places where face coverings must be worn), after "arcades" insert ", snooker or pool halls",

(c) after paragraph 3(1)(t), omit "and", and

(d) after paragraph 3(1)(u), insert—

"(v) indoor theatres,

(w) comedy clubs,

(x) concert halls,

(y) soft play centres,

(z) sports stadiums, and

(aa) conference or exhibition centres".

PART 7

Miscellaneous amendments

Minor amendments

18.—(1) In schedule 1 (Level 0 restrictions), after paragraph 1(3)(a), omit "or".

(2) In each of the following provisions, after "sub-paragraph (2)", insert ")"—

(a) schedule 1, paragraph 3(1)(a)(i) and (iii),

(b) schedule 2, paragraph 4(1)(a)(i) and (iii),

(c) schedule 4, paragraph 7(1)(a)(i) and (iii), and

(d) schedule 5, paragraph 8(1)(a)(i) and (iii).

(3) In each of the titles to schedule 4, paragraph 10 and schedule 5, paragraph 11 omit "protected".

MICHAEL RUSSELL
A member of the Scottish Government

St Andrew's House,
Edinburgh
At 12.57 p.m. on 12th November 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations (which come into force at 6.00 a.m. on 13 November 2020) amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 ("the principal regulations").

Regulation 3 changes the level of restrictions and requirements which apply in relation to the local authority areas of Fife, Angus, and Perth and Kinross. (The restrictions and requirements applicable in relation to different levels are set out in schedules 1 to 5 of the principal regulations). These areas become subject to Level 3 restrictions and requirements.

Regulation 4 makes special provision for the local government areas of Orkney Islands, Shetland Islands and Na h-Eileanan Siar when those areas are identified as being Level 1 areas. The special provision permits gathering indoors in private dwellings, subject to limitations.

Regulations 5 and 6 correct cross-referencing errors in the principal regulations' provisions on offences and power of entry.

Regulation 7 amends an exception to the restriction on gathering outdoors in a public place applicable to gatherings of people aged under 18 (where at least one person is aged 12 to 17). It reduces (from 15 to eight) the number of people who can attend such a gathering.

Regulation 8 adds to the circumstances in which gatherings are permitted outdoors in private dwelling settings (for example, gardens) in Level 0 areas. In relation to the rules for reckoning the numbers involved in gatherings in private dwellings, it also brings these into line with the rules applicable in other levels.

Regulation 9 adds organised activities for people aged under 18 (other than public processions) to the list of exceptions to the restriction on public gatherings outdoors in Level 4 areas.

Regulations 10 and 11 make changes relevant to food and drink businesses in Level 3 areas.

Regulations 12 to 14 and 16 prohibit the provision of mobile close contact services and driving lessons and tests in respect of Level 2, 3 and 4 areas across local authority area boundaries.

Regulation 15 prohibits the provision of driving lessons and tests in Level 4 areas.

Regulation 17 adds to the list of circumstances in which a person is not required to wear a face covering in certain indoor spaces. It also adds to the list of categories of places in which the requirement applies.

Regulation 18 makes minor corrections to the principal regulations.

A Business and Regulatory Impact Assessment has been prepared. Copies may be obtained online at www.legislation.gov.uk.

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