POLICY NOTE

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 23) Regulations 2021

SSI 2021/209

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 adjust the Levels allocation across Scotland as a result of the most recent data. These Regulations also make some adjustments in relation to powers of entry, hotels and to the requirements placed on those responsible for businesses, services and places of worship. The Regulations permit snooker & pool halls and bowling alleys to reopen in Level 2 and allow increased in-home socialising in Level 2 areas. The Regulations future proof the travel restrictions in place for Level 3 and 4 by reintroducing a 5 mile limit for outdoor exercise and recreation. Finally, the Regulations adjust the restrictions relating to capacity limits on stadia and live events and for public processions in some levels.

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 principal regulations") came into force and revoked the previous regulations.

Policy Objectives

Allocation of levels

2. These Regulations amend Schedule 6 to adjust the allocation of levels across Scotland. These changes are being taken as a result of the most recent data. All areas of Scotland were previously in Level 3, these Regulations move most of Scotland to Level 2 with some exceptions. Moray and Glasgow remain at Level 3 due to increased prevalence in those particular local authority areas. The following are being moved to Level 1 –

- The islands in the Highland area (except the Isle of Skye)
- Orkney Islands
- Shetland Islands
- Na h-Eileanan Siar

- The Isle of Coll, the Isle of Colonsay, the Isle of Erraid, the Isle of Gometra, the Isle of Iona, the Isle of Islay, the Isle of Jura, the Isle of Mull, the Isle of Oronsay, the Isle of Tiree, and the Isle of Ulva.

Technical adjustment - Hotels

3. These Regulations make a minor adjustment to the restrictions on hotels and other accommodation to remove references which are no longer required as a result of other recent changes.

Power of Entry

4. These Regulations adjust the existing power of entry provisions to ensure that they reflect the new position that allows socialising in private dwellings in greater numbers and with more households than was previously possible. The powers now reflect the policy that was in place when 3 households were last permitted to meet indoors, with powers of entry being conditional on a constable suspecting more than 15 people are present at a gathering at Level 2 and below. These adjustments ensure that the appropriate powers are in place for the Police to take action in circumstances where enforcement is necessary.

Requirement on businesses in relation to physical distancing

5. These Regulations adjust the requirements on those responsible for businesses, services and places of worship to ensure physical distancing is maintained between households. This adjustment ensures that those responsible for these businesses, services and places of worship do not have to ensure physical distancing is maintained between those under the age of 12 and any other individual. This brings the requirement into line with the existing guidance that under 12s do not have to physically distance from others.

Capacity limits on stadia and live events

6. These Regulations introduce provisions relating to capacity limits at live events. The Regulations allow live events to take place in Levels 2, 1 and 0 under certain conditions and with capacity limits to be separately specified by the Scottish Ministers. These Regulations also make provisions for applications to be made for live events with increased capacity and sets out the process for approval of larger events. Applications will generally be considered by Local Authorities, but may be called in for consideration by the Scottish Ministers.

Marches and Parades

7. These Regulations adjust the restrictions in relation to marches and parades in Level 2, 1 and 0 to now permit marches and parades in these lower levels. The numbers permitted are 50 people, 100 people and 500 people in Level 2, 1 and 0 respectively. Duration limits also apply to marches and parades, these vary across Levels 0 to 2. Further guidance will also be published to provide additional clarity on how marches and parades can be conducted safely during the pandemic.

Snooker & pool halls and bowling alleys

8. These Regulations adjust the restrictions in Level 2 to permit snooker and pool halls and bowling alleys to reopen in these areas. This change reflects the decision to classify these premises as indoor sports facilities as they fall under a regulatory body. As they are now considered indoor sports facilities, it is proportionate to allow them to open in more levels than was previously possible in line with other sports facilities.

Travel restrictions

9. These Regulations adjust the travel restrictions on travel into and out of Level 3 and 4 areas as a result of the return to geographically varied levels to manage specific outbreaks. Previously, travel into Level 3 areas was permitted for those in many parts of the CTA, this is now being adjusted to reflect the fact that Scotland as a whole is no longer in Level 3 and this level is being used to manage outbreaks. This ensures that those within parts of the CTA are not able to travel into Level 3 areas when it is not possible for those in Level 0-2 of Scotland to do so.

10. These Regulations also reintroduce a 5 mile limit for travel outwith a Level 3 and 4 area for the purpose of outdoor exercise and recreation. This adjustment ensures that outbreaks are contained as far as possible within single areas as individuals living in areas with higher prevalence are not permitted to travel large distances for exercise and recreational purposes.

Socialising rules in Level 2

11. These Regulations increase the social gathering limits which applies to in-home socialising in Level 2 areas. Previously, 4 people from 2 households were permitted to gather inside a private dwelling in a Level 2 area, this is being increased to 6 people from 3 households. This change brings the rules into line with public indoor gatherings in Level 2 and in-home socialising in Level 1 and will allow greater contact between family and friends as a result of continued positive data and evidence.

Consultation

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

Impact Assessments

13. An Equality Impact Assessment and an Island Communities 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
14 May 2021