POLICY NOTE

The Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendment) (Scotland) Regulations 2021

SSI 2021/49

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 premises which are required to close to the public to in Level 3 and 4 areas may be used for purposes connected to an election if they are suitable premises which a returning officer or electoral registration officer has requested the use of in connection with the carrying out of any of their functions. These Regulations also remove restrictions on premises used by food and drink businesses in Level 3 areas where such premises are to be used in connection with the carrying out of electoral functions. These Regulations also make amendments in relation to Level 4 areas to enable places of worship and holiday accommodation premises to be used for purposes in connection with the carrying out of electoral functions. These Regulations adjust the restrictions on drive-in and drive-through events to make clear that they are not permitted in Level 3 and Level 4 areas. These Regulations adjust to examples of a reasonable excuse to enter a Level 4 area to bring the marriage, civil partnership and funerals excuses into line with the excuses to leave home for those living in a Level 4 area. These Regulations extend the expiry date of The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 from 31 January 2021 to 31 March 2021. This changes brings the expiry into line with the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020.

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

Election administration

2. These Regulations enable premises, which are required to remain closed to the public or have restrictions on their use in Level 3 and 4 areas, to be used used for purposes connected to an election if they are suitable premises which a Returning Officer (RO) or Electoral Registration Officer (ERO) has requested the use of in connection with the carrying out of any of their functions. This ensures that any suitable premises, such as a church, which may be required for electoral administration are able to be used as appropriate. The premises must still remain closed, or only operated in accordance with existing restrictions, in Levels 3 and 4 (as applicable) where they are not being used for electoral purposes. The functions of an RO and ERO cover a range of activities associated with the delivery of a poll, including registration, preparation, polling and counting. Any of the processes involved in delivering an election may require additional space to deliver, so it is important to ensure that ROs and EROs have flexibility to consider use of a range of venues according to the specific circumstances of the locality in question.

Drive-in event venues

3. These Regulations clarify the existing policy in relation to drive-in events (including drive-in cinemas and drive-thru events) in order to explicitly prohibit this type of event from taking place in Level 3 and Level 4 areas. This will ensure that this policy, which has been in place since the introduction of the Strategic Framework, is absolutely clear to members of the public and event organisers. Drive-in events are permitted in Level 0, Level 1 and Level 2 areas only.

Entering a Level 4 area

4. These Regulations adjust the list of reasonable excuses to enter a Level 4 area to bring them into line with the reasonable excuses to leave home in a Level 4 area. The change brings the excuses which allow travel to a marriage, civil partnership or funeral into line with the tighter list of excuses under the stay-at-home requirement. This ensures there is consistency across provisions and properly reflects the policy intention on attending marriages, civil partnerships and funerals in Level 4 areas.

Expiry of The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020

5. These Regulations extend the expiry date of The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 from 31 January 2021 to 31 March 2021. This change brings the expiry into line with the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020. We are still in a phase of the pandemic where outbreak management is a principal tool for control and suppression of the virus. The importance of enabling action to be taken swiftly at a local level is still just as essential as it was when The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 were first brought forward. These regulations increase confidence that it is safe for sectors to be open and operate. Local action to control or close the premises or businesses at the centre of an outbreak is still, in most cases, one of the most efficient and proportionate responses and can avoid Scottish Ministers having to implement more wide-ranging and restrictive measures for full industries or sectors. While case numbers are still incredibly high, it is essential that any of the tools available to control or suppress the virus are not lost.

Consultation

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

Impact Assessments

7. An Equality Impact Assessment, a Business and Regulatory Impact Assessment and an Island Communities Impact Assessment have been prepared for this instrument. Other Impact Assessments have not been prepared for this instrument. The provisions are however subject to strict obligations on the Scottish Government to review their necessity.

Scottish Government
Directorate for Constitution and Cabinet
28 January 2021