POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS AND REQUIREMENTS) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2020

SSI 2020/439

The above instrument was made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020 ("the Act"). The instrument is subject to made affirmative procedure by virtue of paragraph 6(3) of schedule 19 of the Act.

These Regulations principally amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 to set out changes to the levels that apply to 3 local government areas of Scotland.

These Regulations allow social gatherings to take place in private dwellings for those living on certain Scottish islands in Argyll and Bute. These Regulations also adjust the restrictions in Level 0 and Level 1 in respect of marriage and civil partnership receptions and funeral wakes.

Finally, these Regulations make an amendment to the Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 to reflect the true policy intention of those Regulations.

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 allocation of levels

2. The Regulations amend the current allocation of levels to 3 areas of Scotland. The following local government areas are moved from Level 2 to Level 3 as a result of recent data.

- Aberdeen City
- Aberdeenshire
- East Lothian

3. These changes are also being taken as a result of the the most recent data. No other changes have been made to the allocation of levels at this time. Supporting data was published on 15 December 2020 - https://www.gov.scot/publications/coronavirus-covid-19-allocation-of-levels-to-local-authorities-15-december-2020/.

In-home socialising - Islands

4. The principal regulations, as amended, already allow social gatherings to take place in private dwellings for those living on certain Scottish islands. These Regulations extend that further to certain islands in Argyll and Bute. These are the Isle of Islay, the Isle of Jura, the Isle of Colonsay, the Isle of Oronsay, the Isle of Coll, the Isle of Tiree, the Isle of Mull, the Isle of Iona, the Isle of Ulva, the Isle of Erraid and the Isle of Gometra. Existing limits on the number of people and households attending social gatherings still apply. This takes account of data which shows many of the Scottish islands have had no or very few coronavirus cases in recent weeks. These islands do not have easy access to the mainland and lower visitation, and will face the same social isolation issues as the Island Authorities where in-home socialising is already permitted.

Gatherings in private dwellings - receptions and wakes

5. These Regulations adjust the restrictions in Level 0 and Level 1 in respect of marriage and civil partnership receptions and funeral wakes. Currently, the principal regulations allow these events to take place in Level 0 or 1 in any venue or dwelling. The policy intention is to only allow these events to take place in regulated venues, as these venues are required to have strict guidelines in place. These Regulations make that change to the existing rules and restrictions.

6. We consider that it remains the case that receptions and wakes should not be taking place in private dwellings for public health reasons. The general risks associated with these types of gatherings are set out in the Business and Regulatory Impact Assessment for Life Events carried out for the existing Regulations.

Amendment to the Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020

7. The Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 were made on 10 December and came into force on 11 December. The Regulations, in effect, prevent evictions of tenants under residential leases from 11 December to 22 January. The regulations will extend any period for eviction where the period of enforcement of a social housing decree for rent arrears, previously granted by the court, falls within the period of the evictions ban, by the duration of the eviction ban. In a small number of cases tenants may either stop keeping to a previously agreed payment plan, or only begin to engage with the landlord after an eviction decree is granted. In these cases landlords often decide not to execute the decree where the tenant is keeping to a sustainable payment plan. The regulations will provide social landlords with the full period of the decree to manage such cases, retaining the option of eviction, in cases of last resort, where the tenant breaks payment arrangements, stops engaging with the landlord completely or deliberately chooses not to pay their rent, resulting in high levels of arrears which will continue to increase.

8. If the 6 month expiry of the decree falls within the period of the ban, the regulations will ensure that in these cases landlords do not have to start new court action from scratch. Due to pre and post court processes and the availability of the Courts to hear such cases due to restrictions in operation due to the pandemic, this could be a lengthy process resulting in arrears continuing to accrue and additional legal costs for landlords.

Consultation

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

Impact Assessments

10. An Island Communities Impact Assessment has been prepared for this instrument. Other Impact Assessments have not been prepared for this instrument. Impact Assessments have been prepared previously to assess the impact of the restrictions within levels, these are published alongside the relevant Regulations. The provisions are however subject to strict obligations on the Scottish Government to review their necessity.

Scottish Government
Directorate for Constitution and Cabinet
17 December 2020