POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS) (SCOTLAND) AMENDMENT (NO. 10) REGULATIONS 2020

SSI 2020/236

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 amend the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 ("the principal regulations") with the effect that face coverings are mandatory in a wider range of public spaces, including places of worship, banks and financial institutions. These Regulations also exclude face shields from the definition of a face covering. The Regulations also set out a range of measures that a person responsible for a place of worship, carrying on a business or providing a service must take to minimise the risk of exposure to coronavirus. Finally, the Regulations give the Scottish Ministers a power to issue guidance on measures which should be taken, in accordance with the requirement to take measures to minimise the risk of the incidence and spread of coronavirus.

Legislative background

1. The UK Coronavirus Act 2020 received Royal Assent on 25 March 2020. The Scottish Government immediately used powers conferred by that Act to bring forward the principal regulations, to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. The principal regulations came into force on Thursday 26 March.

2. The restrictions and requirements imposed by the principal regulations must be reviewed at least once every 21 days. As soon as the Scottish Ministers consider that any restriction or requirement is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in Scotland with coronavirus, the Scottish Ministers must revoke that restriction or requirement.

3. On 21 May 2020 the Scottish Government published a route map setting out a phased approach to easing lockdown restrictions while still suppressing coronavirus (COVID-19). The route map recognises that the restrictions and requirements in place have a negative impact on some aspects of people's lives, such as increasing loneliness and social isolation and have potential to deepen inequalities and damage our economy.

Policy Objectives

4. Following the review required by 9 July 2020, Scottish Ministers decided to progress to phase 3 of the route map. The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 7) Regulations 2020 were made on 9 July and introduced a number of changes for the purposes of implementing certain phase 3 policies. The Health Protection

(Coronavirus) (Restrictions) (Scotland) Amendment (No. 8) Regulations 2020 were made on 14 July and introduced a number of further changes for the purposes of implementing certain phase 3 policies. The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 9) Regulations 2020 were made on 21 July and introduced some further changes for the purposes of implementing certain phase 3 policies.

5. As lockdown measures continue to be eased, additional measures may become necessary to limit the spread of Covid 19. The Scottish Government's guidance has been updated to reflect these changes and to make other changes for the purpose of implementing proposals in the route map. The revised guidance is available at www.gov.scot/collections/coronavirus-covid-19-guidance.

Requirement to take measures to minimise risk of exposure to coronavirus

6. The Regulations provide that a person responsible for a place of worship, carrying on a business or providing a service must ensure measures to reduce the risk of coronavirus are taken where reasonably practical. This includes measures previously included in the principal regulations to ensure the required distance is maintained on the premises, and by those waiting to enter the premises.

7. The Regulations additionally provide that a person responsible for a place of worship, carrying on a business or providing a service must take any other measures, where reasonably practicable, for the purpose of minimising the risk of the incidence and spread of coronavirus on the premises, and gives a non-exhaustive list of examples of what these measures might be. These examples include installing barriers or screens, providing or requiring use of personal protective equipment, controlling use of shared facilities such as toilets and kitchens, changing the layout of premises including the location of furniture and workstations, and providing information to those entering or working at the premises about how to minimise the risk of exposure to coronavirus. The intention is to help to ensure that best practice is followed so that the risk of the spread of Covid 19 is reduced.

Guidance on minimising exposure to coronavirus

8. The Regulations provide that the Scottish Ministers may issue guidance on measures which should be taken in order to minimise the risk of the incidence and spread of coronavirus. This supplements the requirement to take measures set out in Regulation 4 as amended by these regulations. Anyone responsible for a place of worship, carrying on a business or providing a service must have regard to the guidance issued by Ministers as is relevant to the specific premises or business. The intention is to help to ensure that best practice is followed so that the risk of the spread of Covid 19 is reduced

Locations where a face covering is mandatory

9. Regulation 6B of the principal regulations, which previously made face coverings mandatory in retail environments (including those where services were provided) has been amended to make face coverings mandatory in a wider range of indoor spaces open to the public. This includes places of worship, community centres, crematoriums and post offices. The Regulations also make face coverings mandatory in banks and takeaways which were previously exempt from the requirement. The requirement to wear a face covering has been extended because there is evidence that face coverings add some additional value in

preventing the spread of Covid 19, especially in crowded and less well ventilated spaces, and where 2 m distancing is not possible.

10. The Regulations also provide some additional exemptions to the requirement to wear a face covering in public spaces. This is to ensure that the exemptions properly reflect the activities that will take place in public places such as places of worship, libraries and community centres.

Face Shields

11. Regulation 10 of the principal regulations sets out a definition of a face covering. These Regulations amend the definition of face covering to exclude face shields from the definition of face covering. This is because recent evidence indicates that face shields do not provide enough protection and so should not be regarded as meeting the legal definition of a face covering in locations where they are mandatory.

Consultation

12. There has been no public consultation in relation to this instrument. Where possible, the Scottish Government has informally consulted with public bodies and other relevant stakeholders affected by the Regulations.

Impact Assessments

13. An Equality Impact Assessment has been completed and is attached. Other Impact Assessments have not been prepared for this instrument. The provisions of the Regulations are however subject to strict obligations on the Scottish Government to review their necessity.

Scottish Government
Directorate for Constitution and Cabinet
7 August 2020