POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS) (SCOTLAND) AMENDMENT (NO. 3) REGULATIONS 2020

SSI 2020/164

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.

This instrument amends the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 ("the principal regulations") to provide that people may take part in outdoor recreation in certain circumstances with members of their household and with members of one other household. The instrument also provides for the reopening of garden centres and provides that it is a reasonable excuse to visit a garden centre or a recycling service. The instrument provides for the reopening of outdoor tennis courts and bowling greens. They allow certain businesses and service providers, which are currently closed to the public under the principal regulations, to begin preparing their premises in advance of re-opening in order to ensure compliance with physical distancing requirements when they are allowed to reopen. The Regulations make a number of technical amendments with the effect that the termination of a restriction or requirement imposed by the principal regulations must be by way of an amending instrument, rather than by direction.

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 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 terminate that restriction or requirement. Following the review required by 28 May 2020, Scottish Ministers decided to make the Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 3) Regulations 2020.

Policy Objectives

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 people's lives, such as increasing loneliness and social isolation and have potential to deepen inequalities and damage our economy. The route map also stated that, subject to the available data and evidence in support of such proposals, some of the restrictions and requirements may be eased at this time.

4. Some changes to the lockdown measures are made by this instrument and are described below. 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.

Outdoor recreation

5. These Regulations amend the principal regulations to provide that it is a reasonable excuse for a person to take part in outdoor recreation in certain circumstances with members of their household and with members of one other household. In practice this means people may now use outdoor public spaces or private gardens for recreational purposes, for example to sit, relax or have a picnic - alone or with members of their household and/or members of one other household at a time. The Scottish Government's guidance advises that, when taking part in outdoor recreation, individuals should take all reasonable measures to ensure that they keep at least two metres apart from people not in their household.

Garden centres

6. The Regulations make an amendment to allow garden centres and plant nurseries to re-open by amending Part 3 of schedule 1 of the principal regulations, which lists businesses that may remain open. The Regulations also widen the list of reasonable excuses to enable individuals to visit garden centres. A person who is responsible for a garden centre or plant nursery is required to take all reasonable measures to ensure that physical distancing takes place on their premises, in accordance with regulation 4(1) of the principal regulations.

Recycling and waste disposal services

7. The Regulations widen the list of reasonable excuses to enable individuals to visit recycling centres and waste disposal services, such as bottle banks. A person who is responsible for the recycling and waste disposal services is required to take all reasonable measures to ensure the physical distancing measures required by regulation 4(1) of the principal regulations are followed.

Outdoor tennis and bowls

8. The Regulations allow for the reopening of outdoor courts for tennis or bowls by exempting them from the list of businesses and services that must close in Part 2 of schedule 1 of the principal regulations.

Allowing businesses to prepare for physical distancing

9. The Regulations amend the principal regulations to allow certain businesses and service providers which are currently required to be closed to the public, to take preparatory

steps in advance to ensure compliance with physical distancing requirements on their premises when they are allowed to reopen.

Terminating or restating lockdown measures

10. The Regulations also make a number of technical amendments to the principal regulations, by amending regulations 2 to 6 with the effect of providing that any termination of a lockdown measure must be by amending regulations (rather than by direction).

Consultation

11. 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

12. An Equality Impact Assessment and a Partial Business and Regulatory Impact Assessment have been completed and are attached. A Children's Rights and Welfare Impact Assessment has not been prepared, however any future changes to the regulations which do have a direct impact on children's rights or welfare will be assessed.

Scottish Government
Directorate for Constitution and Cabinet
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