



The Scottish Parliament
Pàrlamaid na h-Alba

COVID-19 COMMITTEE

AGENDA

2nd Meeting, 2021 (Session 5)

Thursday 14 January 2021

The Committee will meet at 10.30 am in a virtual meeting and broadcast on www.scottishparliament.tv.

1. **Ministerial Statements: Covid-19; and Subordinate legislation:** The Committee will take evidence on the latest Ministerial statements on Covid-19; and The Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 (SSI 2020/425); The Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/439); The Social Care Staff Support Fund (Coronavirus) (Scotland) (Amendment) Regulations 2020 (SSI 2020/469); The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 9) Regulations 2020 (SSI 2020/471); The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021 (SSI 2021/1) and The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 11) Regulations 2021 (SSI 2021/3) from—

Michael Russell, Cabinet Secretary for the Constitution, Europe and External Affairs, and Professor Jason Leitch, National Clinical Director, Scottish Government.

2. **Subordinate legislation:** Michael Russell, Cabinet Secretary for the Constitution, Europe and External Affairs to move—

S5M-23684— That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 (SSI 2020/425) be approved;

S5M-23749— That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/439) be approved;

S5M-23807— That the COVID-19 Committee recommends that the Social Care Staff Support Fund (Coronavirus) (Scotland) (Amendment) Regulations 2020 (SSI 2020/469) be approved;

S5M-23809— That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 9) Regulations 2020 (SSI 2020/471) be approved;

S5M-23826— That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021 (SSI 2021/1) be approved;

S5M-23828— That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 11) Regulations 2021 (SSI 2021/3) be approved.

Sigrid Robinson
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The papers for this meeting are as follows—

Agenda Item 1

Note by the Clerk

CVD/S5/21/2/1

PRIVATE PAPER

CVD/S5/21/2/2 (P)

PRIVATE PAPER

CVD/S5/21/2/3 (P)

PRIVATE PAPER

CVD/S5/21/2/4 (P)



The Scottish Parliament
Pàrlamaid na h-Alba

Covid-19 Committee

2nd Meeting, 2021 (Session 5), Thursday 14 January 2021

Ministerial Statements: Covid-19; and Subordinate legislation

Introduction

1. At this meeting, the Cabinet Secretary for the Constitution, Europe and External Affairs ('the Cabinet Secretary'), Michael Russell MSP and Professor Jason Leitch, National Clinical Director for the Scottish Government, will give evidence under agenda item 1.

2. The Committee will take evidence on the policy announcements arising from the latest Ministerial statements on Covid-19, which will take place on 13 January 2021, under this agenda item.

3. The Committee will also take evidence on the following subordination legislation under agenda item 1, before it considers the corresponding motions, under agenda item 2—

- [The Health Protection \(Coronavirus\) \(Protection from Eviction\) \(Scotland\) Regulations 2020 \(SSI 2020/425\)](#) (from here on referred to as 'SSI 2020/425 – Protection from Eviction Regs')
- [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(SSI 2020/439\)](#) (from here on referred to as 'SSI 2020/439 – Miscellaneous Amendment Regs')
- [The Social Care Staff Support Fund \(Coronavirus\) \(Scotland\) \(Amendment\) Regulations 2020 \(SSI 2020/469\)](#) (from here on referred to as 'SSI 2020/469 – Social Care Staff Support Fund Regs')
- [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 9\) Regulations 2020 \(SSI 2020/471\)](#) (from here on referred to as 'SSI 2020/471 – Reg No. 9')
- [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 10\) Regulations 2021 \(SSI 2021/1\)](#) (from here on referred to as 'SSI 2021/1 – Reg No. 10')
- [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 11\) Regulations 2021 \(SSI 2021/3\)](#) (from here on referred to as 'SSI 2021/3 – Reg No. 11')

Ministerial statements on COVID-19

4. On 23 October 2020, the Scottish Government published the [Coronavirus \(COVID-19\): Scotland's Strategic Framework](#), which came into effect on 2 November 2020. The Scottish Government reviews the latest guidance under the Strategic Framework on a weekly basis. Following the review, any changes to the guidance are published on the Scottish Government's [Coronavirus \(COVID-19\): protection levels - reviews and evidence](#) webpages.

5. Due to the health protection measures introduced by the Scottish Government on Monday, 4 January (SSI 2021/1 and SSI 2021/3), a ministerial statement on the latest levels review has not been scheduled for this week. However, the Scottish Government will deliver two ministerial statements on the Covid-19 vaccination plan and a Covid-19 education update in the Chamber on Wednesday, 13 January 2021. Further information can be found in the [Business Bulletin](#).

Subordination legislation

Policy Background: SSI 2020/425 – Protection from Eviction Regs

6. SSI 2020/425 was laid on 10 December 2020 and came into force on 11 December 2020. A copy of the SSI and policy note is provided in **Annexe A** to this paper. According to the [policy note](#), the purpose of the instrument is as follows—

“These Regulations prevent, except in specified circumstances, attendance at a dwelling house for the purpose of serving or executing a charge for removing or for executing a decree for removing from heritable property.

The specified circumstances are where possession of the dwelling house is sought on the basis of nuisance, annoyance or conviction for using the house for immoral or illegal purposes, anti-social behaviour, certain convictions or association with person who has relevant conviction or engaged in relevant anti-social behaviour.

The Regulations came into force on 11 December 2020 and will expire on 22 January 2021.”

7. Members may wish to note that these regulations will expire on the 28th day of being laid. The Coronavirus Act 2020 gives the Scottish Government emergency powers to lay regulations for ‘health protection’ measures, which can come into effect immediately. The measures introduced using this procedure can remain in force for 28 days without parliamentary approval. As a result, while the motion will be voted on by the lead committee and in plenary session, the result of these votes will have no legal effect.

8. The Scottish Government has not provided any associated impact assessments to accompany SSI 2020/425.

9. A SPICe briefing providing further information on SSI 2020/425 is included in the meeting pack as a private briefing (see **Paper 2**).

Policy Background: SSI 2020/439 – Miscellaneous Amendment Regs

10. SSI 2020/439 was laid on 17 December 2020 and came into force on 18 December 2020. A copy of the SSI and policy note is provided in **Annexe B** to this paper. According to the [policy note](#), the purpose of the instrument is as follows—

“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.”

11. The Scottish Government has provided an [Island Communities Impact Assessment](#) to accompany SSI 2020/439.

12. The Committee took evidence on the draft version of these regulations at its meeting on 17 December 2020. The [Official Report of this meeting](#) is available on the Scottish Parliament’s website.

13. A SPICe briefing providing further information on SSI 2020/439 is included in the meeting pack as a private briefing (see **Paper 4**).

Policy Background: SSI 2020/469 – Social Care Staff Support Fund Regs

14. SSI 2020/469 was laid on 23 December 2020 and came into force on 24 December 2020. A copy of the SSI and policy note is provided in **Annexe C** to this paper. According to the [policy note](#), the purpose of the instrument is as follows—

“The purpose of this Instrument is to amend the Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020 (“principal Regulations”) which made provision for the establishment, maintenance and administration of the Social Care Staff Support Fund (“the Fund”) in accordance with paragraph 7 of Schedule 1 to the Coronavirus (Scotland) (No.2) Act 2020. The amending regulations widen the eligibility criteria for the Fund and increase the ability of Scottish Ministers to appoint a person to manage the Fund on their behalf.”

15. The Scottish Government has provided a [Final Business and Regulatory Impact Assessment](#) to accompany SSI 2020/469.

16. A SPICe briefing providing further information on SSI 2020/469 is included in the meeting pack as a private briefing (see **Paper 3**).

Policy Background: SSI 2020/471 – Reg No. 9

17. SSI 2020/471 was laid on 23 December 2020 and came into force on 26 December 2020. A copy of the SSI and policy note is provided in **Annexe D** to this paper. According to the [policy note](#), the purpose of the instrument is as follows—

“These Regulations amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 to adjust the definition of nonessential retail. The Regulations remove garden centres and plant nurseries from the list of essential retailers, these type of retailers must remain shut in Level 4 areas as a result. The regulations also replace “homeware, building supplies and hardware stores” with “building merchants and suppliers of products and tools used in building work and repairs” to ensure retailers selling homeware items, which in many cases would be considered non-essential, are prohibited from opening in Level 4. Click and collect services will remain available. The Regulations prohibit home showroom premises from opening, such as kitchen, bathroom, furniture or glazing showrooms. Some retail services are also prohibited in Level 4 areas, these services are tanning salons, or premises which operate a self-tanning machine or spray-tan booths and travel agencies.

These Regulations also prohibit travel to or from the Republic of Ireland as a result of the national lockdown in the Republic of Ireland announced on 22 December 2020 for commencement on 26 December 2020.”

18. The Scottish Government has provided a [Business and Regulatory Impact Assessment](#) to accompany SSI 2020/471.

19. A SPICe briefing providing further information on SSI 2020/471 is included in the meeting pack as a private briefing (see **Paper 4**).

Policy Background: SSI 2021/1 – Reg No. 10

20. SSI 2021/1 was laid on 5 January 2021 and came into force that same day. A copy of the SSI and policy note is provided in **Annexe E** to this paper. According to the [policy note](#), the purpose of the instrument is as follows—

“These Regulations amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 to introduce a requirement to stay at home for those living in a Level 4 area, similar to the requirement included in legislation in March 2020. These Regulations also reduce the number of people who can meet for social purposes in Level 4. The limit is now 2 people from 2 households, rather than 6 people from 2 households. Existing socialisation rules still apply for those under 12 and the limit for 12-17 year olds has been reduced to 2 people from 2 households. These Regulations adjust the rules on organised outdoor activity for under 18s and for outdoor exercise in Level 4 to prohibit those aged 12 and over from undertaking such activities unless the general social gathering limit is followed.”

21. The Scottish Government has provided the following supporting documents to accompany SSI 2021/1—

- [Child Rights and Wellbeing Impact Assessment](#)
- [Island Communities Impact Assessment](#)
- [Equality Impact Assessment](#)

22. The Committee took evidence on SSI 2021/1 at its meeting on 8 January 2021. The [Official Report of this meeting](#) is available on the Scottish Parliament’s website.

23. A SPICe briefing providing further information on SSI 2021/1 is included in the meeting pack as a private briefing (see **Paper 4**).

Policy Background: SSI 2021/3 – Reg No. 11

24. SSI 2021/3 was laid on 6 January 2021 and came into force on 8 January 2021. A copy of the SSI and policy note is provided in **Annexe F** to this paper. According to the [policy note](#), the purpose of the instrument is as follows—

“These Regulations amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 to prohibit places of worship from opening for most purposes. These Regulations reduce the number of people who are able to attend a marriage ceremony or civil partnership registration and also prohibit funeral teas or wakes from taking place in Level 4 areas (whilst still allowing for commemorative events). These Regulations require snow sports centres, showrooms within larger retailers, independent clinics, independent hospitals and independent medical agencies in relation to certain procedures or treatments to close in Level 4 areas. The Regulations also require 2 metre distancing to be maintained in workplace canteens. Finally, these Regulations make minor amendments to correct inaccuracies in the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021.”

25. The Scottish Government has provided the following supporting documents to accompany SSI 2021/3—

- [Equality Impact Assessment](#)
- [Business and Regulatory Impact Assessment](#)

26. The Committee took evidence on SSI 2021/3 at its meeting on 8 January 2021. The [Official Report of this meeting](#) is available on the Scottish Parliament’s website.

27. A SPICe briefing providing further information on SSI 2021/3 is included in the meeting pack as a private briefing (see **Paper 4**).

Parliamentary Procedure

28. All SSIs under consideration are subject to the made affirmative procedure.

Made affirmative instruments

29. The Coronavirus Act 2020 gives the Scottish Government emergency powers to lay regulations for ‘health protection’ measures, which can come into effect immediately. The measures introduced using this procedure can remain in force for 28 days without parliamentary approval. If the Scottish Government intends for the measures to be in force for longer than 28 days, parliamentary approval is required and must be obtained within the initial 28-day period.

30. This is explained in detail in the policy note for each made affirmative SSI, which states that the regulations are made “in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020. The instrument is subject to the made affirmative procedure by virtue of paragraph 6(3) of schedule 19 of the Act.” This provides that if Scottish Ministers consider that regulations need to be made urgently—

“the regulations (the “emergency regulations”)—

(a) must be laid before the Scottish Parliament; and

(b) cease to have effect on the expiry of the period of 28 days beginning with the date on which the regulations were made unless, before the expiry of that period, the regulations have been approved by a resolution of the Parliament.”

Delegated Powers and Law Reform Committee (‘DPLR’) Consideration

31. The DPLR Committee considered SSI 2020/425 at its meeting on [15 December 2020](#) and had no points to raise.

32. The DPLR Committee will consider SSI 2020/439, SSI 2020/469, SSI 2020/471, SSI 2021/1 and SSI 2021/3 at its meeting on 12 January 2021. Should the DPLR Committee have any points to raise, these will be highlighted to the Committee in advance of its meeting.

Subordinate Legislation (Motions S5M-23684, S5M-23749, S5M-23807 and S5M-23809)

33. Under agenda item 2, the Cabinet Secretary will be invited to move motions—

- [S5M-23684](#): That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 (SSI 2020/425) be approved.
- [S5M-23749](#): That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/439) be approved.

- [S5M-23807](#): That the COVID-19 Committee recommends that the Social Care Staff Support Fund (Coronavirus) (Scotland) (Amendment) Regulations 2020 (SSI 2020/469) be approved.
- [S5M-23809](#): That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 9) Regulations 2020 (SSI 2020/471) be approved.
- [S5M-23826](#): That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021 (SSI 2021/1) be approved.
- [S5M-23828](#): That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 11) Regulations 2021 (SSI 2021/3) be approved.

Next steps

34. The Committee will publish a report setting out its consideration of the motions under agenda item 2 in due course.

**Committee Clerks
12 January 2021**

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations made by the Scottish Ministers and laid before the Scottish Parliament under paragraph 6(3) of schedule 19 of the Coronavirus Act 2020 for approval by resolution of the Scottish Parliament within 28 days beginning with the day on which the Regulations were made, not taking into account any period of dissolution or recess for more than 4 days.

SCOTTISH STATUTORY INSTRUMENTS

2020 No. 425

PUBLIC HEALTH

The Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020

| | | |
|--|---------|---|
| | | <i>at 12.12 p.m. on</i> |
| <i>Made</i> | - - - - | <i>10th December 2020</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>at 2.45 p.m. on 10th December 2020</i> |
| <i>Coming into force</i> | - - | <i>11th December 2020</i> |

The Scottish Ministers make the following Regulations in exercise of the power conferred by paragraphs 1(1) and 5(3)(b) of schedule 19 of the Coronavirus Act 2020⁽¹⁾ (“the Act”) and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the restrictions imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with paragraph 6(2) and (3) of schedule 19 of the Act, the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft having been laid before, and approved by, a resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 and come into force on 11 December 2020.

Residential Tenancies (Protection from Eviction)

- 2.—(1) No person may attend at a dwelling house for the purpose of—
- (a) serving a charge for removing, or

(1) 2020 c.7.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(b) executing a decree for removing from heritable property.

(2) Paragraph (1) does not apply where the charge for removing relates to a decree for removing from heritable property, or where the decree for removing from heritable property is, granted wholly or partly on the basis that possession is sought in the circumstances as specified in—

- (a) Case 2 (nuisance, annoyance or conviction for using or allowing the dwelling-house to be used for immoral or illegal purposes) in schedule 2 of the Rent (Scotland) Act 1984(2),
- (b) Ground 15 (conviction for certain offences, acting in an anti-social manner or pursuing a course of anti-social conduct) in schedule 5 of the Housing (Scotland) Act 1988(3),
- (c) Paragraphs 2 (conviction for certain offences), 7 (anti-social behaviour or harassment) or 8 (nuisance, annoyance or harassment) of schedule 2 of the Housing (Scotland) Act 2001(4), or
- (d) Grounds 13 (criminal behaviour), 14 (anti-social behaviour) or 15 (association with person who has relevant conviction or engaged in relevant anti-social behaviour) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016(5).

(3) In this regulation—

“the 2007 Act” means the Bankruptcy and Diligence etc. (Scotland) Act 2007(6),

“a charge for removing” means a charge to remove from subjects or premises, as required by section 216(1) of the 2007 Act, in the case of a decree or order for removing from heritable property of a type mentioned in paragraphs (f), (g) or (k) of section 214(2) of the 2007 Act, and

“a decree for removing from heritable property” means a decree or order of a type mentioned in paragraphs (f), (g) or (k) of section 214(2) of the 2007 Act.

Consequential provision

3.—(1) Any day for which regulation 2 is in force, including the day on which the regulation first comes into force, is not to be counted for the purpose of calculating the maximum period.

(2) In this regulation, “the maximum period” means the period prescribed by article 2(1) and (2) of the Scottish Secure Tenancies (Repossession Orders) (Maximum Period) Order 2012(7) for the purposes of section 16(5A)(c) of the Housing (Scotland) Act 2001(8) (powers of court in possession proceedings).

Expiry of regulation 2

4. Regulation 2 expires on 22 January 2021.

St Andrew’s House,
Edinburgh
At 12.12 p.m. on 10th December 2020

KEVIN STEWART
Authorised to sign by the Scottish Ministers

(2) 1984 c.58.
(3) 1988 c.43. Ground 15 was substituted by section 23(4) of the Crime and Disorder Act 1998 (c.37).
(4) 2001 asp 10.
(5) 2016 asp 19.
(6) 2007 asp 3. Section 216(1) is amended by section 58(5) and (6) and paragraph 92(a) of schedule 5 of the Criminal Finances Act 2017 (c.22).
(7) S.S.I. 2012/128.
(8) 2001 asp 10. Subsection (5A) was inserted by section 153(a) of the Housing (Scotland) Act 2010 (asp 17).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prevent, except in specified circumstances, attendance at a dwelling house for the purpose of serving a charge for removing or executing a decree for removing from heritable property (giving notice of or carrying out eviction order in relation to a residential tenancy of a dwelling house).

The specified circumstances are where possession of the dwelling house is sought on the basis of nuisance, annoyance or conviction for using or allowing the dwelling-house to be used for immoral or illegal purposes, anti-social behaviour, certain convictions or association with a person who has relevant convictions or a person who has engaged in relevant anti-social behaviour.

The Scottish Secure Tenancies (Repossession Orders) (Maximum Period) Order 2012 prescribes the maximum period (6 months) for which a landlord's right to recover possession of a house in pursuance of a court order under section 16(2) of the Housing (Scotland) Act 2001 is to have effect. Regulation 3 provides that the period for which regulation 2 is in force does not count towards this maximum period.

Regulation 2 expires on 22 January 2021.

No impact assessment has been prepared for these Regulations.

Policy Note

The Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020

SSI 2020/425

The above instrument was made by Scottish Ministers in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020 (“the Act”) and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

These Regulations prevent, except in specified circumstances, attendance at a dwelling house for the purpose of serving or executing a charge for removing or for executing a decree for removing from heritable property.

The specified circumstances are where possession of the dwelling house is sought on the basis of nuisance, annoyance or conviction for using the house for immoral or illegal purposes, anti-social behaviour, certain convictions or association with person who has relevant conviction or engaged in relevant anti-social behaviour.

The Regulations came into force on 11 December 2020 and will expire on 22 January 2021.

Legislative Background

1. The Coronavirus Act 2020 received Royal Assent on 25 March 2020. The Scottish Government is using powers conferred by paragraph 1 of schedule 19 of that Act to make these Regulations. The Regulations include “the imposition of a special restriction or requirement” (they provide for restrictions, in relation to a person, as to where the person may go or with whom the person has contact as described in paragraph 4(2)(j) of schedule 19) and, as required by paragraph 2(4) of schedule 19, are being made in response to a serious and imminent threat to public health. For the purposes of paragraph 2(1) of schedule 19, the Scottish Government considers that the restriction on evictions imposed by the Regulations is a proportionate response to the pandemic.

Policy Objectives

2. The regulations set out that no person may attend at a dwelling house for the purpose of serving a charge for removing, or executing a charge for removing or for executing a decree for removing from heritable property from 11 December 2020 to 22 January 2021.

3. The only exceptions relate to where the eviction order has been granted in relation to antisocial or criminal behaviour. The relevant eviction grounds relating to this are as follows:

- case 2 (nuisance, annoyance or conviction for using the house for immoral or illegal purposes) in schedule 2 of the Rent (Scotland) Act 1984(1);
- ground 15 (conviction for certain offences, acting in an anti-social manner or pursuing a course of anti-social conduct) in schedule 5 of the Housing (Scotland) Act 1988(2);
- paragraphs 2 (conviction for certain offences), 7 (anti-social behaviour or harassment) or 8 (nuisance, annoyance or harassment) of schedule 2 of the Housing (Scotland) Act 2001(3); or
- grounds 13 (criminal behaviour), 14 (anti-social behaviour) or 15 (association with person who has relevant conviction or engaged in relevant anti-social behaviour) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016(4).

Public Health Justification

4. There are already a number of protections against eviction in place for renters in Scotland. For example, the Private Housing (Tenancies) (Scotland) Act 2016 provided significantly increased levels of protection for private renters, including:

- the removal of the previous ‘no-fault ground’ for eviction, with a landlord only being able to use one of the 18 grounds for repossession; and
- strict legal processes that a landlord must follow to evict a tenant and the ability for a tenant to challenge via the First-tier Tribunal (Housing and Property Chamber).

5. In the social housing sector pre-action requirements were introduced in 2012 to strengthen protection for tenants from eviction for rent arrears. Before an eviction order is granted, landlords must satisfy the court that they have given tenants every opportunity to take up help to manage their debts and to agree an affordable and sustainable repayment plan. This means that social landlords must have exhausted all attempts to resolve rent arrears with their tenant before taking action to evict. All social housing eviction cases in the Sheriff Court, with the exception of streamlined cases for criminal conviction, are also subject to a reasonableness test.

6. However, additional protections are needed as a result of the Covid-19 pandemic. Given the temporary relaxation of rules with regards to the mixing of households over the festive period and the potential that this could lead to people needing to self-isolate safely at home, the Scottish Government have brought forward regulations to introduce a temporary ban on the enforcement of eviction orders – across both the private and social rented sectors – from 11 December to 22 January. The only exceptions to this are the most serious circumstances, such as: illegal occupation, antisocial or criminal behaviour and domestic abuse.

7. This temporary action is in direct response to the continued need to protect public health during the unprecedented times that we continue to face. The timeframe of no evictions taking place between 11 December and 22 January will help prevent additional burdens being placed on health and housing services, which are always stretched over the festive period but even more so this year due to the impact of the pandemic with staff having to work from home or self-isolate.

(1) 1984 c.58.

(2) 1988 c.43. Ground 15 was substituted by section 23(4) of the Crime and Disorder Act 1998 (c.37).

(3) 2001 asp 10.

(4) 2016 asp 19.

8. This would enable any tenants who have taken the opportunity to mix with other households over the festive period - due to the relaxed restrictions - time to effectively self-isolate should they come into contact with a positive person and then make plans for moving where necessary

9. We also know that the pandemic has already had a negative impact on mental health, in particular on children, so reducing stress and allowing time for families to gather (following the guidance) is important this year more than any other. An eviction during this time could put that in jeopardy so this proposal supports mental health.

Expiry of Regulations

10. The regulations came into force on 11 December 2020 and will expire on 22 January 2021.

Consultation

11. Due to the urgency of the situation, 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. Impact Assessments have not been prepared in relation to this instrument. The provisions are however subject to strict obligations on the Scottish Government to review their necessity.

Scottish Government

Housing and Social Justice Directorate
December 2020

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations made by the Scottish Ministers and laid before the Scottish Parliament under paragraph 6(3) of schedule 19 of the Coronavirus Act 2020 for approval by resolution of the Scottish Parliament within 28 days beginning with the day on which the Regulations were made, not taking into account any period of dissolution or recess for more than 4 days.

SCOTTISH STATUTORY INSTRUMENTS

2020 No. 439

PUBLIC HEALTH

The Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (Scotland) Regulations 2020

| | | |
|---------------------------------|---------|-----------------------------|
| | | <i>at 12.20 p.m. on</i> |
| <i>Made</i> | - - - - | <i>17th December 2020</i> |
| <i>Laid before the Scottish</i> | | <i>at 3.30 p.m. on 17th</i> |
| <i>Parliament</i> | - - - - | <i>December 2020</i> |
| | | <i>at 6.00 p.m. on 18th</i> |
| <i>Coming into force</i> | - - | <i>December 2020</i> |

The Scottish Ministers make the following Regulations in exercise of the power conferred by paragraphs 1(1) of schedule 19 of the Coronavirus Act 2020(1) (“the Act”) and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with paragraph 6(2) and (3) of schedule 19 of the Act, the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft having been laid before, and approved by, a resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (Scotland) Regulations 2020 and come into force at 6.00 p.m. on 18 December 2020.

Amendment of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020

2. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(2) are amended in accordance with regulations 3 to 6.

Amendment to modification of the restrictions in certain areas

3. In regulation 3A (modification of the restrictions in certain areas) after paragraph (2) insert—

“(3) In its application in relation to the area mentioned in paragraph (4), paragraph 13 of schedule 3 (restrictions on gatherings in private dwellings in a level 2 area) has effect as if—

(a) before sub-paragraph (1)(a) there is inserted—

“(zb) takes place indoors and consists of no more than six persons from no more than two households,” and

(b) after sub-paragraph (1) there is inserted—

“(1A) For the purpose of sub-paragraph (1)(zb), children under 12 years of age are not to be included when counting the number of people attending a gathering but are to be included when counting the number of households attending a gathering.”.

(4) The area is the area specified in entry 20 in the table in schedule 6 (Argyll and Bute) but for the purpose of this regulation that area is limited to the following islands—

- (a) the Isle of Coll,
- (b) the Isle of Colonsay,
- (c) the Isle of Erraid,
- (d) the Isle of Gometra,
- (e) the Isle of Iona,
- (f) the Isle of Islay,
- (g) the Isle of Jura,
- (h) the Isle of Mull,
- (i) the Isle of Oronsay,
- (j) the Isle of Tiree, and
- (k) the Isle of Ulva.”.

Amendment to restriction on gatherings in private dwellings in a Level 0 area

4. In schedule 1 (level 0 restrictions), in paragraph 8(1)(d) (restriction on gatherings in private dwellings in a level 0 area) for “relates to” substitute “is”.

Amendment to restriction on gatherings in private dwellings in a Level 1 area

5. In schedule 2 (level 1 restrictions), in paragraph 9(1)(d) (restriction on gatherings in private dwellings in a level 1 area) for “relates to” substitute “is”.

(2) S.S.I. 2020/344, amended by S.S.I. 2020/347, S.S.I. 2020/374, S.S.I. 2020/389, S.S.I. 2020/392, S.S.I. 2020/400, S.S.I. 2020/415 and S.S.I. 2020/427.

Changes to levels of areas

6.—(1) In the table in schedule 6 (areas), in column 3 (level of area), in each of the entries mentioned in paragraph (2), for “2” substitute “3”.

(2) The entries are 11 (Aberdeen City), 12 (Aberdeenshire) and 23 (East Lothian).

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

7. For regulation 3 (consequential provision) of the Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020(3), substitute—

“3. The period mentioned in section 16(5A)(c) of the Housing (Scotland) Act 2001(4) (powers of court in possession proceedings) does not run during any period for which regulation 2 has effect.”.

St Andrew’s House,
Edinburgh
At 12.20 p.m. on 17th December 2020

MICHAEL RUSSELL
A member of the Scottish Government

(3) S.S.I. 2020/425.

(4) 2001 asp 10. Subsection (5A) was inserted by section 153(a) of the Housing (Scotland) Act 2010 (asp 17).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations (which come into force at 6.00 p.m. on 18 December 2020) amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (“the Local Levels Regulations”), and the Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 (“the Protection from Eviction Regulations”).

Regulation 3 amends regulation 3A of the Local Levels Regulations so that, in relation to the following islands in Argyll and Bute, it is permitted to hold gatherings indoors in private dwellings in certain circumstances: the Isles of Coll, Colonsay, Erraid, Gometra, Iona, Islay, Jura, Mull, Oronsay, Tiree and Ulva.

Regulation 4 amends paragraph 8(1)(d) of schedule 1 of the Local Levels Regulations, restricting gatherings in private dwellings for a funeral, marriage ceremony or civil partnership registration in a Level 0 area.

Regulation 5 amends paragraph 9(1)(d) of schedule 2 of those Regulations, restricting gatherings in private dwellings in a Level 1 area for a funeral, marriage ceremony or civil partnership registration.

Regulation 6 changes the levels of restrictions and requirements which apply in the local authority areas listed in paragraph (2) of that regulation. The restrictions and requirements applicable in relation to the different levels are set out in schedules 1 to 5 of the Local Levels Regulations.

Regulation 7 amends the Protection from Eviction Regulations, and is relevant to orders made under section 16(2) of the Housing (Scotland) Act 2001 (“the 2001 Act”) for recovery of possession of a property subject to a secure tenancy. Section 16(5A) of the 2001 Act provides that where an order is made on the ground of rent arrears, or on grounds including rent arrears, the order must specify the period for which the landlord’s right to recover possession of the property is to have effect. Regulation 7 has the effect of ensuring that the period of time for which regulation 2 of the Protection from Eviction Regulations is in force is not counted when calculating the period of time specified.

An Island Communities Impact Assessment has been prepared. Copies may be obtained online at www.legislation.gov.uk.

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

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations made by the Scottish Ministers laid before the Scottish Parliament under paragraph 7(4) of schedule 1 of the Coronavirus (Scotland) (No. 2) Act 2020 for approval by resolution of the Scottish Parliament within 28 days beginning with the day on which the Regulations were made, not taking into account periods of dissolution or recess for more than four days.

SCOTTISH STATUTORY INSTRUMENTS

2020 No. 469

SOCIAL CARE

The Social Care Staff Support Fund (Coronavirus) (Scotland) Amendment Regulations 2020

| | |
|---------------------------------|-----------------------------|
| | <i>at 8.15 a.m. on 23rd</i> |
| <i>Made</i> - - - - | <i>December 2020</i> |
| <i>Laid before the Scottish</i> | <i>at 12.15 p.m. on</i> |
| <i>Parliament</i> - - - - | <i>23rd December 2020</i> |
| <i>Coming into force</i> - - | <i>24th December 2020</i> |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 2 and 7, and paragraph 7(3) of schedule 1, of the Coronavirus (Scotland) (No. 2) Act 2020⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Care Staff Support Fund (Coronavirus) (Scotland) Amendment Regulations 2020 and come into force on the day after the day on which they are made.

(2) In these Regulations, “the principal Regulations” means the Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020⁽²⁾.

Amendment of the Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020

2.—(1) The principal Regulations are amended in accordance with paragraphs (2) to (8).

(2) In regulation 1(3) (interpretation)—

(a) before the definition of “expected income” insert—

(1) [2020 asp 10, S.S.I. 2020/299](#) amended section 9(1) so the expiry date of the Coronavirus (Scotland) (No. 2) Act 2020 (“the Act”) is currently 31 March 2021. The expiry date in section 9(1) may be further altered by regulations made under section 9 or 10 of the Act.

(2) [S.S.I. 2020/188](#).

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““the coronavirus job retention scheme” means the scheme which was established on 15 April 2020 (and as it has effect from time to time) administered by Her Majesty’s Revenue and Customs under the direction of the Commissioners of Her Majesty’s Treasury under section 76 of the Coronavirus Act 2020(3),”.

(b) after the definition of “the Fund” insert—

““health board” means a Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978(4),”.

(3) In regulation 2 (establishment, maintenance and administration of the Fund)—

(a) in paragraph (4), for “or local authority” substitute “, a local authority or any other person”, and

(b) after paragraph (4) insert—

“(4A) The Scottish Ministers may appoint a different person under paragraph (4) to administer different parts of the Fund for different purposes.”.

(4) In regulation 3 (eligibility criteria to receive financial assistance deriving from the Fund)—

(a) in paragraph (1), for “paragraphs (2) to (5) are met” substitute—

“—

(a) paragraphs (2) to (5), or

(b) paragraphs (2) to (4) and—

(i) paragraph (6), or

(ii) paragraph (7),

are met”, and

(b) after paragraph (5) insert—

“(6) The fifth condition is that the worker is, or was, a person falling within a description in schedule 1 (conditions or treatments relevant for the purposes of regulation 3(6)) and has been advised by the Scottish Ministers, a registered medical practitioner or a health board to shield themselves from the general public in order to reduce the risk of that worker contracting coronavirus.

(7) The sixth condition is that the worker is, or was, a person falling within a description in schedule 2 (conditions or statuses relevant for the purposes of regulation 3(7)), and has agreed with their employer, following an assessment, that the worker is unable to carry out their duties for a period of time due to the risk of that worker contracting coronavirus.

(8) No financial assistance is to be granted under these regulations in respect of any period after 31 October 2020 to a worker who is eligible by virtue of the conditions set out in paragraphs (6) or (7).”.

(5) In regulation 4 (requirements for claim on the Fund by relevant social care workers) for “regulation 3 are met” substitute—

“—

(a) regulations 3(2) to (5), or

(b) regulation 3(2) to (4) and—

(3) 2020 c.7.

(4) 1978 c.29, amended by section 14(2) and schedule 7, paragraph 1 of the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 28(a)(i) and (ii) of the National Health Service and Community Care Act 1990 (c.19), schedule 2, schedule 1, paragraph 1(2)(a) of the National Health Service Reform (Scotland) Act 2004 (asp 7), paragraph 2(2) of the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13).

- (i) regulation 3(6), or
 - (ii) regulation 3(7),
- are met”.
- (6) In regulation 5 (amount of financial assistance to be paid from the Fund)—
- (a) in paragraph (1) for “regulation 3” substitute “regulation 3(2) to (5)”,
 - (b) after paragraph (1) insert—
 - “(1A) Subject to paragraph (2), the maximum amount to be paid from the Fund to each relevant social care worker in respect of each period that the worker meets all the conditions in regulations 3(2) to (4) and either (6) or (7), regardless of whether they also meet the condition at regulation 3(5), is the difference between—
 - (a) 80% of that worker’s expected income from health and care work in respect of that period, and
 - (b) their actual income from health and care work (including any sick pay) in respect of that period.”
 - (c) in paragraph (2)—
 - (i) after “paragraph (1)” add “or (1A)”, and
 - (ii) for “from any public body or other person” substitute—
 - “by virtue of—
 - (a) any sick pay,
 - (b) the coronavirus job retention scheme, or
 - (c) their employer”.
- (7) In regulation 6(2) (reimbursement of employers of payments to relevant social care workers) —
- (a) after “administer the Fund” insert “or different parts of the Fund,”, and
 - (b) in sub-paragraph (a), for “regulation 3” substitute—
 - “—
 - (i) regulation 3(2) to (5), or
 - (ii) regulation 3(2) to (4) and
 - (aa) regulation 3(6), or
 - (bb) regulation 3(7)”.
- (8) Insert as schedules to the principal Regulations—

“SCHEDULE 1

Regulation 3(6)

Conditions or treatments relevant for the purposes of regulation 3(6)

A person who has cancer and is receiving a course of chemotherapy

A person who has lung cancer and is either receiving, or has previously received, radiotherapy intended to cure the cancer

A person who has cancer of the blood or bone marrow (including leukaemia, lymphoma or myeloma) and is at any stage of treatment

A person with a severe chest condition such as cystic fibrosis, severe asthma, severe chronic obstructive pulmonary disease, severe bronchiectasis or pulmonary hypertension

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A person with a rare disease, including all forms of interstitial lung disease/sarcoidosis, and inborn errors of metabolism (such as severe combined immunodeficiency and homozygous sickle cell) that significantly increase the risk of infections

A person with an absent spleen or who has had their spleen removed

A person who is pregnant and who has significant heart disease (whether congenital or acquired)

A person aged 18 or over with Down's syndrome

A person with stage 5 kidney disease

A person who has had solid organ transplants

A person who has had bone marrow or stem cell transplants in the last six months, or who is taking immunosuppression drugs

A person who is receiving immunotherapy or other continuing antibody treatments for cancer

A person who is receiving targeted cancer treatments which can affect the immune system, such as protein kinase inhibitors or poly (ADP-ribose) polymerase inhibitors

A person who is receiving immunosuppression therapies that significantly increase the risk of infection

A person who is receiving renal dialysis treatment

SCHEDULE 2

Regulation 3(7)

Conditions or statuses relevant for the purposes of regulation 3(7)

A person who is aged 70 or older

A person who is under 70 and instructed to get a flu jab each year on medical grounds

A person who is pregnant

A person with chronic respiratory diseases, such as asthma, chronic obstructive pulmonary disease, emphysema or bronchitis

A person with chronic heart disease

A person with chronic kidney disease

A person with chronic liver disease

A person with a chronic neurological condition, including Parkinson's disease, motor neurone disease, multiple sclerosis, a learning disability or cerebral palsy

A person with diabetes

A person who has problems with their spleen, for example sickle cell disease

A person with a weakened immune system as the result of conditions such as human immunodeficiency virus or acquired immune deficiency syndrome, or as a result of medicines such as steroid tablets or chemotherapy

A person with a body mass index of 40 or above"

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St Andrew's House,
Edinburgh
At 8.15 a.m. on 23rd December 2020

JEANE FREEMAN
A member of the Scottish Government

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020 (“the principal Regulations”).

Regulation 2(3) amends regulation 2(4) in the principal Regulations, with the effect that in addition to an integration authority or a local authority, the Scottish Ministers can appoint any other person to administer the Social Care Staff Support Fund (“the Fund”) on their behalf. It also adds a new paragraph (4A) into regulation 2, which enables the Scottish Ministers to appoint different persons to administer different parts of the Fund for different purposes.

Regulation 2(4) amends regulation 3 of the principal Regulations. It inserts new paragraphs (6) to (8) in relation to (a) workers with certain conditions of undergoing certain treatments who have been advised to shield and (b) workers with certain conditions or statuses who have agreed with their employer that they are unable to work because of the risk of contracting coronavirus. New regulation 3(8) provides any such workers will only be eligible for financial assistance from the Fund in relation to any period all those conditions are met up to 31 October 2020.

Regulation 2(5) amends regulation 4 of the principal Regulations in consequence of the new conditions added to regulation 3. Regulation 2(6) inserts a new paragraph (1A) into regulation 5 of the principal Regulations to outline the method to be used in calculating the amount a worker will receive from the Fund where that worker satisfies the amended eligibility criteria and amends regulation 5(2) in respect of payments received from the coronavirus job retention scheme, their employer, or relevant sick pay that will be subtracted in determining the amount of financial assistance paid from the Fund.

Regulation 2(7) makes consequential amendments to regulation 6 of the principal Regulations.

Regulation 2(8) inserts schedules 1 (conditions or treatments) and 2 (conditions or statuses) into the principal Regulations.

A Business and Regulatory Impact Assessment in relation to these Regulations has been prepared and placed in the Scottish Parliament Information Centre. Copies of it can be obtained online at www.legislation.gov.uk.

POLICY NOTE

THE SOCIAL CARE STAFF SUPPORT FUND (CORONAVIRUS) (SCOTLAND) AMENDMENT REGULATIONS 2020

SSI 2020/469

The Social Care Staff Support Fund (Coronavirus) (Scotland) Amendment Regulations 2020 (“amending regulations”) were made in exercise of the powers conferred by sections 2, 7 and paragraph 7(3) of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 (“the 2020 Act”). The instrument is subject to made-affirmative procedure.

The purpose of this Instrument is to amend the Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020 (“principal Regulations”) which made provision for the establishment, maintenance and administration of the Social Care Staff Support Fund (“the Fund”) in accordance with paragraph 7 of Schedule 1 to the Coronavirus (Scotland) (No.2) Act 2020. The amending regulations widen the eligibility criteria for the Fund and increase the ability of Scottish Ministers to appoint a person to manage the Fund on their behalf.

Policy Objectives

The Social Care Staff Support Fund was created in order to ensure that relevant social care workers who meet the eligibility criteria do not experience financial hardship during the coronavirus pandemic. The Fund currently provides financial support to relevant social care workers who have their ability to work restricted for a reason relating to coronavirus and are therefore suffering a reduction in income, and resulting financial hardship, on or after Part 1 of that Act came into force, due to any of the following reasons:

- They are ill with coronavirus; or
- They are self-isolating in line with the latest Scottish NHS guidance, or specific social care infection prevention and control guidance where this exists.

Provided all the other eligibility criteria in regulations 3(2) to (4) of the principal Regulations are met, the amending Regulations provide that relevant social care workers who meet the following conditions are eligible to receive financial assistance from the Fund:

- They have or had a condition or are receiving treatment for a condition which is listed in Schedule 1 and have been advised to shield themselves from the public; or
- They have or had a condition or status listed in Schedule 2 and following a risk assessment undertaken with their employer, both the worker and employer have agreed that they cannot work with suitable protection from coronavirus.

The new conditions are designed to catch relevant social care workers who were shielding during the period March-October 2020, or who were assessed by NHS Inform as being “higher risk” and agreed with their employer that they could not safely carry out their duties, whose employers did not apply to the coronavirus job retention scheme (JRS). Schedule 1 reflects the “extremely high risk” NHS inform category, while Schedule 2 reflects the “higher

risk” category. The amount the newly eligible categories of workers can claim is capped at 80% of their expected income – this is intended to restore parity with workers who were paid in line with the JRS.

This amendment to the eligibility criteria of the Fund will ensure that relevant social care workers will receive 80% of their expected income in these circumstances. All payments will be made before the end of March 2021.

The other main change to the principal Regulations and the Fund is the Scottish Ministers may appoint any person to administer the Fund, or any particular parts of the Fund for different purposes, on their behalf. The previous position was that Ministers could only appoint a local authority or integration authority to do this.

Those who are eligible to access the Social Care Staff Support Fund must still be workers in the relevant categories of the social care sector. Workers in the following categories are eligible:

- (a) a support service,
- (b) a care home service,
- (c) an offender accommodation service,
- (d) a housing support service.

Consultation

The following bodies have been consulted:

The Convention of Scottish Local Authorities (COSLA)
GMB Union
UNISON Union
Unite Union
The Scottish Trades Union Congress
The Coalition of Care and Support Providers in Scotland
Scottish Care

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed for both iterations of the regulations and is attached. The BRIA concluded that the policy will be beneficial to the social care workforce and social care providers, therefore justifies the costs. The policy will support infection prevention and control policies in response to the coronavirus pandemic and contribute to our overall commitment to fair work in the Social Care sector.

Scottish Government
Mental Health and Social Care Directorate
22 December 2020

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations made by the Scottish Ministers and laid before the Scottish Parliament under paragraph 6(3) of schedule 19 of the Coronavirus Act 2020 for approval by resolution of the Scottish Parliament within 28 days beginning with the day on which the Regulations were made, not taking into account any period of dissolution or recess for more than 4 days.

SCOTTISH STATUTORY INSTRUMENTS

2020 No. 471

PUBLIC HEALTH

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 9) Regulations 2020

| | | |
|--|---------|---|
| | | <i>at 12.39 p.m. on</i> |
| <i>Made</i> | - - - - | <i>23rd December 2020</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>at 3.00 p.m. on 23rd December 2020</i> |
| <i>Coming into force</i> | - - | <i>26th December 2020</i> |

The Scottish Ministers make the following Regulations in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020(1) (“the Act”) and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with paragraph 6(2) and (3) of schedule 19 of the Act, the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft having been laid before, and approved by, a resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 9) Regulations 2020 and come into force on 26 December 2020.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020

2. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(2) are amended in accordance with regulations 3 to 6.

Amendments to restrict travel to and from the Republic of Ireland

3. In regulation 2(1) (interpretation), omit the definition of “County Donegal”.

4. In paragraph 4 of schedule 7A (restrictions on leaving or entering Scotland: common travel area), for “County Donegal” substitute “the Republic of Ireland”.

Amendment to Level 4: closure of premises

5. In paragraph 1(2) of schedule 5 (closure of certain premises in Level 4), after head (sa), insert—

- “(sb) a tanning salon or premises which operates a self-tanning machine or a spray-tan booth,
- (sc) a travel agency,
- (sd) a premises laid out as a showroom to demonstrate products for installation in residential property, such as kitchen, bathroom, furniture or glazing showrooms”.

6. In paragraph 2 of schedule 5 (closure of retail premises in Level 4)—

(a) for sub-paragraph (3)(e), substitute—

“(e) building merchants and suppliers of products and tools used in building work and repairs,”.

(b) in sub-paragraph (3)(u), omit “garden centres, plant nurseries,”.

St Andrew’s House,
Edinburgh
At 12.39 p.m. on 23rd December 2020

MICHAEL RUSSELL
A member of the Scottish Government

(2) S.S.I. 2020/344, amended by S.S.I. 2020/347, S.S.I. 2020/374, S.S.I. 2020/389, S.S.I. 2020/392, S.S.I. 2020/400, S.S.I. 2020/415, S.S.I. 2020/427, S.S.I. 2020/439 and S.S.I. 2020/452.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (“the Local Levels Regulations”). These Regulations come into force on 26 December 2020.

Regulations 3 and 4 amend schedule 7A of the Local Levels Regulations so that the restrictions in relation to the common travel area apply to the whole of the Republic of Ireland rather than just County Donegal.

Regulations 5 and 6 amend schedule 5 of the Local Levels Regulations to alter premises which are required to close in a Level 4 area. Regulation 5 adds the following to the definition of a “listed business” in paragraph 1 of schedule 5: travel agencies, tanning salons or premises which operate self-tanning machines or spray-tan booths, and certain showrooms such as kitchen, bathroom, furniture or glazing showrooms.

Regulation 6 alters the list of retail premises that are exempt from the closure requirements in paragraph 2 of schedule 5. It omits garden centres and plant nurseries from that list and replaces “homeware, building supplies and hardware stores” with “building merchants and suppliers of products and tools used in building work and repairs”.

A Business and Regulatory Impact Assessment has been prepared. Copies may be obtained online at www.legislation.gov.uk.

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS AND REQUIREMENTS) (LOCAL LEVELS) (SCOTLAND) AMENDMENT (NO. 9) REGULATIONS 2020

SSI 2020/471

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 and Requirements) (Local Levels) (Scotland) Regulations 2020 to adjust the definition of non-essential retail. The Regulations remove garden centres and plant nurseries from the list of essential retailers, these type of retailers must remain shut in Level 4 areas as a result. The regulations also replace “homeware, building supplies and hardware stores” with “building merchants and suppliers of products and tools used in building work and repairs” to ensure retailers selling homeware items, which in many cases would be considered non-essential, are prohibited from opening in Level 4. Click and collect services will remain available. The Regulations prohibit home showroom premises from opening, such as kitchen, bathroom, furniture or glazing showrooms. Some retail services are also prohibited in Level 4 areas, these services are tanning salons, or premises which operate a self-tanning machine or spray-tan booths and travel agencies.

These Regulations also prohibit travel to or from the Republic of Ireland as a result of the national lockdown in the Republic of Ireland announced on 22 December 2020 for commencement on 26 December 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

Non-essential retail

2. The principal regulations require non-essential retail to remain closed in Level 4 areas. As a result of the latest evidence, it has become necessary to tighten Level 4 to ensure opportunities for household to household transmission are reduced further. Garden centres,

and plant nursery retailers must now remain closed in Level 4 as a result of being removed from the list of essential retailer. The regulations replace “homeware, building supplies and hardware stores” with “building merchants and suppliers of products and tools used in building work and repairs” to ensure retailers selling homeware items, which in many cases could not be considered essential, are prohibited from opening in Level 4. Click and collect services will still be available. The Regulations prohibit home showroom premises from opening, such as kitchen, bathroom, furniture or glazing showrooms. Some other non-essential services are also prohibited from opening in Level 4 areas, these services are tanning salons, premises which operate a tanning machine or spray-tan booth and travel agencies. Our intention, with all of these changes, is to provide fewer opportunities for travel and social mixing which will help to reduce transmission.

Travel to the Republic of Ireland

3. The Republic of Ireland is moving back into Level 5 lockdown with travel restrictions applying from 26 December 2020. The common travel area provisions operate on a presumption that where a government imposes a national lockdown, unless there are good reasons to decide otherwise, travel in respect of that country to or from Scotland (without a reasonable excuse) should be made unlawful. These Regulations therefore prohibit travel from or to Scotland into or out of the Republic of Ireland.

Consultation

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

Impact Assessments

5. A Business and Regulatory Impact Assessment is being prepared for this instrument and will be published shortly. 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
23 December 2020

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations made by the Scottish Ministers and laid before the Scottish Parliament under paragraph 6(3) of schedule 19 of the Coronavirus Act 2020 for approval by resolution of the Scottish Parliament within 28 days beginning with the day on which the Regulations were made, not taking into account any period of dissolution or recess for more than 4 days.

SCOTTISH STATUTORY INSTRUMENTS

2021 No. 1

PUBLIC HEALTH

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021

| | | |
|--|---------|-------------------------|
| <i>Made</i> | - - - - | <i>4th January 2021</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>5th January 2021</i> |
| <i>Coming into force</i> | - - | <i>5th January 2021</i> |

The Scottish Ministers make the following Regulations in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020(1) (“the Act”) and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with paragraph 6(2) and (3) of schedule 19 of the Act, the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft having been laid before, and approved by, a resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021 and come into force on 5 January 2021.

Amendment of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020

2. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(2) are amended in accordance with regulations 3 to 4.

Amendment to Part 3 (enforcement)

3. In regulation 4 (enforcement of requirements), after paragraph (7), insert—

“(7A) Where a relevant person considers that a person is outside the place where that person is living, the relevant person may—

- (a) direct that person to return to the place where they are living, or
- (b) remove that person to the place where they are living.

(7B) A constable, exercising the power in paragraph (7A)(b) to remove a person to the place where that person is living, may use reasonable force, if necessary, in exercise of the power.”.

Amendment to Level 4: restrictions on gatherings and requirement to stay at home

4. In schedule 5 (level 4 restrictions)—

(a) in paragraph 11 (restriction on public gatherings indoors in a level 4 area) in sub-paragraph (1)(a), for “six” substitute “two”,

(b) in paragraph 12 (restriction on public gatherings outdoors in a level 4 area)—

(i) for sub-paragraph (1)(a) substitute—

“(a) consists of no more than two persons from different households,”

(ii) omit sub-paragraph (1)(b),

(iii) omit sub-paragraph (1)(d)(xii),

(iv) in sub-paragraph (1)(d)(xiii) for “18” substitute “12”, and

(v) in sub-paragraph (3) omit “(1)(d)(xii) and”,

(c) in paragraph 13 (restriction on gatherings in private dwellings in a level 4 area)—

(i) for sub-paragraph (1)(a) substitute—

“(a) takes place outdoors and consists of no more than two persons from different households,”, and

(ii) omit sub-paragraph (1)(b)(i),

(d) omit paragraph 14 (restrictions on leaving level 4 area),

(e) for paragraph 16(1) (examples of reasonable excuse) substitute—

“16.—(1) For the purposes of regulation 15, examples of what constitutes a reasonable excuse (see regulation 5(4)) include entering or remaining in a Level 4 area that the person does not live in, for the purposes set out in sub-paragraph (2).” and

(f) after paragraph 16 (examples of reasonable excuse) insert—

(2) S.S.I. 2020/344, amended by S.S.I. 2020/347, S.S.I. 2020/374, S.S.I. 2020/389, S.S.I. 2020/392, S.S.I. 2020/400, S.S.I. 2020/415, S.S.I. 2020/427, S.S.I. 2020/439, S.S.I. 2020/452 and S.S.I. 2020/471.

“Requirement to stay at home in Level 4 areas

17.—(1) A person who is living in a Level 4 area must not leave the place where that person is living.

(2) For the purposes of sub-paragraph (1), the place where a person is living includes the premises where they live together with any garden, yard, passage, stair, garage, outhouse or other appurtenance of such premises.

(3) Sub-paragraph (1) does not apply to any person who is homeless.

Examples of reasonable excuse

18.—(1) For the purposes of regulation 17, examples of what constitutes a reasonable excuse (see regulation 5(4)) include leaving the place where the person is living, for the purposes set out in sub-paragraph (2).

(2) The purposes are to—

(a) obtain or provide—

(i) food and medical supplies for those in the same household (including animals in the household) or for vulnerable persons,

(ii) supplies for the essential upkeep, maintenance and functioning of the household, or the household of a vulnerable person,

(b) work or provide voluntary or charitable services, where it is not possible for the person to do so from home,

(c) access, provide or receive childcare, education or training, including a support service for parents or expectant parents,

(d) lead an act of worship,

(e) provide care or assistance to a vulnerable person,

(f) visit a person detained in a prison, young offenders institution, remand centre, secure accommodation or other place of detention,

(g) provide or receive emergency assistance,

(h) provide or obtain medical assistance, including accessing any of the following—

(i) audiology services,

(ii) chiropody services,

(iii) chiropractic services,

(iv) dental services,

(v) ophthalmic services,

(vi) osteopathic services,

(vii) services relating to mental health,

(viii) vaccination services,

(i) accompany a person obtaining medical assistance, or visit a person receiving treatment in a hospital or who is residing in a hospice or care home,

(j) avoid injury, illness or other risk of harm, or support someone who is doing so,

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (k) move home or undertake activities in connection with the maintenance, purchase, sale, letting, or rental of residential property that the person owns or is otherwise responsible for,
- (l) participate in or facilitate shared parenting arrangements,
- (m) fulfil a legal obligation or participate in legal proceedings where it is not possible for the person to do so from the place where the person is living,
- (n) vote, or register to vote, in an election (including to vote as proxy),
- (o) donate blood,
- (p) access public services, including any of the following, where it is not possible for the person to do so from the place where the person is living—
 - (i) social services,
 - (ii) services provided by the Department for Work and Pensions,
 - (iii) services provided to victims (such as victims of crime),
 - (iv) asylum and immigration services and interviews,
- (q) access services provided by voluntary or charitable services, including food banks,
- (r) access waste disposal or recycling facilities,
- (s) obtain money from or deposit money with a business mentioned in paragraph 2(3)(j) or (k), where it is not possible for the person to do so from the place where the person is living,
- (t) undertake exercise or recreation—
 - (i) outdoors,
 - (ii) that starts and ends at the same place, which place must be—
 - (aa) in the local government area in which that person lives, or
 - (bb) within 5 miles of such local government area, and
 - (iii) is either undertaken—
 - (aa) alone,
 - (bb) with members of that person’s household,
 - (cc) in a gathering within the meaning of paragraph 12(1)(a), (b) or (c),
 - (dd) in a gathering within the meaning of paragraph 12(1)(d) (xiii),
 - (ee) in a gathering within the meaning of paragraph 13(1)(a), or
 - (ff) in a gathering within the meaning of paragraph 13(1)(b) (i) or (ii),
- (u) where the person is a professional sportsperson, or the coach of a professional sportsperson, coach, train or compete,
- (v) attend a solemnisation of a marriage or registration of a civil partnership,

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- (w) attend a funeral or to travel for compassionate reasons which relate to the end of a person's life,
- (x) feed or care for an animal, including obtaining veterinary services,
- (y) where the person is a member of an extended household, visit a member of the household which forms the other part of the extended household in the place where that other member is living, and
- (z) facilitate the formation of an end of term household, where either or both of the student or the other household which will make up the end of term household live outwith the same area or, as the case may be, in a Level 4 area.”.

St Andrew's House,
Edinburgh
4th January 2021

MICHAEL RUSSELL
A member of the Scottish Government

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (“the Local Levels Regulations”). These Regulations come into force on 5 January 2021.

Regulation 3 adds new paragraphs (7A) and (7B) into regulation 4 of the Local Levels Regulations to add to the enforcement powers of a constable. The amendment permits a relevant person, where they consider that a person is outside the place where they are living, to direct the person to return to the place where they are living or remove the person to that place. It also permits a constable, when exercising that power to remove a person, to use reasonable force, if necessary. The definition of “relevant person” in regulation 4(11) of the Local Levels Regulations means that this new power is only available to a constable and not a person designated by a local authority.

Regulations 4(a) and 4(b) amend paragraphs 11 and 12 of schedule 5 of the Local Levels Regulations so that the number of persons (including persons aged 12 to 17 years old) that may participate in either an indoor or an outdoor public gathering in a Level 4 area is reduced from six to two, but still from no more than two households. Regulation 4(b) also reduces the list of permitted purposes for outdoor public gatherings. In particular, regulation 4(b)(ii) removes the purposes of organised exercise which is either not a contact sport or is for persons under 18 years of age but which is not a public procession. The purpose of organised activity for persons under 12 years of age has been retained. As such, regulation 4(b)(iv) also makes a consequential amendment to the relevant definition of “organised”. Regulation 4(c) amends paragraph 13 of schedule 5 so that the number of persons (including persons aged 12 to 17 years old) that may participate in an outdoor gathering in a private dwelling is reduced from six to two.

Regulation 4(d) omits paragraph 14 of schedule 5 (restrictions on leaving level 4 area). Regulation 4(f) inserts new paragraphs 17 and 18 replacing restrictions on movement into a Level 4 area with a prohibition on a person who lives in a Level 4 area leaving the place where they live unless they have a reasonable excuse as listed in new paragraph 18.

An Equality Impact Assessment has been prepared. Copies may be obtained online at www.legislation.gov.uk.

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS AND REQUIREMENTS) (LOCAL LEVELS) (SCOTLAND) AMENDMENT (NO. 10) REGULATIONS 2021

SSI 2021/1

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 and Requirements) (Local Levels) (Scotland) Regulations 2020 to introduce a requirement to stay at home for those living in a Level 4 area, similar to the requirement included in legislation in March 2020. These Regulations also reduce the number of people who can meet for social purposes in Level 4. The limit is now 2 people from 2 households, rather than 6 people from 2 households. Existing socialisation rules still apply for those under 12 and the limit for 12-17 year olds has been reduced to 2 people from 2 households. These Regulations adjust the rules on organised outdoor activity for under 18s and for outdoor exercise in Level 4 to prohibit those aged 12 and over from undertaking such activities unless the general social gathering limit is followed.

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

Stay at home requirement

2. The new strain of coronavirus currently identified in the UK is a great cause for concern, numbers of coronavirus cases are already increasing across the country and we expect them to do so in greater numbers as the new strains continue to spread. A requirement to stay at home for those living in Level 4 areas is being introduced now to take strong and urgent action to try to mitigate the impact of the new strain. The requirement to stay at home is similar to the requirement used in legislation earlier in the year, from March onwards. There are a number of reason excuses to ensure the requirement to stay at home is proportionate, some examples include obtaining food or medical supplies or for work, where

it is not possible for the person to do so from home. A full list is found in the legislation. These regulations provide additional powers to allow the requirement to be enforced by police, where required.

3. It has been deemed essential to take these measures at this time in order to significantly reduce the opportunities for travel and household to household interaction to attempt to stop the new strains of coronavirus from taking hold and to ensure the NHS is not overwhelmed in the coming weeks, when the usual winter pressures will also be felt.

Socialising

4. These Regulations adjust the restrictions on social gatherings in Level 4 to reduce the number of people who can meet. Currently, 6 people from 2 households can meet outdoors for social interaction in public or private dwellings. These regulations limit that to 2 people from 2 households. As with the existing restrictions, children under the age of 12 are not counted towards the limit. 12 – 17 year olds are now only able to meet in groups of 2 people from 2 households to bring the rules into line with the limit for adults. These changes to social gathering limits are essential for further reducing opportunities for social mixing and deterring household to household interaction by reducing the numbers who can meet at any one time.

Organised activities and outdoor exercise

5. These Regulations adjust the restrictions for organised outdoor activities and outdoor exercise in Level 4. Organised outdoor activity is no longer permitted for anyone over the age of 11. Outdoor sport is also no longer permitted in larger groups, the 2 people from 2 households limit for those aged 12 and above must now be followed instead. These changes are intended to reduce opportunities for social mixing and to limit household to household interaction.

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, Island Communities Impact Assessment and CRWIA have been prepared for this instrument and will be published shortly. 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
January 2021

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations made by the Scottish Ministers and laid before the Scottish Parliament under paragraph 6(3) of schedule 19 of the Coronavirus Act 2020 for approval by resolution of the Scottish Parliament within 28 days beginning with the day on which the Regulations were made, not taking into account any period of dissolution or recess for more than 4 days.

SCOTTISH STATUTORY INSTRUMENTS

2021 No. 3

PUBLIC HEALTH

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 11) Regulations 2021

| | |
|---------------------------------|-----------------------------|
| | <i>at 12.25 p.m. on 6th</i> |
| <i>Made</i> - - - - | <i>January 2021</i> |
| <i>Laid before the Scottish</i> | <i>at 3.00 p.m. on 6th</i> |
| <i>Parliament</i> - - - - | <i>January 2021</i> |
| <i>Coming into force</i> - - | <i>8th January 2021</i> |

The Scottish Ministers make the following Regulations in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020(1) (“the Act”) and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with paragraph 6(2) and (3) of schedule 19 of the Act, the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft having been laid before, and approved by, a resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 11) Regulations 2021 and come into force on 8 January 2021.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Amendment of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020

2. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(2) are amended in accordance with regulations 3 to 5.

Amendment to Level 3: reduced distance premises

3. In schedule 4 (level 3 restrictions), in paragraph 7(4)(c) for “including” substitute “excluding”.

Amendment to Level 4: restrictions

4. In schedule 5 (level 4 restrictions)—

(a) in paragraph 1 (requirement to close certain premises in a level 4 area to members of the public)—

(i) in sub-paragraph (2)—

(aa) in head (sd) after “premises” insert “or an area within a premises”,

(bb) after head (sd) insert—

“(se) an independent clinic which is registered with Healthcare Improvement Scotland under section 10P of the 1978 Act(3),

(sf) an independent medical agency which is registered with Healthcare Improvement Scotland under section 10P of the 1978 Act,

(sg) an independent hospital which is registered with Healthcare Improvement Scotland under section 10P of the 1978 Act”, and

(cc) after head (t) insert—

“(ta) a snow sports centre.”,

(ii) in sub-paragraph (3) after head (d) insert—

“(da) premises of a listed business in sub-paragraph (2)(se), (sf) or (sg) for the purposes of providing medical or surgical assistance.”, and

(iii) after sub-paragraph (6) insert—

“(7) In this paragraph—

“the 1978 Act” means the National Health Service (Scotland) Act 1978,

“medical or surgical assistance” does not include a cosmetic or aesthetic procedure (such as the injection or implantation into or under the skin of a substance for cosmetic purposes, or electrolysis).”,

(b) after paragraph 1 insert—

“Requirement to close places of worship in a level 4 area to members of the public

1A.—(1) A person who is responsible for a place of worship must close that place of worship, except for a use permitted in paragraph (2).

(2) A place of worship may be used—

(a) for a funeral,

(2) S.S.I. 2020/344, amended by S.S.I. 2020/347, S.S.I. 2020/374, S.S.I. 2020/389, S.S.I. 2020/392, S.S.I. 2020/400, S.S.I. 2020/415, S.S.I. 2020/427, S.S.I. 2020/439, S.S.I. 2020/452, S.S.I. 2020/471 and S.S.I. 2021/1.

(3) 1978 c.29, section 10P was added by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) for a commemorative event for a person who has died but is not a wake or a funeral tea,
 - (c) to broadcast an act of worship, whether over the internet or as part of a radio or television broadcast,
 - (d) for a marriage ceremony or civil partnership registration which—
 - (i) consists of no more than 5 persons, or
 - (ii) where an interpreter is required to attend, consists of no more than 6 persons, or
 - (e) to provide essential voluntary services or urgent public support services (including the provision of food banks or other support for the homeless or vulnerable people, blood donation sessions, vaccination centres or support in an emergency),
provided that, in each case, the premises are used in accordance with the requirements of paragraph 8.
- (3) Sub-paragraph (1) does not prevent the use of premises, while those remain closed to members of the public, to take preparatory steps in pursuance of a requirement in paragraph 8.”,
- (c) in paragraph 7 (exceptions to food and drink business closures for certain services) omit sub-paragraph (2)(b),
 - (d) in paragraph 8(4)(c) (requirement to take measures to minimise risk of exposure to coronavirus in a level 4 area) for “including” substitute “excluding”,
 - (e) in paragraph 11 (restriction on public gatherings indoors in level 4 area)—
 - (i) omit sub-paragraph (1)(b)(iii),
 - (ii) in sub-paragraph (1)(c), for “relates to” substitute “is”,
 - (iii) for sub-paragraph (1)(ca) substitute—
 - “(ca) is a marriage ceremony or civil partnership registration and—
 - (i) consists of no more than 5 persons, or
 - (ii) where an interpreter is required to attend, consists of no more than 6 persons,” and
 - (iv) after sub-paragraph (1)(ca) insert—
 - “(cb) is a commemorative event for a person who has died but is not a wake or a funeral tea,”
 - (f) in paragraph 12 (restriction on public gatherings outdoors in a level 4 area)—
 - (i) omit sub-paragraph (1)(d)(iii),
 - (ii) in sub-paragraph (1)(e), for “relates to” substitute “is”,
 - (iii) for sub-paragraph (1)(ea) substitute—
 - “(ea) is a marriage ceremony or civil partnership registration and—
 - (i) consists of no more than 5 persons, or
 - (ii) where an interpreter is required to attend, consists of no more than 6 persons,”
 - (iv) after sub-paragraph (1)(ea) insert—
 - “(eb) is a commemorative event for a person who has died but is not a wake or funeral tea.” and

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- (v) in sub-paragraph (3) insert “(1)(d)” before “(xiii)”,
- (g) in paragraph 13 (restriction on gatherings in private dwellings in a level 4 area)—
 - (i) in sub-paragraph (1)(d), omit “marriage ceremony or civil partnership registration, or,” and
 - (ii) after sub-paragraph (1)(d), insert—
 - “(da) is a marriage ceremony or civil partnership registration and—
 - (i) consists of no more than 5 persons, or
 - (ii) where an interpreter is required to attend, consists of no more than 6 persons, or”,
- (h) in paragraph 16(1) (examples of reasonable excuse), for “regulation 15” substitute “paragraph 15”,
- (i) in paragraph 18 (requirement to stay at home in level 4 areas: examples of reasonable excuse)(4)—
 - (i) in sub-paragraph (1), for “regulation 17” substitute “paragraph 17”,
 - (ii) for sub-paragraph (2)(v) substitute—
 - “(v) attend a marriage ceremony or registration of a civil partnership, where the person is, in relation to that marriage ceremony or civil partnership registration—
 - (i) a party,
 - (ii) a witness,
 - (iii) the approved celebrant or authorised registrar within the meaning of section 8(2) of the Marriage (Scotland) Act 1977(5),
 - (iv) the approved celebrant within the meaning of section 94A(4)(a) of the Civil Partnership Act 2004(6),
 - (v) the authorised registrar within the meaning of section 87(7) of the Civil Partnership Act 2004, or
 - (vi) a required interpreter,” and
 - (iii) in sub-paragraph (2)(w) after “funeral”, insert “or commemorative event for a person who has died (other than a wake or a funeral tea).”.

Amendment to restrictions on leaving or entering Scotland: examples of reasonable excuse

5. In schedule 7A (restrictions on leaving or entering Scotland: common travel area) in paragraph 3 (examples of reasonable excuse)—

- (a) for sub-paragraph (2)(x) substitute—
 - “(x) attend a marriage ceremony or registration of a civil partnership, where the person is, in relation to that marriage ceremony or civil partnership registration—
 - (i) a party,
 - (ii) a witness,

(4) Paragraph 18 was inserted by [S.S.I. 2021/1](#).

(5) [1977 c.15](#). Section 8(2) was relevantly amended by section 12(2)(c) of the Marriage and Civil Partnership (Scotland) Act 2014 ([asp 5](#)) (“the 2014 Act”).

(6) [2004 c.33](#). Section 94A was inserted by section 24(13) of the 2014 Act.

(7) Section 87 was amended by section 24(4) of the 2014 Act.

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- (iii) the religious or belief celebrant who is to solemnise the marriage or register the civil partnership, or
 - (iv) a required interpreter,”
- (b) in sub-paragraph (2)(y), for “relates to a funeral” substitute “is a funeral or commemorative event for a person who has died (other than a wake or a funeral tea)”.

St Andrew’s House,
Edinburgh
At 12.25 p.m. on 6th January 2021

JOHN SWINNEY
A member of the Scottish Government

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) (No 11) Regulations 2020 (“the Local Levels Regulations”). These Regulations come into force on 8 January 2021.

Regulation 3 amends schedule 4 and regulation 4(d) amends schedule 5 of the Local Levels Regulations to exclude workplace canteens from the definition of cafes which are treated as reduced distance premises.

Regulation 4 amends schedule 5 of the Local Levels Regulations to require the closure of showroom areas within larger premises and snow sports centres in Level 4 areas. Regulation 4 also requires the closure of independent clinics, independent hospitals and independent medical agencies, in relation to the provision of cosmetic procedures, but not for other provision of medical or surgical assistance.

Regulation 4 also inserts new paragraph 1A into schedule 5 of the Local Levels Regulations to require the closure of places of worship in level 4 areas for all uses except for those explicitly listed within the regulations. These are for a funeral; a commemorative event for a person who has died (other than a wake or a funeral tea); to broadcast an act of worship (whether over the internet or as part of a radio or television broadcast); for a marriage ceremony or civil partnership registration which consists of no more than 5 persons or where an interpreter is required, 6 persons; or to provide essential voluntary services or urgent public support services (including the provision of food banks or other support for the homeless or vulnerable people, blood donation sessions, vaccination centres or support in an emergency). It is necessary, however, if a place of worship is to be used for any of these circumstances, that in each case the premises are used in accordance with paragraph 8 of schedule 5 to the Local Levels Regulations (which provides the requirements to take measures to minimise risk of exposure to coronavirus in a Level 4 area). Regulation 4 also details that the provision for closure of places of worship does not prevent the use of the premises in order to take preparatory steps for the purposes of the requirements under paragraph 8 of schedule 5.

Regulation 4 further amends schedule 5 of the Local Levels Regulations to reflect the above restrictions imposed upon attending places of worship. It also modifies the lists of circumstances for which there may be a public gathering indoors or outdoors in a level 4 area, to include funerals, commemorative events for a person who has died (but not to include a wake or funeral tea), and marriage ceremonies or civil partnership registrations which consist of no more than 5 persons or, where an interpreter is required, 6 persons.

Regulation 4(f)(v), (h) and (i)(i) makes minor corrections.

Regulation 4 amends the list in paragraph 18 of schedule 5 of the Local Levels Regulations of examples of reasonable excuse for a person leaving the place where they are living. The changes are to update when this can be to attend a marriage ceremony or registration of a civil partnership. Attendance at a commemorative event for a person who has died (other than a wake or a funeral tea) is also added to the list of examples.

Regulation 5 amends schedule 7A of the Local Levels Regulations to update the examples of a reasonable excuse for entering or leaving Scotland. The changes are to update when this can be to attend a marriage ceremony or registration of a civil partnership, as well as to add the example of attendance at a commemorative event for a person who has died (other than a wake or a funeral tea).

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An Equality Impact Assessment, a Business Regulatory Impact Assessment and an Island Communities Impact Assessment have been prepared. Copies may be obtained online at www.legislation.gov.uk.

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS AND REQUIREMENTS) (LOCAL LEVELS) (SCOTLAND) AMENDMENT (NO. 11) REGULATIONS 2021

SSI 2021/3

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 prohibit places of worship from opening for most purposes. These Regulations reduce the number of people who are able to attend a marriage ceremony or civil partnership registration and also prohibit funeral teas or wakes from taking place in Level 4 areas (whilst still allowing for commemorative events). These Regulations require snow sports centres, showrooms within larger retailers, independent clinics, independent hospitals and independent medical agencies in relation to certain procedures or treatments to close in Level 4 areas. The Regulations also require 2 metre distancing to be maintained in workplace canteens. Finally, these Regulations make minor amendments to correct inaccuracies in the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021.

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

Places of worship, weddings, civil partnerships and funeral wakes

2. These Regulations require places of worship to close for most purposes in Level 4 areas, including services and private prayer. They can remain open for the purpose of broadcasting a service; conducting a funeral, marriage or civil partnership registration; or for a commemorative event for a person who has died but is not a wake or a funeral tea. . It is also possible for places of worship to open for essential voluntary services or public support services (including the provision of food banks or other support for the homeless or vulnerable people, blood donation sessions, vaccination centres or support in an emergency). These Regulations also reduce the number of people allowed at a marriage ceremony or civil

partnership registration taking place in Level 4 to the legal minimum, 5 people plus the possibility of an interpreter if one is required. Provision is also made for people living in Level 4 areas not to attend marriage ceremonies or civil partnership registrations unless they are the parties; witnesses; celebrant or registrar; or interpreter if required. The Regulations also prohibit funeral teas and wakes from taking place in Level 4 areas. Certain other commemorative events for a person who has died will, however, still be allowed in outdoor public places, indoor public places and places of worship.

3. These changes reflect the need to restrict social contact as much as possible due to the increasing case numbers, especially in situations where people may find it difficult to maintain physical distancing such as at weddings or post-funeral gatherings.

Closing some additional premises, service providers and retailers

4. These Regulations close showroom elements of larger retailers and snow sports centres. The Regulations also require the closure of independent clinics, independent hospitals and independent medical agencies, in relation to the provision of cosmetic procedures, but not for other provision of medical or surgical assistance. These premises are no longer permitted to operate in Level 4 areas to align with the previous changes limiting essential retail in a narrower manner. Given the new variant of coronavirus is thought to be up to 70% more transmissible, it is essential that opportunities for leaving the home, travelling or interacting with others are limited to only the most essential activities.

Physical distancing in workplace canteens

5. These Regulations require 2 metre distancing to be maintained in workplace canteens between individuals from different households, these settings had previously been able to operate with reduced, 1 metre, distancing in place. This change is required to provide an additional mitigation and reduce potential spread of coronavirus in workplace settings now that the new variant is circulating in Scotland.

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 and will be published shortly. 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
6 January 2021