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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 277**

**PUBLIC HEALTH**

**The Health Protection (Coronavirus)  
(Requirements) (Scotland) Regulations 2021**

*Approved by the Scottish Parliament*

<i>Made</i>	- - - -	<i>at 1.50 p.m. on 5th August 2021</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>at 4.00 p.m. on 5th August 2021</i>
<i>Coming into force</i>	- -	<i>9th August 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<sup>(1)</sup> (“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 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.

**PART 1**

**Introductory**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 and come into force on 9 August 2021.

(2) These Regulations apply in—

- (a) Scotland, and
- (b) Scottish airspace, in relation to a person who is on a mode of transport which took off from, or is to land at, a place in Scotland.

(3) In paragraph (2)—

“Scotland” includes so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Scotland, and

“Scottish airspace” means the airspace above Scotland.

## Interpretation

2. In these Regulations—

“child” means a person who is under 16 years of age,

“constable” has the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012<sup>(2)</sup>,

“emergency responder” has the meaning given by section 153A(6) of the Inheritance Tax Act 1984<sup>(3)</sup>,

“face covering” means a covering of any type (other than a face shield) which covers a person’s nose and mouth,

“household” means—

- (a) one person living alone, or
- (b) a group of persons living together in the same place as a family or other unit (whether or not related) and who have the place as their only or main residence,

“indoors” means a place which would be considered to be wholly or substantially enclosed for the purposes of section 4(2) of the Smoking, Health and Social Care (Scotland) Act 2005<sup>(4)</sup> under the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006<sup>(5)</sup>, and “outdoors” is to be construed accordingly,

“live event” means an event or activity which brings individuals together for the purpose of community, culture, sport, recreation, entertainment, art or business but does not include—

- (a) an event or activity which relates to a funeral, marriage ceremony or civil partnership,
- (b) a mass participation event such as a marathon, triathlon, or moonwalk,
- (c) an event designated by the Scottish Ministers as a flagship event according to criteria, and in a list, published by the Scottish Ministers,
- (d) a showing in a cinema,
- (e) a drive-in event,
- (f) an organised picket,
- (g) a public or street market, or
- (h) an illuminated trail,

“passenger transport service” means a service provided for the carriage of passengers by road, railway, tramway, air or sea,

“passenger transport service premises” means off-road premises where a passenger transport service may stop or terminate, allowing passengers on and off,

“premises” includes any building or structure and any land,

“public place” means a place to which the public, or a section of the public, has access whether on payment or otherwise,

(2) 2012 asp 8.

(3) 1984 c.51. Section 153A was inserted by section 75 of the Finance Act 2015 (c. 11).

(4) 2005 asp 13.

(5) S.S.I. 2006/90.

“school” has the meaning given by section 135(1) of the Education (Scotland) Act 1980(6), and “sexual entertainment venue” has the meaning given by section 45A of the Civic Government (Scotland) Act 1982(7).

## PART 2

### Requirements

#### **Requirement to collect and share information: restaurants, cafes, bars, public houses etc.**

3.—(1) A person who is responsible for a relevant hospitality premises or relevant entertainment premises must, in relation to the premises, take measures to—

- (a) obtain and record visitor information,
- (b) record visitor information in a filing system (which may be an electronic system) suitable for recording, storing and retrieving the information, and
- (c) retain visitor information for a period of at least 21 days beginning with the date on which the visit occurred.

(2) Paragraph (1) does not apply in relation to a visitor to the premises who is there solely for the purpose of—

- (a) purchasing or collecting food or drink for consumption off the premises, or
- (b) voting in an election.

(3) A person who is responsible for a relevant hospitality premises or relevant entertainment premises must provide visitor information to a public health officer, as soon as reasonably practicable but in any event within 24 hours, if so requested by the public health officer for the purpose of—

- (a) preventing a threat to public health resulting from the spread of infection or contamination with coronavirus,
- (b) monitoring the spread of infection or contamination with coronavirus or the incidence of coronavirus disease.

(4) In this regulation—

“public health officer” has the meaning given by paragraph 3(2)(b) of schedule 21 of the Coronavirus Act 2020,

“relevant entertainments premises” means—

- (a) nightclub, dance hall or discotheque,
- (b) sexual entertainment venue,

“relevant hospitality premises” means—

- (a) a restaurant, cafe, bar or public house, or
  - (b) a hotel in which food or drink is sold for consumption on the premises,
- and

“visitor information” means—

- (a) the name and telephone number of one member of each household visiting the premises,
- (b) the date of their visit and arrival time, and

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(6) 1980 c.44. Amended by section 2 of the Registered Establishments (Scotland) Act 1987 (c.4) and schedule 3 of the Standards in Scotland's Schools etc. Act 2000 (asp 6).

(7) 1982 c.45. Section 45A was inserted by the Air Weapons and Licensing (Scotland) Act 2015 (asp 10), section 76(3).

- (c) the number of members of that person's household visiting the premises at that time.

#### **Guidance on minimising exposure to coronavirus**

4.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service must have regard to guidance issued by the Scottish Ministers about measures to minimise risk of exposure to coronavirus relating to its premises, business or service.

(2) Guidance issued by the Scottish Ministers may—

- (a) make different provision for different cases or descriptions of case,
- (b) incorporate (by reference or transposition) guidance, codes of practice or other documents published by another person (for example, a trade association, a body representing members of an industry or a trade union).

(3) Part 4 (enforcement) does not apply to a contravention of the requirement in paragraph (1).

#### **Requirement to wear face covering in certain indoor places**

5.—(1) A person who enters or remains indoors within a place listed in regulation 6 must wear a face covering, unless the person is—

- (a) a child who is under 12 years of age,
- (b) a constable acting in the course of the constable's duty,
- (c) an emergency responder (other than a constable) acting in their capacity as an emergency responder,
- (d) a person who is responsible for a place listed in regulation 6, an employee of that person or a volunteer at that place, where—
  - (i) there is a partition between the person, employee or volunteer and members of the public, or
  - (ii) a distance of at least one metre is maintained between the person, employee or volunteer and members of the public,
- (e) in a restaurant, cafe, bar, public house, nightclub, dance hall, discotheque or sexual entertainment venue and seated at a table,
- (f) in a place of worship and leading an act of worship where—
  - (i) there is a partition between the person and any other person, or
  - (ii) a distance of at least one metre is maintained between the person and any other person,
- (g) at a funeral, marriage ceremony or civil partnership registration and leading the service, ceremony or registration where—
  - (i) there is a partition between the person and any other person, or
  - (ii) a distance of at least one metre is maintained between the person and any other person,
- (h) at a marriage ceremony or civil partnership registration and is one of the parties to be married or entering into a civil partnership, where—
  - (i) there is a partition between the parties and any other person,
  - (ii) a distance of at least one metre is maintained between the parties and any other person, or
  - (iii) as part of the ceremony or registration and within the immediate vicinity of the relevant premises, they are being accompanied by one or more other persons to the

- specific location at which the marriage ceremony or civil partnership registration will take place,
- (i) at a marriage ceremony or civil partnership registration and is a person who is accompanying, in the circumstances described in paragraph (h)(iii), one or both of the parties to be married or entering into a civil partnership,
  - (j) performing, presenting, addressing a public gathering, making a speech or being a panel member, where—
    - (i) there is a partition between the person and other persons, or
    - (ii) a distance of at least one metre is maintained between the person and other persons,
  - (k) seeking medical assistance, and—
    - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
    - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
  - (l) providing care or assistance to a vulnerable person, including emergency assistance, where—
    - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
    - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
  - (m) acting to avoid injury, or illness or to escape a risk of harm, where—
    - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
    - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
  - (n) unable to put on, wear or remove a face covering—
    - (i) because of any physical or mental illness or impairment or disability (within the meaning of section 6 of the Equality Act 2010)(8), or
    - (ii) without severe distress,
  - (o) communicating with a person who has difficulties communicating (in relation to speech, language or otherwise) and relies on lip reading or facial expression to be able to communicate,
  - (p) eating or drinking,
  - (q) using accommodation facilities provided by an accommodation service provider to which members of the public do not have access whilst occupied by the person and any other person with whom they share that accommodation,
  - (r) taking part in exercise of a type which reasonably requires that the person is not wearing a face covering,
  - (s) taking medication, the taking of which reasonably requires that the person is not wearing a face covering,
  - (t) receiving a close contact service that requires access to the area covered by a face covering, where—

- (i) the face covering is removed only for as long as is necessary to receive the service to that area, and
  - (ii) the person giving the service takes appropriate mitigation measures to minimise exposure to coronavirus, taking into account any relevant guidance issued by the Scottish Ministers,
- (u) complying with a request by a relevant person or another person acting in the course of their duties, and in this paragraph “relevant person” has the meaning given by regulation 15(8),
  - (v) undertaking food handling tasks, to avoid risk to the hygiene or safety of food arising from or in connection with the wearing of a face covering, or
  - (w) undertaking tasks in the course of their employment, where the wearing of a face covering would cause a material risk of harm.
- (2) In this regulation “a close contact service” means—
- (a) hairdressing and barber services,
  - (b) beauty and nail services (including make-up services),
  - (c) hair removal services,
  - (d) tattoo, piercing and body modification services,
  - (e) fashion design, dress-fitting and tailoring services,
  - (f) indoor portrait photography and art services,
  - (g) massage therapies,
  - (h) complementary and alternative medicine services requiring physical contact or close physical proximity between persons, but not osteopathy and chiropractic services,
  - (i) spa and wellness services,
  - (j) other services or procedures which require physical contact or close physical proximity between a provider and a customer and are not ancillary to medical, health or social care services.

### **Places where face coverings must be worn in accordance with regulation 5**

**6.—(1)** These are the places where face coverings must be worn in accordance with regulation 5—

- (a) any building or room used for the retail sale or hire of goods or services, including—
  - (i) restaurants, including restaurants and dining rooms in hotels or members’ clubs,
  - (ii) cafes, including canteens except canteens in a school or any other place where child minding or day care of children within the meaning of paragraphs 12 and 13 of schedule 12 of the Public Services Reform (Scotland) Act 2010<sup>(9)</sup> is provided,
  - (iii) bars, including bars in hotels or members’ clubs,
  - (iv) public houses,
- (b) any indoor communal area—
  - (i) in a workplace, and
  - (ii) where there are no measures in place to keep persons separated by either a—
    - (aa) partition, or

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<sup>(9)</sup> 2010 asp 8. Paragraph 12 of schedule 12 was amended by [S.S.I. 2013/211](#).

- (bb) distance of at least one metre,
- (c) any indoor public place, or part of an indoor public place, where a marriage ceremony or civil partnership registration is taking place, including any restaurant, cafe, bar or public house for the duration of the ceremony or registration,
- (d) amusement arcades, snooker or pool halls and other indoor leisure facilities,
- (e) banks, building societies and credit unions,
- (f) bingo halls,
- (g) bowling alleys,
- (h) casinos,
- (i) cinemas,
- (j) community centres,
- (k) crematoriums and funeral directors premises,
- (l) dance halls,
- (m) discotheques,
- (n) enclosed motor vehicles while in use for a driving lesson or driving test, unless all occupants are members of the same household,
- (o) indoor fitness studios, gyms, swimming pools or other indoor leisure centres,
- (p) indoor funfairs,
- (q) indoor skating rinks,
- (r) libraries and public reading rooms,
- (s) museums and galleries,
- (t) places of worship,
- (u) post offices,
- (v) premises at which members' clubs or societies meet,
- (w) registration offices, meaning any registration office provided under section 8(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965<sup>(10)</sup>,
- (x) storage and distribution facilities, including collection and drop off points,
- (y) indoor theatres,
- (z) comedy clubs,
- (aa) concert halls,
- (bb) soft play centres,
- (cc) sports stadiums,
- (dd) conference or exhibition centres and any other place at which an exhibition takes place,
- (ee) any indoor public place, or part of an indoor public place, being used—
  - (i) as a polling station,
  - (ii) for the opening of postal votes, or the counting of votes cast, in an election,
- (ff) nightclubs,
- (gg) sexual entertainment venues,

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<sup>(10)</sup> 1965 c.49. Section 8(1) was amended by section 51(3)(a) of the Local Government etc. (Scotland) Act 1994 (c. 39) and section 37(5) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14).

- (hh) any building or room used for the provision of a close contact service.
- (2) In this regulation—
- (a) “communal area” means an area where persons mingle or gather, such as—
- (i) entrances
  - (ii) passageways,
  - (iii) stairs,
  - (iv) lifts,
  - (v) staff rooms,
  - (vi) training rooms, or
  - (vii) changing rooms,
- (b) “motor vehicle” has the meaning given by section 185(1) of the Road Traffic Act 1988<sup>(11)</sup>, except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of that Act, and
- (c) “workplace” excludes—
- (i) a school, and
  - (ii) any other place where child minding or day care of children within the meaning of paragraphs 12 and 13 of schedule 12 of the Public Services Reform (Scotland) Act 2010 is provided, and
- (d) “a close contact service” has the meaning in regulation 5(2).

### **Requirement to wear face coverings on public transport**

7.—(1) A person who uses a passenger transport service or passenger transport service premises must wear a face covering, unless the person is—

- (a) on a school transport service,
- (b) on a cruise ship,
- (c) a child who is under 12 years of age,
- (d) a constable acting in the course of their duty,
- (e) an emergency responder (other than a constable) acting in their capacity as an emergency responder,
- (f) providing a passenger transport service, or an employee of that person, and—
  - (i) there is a partition between the person or employee and members of the public, or
  - (ii) the wearing of a face covering would materially impede communicating with other persons about a risk of harm or for other safety purposes,
- (g) flying or otherwise operating a passenger transport service for the carriage of passengers by air,
- (h) on a ferry, where—
  - (i) the person is on part of the ferry which is entirely outdoors, or
  - (ii) a distance of at least one metre is maintained between the person and other persons,
- (i) seeking medical assistance, and—
  - (i) the wearing of a face covering would materially impede the seeking of the assistance,
  - or

<sup>(11)</sup> 1988 c.52.



- (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
  - (j) providing care or assistance to a vulnerable person, including emergency assistance, where—
    - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
    - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
  - (k) acting to avoid injury, or illness or to escape a risk of harm, where—
    - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
    - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
  - (l) unable to put on, wear or remove a face covering—
    - (i) because of any physical or mental illness or impairment or disability (within the meaning of section 6 of the Equality Act 2010), or
    - (ii) without severe distress,
  - (m) communicating with a person who has difficulties communicating (in relation to speech, language or otherwise) and relies on lip reading or facial expression to be able to communicate,
  - (n) eating or drinking,
  - (o) taking medication, the taking of which reasonably requires that the person is not wearing a face covering, or
  - (p) complying with a request by a relevant person or another person acting in the course of their duties, and in this sub-paragraph “relevant person” has the meaning given by regulation 15(8).
- (2) For the purpose of paragraph (1)—
- (a) a person uses a passenger transport service when—
    - (i) they are—
      - (aa) boarding any mode of transport by means of which a passenger transport service is provided, or
      - (bb) on board any mode of transport, whether or not for the purpose of travel, by means of which a passenger transport service is provided, and
    - (ii) that service is available for use by the public,
  - (b) a person uses passenger transport service premises when—
    - (i) they are present at premises where a passenger transport service may provide, stop or terminate their service, and
    - (ii) the part of those premises in which they are present is available for use by the public.

## PART 3

### Stadia and live events

#### Capacity limits on stadia and live events

**8.—(1)** A person must not organise a live event, unless paragraph (2) applies, which takes place wholly or mainly—

- (a) outdoors at which more than five thousand persons are in attendance at any point in time during the event, or
- (b) indoors at which more than two thousand persons are in attendance at any point in time during the event.

(2) This paragraph applies where—

- (a) the event is either—
  - (i) ticketed, or
  - (ii) otherwise subject to an effective capacity control measure,
- (b) the event takes place at a location, premises or other setting whose entrances and exits are controlled for the purpose of crowd and capacity management, and
- (c) a local authority has approved a capacity exemption application (see regulation 9) in respect of the event.

(3) For the purposes of paragraph (2)(c) an approval of a capacity exemption application under paragraph 11 of schedule 1 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(12) (decisions on applications for exemption from capacity limits in a Level 0 area) approved before 9 August 2021, is to be treated as if it were approved under these Regulations.

(4) For the purpose of paragraph (1) the following types of persons are not to be included when counting the number of persons in attendance at a live event—

- (a) persons who are working or providing voluntary or charitable services at the event, and
- (b) children under 5 years of age.

#### Applications for exemption from capacity limits

**9.—(1)** A person may apply to a local authority for an exemption from a requirement imposed by regulation 8(1).

(2) An application under paragraph (1) is referred to as a “capacity exemption application”.

(3) A capacity exemption application may relate to a single event or a series of events.

(4) A local authority may not charge any fee in respect of a capacity exemption application.

(5) A capacity exemption application must be in writing and must include—

- (a) a description of the type of event (or events) proposed,
- (b) an event plan for the event (or events) proposed, and
- (c) a risk assessment for the event (or events) proposed, including what measures are proposed relating to the prevention or minimisation of the risk of the incidence and spread of coronavirus arising from the event (or events).

(6) For the purpose of paragraph (1), a capacity exemption application made under paragraph 10 of schedule 1 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (applications for exemption from capacity limits in a Level 0 area), which has not been decided before 9 August 2021, is to be treated as if it was made under these Regulations.

### **Decisions on applications for exemption from capacity limits**

**10.**—(1) A local authority must, in deciding whether to approve a capacity exemption application, have regard to—

- (a) the risk of the incidence and spread of coronavirus arising from the event (or events), and
- (b) any other relevant circumstances.

(2) A local authority may—

- (a) approve the application without conditions,
- (b) approve the application with conditions relating to the prevention or minimisation of the risk of the incidence and spread of coronavirus arising from the event (or events), or
- (c) refuse the application.

(3) A local authority must, as soon as reasonably practicable after deciding an application, notify the person who made the application of—

- (a) its decision, and
- (b) the reasons for its decision.

### **Guidance on applications for exemption from capacity limits**

**11.**—(1) A person specified in paragraph (3) must have regard to any guidance issued by the Scottish Ministers about capacity exemption applications.

(2) Guidance issued by the Scottish Ministers may—

- (a) make different provision for different cases or descriptions of case,
- (b) incorporate (by reference or transposition) guidance, codes of practice or other documents published by another person (for example, a trade association, a body representing members of an industry or a trade union).

(3) The persons specified for the purpose of paragraph (1) are—

- (a) a person applying to a local authority for an exemption from a requirement imposed by regulation 8(1) or (2), and
- (b) a person determining an application.

### **Revocation and variation of approval of exemption from capacity limits**

**12.**—(1) Where a local authority approves a capacity exemption application, it must keep the approval under review.

(2) Where it has approved a capacity exemption application without conditions (whether under regulation 10 or this regulation), a local authority may—

- (a) add conditions relating to the minimisation of the risk of the incidence and spread of coronavirus arising from the event (or events), or
- (b) revoke its approval of the application.

(3) Where it has approved a capacity exemption application but imposed conditions (whether under regulation 10 or this regulation) relating to the minimisation of the risk of the incidence and spread of coronavirus arising from the event (or events), a local authority may—

- (a) vary any such condition,
- (b) add any such condition,
- (c) remove any such condition, or
- (d) revoke its approval of the application.

(4) A local authority must, in deciding whether to make a decision under paragraph (2) or (3), have regard to—

- (a) the risk of the incidence and spread of coronavirus arising from the event (or events), and
- (b) any other relevant circumstances.

(5) A local authority may make a decision under paragraph (2) or (3)—

- (a) of its own accord, or
- (b) on application by the person who made the capacity exemption application.

(6) A local authority must, as soon as reasonably practicable after making a decision under paragraph (2) or (3), notify the applicant of—

- (a) its decision, and
- (b) the reasons for its decision.

#### **Scottish Ministers' power to call in applications for exemption from capacity**

**13.—**(1) The Scottish Ministers may direct a local authority that a capacity exemption application must be referred by a local authority to the Scottish Ministers for decision.

(2) The Scottish Ministers may direct that a local authority must notify the Scottish Ministers when it receives a capacity exemption application where the capacity applied for exceeds a capacity specified in the direction.

(3) Where an application is referred to the Scottish Ministers for decision regulations 10 and 12 apply, subject to the modification that any reference to a local authority is to be read as a reference to the Scottish Ministers.

#### **Offence of breaching conditions of approval to hold larger live event**

**14.—**(1) It is an offence for a person to contravene a condition imposed—

- (a) by a local authority under regulation 10(2)(b), 12(2) or (3) or
- (b) by the Scottish Ministers by virtue of regulation 13(3).

(2) A person who commits an offence under paragraph (1) is liable, on summary conviction, to a fine not exceeding the statutory maximum.

## **PART 4**

### **Enforcement**

#### **Enforcement of requirements**

**15.—**(1) A relevant person may take such action as is necessary to enforce any requirement imposed by these Regulations.

(2) A relevant person may give a notice to a person if the relevant person reasonably believes that—

- (a) the person is contravening a requirement in these Regulations, and
- (b) it is necessary and proportionate to give the notice for the purpose of preventing that person from continuing to contravene the requirement.

(3) Where the person contravening a requirement in these Regulations is a child accompanied by an individual who has responsibility for the child, that individual must, so far as reasonably practicable, ensure that the child complies with a direction or instruction given by the relevant person to the child.

(4) Where a relevant person has reasonable grounds to believe that a child is repeatedly failing to comply with a requirement of these Regulations, the relevant person may direct any individual who has responsibility for the child to secure, so far as reasonably practicable, that the child complies with that requirement.

(5) For the purpose of this regulation, an individual has responsibility for a child if the individual has—

- (a) care or control of the child for the time being, or
- (b) parental responsibilities, within the meaning of section 1(3) of the Children (Scotland) Act 1995(13), in relation to the child.

(6) A relevant person may only exercise a power in paragraph (4) if the relevant person considers that it is a necessary and proportionate means of ensuring compliance with the requirement.

(7) A relevant person exercising a power under paragraph (4) may give the person concerned any reasonable instructions the relevant person considers necessary.

(8) For the purpose of this regulation, a “relevant person” means—

- (a) a constable, or
- (b) subject to paragraph 9, a person designated by a local authority.

(9) A local authority may only designate a person for the purpose of this regulation in relation to the requirements in—

- (a) regulation 3, and
- (b) Part 3.

### **Offences and penalties**

**16.**—(1) It is an offence for a person to contravene any of the requirements in these Regulations.

(2) It is an offence for a person to obstruct any person carrying out a function under these Regulations.

(3) It is an offence for a person to contravene a direction given under regulation 15.

(4) It is a defence to a charge of committing an offence under paragraph (1), (2) or (3) to show that the person, in the circumstances, had a reasonable excuse.

(5) A person who commits an offence under this regulation is liable, on summary conviction, to a fine not exceeding the statutory maximum.

(6) If an offence under this regulation committed by a body corporate is proved to—

- (a) have been committed with the consent or connivance of an officer of the body, or
- (b) be attributable to any neglect on the part of such an officer,

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(13) 1995 c.36.

the officer (as well as the body corporate) commits the offence and is liable to be prosecuted and proceeded against and punished accordingly.

- (7) In paragraph (6), “officer” in relation to a body corporate means in the case of—
- (a) a company—
    - (i) a director, secretary, manager or similar officer, or
    - (ii) where the affairs of the company are managed by its members, a member,
  - (b) a limited liability partnership, a member,
  - (c) a partnership other than a limited liability partnership, a partner, or
  - (d) another body or association, a person who is concerned in the management or control of its affairs.

### **Fixed penalty notices**

**17.**—(1) A relevant person may issue a fixed penalty notice to a person the relevant person believes—

- (a) has committed an offence under these Regulations, and
- (b) is 18 years of age or over.

(2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty in accordance with these Regulations.

(3) The penalty payable in respect of a fixed penalty notice, subject to paragraphs (4) and (5), is £60.

(4) Unless paragraph (5) applies, if £30 is paid before the end of the period of 28 days beginning with the date of the fixed penalty notice, then that is the amount of the fixed penalty (and the fixed penalty notice must make known the effect of this paragraph).

(5) If the person to whom a fixed penalty notice is given has already received a fixed penalty notice under these Regulations—

- (a) paragraph (4) does not apply, and
- (b) the penalty payable in the case of—
  - (i) the second fixed penalty notice received is £120,
  - (ii) the third and subsequent fixed penalty notice received is double the amount specified in the last fixed penalty notice received by that person, to a maximum of £960.

(6) For the purpose of paragraph (5), a fixed penalty notice issued under the following provisions is to be treated as if it were issued under these Regulations—

- (a) regulation 7 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(**14**),
- (b) regulation 16 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020(**15**),
- (c) regulation 9 of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020(**16**),

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(14) [S.S.I. 2020/344](#).

(15) [S.S.I. 2020/279](#). Revoked by [S.S.I. 2020/344](#).

(16) [S.S.I. 2020/103](#). Revoked by [S.S.I. 2020/279](#).

- (d) regulation 8 of the of the Health Protection (Coronavirus, Restrictions) (Aberdeen City) Regulations 2020(17),
  - (e) regulation 13 of the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020(18), and
  - (f) regulation 27 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020(19).
- (7) For the purpose of these Regulations—
- (a) the form of a fixed penalty notice,
  - (b) the effect of a fixed penalty notice, and
  - (c) the procedure that applies to a fixed penalty notice,

are the same as those that apply to a fixed penalty notice given under section 129(1) of the Antisocial Behaviour etc. (Scotland) Act 2004(20), as provided for in section 129 to 134 of that Act and sections 226B and 226I of the Criminal Procedure (Scotland) Act 1995(21), subject to the modifications in paragraph (8).

- (8) The modifications are—
- (a) section 129(1) is to be disregarded,
  - (b) the definitions of “fixed penalty notice” in sections 129(2) and 134 are to be construed as a reference to a notice under paragraph (1),
  - (c) the definition of “prescribed area” in section 129(2) is to be disregarded,
  - (d) section 130(1), (2) and (3)(f) is to be disregarded,
  - (e) the references to “section 129” in section 131(1) and section 133(1) are to be construed as references to this regulation,
  - (f) in section 131(5)—
    - (i) the reference to “in accordance with this Part” is to be construed as a reference to these Regulations, and
    - (ii) the reference to “a sum equal to one and a half times” is to be disregarded,
  - (g) the references to “constable” in section 133(1) are to be construed as references to the relevant person within the meaning of this regulation,
  - (h) the definition of “fixed penalty offence” in section 134 is to be construed as though it referred to an offence of the type referred to in paragraph (1)(a), and
  - (i) in section 226B(5)(a)(ii) of the Criminal Procedure (Scotland) Act 1995—
    - (i) the reference to “by virtue of section 131(5) of the Antisocial Behaviour etc. (Scotland) Act 2004” is to be construed as a reference to that section as modified by this paragraph, and
    - (ii) the reference to “a fixed penalty notice given under section 129 (fixed penalty notices) of that Act” is to be construed as a reference to section 129 of the Antisocial Behaviour etc. (Scotland) Act 2004 as modified by this paragraph.
- (9) For the purpose of this regulation, “relevant person” has the meaning given in regulation 15(8).

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(17) S.S.I. 2020/234. Revoked by S.S.I. 2020/234 regulation 9(1).

(18) S.S.I. 2020/262.

(19) S.S.I. 2020/318. Revoked by S.S.I. 2020/344.

(20) 2004 asp 8.

(21) 1995 c.46. Sections 226B and 226I were inserted by section 55 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6). Sections 226B and 226I have been amended but none of the amendments are relevant to these Regulations.

(10) Where the relevant person issuing a notice under paragraph (1) is a relevant person within the meaning of regulation 15(8)(b), the relevant person may require the person believed to have committed an offence (“A”) to give A’s name and address.

(11) When making that requirement, the relevant person must inform A that—

- (a) the relevant person believes A has committed an offence under these Regulations, and
- (b) failure to comply with the requirement may be an offence.

(12) If A has been required under this section to give A’s name and address and, without reasonable excuse, fails to do so, A will be guilty of an offence and liable, on summary conviction, to a fine not exceeding the statutory maximum.

## PART 5

### Final provisions

#### Review of requirements

**18.**—(1) The Scottish Ministers must review these Regulations at least every 21 days, with the first review to be carried out by 30 August 2021.

(2) As soon as the Scottish Ministers consider that any requirement set out in these Regulations is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in Scotland with coronavirus, the Scottish Ministers must revoke that requirement.

#### Expiry

**19.**—(1) These Regulations expire on 28 February 2022.

(2) This regulation does not affect the validity of anything done pursuant to these Regulations before they expire.

#### Revocation

**20.** The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020(**22**) are revoked.

St Andrew’s House,  
Edinburgh  
At 1.50 p.m. on 5th August 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 (which come into force on 9 August 2020) set out continuing requirements which apply in Scotland as a result of coronavirus and revoke the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020.

A person who is responsible for a relevant hospitality premises or relevant entertainment premises is required to take measures to obtain and record visitor information, in a suitable filing system, for a period of at least 21 days. They must provide this information to a public health officer as soon as reasonably practicable if so requested for the purpose of preventing the spread of coronavirus or monitoring the spread of infection and the incidence of coronavirus disease. Persons responsible for a place of worship, for carrying on a business or providing a service are also required to have regard to guidance issued by the Scottish Ministers relating to its premises, business or service.

These Regulations require persons in specified places (see regulations 5 and 6) to wear a face covering unless a specific exemption applies. They also require persons who use a passenger transport service or passenger transport service premises (which are both defined terms in the Regulations) to wear a face covering unless a specific exemption applies (regulation 7).

Part 3 of the Regulations makes provision for limits in relation to large live events and stadia, to enable approval of higher attendance numbers, and to allow revocation of approvals and of any conditions that may be applied in relation to approval.

Part 4 of the Regulations provides for the enforcement of these Regulations, including criminal offences (regulation 16) and fixed penalty notices (regulation 17).

The final provisions in Part 5 require the Scottish Ministers to review the requirements imposed by these Regulations at least once every 21 days, the first review taking place by 30 August 2021, and require them to revoke requirement as soon as it is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of coronavirus in Scotland.

These Regulations expire on 28 February 2022.