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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 263**

**PUBLIC HEALTH**

**The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 32) Regulations 2021**

*Approved by the Scottish Parliament*

		<i>at 12.15 p.m. on</i>
<i>Made</i>	- - - -	<i>15th July 2021</i>
<i>Laid before the Scottish</i>		<i>at 3.00 p.m. on 15th</i>
<i>Parliament</i>	- - - -	<i>July 2021</i>
<i>Coming into force</i>	- -	<i>19th July 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 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. 32) Regulations 2021 and come into force on 19 July 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 6.

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(1) 2020 c. 7.

(2) S.S.I. 2020/344, last amended by S.S.I. 2021/262.

### **Amendment of schedule 1 (Level 0 restrictions)**

#### **3. In schedule 1 (Level 0 restrictions)—**

- (a) after paragraph 2 (requirement for seated food and drink sale and consumption in food and drink businesses in a Level 0 area), insert—

#### **“Restricted opening hours for food and drink businesses in a Level 0 area**

**2A.—**(1) A person who is responsible for carrying on a food and drink business in a Level 0 area must, between the hours of 0000 and 0400, in relation to any premises, or parts of the premises, which are indoors—

- (a) close any premises, or parts of the premises, in which food or drink are sold for consumption on those premises, to members of the public,
  - (b) cease selling food or drink for consumption on those premises,
  - (c) not permit consumption of food or drink on those premises by members of the public.
- (2) Sub-paragraph (1) does not prevent food or drink being sold—
- (a) for consumption off the premises,
  - (b) by a hotel or other accommodation for consumption as part of room service,
  - (c) in a cinema to its customers for consumption in any of its auditoriums,
  - (d) to customers attending a drive-in event for consumption at the event,
  - (e) for consumption in a cafe, dining hall or canteen at—
    - (i) a hospital or care home,
    - (ii) a school or student accommodation,
    - (iii) a prison,
    - (iv) an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence, or
    - (v) a workplace canteen where—
      - (aa) there is no practical alternative for staff at that workplace to obtain food, and
      - (bb) so far as reasonably possible, a distance of at least one metre can be maintained between any person using the canteen,
  - (f) for consumption in premises providing food or drink to homeless persons,
  - (g) for consumption in premises which are airside at an airport,
  - (h) for consumption in premises which are on a ferry.
- (3) Sub-paragraph (2)(c) to (h) does not apply in relation to the sale of alcohol.
- (4) Sub-paragraph (1) does not prevent—
- (a) the consumption of food or drink by a resident of a hotel in their private room,
  - (b) the consumption of food or drink by members of the public in any of the premises described in sub-paragraph (2)(c) to (h).
- (5) For the purposes of sub-paragraph (1), an area adjacent to the premises of the food and drink business, where seating is made available for customers of the business (whether or not by the business), or which its customers habitually use for consumption of food or drink served by the business, is to be treated as part of the premises of that business.

(6) If a food and drink business (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirements in sub-paragraph (1) if that person complies with the requirements in relation to business A.

### **Restricted opening hours for casinos in a Level 0 area**

**2B.** A person who is responsible for carrying on a casino business in a Level 0 area must, between the hours of 0000 and 0400—

- (a) close to members of the public any premises operated as part of the business, and
- (b) not carry on business at such premises.”,
- (b) in paragraph 3 (requirement to take measures to minimise risk of exposure to coronavirus in a Level 0 area)—
  - (i) after sub-paragraph (2)(a) insert—
    - “(aza) the persons participating in a gathering outdoors which consists of no more than fifteen persons from no more than fifteen households,”
  - (ii) in sub-paragraph (3), for the definition of “required distance” substitute—
    - ““required distance” means at least one metre,” and
  - (iii) omit sub-paragraphs (4) and (5),
- (c) in paragraph 6 (restrictions on public gatherings indoors in a Level 0 area)(3), for sub-paragraph (2) substitute—
  - “(2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons or households participating in a gathering.”, and
- (d) in paragraph 8 (restriction on gatherings in private dwellings in a Level 0 area)(4), for sub-paragraphs (2) and (3) substitute—
  - “(2) For the purpose of sub-paragraphs (1)(a) and (aa), children under 12 years of age are not to be included when counting the number of people or households attending a gathering.”.

### **Amendment of schedule 2 (Level 1 restrictions)**

- 4.** In schedule 2 (Level 1 restrictions)—
- (a) in paragraph 3 (restricted opening hours for food and drink businesses in a Level 1 area) omit sub-paragraphs (1A) and (1B)(5),
  - (b) in paragraph 3A (restricted opening hours for casinos in a Level 1 area) omit sub-paragraphs (2) and (3)(6), and
  - (c) in paragraph 4(7) (requirement to take measures to minimise risk of exposure to coronavirus in a Level 1 area)—
    - (i) in sub-paragraph (3), in the definition of “required distance”—
      - (aa) omit heads (aa)(8) to (c),
      - (bb) after head (a) insert “ or”,

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(3) Paragraph 6 was amended by [S.S.I. 2021/193](#).

(4) Paragraph 8 was relevantly amended by [S.S.I. 2020/374](#) and [S.S.I. 2021/193](#).

(5) Paragraph 3(1A) and (1B) were inserted by [S.S.I. 2021/252](#).

(6) Paragraph 3A(2) and (3) were inserted by [S.S.I. 2021/252](#).

(7) Paragraph 4 of schedule 2 was relevantly amended by [S.S.I. 2021/238](#) and [S.S.I. 2021/262](#).

(8) Head (aa) was inserted by [S.S.I. 2021/262](#).

- (cc) existing head (d) becomes head (b), and
- (ii) omit sub-paragraph (5).

#### **Amendment of schedule 3 (Level 2 restrictions)**

5. In schedule 3 (Level 2 restrictions)—
- (a) in paragraph 5 (restricted opening hours for food and drink businesses in a Level 2 area) omit sub-paragraphs (1A) and (1B)(9),
  - (b) in paragraph 5A (restricted opening hours for casinos in a Level 2 area) omit sub-paragraphs (2) and (3)(10), and
  - (c) in paragraph 8(11) (requirement to take measures to minimise risk of exposure to coronavirus in a Level 2 area)—
    - (i) in sub-paragraph (3), in the definition of “required distance”—
      - (aa) omit heads (aa)(12) to (c),
      - (bb) after head (a) insert “or”,
      - (cc) existing head (d) becomes head (b), and
    - (ii) omit sub-paragraph (5).

#### **Amendment of schedule 6 (areas)**

6. For schedule 6 (areas)(13) substitute—

“SCHEDULE 6

Regulation 3(6)

Areas

- 1.—(1) This is the table referred to in regulation 3(6)(a).

<i>Column (1)</i>	<i>Column (2)</i> <i>Area</i>	<i>Column (3)</i> <i>Level of Area</i>
1	Scotland	0

- (2) For the purposes of this schedule “Scotland” includes—
- (a) so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Scotland, and
  - (b) the airspace above Scotland.”.

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(9) Paragraph 5(1A) and (1B) were inserted by [S.S.I. 2021/252](#).

(10) Paragraph 5A(2) and (3) were inserted by [S.S.I. 2021/252](#).

(11) Paragraph 8 of schedule 3 was recently amended by [S.S.I. 2021/238](#), [S.S.I. 2021/252](#) and [S.S.I. 2021/262](#).

(12) Head (aa) was inserted by [S.S.I. 2021/252](#).

(13) The table in schedule 6 was substituted by [S.S.I. 2021/209](#), and last amended by [S.S.I. 2021/227](#).

St Andrew's House,  
Edinburgh  
At 12.15 p.m. on 15th July 2021

*HUMZA YOUSAF*  
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.*

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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) Regulations 2020 (“the principal Regulations”).

Regulation 3 makes various amendments to schedule 1 of the principal Regulations (Level 0 restrictions). Regulation 3(a) inserts new provision for restrictions to the opening and operating hours of food and drink businesses and casinos in a Level 0 area.

Paragraph 3 of schedule 1 of the principal Regulations requires a person responsible for a place of worship, carrying on a business or providing a service in a Level 0 area to take measures to ensure, so far as reasonably practicable, that the required distance is maintained between any persons on its premises, or waiting to enter its premises, except between persons mentioned in paragraph 3(2) of schedule 1.

Regulation 3(b)(i) amends paragraph 3(2) of schedule 1, to insert a further category of persons who are so mentioned - a gathering of persons outdoors consisting of no more than 15 persons from no more than 15 households. Regulation 3(b)(ii) substitutes a new “required distance” for physical distancing in paragraph 3(3) of schedule 1, which is at least one metre. Regulation 3(b)(iii) omits redundant provision.

Regulation 3(c) and (d) amends paragraphs 6 (restrictions on public gatherings indoors in a Level 0 area) and 8 (restrictions on gatherings in private dwellings in a Level 0 area) of schedule 1 of the principal Regulations. This makes provision so children under 12 years of age are not included when counting the number of households or persons who participate in a public gathering indoors in a Level 0 area, or who attend an indoors gathering in a private dwelling.

Regulation 4(a) and (b) amend paragraphs 3 (restricted opening hours for food and drink businesses in a Level 1 area) and 3A (restricted opening hours for casinos in a Level 1 area) of schedule 2 of the principal Regulations. This removes provision which extended the opening hours for food and drink businesses and casinos in a Level 1 area during UEFA European Championship matches. Regulation 4(c) amends the meaning of “required distance” in paragraph 4 of that schedule (requirement to take measures to minimise risk of exposure to coronavirus in a Level 1 area) to remove provisions relating to specified sporting events, and associated definitions.

Regulation 5 makes equivalent amendments in respect of Level 2 restrictions to those made by regulation 4 in respect of Level 1 restrictions. This amends paragraphs 5 (restricted opening hours for food and drink businesses in a Level 2 area), 5A (restricted opening hours for casinos in a Level 2 area) and 8 (requirement to take measures to minimise risk of exposure to coronavirus in a Level 2 area) of schedule 3 of the principal Regulations.

Regulation 6 substitutes a new table referred to in regulation 3(6)(a) of the principal Regulations. This provides that the whole of Scotland is in Level 0. Paragraph 1(2) of the new schedule 6 defines “Scotland” for this purpose as including so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Scotland, and Scottish airspace.