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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 49**

**PUBLIC HEALTH**

**The Health Protection (Coronavirus)  
(Restrictions and Requirements) (Miscellaneous  
Amendment) (Scotland) Regulations 2021**

*Approved by the Scottish Parliament*

		<i>at 12.05 p.m. on</i>
<i>Made</i>	<i>- - - -</i>	<i>28th January 2021</i>
<i>Laid before the Scottish</i>		<i>at 2.30 p.m. on 28th</i>
<i>Parliament</i>	<i>- - - -</i>	<i>January 2021</i>
<i>Coming into force</i>	<i>- -</i>	<i>29th 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) (Miscellaneous Amendment) (Scotland) Regulations 2021 and come into force on 29 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, 4 and 5.

### **Amendment to regulation 2: interpretation**

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

(a) after the definition of “contact sport”, insert—

““electoral registration officer” means an officer appointed under section 8(3) of the Representation of the People Act 1983(3),”

(b) after the definition of “remand centre”, insert—

““returning officer” means an officer who is—

- (a) appointed by, or by an order under, section 25 of the Representation of the People Act 1983(4),
- (b) appointed under section 41(1) of the Representation of the People Act 1983,
- (c) a constituency returning officer appointed by or under an order under section 12(1) of the Scotland Act 1998(5), or
- (d) a regional returning officer appointed by an order under section 12(6) of the Scotland Act 1998(6),”.

### **Amendment to schedule 4: level 3 restrictions**

4. In schedule 4 (level 3 restrictions)—

(a) in paragraph 1 (requirement to close certain premises in a level 3 area to members of the public)—

(i) in sub-paragraph (2), after head (p) insert—

“(q) a drive-in event venue.”,

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

“(h) any suitable premises which a returning officer or electoral registration officer has requested the use of in connection with the carrying out of any of their functions in relation to an election.”,

(iii) for sub-paragraph (6) substitute—

“(6) In sub-paragraph (2)—

(a) “sexual entertainment venue” has the meaning given by section 45A of the Civic Government (Scotland) Act 1982(7),

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(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, S.S.I. 2021/1, S.S.I. 2021/3, S.S.I. 2021/17, S.S.I. 2021/25 and S.S.I. 2021/35.

(3) 1983 c.2. Section 8(3) was substituted by schedule 13, paragraph 130(2) of the Local Government etc. (Scotland) Act 1994 (c.39) (“the 1994 Act”).

(4) Section 25 was amended by schedule 13, paragraph 130(3) and schedule 14 of the 1994 Act.

(5) 1998 c.46 (“the 1998 Act”). Section 12 was substituted by section 4(1) of the Scotland Act 2016 (c.11). S.S.I. 2015/425 (“the Order”) was made under section 12(1) of the 1998 Act. Article 14(b) of the Order confers a power on the Scottish Ministers to, by Order, direct that persons are to be constituency returning officers for constituencies situated in more than one local government area. S.S.I. 2016/9 was made under article 14(b) of the Order and article 4 of S.S.I. 2016/9 designates persons to be constituency returning officers.

(6) Article 3 of S.S.I. 2016/9 designates persons to be regional returning officers.

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

- (b) “drive-in event venue” means any premises or place indoors to which the public, or a section of the public, has access, whether on payment or otherwise, for the purpose of participating in or attending from within vehicles a drive-in or drive-through event, including an act of worship, a sporting event, a film or the performance of music, comedy or a play.”
- (b) in paragraph 5 (restrictions on food and drink businesses in a level 3 area), after sub-paragraph (8) insert—
  - “(9) Sub-paragraph (1) does not prevent the use of suitable premises which a returning officer or electoral registration officer has requested the use of in connection with the carrying out of any of their functions in relation to an election.”.

#### **Amendment to schedule 5: level 4 restrictions**

- 5. 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), after head (v) insert—
      - “(w) a drive-in event venue.”,
    - (ii) in sub-paragraph (3), after head (h) insert—
      - “(i) any suitable premises which a returning officer or electoral registration officer has requested the use of in connection with the carrying out of any of their functions in relation to an election.”,
    - (iii) in sub-paragraph (6), after head (c) insert—
      - “(d) “drive-in event venue” means any premises or place indoors to which the public, or a section of the public, has access, whether on payment or otherwise, for the purpose of participating in or attending from within vehicles a drive-in or drive-through event, including an act of worship, a sporting event, a film or the performance of music, comedy or a play.”,
  - (b) in paragraph 1A (requirement to close places of worship in a level 4 area to members of the public), after sub-paragraph (2A)(8) insert—
    - “(2B) A place of worship may be used if it is a suitable premises which a returning officer or electoral registration officer has requested the use of in connection with the carrying out of any of their functions in relation to an election.”,
  - (c) in paragraph 2 (requirement to close retail and library premises in a level 4 area to members of the public), after sub-paragraph (4) insert—
    - “(4A) Sub-paragraph (1) does not prevent the use of suitable premises which a returning officer or electoral registration officer has requested the use of in connection with the carrying out of any of their functions in relation to an election.”,
  - (d) in paragraph 3 (requirement to cease providing holiday accommodation in a level 4 area) after sub-paragraph (2) insert—
    - “(3) Sub-paragraph (1) does not prevent the use of suitable premises which a returning officer or electoral registration officer has requested the use of in connection with the carrying out of any of their functions in relation to an election.”,
  - (e) in paragraph 6 (closure of food and drink businesses in a level 4 area), after sub-paragraph (7) insert—

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(8) Paragraph 1A was inserted by [S.S.I. 2021/3](#) and amended by [S.S.I. 2021/17](#).

“(8) Sub-paragraph (1) does not prevent the use of suitable premises which a returning officer or electoral registration officer has requested the use of in connection with the carrying out of any of their functions in relation to an election.”,

(f) in paragraph 16(2) (examples of reasonable excuse)(9)—

(i) for head (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(10),

(iv) the approved celebrant within the meaning of section 94A(4)(a) of the Civil Partnership Act 2004(11),

(v) the authorised registrar within the meaning of section 87 of the Civil Partnership Act 2004(12), or

(vi) a required interpreter.”,

(ii) for head (w) substitute—

“(w) attend a funeral or commemorative event for a person who has died (other than a wake or a funeral tea), or to travel for compassionate reasons which relate to the end of a person’s life.”.

### **Amendment of the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020**

**6.—**(1) The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020(13) are amended as follows.

(2) In regulation 15(1) (expiry and review) for “31 January 2021” substitute “31 March 2021”.

St Andrew’s House,  
Edinburgh  
At 12.05 p.m. on 28th January 2021

*MICHAEL RUSSELL*  
A member of the Scottish Government

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(9) Paragraph 16 was inserted by [S.S.I. 2020/389](#).

(10) [1977 c.15](#). Section 8 was amended by section 12(2)(c) of the Marriage and Civil Partnership (Scotland) Act 2014 ([asp 5](#)).

(11) [2004 c.33](#). Section 94A was inserted by section 24(13) of the Marriage and Civil Partnership (Scotland) Act 2014 ([asp 5](#)).

(12) Section 87 was amended by section 24(4) of the Marriage and Civil Partnership (Scotland) Act 2014 ([asp 5](#)).

(13) [S.S.I. 2020/262](#).

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## 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”) and the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 (“the Directions Regulations”). These Regulations come into force on 29 January 2021.

Regulation 3 inserts definitions into the Local Levels Regulations for the purposes of the amendments made by these Regulations.

Regulation 4 amends the Local Levels Regulations to make provision requiring drive-in event venues to close in a Level 3 area. It also amends paragraph 1 of schedule 4 of those Regulations to exempt premises in a Level 3 area from closure for electoral purposes if they are suitable premises which a returning officer or electoral registration officer has requested the use of in connection with the carrying out of any of their functions in relation to an election. Additionally, it amends paragraph 5 of that schedule to remove the restrictions on premises used by food and drink businesses so that they may be used in connection with an election on the same basis.

Regulation 5 amends the Local Levels Regulations to make provision requiring drive-in event venues to close in a Level 4 area.

Regulation 5 also amends schedule 5 of the Local Levels Regulations to enable suitable premises required to close, or permitted to open only for specified purposes, in a Level 4 area to be used in connection with an election if a returning officer or electoral registration officer has requested their use in connection with the carrying out of any of their functions. This includes retail and library premises, premises used by food and drink businesses, places of worship and holiday accommodation.

Regulation 5 also makes amendments to the Local Levels Regulations to provide that the same restrictions will apply to a person coming into a Level 4 area, from an area in another level, to attend a marriage, civil partnership or funeral as apply to a person living in a Level 4 area.

Regulation 6 changes the date for the expiration of the Directions Regulations from 31 January 2021 to 31 March 2021.