

**2020 No. 182**

**PUBLIC HEALTH**

**The Health Protection (Coronavirus) (Restrictions) (Scotland)  
Amendment (No. 4) Regulations 2020**

*Approved by the Scottish Parliament*

*Made - - - - at 12.00 p.m. on 18th June 2020*

*Laid before the Scottish Parliament at 4.30 p.m. on 18th June 2020*

*Coming into force in accordance with regulation 1*

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>(a)</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 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, commencement and application**

**1.**—(1) These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 4) Regulations 2020.

(2) Subject to paragraph (3), these Regulations come into force on 19 June 2020.

(3) The following provisions come into force on 22 June 2020—

- (a) regulation 2(2), (4) and (6),
- (b) regulation 2(7)(a), (b)(i) and (c), and

- (c) regulation 2(7)(b)(iv) and (9)(a) so far as they relate to—
  - (i) the wearing of a face covering, or
  - (ii) the use of a place of worship for prayer or contemplation.

(4) The amendments made by the following provisions do not apply to a person who is completing a journey which started before 22 June 2020—

- (a) regulation 2(2) and (6),
- (b) regulation 2(7)(a), (b)(i) and (c), and
- (c) regulation 2(9)(a), so far as it relates to the wearing of a face covering.

## **Amendment of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020**

**2.**—(1) The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020(a) are amended as follows.

- (2) For regulation 1(2) (citation, commencement and application) substitute—
  - “(2) These Regulations apply—
    - (a) in Scotland, and
    - (b) in 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,
    - “Scottish airspace” means the airspace above Scotland.”
- (3) After regulation 3(5)(b) (requirement to close premises and businesses) insert—
  - “(c) premises by a business taking preparatory steps, while the premises remain closed to members of the public, in pursuance of the requirement in regulation 4(1).”
- (4) In regulation 4 (further restrictions and closures)—
  - (a) after paragraph (5)(a)(iv) insert—
    - “(v) needs accommodation while travelling for the purposes of work or to provide voluntary or charitable services, where it is not reasonably possible for the person to work, or to provide those services, from the place where they are living,”
  - (b) in paragraph (7)—
    - (i) omit “or” following sub-paragraph (b),
    - (ii) in sub-paragraph (c), after “emergency),” insert “ or”,
    - (iii) after sub-paragraph (c) insert—
      - “(d) for prayer or contemplation by an individual either alone or with members of their household,”
- (5) In regulation 6(a) (restrictions on gatherings), for “two” substitute “three”.

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(a) S.S.I. 2020/103, relevantly amended by S.S.I. 2020/164.

(6) After regulation 6 insert—

## “PART 3A Public transport

### **Requirement to wear a face covering on public transport**

**6A.**—(1) Except to the extent that a defence would be available under regulation 8(4), no person may use a passenger transport service or passenger transport service premises without wearing a face covering.

(2) Paragraph (1) does not apply to the wearing of a face covering—

- (a) on a school transport service,
- (b) on a cruise ship,
- (c) by a child who is under the age of 5,
- (d) by a constable acting in the course of their duty,
- (e) by an emergency responder (other than a constable) acting in their capacity as an emergency responder,
- (f) by a person providing a passenger transport service, or an employee of that person, where there is a partition between the person or employee and members of the public,
- (g) by a person flying or otherwise operating a passenger transport service for the carriage of passengers by air,
- (h) on a ferry where—
  - (i) the ferry, or the part of the ferry which is open to members of the public, is entirely outdoors, or
  - (ii) a distance of two metres can be maintained between any persons on the ferry or the part of the ferry which is open to members of the public.

(3) In this regulation—

“emergency responder” has the meaning given by section 153A(6) of the Inheritance Tax Act 1984(a),

“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.

(4) For the purposes 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 purposes of travel, by means of which a passenger transport service is provided, and
  - (ii) that service is available for use by the public,

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(a) 1984 c.51. Section 153A(6) was inserted by section 75 of the Finance Act 2015 (c.11).

- (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) those premises are available for use by the public.”.
- (7) In regulation 8 (offences and penalties)—
- (a) in paragraph (4), after “reasonable excuse” insert “(see paragraphs (5) and (5A))”,
  - (b) in paragraph (5)—
    - (i) for “In paragraph (4)” substitute “Subject to paragraph (5A)”,
    - (ii) in sub-paragraph (b)(iii), for “one other household” substitute “no more than two other households”,
    - (iii) in sub-paragraph (o)(iii), for “one other household.” substitute “no more than two other households.”,
    - (iv) after sub-paragraph (o) insert—
      - “(p) to attend a place of worship to pray or contemplate, either alone or with other members of their household,
      - (q) in relation to a person who is a member of a household which is part of an extended household, to visit, provide assistance to or stay with the household which forms the other part of the extended household in the place where that household is living.”,
  - (c) after paragraph (5) insert—
 

“(5A) In relation to the wearing of a face covering, a reasonable excuse includes—

    - (a) to seek medical assistance,
    - (b) to provide care or assistance to a vulnerable person, including to provide emergency assistance,
    - (c) to avoid injury, illness or to escape a risk of harm,
    - (d) where the person cannot 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(a)),
      - (ii) without severe distress,
    - (e) to communicate with a person who has difficulties communicating (in relation to speech, language or otherwise),
    - (f) to eat or drink where reasonably necessary,
    - (g) to take medication,
    - (h) to remove a face covering temporarily to comply with a request by a relevant person or another person acting in the course of their duties, and for the purposes of this sub-paragraph “relevant person” has the meaning given by regulation 7(12).”.
- (8) In regulation 9 (fixed penalty notices)—
- (a) in paragraph (6), after “that Act” insert “and sections 226B and 226I of the Criminal Procedure (Scotland) Act 1995(b)”,

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(a) 2010 c.15.

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

- (b) in paragraph (7)—
    - (i) for sub-paragraph (f) substitute—
      - “(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,”
      - (ii) omit “and” following sub-paragraph (f),
    - (iii) after sub-paragraph (g) insert—
      - “(h) 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) In regulation 10 (interpretation)—
- (a) after the definition of “constable” insert—
    - ““extended household” means two households which have chosen to be treated as a single household, where one of those households is a qualifying household,
    - “face covering” means a covering of any type which covers a person’s nose and mouth,
    - “household” includes an extended household,”
  - (b) after the definition of “a person who is carrying on a business” insert—
    - ““qualifying household” means—
      - (a) a person who lives alone, or
      - (b) a household where only one person in the household is 18 years or over.”

*MICHAEL RUSSELL*  
A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
At 12.00 p.m. on 18th June 2020

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (“the principal regulations”).

Regulation 2(4)(a) amends the principal regulations to provide that an accommodation provider may accommodate any person who needs accommodation while travelling for the purposes of work or to provide voluntary or charitable services, where that person cannot work or provide services from home. Regulation 2(4)(b) provides that a place of worship may open for prayer or contemplation by an individual who is either alone or with members of their household.

Regulation 6 of the principal regulations provides that no person may participate in a gathering in a public place of more than two people with certain exceptions, including where everyone in the gathering are members of no more than two households. Regulation 2(5) of these Regulations amends the principal regulations to provide that such a gathering may consist of three households.

These Regulations insert a new regulation 6A into the principal regulations, to require persons to wear a face covering when using a passenger transport service or passenger transport service premises. This duty does not apply in certain circumstances, such as on a school transport service or where there is a partition between the person providing transport services and the public.

Regulation 8(4) of the principal regulations provides that it is a defence to a charge of committing an offence under paragraph (1), (2) or (3) of that regulation if the person had a reasonable excuse. Regulation 2(7)(b)(ii) and (iii) of these Regulations amend regulation 8(5) of the principal regulations to provide that it is a reasonable excuse for a person to take part in exercise or outdoor recreation with up to two other households. It is also a reasonable excuse for a person to attend a place of worship for prayer or contemplation, either alone or with members of their household.

Regulation 2(7)(b)(iv) amends regulation 8(5) of the principal regulations to provide that it is a reasonable excuse for a member of an extended household to visit, provide assistance to or stay with the household forming the other part of the extended household. Regulation 2(9) inserts definitions of “extended household” and “qualifying household” into the principal regulations.

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