

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS) (SCOTLAND) AMENDMENT (NO. 4) REGULATIONS 2020

SSI 2020/182

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) (Scotland) Regulations 2020 (“the principal regulations”) to allow people to meet outside with their own household and with people from up to two other households. They provide that people may now attend places of worship for individual prayer and contemplation and allow places of worship to open for that purpose. They allow accommodation providers to accommodate people travelling for the purposes of work or to provide voluntary or charitable services, where those people cannot work, or provide those services, from home. They also introduce a new requirement to wear a face covering when using a passenger transport service or passenger transport service premises. This duty does not apply in certain situations such as on a school transport service or where there is a partition between the person providing transport services and the public. These Regulations also amend the principal regulations to enable a person who lives alone, or who is a single parent with children under the age of 18, to, in agreement with one other household, to form an “extended household” which will be treated as a single household.

Legislative background

1. The UK Coronavirus Act 2020 received Royal Assent on 25 March 2020. The Scottish Government immediately used powers conferred by that Act to bring forward the principal regulations, to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. The principal regulations came into force on Thursday 26 March.
2. The restrictions and requirements imposed by the principal regulations must be reviewed at least once every 21 days. As soon as the Scottish Ministers consider that any restriction or requirement 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 restriction or requirement.
3. On 21 May 2020 the Scottish Government published a route map setting out a phased approach to easing lockdown restrictions while still suppressing coronavirus (COVID-19). The route map recognises that the restrictions and requirements in place have a negative impact on some aspects people’s lives, such as increasing loneliness and social isolation and have potential to deepen inequalities and damage our economy.

Policy Objectives

4. Following the review required by 18 June 2020, Scottish Ministers decided to progress to Phase 2 of the route map. Some changes to the lockdown measures are made by this instrument and are described below. The Scottish Government's guidance has been updated to reflect these changes and to make other changes for the purpose of implementing proposals in the route map. The revised guidance is available at www.gov.scot/collections/coronavirus-covid-19-guidance.

People from three households meeting outdoors

5. The principal regulations were amended on 29 May to provide that it is a reasonable excuse for a person to take part in outdoor recreation in certain circumstances with members of their own household and with members of one other household. These Regulations increase the total number of households that may meet from two to three. This means people may now use outdoor public spaces or private gardens for recreational purposes, for example to sit, relax or have a picnic - alone or with members of their household and with members of up to two other household at a time. The Scottish Government's guidance advises that, when taking part in outdoor recreation, individuals should take all reasonable measures to ensure that they keep at least two metres apart from people not in their household and that a maximum of 8 people should meet.

Extended households

6. These Regulations amend 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 which forms the other part of the extended household. The term "extended household" means two households which have chosen to be treated as a single household, where one of those households is a qualifying household. A "qualifying household" means a person who lives alone or a single parent household where the children are under 18 years of age.

Individual prayer or contemplation

7. These Regulations provide that, in addition to the uses previously permitted within a place of worship, individuals may now enter a place of worship (on their own or with members of their household) to take part in individual prayer or contemplation. They may not take part in a communal act or service or form part of a wider congregation.

8. Those persons responsible for a place of worship must ensure that physical distancing measures are followed within the place of worship. This includes ensuring that the place of worship only admits people in sufficiently small numbers to make it possible to maintain a distance of two metres between all individuals/households within the premises. Physical distancing requirements do not extend to members of the same household, or to a carer and the person assisted by the carer.

Accommodation for workers

9. These Regulations amend the principal regulations to expand the list of reasons that accommodation providers may continue to offer their services. They may now offer accommodation to a person that is 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 services, from the place where they are living. This recognises that, as we move between the phases of the route map, workers in certain industries which routinely require travelling long distances will need access to accommodation.

Face covering on public transport

10. These Regulations introduce a new offence making it unlawful for anyone, without reasonable excuse, to use a passenger transport service or passenger transport service premises without wearing a face covering. The Regulations provide police constables with the power to issue a Fixed Penalty Notice to anyone 18 or over, if an offence has been committed. They also provide a non-exhaustive list of reasonable excuses for not wearing a face covering, for example if it were to cause the person severe distress due to a mental or physical disability, or if a person removes the face mask temporarily in order to take medication. There are also specific exemptions from the requirement to wear a face covering including on a school transport service or where there is a partition between the person providing transport services and the public. The requirement on people to wear face coverings on public transport is deemed necessary by the Scottish Ministers to help prevent the onward transmission of Coronavirus in that setting.

Allowing business to prepare for physical distancing

11. The Regulations amend the principal regulations to allow businesses listed in Part 2 of schedule 1, which are currently required to be closed to the public, to take preparatory steps in advance to ensure compliance with physical distancing requirements on their premises when they are allowed to reopen.

Commencement

12. The changes relating to meeting other households outdoors, extended households and providing accommodation for workers, will come into force on Friday 19 June 2020. The amendments relating to attending places of worship for the purpose of individual prayer and contemplation and wearing face coverings on passenger transport services and on passenger transport service premises will come into force on Monday 22 June 2020.

Consultation

13. 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

14. An Equality Impact Assessment and a Partial Business and Regulatory Impact Assessment have been completed and are attached. A Children's Rights and Welfare Impact Assessment has not been prepared, however any future changes to the principal regulations which do have a direct impact on children's rights or welfare will be assessed.

Scottish Government

Directorate for Constitution and Cabinet

18th June 2020