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## SCOTTISH STATUTORY INSTRUMENTS

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# 2020 No. 344

## The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020

### PART 1 **S**

#### Introductory

#### Citation, commencement and application **S**

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 and come into force at 6.00 a.m. on 2 November 2020.

(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.

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#### Commencement Information

**II** Reg. 1 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

#### Interpretation **S**

2.—(1) In these Regulations—

“alcohol” has the same meaning as in section 2 of the Licensing (Scotland) Act 2005 <sup>M1</sup>,

“child” means a person who is under 16 years of age, and “childcare” is to be construed accordingly,

“constable” has the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012 <sup>M2</sup>,

“contact sport” means a sport or activity during which the participants—

(a) are required to make physical contact with each other, or

(b) do not generally maintain a distance of two metres from each other,

but does not include a sport or activity in which the participants are wholly or mainly professional sportspersons,

**Status:** Point in time view as at 15/03/2021.

**Changes to legislation:** There are currently no known outstanding effects for the The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020. (See end of Document for details)

F1  
...

[<sup>F2</sup>“electoral registration officer” means an officer appointed under section 8(3) of the Representation of the People Act 1983,]

“elite development pathway” means a development pathway established by the national governing body of a sport to prepare sportspersons—

- (a) so that they may derive a living from competing in that sport, or
- (b) to compete at that sport at the Tokyo or Beijing Olympic or Paralympic Games, or, if that sport is not part of the Tokyo Olympic and Paralympic Games programme, in the Commonwealth Games to be held in Birmingham,

“emergency responder” has the meaning given by section 153A(6) of the Inheritance Tax Act 1984 <sup>M3</sup>,

[<sup>F3</sup>“end of term household” means a household consisting of—

- (a) one or more students of a further education institution or a higher education institution within the meaning of—
  - (i) paragraph 6 of schedule 16 of the Coronavirus Act 2020,
  - (ii) heads (c) to (f) in the definition of “educational institution” in paragraph 1(11) of schedule 16 of that Act, or
  - (iii) heads (b) to (e) in the definition of “educational institution” in paragraph 1(12) of schedule 16 of that Act,
  - (iv) the definition of “relevant institution” in paragraph 15(11) of schedule 16 of that Act, and
- (b) one other household with which the student <sup>F4</sup>... , or as the case may be students [<sup>F5</sup>chose to live] in a place which [<sup>F6</sup>was] the student’s or students’ sole or main residence during the period between the first and second academic terms [<sup>F7</sup>and which continues to be the student’s or students’ sole or main residence],]

“extended household” means two individual households which have chosen to be treated as the same household for the purposes of the restrictions in these Regulations, but an individual household may only form part of one extended household at any one time,

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

“food and drink business” means—

- (a) a restaurant, including a restaurant or dining room in a hotel or members' club,
- (b) a takeaway service,
- (c) a cafe or canteen,
- (d) a bar, including a bar in a hotel or members' club,
- (e) a public house,

[<sup>F8</sup>“further education institution” has the meaning given in paragraph 6 of schedule 16 of the Coronavirus Act 2020,]

“gathering” means a situation where two or more persons, who are not members of the same household, are present together in the same place in order—

- (a) to engage in any form of social interaction with each other, or
- (b) to undertake any other activity with each other,

[<sup>F8</sup>“higher education institution” has the meaning given in paragraph 6 of schedule 16 of the Coronavirus Act 2020,]

“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>M4</sup> under the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 <sup>M5</sup>, and “outdoors” is to be construed accordingly,

“Level 0 area”, “Level 1 area”, “Level 2 area”, “Level 3 area” and “Level 4 area” have the meanings given in regulation 3(6),

“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,

“a person who is responsible for carrying on a business” and similar expressions include the owner, occupier and manager,

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

“private dwelling” means a caravan, houseboat or any building, or part of a building, used or intended to be used as a dwelling (including any garden or yard and any indoor passage or stair, outhouse or other structure of the dwelling) but does not include—

- (a) accommodation in a hotel, hostel, members club, boarding house or bed and breakfast,
- (b) accommodation provided by a care home service, within the meaning of paragraph 2 of schedule 12 of the Public Services Reform (Scotland) Act 2010 <sup>M6</sup>,
- (c) accommodation for children at a residential establishment, within the meaning of section 93(1) of the Children (Scotland) Act 1995 <sup>M7</sup>,
- (d) school boarding accommodation, within the meaning of paragraph 10(5) of schedule 16 of the Coronavirus Act 2020 <sup>M8</sup>,
- (e) accommodation intended for use by the army, navy or air force,
- (f) a prison,
- (g) a young offenders institution <sup>F9</sup> ... ,
- (h) secure accommodation <sup>F10</sup> ... , and
- (i) a remand centre <sup>F11</sup> ... ,

[<sup>F12</sup>“professional sports person” means an individual who—

- (a) either—
  - (i) derives a living from competing in sport,
  - (ii) is a senior representative nominated by a relevant sporting body,
  - (iii) is a member of the senior training squad for a relevant sporting body, or
  - (iv) is on an elite development pathway, and
- (b) trains or competes in a sport for which a resumption of performance sport plan has been approved by sportscotland or the Scottish Ministers,]

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

“public procession” means a procession in a public place, whether or not involving the use of vehicles or other conveyances,

[<sup>F13</sup>“registered political party” has the meaning given in section 202(1) of the Representation of the People Act 1983,]

“relevant sporting body”, in relation to a professional sportsperson means the national governing body of a sport which may nominate sportspersons to represent—

- (a) the professional sportsperson's nation at the Tokyo or Beijing Olympic or Paralympic Games, or
- (b) the professional sportsperson's nation at the Commonwealth Games to be held in Birmingham in a sport that is not part of the Tokyo Olympic and Paralympic Games programme,

[<sup>F8</sup>“remand centre” has the meaning given in section 19(1)(a) of the Prisons (Scotland) Act 1989,]

[<sup>F14</sup>“resumption of performance sport plan”, in relation to a professional sportsperson, means a plan relating to the safe resumption of a professional and performance (elite) sport which is prepared by the governing body of that sport for approval by sportscotland or the Scottish Ministers in line with guidance published by sportscotland,]

[<sup>F15</sup>“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,
- (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, or
- (d) a regional returning officer appointed by an order under section 12(6) of the Scotland Act 1998,]

“school” has the meaning given by section 135(1) of the Education (Scotland) Act 1980 <sup>M9</sup>,

[<sup>F8</sup>“secure accommodation” has the meaning given in section 108 of the Criminal Justice (Scotland) Act 2016,]

“senior representative”, in relation to a professional sportsperson, means an individual who is considered by a relevant sporting body to be a candidate to qualify to compete on behalf of—

- (a) the professional sportsperson's nation at the Tokyo or Beijing Olympic or Paralympic Games, or
- (b) the professional sportsperson's nation at the Commonwealth Games to be held in Birmingham in a sport that is not part of the Tokyo Olympic and Paralympic Games programme,

“shared parenting arrangements” includes, in relation to children who do not live in the same household as their parents, or one of their parents, arrangements for contact between parents and their children, and for the purposes of this definition “parent” includes a person who, not being a parent of the child—

- (a) has contact with the child pursuant to an order of court, or
- (b) has previously had care of the child, and

[<sup>F14</sup>“sportscotland” means the Scottish Sports Council,]

“student accommodation” has the meaning given in paragraph 11(5) of schedule 16 of the Coronavirus Act 2020,

[<sup>F8</sup>“young offenders institution” has the meaning given in section 19(1)(b) of the Prisons (Scotland) Act 1989.]

(2) For the purpose of these Regulations, references to a household include an extended household [<sup>F16</sup>or end of term household].

[<sup>F17</sup>(3) For the purpose of these Regulations, activities are undertaken for election purposes if they are undertaken—

(a) for the purposes of or in connection with—

(i) promoting or procuring electoral success for a registered political party, or

(ii) promoting or procuring a candidate’s election, or

(b) otherwise with a view to influencing how electors vote in an election.]

### Textual Amendments

- F1** Words in reg. 2(1) omitted (26.12.2020) by virtue of [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 9\) Regulations 2020 \(S.S.I. 2020/471\)](#), regs. 1, **3**
- F2** Words in reg. 2(1) inserted (29.1.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/49\)](#), regs. 1, **3(a)**
- F3** Words in reg. 2(1) inserted (27.11.2020) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 5\) Regulations 2020 \(S.S.I. 2020/400\)](#), regs. 1, **3(a)**
- F4** Word in reg. 2 omitted (5.3.2021) by virtue of [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Miscellaneous Amendments\) \(Scotland\) \(No. 2\) Regulations 2021 \(S.S.I. 2021/117\)](#), regs. 1, **3(a)(i)**
- F5** Words in reg. 2 substituted (5.3.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Miscellaneous Amendments\) \(Scotland\) \(No. 2\) Regulations 2021 \(S.S.I. 2021/117\)](#), regs. 1, **3(a)(ii)**
- F6** Word in reg. 2 substituted (5.3.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Miscellaneous Amendments\) \(Scotland\) \(No. 2\) Regulations 2021 \(S.S.I. 2021/117\)](#), regs. 1, **3(a)(iii)**
- F7** Words in reg. 2 inserted (5.3.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Miscellaneous Amendments\) \(Scotland\) \(No. 2\) Regulations 2021 \(S.S.I. 2021/117\)](#), regs. 1, **3(a)(iv)**
- F8** Words in reg. 2(1) inserted (20.11.2020 at 6.00 p.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 3\) Regulations 2020 \(S.S.I. 2020/389\)](#), regs. 1, **3(1)(b)**
- F9** Words in reg. 2(1) omitted (20.11.2020 at 6.00 p.m.) by virtue of [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 3\) Regulations 2020 \(S.S.I. 2020/389\)](#), regs. 1, **3(1)(a)(i)**
- F10** Words in reg. 2(1) omitted (20.11.2020 at 6.00 p.m.) by virtue of [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 3\) Regulations 2020 \(S.S.I. 2020/389\)](#), regs. 1, **3(1)(a)(ii)**
- F11** Words in reg. 2(1) omitted (20.11.2020 at 6.00 p.m.) by virtue of [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 3\) Regulations 2020 \(S.S.I. 2020/389\)](#), regs. 1, **3(1)(a)(iii)**

**Status:** Point in time view as at 15/03/2021.

**Changes to legislation:** There are currently no known outstanding effects for the *The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020*. (See end of Document for details)

- F12** Words in reg. 2 substituted (5.3.2021) by *The Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2021* (S.S.I. 2021/117), regs. 1, **3(b)**
- F13** Words in reg. 2(1) inserted (15.3.2021) by *The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 17) Regulations 2021* (S.S.I. 2021/136), regs. 1(3), **3(a)**
- F14** Words in reg. 2 inserted (5.3.2021) by *The Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2021* (S.S.I. 2021/117), regs. 1, **3(c)**
- F15** Words in reg. 2(1) inserted (29.1.2021) by *The Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendment) (Scotland) Regulations 2021* (S.S.I. 2021/49), regs. 1, **3(b)**
- F16** Words in reg. 2(2) inserted (27.11.2020) by *The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 5) Regulations 2020* (S.S.I. 2020/400), regs. 1, **3(b)**
- F17** Reg. 2(3) inserted (15.3.2021) by *The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 17) Regulations 2021* (S.S.I. 2021/136), regs. 1(3), **3(b)**

#### Commencement Information

- I2** Reg. 2 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

#### Marginal Citations

- M1** 2005 asp 16. Section 2 was amended by section 54 of the *Air Weapons and Licensing (Scotland) Act 2015* (asp 10).
- M2** 2012 asp 8.
- M3** 1984 c.51. Section 153A was inserted by section 75 of the *Finance Act 2015* (c.11).
- M4** 2005 asp 13.
- M5** S.S.I. 2006/90.
- M6** 2010 asp 8.
- M7** 1995 c.36, relevantly amended by S.I. 2013/1465.
- M8** 2020 c.7.
- M9** 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).

## PART 2 **S**

### Restrictions

#### Application of the Restrictions **S**

3.—(1) The restrictions and requirements set out in schedule 1 (“Level 0 restrictions”) [F18, paragraph 14 of schedule 4, paragraph 15 of schedule 5 (restrictions on leaving and entering Level 3 and 4 areas)] and schedule 7 (face covering requirements) apply in relation to a Level 0 area.

(2) The restrictions and requirements set out in schedule 2 (“Level 1 restrictions”) [F19, paragraph 14 of schedule 4, paragraph 15 of schedule 5] and schedule 7 apply in relation to a Level 1 area.

(3) The restrictions and requirements set out in schedule 3 (“Level 2 restrictions”) [F20, paragraph 14 of schedule 4, paragraph 15 of schedule 5] and schedule 7 apply in relation to a Level 2 area.

(4) The restrictions and requirements set out in schedule 4 (“Level 3 restrictions”) [F21, paragraph 15 of schedule 5] and schedule 7 apply in relation to a Level 3 area.

(5) The restrictions and requirements set out in schedule 5 (“Level 4 restrictions”) [F22, paragraph 14 of schedule 4] and schedule 7 apply in relation to a Level 4 area.

[F23(5A) The requirements set out in paragraph 2A of each of schedules 3 and 4 and paragraph 4B of schedule 5 also apply (where they so indicate) in relation to other areas.]

[F24(5B) The restrictions set out in schedule 7A (restrictions on leaving or entering Scotland: common travel area) have effect.]

(6) In these Regulations—

- (a) a “Level 0 area” is an area specified in the table in schedule 6, where the table indicates it is a Level 0 area,
- (b) a “Level 1 area” is an area so specified, where the table indicates it is a Level 1 area,
- (c) a “Level 2 area” is an area so specified, where the table indicates it is a Level 2 area,
- (d) a “Level 3 area” is an area so specified, where the table indicates it is a Level 3 area, and
- (e) a “Level 4 area” is an area so specified, where the table indicates it is a Level 4 area.

#### Textual Amendments

- F18** Words in reg. 3(1) inserted (20.11.2020 at 6.00 p.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 3\) Regulations 2020 \(S.S.I. 2020/389\)](#), regs. 1, **5(1)(a)**
- F19** Words in reg. 3(2) inserted (20.11.2020 at 6.00 p.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 3\) Regulations 2020 \(S.S.I. 2020/389\)](#), regs. 1, **5(1)(b)**
- F20** Words in reg. 3(3) inserted (20.11.2020 at 6.00 p.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 3\) Regulations 2020 \(S.S.I. 2020/389\)](#), regs. 1, **5(1)(c)**
- F21** Words in reg. 3(4) inserted (20.11.2020 at 6.00 p.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 3\) Regulations 2020 \(S.S.I. 2020/389\)](#), regs. 1, **5(1)(d)**
- F22** Words in reg. 3(5) inserted (20.11.2020 at 6.00 p.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 3\) Regulations 2020 \(S.S.I. 2020/389\)](#), regs. 1, **5(1)(e)**
- F23** Reg. 3(5A) inserted (13.11.2020 at 6.00 a.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 2\) Regulations 2020 \(S.S.I. 2020/374\)](#), regs. 1, **12**
- F24** Reg. 3(5B) inserted (20.11.2020 at 6.00 p.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 3\) Regulations 2020 \(S.S.I. 2020/389\)](#), regs. 1, **5(1)(f)**

#### Commencement Information

- I3** Reg. 3 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

### Modification of the restrictions in certain areas **S**

<sup>F25</sup>**3A.** . . . . .

**Status:** Point in time view as at 15/03/2021.

**Changes to legislation:** There are currently no known outstanding effects for the *The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020*. (See end of Document for details)

**Textual Amendments**

**F25** Reg. 3A omitted (21.12.2020) by virtue of [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 8\) Regulations 2020 \(S.S.I. 2020/452\)](#), regs. 1(2), 3

**Temporary modification of restrictions: holiday gatherings** **S**

<sup>F26</sup>**3B.** . . . . .

**Textual Amendments**

**F26** Reg. 3B omitted (5.3.2021) by virtue of [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Miscellaneous Amendments\) \(Scotland\) \(No. 2\) Regulations 2021 \(S.S.I. 2021/117\)](#), regs. 1, 4

**PART 3** **S**

Enforcement

**Enforcement of requirements** **S**

4.—(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 prohibition 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 prohibition 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—

- (a) the relevant person may direct that individual to take the child to the place where they are living, and
- (b) 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 mentioned in paragraph (5), 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) The requirements mentioned in paragraph (4) are those in Part 3 of each of schedules 1 to 5.

(6) 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 <sup>M10</sup>, in relation to the child.



(7) Where a relevant person considers that persons are gathered together in contravention of the requirements mentioned in paragraph (5), the relevant person may—

- (a) direct the gathering to disperse,
- (b) direct any person in the gathering to return to the place where the person is living, or
- (c) remove any person in the gathering to the place where the person is living.

[<sup>F27</sup>(7A) Where a relevant person considers that a person is outside the place where that person is living, the relevant person may—

- (a) direct that person to return to the place where they are living, or
- (b) remove that person to the place where they are living.

(7B) A constable, exercising the power in paragraph (7A)(b) to remove a person to the place where that person is living, may use reasonable force, if necessary, in exercise of the power.]

(8) A relevant person may only exercise a power in paragraph (3), (4) [<sup>F28</sup>, (7) or (7A)] if the relevant person considers that it is a necessary and proportionate means of ensuring compliance with the requirement.

(9) A relevant person exercising a power under paragraph (3), (4) [<sup>F29</sup>, (7) or (7A)] may give the person concerned any reasonable instructions the relevant person considers necessary.

(10) A constable, exercising the power in paragraph (7)(c) to remove a person to the place where the person is living, may use reasonable force, if necessary, in exercise of the power.

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

- (a) a constable, or
- (b) subject to paragraph (12), a person designated by a local authority.

(12) A local authority may only designate a person for the purpose of this regulation in relation to the requirements in Part 1 (closure of premises) and Part 2 (other restrictions on business) in each of schedules 1 to 5.

(13) For the purpose of this Part, references to a requirement include references to a restriction.

#### Textual Amendments

**F27** Reg. 4(7A)(7B) inserted (5.1.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 10\) Regulations 2021 \(S.S.I. 2021/1\)](#), regs. 1, 3

**F28** Words in reg. 4(8) substituted (16.1.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 12\) Regulations 2021 \(S.S.I. 2021/17\)](#), regs. 1(2), 3(a)

**F29** Words in reg. 4(9) substituted (16.1.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 12\) Regulations 2021 \(S.S.I. 2021/17\)](#), regs. 1(2), 3(b)

#### Commencement Information

**I4** Reg. 4 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

#### Marginal Citations

**M10** 1995 c.36.

**Offences and penalties** **S**

5.—(1) It is an offence for a person to contravene any of the restrictions or requirements in schedules 1 to 5 [<sup>F30</sup>, 7 and 7A] other than a restriction or requirement in—

- (a) schedule 1, paragraphs [<sup>F31</sup>3(1)(b)] and 4,
- (b) schedule 2, paragraphs [<sup>F32</sup>4(1)(b)] and 5,
- (c) schedule 3, paragraphs [<sup>F33</sup>8(1)(b) and 9],
- (d) schedule 4, paragraphs [<sup>F34</sup>7(1)(b), 8 and 9A], or
- (e) schedule 5, paragraphs [<sup>F35</sup>8(1)(b), 9 and 10A].

(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—

- (a) contravene a direction given under regulation 4, or
- (b) fail to comply with an instruction or prohibition notice given under regulation 4.

(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,

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.

**Textual Amendments**

**F30** Words in reg. 5(1) substituted (20.11.2020 at 6.00 p.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 3\) Regulations 2020 \(S.S.I. 2020/389\)](#), regs. 1, **5(2)**

**F31** Word in reg. 5(1)(a) substituted (13.11.2020 at 6.00 a.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 2\) Regulations 2020 \(S.S.I. 2020/374\)](#), regs. 1, **5(a)**

**F32** Word in reg. 5(1)(b) substituted (13.11.2020 at 6.00 a.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 2\) Regulations 2020 \(S.S.I. 2020/374\)](#), regs. 1, **5(b)**

- F33** Words in reg. 5(1)(c) substituted (13.11.2020 at 6.00 a.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 2\) Regulations 2020 \(S.S.I. 2020/374\)](#), regs. 1, **5(c)**
- F34** Words in reg. 5(1)(d) substituted (22.1.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 12\) Regulations 2021 \(S.S.I. 2021/17\)](#), regs. 1(3), **4(a)**
- F35** Words in reg. 5(1)(e) substituted (22.1.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 12\) Regulations 2021 \(S.S.I. 2021/17\)](#), regs. 1(3), **4(b)**

#### Commencement Information

- I5** Reg. 5 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

### Power of entry **S**

- 6.—(1) A relevant person may enter premises—
- (a) for the purpose of the performance of that person's functions under these Regulations, and
  - (b) if the condition in paragraph (3)(a) is met.
- (2) A relevant person may enter premises at any time if—
- (a) that person reasonably suspects that an offence under regulation 5(1) is taking place on the premises,
  - (b) that person reasonably believes that it is necessary and proportionate to enter the premises for the purpose of preventing the continuation of the offence, and
  - (c) a condition in paragraph (3)(b), (c) or (d) is met.
- (3) The condition is that—
- (a) the person who appears to be the occupier of the premises has consented to the relevant person entering the premises,
  - (b) the relevant person—
    - (i) has requested permission to enter the premises from the person who appears to be the occupier of the premises, but permission has been refused, and
    - (ii) reasonably believes the situation to be urgent,
  - (c) the occupier of the premises is temporarily absent and the relevant person reasonably believes the situation to be urgent, or
  - (d) the entry is effected under the authority of a warrant issued under paragraph (10).
- (4) For the purposes of paragraph (3)(b)(ii) and (c), a reasonable belief in urgency means that the relevant person considers immediate entry to the premises to be necessary and proportionate for the purpose of preventing the continuation of the offence and for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination with coronavirus.
- (5) Where the offence referred to in paragraph (2)(a) is a contravention of paragraph 8 of schedule 1, paragraph 9 of schedule 2, <sup>F36</sup>paragraph 13 of schedule 3, paragraph 12] of schedule 4 or paragraph 13 of schedule 5, a constable must reasonably suspect that there is a gathering inside a private dwelling which consists of more than six persons.
- (6) A relevant person entering premises in accordance with paragraph (1) or (2) may—
- (a) use reasonable force to enter the premises if necessary, and

*Status: Point in time view as at 15/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020. (See end of Document for details)*

- (b) take such other persons, equipment and materials onto the premises as the relevant person considers necessary.
- (7) A relevant person must, if requested to do so, provide a document or any other thing showing the relevant person's authority to exercise the power of entry in this regulation.
- (8) Subject to paragraph (9), for the purposes of this regulation, “relevant person” has the meaning in regulation 4(11).
- (9) A relevant person within the meaning of regulation 4(11)(b) may only enter premises in relation to a requirement in Part 1 (closure of premises) or Part 2 (other restrictions on business) in any of schedules 1 to 5.
- (10) A sheriff or justice of the peace may by warrant authorise a relevant person to enter the premises.
- (11) A warrant under this regulation continues in force until the purpose for which it is issued is fulfilled.

#### Textual Amendments

**F36** Words in reg. 6(5) substituted (13.11.2020 at 6.00 a.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 2\) Regulations 2020 \(S.S.I. 2020/374\)](#), regs. 1, 6

#### Commencement Information

**I6** Reg. 6 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

### Fixed penalty notices **S**

- 7.—(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 16 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 <sup>M11</sup>,
- (b) regulation 9 of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 <sup>M12</sup>,
- (c) regulation 8 of the Health Protection (Coronavirus, Restrictions) (Aberdeen City) Regulations 2020 <sup>M13</sup>,
- (d) regulation 13 of the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 <sup>M14</sup>, and
- (e) regulation 27 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020 <sup>M15</sup>.

(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 <sup>M16</sup>, as provided for in sections 129 to 134 of that Act and sections 226B and 226I of the Criminal Procedure (Scotland) Act 1995 <sup>M17</sup>, 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 4(11).

*Status: Point in time view as at 15/03/2021.**Changes to legislation: There are currently no known outstanding effects for the The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020. (See end of Document for details)*

(10) Where the relevant person issuing a notice under paragraph (1) is a relevant person within the meaning of regulation 4(11)(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.

#### Commencement Information

**I7** Reg. 7 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

#### Marginal Citations

**M11** [S.S.I. 2020/279](#).

**M12** [S.S.I. 2020/103](#), revoked by [S.S.I 2020/279](#).

**M13** [S.S.I. 2020/234](#), amended by [S.S.I. 2020/253](#).

**M14** [S.S.I. 2020/262](#).

**M15** [S.S.I. 2020/318](#).

**M16** [2004 asp 8](#).

**M17** [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.

## PART 4 **S**

### Final provisions

#### Review of restrictions and requirements **S**

**8.—(1)** The Scottish Ministers must review these Regulations at least every 21 days, with the first review to be carried out by 18 November 2020.

(2) As soon as the Scottish Ministers consider that any restriction or 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 restriction or requirement.

(3) As soon as the Scottish Ministers consider that it is no longer necessary or proportionate for the Level 0 restrictions, Level 1 restrictions, Level 2 restrictions Level 3 restrictions or Level 4 restrictions to apply to an area specified in schedule 6, the Scottish Ministers must amend the Regulations so that those restrictions no longer apply to that area.

#### Commencement Information

**I8** Reg. 8 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

## Expiry **S**

9.—(1) These Regulations expire on [<sup>F37</sup>30 September 2021].

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

### Textual Amendments

**F37** Words in reg. 9(1) substituted (5.3.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Miscellaneous Amendments\) \(Scotland\) \(No. 2\) Regulations 2021 \(S.S.I. 2021/117\)](#), regs. 1, 5

### Commencement Information

**I9** Reg. 9 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

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

10.—(1) In the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 <sup>M18</sup>—

(a) after regulation 11 (enforcement of requirements), insert—

### “Power of entry

11A.—(1) A local authority designated officer may enter premises—

(a) for the purpose of the performance of the officer's functions under these Regulations, and

(b) if the condition in paragraph (3)(a) is met.

(2) A local authority designated officer may enter premises if—

(a) the officer reasonably believes that—

(i) a direction under regulation 5(1), 6(1) or 7(1) is being, has been or is about to be contravened, and

(ii) it is necessary and proportionate to enter the premises for the purpose of—

(aa) ascertaining whether a contravention is taking, has taken or is about to take place,

(bb) preventing the initiation or continuation of the contravention, and

(b) a condition in paragraph (3)(b), (c) or (d) is met.

(3) The condition is that—

(a) the person who appears to be the occupier of the premises has consented to the local authority designated officer entering the premises,

(b) the local authority designated officer—

(i) has requested permission to enter the premises from the person who appears to be the occupier of the premises, but permission has been refused, and

(ii) reasonably believes the situation to be urgent,

(c) the occupier of the premises is temporarily absent and the local authority designated officer reasonably believes the situation to be urgent, or

*Status: Point in time view as at 15/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020. (See end of Document for details)*

(d) the entry is effected under the authority of a warrant issued under paragraph (8).

(4) For the purposes of paragraph (3)(b)(ii) and (c), a reasonable belief in urgency means that the local authority designated officer considers immediate entry to the premises to be necessary and proportionate for the purpose of preventing the continuation of the contravention and for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination of coronavirus.

(5) A local authority designated officer entering premises in accordance with paragraph (2) may—

- (a) use reasonable force to enter the premises if necessary, and
- (b) take such other persons, equipment and materials onto the premises as the local authority designated officer considers necessary.

(6) A local authority designated officer must, if requested to do so, provide a document or any other thing showing the officer's authority to exercise the power of entry in this regulation.

(7) For the purpose of this regulation, “premises” includes any building or structure and any land.

(8) A sheriff or justice of the peace may by warrant authorise a relevant person to enter the premises.

(9) A warrant under this regulation continues in force until the purpose for which it is issued is fulfilled.”, and

(b) in regulation 13 (fixed penalty notices)—

(i) in paragraph (1), after “constable”, in both places where it occurs, insert “ or local authority designated officer ”,

(ii) in paragraph (6), after sub-paragraph (b), insert—

“(c) regulation 16 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020,

(d) regulation 27 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020.”,

(iii) in paragraph (8), after sub-paragraph (f), insert—

“(ff) the references to “constable” in section 133(1) are to be construed as references to a constable or local authority designated officer.”, and

(iv) after paragraph (8), insert—

“(9) Where the person issuing a notice under paragraph (1) is a local authority designated officer, the officer may require the person believed to have committed an offence (“A”) to give A's name and address.

(10) When making that requirement, the officer must inform A—

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

(11) 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.”.



**Commencement Information**

**I10** Reg. 10 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

**Marginal Citations**

**M18** [S.S.I. 2020/262](#), as amended by [S.S.I. 2020/279](#).

**Revocations** **S**

**11.** The Regulations listed in schedule 8 are revoked.

**Commencement Information**

**I11** Reg. 11 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

St Andrew's House,  
Edinburgh

*MICHAEL RUSSELL*  
A member of the Scottish Government

**Status:**

Point in time view as at 15/03/2021.

**Changes to legislation:**

There are currently no known outstanding effects for the The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020.