

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (RESTRICTIONS AND REQUIREMENTS) (LOCAL LEVELS) (SCOTLAND) AMENDMENT (NO. 9) REGULATIONS 2020

SSI 2020/471

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 and Requirements) (Local Levels) (Scotland) Regulations 2020 to adjust the definition of non-essential retail. The Regulations remove garden centres and plant nurseries from the list of essential retailers, these type of retailers must remain shut in Level 4 areas as a result. The regulations also replace “homeware, building supplies and hardware stores” with “building merchants and suppliers of products and tools used in building work and repairs” to ensure retailers selling homeware items, which in many cases would be considered non-essential, are prohibited from opening in Level 4. Click and collect services will remain available. The Regulations prohibit home showroom premises from opening, such as kitchen, bathroom, furniture or glazing showrooms. Some retail services are also prohibited in Level 4 areas, these services are tanning salons, or premises which operate a self-tanning machine or spray-tan booths and travel agencies.

These Regulations also prohibit travel to or from the Republic of Ireland as a result of the national lockdown in the Republic of Ireland announced on 22 December 2020 for commencement on 26 December 2020.

Legislative background

1. The UK Coronavirus Act 2020 received Royal Assent on 25 March 2020. Under that Act, the Scottish Government made regulations (in force from 26 March) to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. From 14 September they were replaced by the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020. From 9 October those regulations were suspended and replaced by the Health Protection (Coronavirus) Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020. A new levels-based approach was introduced on 2 November, when the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (“the principal regulations”) came into force and revoked the previous regulations.

Policy Objectives

Non-essential retail

2. The principal regulations require non-essential retail to remain closed in Level 4 areas. As a result of the latest evidence, it has become necessary to tighten Level 4 to ensure opportunities for household to household transmission are reduced further. Garden centres,

and plant nursery retailers must now remain closed in Level 4 as a result of being removed from the list of essential retailer. The regulations replace “homeware, building supplies and hardware stores” with “building merchants and suppliers of products and tools used in building work and repairs” to ensure retailers selling homeware items, which in many cases could not be considered essential, are prohibited from opening in Level 4. Click and collect services will still be available. The Regulations prohibit home showroom premises from opening, such as kitchen, bathroom, furniture or glazing showrooms. Some other non-essential services are also prohibited from opening in Level 4 areas, these services are tanning salons, premises which operate a tanning machine or spray-tan booth and travel agencies. Our intention, with all of these changes, is to provide fewer opportunities for travel and social mixing which will help to reduce transmission.

Travel to the Republic of Ireland

3. The Republic of Ireland is moving back into Level 5 lockdown with travel restrictions applying from 26 December 2020. The common travel area provisions operate on a presumption that where a government imposes a national lockdown, unless there are good reasons to decide otherwise, travel in respect of that country to or from Scotland (without a reasonable excuse) should be made unlawful. These Regulations therefore prohibit travel from or to Scotland into or out of the Republic of Ireland.

Consultation

4. There has been no public consultation in relation to this instrument. The Scottish Government has informally consulted with the industry bodies affected.

Impact Assessments

5. A Business and Regulatory Impact Assessment is being prepared for this instrument and will be published shortly. Other Impact Assessments have not been prepared for this instrument. Impact Assessments have been prepared previously to assess the impact of the restrictions within levels, these are published alongside the relevant Regulations. The provisions are however subject to strict obligations on the Scottish Government to review their necessity.

Scottish Government
Directorate for Constitution and Cabinet
23 December 2020