

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 12) Regulations 2021

ISLAND COMMUNITIES IMPACT ASSESSMENT

PURPOSE AND INTENDED EFFECT

Background

This Island Communities Impact Assessment (ICIA) is focused on the policy for amendments to the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (“the principal regulations”) which provide for a range of additional measures. These are prohibiting evictions from taking places in Level 3 or 4 areas; the closure of child contact centres (with the exception of those provided by local authorities) in Level 4 areas for all purposes except handovers; adjustments to click and collect restrictions on retail businesses; prohibiting food takeaway outlets from allowing customers to enter premises for collection of food or drink in Level 4 areas; introducing a ban on consumption of alcohol in outdoor public places in Level 4 areas; and allowing premises which are required to close to the public to open, if it is for the purposes of providing a venue for vaccination.

This ICIA assesses the amendments made to the measures contained within the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 12) Regulations 2021 (“the Regulations”). Associated guidance is set out at: [Coronavirus \(COVID-19\): local protection levels - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-covid-19/local-protection-levels/pages/12.aspx)

Regulations

The Regulations amend the principal Regulations in various ways, as set out below.

The Regulations ensure that no eviction orders can be enforced within an area under level 3 or 4 restrictions. They also prohibit child contact centres (with the exception of those provided by local authorities) from opening in Level 4 areas. Handover services are still able to continue outside child contact centres whenever possible, for those who require it.

These Regulations allow premises, which are usually required to remain closed to the public, to open for the purpose of hosting a vaccination service, where requested by the Scottish Ministers, a local authority or a health board.

The Regulations adjust the current restrictions with regard to the provision of click and collect retail, by allowing a new category of retailer to provide click and collect services, but do not allow them to open to the public. This category includes:

- Clothing and footwear stores
- Homeware stores

- Garden centres/plant nurseries
- Baby equipment shops
- Electrical goods (including repairs)
- Key cutting and shoe repair shops
- Bookstores
- Outdoor motor vehicle lots

The Regulations prevent all other retailers from providing click and collect services during the current restrictions, although they may offer goods for home delivery. They must also remain closed to the public as per the existing restrictions. These changes are required to ensure members of the public are only leaving their homes for essential shopping.

The current Level 4 guidance is that, for work on the home, only essential work should take place. These Regulations put that guidance into law. To address the issue of households mixing for the purpose of non-essential home improvements, we are tightening the restrictions on gathering for the purpose of carrying out work on a private dwelling to allow this only where it is necessary for the essential upkeep, maintenance or functioning of the dwelling.

These Regulations prohibit food takeaway outlets operating in Level 4 areas from allowing customers to enter premises when placing or collecting an order. This change is being introduced to allow these outlets to operate in a safer way for staff and customers, while recognising the importance of allowing them to remain open to provide an essential service for those who are unable to cook a hot meal. This is particularly important for essential workers, for example lorry drivers. Customers cannot enter the premises but food or drink can be provided to the customer via a hatch or through an opened door.

These Regulations prohibit the consumption of alcohol in a public place outdoors in a Level 4 area. This approach has been considered more appropriate than restricting some businesses from selling takeaway alcohol as it also removes the ability for individuals to purchase alcohol from other vendors, such as supermarkets, and gather with friends or family in public places to consume the products. Goods can still be purchased for consumption at home from all vendors but consuming alcohol outside in any public place is now prohibited. For the purposes of enforcement of the restriction, there is a presumption that any liquid in a container conforms, or where the container is empty, the liquid did conform, to the description of the liquid on the container.

Most of these changes will come into effect on 16 January 2021, with the exception of provisions on evictions which come into force on 22 January 2021.

Objective

COVID-19 virus transmission occurs primarily through close contact between individuals. Evidence continues to indicate that the virus can be transmitted by respiratory droplets and aerosols and direct contact with surfaces contaminated with the virus. Close-range transmission is likely to be the most significant and is strongly associated with proximity and duration of contact in indoor environments. A range of social, business and residential settings have been associated with transmission, which includes crowded indoor settings. Limiting contacts between households, particularly indoors, is one of the main interventions adopted to limit the number of individuals meeting up in order to reduce the risk of transmission.

While the Scottish Government is of the view that restrictions on businesses are currently justified and a proportionate means of helping to achieve the legitimate aim of reducing the public health risks posed by coronavirus, thereby safeguarding the right to life, it is also recognised that these measures are only required to respond to the current set of circumstances, and are only necessary as long as the potential public health benefits can justify any negative impacts caused.

GATHERING DATA AND IDENTIFYING STAKEHOLDERS

Due to the need to put measures in place quickly, no specific consultation with island communities has been undertaken.

The Island Communities Impact Assessment prepared for COVID-19 Route Map Phase 3 has been a valuable resource in highlighting not just the current situation in the islands but also potential differences between islands.

Some key issues identified within that ICIA and which remain relevant are:

- Island communities have experienced considerable challenges due to the downturn in tourism. Given the challenges already in place for these communities, further regulations need to be considerate in not imposing additional economic burdens.
- A legally enforceable stay at home message may make it harder for islanders to visit family and friends on the mainland and vice versa.
- Poor digital connectivity on some islands may continue to make home-working and remote learning more challenging. The guidance for remote working to be the default position for 'those who can' must take into consideration those who do not have a decent level of digital connectivity to allow them to undertake their work from home.
- Digital connectivity also creates an equalities issue, as those on lowest pay are the least likely to be in a job or a situation where working from home is possible, and this creates particularly acute challenges in remote and rural settings given the costs of commuting and the likelihood of having connectivity challenges.
- There is a disproportionate number of micro/small businesses on islands - many of whom provide essential services for communities all year round. A number of these businesses have been severely financially impacted by the

pandemic and some have struggled to secure support funding. Ongoing funding to support these businesses to continue to adapt may be useful.

- Rural island economies have a high proportion of businesses reliant on footfall and contact – e.g. hospitality and tourism – which will potentially be those which have the most challenging route out of lockdown and a return to pre-COVID trading conditions. This is particularly acute due to the extreme seasonality of trading for tourism businesses in particular, who faced a truncated season with substantially reduced demand and challenges around reopening. Further support, or the extension of existing support, may be necessary to ensure that businesses remain viable and able to provide employment opportunities and economic activity.
- Island communities rely on local facilities (e.g. community halls, interpretive centres) as spaces for events, to attract visitors, to generate economic activity and to make the area an attractive place to live, work and visit. These venues are also important as places for the community to meet, reducing isolation and loneliness. Continued physical distancing and restrictions on gatherings may leave such facilities underused yet still requiring to meet overhead costs. The role of community island anchor organisations and the role of the public sector should continue to be supported to support our island communities
- Island communities have continually expressed concern regarding the fragility of island health services, the lack of resources to deal with an outbreak on islands and the vulnerability of an elderly population.
- Island communities are less affected by some of the cross boundary issues arising from restrictions requiring people to remain in their local authority area, as all Scottish islands are either a single authority, or fall within one single authority.
- For the islands who fall within a single authority, communities risk being disproportionately and/or unjustifiably (in terms of the key metrics if taken at a more local level) affected by the assignment of their local authority to a high level. Again this demonstrates why it is important to take a proportionate approach to islands recognising the unique challenges that they face.

ASSESSMENT

Overview

The principal regulations, as amended, already make a number of restrictions on business, gatherings and other activities that apply in Level 4 areas.

At present, the Principal Regulations, as amended, directly impact those living on islands that are in Level 4. At present, this does not include, Orkney, Shetland and Comhairle nan Eilean Siar and islands within Highland Council (with the exception of Skye). It also does not include the following Argyll and Bute Islands: The Isle of Coll, the Isle of Colonsay, the Isle of Erraid, the Isle of Gometra, the Isle of Iona, the Isle of Islay, the Isle of Jura, the Isle of Mull, the Isle of Oronsay, the Isle of Tiree, and the Isle of Ulva.

However, it should be noted that these regulations would have an impact on any island that is moved into Level 4 whilst these additional measures are in place.

Analysis

The remainder of this section will examine the differential impacts of the policies set out above on island authorities in Level 4.

Differentiation Between Island Communities

General

As previously stated, the Regulations make a number of adjustments to the restrictions on businesses.

The effect of these regulations will be greater on any island area in Level 4, compared to any island in a different level, as the measures apply to Level 4 areas. The Level in which different islands are placed takes account of data which shows that whilst many of the Scottish islands have had few or very few coronavirus cases in recent weeks, other islands with more direct contact with the mainland have higher rates of transmission. Further limitations on interactions between households is now required in those areas in order to reduce the risk of transmission.

Evictions

The Regulations will provide that no eviction orders can be served or executed within an area under level 3 or 4 restrictions. It is not considered that there will be any significant difference between islands and the mainland, or between island communities in respect of this provision.

In effect, it will have for the most part a positive impact on tenants and their families and reduce the potential for homelessness. There may be some impact on landlords, whether private or public, in perhaps not being able to ingather rental income and this impact would require to be monitored to fully assess in particular the effect it may have in the private sector.

Child contact centres

It should be noted that there is a child contact centre on Orkney, which would be affected if these islands were to move into Level 4 whilst these temporary measures are in place. However, the negative effect on both the young person and the parent as a result of the closure is not likely to be different to that of those who reside on the mainland or other island communities.

Hosting vaccination services

It is not considered that the provisions relating to vaccination services will have an adverse differential impact on the islands and the mainland, or between islands. It is considered that the provision is a positive impact in so far as it will allow more varied venues to be used as vaccination centres. Furthermore, greater flexibility on vaccination venues could be of benefit to islands, as it could promote access in more remote areas with a limited range of public buildings.

Adjustments to click and collect restrictions

The Regulations continue to allow essential retailers to provide click and collect services as well as remaining open to the public. The Regulations also allow a new list of retailers to provide a permitted collection service, but do not allow them to open to the public.

The regulations effectively set out a third category of retailer that can open for click and collect only, and make clear that those not in this or the essential category cannot operate this service.

This is likely to affect businesses e.g. gift shops that are running a click and collect service at the moment.

Creating a category of retailer which can provide a permitted collection service provides click and collect options for people who may need certain items urgently in specific circumstances. The ability to collect goods on islands, requires to be seen in the light of difficulties in accessing public transport.

Retailers would have the same challenges in setting up their store to allow for collection with no or minimal entry regardless of whether they are in an island community or on the mainland. It is considered that the new adjustments to the Regulations are an extension of provision rather than a further reduction. There would be a greater concern if there were changes to essential retailers being open to the public.

While these new adjustments may affect existing businesses who provide click and collect at present, and are not in the defined category, it is not considered that there is any significantly different impact on islands and the mainland, or between islands.

Public access to food takeaway outlets

The Regulations prohibit food takeaway outlets operating in Level 4 areas from allowing customers to enter premises when placing or collecting an order. Although this will affect takeaways in island areas, it is unlikely to have a differential effect on island communities, as businesses can continue to provide service at the door of their premises, or via a hatch.

Public alcohol consumption

These Regulations prohibit the consumption of alcohol in a public place outdoors in a Level 4 area. Many areas, including islands, already have local byelaws that prohibit drinking alcohol in public. However, these measures will have a differential effect for any island area in Level 4 which did not previously have local byelaws prohibiting drinking in public. Nevertheless, this effect is comparable to any other community in Level 4 without existing byelaws on this issue.

Work on the home

The current Level 4 guidance is that only essential work should take place; these Regulations put that guidance into law. Although this will affect the business of tradespeople, it is unlikely to have a differential effect on island communities, and may even go some way to relieving concerns that holiday home owners were previously loosely interpreting the essential work guidance and traveling to islands under its remit for extended stays.

Island businesses have suffered considerably owing to restrictions to date.

This amendment may cause island businesses further financial hardship. As indicated, there is a disproportionate number of micro/small businesses on islands – many of which provide essential services for communities even outwith the tourist season. A number of these businesses have been severely financially impacted by the pandemic and some have struggled to secure support funding. Ongoing funding to support these businesses to continue to adapt may be required.

However, these impacts must be framed in the context of the risk which COVID-19 presents to the health and life of individuals, their families and loved ones. In order to keep R below 1 our strategy has been to minimise opportunities for virus transmission between households by limiting non-essential and social interactions. Like the rest of the population, island residents will benefit from measures to suppress the virus and minimise lasting health, social and economic impacts that unconstrained spread of the infection would cause, and from the geographically differentiated levels-based approach which is designed to avoid the necessity of more stringent, uniform national restrictions.

CONCLUSION

The following conclusions have been reached in the production of this ICIA:

- The regulations take a proportionate approach in relation to Scotland's island communities, supporting a geographically variable approach to restrictions that are tailored to the risks of infection in different areas, thus reducing the likelihood of uniform, national restrictions.
- The main impact on island communities in Level 4 will be on the businesses who presently provide click and collect and will no longer be able to do so.
- A number of these businesses have been severely financially impacted by the pandemic.
- Ongoing funding to support these businesses to continue to adapt may be required. It is difficult to make a full assessment in the absence of any feedback from consultation with island communities.
- It is not considered that island businesses in level 3 will have a remarkable market advantage over island businesses in level 4 owing to these Regulations.
- It is recognised that retail restrictions are necessary in order to prevent a resurgence in community transmission of the virus and the potential for significant pressures on the NHS.
- For these reasons, the provisions in these Regulations are not deemed likely to have effects on island communities that are significantly different from their effects on other communities (including other island communities) in Scotland.