

POLICY NOTE

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 19) Regulations 2021

SSI 2021/180

The above instrument was made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020. 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 revoke the requirement to stay at home in a Level 4 area from Friday, 2 April 2021. These Regulations also provide that a person who lives in a Level 4 area must not leave or remain away from that area. These Regulations amend the restriction on public gatherings outdoors in a Level 4 area to provide an exception for a gathering outdoors which is for the purpose of organised exercise for persons under 18 years of age (previously this exception only applied to persons under 12 years of age). These Regulations expand the list of retailers allowed to open in Level 4 areas, providing that hairdressing and barber services may be provided where those services are provided exclusively by appointment and extend the circumstances in which retail services may be provided by way of a click and collect service. These Regulations widen the definition of “relevant sporting body” and “senior representative” and make a number of consequential amendments in order to provide that an additional group of elite athletes are able to train and compete. Finally, these Regulations adjust the face coverings requirements to make clear that face coverings are required in polling stations or premises where votes are opened and counted, unless you have a reasonable excuse and remove the requirement for visitor information to be collected if a hospitality venue is being used as a polling station, in line with the true policy intention.

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 2020) to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. From 14 September 2020 they were replaced by the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020. From 9 October 2020 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 2020, 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

Stay at Home

2. These Regulations remove the requirement to stay at home for those living in a Level 4 area. This amendment is supported by the latest coronavirus data. As a result of prevalence lowering, it is no longer necessary to require people to stay at home unless they have a reasonable excuse. Removing this requirement will provide individuals with more freedom to leave home and undertake activities in their local area, providing much needed social benefits for people. As a result of this change, the previous restrictions on leaving a Level 4 are being reintroduced to stop transmission from high to low prevalence areas.

Contact sport for 12-17 year olds

3. These Regulations adjust the restrictions on gatherings outdoors in a Level 4 area. Prior to these amendments, the principal regulations provide that it is an exception to the restriction on such gatherings where the gathering is for the purpose of organised exercise which is for persons under 12 years of age. These Regulations extend that exception so that gatherings can take place for the purpose of organised exercise for persons under 18 years of age. This provides young people with a greater opportunity for exercise and socialising with their peers.

Professional sport

4. At present, only those who fall within the definition of professional sportsperson are able to train in certain indoor sporting facilities. The definition of professional sportsperson links to the definitions of “relevant sporting body” and “senior representative”. Both of these refer to athletes who will be competing, or is a candidate to compete, at the Olympic, Paralympic or Commonwealth Games. This means that unless the athlete is paid for playing their sport (derives a living) or is on an elite development pathway, they need to have an opportunity to be competing at one of the above events to be able to be considered a professional sportsperson.

5. We have been made aware of a number of events where athletes would be competing at what sportscotland consider to be an elite level at the top of their sport in an international competition, but where these sports are not featured at the Olympic, Paralympic or Commonwealth Games. We understand there may be additional flexibility around training in some other parts of the UK and should Scottish athletes not be permitted to train they would be disadvantaged. These Regulations make a number of amendments to ensure that the scope of who can be considered to train or compete is wider than the three events mentioned above.

Changes to retail

6. The Regulations amend the current Level 4 restrictions to allow all retailers to operate click and collect services, by removing the list of prescribed retailers who are permitted to provide click and collect services. The Regulations also expand the list of retailers permitted to open to members of the public in a Level 4. The retailers permitted to open now includes–

- motor vehicle traders and vehicle showrooms (by appointment only where indoors)
- baby equipment shops,

- electrical goods shops, for the purpose of repairs,
- garden centres and plant nurseries,
- homeware shops, including kitchen, bathroom, furniture and glazing showrooms,
- key cutting shops and,
- shops selling mobility and independent living aids.

Close contact services

7. The Regulations permit premises-based hairdressers and barbers to reopen in Level 4 areas. Mobile hairdressers and barbers are still restricted due to the increased transmission if going from home to home. Premises-based hairdresser and barber services must be provided exclusively by appointment and for a specified time. Other close contact services are not permitted to restart at this time.

Premises used as polling stations

8. The Regulations amend the face covering requirements to make clear that face coverings are a legal requirement in polling stations and any premises used for the purpose of opening postal votes or counting votes in an election, unless a person has a reasonable excuse. The Regulations also adjust the requirement on certain businesses to collect visitor information to create an exemption for visitors who are only attending the premises to cast their vote in a polling station.

9. The change on face coverings brings consistency to the Regulations as the existing rules would require face coverings in some premises used as polling stations, such as community centres, but not in others, such as schools. Guidance already makes clear that face coverings are to be worn in polling stations but this change provides a consistent legal position. The adjustment relating to the collection of visitor information brings the legislation into line with the policy intention, capturing customers to the business and not visitors solely entering the premises to cast a vote and then leave.

Consultation

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

Impact Assessments

11. An Island Communities Impact Assessment, an Equality Impact Assessment and a Business and Regulatory Impact Assessment have been prepared for this instrument. The provisions are also subject to strict obligations on the Scottish Government to review their necessity.

Scottish Government
 Directorate for Constitution and Cabinet
 1 April 2021