

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 14) Regulations 2020

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 prevent Sheriff Officers from being able to serve or enforce eviction order instructions made by mortgage lenders within areas subject to level 3 and 4 restrictions, at a time when the prevalence of Coronavirus has increased significantly.

Regulations

The Regulations amend the principal Regulations to prevent Sheriff Officers from being able to serve or enforce eviction order instructions made by mortgage lenders within areas subject to level 3 and 4 restrictions, at a time when the prevalence of Coronavirus has increased significantly.

These changes will come into effect on 23 January 2021.

Objective

Action was previously taken to introduce a 6 week ban on the enforcement of eviction orders across both the private and social rented sectors from 11 December 2020 to 22 January 2021 due to ongoing efforts to control the spread of the virus. However, the detection of a new and more transmissible variant of Coronavirus and significantly increasing prevalence of the virus across Scotland means that further action to protect tenants from eviction was required and further regulations came into force on 22 January to extend a ban on evictions in the private and social rented sector – within areas subject to level 3 and 4 restrictions – until at least 31 March 2021.

The current pandemic may mean that people who have a mortgage on their home are also more likely to find themselves in financial difficulty due to the current outbreak and therefore more likely to have difficulties meeting their obligations under their mortgage agreement. The outcome of a mortgage repossession significantly increases the risk that those households may seek to stay with friends and family or have nowhere to safely go and increase the spread of the virus. In addition, increased homelessness at this time will also add further pressure to already stretched housing, health and other public services.

Although the numbers are small (see below), we consider this is an important measure to prevent unnecessary spread of the virus at this time.

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 3 and 4 areas.

At present, the Principal Regulations, as amended, directly impact those living on islands that are in Level 3 and 4. At present, this does not include, Orkney, Shetland and Comhairle nan Eilean Siar (with the exception of the Isles of Barra and Isle of Watersay) 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.

Analysis

Evictions

The Regulations will prevent Sheriff Officers from being able to serve or enforce eviction order instructions made by mortgage lenders within areas subject to level 3 and 4 restrictions, at a time when the prevalence of Coronavirus has increased significantly.

It will have a positive impact on those subject to mortgage repossession instructions and their families, and reduce the potential for homelessness, particularly for island communities where access to suitable alternative accommodation may more difficult. There may be some impact on lenders, as they will be unable to evict and this could lead to a loss of income, in particular if lenders are seeking to evict on the grounds of a borrower having defaulted.

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.
- It is not considered that island communities will be differentially impacted by provisions on mortgage repossessions.
- 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.