

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (REQUIREMENTS) (SCOTLAND) AMENDMENT (NO. 5) REGULATIONS 2021

SSI 2021/475

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(2) and (3) of schedule 19 of the Act.

These Regulations amend the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 (the ‘Principal Regulations’) to expand the existing requirement in regulation 4 to have regard to guidance issued by the Scottish Ministers about measures to minimise risk of exposure to coronavirus. The new provision also requires the taking of such of the measures as are reasonably practicable. The Regulations also extend the distance from 1 metre to 2 metres where an exemption from wearing a face covering applies in certain indoor settings. This includes in the workplace; when leading an act of worship; rehearsing or performing or in certain parts of a marriage ceremony.

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 Local Levels Regulations”) came into force and revoked the previous regulations. On 9 August 2021 the principal Regulations came into force and revoked the Local Levels Regulations.

Policy Objectives

2. The Omicron variant of the SARS-CoV-2 virus first identified in South Africa and designated a Variant of Concern by the WHO on 26th November is transmitting rapidly within Scotland with strong evidence that community transmission is widespread. The policy objective of these regulations is to strengthen both current legislative requirements and current guidance to place an onus on businesses, places of worship and service providers to minimise the risk of exposure to coronavirus and enable social contact to continue in the safest way possible.

3. Guidance will set out measures that businesses, service providers and places of worship can take to minimise the risk of exposure to coronavirus relating to their premises. Guidance will cover matters such as measures to reduce crowding, encourage distancing, promote the use of face coverings, maximise ventilation and working from home where reasonably practicable to do so. The regulations will require the taking of such of the measures in guidance as are reasonably practicable.

4. Extending the distance from 1 metre to 2 metres in certain indoor settings where an exemption from wearing a face coverings applies will support minimising the risk of exposure to coronavirus and enable social contact to continue in the safest way possible. This extension includes exemptions which apply in the workplace; when leading an act of worship; rehearsing or performing or in certain parts of a marriage ceremony. This is essential as COVID-19 spreads through respiratory droplets produced when an infected person coughs, sneezes, talks or sings, and droplets and aerosols from their mouth or nose are released into the air.

Consultation

4. We have continued to consult with stakeholders on the impacts of the pandemic as we seek to balance the 4 harms with the relevant sectors in relation to this instrument.

Impact Assessments

5. Appropriate impact assessments are being prepared for these regulations.

Scottish Government
Directorate for Covid Coordination
16 December 2021