

POLICY NOTE

THE HEALTH PROTECTION (CORONAVIRUS) (REQUIREMENTS) (SCOTLAND) AMENDMENT REGULATIONS 2022

SSI 2022/6

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) (Requirements) (Scotland) Regulations 2021 (“the Principal Regulations”) to remove the legal requirement for one metre physical distancing in the Principal Regulations at outdoor event venues, outdoor exhibitions and outdoor spaces in sports stadia. The Regulations also amend definitions in the Principal Regulations in relation to the certification requirements. The Regulations also remove the requirement in the Principal Regulations that a person must not organise an outdoor event of more than 500 people.

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

Capacity limits for outdoor events and physical distancing

2. In response to the emergence of the Omicron variant of the SARS-CoV-2 virus and its transmission in Scotland in late 2021, the Scottish Government put in place protective measures to reduce the rates of transmission. These included the introduction of capacity limits for live events and a requirement to take measures to ensure, so far as reasonably practicable, that a distance of 1 metre is maintained between people on or waiting to enter hospitality and leisure premises and that only enough people are admitted to the premises to allow the 1 metre distance to be maintained.

3. The Scottish Government now considers that the protective measures introduced in December can start to be lifted in a phased way. The first phase as set out in this instrument is for the capacity limits on live events outdoors to be removed and also for physical distancing requirements to be removed at outdoor event venues, outdoor exhibitions and outdoor spaces in sports stadia.

Definitions for certification requirements

4. The Scottish Government considers it necessary to amend the definition of ‘fully vaccinated’ and associated terms used in regulations 7A-7E of the principal Regulations, which sets out the domestic Covid certification scheme. In light of evidence on vaccine waning; efficacy of vaccines against Omicron; the JCVI recommendations for when to receive booster doses and evidence that immunity is significantly enhanced following a booster. This instrument provides that, to be considered fully vaccinated for the purposes of domestic certification, a person must have had a booster, if 120 days have passed since their primary course of an authorised vaccine (as defined in this instrument).

Consultation

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

Impact Assessments

6. We will update the most recently published EQIA, CRWIA and BRIA (published in November 2021) to incorporate vaccination expiration and addition of boosters to the domestic Certification Scheme.

Scottish Government
Directorate for Covid Coordination
13 January 2022