

Regulations made by the Scottish Ministers and laid before the Scottish Parliament under paragraph 6(2) and (3) of schedule 19 of the Coronavirus Act 2020, for approval by resolution of the Scottish Parliament within 28 days beginning with the day on which the Regulations were made, not taking into account periods of dissolution or recess for more than 4 days.

SCOTTISH STATUTORY INSTRUMENTS

2022 No.

PUBLIC HEALTH

**The Health Protection (Coronavirus) (Requirements) (Scotland)
Amendment (No. 2) Regulations 2022**

Made - - - - 2022

Laid before the Scottish Parliament 2022

Coming into force - - at 5.00 a.m. on 24th January 2022

The Scottish Ministers make the following Regulations in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020(a) (“the Act”) and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the requirements imposed by the Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with paragraph 6(2) and (3) of schedule 19 of the Act, the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft having been laid before, and approved by a resolution of, the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 2) Regulations 2022 and come into force at 5.00 a.m. on 24 January 2022.

Amendment of the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021

2.—(1) The Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021(b) are amended in accordance with paragraphs (2) to (6).

(a) 2020. c. 7.

(b) S.S.I. 2021/277 amended by S.S.I. 2021/299, S.S.I. 2021/349, S.S.I. 2021/384, S.S.I. 2021/453, S.S.I. 2021/475, S.S.I. 2021/496, S.S.I. 2021/497, S.S.I. 2021/498 and S.S.I. 2022/6.

- (2) In regulation 2 (interpretation), omit the definition of “live event”.
- (3) Omit regulations—
 - (a) 4A (requirements to take measures to ensure the required distance is maintained),
 - (b) 4B (requirement for seated food and drink consumption),
 - (c) 4C (requirement to close nightclubs etc. to members of the public), and
 - (d) 4D (nightclubs etc. – supplemental provision – licensing).
- (4) In regulation 7E(1) (interpretation of regulations 7A to 7D), in the definition of “late night premises”, for paragraph (b) substitute—
 - “(b) there is a dancefloor or space where dancing by customers takes place, and”.
- (5) Omit regulation 7F (capacity limits on live events).
- (6) In regulation 15 (enforcement of requirements) for paragraph (9) substitute—
 - “(9) A local authority may only designate a person for the purpose of this regulation in relation to the requirements in—
 - (a) regulation 3,
 - (b) regulation 4(1)(b), and
 - (c) regulations 7A to 7E.”.

A member of the Scottish Government

St Andrew’s House,
Edinburgh

2022

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 (“the principal Regulations”).

Regulation 2(2) removes the definition of “live event” from regulation 2 of the principal Regulations. This is due to the changes in regulation 2(5), described below, which mean that the definition is no longer needed.

Regulation 2(3) removes regulations 4A, 4B and 4C from the principal Regulations. This means that the following requirements are removed:

- The requirements to take measures to ensure the required distance is maintained,
- The requirement for seated food and drink consumption, and
- The requirement to close nightclubs etc. to members of the public.

Regulation 2(3) also removes regulation 4D from the principal Regulations which was a supplemental provision relating to licensing and which was previously included due to regulation 4C.

Regulation 2(4) amends regulation 7E(1) of the principal Regulations so that in the definition of “late night premises”, paragraph (b) now reads “there is a dancefloor or space where dancing by customers takes place”.

Regulation 2(5) removes regulation 7F, which placed capacity limits on indoor live events.

Regulation 2(6) makes changes to regulation 15(9) of the principal Regulations, to remove the references to regulations 4A, 4B, and 4C, as these regulations have now been removed.

POLICY NOTE

The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No.2) Regulations 2022

SSI 2021/XXX

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 capacity limits for live events held indoors and the definition of a live event. The Regulations also remove the 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. The Regulations also remove the requirement for table service in premises where alcohol is sold for consumption on the premises, and that the customer must remain seated whilst consuming food and drink on the premises. The regulations also remove the requirement for the closure of nightclubs to members of the public and amend the definition of ‘late night premises’ in the Principal Regulations in relation to the certification requirements.

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 indoor events, physical distancing, table service and the closure of nightclubs

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 indoor live events; 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; a requirement for table service in premises where alcohol is sold consumed on the premises, and that the customer must remain seated whilst consuming food and drink on the premises; and a requirement for nightclubs to close to members of the public.

3. The Scottish Government now considers that the protective measures introduced in December can be lifted in a phased way. The second phase, as set out in this instrument, is the removal of capacity limits on live events indoors as well as removal of the physical distancing requirements, table service requirements and requirements that nightclubs are closed. The first stage of lifting measures came into effect on 17 January 2022 by virtue of The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment Regulations 2022.

Definitions for Certification requirements

4. These regulations also amend paragraph (b) of the definition of ‘late night premises’ in regulation 7E (1) of the principal Regulations. This ensures that certification is required where “there is a dancefloor or space where dancing by customers takes place” (and the other requirements of that definition are met).

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. An Equality Impact Assessment, Children’s Rights and Wellbeing Impact assessment and Business and Regulatory Impact Assessment are being prepared for publication for these Regulations and will be published in January 2022. These impact assessments will encompass both these regulations and the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment Regulations 2022.

Scottish Government
Directorate for Covid Coordination
XX January 2022