

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 Regulations 2022**

<i>Made</i>	- - - -	2022
<i>Laid before the Scottish Parliament</i>		2022
<i>Coming into force</i>	- -	17th 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 Regulations 2022 and come into force on 17 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 (4).

(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 and S.S.I. 2021/498.

(2) In regulation 4A(3)(a) (requirements to take measures to ensure the required distance is maintained) in the definition of “relevant leisure premises”—

- (a) in paragraph (k) insert “indoor” after “other”,
- (b) in paragraph (m) insert “indoor” before “event venues”,
- (c) in paragraph (y) for “sports stadiums” substitute “indoor sports stadiums and any indoor area at an outdoor sports stadium”.

(3) In regulation 7E(b) (interpretation of regulations 7A to 7D)—

(a) in paragraph (1)—

(i) for the definition of “authorised vaccine” substitute—

““authorised vaccine” means a medicinal product for vaccination against coronavirus which is authorised—

- (a) for supply in the United Kingdom in accordance with a marketing authorisation, or
- (b) by the licensing authority on a temporary basis under regulation 174 (supply in response to spread of pathogenic agents etc.) of the Human Medicines Regulations 2012(c),”

(ii) for the definition of “fully vaccinated” substitute—

““fully vaccinated” means that a person has—

- (a) completed a first course of an authorised vaccine with the final dose (or, if that course consists of only one dose, the dose) having been received—
 - (i) before the start of the period beginning with the 14th day before the date on which they seek to enter the late night premises or relevant event, and
 - (ii) no more than 120 days before the date on which they seek to enter the late night premises or relevant event, or
- (b) completed a first course and a subsequent course of an authorised vaccine with the subsequent course dose having been received before the start of the period beginning with the 10th day before the date on which they seek to enter the late night premises or relevant event,”

(iii) after the definition of “late night premises” insert—

““the licensing authority” has the meaning given in regulation 6(2) (the licensing authority and the Ministers) of the Human Medicines Regulations 2012,

“marketing authorisation” has the meaning given to it in regulation 8(1) (general interpretation) of the Human Medicines Regulations 2012,”

(b) in paragraph (2) —

- (i) in sub-paragraph (a) for “course of doses” substitute “first course of an authorised vaccine” in the first place where it appears,
- (ii) in sub-paragraph (b) for “course of doses” substitute “first course”,
- (iii) after sub-paragraph (b) insert—

“,

- (c) a person (“P”) has completed a subsequent course of an authorised vaccine if an additional course of an authorised vaccine has, at least 12 weeks after P completed a first course of an authorised vaccine, been administered to P for the purpose of boosting P’s immunity to coronavirus,
- (d) a vaccine is not to be considered an authorised vaccine for the purpose of a subsequent course if it is not for the time being in use for this purpose in the United Kingdom.”.

(a) Regulation 4A is inserted by S.S.I. 2021/496.

(b) Regulation 7E is inserted by S.S.I. 2021/349 and amended by S.S.I. 2021/453.

(c) S.I. 2012/1916.

(4) In regulation 7F(1)(a) (capacity limits on live events) omit sub-paragraph (a).

St Andrew's House,
Edinburgh

2022

A member of the Scottish Government

(d) Regulation 7F is inserted by S.S.I. 2021/496.

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) amends the definition of “relevant leisure premises” in regulation 4A(3) of the principal Regulations to remove the legal requirement for one metre physical distancing in outdoor event venues, outdoor exhibitions and outdoor spaces in sports stadiums.

Regulation 2(3) amends regulation 7(E) of the principal Regulations.

Regulation 2(3)(a) makes changes to defined terms used in relation to certification requirements in regulation 7E(1) of the principal Regulations, by: amending the definition of authorised vaccine to ensure an authorised vaccine is one which is authorised by the relevant authorities in the United Kingdom; changing the definition of fully vaccinated to encompass both a first course of an authorised vaccine, and a booster course, if the final dose of the authorised vaccine was more than 120 days before an individual’s vaccination status is checked as part of certification requirements; and inserting definitions of licensing authority and marketing authorisation in connection with the definition of authorised vaccine.

Regulation 2(3)(b) amends regulation 7E(2) of the principal Regulations to define a first course of doses (being an initial course of doses of vaccine against coronavirus) and second course of doses (constituting the booster vaccine) for the purposes of the change to the definition of ‘fully vaccinated’.

Regulation 2(4) amends regulation 7F of the principal Regulations which places capacity limits on live events. The amendment removes the requirement that a person must not organise an outdoor live event at which more than 500 people will be in attendance.

POLICY NOTE

The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment Regulations 2022

SSI 2022/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 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