

Regulations made by the Scottish Ministers and laid before the Scottish Parliament under paragraph 6(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 any period of dissolution or recess for more than 4 days.

SCOTTISH STATUTORY INSTRUMENTS

2020 No. 236

PUBLIC HEALTH

**The Health Protection (Coronavirus) (Restrictions)
(Scotland) Amendment (No. 10) Regulations 2020**

<i>Made</i>	- - - -	<i>at 11.05 a.m. on 7th August 2020</i>
<i>Laid before the Scottish Parliament</i>	- - - - -	<i>at 3.00 p.m. on 7th August 2020</i>
<i>Coming into force</i>	- -	<i>8th August 2020</i>

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⁽¹⁾ (“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 restrictions and requirements imposed by these 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) (Restrictions) (Scotland) Amendment (No. 10) Regulations 2020 and come into force on 8 August 2020.

Amendment of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020

2.—(1) The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020(2) are amended as follows.

(2) For regulation 4 (further restrictions) substitute—

“Requirement to take measures to minimise risk of exposure to coronavirus

4.—(1) For the purposes of minimising the risk of the incidence and spread of coronavirus on the premises, a person responsible for a place of worship, carrying on a business or providing a service must take—

- (a) measures to ensure, where reasonably practicable—
 - (i) the required distance is maintained between any persons on the premises (except between persons mentioned in paragraph (2)),
 - (ii) that people are admitted to its premises in sufficiently small numbers to make it possible to maintain the required distance,
 - (iii) that the required distance is maintained between any person waiting to enter its premises (except between persons mentioned in paragraph (2)),
 - (b) any other measures, where reasonably practicable, for that purpose, for example measures which limit close face to face interaction and maintain hygiene such as—
 - (i) changing the layout of premises including the location of furniture and workstations,
 - (ii) controlling use of entrances, passageways, stairs and lifts,
 - (iii) controlling use of shared facilities such as toilets and kitchens,
 - (iv) otherwise controlling the use of, or access to, any other part of the premises,
 - (v) installing barriers or screens,
 - (vi) providing or requiring use of personal protective equipment, and
 - (vii) providing information to those entering or working at the premises about how to minimise the risk of exposure to coronavirus.
- (2) The persons mentioned in paragraph (1)(a)(i) and (iii) are—
- (a) two or more members of the same household,
 - (b) a carer and the person assisted by the carer, or
 - (c) in relation to premises being used to provide school education, two or more people where at least one of them is a pupil.
- (3) In this regulation—
- “carer” includes a person who provides care for the person assisted whether that care is provided—
- (a) by a carer within the meaning of section 1 of the Carers (Scotland) Act 2016(3),
 - (b) on a paid basis, or
 - (c) on a voluntary basis,
- “premises” includes any building or structure and any land,

(2) S.S.I. 2020/103, relevantly amended by S.S.I. 2020/126, S.S.I. 2020/164, S.S.I. 2020/210, S.S.I. 2020/211 and S.S.I. 2020/232.

(3) 2016 asp 9.

“pupil” has the meaning given by section 135(1) of the Education (Scotland) Act 1980(4),

“reduced distance premises” means—

- (a) passenger transport service premises,
- (b) a building, room or other premises used for the retail sale or hire of goods, including—
 - (i) restaurants, including restaurants and dining rooms in hotels or members’ clubs,
 - (ii) cafes, including workplace canteens,
 - (iii) bars, including bars in hotels or members’ clubs,
 - (iv) public houses,

“required distance” means—

- (a) in relation to reduced distance premises, at least one metre, or
- (b) in all other cases, at least two metres,

“school education” has the meaning given by section 1(5)(a) of the Education (Scotland) Act 1980(5).

Guidance on minimising exposure to coronavirus

4A.—(1) The Scottish Ministers may issue guidance on measures which should be taken, in accordance with regulation 4(1)(b), in order to minimise the risk of the incidence and spread of coronavirus.

(2) A person responsible for a place of worship, carrying on a business or providing a service must have regard to guidance issued by the Scottish Ministers relating to its premises, business or service.

(3) Guidance issued by the Scottish Ministers under paragraph (1) may—

- (a) make different provision for different cases or descriptions of case,
- (b) incorporate (by reference or transposition) guidance, codes of practice or other documents published by another person (for example, a trade association, a body representing members of an industry or a trade union).

(4) Regulation 7 (enforcement of requirements) does not apply to a contravention of the requirement in paragraph (2).”

(3) For regulation 6B (requirement to wear a face covering in a shop) substitute—

“Requirement to wear a face covering in certain indoor public places

6B.—(1) Except to the extent that a defence would be available under regulation 8(4), no person may enter or remain within a place mentioned in paragraph (2) without a face covering.

(2) Those places are, where open to members of the public—

- (a) any building, room or other premises used for the retail sale or hire of goods or services, except—
 - (i) restaurants with table service, including restaurants and dining rooms in hotels or members’ clubs,

(4) 1980 c.44.

(5) Section 1(5)(a) was amended by schedule 3 of the Standards in Scotland’s Schools etc. Act 2000 (asp 6), paragraph 3(2)(a) of schedule 3 of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) and paragraph 2(2)(c) of schedule 5 of the Children and Young People (Scotland) Act 2014 (asp 8).

- (ii) cafes with table service, including workplace canteens,
- (iii) bars, including bars in hotels or members' clubs,
- (iv) public houses,
- (b) aquariums, indoor zoos or visitor farms, and any other indoor tourist, heritage or cultural site,
- (c) banks, building societies and credit unions,
- (d) cinemas,
- (e) community centres,
- (f) crematoriums and funeral directors premises,
- (g) libraries and public reading rooms,
- (h) museums and galleries,
- (i) places of worship,
- (j) post offices,
- (k) storage and distribution facilities, including collection and drop off points.

- (3) Paragraph (1) does not apply to the wearing of a face covering—
- (a) by a child who is under the age of 5,
 - (b) by a constable acting in the course of their duty,
 - (c) by an emergency responder (other than a constable) acting in their capacity as an emergency responder,
 - (d) by a person responsible for a place mentioned in paragraph (2), an employee of that person or a volunteer at the place, where—
 - (i) there is a partition between the person, employee or volunteer and members of the public, or
 - (ii) a distance of at least two metres is maintained between the person, employee or volunteer and members of the public,
 - (e) in a place of worship, by a person leading an act of worship where—
 - (i) there is a partition between that person and any other person, or
 - (ii) a distance of at least two metres is maintained between that person and any other person,
 - (f) at a funeral, marriage ceremony or civil partnership registration, by a person leading the service, ceremony or registration where—
 - (i) there is a partition between that person and any other person, or
 - (ii) a distance of at least two metres is maintained between that person and any other person.

(4) In this regulation, “a person responsible for a place mentioned in paragraph (2)” includes the owner, proprietor and manager of the place.”.

(4) In regulation 8 (offences and penalties)—

- (a) in paragraph (1), for “3 to 7” substitute “3, 4(1)(a), 6, 6A, 6B or 7”,
- (b) in paragraph (5A)(f), omit “where reasonably necessary”.

(5) In regulation 10 (interpretation), in the definition of “face covering”, after “any type” insert “(other than a face shield)”.

St Andrew's House,
Edinburgh
At 11.05 a.m. on 7th August 2020

MICHAEL RUSSELL
A member of the Scottish Government

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (“the principal regulations”).

Regulation 2(2) of these Regulations substitutes new regulations 4 and 4A into the principal regulations. The new regulation 4 requires a person responsible for a place of worship, for carrying on a business or providing a service to take all measures, where reasonably practicable, to ensure that the required distance is maintained between persons on the premises; that persons are allowed into premises in sufficiently small numbers to allow the required distance to be maintained; and, that the required distance is maintained between people waiting to enter the premises. It also requires any other measures, where reasonably practicable, to be taken, for example to limit close face to face interaction and maintain hygiene.

The new regulation 4A provides that the Scottish Ministers may issue guidance about the practical application of the requirements imposed by new regulation 4(1)(b) and that any such guidance issued by Scottish Ministers may incorporate documents published by another person, for example a trade association, a body representing members of an industry or a trade union. Regulation 4A also places a new duty on the persons responsible for a place of worship, carrying on a business or providing a service to have regard to guidance issued by the Scottish Ministers relating to its premises, business or service. It is not, however, an offence to fail to have regard to guidance as regulation 4A is excluded from the scope of regulation 8(1) of the principal regulations.

Regulation 2(3) of these Regulations substitutes a new regulation 6B into the principal regulations which provides that a face covering must be worn in certain indoor premises. A list of premises where a face covering is required is provided and specific exemptions are listed. It is an offence not to comply with the requirements of regulation 6B unless an exemption applies or there is a reasonable excuse for the failure to wear the face covering. A non-exhaustive list of reasonable excuses is provided in regulation 8(5A) of the principal regulations.

Regulation 2(5) of these Regulations amends the definition of face coverings in the principal regulations, with the effect that wearing a face shield no longer satisfies the requirement to wear a face covering in certain places.