



The Scottish Parliament
Pàrlamaid na h-Alba

Published 14 January 2021
SP Paper 906
1st Report, 2021 (Session 5)

COVID-19 Committee

Subordinate legislation considered by the Covid-19 Committee at its meeting on 14 January 2021



Published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish
Parliament website at:
[http://www.parliament.scot/abouttheparliament/
91279.aspx](http://www.parliament.scot/abouttheparliament/91279.aspx)

For information on the Scottish Parliament contact
Public Information on:
Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

Contents

Introduction	1
The Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 (SSI 2020/425)	2
The Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/439)	3
The Social Care Staff Support Fund (Coronavirus) (Scotland) (Amendment) Regulations 2020 (SSI 2020/469)	4
The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 9) Regulations 2020 (SSI 2020/471)	5
The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021 (SSI 2021/1)	6
The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 11) Regulations 2021 (SSI 2021/3)	8

COVID-19 Committee

Remit: To consider and report on the Scottish Government's response to COVID-19 including the operation of powers under the Coronavirus (Scotland) Act, the Coronavirus Act and any other legislation in relation to the response to COVID-19 and any secondary legislation arising from the Coronavirus (Scotland) Act and any other legislation in relation to the response to COVID-19.



Covid.Committee@parliament.scot

Committee Membership



Convener
Donald Cameron
Scottish Conservative
and Unionist Party



Deputy Convener
Monica Lennon
Scottish Labour



Willie Coffey
Scottish National Party



Maurice Corry
Scottish Conservative
and Unionist Party



Annabelle Ewing
Scottish National Party



John Mason
Scottish National Party



Stuart McMillan
Scottish National Party



Mark Ruskell
Scottish Green Party



Beatrice Wishart
Scottish Liberal
Democrats

Introduction

1. This report sets out the Covid-19 Committee's consideration of Scottish Statutory Instruments ('SSIs') at its meeting on 14 January 2021. The minutes of the meeting have been published on the [Committee's webpages](#). The Official Report of the meeting will be published by 6pm on 15 January 2021 on the [Committee's webpages](#).
2. The Committee also took evidence on SSIs within the scope of this report at its meeting on 17 December 2020 and 8 January 2021. The Official Reports and minutes of those meetings have been published on the [Committee's webpages](#).
 - [Official Report](#) and [Minutes](#) of meeting on 17 December 2020;
 - [Official Report](#) and [Minutes](#) of meeting on 8 January 2021.

The Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 (SSI 2020/425)

3. The Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 (SSI 2020/425) were laid on 10 December 2020. The instrument was made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020 (“the Act”). The instrument is subject to made affirmative procedure by virtue of paragraph 6(3) of schedule 19 of the Act.
4. The [policy note](#) states that—
 - ” “These Regulations prevent, except in specified circumstances, attendance at a dwelling house for the purpose of serving or executing a charge for removing or for executing a decree for removing from heritable property.

The specified circumstances are where possession of the dwelling house is sought on the basis of nuisance, annoyance or conviction for using the house for immoral or illegal purposes, anti-social behaviour, certain convictions or association with person who has relevant conviction or engaged in relevant anti-social behaviour.

The Regulations came into force on 11 December 2020 and will expire on 22 January 2021.”
5. The Delegated Powers and Law Reform ('DPLR') Committee considered SSI 2020/425 at its meeting on [15 December 2020](#) and had no points to raise.
6. At the Covid-19 Committee's meeting on 14 January 2021, the Cabinet Secretary for the Constitution, Europe and External Affairs, Michael Russell MSP, moved Motion [S5M-23684](#) in Kevin Stewart MSP's name— That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 (SSI 2020/425) be approved.
7. The motion was agreed to.

8. The Covid-19 Committee agreed Motion S5M-23684.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/439)

9. The Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/439) were laid on 17 December 2020. The instrument was made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020 (“the Act”). The instrument is subject to made affirmative procedure by virtue of paragraph 6(3) of schedule 19 of the Act.

10. The [policy note](#) states that—

” “These Regulations principally amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 to set out changes to the levels that apply to 3 local government areas of Scotland.

These Regulations allow social gatherings to take place in private dwellings for those living on certain Scottish islands in Argyll and Bute. These Regulations also adjust the restrictions in Level 0 and Level 1 in respect of marriage and civil partnership receptions and funeral wakes.

Finally, these Regulations make an amendment to the Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 to reflect the true policy intention of those Regulations.”

11. The Delegated Powers and Law Reform ('DPLR') Committee considered SSI 2020/439 at its meeting on [12 January 2021](#) and had no points to raise.

12. At the Covid-19 Committee's meeting on 14 January 2021, the Cabinet Secretary for the Constitution, Europe and External Affairs, Michael Russell MSP, moved Motion [S5M-23749](#) in his name— That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/439) be approved.

13. The motion was agreed to.

14. The Covid-19 Committee agreed Motion S5M-23749.

The Social Care Staff Support Fund (Coronavirus) (Scotland) (Amendment) Regulations 2020 (SSI 2020/469)

15. The Social Care Staff Support Fund (Coronavirus) (Scotland) (Amendment) Regulations 2020 (SSI 2020/469) were laid on 23 December 2020. The instrument was made in exercise of the powers conferred by sections 2, 7 and paragraph 7(3) of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 ("the 2020 Act"). The instrument is subject to made-affirmative procedure.
16. The [policy note](#) states that—
 - ” The purpose of this Instrument is to amend the Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020 (“principal Regulations”) which made provision for the establishment, maintenance and administration of the Social Care Staff Support Fund (“the Fund”) in accordance with paragraph 7 of Schedule 1 to the Coronavirus (Scotland) (No.2) Act 2020. The amending regulations widen the eligibility criteria for the Fund and increase the ability of Scottish Ministers to appoint a person to manage the Fund on their behalf.”
17. The Delegated Powers and Law Reform ('DPLR') Committee considered SSI 2020/469 at its meeting on [12 January 2021](#) and had no points to raise.
18. At the Covid-19 Committee's meeting on 14 January 2021, the Cabinet Secretary for the Constitution, Europe and External Affairs, Michael Russell MSP, moved Motion [S5M-23807](#) in Jeane Freeman MSP's name— That the COVID-19 Committee recommends that the Social Care Staff Support Fund (Coronavirus) (Scotland) (Amendment) Regulations 2020 (SSI 2020/469) be approved.
19. The motion was agreed to.
20. The Covid-19 Committee agreed Motion S5M-23807.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 9) Regulations 2020 (SSI 2020/471)

21. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 9) Regulations 2020 (SSI 2020/471) were laid on 23 December 2020. The instrument was made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020 (“the Act”). The instrument is subject to made affirmative procedure by virtue of paragraph 6(3) of schedule 19 of the Act.

22. The [policy note](#) states that—

” These Regulations amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 to adjust the definition of nonessential retail. The Regulations remove garden centres and plant nurseries from the list of essential retailers, these type of retailers must remain shut in Level 4 areas as a result. The regulations also replace “homeware, building supplies and hardware stores” with “building merchants and suppliers of products and tools used in building work and repairs” to ensure retailers selling homeware items, which in many cases would be considered non-essential, are prohibited from opening in Level 4. Click and collect services will remain available.

The Regulations prohibit home showroom premises from opening, such as kitchen, bathroom, furniture or glazing showrooms. Some retail services are also prohibited in Level 4 areas, these services are tanning salons, or premises which operate a self-tanning machine or spray-tan booths and travel agencies.

These Regulations also prohibit travel to or from the Republic of Ireland as a result of the national lockdown in the Republic of Ireland announced on 22 December 2020 for commencement on 26 December 2020.”

23. The Delegated Powers and Law Reform ('DPLR') Committee considered SSI 2020/471 at its meeting on [12 January 2021](#) and had no points to raise.

24. At the Covid-19 Committee's meeting on 14 January 2021, the Cabinet Secretary for the Constitution, Europe and External Affairs, Michael Russell MSP, moved Motion [S5M-23809](#) in his name— That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 9) Regulations 2020 (SSI 2020/471) be approved.

25. The motion was agreed to.

26. The Covid-19 Committee agreed Motion S5M-23809.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021 (SSI 2021/1)

27. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021 (SSI 2021/1) were laid on 5 January 2021. The instrument was made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020 (“the Act”). The instrument is subject to made affirmative procedure by virtue of paragraph 6(3) of schedule 19 of the Act.
28. The [policy note](#) states that—
 - ” These Regulations amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 to introduce a requirement to stay at home for those living in a Level 4 area, similar to the requirement included in legislation in March 2020. These Regulations also reduce the number of people who can meet for social purposes in Level 4. The limit is now 2 people from 2 households, rather than 6 people from 2 households. Existing socialisation rules still apply for those under 12 and the limit for 12-17 year olds has been reduced to 2 people from 2 households. These Regulations adjust the rules on organised outdoor activity for under 18s and for outdoor exercise in Level 4 to prohibit those aged 12 and over from undertaking such activities unless the general social gathering limit is followed.”
29. The Delegated Powers and Law Reform ('DPLR') Committee considered SSI 2021/1 at its meeting on 12 January 2021. It had the following points to raise in its report published on [13 January 2021](#)—

” "The purpose of the instrument is to make amendments to the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations.

This instrument implements further restrictions to SSI 2020/344, which supplements the restrictions set out in SSI 452, laid on 21 December, which moved mainland Scotland, and the Isle of Skye into Level 4 restrictions and the remaining islands to Level 3 restrictions. These further restrictions require those residing in a Level 4 area to “stay at home”, other than for essential purposes. Examples of such essential purposes are provided for in paragraph 18 of schedule 5 of the Regulations.

The Committee wrote to the Scottish Government on 8 January 2021 with questions on the instrument.

In its response, the Scottish Government agreed that:

- the condition contained in paragraph (8) of regulation 4 should also apply where a relevant person is exercising the power in paragraph (7A) of that regulation so a cross-reference should have been made in paragraph (8) to paragraph (7A);
- the reference to the omitted paragraph 12(1)(b) in paragraph 18(2)(cc) is a cross-referencing error; and
- the reference to the omitted paragraph 13(1)(b)(i) in paragraph 12(2)(ff) is a cross-referencing error. The Scottish Government confirmed that amendments for each of these crossreferencing errors would be brought forward in early course.

A copy of the correspondence can be found in the [Annex](#).

The Committee agrees to draw this instrument to the attention of the Parliament under the general reporting ground on the basis that there are cross-referencing errors.

The Committee welcomes the Scottish Government's commitment to undertake to bring forward amending regulations."

30. At the Covid-19 Committee's meeting on 14 January 2021, the Cabinet Secretary for the Constitution, Europe and External Affairs, Michael Russell MSP, moved Motion [S5M-23826](#) in his name— That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021 (SSI 2021/1) be approved.
31. The motion was agreed to.
32. The Covid-19 Committee agreed Motion S5M-23826.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 11) Regulations 2021 (SSI 2021/3)

33. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 11) Regulations 2021 (SSI 2021/3) were laid on 6 January 2021. The 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.
34. The [policy note](#) states that—
 - ” "These Regulations amend the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 to prohibit places of worship from opening for most purposes. These Regulations reduce the number of people who are able to attend a marriage ceremony or civil partnership registration and also prohibit funeral teas or wakes from taking place in Level 4 areas (whilst still allowing for commemorative events). These Regulations require snow sports centres, showrooms within larger retailers, independent clinics, independent hospitals and independent medical agencies in relation to certain procedures or treatments to close in Level 4 areas. The Regulations also require 2 metre distancing to be maintained in workplace canteens.

Finally, these Regulations make minor amendments to correct inaccuracies in the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 10) Regulations 2021."
35. The Delegated Powers and Law Reform ('DPLR') Committee considered SSI 2021/3 at its meeting on [12 January 2021](#) and had no points to raise.
36. At the Covid-19 Committee's meeting on 14 January 2021, the Cabinet Secretary for the Constitution, Europe and External Affairs, Michael Russell MSP, moved Motion [S5M-23828](#) in his name— That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 11) Regulations 2021 (SSI 2021/3) be approved.
37. The motion was agreed to.
38. The Covid-19 Committee agreed Motion S5M-23828.

