



Data Protection Impact Assessment

Contact Tracing – Test and Protect Data Collection and Sharing

The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No 11) Regulations 2020

Version date: 31 August 2020

Review date: 30 September 2020

The Scottish Government is putting forward changes to the Coronavirus Regulations to make it mandatory for hospitality venues offering services to collect personal data for the purposes of contact tracing. It will also be mandatory for venues to share this data with NHS Scotland public health officials for the purposes of contact tracing in the event that a Coronavirus case is associated with that venue.

The text of the proposed amendment is attached at Annex A.

The majority of venues are already collecting and sharing this information voluntarily under guidance from the Scottish Government, the change proposed is that it will become a legal requirement. This is based on evidence that some venues are not collecting the information, and we believe that this is a necessary and proportionate response to an urgent international crisis that carries a genuine and serious risk to public health and human life.

The data collected and shared is the minimum required for the purposes of contact tracing as established by current practice, detailed guidance has been given to hospitality venues on transparency, purpose limitation and security, and the proposal does not mandate the sharing of special category or other high risk personal data. We believe that there is very little risk to the rights and freedoms of individuals with the actions mandated by this proposal, and that any risk is balanced by the need for an urgent public health response.

This Data Protection Impact Assessment (DPIA) works in conjunction with the [Article 36\(4\) ICO](#) consultation form submitted in advance of this, as the proposal requires consultation with the Information Commissioner's Office (ICO).

This DPIA is undertaken on behalf of the data controllers who will be collecting and sharing the information – the hospitality venues and larger hospitality groups – in compliance with General Data Protection Regulation (GDPR) Article 35(10).

Introductory information

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| <p>Summary of proposal</p> | <p>The Coronavirus legislation in Scotland will be updated to mandate collection, storage in a filing system and retention of visitor contact details in the hospitality sector for 21 days.</p> <p>This information must be shared with a public health official within 24 hours of being requested, to assist contact tracing as part of NHS Scotland's Test and Protect</p> <p>A visitor is further explained in guidance as "staff, customers and volunteers".</p> |
| <p>Description of the personal data</p> | <ul style="list-style-type: none"> • Name of one member of each household in group, staff member or volunteer • Date of arrival • Time of arrival • Phone number (or alternate means of contact) |
| <p>Purposes of the processing</p> | <p>To support the contact tracing by NHS Scotland's Test and Protect service to assist to combat the spread of Coronavirus and protect public health and human life.</p> |
| <p>Lawful basis for processing under General Data Protection Regulation (GDPR) Article 6 for the collection and sharing of personal data</p> <p>Legal gateway for the sharing of personal data with public health officials</p> | <p>GDPR Article 6(1)(c) processing is necessary for compliance with a legal obligation to which the controller is subject</p> <p>GDPR Article 6(1)(c) processing is necessary for compliance with a legal obligation to which the controller is subject</p> |
| <p>Lawful basis for processing under General Data Protection Regulation (GDPR) Article 9 – special category data</p> | <p>No processing of special category data is mandated by this proposal</p> |
| <p>Necessity, proportionality and justification</p> | <p>Legislating to make collection of contact tracing data by hospitality venues mandatory is a well-considered, necessary and proportionate measure – the voluntary collection of personal data by venues was not</p> |

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| | <p>universally complied with – this had the potential to hinder contact tracing efforts.</p> <p>This measure is justified by the need for an urgent public health response to help protect human life.</p> <p>The necessity of continuing to mandate data collection and sharing will be reviewed as part of the process built in to the Coronavirus legislation</p> |
| Privacy information | <p>A template privacy notice is provided for hospitality visitors as part of the extensive guidance given by the Scottish Government</p> <p>The template privacy notice is attached at Annex B</p> |
| SG department | DGHSC: Covid Public Health Directorate |
| Contact email | Mike.Andrews@gov.scot |
| Data protection support email Data protection officer | dpa@gov.scot dataprotectionofficer@gov.scot |
| Is your proposal primary legislation, secondary legislation or other form of statutory measure? | Statutory Measure |
| What stage is the legislative process at? Please indicate any relevant timescales and deadlines. | Current timeframe indicates implementation via amendment to Regulations the week commencing 10 August 2020 |
| Have you consulted with the ICO using the Article 36(4) form (please provide a link to it)? | <p>Yes</p>  <p>Contact Tracing - mandatory data collec</p> |
| If the ICO has provided feedback, please include this. | ICO are not able to do 12 week consultation because of urgency of the implementation timescale. ICO have been consulted during the drafting of this DPIA through the Scotland ICO office. |
| Do you need to hold a public consultation and if so has this taken place? | <p>Consultation with industry representatives has taken place at every step of the process to put in place measures for re-opening hospitality venues.</p> <p>Representatives were pleased with the clarity provided by the mandatory requirement for data collection at venues and in general were</p> |

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| | in favour of measures that would enable them to re-open for business. |
| Were there any comments/feedback from the public consultation about privacy, information or data protection? | n/a |

Summary of risk assessment

| Risk | Solution or mitigation | Likelihood (Low/Med/High) | Severity R/A/G | Result |
|---|---|---------------------------|----------------|-------------------------|
| <p>Risk to individual rights</p> <p>Data subjects may not wish to provide information and be excluded from a hospitality venue.</p> <p>In mandating the data collection and sharing with the contact tracing service, it may be the result that customers that refuse to give contact details can, in effect, be refused access to the premises.</p> | <p>This will not be covered in legislation and would be at the discretion of the premises, who are being advised in the guidance to refuse service if details are not provided.</p> <p>As this proposal applies to hospitality settings we do not believe that exclusion from service will impact on key individual rights or have a higher impact on any group in society.</p> <p>This is a necessary and proportionate measure in support of the protection of public health.</p> | Medium | Green | Accepted – under review |
| <p>Risk to individual rights</p> <p>Data subject rights under GDPR</p> | <p>The relevant data subject rights have been considered and data subjects will be informed of these and how to take them up via a privacy notice – attached at Annex B</p> | Low | Green | Eliminated |
| Risk | Solution or mitigation | Likelihood (Low/Med/High) | Severity R/A/G | Result |

| <p>Privacy risks</p> <p>Purpose limitation – the venues may use the personal data collected for other purposes</p> | <p>Guidance will make it clear for venues that the data collected must only be used by public health officials for contact tracing, and must not be used for any other purposes or shared with any other organisations by the venue</p> | <p>Low</p> | <p>Green</p> | <p>Reduced</p> |
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| <p>Privacy risks</p> <p>Transparency – data subjects may not be informed about the purposes and lawful basis for the processing, and their rights</p> | <p>A template privacy notice detailing data subject rights and how to make a complaint has been given to venues to display in poster form – this will be updated to reflect the change to the lawful basis</p> | <p>Low</p> | <p>Green</p> | <p>Reduced</p> |
| <p>Privacy risks</p> <p>Minimisation and necessity</p> | <p>The proposal mandates collection of a very small amount of personal data – the minimal required as established by current practice as necessary to meet the purposes of the processing – to trace Coronavirus potential contacts and protect public health. The necessity of continuing to mandate data collection and sharing will be reviewed as part of</p> | <p>Low</p> | <p>Green</p> | <p>Mitigated – under review</p> |

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| | the process built in to the Coronavirus legislation | | | |
| Privacy risks | | | | |
| Accuracy of personal data | If it is found that a substantive portion of the data being provided to the contact tracing service is not accurate, further consideration will be given to the accuracy of information collected and how this can be monitored. This may require separate or amended legislation | Low | Green | Accepted – under review |
| Risk | Solution or mitigation | Likelihood (Low/Med/High) | Severity R/A/G | Result |
| Security risks | | | | |
| Keeping data securely – the venue may not have secure storage in place. Retention – the venue may retain the data for longer than is necessary | Extensive guidance has been given to venues on how to keep data securely, and to retain it for at least 21 days, in compliance with ICO guidance, and then dispose of it securely | Low | Amber | Reduced |
| Security risks | | | | |
| Transfer – data may be lost in transit to public health officials | Public health officials will use only secure and assured transfer mechanisms and provide instructions on data transfer as needed when they collect data from venues | Low | Amber | Mitigated |

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| <p>Security risks</p> <p>Log Books – venues may use a log book style system to collect personal data – this could be viewed by other patrons resulting in a data privacy breach</p> | <p>Guidance already discourages the use of log books from a virus transmission point of view – this can be equally applied to data privacy</p> | <p>Low</p> | <p>Amber</p> | <p>Reduced</p> |
| <p>Risk</p> | <p>Solution or mitigation</p> | <p>Likelihood (Low/Med/High)</p> | <p>Severity R/A/G</p> | <p>Result</p> |
| <p>Other risks</p> <p>Children may not understand the privacy information and why their data is being collected and shared</p> | <p>This amendment applies to hospitality venues and data will be collected from a lead household member. It is reasonable to assume that a child will either be a) accompanied by a parent or guardian who will be able to explain the reasons for collection to any children, and have authority to make decisions on their behalf or b) if they have the capacity to visit hospitality premises unaccompanied, they have the capacity to understand why their personal data is collected.</p> | <p>Low</p> | <p>Green</p> | <p>Accepted</p> |

Further information and assessment

| | Question | Comments |
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| 1 | <p>What issue/public need is the proposal seeking to address? What policy objective is the legislation trying to meet?</p> | <p>The entirety of the proposal relates to the collection of personal contact data of individuals on behalf of NHS Scotland's Test and Protect service, a programme of the Scottish Government delivered by Public Health Scotland, NHS National Services Scotland and territorial NHS Boards, in the contact tracing of possible close contacts of Covid-19 index cases. If requested by the contact tracing service, or other statutory partners linked to enforcement such as Local Authority Environmental Health Officers (EHOs), the data must be shared for the purposes of enhanced contact tracing as part of the public health response to the Covid-19 pandemic.</p> |
| 2 | <p>Does your proposal relate to the processing of personal data? If so, please provide a brief explanation of the intended processing and what kind of personal data it might involve. Who might be affected by the proposed processing?</p> | <p>Yes.</p> <p>Along with the date and time of arrival and departure, if applicable, the premises will collect the name and contact telephone number. However, if the data subject does not have a telephone number, there is the option to provide a postal address or an email address.</p> <p>The purpose for which personal data is being processed is to assist with NHS Scotland's Test and Protect strategy in relation to the coronavirus public health epidemic. This will involve the gathering and, when necessary, the sharing of information with Public Health Scotland as the responsible body for Test and Protect national contact tracing service, or with local NHS health boards responsible for local outbreak management. The data will not be used for any other purpose although statutory partners, such as EHOs, may within their enforcement capacity request to see the data only to establish its existence to ensure compliance, and not to process it.</p> |

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| | <p>Is the processing considered necessary to meet a policy aim?</p> <p>Is there a less invasive way to meet the objective (for example, anonymising data, processing less data).</p> <p>Please also specify if this personal data will be sensitive or special category data or relate to criminal convictions or offences</p> | <p>The mandate for collection of data will be reviewed on a regular basis and in line with Covid-19 regulations.</p> <p>Data will be collected from all staff, volunteers, customers and visitors of all ages as detailed in the guidance. Where possible, the information will be taken from an individual or lead person, normally an adult, when booking or arriving at premises. Further guidance is being prepared relating to handling of data relating to children or vulnerable people.</p> <p>If it is found that a substantive portion of the data being provided to the contact tracing service is not accurate, further consideration will be given to the accuracy of information collected and how this can be monitored. This may require separate or amended legislation.</p> <p>Yes</p> <p>Data anonymisation is not possible. In order to achieve the required outcome identifiers such as names and contact details require to be available. The data that will be collected is minimal and in line with GDPR Principle (c)</p> <p>Given the scope of the proposed mandate there will be no sensitive or special category data collected.</p> <p>Data collection would only be relevant for the purposes of contact tracing to know that an individual was located at a setting at the same time as someone who has tested positive, not why they were there. Customer health information will not be requested or stored.</p> |
| 3 | <p>Will your proposal engage any rights under ECHR, in particular Article 8 ECHR? How will the proposal ensure a balance with Article 8 rights? If the proposal</p> | <p>The proposal does not mandate individuals to provide contact details if they do not wish to. However, in order for members of the public to play their part in this required public health measure,</p> |

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| | interferes with Article 8 rights, what is your justification for doing so – why is it necessary? | <p>provision of minimal details is strongly encouraged.</p> <p>The proposal is necessary on public health grounds, to assist with contact tracing and cut off possible chains of virus transmission during the on-going pandemic.</p> |
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| 4 | <p>Will the proposal require regulation of :</p> <ul style="list-style-type: none"> <input type="checkbox"/> technology relating to processing <input type="checkbox"/> behaviour of individuals using technology <input type="checkbox"/> technology suppliers <input type="checkbox"/> technology infrastructure <input type="checkbox"/> information security | No |
| 4a | Please explain if the proposal will have an impact on the use of technology and what that impact will be. | <p>The proposal does not specify or mandate the use of any technology to process the personal data.</p> <p>The proposal does not mandate the introduction of new digital systems to process the personal data.</p> <p>Most venues will have existing systems to manage reservations that can be used for this purpose.</p> <p>A line will be included in the guidance advising that venues introducing new systems to manage contact details must conduct their own assurance and risk management activities, including a data protection impact assessment if required under the GDPR.</p> |
| 4b | Will the proposal require establishing or change to operation of an established public register (e.g. Accountancy in | No |

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| | Bankruptcy, Land Register etc.) or other online service/s? | |
| 5 | Please provide details of whether the proposal will involve the collection or storage of data to be used as evidence or use of investigatory powers (e.g.in relation to fraud, identify theft, misuse of public funds, any possible criminal activity, witness information, victim information or other monitoring of online behaviour) | N/A |
| 6 | Would the proposal have an impact on a specific group of persons e.g. children, vulnerable individuals, disabled persons, persons with health issues, persons with financial difficulties, elderly people? (Please specify) In what way? | <p>Principally no, although the means by which data may be collected may disproportionately affect certain groups e.g. via digital exclusion. It is envisioned that businesses will be advised via guidance to ensure that an alternative to digital data collection is available at all times.</p> <p>It will not be a requirement on individuals to provide their contact details if they choose not to. The onus remains on the premises to actively ensure data is recorded if the individual chooses to partake.</p> |
| 7 | <p>Will the Bill necessitate the sharing of personal data to meet the policy objectives? For example</p> <p>If so, does the Bill make appropriate provision to establish a legal gateway to allow for sharing personal data Please briefly explain what the gateway will be and how this then helps meet one of the lawful bases under Article 6 of the GDPR.</p> | <p>Yes.</p> <p>In order to assist in the containment of the virus, the regulations will mandate the requirement for premises to collect data from customers, and to share this with public health officials if requested.</p> <p>This will only be in the unlikely event there is a cluster of coronavirus cases linked to the business. Information will be transferred securely to the contact tracing service who will use the data to contact trace those who were in the establishment at the same time as the</p> |

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| | | <p>positive case, and will provide guidance and support to those who may be advised to self-isolate.</p> <p>Under these proposals we are proposing to introduce a legislative requirement to compel establishments to collect and share the data outlined in the Privacy Notice.</p> <p>By mandating premises to collect and share the data in this way, a legal gateway is established and the lawful basis is “legal obligation”.</p> |
| <p>8</p> | <p>Is there anything potentially controversial or of significant public interest in the policy proposal as it relates to processing of data? For example, is the public likely to view the measures as intrusive or onerous?</p> <p>Are there any potential unintended consequences with regards to the provisions e.g. would the provisions result in unintended surveillance or profiling.</p> <p>Have you considered whether the intended processing will have appropriate safeguards in place? If so briefly explain the nature of those safeguards and how any safeguards ensure the balance of any competing interests in relation to the processing.</p> | <p>In mandating the data collection and sharing with the contact tracing service, it may be the result that customers that refuse to give contact details can, in effect, be refused access to the premises. This will not be covered in legislation and would be at the discretion of the premises. Updated guidance will make this clear, alongside advice on mitigating measures such as noting the numbers of those not giving contact details, to allow contact tracers to understand the existence of possible other chains of transmission which they cannot track.</p> <p>No</p> <p>The provision of template privacy notices, and novel poster-based privacy notices, are intended to be used by settings to explain to members of the public why the data is being collected, and how it will be used for the purposes of contact tracing, if the data is requested by Test and Protect. These have already been made available and will be updated to reflect the regulations.</p> |

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| | | Guidance already exists to reflect the current voluntary system in operation, and this guidance will be updated to reflect any changes required as part of the implementation of a mandatory regime. |
| 9 | Are there consequential changes to in other legislation that need to be considered as a result of the proposal or the need to make further subordinate legislation to achieve the aim? | No – it will all be in the Regulations which will be made. |
| 10 | Will this proposal necessitate an associated code of conduct? If so, what will be the status of the code of conduct (statutory, voluntary etc.)? | N/A |

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| 11 | Do you need to specify a data controller/s? | Once customer details have been gathered, the business will be the data controller. |
| 12 | <p>Have you considered whether the intended processing will have appropriate safeguards in place, for example in relation to data security, limitation of storage time, anonymisation? If so briefly explain the nature of those safeguards</p> <p>Please indicate how any safeguards ensure the balance of any competing interests in relation to the processing.</p> | <p>Advice has been given to premises regarding safeguards.</p> <p>Businesses have been instructed that data should only be used for the purposes of contact tracing, and must not be shared with individuals or organisations other than NHS Scotland. Statutory partners, such as EHOs, may within their enforcement capacity request to see the data only to establish its existence, and not to process it in any other way.</p> <p>All customer data must be stored securely.</p> <p>Records should be held for at least 21 days from the date of each separate visit of a staff member or customer. This will ensure full cover of the typical incubation period and additional time during which people may be infectious whether after symptom onset or not to allow for testing and contact tracing.</p> |

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| | | <p>After 21 days, data must be disposed of in a secure manner if no longer required.</p> <p>If paper registers are being used, then pages can be removed daily after the retention period is over and destroyed through secure shredding or other destructive process. Where IT systems are used, establishments will need to ensure that data provided for Test and Protect and other epidemiological purposes are not retained beyond the stated period and do not become part of a wider marketing or other resource. If asked to provide details to the contact tracing service, premises must do this securely and safely, either by phone directly with the contact tracer if numbers are appropriately small, or by secure digital transfer provided by the contact tracing service.</p> <p>If data is shared with NHS Scotland on the basis of individuals being identified as at risk of being close contacts by the Test and Protect service, NHS Scotland may need to retain the data for longer than the 21 day period and will hold the data in line with NHS information governance processes.</p> |
| 13 | <p>Will the processing of personal data as a result of the proposal have an impact on decisions made about individuals, groups or categories of persons? If so, please explain the potential or actual impact. This may include, for example, a denial of an individual's rights or use of social profiling to inform policy making.</p> | <p>No. The information will be collected, stored and shared solely for the purpose of assisting the Test and Protect strategy in relation to the coronavirus public health epidemic.</p> <p>Consideration must also be given to the accuracy of the data collected.</p> |
| 14 | <p>If the proposal involves processing, do you or stakeholders have any relevant comments about mitigating any risks identified in the DPIA including any costs or options, such as alternative measures.</p> | <p>Consideration will be given to developments regarding relevant technical solutions that may allow our future approach to the collection of contact details to be adapted to include the use of digital solutions such as QR code-scanning apps.</p> |

Data Protection Officer (DPO)

The DPO may give additional advice, please indicate how this has been actioned.

| Advice from DPO | Action |
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| <p>The limitations on what the legislation is covering is a considered policy choice driven by the compliance stats available and advice on proportionality from legal.</p> | <p>N/A</p> |
| <p>The argument appears to be that if there is no evidence of a need (i.e. venues do appear to be sharing if needed) then we should not legislate and the problem is with venues not collecting data. The data protection point on transparency is met by the privacy notice that says sharing will take place if instigated by T&P.</p> | <p>N/A</p> |
| <p>I agree that the measures are limited and I would also like to see the legislation be time limited with review periods, sharing with NHS should be mandated in it as this is the purpose of processing is T&P – we are not collecting data for any other purpose.</p> | <p>These regulations will be reviewed every 3 weeks as part of the standard review cycle for The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020.</p> |
| <p>I also think that providing proof of ID should be considered as otherwise how can venues demonstrate that they are meeting the accuracy principle or meet the subject rights (even if only object will apply in this case).The SG obligation when bringing in legislation is not to create a position for others where they are caused to breach DP laws to implement legislation.</p> | <p>Policy officials will consider this advice from the DPO and in light of experience of the operation of these measures consider then introduction of and checking of, proof of ID into updated guidance for the hospitality sector.</p> |

I confirm that the impact of mandatory collection of customer, visitor, staff and volunteer contact details by premises to assist contact tracing as part of NHS Scotland's Test and Protect has been sufficiently assessed in compliance with the requirements of the GDPR

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| Name and job title of a IAO or equivalent | Date each version authorised |
| John Nicholson – Deputy Director | 28 August 2020 |

ANNEX A

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.

PUBLIC HEALTH

The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 11) Regulations 2020

| | | |
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| <i>Made</i> | - - - - | 2020 |
| <i>Laid before the Scottish Parliament</i> | | 2020 |
| <i>Coming into force</i> | - - | 14th August 2020 |

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

These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 11) Regulations 2020 and come into force on 14 August 2020.

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

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

In regulation 4(3) (requirement to take measures to minimise risk of exposure to coronavirus), omit the definition of “premises”.

(1) 2020 c.7.

(2) S.S.I. 2020/103, relevantly amended by S.S.I. 2020/236.

After regulation 4 insert—

“Requirement to collect and share information to minimise risk of spread of coronavirus

4ZA.—(1) For the purposes of minimising the risk of the incidence and spread of coronavirus, this regulation applies to a person responsible for premises to which paragraph (2) applies.

(2) The premises to which this paragraph applies are restaurants, cafes, bars, public houses and hotels in which food or drink ~~are~~is sold for consumption on the premises.

(3) The persons mentioned in paragraph (1) must take measures to—

- (a) obtain and record visitor information,
- (b) record visitor information in a filing system suitable for recording, storing and retrieving such information,
- (c) retain visitor information for a period of at least 21 days from the date on which the visit occurred.

(4) The person mentioned in paragraph (1) must provide visitor information in writing to a public health officer, as soon as reasonably practicable but in any event within 24 hours, if so requested by the public health officer for the purposes of—

- (a) preventing danger to public health as a result of the spread of infection or contamination with coronavirus, or
- (b) monitoring the spread of infection or contamination with coronavirus or the incidence of coronavirus disease.

(5) In this regulation—

“contact details” means the name and telephone number of one member of each household visiting the premises,

“a person responsible for premises to which paragraph (2) applies” includes the owner, proprietor and manager of the premises,

“public health officer” has the meaning given in paragraph 3(2)(b) of schedule 21 of the Coronavirus Act 2020,

“visitor information” means contact details, date of visit and arrival time in relation to a person who, for any purpose, enters a premises together with the number of members of the household visiting the premises.”

In regulation 10 (interpretation), after the definition of “a person who is responsible for carrying on a business” insert—

““premises” includes any building or structure and any land,”.

A member of the Scottish Government

St Andrew’s House,
Edinburgh

At [] on [] 2020

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(3) inserts a new regulation 4ZA into the principal regulations. It requires a person responsible for certain premises to collect information about visitors to those premises, including the visitor’s contact details and the date and time of arrival. The regulation makes provision for the recording, storage and retrieval of the visitor information in a system suitable for that purpose and for the retention period of the information. Paragraph (4) further provides for the visitor information to be provided by the person responsible for the premises to public health officers, if so requested, within a certain time period and for certain purposes.

Regulation 2(2) and (4) are consequential to the insertion of new regulation 4ZA, with the effect of defining “premises” for the purpose of the principal regulations.

ANNEX B

1.1 Collection of personal data - privacy notice

For the health and safety of the customers and staff in these premises, we must collect the name and contact details of visitors to these premises to support NHS Scotland's Test & Protect. This information will be used to enable NHS Scotland to contact you should you have been in the premises around the same time as someone who has tested positive for coronavirus. Contacting people who might have been exposed to the virus is an important step in stopping the spread.

1.1.1 Why do we need to collect this data?

As stated above, the purpose for which we are processing your personal data is to assist with NHS Scotland's Test and Protect strategy in relation to the coronavirus public health epidemic.

This will involve the gathering and, when required, the sharing of information with NHS Scotland as the responsible body for Test and Protect. Your data will not be used for any other purpose. In order to assist in the containment of the virus, we will only share your data when it is requested directly by NHS Scotland.

This will only be in the unlikely event there is a cluster of coronavirus cases linked to the venue. Information will be transferred securely to NHS National Services Scotland who will use the data to contact trace those who were in the establishment at the same time as the positive case, and will provide guidance and support to those who may be advised to self-isolate. For further information on the NHS Scotland Test and Protect strategy please visit the [NHS website](#).

1.1.2 What data will we collect?

Along with the date and time of your arrival and departure, we will collect the following personal data if applicable:

- your name; and
- contact telephone number.

If you do not have a telephone number, you have the option to provide:

- a postal address; or
- an email address.

Where multi-household groups are present, we will collect contact details from a 'lead member' of each household, along with the number in attendance from each household within the group.

1.1.3 What is our lawful basis for collecting and sharing this data?

Under data protection law, GDPR Article 6(1), we have a number of lawful bases that allow us to collect, process and share personal information. In this case, the lawful basis for processing your data is 'legal obligation'.

In short, we are obliged to process the personal data to comply with the law which requires us to collect your data and share it with public health officers if they request it under The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 11) Regulations 2020.

1.1.4 How long will we retain the data?

Your personal data, collected for the purposes stated in this privacy notice and will be held by us for at least 3 weeks (21 days). All personal data will be held and disposed of in a safe and secure manner.

1.1.5 Your rights

As defined in the data protection law, GDPR Article(s) 12-23, you have the following rights:

- The right to be informed about the collection and use of your personal data. This is outlined above.
- The right to access the information we hold about you. Also known as Subject Access Request (SAR).

- The right to request rectification of any inaccurate personal data we hold about you. In certain circumstances exemptions to these rights may apply.

Further information is available on the [Information Commissioner's Office website](#).

1.1.6 Do you have a complaint?

If you consider that your personal data has been misused or mishandled by us, you can raise this with the data controller. In this instance, the data controller is the manager of this venue. If you remain dissatisfied you can make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at:

Information Commissioner's Office Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
0303 123 1113
casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.