

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (PROTECTED AREAS AND LINKED CHILDCARE HOUSEHOLDS) (AMENDMENT) REGULATIONS 2020

2020 No. 1019

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Department of Health and Social Care and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument makes provision for the purpose of enabling a number of public health measures to be taken to reduce the public health risk posed by the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), which causes the disease Covid-19, in Oadby and Wigston, Wolverhampton, Bradford, Kirklees, Calderdale, Warrington, Halton, Blackburn with Darwen, Burnley, Chorley, Fylde, Hyndburn, Lancaster, Pendle, Preston, South Ribble, Ribble Valley, West Lancashire, Liverpool, Sefton, Knowsley, St Helens, Wirral, and Wyre.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument is made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22). This instrument is made without a draft having been laid and approved by a resolution of each House of Parliament. It is the opinion of the Secretary of State that, by reason of urgency, it is necessary to make the instrument without a draft being so laid and approved so that public health measures can be taken in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The instrument comes into force at 00:01 a.m. on 22nd September 2020 and will be published on www.legislation.gov.uk on 21st September 2020. This instrument ceases to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament. The substantive regulations this instrument amends expire at the end of the period of six months beginning on the day on which they came into force.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 The entire instrument applies to England only.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

5.1 The Secretary of State for Health and Social Care Matt Hancock MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Health Protection (Coronavirus, Restrictions) (Protected Areas and Linked Childcare Households) (Amendment) Regulations 2020 are compatible with the Convention rights.”

6. Legislative Context

6.1 The Public Health (Control of Disease) Act 1984 (the “1984 Act”) and regulations made under it provide a legislative framework for health protection in England and Wales.

6.2 Part 2A of the 1984 Act, as inserted by the Health and Social Care Act 2008, provides a legal basis to protect the public from threats arising from infectious disease or contamination from chemicals or radiation, and includes powers to impose restrictions or requirements on people, and in relation to things and premises. Overall, the amended 1984 Act sets out a framework for health protection which requires much of the detailed provisions to be delivered through regulations.

6.3 Section 45C of the 1984 Act provides a power for the appropriate Minister to make regulations to prevent, protect against, control or provide a public health response to the incidence or spread of infection or contamination in England and Wales. The threat can come from inside or outside England and Wales.

6.4 A number of regulations under section 45C have been made, including regulations relating to Covid-19, such as the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations (S.I. 2020/684) (the “National Regulations”), the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) Regulations 2020 (S.I. 2020/822) (the “Blackburn with Darwen” Regulations), the Health Protection (Coronavirus, Restrictions) (Leicester) (No 2), Regulations 2020 (S.I. 2020/824) (the “Leicester Regulations”), the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020 (S.I. 2020/828) (the “North of England Regulations”, the Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020 (S.I. 2020/988) (the “Birmingham, Sandwell and Solihull Regulations”), the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020 (S.I. 2020/974) (the “Bolton Regulations”) and the Health Protection (Coronavirus, Restrictions) (North East of England) Regulations 2020 (S.I. 2020/1010) (the “North East of England Regulations”).

6.5 This instrument amends other instruments to impose restrictions by including named localities within the defined geographical areas or “protected areas” in the instruments mentioned above.

6.6 Regulation 2(1) amends the Leicester Regulations (S.I. 2020/824) to include the area of Oadby and Wigston Borough Council in the protected area for the purposes of those Regulations.

6.7 Regulation 2(2) amends the North of England Regulations (S.I. 2020/1010) to include all wards in Calderdale Metropolitan Borough Council, Kirklees Metropolitan Council and City of Bradford Metropolitan District Council in the protected area for the purposes of Part 2 of those Regulations.

- 6.8 Regulation 2(3) amends the Birmingham, Sandwell and Solihull Regulations (S.I. 2020/988) to include the area of the City of Wolverhampton Council in the protected area for the purposes of those Regulations.
- 6.9 Regulation 2(4) amends the title of the Health Protection (Coronavirus, Restrictions) (North East of England) Regulations 2020 (S.I. 2020/1010) to the Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020. The title is amended to reflect the expanded geographical area to which this instrument applies, covering local authorities in the North East and North West of England.
- 6.10 Regulations 2(4) also amends the Health Protection (Coronavirus, Restrictions) (North East of England) Regulations 2020 (S.I. 2020/828) to include the areas of Blackburn with Darwen Borough Council, Burnley Borough Council, Chorley Borough Council, Fylde Borough Council, Halton Borough Council, Hyndburn Borough Council, Knowsley Metropolitan District Council, Lancaster City Council, Liverpool City Council, Pendle Borough Council, Preston City Council, Ribble Valley Borough Council, Rossendale Borough Council, Sefton Borough Council, South Ribble Borough Council, , St Helens Borough Council, Warrington Borough Council, West Lancashire Borough Council, Wirral Metropolitan District Council and Wyre Borough Council in the protected area for the purposes of those Regulations.
- 6.11 Regulation 3 enables “informal childcare” in private dwellings between members of two households that have agreed to be linked childcare households. Informal child is defined as any form of care for a child aged 13 or under provided by someone other than a person providing childcare in their role as a person registered under Part 3 of the Childcare Act 2006, and includes education for a child aged 13 or under and any other supervised activity for a child aged 13 or under by a linked childcare household. This is providing that neither the household with a child under the age of 13 nor the second household are linked with any other household for the purpose of providing informal childcare for the purpose of these Regulations or any other Regulations made under the Public Health (Control of Disease) Act 1984; and all the adult members of both households agree. These provisions are inserted into the North of England Regulations, the Birmingham, Sandwell and Solihull Regulations, the Leicester Regulations, the Bolton Regulations and the North East of England Regulations.
- 6.12 Regulation 4 provides that any reference in any legislation to the Health Protection (Coronavirus, Restrictions) (North East of England) Regulations 2020 is to be treated as a reference to the Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020.
- 6.13 Regulation 5 makes further amendments to the North of England Regulations to remove references to the Blackburn with Darwen and Bradford Regulations and to omit paragraphs 4 to 8 of the Schedule which should have been removed when the Bolton Regulations were made.
- 6.14 Regulation 6 revokes the following instruments:
- the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) Regulations 2020;
 - the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) (Amendment) Regulations 2020;
 - the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) (Amendment) (No. 2) Regulations 2020

- the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) (Amendment) (No. 3) Regulations 2020

6.15 Regulation 7 provides that notwithstanding the revocation of the Blackburn with Darwen Regulations, they continue in force, as amended in relation to any offence committed under the first Regulations before these Regulations came into force.

7. Policy background

What is being done and why?

- 7.1 On 21 March 2020, the Government took legislative measures with the making of the Health Protection (Coronavirus, Business Closure) Regulations 2020 (S.I. 2020/327). This decision sought to prevent the community transmission of disease, severe acute respiratory coronavirus 2 (SARS-CoV-2). In order to limit the further spread of that disease, the Prime Minister announced further restrictions which came into force on 26 March 2020 through The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020, prohibiting people from leaving the place they live except for very limited purposes and banning public gatherings of more than two people. In line with Step 2 and 3 of the Government's recovery strategy for the Covid-19 pandemic, several amendments were made to these Regulations in June 2020, before they were revoked and replaced on July 4 through the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations. These Regulations have since been amended several times (11 and 13 July – S.I. 2020/719, 25 July – S.I. 2020/788, 15 August – S.I. 2020/863, 28 August – S.I. 2020/907, 14 September 2020 – S.I. 2020/986).
- 7.2 On 14 September 2020, the Health Protection (Coronavirus, Restrictions) (England) (No. 2) (Amendment) (No.4) Regulations 2020 came into force. The regulations prohibit people who are not in the same household (or who are not in a linked household) meeting in a group larger than six (unless one of the exceptions set out in the law apply) across England.
- 7.3 This instrument enables linking of households for informal childcare purposes in the protected areas where household mixing in private dwellings is currently prohibited. This is in addition to existing arrangements for linked households which are known more widely as support bubbles. This widens access to childcare for working families, including key workers, particularly those working shift patterns where formal childcare is more challenging to arrange.
- 7.4 Data shared by Public Health England and the Joint Biosecurity Centre indicated that the incidence rates of COVID-19 in the protected areas were significantly above the national average, and the number of cases was increasing. The data and evidence indicated that household transmission, either within the household or due to transmission between households, as well as social mixing constituted a high proportion of COVID-19 transmissions with people travelling across the protected area for work and other purposes. This instrument places restrictions on household mixing in private dwellings and gardens in Oadby and Wigston, Wolverhampton, all the wards in Bradford, Kirklees, Calderdale, Warrington, Halton, all the wards in Blackburn with Darwen, Burnley, Chorley, Fylde, Hyndburn, Lancaster, Pendle, Preston, South Ribble, Ribble Valley, West Lancashire, Liverpool, Sefton, Knowsley, St Helens, Wirral, and Wyre. Although Lancaster and the Ribble Valley's incidence rates are lower than other parts of the protected area, these local authorities were

considered alongside the other local authorities in Lancashire given their close proximity and interconnectedness. In Kirklees, Calderdale and Bradford, incidence rates across those wards previously removed from restrictions have increased and as a result, the entire territory covered by the Calderdale Metropolitan Borough Council, Kirklees Metropolitan Council and City of Bradford Metropolitan District Council is being included in the protected area to manage the risk of transmission in households.

- 7.5 The amendments made by this instrument places additional restrictions on businesses in Warrington, Halton, Blackburn with Darwen, Burnley, Chorley, Fylde, Hyndburn, Lancaster, Pendle, Preston, South Ribble, Ribble Valley, West Lancashire, Liverpool, Sefton, Knowsley, St Helens, Wirral, and Wyre. This instrument requires certain businesses to only sell food or drink for consumption on the premises if it is served to customers sitting at a table. The instrument also introduces restrictions on these local authorities on the operating hours of certain entertainment, leisure and hospitality businesses so that they may not operate between 22:00 and 5:00, with certain exemptions. This is designed to limit social mixing and subsequent close contact, which increases the spread of the virus.
- 7.6 In Blackburn with Darwen, incidence rates across those wards previously removed from restrictions have increased and as a result, the entire territory covered by Blackburn with Darwen Borough Council will be included within the protected area and subject to additional business restrictions and measures on household mixing in private dwellings. The Blackburn with Darwen and Bradford Regulations are being revoked. As a result of the amendments made by this instrument, Blackburn with Darwen are included in the protected area of the North East and North West of England Regulations and Bradford is included within the protected area covered by the North of England Regulations.
- 7.7 These measures intend to reduce the transmission of Covid-19 in the protected area, particularly amongst younger people (amongst whom incidence rates are high), such that local incidence rates decline to a level where public health advice is that the local easing of restrictions can realign with measures in the rest of England.
- 7.8 These Regulations are supported by Government guidance, providing advice to owners/operators on working safely across all affected sectors, as well as providing information to the public about how to stay safe and reduce the transmission risk.

8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

- 9.1 Not applicable.

10. Consultation outcome

- 10.1 There has been no public consultation in relation to this instrument.

11. Guidance

- 11.1 The Government has published guidance in relation to Covid-19 at www.gov.uk/coronavirus and this guidance will include information in relation to

closures and restrictions on movements and gatherings in Oadby and Wigston, Wolverhampton, Bradford, Kirklees, Calderdale, Warrington, Halton, Blackburn with Darwen, Burnley, Chorley, Fylde, Hyndburn, Lancaster, Pendle, Preston, South Ribble, Ribble Valley, West Lancashire, Liverpool, Sefton, Knowsley, St Helens, Wirral, and Wyre in England under this instrument.

12. Impact

- 12.1 This instrument is a temporary provision as part of the Government's response to Covid-19, lasting only six months. As this instrument will cease to have effect after less than 12 months, a Regulatory Impact Assessment is not required and would be disproportionate.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 This instrument amends the other Regulations and the expiry and review provisions set out in those instruments will continue to apply: namely those regulations cease to have effect at the end of the period of six months beginning on the day they came into force. Prior to its expiry, the Secretary of State must review the need for restrictions and requirements imposed by those Regulations every 14 days. The review and expiry provisions in these instruments will continue to apply.

15. Contact

- 15.1 Tim Charlton at the Department for Health and Social Care; Email: tim.charlton@dhsc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Paul McCloghrie, Director at the Department of Health and Social Care; Email: Paul.McCloghrie@dhsc.gov.uk can confirm that this explanatory memorandum meets the required standard.
- 15.3 Edward Argar MP, Minister of State at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.