

## EXPLANATORY MEMORANDUM TO

### THE HEALTH PROTECTION (CORONAVIRUS, LOCAL COVID-19 ALERT LEVEL) (VERY HIGH) (ENGLAND) (AMENDMENT) REGULATIONS 2020

2020 No. 1131

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the 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 certain areas to be moved from Local Covid Alert Level High to Local Covid Alert Level Very High enabling the higher tier public health measures provided for in the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 to be applied to these areas.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 The 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 this 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).
- 3.2 This instrument was made on 16 October 2020 and was published on [www.legislation.gov.uk](http://www.legislation.gov.uk) later that day. The regulations will come into force on 17 October 2020, with the exception of regulation 3(7) for the purpose of inserting Schedule 2A, and paragraph 1 of that Schedule, which will come into force on Monday 19 October. This instrument will cease to have effect at the end of the period of 28 days beginning with the day on which it is made unless, during that period, it is approved by a resolution of each House of Parliament.

##### *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)*

- 3.3 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, Local COVID-19 Alert Level) (Very High) (England) (Amendment) Regulations 2020 are compatible with the Convention rights”

## **6. Legislative Context**

- 6.1 This instrument is made under section 45C of the Public Health (Control of Disease) Act 1984 (the “1984 Act”) to enable a number of public health measures to be taken for the purpose of reducing the public health risks posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).
- 6.2 In accordance with section 45R of the Act, the Secretary of State is of the opinion that, by reason of urgency, it is necessary to make this instrument without a draft having been laid before, and approved by a resolution of, each House of Parliament.
- 6.3 The instrument moves various geographical areas from being subject to the restrictions in the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 (referred to as an area being in ‘Local Alert Level High’) to being subject to the restrictions in the Very High Local Alert Level Regulations (referred to as an area being in ‘Local Alert Level Very High’). Areas allocated as being in Local Alert Level Very High will be subject to regular review and may move to being in Local Alert Level Medium or Local Alert Level High accordingly. The instrument also makes some amendments to the restrictions contained in the Very High Local Alert Level Regulations, both generally and in some instances for specified areas.

## **7. Policy background**

*What is being done and why?*

### Local Covid Alert Levels

- 7.1 The introduction of The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020, the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020, and the Very High Local Alert Level Regulations on 12 October 2020 rationalised local interventions.
- 7.2 The framework consists of three local Alert Levels, with Local Covid Alert Level Medium consisting of the national measures that were in place prior to the introduction of the Local Covid Alert Levels and representing the minimum level of restrictions in place across England at that time. Local Covid Alert Level High is triggered in geographical areas where there is a rise in transmission, or nationally when there has been a rise in transmission which cannot be contained through other, localised means. Local Covid Alert Level Very High is triggered in geographical areas or nationally when Local Covid Alert Level High measures have not contained the spread of the virus or where there has been a significant rise in transmission. The local areas allocated to Local Covid Alert Levels High must be reviewed at least every two weeks and the restrictions in the Very High Local Alert Level Regulations must be reviewed at least every 28 days.

- 7.3 This approach enables a coherent set of interventions across England, making it easier to communicate what restrictions apply in each area to the public, which will increase the likelihood of compliance and the effectiveness of social distancing measures. It will also allow the public to understand the consequences of non-adherence to measures (i.e., moving to a higher alert level) and plan for what they will do differently if the Local Covid Alert Level of their area changes.

Approach of 'baseline' Local Covid Alert Level Very High measures with additional, optional closures

- 7.4 This instrument amends Very High Local Covid Alert Level Regulations to adjust some of the restrictions that are applied by them across all areas within Local Alert Level Very High. This includes:
- adjusting the number of people that can be in a 'qualifying group' (where applicable) so that they can only mix as part of a household (or linked household) when they are taking part in a gathering that is in a place that where gatherings would be limited to one person, one household or one linked household if the qualifying group provisions did not apply;
  - expanding the provisions for informal childcare so that they apply in all places that there is a restriction on gatherings of two or more people; and
  - extending the exemption for death bed and care visits that apply indoors to also apply in private outdoor settings; and
  - expanding the provisions in relation to businesses and services that are located within a closed business/service but which are in separate premises to make clear that they are allowed to operate.
- 7.5 This instrument also makes clarifications in respect of public outdoor space (e.g., parks) and private outdoor spaces (e.g., beer gardens). In Local Covid Alert Level Very High areas, outdoor private spaces have the same mixing restrictions as indoors – i.e., household / bubble only, not rule of 6.
- 7.6 This instrument also makes provision for specific business closure requirements to apply to specified areas that are within the Local Alert Level Very High, as detailed below.

Areas moving from Local Covid Alert Level High to Local Covid Alert Level Very High

- 7.7 In response to recent data, this instrument moves specified local authority areas within Lancashire and The Liverpool City Region from Local Covid Alert Level High to Local Covid Alert Level Very High.
- 7.8 In addition to the baseline measures in Very High regulations, closure requirements are also imposed on the specified local authority areas in Lancashire in relation to:
- Betting shops and adult gaming centres;
  - Casinos;
  - Bingo halls;
  - Soft play areas (with the exception for use by the disabled); and
  - Car boot sales.
- 7.9 As a result of the addition of specific local authority areas in Lancashire, these regulations also make amendments to specify which business closure requirements

only apply in the Liverpool City Region, as opposed to in all areas subject to the Very High Local Alert Level Regulations.

## **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 This instrument does not consolidate any legislation.

## **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](http://www.gov.uk/coronavirus) and this guidance will include information in relation to geographic areas subject to closures and restrictions on movements and gatherings under this instrument.

## **12. Impact**

12.1 The instruments that this instrument amends are 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 The approach to monitoring of this legislation is that the instrument ceases to have effect at the end of the period of 28 days beginning with the day on which it is made unless, during that period, the instrument is approved by a resolution of each House of Parliament. Further, the instruments that it amends expire at the end of the period of six months beginning with the day on which they come into force.

14.2 The restrictions under the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 must be reviewed every 28 days starting on 11 November 2020 to ensure that they continue to be necessary for the purposes of preventing, protecting against, controlling or providing a public health response to the incidence or spread of the Coronavirus infection in England. Areas that are part of the Alert Level Very High cease to be under the effect of the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 after 28 days, starting from the date of their inclusion in Schedule 2.

## **15. Contact**

- 15.1 Beatrice Fannon at the Department for Health and Social Care Telephone: 0207 210 6346 or email: [beatrice.fannon@dhsc.gov.uk](mailto:beatrice.fannon@dhsc.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Kevin Dodds Deputy Director for Social Distancing Strategy, at the Department for Health and Social Care can confirm that this explanatory memorandum meets the required standard.
- 15.3 Matt Hancock MP, Secretary of State for Health and Social Care at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.