

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (SELF-ISOLATION AND LINKED HOUSEHOLDS) (ENGLAND) REGULATIONS 2020

2020 No. 1518

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 amends certain requirements for individuals arising from restrictions implemented to manage the public health risk posed by the spread of severe acute respiratory syndrome Coronavirus 2 (SARS-CoV-2) which causes the disease Covid-19. These amendments are justified for the purposes of protecting public health and reducing the individual and economic impact imposed by restrictions used to protect public health.
- 2.2 This instrument reduces the time period for which people are required to self-isolate as a result of having close contact with a person who has Coronavirus 2 (SARS-CoV-2), so that the period ends 10 days rather than 14 days after the relevant start point. The start of the self-isolation period remains the point at which the individual is formally instructed to self-isolate. This instrument also amends the definition of the point from which the 10-day period is counted from the date of exposure to the date after exposure for non-household contacts. This instrument amends the initial trigger from which the 10-period is counted from the date of symptom onset or a test to the date after symptom onset or a test for people who have tested positive for coronavirus and other members of their household. This will apply to all contacts who are isolating at the time of the change.
- 2.3 This instrument also amends the ‘minimum period’ in relation to a household switching its ‘support bubble’ or ‘childcare bubble’ from 14 days to 10 days, in line with the amendment to the self-isolation period. This means that linked households or linked childcare households will be able change the household they are linked with following a period of 10 days in which do not gather as either, respectively linked households or linked childcare households.

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. The urgency is to ensure that the self-isolation requirements imposed on individuals to manage the

public health risk posed by the spread of severe acute respiratory syndrome Coronavirus 2 (SARS-CoV-2) reflect the most up-to-date professional advice on how best to protect public health and prevent the spread of the virus while reducing the individual and economic impact imposed by restrictions used to protect public health.

- 3.2 This instrument was made on 11 December 2020 and will come into force on 14 December 2020 and be published on www.legislation.gov.uk. This 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, this instrument 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, Restrictions) Self-Isolation and Linked Households) (England) 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 infection or contamination can come from inside or outside England and Wales.
- 6.4 A number of regulations under section 45C of the 1984 Act have been made, including regulations relating to severe acute respiratory syndrome Coronavirus 2 (SARSCoV-2).
- 6.5 In accordance with section 45R of the 1984 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.

- 6.6 The Secretary of State in making these Regulations considers that the amendments will achieve the goal of reducing the risk of transmission of Covid-19 and will reduce the individual and economic impact imposed by restrictions used to protect public health.
- 6.7 This instrument reduces the self-isolation period for those who have been notified by the persons specified in the Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020 (S.I. 2020/1045) (the ‘Self-Isolation Regulations’) that they are a close contact of a person who has tested positive for coronavirus, so that the period ends 10 rather than 14 days after the relevant point. It also adjusts the point from which this period – and the equivalent period for positive cases – is counted to the day after the exposure, a test or date they reported onset of symptoms. It also amends the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 (S.I. 2020/1374) (the ‘Tiers Regulations’) to reduce the minimum period in relation to switching bubbles or childcare bubbles from 14 days to 10 days, in line with the change to the length of the self-isolation period.
- 6.8 Regulation 1 of this instrument details the point at which this instrument will come into force: 14 December 2020.
- 6.9 Regulation 2 sets out the period of self-isolation for those who have been notified they are a contact of someone who has tested positive for Coronavirus 2 (SARSCoV-2). In particular, it reduces the period of self-isolation so that it ends 10 rather than 14 days after the relevant start point.
- 6.10 Regulation 2 also provides how the point from which that period is counted, for both those who have tested positive and close contacts of such persons. It sets out that the point from which the period is counted begins on the date after the current trigger date.
- 6.11 This means that for those who have symptoms of Coronavirus 2 (SARSCoV-2) or have tested positive and other members of their household, the self-isolation period finishes at the end of the tenth full day after either the date on which they reported their symptoms began or, if they did not have symptoms, the date on which they took their test. If their symptoms began more than 5 days before their test was administered, the self-isolation period finishes at the end of the tenth full day after the date that is 5 days before their test.
- 6.12 For those who are in close contact, as defined by this instrument, with someone from another household who has tested positive, their self-isolation period finishes at the end of the tenth full day after they were last exposed to the positive case.
- 6.13 Regulation 3 sets out how the new self-isolation period will be applied to those who are already self-isolating.
- 6.14 For those individuals who have tested positive, and are currently self-isolating, the amendments in regulation 2 do not affect the calculation of their self-isolation period. For those who are currently (when these regulations come into force) self-isolating after coming into close contact with someone who has tested positive, both the reduced length of the self-isolation period and the revised method for determining the point from which the period is counted will apply in light of public health advice.
- 6.15 Regulation 4 amends the minimum period of time that linked households and linked childcare households must allow to pass after ceasing to be linked with one another,

and before linking with a new household as set out in the All Tiers Regulations. The minimum period is being amended from 14 days to 10 days.

7. Policy background

What is being done and why?

- 7.1 The amendments to the 1984 Act made by the 2008 Act comprehensively modernised the legal framework for health protection. Part 2A of the 1984 Act, as inserted by the 2008 Act, takes an “all hazards” approach to health protection. Since the 2008 Act came into force, the criterion for action has been based on the potential of an infection or contamination to present significant harm to humans, rather than on specific infectious diseases.
- 7.2 The UK CMOs have reviewed the current available evidence relating to the effectiveness of the self-isolation requirement as a measure for limiting the spread of Coronavirus 2 (SARSCoV-2) and coronavirus disease, COVID-19. Having done so, the UK CMOs consider that the likelihood of being infectious after 10 days of contact with coronavirus is low (albeit higher than at 14 days if all other factors remain the same). There is therefore a strong public health justification that the self-isolation period is shortened from 14 to 10 days based on their view that this is the appropriate balance of risk given the current data and the current stage of the epidemic.
- 7.3 The Government has accepted this recommendation to ensure that the self-isolation requirement remains suitable and proportionate. In addition, a shorter period of self-isolation is considered likely to improve rates of compliance with the self-isolation requirement which, in turn, results in greater public health protection.
- 7.4 This policy also brings the calculation of self-isolation periods for both positive cases and contacts in line with the policy position for other nations in the United Kingdom so that the period lasts until the end of the tenth day after the day of symptom onset, a test or exposure to a positive case. This ensures a consistent approach to calculating self-isolation times across all positive cases and contacts regardless of the time of day at which symptom onset, testing or most recent exposure occurred, therefore making it easier to understand and ensure compliance. This is in line with public health justification.
- 7.5 Enforcement authorities are aware of the new period and will continue to take a proportionate approach to breaches and local authorities and contact tracers will continue to offer support to those in self-isolation.
- 7.6 This instrument also makes amendments to the All Tiers Regulations, which are set out in detail below. They play an important role in slowing or preventing a rise in the rate of reproduction (R) of COVID-19 and reducing the total number of infected people. A number of amendments are now necessary to reduce unnecessary burden on individuals and the economy.

All Tiers Regulations

- 7.7 Regulation 4 amends the minimum period of time that linked households must allow to pass after ceasing to be linked with one another, and before linking with a new household. The minimum period will be amended from 14 days to 10 days.

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, but the intention to make this instrument has been shared with stakeholders.

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 the new self-isolation periods.

12. Impact

12.1 This instrument is a temporary provision as part of the Government's response to Covid-19.

12.2 The self-isolation periods will be reviewed 6 months after the Self-Isolation Regulations, which this instrument amends came into force and will expire 12 months after the Self-Isolation Regulations came into force.

12.3 The bubble arrangements will be reviewed once every 28 days after the All Tier Regulations, which this instrument amends came into force, commencing by 30 December 2020 and will cease to have effect on 2 February 2021.

13. Regulating small business

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

14. Monitoring & review

14.1 The self-isolation periods will be reviewed 6 months after the Self-Isolation Regulations, which this instrument amends came into force and cease to have effect at the end of the period of 12 months after the Self-Isolation Regulations came into force.

14.2 The bubble arrangements will be reviewed once every 28 days after the All Tier Regulations, which this instrument amends came into force, commencing by 30 December 2020 and will cease to have effect on 2 February 2021.

15. Contact

15.1 Sarah Sharp at the Department of Health and Social Care contacttracingpolicy@dhsc.gov.uk can be contacted with any queries regarding this instrument.

15.2 Ben Dyson at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.

15.3 Matt Hancock MP, Secretary of State for Health at the Department of Health and Social Care, can confirm that this explanatory memorandum meets the required standard.