

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ALL TIERS)
(ENGLAND) (AMENDMENT) REGULATIONS 2020

2020 No. 1533

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 the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 to move all 32 London boroughs and the City of London; in Essex: Basildon, Brentwood, Harlow, Epping Forest, Castle Point, Rochford, Maldon, Braintree, Chelmsford – and two unitary authorities Thurrock and Southend on Sea Borough Council; in Hertfordshire: Broxbourne, Hertsmere, Watford and Three Rivers into Tier 3. This is to ensure the right levels of intervention are made in the right places to manage Covid-19 outbreaks and help suppress the virus and keep the R rate below 1. This enables a number of public health measures to be taken to reduce the public health risks posed by the spread in England of acute severe respiratory syndrome coronavirus 2 (SARS-CoV-2) which causes the disease Covid-19.

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) (“the 1984 Act”). This instrument is made without a draft having been laid and approved by a resolution of each House of Parliament. It is of 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 severe and imminent threat to public health which is posed by the incident and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).
- 3.2 This instrument was made on 14 December 2020 and was published on www.legislation.gov.uk later that day. This instrument will come into force on 16 December 2020 and the instrument that this instrument amends will expire on 2 February 2021. 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. The Secretary of State must review whether each area that is part of Tier 3 should continue to be part of that area at least once every 14 days.

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 This entire instrument applies to England only, including English airspace and the English territorial sea.

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, the Rt Hon Matt Hancock MP has made the following statement regarding Human Rights:

“In my view the provisions of the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) (Amendment) Regulations 2020 are compatible with the Convention rights.”

6. Legislative Context

6.1 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 diseases, or contamination from chemicals or radiation. Part 2A 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 of infection or contamination can come from outside England and Wales.

6.4 This instrument is made under section 45C 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 coronavirus 2 (SARS-CoV-2).

6.5 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.

6.6 On 2 December a revised tiering system was introduced by the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 (“the All Tiers Regulations”).

6.7 This instrument amends the All Tiers Regulations and removes the following areas from Schedule 4 Part 1 (Tier 2 areas):

- Essex County Council;
- Hertfordshire County Council;
- Southend on Sea Borough Council;
- Thurrock Borough Council;

- London.

6.8 This instrument inserts the following areas to Schedule 4 Part 1:

- Colchester Borough Council;
- Dacorum Borough Council;
- East Hertfordshire District Council;
- North Hertfordshire District Council;
- Stevenage Borough Council;
- St Albans City and District Council;
- Tendring District Council;
- Uttlesford District Council;
- Welwyn Hatfield Borough Council.

6.9 This instrument adds the following areas to Schedule 4 Part 2 (Tier 3 areas):

East of England:

- Basildon Borough Council;
- Braintree Borough Council;
- Brentwood Borough Council;
- Broxbourne Borough Council;
- Castle Point Borough Council;
- Chelmsford City Council;
- Epping Forest District Council;
- Harlow District Council;
- Hertsmere Borough Council;
- Maldon District Council;
- Rochford District Council;
- Southend-on-Sea Borough Council;
- Three Rivers District Council;
- Watford Borough Council;
- Thurrock Council.

London:

- City of Westminster;
- London Borough of Barking and Dagenham;
- London Borough of Barnet;
- London Borough of Bexley;
- London Borough of Brent;
- London Borough of Bromley;
- London Borough of Camden;
- London Borough of Croydon;
- London Borough of Ealing;
- London Borough of Enfield;

- London Borough of Hackney;
- London Borough of Hammersmith and Fulham;
- London Borough of Haringey;
- London Borough of Harrow;
- London Borough of Havering;
- London Borough of Hillingdon;
- London Borough of Hounslow;
- London Borough of Islington;
- London Borough of Lambeth;
- London Borough of Lewisham;
- London Borough of Merton;
- London Borough of Newham;
- London Borough of Redbridge;
- London Borough of Richmond upon Thames;
- London Borough of Southwark;
- London Borough of Sutton;
- London Borough of Tower Hamlets;
- London Borough of Waltham Forest Council;
- London Borough of Wandsworth Council;
- Royal Borough of Greenwich;
- Royal Borough of Kensington and Chelsea;
- Royal Borough of Kingston upon Thames;
- The Common Council, in respect of the City of London;
- The Sub-Treasurer, in respect of the Inner Temple and the Under Treasurer, in respect of the Middle Temple.

7. Policy background

What is being done and why?

7.1 The three tiers introduced on 2 December were:

- Tier 1: Medium Alert which are the baseline measures nationally and represent the minimum level of restrictions considered appropriate given the current levels of circulation of the virus;
- Tier 2: High Alert, which places further restrictions on social contact aimed primarily at targeting areas of high transmission; and
- Tier 3: Very High Alert, which goes further in restricting social contact to continue to address household to household transmission and places further restrictions and closures on businesses, as a proportionate response to the heightened transmission risk.

7.2 Decisions on which tier will initially apply in each area were announced on 2 December 2020 and primarily based on 5 key indicators:

- Case detection rates in all age groups;

- Case detection rates in the over 60s;
- The rate at which cases are rising or falling;
- Positivity rate (the number of positive cases detected as a percentage of tests taken); and
- Pressure on the NHS, including current and projected occupancy

It was envisaged that areas could move between tiers.

7.3 In response to the latest data showing an exponential rise in confirmed cases as well as rising local hospital admissions in London, parts of Essex and parts of Hertfordshire this instrument makes the following areas subject to Tier 3 restrictions:

- All 32 London boroughs and the City of London;
- In Essex: Basildon, Brentwood, Harlow, Epping Forest, Castle Point, Rochford, Maldon, Braintree, Chelmsford – and two unitary authorities: Thurrock and Southend on Sea Borough Council;
- In Hertfordshire: Broxbourne, Hertsmere, Watford and Three Rivers.

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 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 An Impact Assessment has not been prepared for this instrument because it is a temporary measure which is part of the Government's response to Covid-19. As this instrument will cease to have effect on 2 February 2021 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 All Tiers Regulations must be reviewed by the Secretary of State at least every 28 days.

- 14.2 The allocation of areas into Tier 3 must be reviewed by the Secretary of State every 14 days.
- 14.3 The instrument that this instrument amends ceases to have effect on 2 February 2021 when it will expire.

15. Contact

- 15.1 Christina Head at the Department of Health and Social Care Telephone: 07761328305 or email: christina.head@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 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 and Social Care at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.