

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (LEICESTER)
(AMENDMENT) (NO. 3) REGULATIONS 2020

2020 No. 823

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Department for 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 amending the protected area as defined in regulation 1 of the Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020 (“the Leicester Regulations”), which provided for a number of public health measures to be taken to reduce the public health risks posed by the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Leicestershire, England 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 The instrument is made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22). The Regulations are 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 Regulations without a draft being so laid and approved so that public health measures imposed by the Leicester Regulations continue to be necessary and proportionate 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 Regulations come into force at midnight on 1 August 2020 and were published on www.legislation.gov.uk on 31 July 2020. The Regulations cease 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. Further, the Leicester Regulations provide that they expire at the end of the period of six months beginning with 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 for 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) (Leicester) (Amendment) (No. 3) 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 (“the 2008 Act”), 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) and the Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020 (S.I. 2020/685).

6.5 The Leicester Regulations came into force from 4 July 2020. This instrument required the closure of some businesses and placed restrictions on movement and gatherings from midnight on 4 July 2020 in the protected area in and around Leicester, as defined in Regulation 1 of those Regulations. This instrument was made under section 45C of 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).

6.6 The Leicester Regulations were amended on 18 July 2020, to change the geographical scope of the protected area to the City of Leicester and the Borough of Oadby and Wigston only, following a review by public health experts. They were further amended on 24 July 2020 to permit non-essential retail businesses to re-open in the protected area.

6.7 This instrument amends the definition of “protected area”, as defined in Regulation 1 of the Leicester Regulations to remove the Borough of Oadby and Wigston. The “protected area” under the Leicester Regulations is therefore amended to only consist of the area of Leicester City Council.

6.8 The police and local authorities will continue to monitor compliance with the regulations, including the amendments set out in these Regulations.

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) (England) 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 the disease, further restrictions came into force at 1pm on 26 March 2020 through The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (S.I. 2020/350), prohibiting people from leaving the place they live except for very limited purposes and banning public gatherings of more than two people. These Regulations were then amended several times (22 April, 12 May, 1 June, 15 June) to enable easements to these restrictions to reopen garden centres and non-essential retail, and to relax certain restrictions on stay at home measures, gatherings, and overnight stays.
- 7.2 As part of Step 3 of the Government's recovery strategy for the Covid-19 pandemic, the Government announced the opening of the hospitality sector and further relaxations on gatherings from 4 July through the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations (S.I. 2020/684). These Regulations have since been amended twice to enable the reopening of close contact services, and swimming pools, gyms and indoor sports facilities.
- 7.3 Prior to the laying of this instrument, neither the City of Leicester nor Oadby and Wigston have been able to benefit from these nationwide re-openings as they were subject to restrictions under the Leicester Regulations.
- 7.4 Having considered a range of evidence related to the prevalence and transmission of the virus, the Secretary of State announced on 30 July 2020 that the additional lockdown restrictions would end in the Borough of Oadby and Wigston.

8. European Union (Withdrawal) Act/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.

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 Leicester, England under the Leicester Regulations, as amended by these Regulations.

12. Impact

- 12.1 The Leicester Regulations as amended by this instrument are 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.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the amendment to these regulations permits many businesses, including small businesses, in Oadby and Wigston to re-open. This includes small businesses in hospitality, beauty and fitness, as well as many others.
- 13.3 The basis for the final decision on what action to take to assist small businesses: we judge that there is no such action needed, since one of the effects of the regulations is to assist businesses including small businesses.

14. Monitoring & review

- 14.1 The Leicester Regulations, which these Regulations amend, include a statutory review clause.
- 14.2 The Leicester Regulations cease to have effect at the end of the period of six months beginning on the day on which they came into force. Prior to their expiry, the Secretary of State must review the need for restrictions and requirements imposed by the Leicester Regulations, as amended by these Regulations, every 14 days. The next review will be carried out by 13 August 2020.

15. Contact

- 15.1 The Closures Team at the Ministry of Housing, Communities and Local Government; Email: ClosuresTeam.Covid19@communities.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 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.