

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (NO. 2)
(ENGLAND) (AMENDMENT) (NO. 3) REGULATIONS 2020

2020 No. 863

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the 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 relaxation of certain public health measures which have been taken to reduce the public health risks posed by the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in 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 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 (SARS-CoV-2). The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations (S.I. 2020/684) (the Original Regulations) came into force on 4 July 2020.
- 3.2 This instrument will amend the Regulations for the third time. The previous amendment to the Regulations (The Health Protection (Coronavirus, Restrictions) (No.2) (England) (Amendment) (No. 2) Regulations 2020) permitted the opening of: indoor swimming pools, including indoor facilities at water parks, indoor fitness and dance studios and indoor gyms and sports courts and facilities.
- 3.3 The provisions detailed in this latest amendment to the Regulations (The Health Protection (Coronavirus, Restrictions) (No.2) (England) (Amendment) (No. 3) Regulations 2020) will come into force at 00.01 on 15 August 2020. These Regulations cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made (subject to extension for periods of dissolution, prorogation or adjournment for more than four days) unless, during that period, the instrument is approved by a resolution of each House of Parliament. The Original Regulations will still expire at the end of six months beginning with 4 July 2020 (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)

- 3.4 The entire instrument applies to England and to the territorial water adjacent 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) (No. 2) (England) (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, for use in rare circumstances where voluntary cooperation cannot be obtained. 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 outside England and Wales.
- 6.4 A number of Regulations have been made pursuant to the power in section 45C, including the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations (S.I. 2020/684) which this amendment pertains to.
- 6.5 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 syndrome coronavirus 2 (SARS-CoV-2).
- 6.6 On July 11 and 13 changes were made to enable the reopening of outdoor swimming pools and outdoor water parks; nail bars and salons, tanning booths and salons, spas and beauty salons, massage parlours, tattoo parlours, and body and skin piercing services. A further amendment to the Regulations was made on 25 July to enable the reopening of indoor swimming pools, including indoor facilities at water parks; indoor fitness and dance studios; and indoor gyms and sports courts and facilities.

- 6.7 This instrument makes further changes to Schedule 2 to allow the following businesses and venues to re-open on 15 August 2020:
- a. Casinos
 - b. Indoor skating rinks
 - c. Indoor play areas, including soft play areas
 - d. Bowling alleys
 - e. Conference centres and exhibition halls
- 6.8 This instrument also makes a minor consequential amendment to the Original Regulations to remove the exemption for elite sportspeople to use indoor fitness studios, gyms, sports courts, indoor or outdoor pools, and other indoor leisure centres. This exemption is no longer necessary as such venues are no longer required to close within the Original Regulations.
- 6.9 The police and local authorities will continue to monitor compliance with the Original Regulations, including the amendments set out in this statutory instrument.

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 the disease, further restrictions came into force at 1pm 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. These Regulations were then amended several times (22 April, 12 May, 1 June, 15 June) to enable relaxations of certain public health measures 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. These Regulations have since been amended twice (11 July, 24 July) to enable the reopening of close contact services, and swimming pools, and indoor gyms and sports facilities.
- 7.3 As part of the Prime Minister’s statement on 17 July setting out the next chapter in the UK Government’s COVID-19 recovery strategy, he stated that further relaxations, including bowling alleys, skating rinks, and casinos would reopen, if prevalence remained around or below current levels. On 14 August, the Government announced that COVID-19 Secure mitigations and guidance mean that existing restrictions on these sectors, as well as indoor play areas, are no longer necessary, as part of the staged approach to reopening.
- 7.4 The amendments are supported by detailed 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/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 There are no plans to consolidate the Original Regulations.

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 the relaxations to restrictions and requirements brought about by these amendments.

12. Impact

12.1 This instrument is an amendment to the Original Regulations and as such is a temporary provision forming part of the Government's response to Covid-19, lasting a maximum of six months from the date on which the Original Regulations took effect.

12.2 There is no, or no significant impact on the public sector.

12.3 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 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 instrument does include a statutory review clause.

14.2 This instrument amends the Original Regulations and the expiry and review provisions set out in that instrument will continue to apply: the Original Regulations cease to have effect at the end of the period of six months beginning on 04 July 2020 (the day on which the Original Regulations came into force).

14.3 Prior to its expiry, the Secretary of State must review the need for restrictions and requirements imposed by the Original Regulations every 28 days. The first review was carried out on 31 July 2020 and the next review must be carried out by 28 August 2020.

15. Contact

15.1 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 Emran Mian Director General for Decentralisation and Growth at the Ministry of Housing, Communities and Local Government 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.