

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

2020 No. 875

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 purpose of amending the restrictions and requirements placed on businesses by regulation 4 of and the Schedule to the Health Protection (Coronavirus, Restrictions) (Leicester) (No.2) Regulations 2020 (S.I. 2020/824) (“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), which causes the disease COVID-19, in Leicester.

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 on behalf 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 in Leicester by the Leicester Regulations, which these Regulations amend, 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 19th August 2020 and will be published on www.legislation.gov.uk on 18th August 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 (excluding any recess of more than four days) 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 This 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 Minister 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) (No.2) (Amendment) 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 SARS-CoV-2 and COVID -19, such as the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (S.I. 2020/350), (“the Restrictions Regulations”) , their subsequent amending regulations and the Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 (S.I. 2020/684) (“the No.2 Regulations”) that replaced them, and the Health Protection (Coronavirus, Restrictions) (Leicester) (Regulations) 2020 (S.I. 2020/685) (“the first Leicester Regulations”) and their subsequent amending regulations.

6.5 The first Leicester Regulations came into force from 4th July 2020. That instrument required the closure of some businesses and placed restrictions on movement and gatherings from midnight on 4th July 2020 in the protected area in and around Leicester. That instrument was revoked and replaced by the Leicester Regulations which came into force on 3rd August 2020.

6.6 The Leicester Regulations require the closure of some businesses (listed in the Schedule) and impose restrictions on gatherings in the protected area, and elsewhere for those that live within the protected area. The protected area is defined in the Regulation 1 of that instrument as the area of the Leicester City Council.

6.7 All the Leicester instruments were 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 risk posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

- 6.8 These Regulations (regulation 2) amend the Leicester Regulations so that nail bars and salons, tanning booths and salons, spas and beauty salons, massage parlours, tattoo parlours, body and skin piercing services can reopen and outdoor swimming pools and outdoor facilities at water parks can reopen.
- 6.9 The Leicester Regulations must be reviewed at least once every 14 days. The first review was carried out on 17th August so the next review must be carried out no later than 31st August.

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 that disease, the Prime Minister announced further restrictions which came into force at 1pm on 26th March 2020, prohibiting people from leaving the place they live except for very limited purposes and banning public gatherings of more than two people. The legislative elements of these restrictions were given effect in the Restrictions Regulations.
- 7.2 On 22nd April 2020 and on 12th May 2020, amendments to the Restrictions Regulations came into force to make several minor and clarificatory changes to those regulations which addressed concerns raised by key stakeholders. This included ensuring key services, such as waste and recycling centres, remained accessible where required, and opening garden centres.
- 7.3 In line with Step 2 of the government's recovery strategy for the Covid-19 pandemic, several amendments were made in June 2020. This included reopening all non-essential retail, except for businesses and venues where the transmission risk was still too high, as well as outdoor areas and animal attractions. The stay at home prohibition in Regulation 6 in the Restrictions Regulations was also removed, with a relaxation of the restrictions on gatherings and overnight stays for single occupancy households.
- 7.4 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 from 4th July 2020. The Prime Minister also announced on 23rd June 2020 further relaxations in relation to gatherings to come into force in parallel. These further relaxations are possible due to the continued fall in transmission rates and decreasing rates of hospitalisation and fatalities. The Chief Medical Officers have downgraded the UK's Covid-19 Alert Level from four to three, meaning that we are no longer facing a virus spreading exponentially, though it remains in general circulation. The Prime Minister noted that if rates increased again, relaxations would be reversed as appropriate.
- 7.5 The No. 2 Regulations, which replaced the Restrictions Regulations, came into force on 4th July 2020. The No. 2 Regulations have been amended several times on different dates to enable more venues and businesses to reopen.
- 7.6 In response to the high number of positive Covid-19 cases in Leicester in June 2020, the government announced a local lockdown in order to limit the further spread of the disease. The first Leicester Regulations came into force on 4th July 2020, imposing

restrictions on those who lived within the Leicester protected area. The restrictions in the No. 2 Regulations do not apply to the Leicester protected area.

7.7 Following reviews by public health experts, the scope of the protected area covered by the first Leicester Regulations was gradually narrowed, removing all areas outside of the City of Leicester and the Borough of Oadby and Wigston on 18 July, and removing the Borough of Oadby and Wigston on 1 August. Following further review, a decision was also made to open additional businesses and venues in Leicester from 3 August, in line with the national changes of 4 July. As these changes were quite substantial, the first Leicester Regulations were revoked and replaced by the Leicester Regulations, which now contain the restrictions and requirements in relation to gatherings and business closures for the protected area of the city of Leicester.

7.8 As the number of positive Covid-19 cases in Leicester has declined since the first regulations were made, this instrument amends the Leicester Regulations to allow certain businesses and venues to reopen in the Leicester protected area.

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 gatherings in Leicester and for people who live in Leicester under these regulations.

12. Impact

12.1 This instrument is 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 formal 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 final decision on what action to take to assist small businesses is that no such action is needed, since the government has provided a number of financial support schemes.

14. Monitoring & review

14.1 This instrument does not include a statutory review clause.

- 14.2 The instrument amends the Leicester Regulations and the review and expiry provisions in that instrument will continue to apply. The Leicester Regulations cease to have effect at the end of a period of six months beginning on 3rd August 2020.
- 14.3 Prior to the Leicester Regulations' expiry, the Secretary of State must review the need for the restrictions and requirements imposed by the Leicester Regulations every 14 days. The first review was carried out on 17th August 2020 and the next review must be carried out no later than 31st August 2020.

15. Contact

- 15.1 Lynne Henderson at the Department of Health and Social Care (lynne.henderson@dhsc.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Paul McCloghrie, Director Response, Support & Learning Directorate, at the Department of Health and Social Care (paul.mccloghrie@dhsc.gov.uk) can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Matt Hancock, 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.