

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (NORTH OF
ENGLAND) (AMENDMENT) REGULATIONS 2020

2020 No. 897

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 2 of the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020 (S.I. 2020/828) (“the North of England 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 areas of the North of England.

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 North of England 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 26 August 2020 and will be published on www.legislation.gov.uk on 25 August 2020. The Regulations cease to have effect at the end of the period of 28 days (not including days in recess) 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 North of England 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) (North of England) (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, 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) (the “National Regulations”) and the North of England Regulations.

6.5 The North of England Regulations came into force on 5 August 2020. Part 2 of the North of England Regulations imposed restrictions on gatherings in the protected area defined in regulation 2 of those regulations, and restrictions on people that lived in the protected area participating in gatherings in private dwellings outside of it. The North of England Regulations were amended to include Preston in the protected area with effect from 8 August 2020 and to include requirements on premises and businesses within the protected area with effect from 15 August 2020.

6.6 This instrument amends the definition of “protected area”, as defined in Regulation 2 of the North of England Regulations to remove the following areas: Wigan Metropolitan Borough Council and Rossendale Borough Council.

6.7 The police and local authorities will continue to monitor compliance with the North of England Regulations, including the amendments set out in this S.I.

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 National Regulations. These Regulations have since been amended three times (11 and 13 July as one set of amendments, 25 July, and 15 August) to enable the reopening of close contact services, swimming pools, gyms and indoor sports facilities, casinos, indoor skating rinks, indoor play areas, including soft play areas, bowling alleys, conference centres and exhibition halls.
- 7.3 Data shared by Public Health England and the Joint Biosecurity Centre indicated that the incidence rates of COVID-19 in the protected area were significantly above the national average, and the number of cases was increasing. The data also indicated that household transmission, either within the household or due to transmission between households, constituted a high proportion of COVID-19 transmissions. In response to this, restrictions were introduced on 5 August to prevent gatherings that include more than one household in private dwellings in the protected area, through the North of England Regulations.
- 7.4 Alongside the North of England Regulations, Government guidance was given to those living in or visiting the protected area, advising against gatherings at indoor public places. Guidance was also issued to businesses to not facilitate such gatherings. Care homes were also advised to only allow visits in exceptional circumstances. Though no restrictions were placed on travel, the Government advised people to not travel with other households as it does elsewhere in England.
- 7.5 On 13 August, it was decided that further business closures should be removed from the National Regulations, allowing them to re-open. Based on the epidemiological evidence, and in discussion with local leaders, it was decided that it was not appropriate to apply these easements in the protected area of the North of England Regulations. In a review of the restrictions applied in the protected area, undertaken in accordance with regulation 4 of the North of England Regulations, it was also determined that the restrictions on gatherings remained necessary to prevent, protect against, control or provide a public health response to the incidence or spread of COVID 19, and proportionate to that aim.
- 7.6 Amendments were made by the Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (Amendment) (No. 2) Regulations 2020 to give effect to that decision by inserting business closures provisions into the North of England Regulations, and disapplying the business closures provision in the National Regulations within the protected area of the North of England Regulations.
- 7.7 Following a further review of the epidemiological evidence, it was determined that due to the low incidence rates in Wigan and Rossendale, the additional restrictions

under the North of England Regulations could be removed as they were no longer proportionate or necessary. These Regulations give effect to that by removing Wigan Metropolitan Borough Council and Rossendale Borough Council from the protected area covered by Part 2 of the North of England Regulations.

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 the North of England under the North of England Regulations

12. Impact

12.1 The North of England 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 Wigan and Rossendale to re-open. This includes casinos, indoor skating rinks, indoor play areas, bowling alleys and conference centres and exhibition halls.

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 North of England Regulations, which these Regulations amend, include a statutory review clause.

14.2 The North of England 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 North of England Regulations, as amended by these Regulations, every 14 days. The next review will be carried out by 28 August 2020.

15. Contact

- 15.1 Tim Charlton at the Department of Health and Social Care; Email: tim.charlton@dhsc.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.Mccloughrie@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.