

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (NO.2)
(ENGLAND) (AMMENDMENT) (NO.4) REGULATIONS 2020

2020 No. 986

1. Introduction

- 1.1 This explanatory memorandum has been prepared by 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 makes provision for the tightening restrictions on gatherings 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 laid and approved. 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 (SARSCoV-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 Original Regulations for the fourth time. The previous amendment to the Regulations (The Health Protection (Coronavirus, Restrictions) (No.2) (England) (Amendment) (No. 3) Regulations 2020) permitted the opening of; casinos, indoor skating rinks, indoor play areas, including soft play areas, bowling alleys and conference centres and exhibition halls.
- 3.3 The provisions detailed in this latest amendment to the Original Regulations (The Health Protection (Coronavirus, Restrictions) (No.2) (England) (Amendment) (No. 4) Regulations 2020) will come into force at 12.01am on 14 September 2020 and were published on www.legislation.gov.uk on 13 September 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 the Home Department, Priti Patel MP, has made the following statement regarding Human Rights:

“In my view the provisions of The Health Protection (Coronavirus, Restrictions) (England) (No.2) (Amendment) (No.4) 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 “Original Regulations”) 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 (SARSCoV-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 Original 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. The Original Regulations were subsequently amended on 15 August to

enable the reopening of casinos, indoor skating rinks, indoor play areas, including soft play areas, bowling alleys and conference centres and exhibition halls.

- 6.7 This instrument makes a number of changes to the Original Regulations to better enable the public health measures in those Regulations to achieve the intended purpose of reducing public health risks posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). In particular:
- 6.8 Regulation 5 of the Original Regulations is amended to provide for:
- The prohibition of a gathering of more than six people, one household or two households where they are linked households unless a valid exemption applies.
 - The exemptions to the gatherings limit are (Regulation 5(3)):
 - For an elite sportsperson, their coach (or where the elite sportsperson is a child, their parent) and the gathering is necessary for a competition or training;
 - Where the gathering is reasonably necessary for work purposes; for the provision of voluntary or charitable services; for education or training; to provide childcare or to supervise activities for children; to provide emergency assistance; to enable the avoidance of injury or escape from the risk of harm; to provide care to or assistance to a vulnerable person; to facilitate access to and contact between parents and children where they do not live in the same household;
 - To fulfil a legal obligation;
 - Where the gathering is a support group;
 - For gatherings of up to 30 persons for marriage or civil partnership;
 - For gatherings for a significant event
- 6.9 Additionally, regulation 1(4ZA) is inserted into the Original Regulations to provide that the gatherings restrictions in private dwellings contained in the Regional Lockdown Regulations remain in place. This affects: the Public Health (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020; the Public Health (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) Regulations 2020; the Public Health (Coronavirus, Restrictions) (North of England) Regulations 2020; and the Public Health (Coronavirus, Restrictions) (Bolton) Regulations 2020 (together “the Restrictions”). Consequential amendments are also made to these regulations to facilitate this.
- 6.10 The police and local authorities will continue to monitor compliance with the Original Regulations, including the amendments set out in this 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 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 nonessential 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 were 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 Original Regulations, which replaced the Restrictions Regulations, came into force on 4th July 2020. The Original Regulations have been amended three times on different dates to enable more venues and businesses to reopen.
- 7.6 The transmission rate has increased over recent weeks, in particular amongst young people, and compliance with social distance guidance has decreased. As a result it has been considered necessary to introduce new measures to limit the spread of coronavirus.
- 7.7 The Prime Minister addressed the nation on 9 September 2020 to announce the need to restrict social gatherings, so that they are cannot be larger than six unless exemptions apply.
- 7.8 There is a principal exemption for people who are members of the same household or of linked households (‘support bubbles’). There are specific provisions for wedding ceremonies, wedding receptions, funerals, and life cycle events, where a limit of thirty people applies.
- 7.9 There are provisions for people to gather for shared activities in large numbers so long as the individual groups are six or less – and those groups do not mingle, subject to the gathering being appropriately organised.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union 2018

- 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 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 includes information in relation to the tightening of 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. 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 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 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 September 2020. The instrument amends the Original Regulations. The review and expiry provisions in these instrument will continue to apply.

15. Contact

15.1 Angela Chadha, Department of Health and Social Care: Angela.Chadha@dhsc.gov.uk can be contacted with any queries regarding the instrument.

15.2 David Lamberti, Department of Health and Social Care: David.Lamberti@dhsc.gov.uk can confirm that this Explanatory Memorandum meets the required standard.

15.3 Priti Patel, Secretary of State for the Home Department can confirm that this Explanatory Memorandum meets the required standard.