EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (NORTH EAST OF ENGLAND) (AMENDMENT) REGULATIONS 2020

2020 NO. 1012

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 to amend the Health Protection (Coronavirus, Restrictions) (North East of England) Regulations 2020 (S.I. 2020/1010) ("the North East Regulations") for the purpose of correcting defects in those Regulations which were caused by a system error. The North East Regulations enable a number of public health measures to be taken to reduce the public health risk posed by the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Northumberland, North Tyneside, South Tyneside, Gateshead, Newcastle, Sunderland and Durham County, 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 instrument is 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 instrument without a draft being so laid and approved so that public health measures can be taken in response 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 instrument came into force at midnight on 18 September 2020 and will be published on www.legislation.gov.uk on 17 September 2020. The instrument ceases 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 itself provides that it expires at the end of the period of six months beginning with the day on which it 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 Minister of State for Patient Safety, Suicide Prevention and Mental Health, Nadine Dorries MP, has made the following statement regarding Human Rights:"In my view the provisions of Health Protection (Coronavirus, Restrictions) (North East of England) 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.
- 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"), the Blackburn with Darwen and Bradford Regulations (S.I. 2020/822), the Leicester Regulations (S.I. 2020/824), the North of England Regulations (S.I. 2020/828), the Birmingham, Sandwell and Solihull Regulations (S.I. 2020/988) and the Bolton Regulations (S.I. 2020/974).
- 6.5 The North East Regulations were laid on 17 September 2020 to come into force at 12.01am on 18 September 2020. Due to a system error, it is necessary to amend those Regulations.
- 6.6 This instrument amends the following typographical defects in the North East Regulations:
- 6.7 At regulation 2(7)(a)(ii) replace "the" the second time it occurs with "be";
- 6.8 At regulation 8(1) replace "regulation 3, 4, 6 or 6" with "regulation 3, 4, 5 or 6";
- 6.9 At regulation 9(1)(a) change "64" to "6";
- 6.10 At regulation 13 change "111" to "11";
- 6.11 In the Schedule replace the reference to "Part 1" the second time it occurs with "Part 2".

6.12 These Regulations correct defects in The Health Protection (Coronavirus, Restrictions) (North East of England) Regulations 2020 (SI 2020/1010) and are being issued free of charge to all known recipients of those Regulations.

7. Policy background

What is being done and why?

- 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 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. In line with Step 2 and 3 of the Government's recovery strategy for the Covid-19 pandemic, several amendments were made to these Regulations in June 2020, before they were revoked and replaced on July 4 through the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations. These Regulations have since been amended several times (11 and 13 July, 24 July, 15 August, 28 August, 14 September 2020).
- 7.2 On 14 September 2020, the Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No.4) Regulations 2020 came into force. The regulations prohibit people that you do not live with (or are not in a support bubble) meeting in a group larger than six (unless one of the exceptions set out in the law apply) across England. There are also stricter requirements in relation to gatherings in private dwellings across a number of regions. These Regulations also provide for stricter measures in relation to private dwellings as explained above.
- 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, except for Northumberland, were significantly above the national average, and the number of cases was increasing. The data and evidence indicated that household transmission, either within the household or due to transmission between households, as well as social mixing constituted a high proportion of COVID-19 transmissions with people travelling across the protected area for work and other purposes. Although Northumberland's incidence rates are lower than other parts of the protected area, Northumberland is contiguous with Newcastle, North Tyneside and Gateshead. These local authorities were considered together given their close proximity and interconnectedness. Northumberland covers a large geographical area with incidence rates significantly above the national average in some wards and an increasing incidence rate overall. It was decided to include the seven local authorities within the Regulations in discussion with Directors of Public Health and local leaders.
- 7.4 The instrument requires certain venues to stay closed, such as nightclubs, to protect against the risks to public health arising from coronavirus. This instrument also places restrictions on certain businesses so they may sell food or drink for consumption on the premises if it is served to customers sitting at a table. The instrument also introduces restrictions on the operating hours of certain entertainment, leisure and hospitality businesses so that they may not operate between 22:00 and 5:00, with

- certain exemptions. This is designed to limit social mixing and subsequent close contact, which increases the spread of the virus.
- 7.5 These measures intend to reduce the transmission of Covid-19 in the protected area, particularly amongst younger people (amongst whom incidence rates are high), such that local incidence rates decline to a level where public health advice is that the local easing of restrictions can realign with measures in the rest of England.
- 7.6 The North East Regulations that are amended by this statutory instrument are supported by 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 2018/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 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 will include information in relation to closures and restrictions on movements and gatherings in Northumberland, North Tyneside, South Tyneside, Gateshead, Newcastle, Sunderland and Durham, County in England under this instrument.

12. Impact

12.1 This instrument amends the North East Regulations which and 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 Regulatory Impact Assessment is not required and would be disproportionate.

13. Regulating small business

- 13.1 The legislation amended by this instrument applies to activities that are undertaken by small businesses.
- 13.1 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 government has provided a number of financial support schemes.

14. Monitoring & review

14.1 The approach to monitoring of this legislation amended by this instrument is to review the instrument every two weeks. The instrument includes a statutory review clause.

14.2 The North East Regulations cease to have effect at the end of the period of six months beginning on the day on which it comes into force. Prior to its expiry, the Secretary of State must review the need for restrictions and requirements imposed by these Regulations every 14 days. The first review will be carried out by 2 October 2020.

15. Contact

- 15.1 Tim Charlton at the Department for 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.Mccloghrie@dhsc.gov.uk can confirm that this explanatory memorandum meets the required standard.
- 15.3 Nadine Dorries MP, Minister of Health for Patient Safety, Suicide Prevention and Mental Health at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.