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STATUTORY INSTRUMENTS

2020 No. 1029

PUBLIC HEALTH, ENGLAND

**The Health Protection (Coronavirus, Restrictions) (No. 2)
(England) (Amendment) (No. 5) Regulations 2020**

Approved by both Houses of Parliament

Made - - - - on 23rd September 2020

Coming into force in accordance with regulation 1(2) and (3)

Laid before Parliament on 24th September 2020

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 45C(1), (3)(c), (4)(b) and (d), 45F(2) and 45P of the Public Health (Control of Disease) Act 1984(a).

These Regulations are made 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) in England.

The Secretary of State considers that the restrictions and requirements imposed by the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020(b), as amended by these Regulations, are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with section 45R of that Act the Secretary of State is of the opinion that, by reason of urgency, it is necessary to make this instrument without a draft having been laid before, and approved by a resolution of, each House of Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 5) Regulations 2020.

(2) These Regulations come into force at 5:00 a.m. on 24th September 2020, save as provided for in paragraph (3).

(3) Regulation 2(4)(a)(ii), (iii) and (iv) and (b) comes into force on 28th September 2020.

(a) 1984 c. 22. Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14).

(b) S.I. 2020/684, as amended by S.I. 2020/719, 750, 788, 800, 822, 824, 828, 863, 865, 907, 974, 986, 988 and 1010.

Amendment of the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020

2.—(1) The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 are amended as follows—

(2) In regulation 1—

(a) for paragraph (4), substitute—

“(4) Regulations 4, 4A and 4B do not apply in relation to the area which forms the “protected area” under the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020(a).”;

(b) in paragraph (4ZA), in each of sub-paragraphs (a), (b), (c) and (d), for “Public Health” substitute “Health Protection”.

(3) After regulation 4 insert—

“Restrictions on opening hours of businesses and services

4A.—(1) A person responsible for carrying on a restricted business or providing a restricted service (“P”) must not carry on that business or provide that service during the emergency period between the hours of 22:00 and 05:00, subject to paragraphs (2), (3) and (4).

(2) Paragraph (1) does not prevent P selling food or drink for consumption off the premises between the hours of 22:00 and 05:00—

(a) by making deliveries in response to orders received—

(i) through a website, or otherwise by on-line communication;

(ii) by telephone, including orders by text message; or

(iii) by post; or

(b) to a purchaser who collects the food or drink in a vehicle, and to whom the food or drink is passed without the purchaser or any other person leaving the vehicle.

(3) Where P’s restricted business or restricted service is a cinema, theatre or concert hall, paragraph (1) does not prevent P carrying on that business or service at or after 22:00 for the purpose of concluding a performance which began before 22:00.

(4) Paragraph (1) does not prevent P carrying on a restricted business or providing a restricted service located in a motorway service area between the hours of 22:00 and 05:00.

(5) If a restricted business or restricted service (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirement in paragraph (1) if that person does not carry on business A between the hours of 22:00 and 05:00, other than as provided for in paragraphs (2), (3) or (4).

(6) For the purposes of this regulation, a business or service is a restricted business or restricted service if it is listed in Part 1 or Part 2 of Schedule 3.

Restrictions on service of food and drink for consumption on the premises

4B.—(1) Subject to the restriction on opening hours in regulation 4A(1), during the emergency period, a person responsible for carrying on a business or providing a service listed in Part 1 of Schedule 3 which serves alcohol for consumption on the premises may sell food or drink for consumption on the premises only if—

(a) the food or drink is ordered by, and served to, a customer who is seated on the premises; and

(a) S.I. 2020/974, as amended by S.I. 2020/986, 1010 and 1019.

- (b) the person takes all reasonable steps to ensure that the customer remains seated whilst consuming the food or drink on the premises.

(2) Subject to the restriction on opening hours in regulation 4A(1), during the emergency period, a person responsible for carrying on a business or providing a service listed in Part 1 of Schedule 3 which does not serve alcohol for consumption on the premises may sell food or drink for consumption on the premises only if the person takes all reasonable steps to ensure that the customer remains seated whilst consuming the food or drink on the premises.

(3) For the purposes of paragraphs (1) and (2), an area adjacent to the premises of the business where seating is made available for customers of the business (whether or not by the business) or which customers of the business habitually use for consumption of food or drink served by the business is to be treated as part of the premises of that business.

(4) If a business or service listed in Part 1 of Schedule 3 (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirement in paragraph (1) or (2) if that person complies with the requirement in relation to business A.

(5) In this regulation, “alcohol” has the meaning given in section 191 of the Licensing Act 2003(a).”.

(4) In regulation 5—

(a) in paragraph (3)—

(i) in sub-paragraph (e), after “group”, insert “which consists of no more than 15 persons and takes place at premises other than a private dwelling”;

(ii) in sub-paragraph (f)—

(aa) in the words before paragraph (i), for “30” substitute “15”;

(bb) in paragraph (i), at the end, insert “in accordance with the Marriage Act 1949(b), the Marriage (Registrar General’s Licence) Act 1970(c) or the Civil Partnership Act 2004(d), and”;

(cc) omit paragraph (ii), and the “and” at the end;

(dd) in paragraph (iii), after “the” insert “gathering organiser or”;

(iii) in sub-paragraph (g) in the words before paragraph (i), for “a significant event gathering”, substitute “for the purposes of attending a funeral”;

(iv) in sub-paragraph (h)(i), for “30”, substitute “15”;

(v) in sub-paragraph (j), for “a sports gathering”, substitute “an outdoor sports gathering or a permitted indoor sports gathering”;

(b) omit paragraphs (5B) and (5C);

(c) in paragraph (5D)(a)—

(i) in the words before paragraph (i)—

(aa) for “a “sports gathering””, substitute “an “outdoor sports gathering””;

(bb) for “for” the second time it occurs, substitute “of”;

(ii) in paragraph (ii), omit “on relevant premises or”;

(d) after paragraph (5D)(a), insert—

“(aa) a “permitted indoor sports gathering” is a gathering which is organised for the purposes of allowing persons who have a disability and who are not elite sports persons to take part in any sport or other fitness related activity, and—

(a) 2003 c. 17. Section 191 was amended by the Policing and Crime Act 2017, section 135, and by S.I. 2006/2407.

(b) 1949 c. 76.

(c) 1970 c. 34.

(d) 2004 c. 33.

- (i) which is organised by a business, a charitable, benevolent or philanthropic institution or a public body,
 - (ii) which takes place indoors on relevant premises, and
 - (iii) the manager of the relevant premises complies with paragraph (5G);”;
 - (e) in paragraph (5D)(b), for “a sports gathering”, substitute “an outdoor sports gathering or a permitted indoor sports gathering”;
 - (f) for paragraph (5E), substitute—
 - “(5E) For the purposes of paragraph (5D)—
 - (a) “relevant premises” means premises (other than a private dwelling)—
 - (i) which are operated by a business, a charitable, benevolent or philanthropic institution or a public body, or
 - (ii) which are part of premises used for the operation of a business, a charitable, benevolent or philanthropic institution or a public body;
 - (b) a person has a disability if—
 - (i) they have a physical or mental impairment (and when considering whether a person has an impairment for these purposes, regulations 3 to 5 of the Equality Act 2010 (Disability) Regulations 2010(a) apply), and
 - (ii) the impairment has a substantial and long term adverse effect on their ability to carry out normal day-to-day activities.”;
 - (g) in paragraph (5F), for “(3)(1)” substitute “(3)(l)”;
 - (h) in paragraph (6)(c), in the words before paragraph (i), for “and and” substitute “and”;
 - (i) in paragraph (9), in each of sub-paragraphs (a), (b), (c) and (d), for “Public Health”, substitute “Health Protection”.
- (5) In regulation 7—
- (a) in paragraph (1), after “regulation 4”, insert “, 4A, 4B”;
 - (b) in paragraph (2)(a), after “regulation 4”, insert “, 4A or 4B”;
 - (c) in paragraph (11), after “regulation 4”, insert “, 4A or 4B”.
- (6) In regulation 8(1), after “regulation 4”, insert “, 4A, 4B”.
- (7) In regulation 9—
- (a) in paragraph (6)—
 - (i) after the opening words, insert—
 - “(za) where the notice is issued in respect of offences described in regulation 8(1) of contravening, without reasonable excuse, a restriction in regulations 4A or 4B, the amount must be—
 - (i) in the case of the first fixed penalty notice received in relation to those offences, £1,000;
 - (ii) in the case of the second fixed penalty notice received in relation to those offences, £2,000;
 - (iii) in the case of the third fixed penalty notice received in relation to those offences, £4,000;
 - (iv) in the case of the fourth and subsequent fixed penalty notices received in relation to those offences, £10,000.”;
 - (ii) in sub-paragraph (b), for “£100” substitute “£200”;
 - (b) in paragraph (7), for “£50” substitute “£100”;

(a) S.I. 2010/2128.

- (c) in paragraph (8)(b)—
 - (i) in paragraph (i), for “£200” substitute “£400”;
 - (ii) in paragraph (ii), for “£400” substitute “£800”;
 - (iii) in paragraph (iii), for “£800” substitute “£1,600”;
 - (iv) in paragraph (iv), for “£1,600” substitute “£3,200”;
 - (v) in paragraph (v), for “£3,200” substitute “£6,400”;
 - (d) in paragraph (8A), for “regulation 5A or 5B”, substitute “regulation 4A, 4B, 5A or 5B”;
 - (e) in paragraph (9), in the opening words, after “determining”, insert “, for the purposes of paragraph (8),”;
 - (f) in paragraph (14), after “regulation 4”, insert “, 4A or 4B”.
- (8) After Schedule 2, insert—

“SCHEDULE 3

Regulations 4A and 4B

Businesses and services subject to restrictions

PART 1

1. Restaurants, including restaurants and dining rooms in hotels or members’ clubs.
- 2.—(1) Businesses, other than businesses listed in sub-paragraph (2), providing food or drink prepared on the premises for immediate consumption off the premises.
 - (2) The businesses are—
 - (a) supermarkets;
 - (b) convenience stores, corner shops and newsagents;
 - (c) pharmacists and chemists;
 - (d) petrol stations.
- 3.—(1) Cafes, including workplace canteens (subject to sub-paragraph (2)), but not including—
 - (a) cafes or canteens at a hospital, care home or school;
 - (b) canteens at a prison or an establishment intended for use for a naval, military or a air force purposes or for the purposes of the Department of the Secretary of State responsible for defence;
 - (c) services providing food or drink to the homeless.
 - (2) Workplace canteens may remain open where there is no practical alternative for staff at that workplace to obtain food.
4. Bars, including bars in hotels or members’ clubs.
5. Public houses.
6. Social clubs.
7. Casinos.

PART 2

8. Bowling alleys.

9. Cinemas.
10. Theatres.
11. Amusement arcades or other indoor leisure centres or facilities.
12. Funfairs (indoors or outdoors), theme parks and adventure parks and activities.
13. Bingo halls.
14. Concert halls.”.

Amendment of the Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020

3.—(1) The Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020(a) are amended as follows.

- (2) In regulation 1—
 - (a) in paragraph (4), omit the definition of “person responsible for carrying on a business”;
 - (b) omit paragraph (6).
- (3) In regulation 3(4), omit paragraph (b).
- (4) Omit regulation 4.
- (5) In regulation 8—
 - (a) in paragraph (1), omit “4 or”;
 - (b) omit paragraph (2);
 - (c) omit paragraph (9)(b)(iii);
 - (d) omit paragraph (10).
- (6) In regulation 9—
 - (a) in paragraph (1), omit “4,”;
 - (b) in paragraph (3), omit “or a prohibition notice”;
 - (c) omit paragraphs (5) and (6).
- (7) In regulation 10—
 - (a) in paragraph (3)—
 - (i) omit sub-paragraph (a);
 - (ii) in sub-paragraph (b), omit “, or by the relevant local authority,”;
 - (b) in paragraph (6), for “£100” substitute “£200”;
 - (c) in paragraph (7), for “£50” substitute “£100”;
 - (d) in paragraph (8)(b)—
 - (i) in paragraph (i), for “£200” substitute “£400”;
 - (ii) in paragraph (ii), for “£400” substitute “£800”;
 - (iii) in paragraph (iii), for “£800” substitute “£1,600”;
 - (iv) in paragraph (iv), for “£1,600” substitute “£3,200”;
 - (v) in paragraph (v), for “£3,200” substitute “£6,400”;
 - (e) in paragraph (9A), for “regulation 5A or 5B”, substitute “regulation 4A, 4B, 5A or 5B”;
 - (f) omit paragraph (12)(a)(i);
 - (g) in paragraph (13), omit—

(a) S.I. 2020/824, as amended by S.I. 2020/828, 865, 875, 907, 954, 974, 986, 1010 and 1019.

- (i) sub-paragraph(a)(iv);
- (ii) sub-paragraph(b);
- (h) omit paragraph (14).
- (8) Omit the Schedule.

Amendment of the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020

4.—(1) The Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020(a) are amended as follows.

- (2) In regulation 3—
 - (a) in paragraph (1), omit the definition of “person responsible for carrying on a business”;
 - (b) omit paragraph (3).
- (3) Omit regulation 4(4)(c).
- (4) Omit regulation 7A.
- (5) In regulation 8—
 - (a) in paragraph (1), omit “or 7A”;
 - (b) omit paragraph (1A);
 - (c) in paragraph (9)(b), at the end insert “or”;
 - (d) in paragraph (9)(c), omit the “or” at the end;
 - (e) omit paragraph (9)(d);
 - (f) omit paragraph (10).
- (6) In regulation 9—
 - (a) in paragraph (1), omit “7A.”;
 - (b) omit paragraphs (4A) and (4B).
- (7) In regulation 10—
 - (a) in paragraph (3),
 - (i) omit sub-paragraph (a);
 - (ii) in sub-paragraph (b), omit “, or by the relevant local authority.”;
 - (b) in paragraph (6), for “£100” substitute “£200”;
 - (c) in paragraph (7), for “£50” substitute “£100”;
 - (d) in paragraph (8)(b)—
 - (i) in paragraph (i), for “£200” substitute “£400”;
 - (ii) in paragraph (ii), for “£400” substitute “£800”;
 - (iii) in paragraph (iii), for “£800” substitute “£1,600”;
 - (iv) in paragraph (iv), for “£1,600” substitute “£3,200”;
 - (v) in paragraph (v), for “£3,200” substitute “£6,400”;
 - (e) in paragraph (9A), for “regulation 5A or 5B”, substitute “regulation 4A, 4B, 5A or 5B”;
 - (f) omit paragraph (12)(a)(i);
 - (g) in paragraph (13), omit—
 - (i) sub-paragraph(a)(iv);
 - (ii) sub-paragraph(b);

(a) S.I. 2020/828, as amended by S.I. 2020/846, 865, 931, 954, 974, 986, 1010 and 1019. The title of the Regulations was changed by S.I. 2020/865.

- (h) omit paragraph (14).
- (8) In regulation 12, omit “or (d)”.
- (9) Omit the Schedule.

Amendment of the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020

5.—(1) The Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020 are amended as follows.

- (2) In regulation 3—
 - (a) in paragraph (1)(b)(ii), at the beginning, insert “subject to paragraph (1A)”;
 - (b) after paragraph (1), insert—
 - “(1A) Paragraph (1)(b)(ii) does not prevent a person responsible for carrying on a business in the protected area from selling food or drink for consumption off the premises between the hours of 22:00 and 05:00—
 - (a) by making deliveries in response to orders received—
 - (i) through a website, or otherwise by online communication;
 - (ii) by telephone, including orders by text message; or
 - (iii) by post; or
 - (b) to a purchaser who collects the food or drink in a vehicle, and to whom the food or drink is passed without the purchaser or any other person leaving the vehicle.”.
- (3) In regulation 9(1), for sub-paragraph (a) and the “or” at the end, substitute—
 - “(a) without reasonable excuse contravenes a requirement in regulation 3, 4, 5 or 7, or”.
- (4) In regulation 10—
 - (a) in paragraph (6), for “£100” substitute “£200”;
 - (b) in paragraph (7), for “£50” substitute “£100”;
 - (c) in paragraph (8)(b)—
 - (i) in paragraph (i), for “£200” substitute “£400”;
 - (ii) in paragraph (ii), for “£400” substitute “£800”;
 - (iii) in paragraph (iii), for “£800” substitute “£1,600”;
 - (iv) in paragraph (iv), for “£1,600” substitute “£3,200”;
 - (v) in paragraph (v), for “£3,200” substitute “£6,400”;
 - (d) in paragraph (10), for “regulation 5A or 5B”, substitute “regulation 4A, 4B, 5A or 5B”.

Amendment of the Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 4) Regulations 2020

6.—(1) The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 4) Regulations 2020(a) are amended as follows.

- (2) In regulation 2(6)(b)(i), for “(ii)”, substitute “(i)”.
- (3) In regulation 8(2)—
 - (a) in the definition of “the local Regulations”, in each of paragraphs (a), (b), (c) and (d), for “Public Health” substitute “Health Protection”;
 - (b) in the definition of “a large gatherings offence”, in each of paragraphs (a), (b), (c) and (d), for “Public Health” substitute “Health Protection”.

(a) S.I. 2020/986.

Amendment of the Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020

7.—(1) The Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020(a) are amended as follows.

(2) In regulation 9—

- (a) in paragraph (6), for “£100” substitute “£200”;
- (b) in paragraph (7), for “£50” substitute “£100”;
- (c) in paragraph (8)(b)—
 - (i) in paragraph (i), for “£200” substitute “£400”;
 - (ii) in paragraph (ii), for “£400” substitute “£800”;
 - (iii) in paragraph (iii), for “£800” substitute “£1,600”;
 - (iv) in paragraph (iv), for “£1,600” substitute “£3,200”;
 - (v) in paragraph (v), for “£3,200” substitute “£6,400”;
- (d) in paragraph (10), for “regulation 5A or 5B”, substitute “regulation 4A, 4B, 5A or 5B”.

Amendment of the Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020

8.—(1) The Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020(b) are amended as follows.

(2) In regulation 1—

- (a) in paragraph (3), omit the definition of “person responsible for carrying on a business”;
- (b) omit paragraph (7).

(3) Omit regulation 2(4)(b).

(4) Omit regulations 3, 4 and 5.

(5) In regulation 8—

- (a) in paragraph (1), omit “3, 4, 5 or”;
- (b) omit paragraph (2);
- (c) in paragraph (9)(b), omit paragraph (iii) (but not the “or” at the end);
- (d) omit paragraph (10).

(6) In regulation 9—

- (a) in paragraph (1)(a), omit “3, 4, 5 or”;
- (b) in paragraph (3), omit “or a prohibition notice”;
- (c) omit paragraphs (5) and (6).

(7) In regulation 10—

- (a) in paragraph (3)—
 - (i) omit sub-paragraph (a);
 - (ii) in sub-paragraph (b), omit “, or by the relevant local authority.”;
- (b) in paragraph (6), for “£100” substitute “£200”;
- (c) in paragraph (7), for “£50” substitute “£100”;
- (d) in paragraph (8)(b)—
 - (i) in paragraph (i), for “£200” substitute “£400”;

(a) S.I. 2020/988, as amended by S.I. 2020/1010 and 1019.

(b) S.I. 2020/1010, as amended by S.I. 2020/1012 and 1019. The title of this SI was changed by S.I. 2020/1019.

- (ii) in paragraph (ii), for “£400” substitute “£800”;
- (iii) in paragraph (iii), for “£800” substitute “£1,600”;
- (iv) in paragraph (iv), for “£1,600” substitute “£3,200”;
- (v) in paragraph (v), for “£3,200” substitute “£6,400”;
- (e) in paragraph (10), for “regulation 5A or 5B”, substitute “regulation 4A, 4B, 5A or 5B”;
- (f) omit paragraph (13)(a)(i);
- (g) in paragraph (14), omit—
 - (i) sub-paragraph(a)(iv);
 - (ii) sub-paragraph(b);
- (h) omit paragraph (15).
- (8) In regulation 13, for “8(9)(b)(iii) or (iv)”, substitute “8(9)(b)(iv)”.
- (9) Omit the Schedule.

Transitional and savings provisions

9.—(1) Despite the amendments made by these Regulations, the local Regulations continue in force as they had effect immediately before these Regulations came into force in relation to a business closure offence committed under the relevant local Regulations before these Regulations came into force.

(2) In this Regulation—

“the local Regulations” means—

- (a) the Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020;
- (b) the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020;
- (c) the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020;
- (d) the Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020;

“a business closure offence” means an offence under—

- (a) regulation 4 of the Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020;
- (b) regulation 3 of the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020;
- (c) regulation 7A of the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020;
- (d) regulation 4 or 5 of the Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020.

23rd September 2020

Bethell
Parliamentary Under Secretary of State
Department for Health and Social Care

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose restricted opening hours and other restrictions on certain businesses in England (apart from Bolton) selling goods or providing services. They also make changes to the different restrictions which apply in the area of Bolton Metropolitan Borough Council, set out in the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020.

These Regulations also make changes to the restrictions on gatherings in England, in relation to gatherings for support groups, weddings and other significant events, and sports gatherings.

These Regulations make changes to the amounts of fines which can be imposed by fixed penalty notices for breach of restrictions in certain regulations made under the Public Health (Control of Disease) Act 1984.

These Regulations make some changes to correct errors in earlier regulations.

No impact assessment has been carried out for these Regulations.

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