
STATUTORY INSTRUMENTS

2020 No. 1029

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

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^{M1}”;

(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
- (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 ^{M2}.”.

(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 ^{M3}, the Marriage (Registrar General's Licence) Act 1970 ^{M4} or the Civil Partnership Act 2004 ^{M5}, 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 sportspersons to take part in any sport or other fitness related activity, and—
 - (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 ^{M6} 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 ”;
- (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 naval, military or 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.”.

Commencement Information

- I1** Reg. 2(1)-(3)(5)-(8) in force at 24.9.2020 at 5.00 a.m., see reg. 1(2)
- I2** Reg. 2(4)(a)(i)(v)(c)-(i) in force at 24.9.2020 at 05.00 a.m., see reg. 1(2)
- I3** Reg. 2(4)(a)(ii)-(iv)(b) in force at 28.9.2020, see reg. 1(3)

Marginal Citations

- M1** [S.I. 2020/974](#), as amended by [S.I. 2020/986](#), 1010 and 1019.
- M2** [2003 c. 17](#). Section 191 was amended by the Policing and Crime Act 2017, section 135, and by [S.I. 2006/2407](#).
- M3** [1949 c. 76](#).
- M4** [1970 c. 34](#).
- M5** [2004 c. 33](#).
- M6** [S.I. 2010/2128](#).

Changes to legislation:

There are currently no known outstanding effects for the The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 5) Regulations 2020, Section 2.