

## EXPLANATORY MEMORANDUM TO

### THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (PROTECTED AREAS AND RESTRICTION ON BUSINESSES) (AMENDMENT) REGULATIONS 2020

2020 No. 1041

#### 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 purpose of enabling 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 Leeds, Wigan, Stockport and Blackpool. This instrument also amends an existing instrument to impose restricted opening hours on certain businesses in Bolton.

#### 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). Regulations 1 and 2 come into force at midnight on 26th September and Regulation 3 comes into force at 5am on 26th September. The instrument will be published on [www.legislation.gov.uk](http://www.legislation.gov.uk) on 25th September 2020.
- 3.2 This instrument makes amendments to three existing statutory instruments. Firstly, it amends the “protected area” in the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020 (S.I. 2020/828) (“the North of England Regulations”). Secondly, it amends the “protected area” in the Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020 (S.I. 2020/1010) (“the NENW Regulations”). Thirdly, it amends the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020 (S.I. 2020/974) (“the Bolton Regulations”) to impose restricted opening hours on certain businesses in Bolton.
- 3.3 This 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 is approved by a resolution of each House of Parliament. The regulations this instrument amends all expire at the end of the period of six months beginning on 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 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 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) (Protected Areas and Restriction on Businesses) (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”), the Health Protection (Coronavirus, Restrictions), the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020 (S.I. 2020/828) (the “North of England Regulations”, the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020 (S.I. 2020/974) (the “Bolton Regulations”) and the Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020 (S.I. 2020/1010) (the “North East and North West of England Regulations”).

6.5 This instrument amends the North of England Regulations and the NENW Regulations by adding named local authority areas to the defined geographical areas or “protected areas” in those regulations. The effect of these amendments is that the further areas being added to the “protected area” are subject to the restrictions on inter-household mixing in those regulations: gatherings of two or more people from different households (apart from linked households) in private dwellings in the protected area are prohibited, and people living in the protected area are prohibited

from participating in a gathering in a private dwelling outside the protected area, unless those meeting are from linked households.

- 6.6 Regulation 2(1) amends the North of England Regulations to include the local authority areas of Stockport Metropolitan Borough Council, Wigan Metropolitan Borough Council and Leeds City Council in the “protected area” for the purposes of those Regulations.
- 6.7 Regulation 2(2) amends the NENW Regulations to add the local authority area of Blackpool Council in the “protected area” for the purposes of those Regulations.
- 6.8 Regulation 3 amends Schedule 1 of the Bolton Regulations (businesses subject to restrictions or closure) to impose restricted opening hours on businesses in Bolton selling food or drink prepared on the premises for immediate consumption off the premises, subject to exceptions listed in new paragraph 4A(2) of Schedule 2 to the Bolton Regulations.

## **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 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 – S.I. 2020/719, 25 July – S.I. 2020/788, 15 August – S.I. 2020/863, 28 August – S.I. 2020/907, 14 September 2020 – S.I. 2020/986, 22 September – S.I. 2020/1029).
- 7.2 On 14 September 2020, the Health Protection (Coronavirus, Restrictions) (England) (No. 2) (Amendment) (No.4) Regulations 2020 came into force. The regulations prohibit people who are not in the same household (or who are not in a linked household) meeting in a group larger than six (unless one of the exceptions set out in the law apply) across England.
- 7.3 On 22 September 2020, the Health Protection (Coronavirus, Restrictions) (No 2) (Amendment) (No 5) Regulations came into force. Those regulations require certain businesses to close between 10pm and 5am, subject to some exceptions, and also require table service only for certain hospitality venues.
- 7.4 Data shared by Public Health England and the Joint Biosecurity Centre indicated that the incidence rates of COVID-19 in Blackpool, Wigan, Stockport and Leeds 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. This instrument places restrictions on household mixing in private dwellings and gardens in Leeds, Wigan, Stockport and Blackpool. This is designed to limit social mixing and subsequent close contact, which increases the spread of the virus.

7.5 The amendment to the Bolton Regulations imposes restricted opening hours on businesses in Bolton selling food or drink prepared on the premises for immediate consumption off the premises. This is in line with the current position in England and is designed to clarify the position for businesses who may offer takeaway delivery services between 10pm and 5am. It is not anticipated that this amendment will result in adverse public health impacts.

7.6 These Regulations 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](http://www.gov.uk/coronavirus) and this guidance will include information in relation to closures and restrictions on movements and gatherings in Leeds, Wigan, Stockport and Blackpool. The guidance covering restrictions in Bolton will also be updated.

## **12. Impact**

12.1 This instrument 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 applies to activities that are undertaken by small businesses.

## **14. Monitoring & review**

14.1 This instrument amends the other Regulations and the expiry and review provisions set out in those instruments will continue to apply: namely those regulations cease to have effect at the end of the period of six months beginning on the day they came into force. Prior to its expiry, the Secretary of State must review the need for restrictions and requirements imposed by those Regulations every 14 days. The review and expiry provisions in these instruments will continue to apply.

## **15. Contact**

- 15.1 Tim Charlton at the Department for Health and Social Care; Email: [tim.charlton@dhsc.gov.uk](mailto: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](mailto:Paul.Mccloghrie@dhsc.gov.uk) can confirm that this explanatory memorandum meets the required standard.
- 15.3 Matt Hancock MP, Secretary of State at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.