

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (NORTH OF ENGLAND AND NORTH EAST AND NORTH WEST OF ENGLAND ETC.) (AMENDMENT) REGULATIONS 2020

2020 No. 1074

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 enables 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 Bolton Metropolitan Borough Council, Halton Borough Council, Hartlepool Borough Council, Knowsley Metropolitan Borough Council, Liverpool City Council, Middlesbrough Council, Sefton Borough Council, St Helens Borough Council, Warrington Borough Council and Wirral Metropolitan District Council.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument is made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22). This 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 this 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). This instrument comes into force at midnight on 3 October 2020. This instrument will be published on www.legislation.gov.uk on 1 October 2020.
- 3.2 This instrument amends three existing statutory instruments and revokes one instrument. Firstly, it amends the Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020 (S.I. 2020/1010) (“the NENW Regulations”) to add local authority areas to the “protected area”, imposing further restrictions on gatherings indoors in those areas. Secondly, 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”) to add Bolton to the “protected area”. This amendment has no impact on the gatherings restrictions in Bolton, which will remain the same. Thirdly, the instrument revokes the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020 (“the Bolton Regulations”) (S.I. 2020/974). This has impacts on business restrictions in Bolton. Finally, the instrument amends the Health Protection (Coronavirus, Restrictions)

(Obligations of Undertakings) (England) Regulations 2020 (“the Obligations of Undertakings Regulations”) (S.I. 2020/1008) to correct a minor drafting error.

- 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) (North of England and North East and North West of England etc.) (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 2020 (S.I. 2020/684), the North of England Regulations, the NENW Regulations and Bolton Regulations.

- 6.5 This instrument amends the NENW Regulations by placing further restrictions on gatherings indoors in nine local authorities that, following the amendments made by this instrument, comprise the “protected area” in those regulations. The local authorities are Halton Borough Council, Hartlepool Borough Council, Knowsley Metropolitan Borough Council, Liverpool City Council, Middlesbrough Council,

Sefton Borough Council, St Helens Borough Council, Warrington Borough Council and Wirral Metropolitan District Council.

- 6.6 Regulation 2(2)(a) amends the North of England Regulations to include the area of Bolton Metropolitan Borough Council in the protected area for the purposes of those Regulations. This does not have any impact on the gatherings provisions in Bolton which remain the same.
- 6.7 Regulation 2(2)(b) amends the North of England Regulations to remove the areas of Liverpool City Council, Knowsley Metropolitan Borough Council, Sefton Borough Council, St Helens Borough Council, Wirral Metropolitan District Council, Halton Borough Council and Warrington Borough Council from the protected area for the purposes of those Regulations.
- 6.8 Regulation 3 amends the NENW Regulations to include the areas of Halton Borough Council, Hartlepool Borough Council, Knowsley Metropolitan Borough Council, Liverpool City Council, Middlesbrough Council, Sefton Borough Council, St Helens Borough Council, Warrington Borough Council and Wirral Metropolitan District Council in the protected area for the purposes of those Regulations.
- 6.9 Regulation 4 amends the Obligations of Undertakings Regulations 2020 to correct a minor drafting error in those regulations. .
- 6.10 Regulation 5 revokes the Bolton Regulations 2020. This revocation has the impact of permitting businesses in Bolton to reopen which were previously required to remain shut under the Bolton Regulations (subject to the closures National Regulations). Additionally, businesses which were subject to restrictions in the Bolton Regulations will now be subject to the existing restrictions in the National Regulations.
- 6.11 This instrument makes a minor amendment to the Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 (“the Obligations of Undertakings Regulations” addressing a minor drafting error and is therefore issued free of charge to all known recipients of those Regulations. The amendment was made to regulation 2(1A) (a)(ii)(bb) of the Obligations of Undertakings Regulations. The issue was identified and corrected promptly within 3 days of the Health Protection (Coronavirus, Restrictions) (North of England, North East and North West of England and Obligations of Undertakings (England) etc.) (Amendment) Regulations 2020 coming into force.

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.
- 7.2 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).

- 7.3 On 14 September 2020, the Health Protection (Coronavirus, Restrictions) (England) (No. 2) (Amendment) (No.4) Regulations 2020 (S.I. 2020/588) 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.
- 7.4 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.

The North of England Regulations

- 7.5 The North of England Regulations came into force on 5 August 2020. Part 2 of the North of England Regulations imposed restrictions on gatherings in the protected area defined in regulation 2 of those regulations, and restrictions on people that lived in the protected area participating in gatherings in private dwellings outside of it. The North of England Regulations were amended to include Preston in the protected area with effect from 8 August 2020 and to include requirements on premises and businesses within the protected area with effect from 15 August 2020.
- 7.6 The North of England Regulations were amended on 26 August 2020 to change the definition of “protected area”, as defined in Regulation 2 of the North of England Regulations to remove the following areas: Wigan Metropolitan Borough Council and Rossendale Borough Council. The North of England Regulations were amended again on 2 September 2020 to change the definition of “protected area” to remove the following areas: Stockport Metropolitan Borough Council, Burnley Borough Council, and Hyndburn Borough Council.
- 7.7 On 8 September, the North of England Regulations were amended to permit the reopening of casinos, indoor skating rings, indoor play areas, bowling areas, conference centres and exhibition halls. The area of Bolton Metropolitan Borough Council was removed from The Health Protection (Coronavirus, Restrictions) (North of England) Regulations and placed under The Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020, which came into force on 10 September.
- 7.8 On 22 September, the protected area under the North of England Regulations was amended to include all wards within the Bradford Metropolitan District Council, Calderdale Metropolitan Borough Council and Kirklees Metropolitan Council. On 26 September, the protected area under the North of England Regulations was amended to include Wigan Metropolitan Borough Council, Stockport Metropolitan Borough Council, and Leeds City Council.
- 7.9 On 30 September, the protected area under the North of England Regulations was amended to include Blackburn with Darwen Borough Council, Blackpool Council, Burnley Borough Council, Chorley Borough Council, Fylde Borough Council, Halton Borough Council, Hyndburn Borough Council, Lancaster City Council, Knowsley Metropolitan Borough Council, Liverpool City Council, Pendle Borough Council, Preston City Council, Ribble Valley Borough Council, Rossendale Borough Council,

Sefton Borough Council, South Ribble Borough Council, St Helens Borough Council, Warrington Borough Council, West Lancashire Borough Council, Wirral Metropolitan Borough Council and Wyre Borough Council.

The North East and North West of England Regulations

- 7.10 On 18 September, the NENW Regulations came into force. These imposed restrictions in the ‘protected area’ and included Durham County Council, Gateshead Council, Newcastle City Council, North Tyneside Council, Northumberland County Council, South Tyneside Council, and Sunderland City Council). The NENW Regulations prohibited people from mixing with other households in private homes or gardens. It was also put into guidance that they should not be mixing with people from other households in any setting. The protected area in the North East and North West Regulations was amended to include Merseyside and the majority of Lancashire on 22 September. Blackpool was added to the protected area on 26 September following a further amendment to the Regulations.
- 7.11 On 30 September, the NENW Regulations were amended to prohibit people from mixing with other households in all indoor settings. These measures were not applied in Council, Fylde Borough Council, Halton Borough Council, Hyndburn Borough Council, Lancaster City Council, Knowsley Metropolitan Borough Council, Liverpool City Council, Pendle Borough Council, Preston City Council, Ribble Valley Borough Council, Rossendale Borough Council, Sefton Borough Council, South Ribble Borough Council, St Helens Borough Council, Warrington Borough Council, West Lancashire Borough Council, Wirral Metropolitan Borough Council and Wyre Borough Council, and these local authorities were removed from the protected area in the NENW Regulations.

The Bolton Regulations

- 7.12 On 10 September, the Bolton Regulations came into force placing restrictions on the Bolton Metropolitan Borough Council. The Bolton Regulations prohibited people from mixing with other households in private homes or gardens. The Bolton Regulations required placed restrictions on certain businesses, so they were not permitted to sell food and drink for consumption on the premises. The Regulations also introduced restrictions on the operating hours of businesses so that they may not operate between 22:00 and 5:00, with certain exemptions. It was also put into guidance that they should not be mixing with people from other households in any setting.
- 7.13 Data shared by Public Health England and the Joint Biosecurity Centre indicated that the incidence rates of COVID-19 in Hartlepool, Middlesbrough, Liverpool, Knowsley, Sefton, St Helens, the Wirral, Halton and Warrington were significantly above the national average, and the number of cases was increasing. The data and evidence indicated that community transmission, 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 all indoor settings in Hartlepool, Middlesbrough, Liverpool, Knowsley, Sefton, St Helens, the Wirral, Halton and Warrington. This is designed to limit social mixing and subsequent close contact, which increases the spread of the virus. The local authorities in Merseyside and Lancashire are not subject to further restrictions as a result of these Regulations.

- 7.14 These measures intend to reduce the transmission of Covid-19 in the protected area, particularly to reduce transmission amongst older and more vulnerable people given community transmission has increased rapidly in these areas. The measure are designed to mitigate against onward transmission of the virus 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.
- 7.15 The data also suggests a stabilisation of the incidence rate in Bolton. As a result, it has been assessed that it is appropriate to remove additional business restrictions in Bolton and enable the reopening of bars, restaurants, cafes and pubs between the hours of 05:00-22:00 in line with the measures set out in the National Regulations.
- 7.16 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 This instrument does not consolidate any legislation.

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 gatherings in Hartlepool, Middlesbrough, Liverpool, Knowsley, Sefton, St Helens, the Wirral, Halton, Warrington and Bolton.

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

14. Monitoring & review

- 14.1 This instrument amends the other Regulations as set out in this explanatory memorandum 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 can be contacted with any queries regarding this instrument.
- 15.2 Paul McCloaghrie, Director at the Department of Health and Social Care; Email: Paul.Mccloaghrie@dhsc.gov.uk can confirm that this explanatory memorandum meets the required standard.
- 15.3 Matt Hancock, Secretary of State for Health and Social Care at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.