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STATUTORY INSTRUMENTS

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**2020 No. 1104**

**The Health Protection (Coronavirus, Local COVID-19  
Alert Level) (High) (England) Regulations 2020**

**PART 3**

**Enforcement**

**Enforcement of restrictions and requirements**

- 4.—(1) A relevant person may take such action as is necessary to enforce any Tier 2 restriction.
- (2) A relevant person may give a prohibition notice to a person if the relevant person reasonably believes that—
- (a) the person is contravening a Tier 2 restriction imposed by Part 2 or 3 of Schedule 1, and
  - (b) it is necessary and proportionate to give the prohibition notice for the purpose of preventing that person from continuing to contravene the restriction.
- (3) Where a relevant person considers that a number of people are gathered together in contravention of the Tier 2 restriction imposed by paragraph 1 or 2 of Schedule 1, the relevant person may—
- (a) direct the gathering to disperse,
  - (b) direct any person in the gathering to return to the place where they are living, or
  - (c) remove any person from the gathering.
- (4) A relevant person exercising the power in paragraph (3)(c) to remove a person from a gathering may use reasonable force, if necessary, in exercise of the power.
- (5) Where a person who is in a gathering in contravention of the Tier 2 restriction imposed by paragraph 1 or 2 of Schedule 1 is a child accompanied by an individual who has responsibility for the child—
- (a) the relevant person may direct the individual to take the child to the place where the child is living, and
  - (b) that individual must, so far as reasonably practicable, ensure that the child complies with any direction or instruction given by the relevant person to the child.
- (6) Where a relevant person has reasonable grounds to believe that a child is repeatedly failing to comply with the Tier 2 restriction imposed by paragraph 1 or 2 of Schedule 1, the relevant person may direct any individual who has responsibility for the child to secure, so far as reasonably practicable, that the child complies with the restriction.
- (7) A relevant person may exercise a power under paragraph (3), (5) or (6) only if the relevant person considers that it is a necessary and proportionate means of ensuring compliance with the restriction in question.
- (8) A relevant person exercising a power under paragraph (3), (5) or (6) may give the person concerned any reasonable instructions the relevant person considers to be necessary.

- (9) For the purposes of this regulation—
- (a) an individual has responsibility for a child if the individual—
    - (i) has custody or charge of the child for the time being, or
    - (ii) has parental responsibility for the child;
  - (b) “relevant person” means—
    - (i) a constable,
    - (ii) a police community support officer,
    - (iii) subject to paragraph (10), a person designated by a local authority for the purposes of this regulation, or
    - (iv) a person designated by the Secretary of State for the purposes of this regulation.
- (10) A local authority may designate a person for the purposes of this regulation only in relation to a Tier 2 restriction imposed by Part 2 or 3 of Schedule 1.

### **Offences and penalties**

- 5.—(1) A person commits an offence if, without reasonable excuse, the person—
- (a) contravenes a Tier 2 restriction,
  - (b) contravenes a requirement imposed, or a direction given, under regulation 4,
  - (c) fails to comply with a reasonable instruction or a prohibition notice given by a relevant person under regulation 4, or
  - (d) obstructs any person carrying out a function under these Regulations (including any person who is a relevant person for the purposes of regulation 4).
- (2) An offence under this regulation is punishable on summary conviction by a fine.
- (3) If an offence under this regulation committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of an officer of the body corporate, or
  - (b) to be attributable to any neglect on the part of such an officer,

the officer (as well as the body corporate) is guilty of the offence and liable to be prosecuted, proceeded against and punished accordingly.

(4) In paragraph (3) “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate.

(5) Section 24 of the Police and Criminal Evidence Act 1984<sup>(1)</sup> applies in relation to an offence under this regulation as if the reasons in subsection (5) of that section included—

- (a) to maintain public health;
- (b) to maintain public order.

### **Fixed penalty notices**

6.—(1) An authorised person may issue a fixed penalty notice to anyone that the authorised person reasonably believes—

- (a) has committed an offence under these Regulations, and
- (b) is aged 18 or over.

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(1) 1984 c. 60. Section 24 was substituted by s. 110(1) of the Serious Organised Crime and Police Act 2005 (c. 15).

(2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to an authority specified in the notice.

(3) The authority specified in the notice must be—

- (a) the local authority (or as the case may be, any of the local authorities) in whose area the offence is alleged to have been committed (“the relevant local authority”), or
- (b) an officer designated by the Secretary of State, or by the relevant local authority, for the purposes of this regulation (“the designated officer”).

(4) Where a person is issued with a notice under this regulation in respect of an offence—

- (a) no proceedings may be taken for the offence before the end of the period of 28 days following the date of the notice;
- (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(5) A fixed penalty notice must—

- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
- (b) state the period during which (because of paragraph (4)(a)) proceedings will not be taken for the offence;
- (c) specify the amount of the fixed penalty;
- (d) state the name and address of the person to whom the fixed penalty may be paid;
- (e) specify permissible methods of payment.

(6) Except in the cases mentioned in paragraphs (9) and (10), the amount of the fixed penalty to be specified under paragraph (5)(c) is as follows—

- (a) if the fixed penalty notice is the first one issued to the person under a relevant enactment, the amount is—
  - (i) £100, if the amount is paid before the end of the period of 14 days following the date of the notice;
  - (ii) otherwise, £200;
- (b) if the fixed penalty notice is not the first one issued to the person under a relevant enactment, the amount is—
  - (i) £400, if it is the second fixed penalty notice so issued;
  - (ii) £800, if it is the third fixed penalty notice so issued;
  - (iii) £1,600, if it is the fourth fixed penalty notice so issued;
  - (iv) £3,200, if it is the fifth fixed penalty notice so issued;
  - (v) £6,400, if it is the sixth or any subsequent fixed penalty notice so issued.

(7) In paragraph (6) “relevant enactment” means—

- (a) these Regulations;
- (b) the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020;
- (c) the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020;
- (d) the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020(2);

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(2) [S.I. 2020/350](#), which was revoked by [S.I. 2020/684](#), with savings.

- (e) the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020(3);
- (f) the Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020(4);
- (g) the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020(5);
- (h) the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Luton) Regulations 2020(6);
- (i) the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) Regulations 2020(7);
- (j) the Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020(8);
- (k) the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020(9);
- (l) the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020(10);
- (m) the Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020(11);
- (n) the Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020(12).

(8) For the purposes of determining how many fixed penalty notices have been issued to a person under a relevant enactment, no account is to be taken of any fixed penalty notice issued to the person under—

- (a) these Regulations, if the notice was issued to the person in respect of a business restriction offence or an offence of contravening the Tier 2 restriction imposed by paragraph 3 of Schedule 1;
- (b) the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020, if the notice was issued to the person in respect of a business restriction offence as defined by regulation 6(12) of those Regulations or an offence of contravening a restriction or requirement imposed by paragraph 2 of Schedule 1 to those Regulations;
- (c) the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020, if the notice was issued to the person in respect of a business restriction offence as defined by regulation 6(12) of those Regulations or an offence of contravening a restriction or requirement imposed by paragraph 3 of Schedule 1 to those Regulations;
- (d) the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020, if the notice was issued to the person in respect of an offence of contravening a restriction or requirement imposed by regulation 4A, 4B, 5A or 5B of those Regulations;
- (e) the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020, if the notice was issued to the person in respect of a business restriction offence, as defined by regulation 14(7D)(13) of those Regulations, committed on or after 14th October 2020.

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- (3) S.I. 2020/684, as amended by S.I. 2020/719, 750, 788, 800, 822, 824, 828, 863, 865, 907, 974, 986, 988, 1010, 1019, 1029, 1046 and 1057.
  - (4) S.I. 2020/685, which was revoked by S.I. 2020/824, with savings.
  - (5) S.I. 2020/750, as amended by S.I. 2020/800, 822, 824, 828, 865, 907, 974, 988, 1010 and 1019.
  - (6) S.I. 2020/800, which was revoked by S.I. 2020/822, with savings.
  - (7) S.I. 2020/822, which was revoked by S.I. 2020/1019, with savings.
  - (8) S.I. 2020/824, as amended by S.I. 2020/ 828, 865, 875, 907, 954, 974, 986, 987, 988, 1010, 1019 and 1029.
  - (9) S.I. 2020/828, amended by S.I. 2020/846, 865, 897, 907, 931, 954, 974, 986, 988, 1010, 1019, 1029, 1041, 1057 and 1074. The title of the Regulations was changed by S.I. 2020/865.
  - (10) S.I. 2020/974, which was revoked by S.I. 2020/1074.
  - (11) S.I. 2020/988, amended by S.I. 2020/1010, 1019 and 1029.
  - (12) S.I. 2020/1010, as amended by S.I. 2020/1012, 1019, 1029, 1041, 1057 and 1074. The title of the Regulations was changed by S.I. 2020/1019.
  - (13) Regulation 14(7D) is inserted by paragraph 2(5) of Schedule 3 to the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020.

(9) In the case of a fixed penalty notice issued in respect of the offence under regulation 5(1)(a) of contravening a restriction imposed by paragraph 3 of Schedule 1, the amount of the fixed penalty to be specified under paragraph (5)(c) is £10,000.

(10) In the case of a fixed penalty notice issued in respect of a business restriction offence, the amount of the fixed penalty to be specified under paragraph (5)(c) is—

- (a) £1,000, if the fixed penalty notice is the first one issued to the person in respect of a business restriction offence;
- (b) £2,000, if the fixed penalty notice is the second one issued to the person in respect of a business restriction offence;
- (c) £4,000, if the fixed penalty notice is the third one issued to the person in respect of a business restriction offence;
- (d) £10,000, if the fixed penalty notice is the fourth one, or any subsequent one, issued to the person in respect of a business restriction offence.

(11) In determining how many fixed penalty notices have been issued to a person for the purposes of paragraph (10), a fixed penalty notice issued to the person under the following Regulations is to be treated as if it were issued in respect of a business restriction offence—

- (a) the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020, if the notice was issued in respect of a business restriction offence as defined by regulation 6(12) of those Regulations;
- (b) the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020, if the notice was issued to the person in respect of a business restriction offence as defined by regulation 6(12) of those Regulations;
- (c) the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020, if the notice was issued to the person in respect of an offence of contravening regulation 4A or 4B of those Regulations;
- (d) the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020, if the notice was issued to the person in respect of a business restriction offence, as defined by regulation 14(7D) of those Regulations, committed on or after 14th October 2020;
- (e) the Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020(14);
- (f) the Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020(15).

(12) In this regulation, unless otherwise specified “business restriction offence” means—

- (a) an offence under regulation 5(1)(a) of contravening a Tier 2 restriction imposed by Part 2 or 3 of Schedule 1;
- (b) an offence under regulation 5(1)(c) of failing to comply with a prohibition notice given under regulation 4.

(13) Whatever other method may be specified under paragraph (5)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under paragraph (5)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).

(14) Where a letter is sent as mentioned in paragraph (13), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(15) In any proceedings, a certificate—

- (a) that purports to be signed by or on behalf of—

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(14) S.I. 2020/1005, as amended by S.I. 2020/1045 and 1046.

(15) S.I. 2020/1008, as amended by S.I. 2020/1045, 1046 and 1074.

- (i) the chief finance officer of the relevant local authority, where the authority to which payment is made is a local authority, or
  - (ii) the designated officer, where that officer is the authority to which payment is made, and
- (b) that states that the payment of a fixed penalty was, or was not, received by the date specified in the certificate,
- is evidence of the facts stated.

(16) In this regulation—

- (a) “authorised person” means—
  - (i) a constable;
  - (ii) a police community support officer;
  - (iii) a person designated by the Secretary of State for the purposes of this regulation;
  - (iv) subject to paragraph (17), a person designated by the relevant local authority for the purposes of this regulation;
- (b) “chief finance officer”, in relation to a local authority, means the person with responsibility for the authority’s financial affairs.

(17) The relevant local authority may only designate a person for the purposes of this regulation to issue fixed penalty notices where the alleged offence relates to—

- (a) the contravention of a Tier 2 restriction imposed by Part 2 or 3 of Schedule 1, or
- (b) the obstruction under regulation 5(1)(d) of a person carrying out a function under regulation 4.

### **Prosecutions**

7. Proceedings for an offence under these Regulations may be brought by the Crown Prosecution Service and any person designated by the Secretary of State.