

**EXPLANATORY MEMORANDUM TO**  
**HEALTH PROTECTION (CORONAVIRUS, LOCAL COVID-19 ALERT LEVEL)**  
**(HIGH) (ENGLAND) REGULATIONS 2020**

**2020 No. 1104**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the 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), which causes the disease Covid-19, in areas determined to be at local Alert Level High. The Alert Level framework consists of 3 local Alert Levels and these regulations delineate the regulations for local Alert Level High.

**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 Regulations are 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 Regulations 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).
- 3.2 These Regulations were made on 12 October 2020 and were published on [www.legislation.gov.uk](http://www.legislation.gov.uk) later that day. These Regulations will come into force on 14 October 2020. The Regulations will cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, it is approved by a resolution of each House of Parliament. Further, the Regulations themselves provide that they will expire at the end of the period of six months beginning with the day on which they come into force. Para 6.16 sets out the periodic review mechanisms for these Regulations.

*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)*

- 3.3 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, Local COVID-19 Alert Level) (High) (England) 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 outside England and Wales.

6.4 This instrument is made under section 45C to enable a number of public health measures to be taken for the purpose of reducing the public health risks posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

6.5 In accordance with section 45R of the 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

6.6 The instrument sits alongside the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020 and the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 as part of a Local Alert Level system for rationalising local interventions. Geographical areas determined to be at Local Alert Level Medium will adhere to the ‘current national measures’ which are those set out in the Alert Level Medium Regulations, which represent the minimum level of restrictions in place across England. Geographical areas will be moved to Local Alert Level High, or Local Alert Level Very High, based on a rise in transmission. Areas allocated to Local Alert Levels High and Very High will be subject to review.

6.7 The instrument sits alongside the Health Protection (Coronavirus Alert Level Medium Restrictions) (England) Regulations and the Health Protection (Coronavirus Alert Level Very High Restrictions) (England) as part of a Local Alert Level system for rationalising local interventions. Geographical areas determined to be at Local Alert Level Medium will adhere to the ‘current national measures’ which are those set out in the Alert Level Medium Regulations, which represent the minimum level of restrictions in place across England. Geographical areas will be moved to Local Alert Level High, or subsequently Local Alert Level Very High, based on a rise in

transmission. Areas allocated to Local Alert Levels High and Very High will be reviewed every two weeks.

- 6.8 Regulation 1 of this instrument sets out the commencement date of these regulations (14<sup>th</sup> October) and their application (to England only).
- 6.9 Regulation 2 sets out definitions of terms used in this instrument. It should be noted that the Regulations refer to Local Alert Levels leading to a tiered response. Local Alert Level High entails Tier 2 restrictions.
- 6.10 Regulation 3 sets out the scope of the restrictions (which are set out in Schedule 1 of the instrument) and provides that the restrictions apply to the areas listed in Schedule 2 of the instrument. It is envisaged that areas will move between Levels, in accordance with the review cycle, and as of the date of this Instrument coming into force, these are:
- Cheshire East Council
  - Cheshire West and Cheshire Council
  - Warrington Borough Council
  - High Peak Borough Council
  - Durham County Council
  - Bolton Metropolitan Borough Council
  - Bury Metropolitan Borough Council
  - Manchester City Council
  - Oldham Metropolitan Borough Council
  - Rochdale Borough Council
  - Salford City Council
  - Stockport Metropolitan Borough Council
  - Tameside Metropolitan Borough Council
  - Trafford Metropolitan Borough Council
  - Wigan Metropolitan Borough Council
  - Blackpool Council
  - Blackburn with Darwen Borough Council
  - Burnley Borough Council
  - Chorley Borough Council
  - Fylde Borough Council
  - Hyndburn Borough Council
  - Lancaster City Council
  - Pendle Borough Council
  - Preston City Council
  - Ribble Valley Borough Council
  - Rossendale Borough Council
  - South Ribble Borough Council
  - West Lancashire Borough Council
  - Wyre Borough Council

- Leicester City Council
- Oadby and Wigston Borough Council
- Northumberland County Council
- Ashfield District Council
- Bassetlaw District Council
- Broxtowe Borough Council
- Gedling Borough Council
- Mansfield District Council
- Newark & Sherwood District Council
- Nottingham City Council
- Rushcliffe Borough Council
- Barnsley Metropolitan Borough Council
- Doncaster Council
- Rotherham Metropolitan Borough Council
- Sheffield City Council
- Darlington Borough Council
- Middlesbrough Borough Council
- Redcar and Cleveland Borough Council
- Stockton-on-Tees Borough Council
- Gateshead Council
- Newcastle City Council
- North Tyneside Council
- South Tyneside Council
- Sunderland City Council
- Birmingham City Council
- Sandwell Metropolitan Borough Council
- Solihull Metropolitan Borough Council
- City of Wolverhampton Council
- Walsall Council
- City of Bradford Metropolitan District Council
- Calderdale Metropolitan Borough Council
- Kirklees Metropolitan Council
- Leeds City Council
- Wakefield Council

- 6.11 Regulation 4 sets out who can enforce these regulations (a constable, a police community support officer or a person designated by a local authority), their powers and how they should exercise that enforcement.
- 6.12 Regulation 5 sets out how a person or corporate body commits an offence under these regulations and that such an offence is punishable by fine.

- 6.13 Regulation 6 provides that a fixed penalty notice (a notice which enables a person to discharge their liability to a criminal conviction) may be issued by an authorised person (constable, police community support officer, or a person designated by a local authority or the Secretary of State) to a person aged 18 or over whom they reasonably believe has committed an offence under the Regulations. There are three categories of offence for this purpose – those that involve organising or facilitating a gathering where the amount of the fixed penalty is £10,000, business restriction offences where the amount of the fixed penalty for the first offence is £1,000, and all other offences, including the offence of participating in a gathering, where the amount of the fixed penalty for the first offence is £200 (or £100 if paid within 14 days).
- 6.14 For all fixed penalty notices other than those in relation to the organising a gathering offence, if a person has already received a fixed penalty notice under these Regulations or under previous Coronavirus Restriction Regulations (as applicable to the offence at hand), the amount of the fixed penalty increases. For the business restriction offences the amount of the second fixed penalty is £2,000, increasing on each further repeat offence up to a maximum of £10,000. For the offences other than the business restriction offences or the organising a gathering offence, the amount of the second fixed penalty is £400, doubling on each further repeat offence up to a maximum of £6,400.
- 6.15 Under regulation 7 proceedings for an offence under these regulations can be brought by the Crown Prosecution Service or any person designated by the Secretary of State.
- 6.16 Regulation 8 provides that the Local Alert Level High restrictions must be reviewed every 28 days, with the first review to be carried out by 11<sup>th</sup> November 2020. In addition, Regulation 8 provides that the areas that are part of the Alert Level High must be reviewed every 14 days to determine whether they should continue to be part of the Alert Level High area, with the first review to be carried out by 28<sup>th</sup> October 2020. The review must consider whether each of the Alert Level High restrictions continues to be necessary in the areas to which they relate for the purposes of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection in England with the coronavirus.
- 6.17 Regulation 9 states that these Regulations will expire 6 months from when they came into force.
- 6.18 Schedule 1, paragraph 1 provides that no person may gather together in a group of 2 or more people indoors in the areas outlined in Schedule 2 unless an exception applies. It also provides that no people living within the areas in Schedule 2 may gather together in a group of 2 or more people indoors outside of those areas unless an exception applies.
- 6.19 Paragraph 2 sets out the rule that no person may gather together in a group of 6 or more people outdoors in the areas outlined in Schedule 2 unless an exception applies. No people living within the areas in Schedule 2 may gather together in a group of 6 or more people outdoors outside of that area unless an exemption applies.
- 6.20 Paragraph 3 provides that no person may hold, or be involved in the holding of, a gathering of more than 30 persons indoors where it would be a gathering of the kind mentioned in section 63(1) of the Criminal Justice and Public Order Act 1994 (which provides powers to remove persons attending or preparing for a rave) if it took place in the open air. Paragraph 3 also provides that no person may hold, or be involved in the holding of, a gathering of more than 30 persons where that gathering takes place in

a private dwelling, on a vessel or on public outdoor space not operated by a business or a charitable, benevolent or philanthropic institution or part of premises used for the operation of a business, a charitable, benevolent or philanthropic institution, or a public body. Vessels do not include government vessels or those used for public transport or houseboats.

- 6.21 Paragraph 4 sets out the exceptions to the limits on participating in a gathering indoors which include where the gathering is just with a person's household or linked household and where the gathering is a permitted organised gathering and the person is taking part in the gathering as part of a qualifying group of just members of their household and/or linked household. There are also exemptions for where the gathering is necessary for the specific purposes of work, education, childcare (including childcare support bubbles), legal obligations or proceedings; where the gathering takes place in a criminal justice accommodation and, where the gathering involves participation in a support group (of no more than 15 persons), being present at a birth at the request of the person giving birth, taking part in a marriage/civil partnership/alternative wedding ceremony (of no more than 15 persons) or at a wedding reception (of no more than 15 people). There are also exemptions to allow for funerals of no more than 30 persons, commemorative events (including wakes and stone settings) of no more than 15 persons, visiting a dying person, visiting a person receiving treatment, visiting someone in a care home, organised protests, participation in an elite sports event as a participant, coach or the parent/guardian of a child participant, and participation in a permitted indoor sports gathering.
- 6.22 Paragraph 5 sets out the exceptions to the six person gathering limit and relevant gatherings outdoors which include where the gathering is just with a person's household or linked household and where the gathering is a permitted organised gathering, and the person is attending as part of a qualifying group. There are also exemptions for where the gathering is necessary for specific purposes of work, education, childcare, legal obligations or proceedings; where the gathering takes place in a criminal justice accommodation and, where the gathering involves participation in a support group (of no more than 15 persons), being present at a birth at the request of the person giving birth, taking part in a marriage/civil partnership/other alternative wedding ceremony (of no more than 15 persons) or at a wedding reception (of no more than 15 people). There are also exemptions to allow for funerals of no more than 30 persons, commemorative events (including wakes and stone settings) of no more than 15 persons, organised protests, participation in an elite sports event as a participant, coach or the parent/guardian of a child participant, participation in an outdoor sports gathering and participation in an approved relevant outdoor activity.
- 6.23 Paragraph 6 provides for linked households where one household comprises of only one adult, with or without children, and links with another household of any make up or size. Where linked households meet there is no restriction on the numbers present, as long as they are only from these two households. Neither household nor members of them can link with any other household and if the households de-couple they then cannot subsequently link with another household.
- 6.24 Paragraph 7 provides for a household with at least one child aged 13 or under to link with one other household ("the second household"), for the purposes of second household providing informal childcare to the child aged 13 or under. Neither household nor members of them can link with any other household to provide informal childcare. The households ceased to be linked when neither household

contains a child aged 13 or under and when the households de-couple they then cannot subsequently link with another household to provide or receive informal childcare.

- 6.25 Paragraph 8 sets out what is a permitted organised gathering and what are qualifying groups for the purposes of the exceptions to the gatherings provisions. Permitted organised gatherings can take place either indoors but not in a private dwelling - or outdoors in a public outdoor space - where they take place at premises operated by or part of the premises used for the operation of a business, a charitable, benevolent or philanthropic institution, or a public body or where they have been organised by a business, a charitable, benevolent or philanthropic institution, a public body or a political body, and the gathering organiser takes the required precautions (paragraph 9) in relation to the gathering. In relation to the outdoor gatherings offence, a qualifying group must be no more than 6 persons, unless all are members of the same household or of two linked households. In relation to the indoor gatherings offence, a qualifying group must be only made of persons that are members of the same household or of two linked households.
- 6.26 Paragraphs 9, 10 and 11 provide interpretation provisions for the earlier paragraphs.
- 6.27 Paragraph 12 sets out the requirement to close businesses and premises if a person is carrying on a restricted business (or service) or a restricted business (or service) is operating within their business.
- 6.28 Paragraph 13 sets out the business that are restricted for the purpose of Paragraph 12, these are: nightclubs, dance halls, discotheques, other venues that open at night with a dance floor and provide music, sexual entertainment venues and hostess bars.
- 6.29 Paragraph 14 provides exceptions on the restriction of businesses, including where the premise is being used for blood donation sessions, allowing for deliveries or otherwise providing a service in response to orders received from a website or online, by telephone, writing or text message or by post. Cafes and restaurants can operate if they are in separate premises from the closed business.
- 6.30 Paragraph 15 sets out the opening hours of businesses or services. Restricted businesses or services must not operate between 22:00 and 05:00 hours except for food and drink provided for offsite consumption, delivered having been ordered from a website or online, by telephone, writing or text message or by post, where collected having been pre-ordered, or where the person can collect it without leaving their vehicle. There is provision to allow food and drink sales in the restricted hours at motorway services and provision allowing sales of food and drink during the restricted hours in airports, seaports and the Channel rail terminal at Folkestone. There is also provision to allow workplace canteens to open during the restricted hours where workers cannot obtain food anywhere else. If the restricted business or service operates within a larger business or service, it is the responsibility of the larger business to ensure it does not operate in the restricted hours.
- 6.31 Paragraph 17 sets out the restrictions on service of food and drink for consumption on premises. These provisions require that customers are seated when ordering and that food and drink is served to tables except in cinemas, theatres and concert halls. The person responsible must take all reasonable steps to ensure that customers remain seated when eating and drinking. The premises include any area adjacent to the business or service where customers habitually eat and drink. The hours of business or service are the same as the restricted hours (not from 22:00 or before 5:00 hours).

- 6.32 Paragraph 18 sets out what is a restricted business or service: restaurants, including restaurants and dining rooms in hotels or members' clubs; businesses providing food or drink prepared on the premises for immediate consumption off the premises (not including supermarkets, convenience stores, corner shops and newsagents, pharmacists and chemists, or petrol stations); cafes, including workplace canteens (not including cafes or canteens at a hospital, care home or school, 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, or services providing food or drink to the homeless); bars, including bars in hotels or members' clubs; public houses; social clubs; casinos; bowling alleys; cinemas; theatres; amusement arcades or other indoor leisure centres or facilities; funfairs (indoors or outdoors), theme parks and adventure parks and activities; bingo halls; and concert halls.
- 6.33 Schedule 2 sets out the areas that are designated as Alert Level High and subject to the restrictions in this instrument.
- 6.34 Schedule 3 sets out the consequential amendments to the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 (S.I. 2020/684), the Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020 (S.I. 2020/1005) the Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 (S.I. 2020/1008).
- 6.35 Schedule 3 also sets out the that the Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020 (S.I. 2020/824) other than regulation 2, the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020 (S.I. 2020/828), the Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020 (S.I. 2020/988), the Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020 (S.I. 2020/1010), the Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (Amendment) Regulations 2020 (S.I. 2020/846), the Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/865), the Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) (Amendment) Regulations 2020 (S.I. 2020/875), the Health Protection (Coronavirus, Restrictions) (North of England) (Amendment) Regulations 2020 (S.I. 2020/897), the Health Protection (Coronavirus, Restrictions) (North of England) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/931), the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford, Leicester, and North of England) (Amendment) Regulations 2020 (S.I. 2020/954), the Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/987), the Health Protection (Coronavirus, Restrictions) (North East of England) (Amendment) Regulations 2020 (S.I. 2020/1012), and the Health Protection (Coronavirus, Restrictions) (North of England and North East and North West of England etc.) (Amendment) Regulations 2020 (S.I. 2020/1074) are revoked.
- 6.36 Part 2 of Schedule 3 sets out the transitional provisions



## 7. Policy background

### *What is being done and why?*

- 7.1 The amendments to the 1984 Act made by the 2008 Act comprehensively modernised the legal framework for health protection. Part 2A of the 1984 Act, as inserted by the 2008 Act, takes an “all hazards” approach to health protection, where the criterion for action is based on the potential of an infection or contamination to present significant harm to humans, rather than on specific infectious diseases.

### *Previous Health Protection (Coronavirus) Regulations*

- 7.2 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 Severe acute respiratory coronavirus 2 (SARS-CoV-2). In order to limit the further spread of the disease, the Prime Minister announced further restrictions which came into force at 1pm on 26 March 2020, prohibiting people from leaving the place they live except for very limited purposes and banning public gatherings of more than two people. Those restrictions were contained in the Health Protection (Coronavirus Restrictions) (England) Regulations 2020 (S.I. 2020/237).
- 7.3 On 22 April 2020 and on 13 May 2020, amendments to those Regulations came into force to make a number of minor and clarificatory changes to addressing concerns raised by key stakeholders. This included ensuring key services such as, waste and recycling centres, remained accessible where required, and reopening garden centres.
- 7.4 In line with Step 2 of the government’s recovery strategy for the Covid-19 pandemic, several amendments were made in June 2020. We worked with representatives from these industries and business sectors to develop options to facilitate a safe way for them to reopen. The amended regulations were therefore able to include reopening all nonessential retail, except for businesses and venues where the transmission risk was still too high, as well as outdoor areas of visitor and animal attractions. The Regulation which required people to stay at home was also removed, with a relaxation of the restrictions on gatherings and overnight stays for single adult occupancy households and their ‘support bubble’. There was recognition that these changes may lead to an increase in transmission rates and the measure have been kept under review.
- 7.5 As part of Step 3 of the government’s recovery strategy for the Covid-19 pandemic, the Government announced the opening of the hospitality sector from 4 July. The Prime Minister also announced on 23 June 2020 further relaxations in relation to gatherings to come into force in parallel. These further relaxations were possible due to the decrease in the transmission rate and decreasing rates of hospitalisation and fatalities. The Chief Medical Officers had downgraded the UK’s Covid Alert Level from four to three, meaning that England was not dealing with a virus spreading exponentially, though it remained in general circulation. The Regulations are supported by detailed Government guidance, across all affected sectors, as well as providing more information to the public about how to stay safe and reduce the transmission risk.
- 7.6 The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 came into force on 4 July. These Regulations replicated some provisions from the first restrictions Regulations, which were revoked, and contained several new provisions.

- 7.7 The Regulations allowed for the reopening of indoor and outdoor public houses, restaurants, cafes and bars, holiday accommodation and several leisure and recreational business and attractions.
- 7.8 Nightclubs, gyms and bowling alleys, dance studios hair salons and sports courts continued to be required to remain closed due to the increased risk of aerosol transmission and the likelihood of prolonged exposure.
- 7.9 As infection rates had decreased, the Regulations were more permissive in relation to gatherings, generally allowing gatherings of up to 30 people in most circumstances. The Regulations also gave the Secretary of State the power to restrict or prohibit access to a specified public outdoor place or public outdoor places of a specified description in order to prevent, protect against, control or provide a public health response to the incidence or spread of Covid-19.
- 7.10 Due to a rise in the national transmission rate, and reduced compliance with social distancing guidance, new measures were introduced on 14 September to limit the size of social gatherings to 6 people unless exemptions apply. Due to the transmission rate continuing to increase and the Chief Medical Officers upgrading the UK's Covid-19 Alert Level from three to four. Further restrictions were brought in on 24 September mandating the closure of businesses selling food and drink from 22:00 to 05:00 (subject to exemptions), mandating seated consumption of food and drink and increasing restrictiveness of gatherings of the exemptions to the limits on gatherings, for example reducing number of attendees at weddings and funerals.

### ***Local Restrictions***

- 7.11 In addition to the national restrictions, specific restrictions for local areas have been introduced where necessary for public health reasons as bespoke packages in consultation with local MPs, local leaders and Local Authorities.
- 7.12 In response to the high number of positive Covid-19 cases in Leicester in June 2020, the government announced a local lockdown in order to limit the further spread of the disease. The first Leicester Regulations came into force on 4 July 2020, imposing restrictions on those who lived within the Leicester protected area. The restrictions in the National Regulations did not apply to the Leicester protected area. Following reviews by public health experts, the scope of the protected area covered by the first Leicester Regulations was gradually narrowed, removing all areas outside of the City of Leicester and the Borough of Oadby and Wigston on 18 July, and removing the Borough of Oadby and Wigston on 1 August. Following further review, a decision was also made to open additional businesses and venues in Leicester from 3 August, in line with the national changes of 4 July. As these changes were quite substantial, the first Leicester Regulations were revoked and replaced by a second set of Leicester Regulations, containing restrictions and requirements in relation to gatherings and business closures for the protected area of the City of Leicester. In addition to Leicester local restrictions were introduced in a number of other areas in response to larger transmission levels and in consultation with local leaders, this included Greater Manchester, Blackburn with Darwen and Bradford, Birmingham, Sandwell and Solihull.
- 7.13 While these bespoke Regulations have sought to respond to the specific needs of the individual areas subject to more stringent restrictions, the difference in rules has created a complex set of measures. The Government has decided to introduce a local Alert Level approach in order to provide greater clarification nationwide, in order to

improve clarity, legal certainty, and understanding among the public and enforcement bodies.

### ***Local Alert Level Approach***

- 7.14 The introduction of a local Alert Level approach will rationalise local interventions. The framework will consist of three local Alert Levels, with Local Alert Level Medium consisting of the current national measures and representing the minimum level of restrictions in place across England. Local Alert Level High will be triggered in geographical areas where there is a rise in transmission, or nationally when there has been a rise in transmission which cannot be contained through other, localised means. Local Alert Level Very High will be triggered in geographical areas or nationally when Local Alert Level High measures have not contained the spread of the virus or where there has been a significant rise in transmission. The local areas allocated to Local Alert Levels High and Very High will be reviewed every two weeks.
- 7.15 The local Alert Level approach will enable a coherent set of interventions across England, making it easier to communicate what restrictions apply in each area to the public. The simplification of the system of local interventions will increase the likelihood of compliance and the effectiveness of social distancing measures. It will also allow the public to understand the consequences of non-adherence to measures (i.e. moving to a higher alert level) and plan for what they will do differently if the Alert Level of their area changes.

### **Restrictions for Local Alert Level High**

- 7.16 Areas at Alert Level High must comply with Alert Level Medium restrictions, except where these restrictions are superseded by the further restrictions placed upon Alert Level High areas. These further restrictions limit social contact (with the exception of some life events and sporting activities) and are aimed primarily at targeting household to household transmission.
- 7.17 The current statutory instrument requires all geographical areas determined to be at Alert Level High to adhere to the following restrictions:

### **Restrictions on Gatherings**

- 7.18 Whereas at Alert Level Medium, individuals must adhere to the rule of six in both indoor and outdoor gatherings, at Alert Level High:
- All meetings in outdoor public spaces, outdoor Covid-secure retail and hospitality, and outdoor private dwellings (gardens) to be limited to 6 people.
  - All meetings indoor Covid-secure retail and hospitality, and indoor private dwellings (homes) that are within an area designated Alert Level High must be limited to one household (unless exemptions apply)
  - A person living in an area designated Alert Level High must limit their meetings indoor Covid-secure retail and hospitality, and indoor private dwellings (homes) to one household (unless exemptions apply).
- 7.19 There are exemptions from the rule of six which include allowing a household with only one adult in the home (known as a single-adult household) and one other household of any size two households to link together to form a support bubble. A

support bubble is a targeted policy intervention to support those most at risk of becoming isolated. A gathering that is only made up of people from the same support bubble is not subject to the 6 person outdoors gathering limit or the one household indoor gathering limit.

- 7.20 There is an exemption to allow for a household (“the first household”) with at least one child aged 13 or under to link with one other household (“the second household”), for the purposes of second household providing informal childcare to the child aged 13 or under. A gathering which is only made up of the second household and the first household children that are 13 or under then the gathering is not subject to the one household indoor gathering limit or the one household indoor gathering limit.
- 7.21 Further exemptions from the gathering limit include where a gathering is reasonably necessary for; work or voluntary purposes, education and training, formal childcare or supervision, providing care to a vulnerable person, and support groups.
- 7.22 There are also exemptions for some specific life events including weddings and civil partnerships, wedding and civil partnership ceremonies, which are subject to a 15-person limit, funerals which are subject to a 30-person limit commemorative and event following a person’s death, which are subject to a 15 person limit. The Government recognise that both weddings and funerals are significant life events for different reasons in difficult times. Allowing these events with a higher limit balance the needs of people to recognise these significant events while minimising the spread of the virus.
- 7.23 The six person outdoors gathering limit strikes, with the exemptions strikes a balance between reducing social contact, whilst allowing socialising to continue and minimising negative social and economic impacts.
- 7.24 The one household gathering limit, with exemptions is more restrictive because the virus is being transmitting at a higher level in this area. As a result, social contact needs to be further restricted to reduce transmission, thereby saving lives and protecting the vulnerable. The exemptions seek to minimise the negative impact this will have on individuals.

#### Business Restrictions

- 7.25 The regulation requires the closure of all hospitality and leisure venues, including takeaways, from 22:00 to 05:00 (delivery only during that period) in order to reduce the likelihood of people not adhering to social distancing rules, as compliance is often affected by alcohol consumption.
- 7.26 The regulations also mandate table service in order to reduce the amount of time that customers spend at the ordering counter. This, in turn, will reduce the risk of transmission from people mingling with others that they do not live with.
- 7.27 These restrictions reduce the amount of social contact that people have with each other, thereby controlling and reducing the transmission of the virus, whilst allowing the businesses to continue to operate and the general public use their services.

#### Business closures

- 7.28 The Regulations require that nightclubs, dance halls; discotheques; sexual entertainment venues; hostess bars and any other venue which opens at night, has a

dance floor and provides music, whether live or recorded, for dancing are closed to the general public.

- 7.29 These businesses or services provide a higher transmission risk and cannot currently be opened safely. We continue to work with representatives from these industries and business sectors to develop options to facilitate a safe way for them to reopen.

#### Fines

- 7.30 The Instrument creates offences punishable by fines and provides for fixed penalty notices, which are explained in paragraphs 6.13 and 6.14 above.
- 7.31 The vast majority of the general public will do the right things and follow the rules, but to protect public health it is important that police have appropriate powers to deal with those that flout the rules.

### **8. European Union (Withdrawal) Act/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.

### **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 England under this instrument.

### **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 The approach to monitoring of this legislation is that the instrument ceases to have effect at the end of the period of 28 days beginning with the day on it is made unless, during that period, the instrument is approved by a resolution of each House of Parliament. Further, the instrument itself provides that it expires at the end of the period of six months beginning with the day on which it came into force.

- 14.2 Regulation 8 provides that the Alert Level High restrictions must be reviewed every 28 days starting from the coming into force date. In addition, Regulation 8 provides that the areas that are part of the Alert Level High must be reviewed every 14 days to determine if they should continue to be part of the Alert Level High area. The review must consider whether each of the Alert Level High restrictions continues to be necessary in the areas to which they relate for the purposes of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection in England with the coronavirus.

## **15. Contact**

- 15.1 Kevin Dodds ([Kevin.Dodds@dhsc.gov.uk](mailto:Kevin.Dodds@dhsc.gov.uk)), Deputy Director for Social Distancing Strategy, at the Department for Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.
- 15.2 Matt Hancock MP, 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.