

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, LOCAL COVID-19 ALERT LEVEL) (VERY HIGH) (ENGLAND) REGULATIONS 2020

2020 No. 1105

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 COVID Alert Level Very High. The Local COVID Alert Level framework consists of three local Alert Levels and these regulations delineate the regulations for local COVID Alert Level Very 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). 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).
- 3.2 This instrument was made on 12 October 2020 and was published on www.legislation.gov.uk later that day. This instrument will come into force on 14 October 2020. This instrument 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 instrument provides that it will expire at the end of the period of six months beginning with the day on which it comes into force. The Secretary of State must review the need for the restrictions in this instrument at least once every 28 days, with the first review to be carried out by 11 November 2020.

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) (Very 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 (SARSCoV-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) (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. These 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 Regulation 1 of this instrument sets out the commencement date of these regulations and their application (to England only).

- 6.8 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 ‘Very High’ entails Tier 3 restrictions.
- 6.9 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 this instrument. These are Halton Borough Council, Knowsley Metropolitan Borough Council, Liverpool City Council, Sefton Borough Council, St Helens Borough Council, and Wirral Metropolitan Borough Council. It is envisaged that areas will move between Levels, in accordance with the review cycle.
- 6.10 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.
- 6.11 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.
- 6.12 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).
- 6.13 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.
- 6.14 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.
- 6.15 Regulation 8 provides that the Secretary of State must review the need for the Alert Level Very High restrictions at least once every 28 days with the first review to be carried out by 11 November 2020. In addition, The review must consider whether each of the Local Alert Level Very High restrictions continue 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.
- 6.16 Regulation 9 states that these Regulations will end 6 months from when they came into force.
- 6.17 Schedule 1, paragraph 1 provides that no person may meet in a group of 2 or more people indoors and in private dwellings in the areas outlined in Schedule 2 (unless an

exemption applies). It also provides that no person living within areas in schedule 2 may gather together in a group of 2 or more people indoors or in private dwellings outside of the area (unless an exemption applies).

- 6.18 Paragraph 2 sets out the rule that no person may gather together in a group of 6 or more people in an outdoor setting in the areas outlined in schedule 2 if that gathering satisfies the conditions in paragraph 2(4). These conditions are that a place is a public outdoor place, no payment is required by the public to access that place, or it falls within the following categories: outdoor sports grounds or sports facilities; botanical gardens; gardens or grounds of a castle, stately home or historic house. For all other outdoor settings, no person may meet in a group of more than 2 (unless an exemption applies).
- 6.19 Paragraph 3 sets out the rule that no person may hold, or be involved in the holding of a gathering of more than 30 persons indoors where loud music is played at night that is likely to cause serious distress to the inhabitants of the locality, 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.
- 6.20 Paragraph 4 sets out the general exceptions in relation to gatherings.
- 6.21 Paragraph 5 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). 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 6 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). 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 7 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 8 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 cease 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 9 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 10, 11, and 12 provide interpretation provisions for the earlier paragraphs.
- 6.27 Part 2, Paragraph 14 and 15 set out the permitted opening hours of certain 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, ordered from a website or online, by telephone, writing or text message or by post where the person can collect it providing they have pre-ordered. 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.

- 6.28 Paragraph 16 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).
- 6.29 Paragraph 17 outlines the requirement for the closure of a public house, bar, or any other businesses selling alcohol for consumption on the premises unless it is served as part of a meal that would be expected to be served as a main course meal (with certain exemptions).
- 6.30 Paragraph 18 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. This applies to nightclubs; dance halls; discotheques; and any other venue which opens at night, has a dance floor and provides music for dancing; sexual entertainment venues; and hostess bars.
- 6.31 Paragraph 19 provides exceptions on the restriction of businesses, including where the premises 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.
- 6.32 Paragraph 20 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 Very High and subject to the restrictions in this instrument.
- 6.34 Schedule 2, part 2 explains that these Regulations impose closures on restricted businesses and venues in the protected area of Halton Borough Council, Knowsley Metropolitan Borough Council, Liverpool City Council, Sefton Borough Council, St Helens Borough Council, and Wirral Metropolitan Borough Council. As set out in Schedule 2, part 2, this includes: casinos; betting shops; adult gaming centres; indoor gyms and sports facilities; and indoor fitness and dance studios. There are certain exemptions for the purposes of elite sport and sport for disabled persons, as well as supervised activities for children.
- 6.35 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), and the Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 (S.I. 2020/1008).

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.

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 measures 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 National COVID Alert Level from four to three, meaning that England was not dealing with a virus spreading exponentially, though it remained in general circulation.

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.

The Regulations were 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.

- 7.7 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 These Regulations were subsequently amended several times (11 July, 24 July, 15 August) to enable the reopening of certain recreational business, leisure, and entertainment facilities. Certain businesses and venues have been required to remain closed, such as nightclubs, due to the increased risk of aerosol transmission and likelihood of prolonged exposure in these settings.
- 7.11 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 National COVID Alert Level from three to four, further restrictions were brought in on 24 September. These Regulations mandated: the closure of businesses selling food and drink from 22:00 to 05:00 (subject to exemptions), and seated consumption of food and drink within certain hospitality venues. These amendments also reduced the permissiveness of certain exemptions to the gathering limit, for example reducing the number of attendees at weddings and funerals.

Local Restrictions

- 7.12 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.
- 7.13 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.

- 7.14 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 COVID Alert Level Approach

- 7.15 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 will be reviewed every two weeks.
- 7.16 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 COVID Alert Level Very High

- 7.17 Areas at COVID Alert Level Very High are subject to additional restrictions than areas within the lower Alert levels. These Regulations place stricter restrictions on social contact and businesses and venues.
- 7.18 The current statutory instrument requires all geographical areas determined to be at Local COVID Alert Level Very High to adhere to the following restrictions:

Restrictions on Gatherings

- 7.19 At Local COVID Alert Level Very High, individuals must adhere to stricter restrictions on gatherings because Covid-19 is being transmitted at a higher level in this area. As a result, social contact needs to be further restricted to reduce transmission, in order to protect the vulnerable and save lives. Individuals must adhere to the following restrictions on gatherings:
- 7.20 Meetings in indoor venues and private gardens within the area must be limited to a single household (unless exemptions apply).

- 7.21 Meetings in outdoor venues must be limited to a single household (with certain exemptions) unless these settings meet certain conditions, where they can continue in groups of up to 6. These conditions are that a place is a public outdoor place, no payment is required by the public to access that place, or it falls within the following categories: outdoor sports grounds or sports facilities; botanical gardens; gardens or grounds of a castle, stately home or historic house. This does not include free to enter fun fairs, where any gathering must also be limited to a single household. Individuals living in the area must also follow these gathering limits when meeting people in these settings outside of the protected area.
- 7.22 The stricter gathering limit in certain outdoor settings intends to reduce mixing in more social settings such as fairgrounds and theme parks, whilst balancing this with the social and wellbeing benefits of meeting friends and family in settings such as parks and beaches, and to play sport in outdoor sports courts and facilities.
- 7.23 There are several exemptions to these stricter gathering limits that seek to minimise the negative impact this will have on individuals.
- 7.24 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 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 gathering limit that applies indoors and in private outdoor settings.
- 7.25 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 is not subject to the one household indoor gathering limit.
- 7.26 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.
- 7.27 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 and commemorative events following a person’s death (such as a wake or stone-setting ceremony), which are subject to a 15-person limit. The Government recognises that both weddings and funerals are significant life events for different reasons in difficult times. Allowing these events with a higher limit balances the needs for people to recognise these significant events, while minimising the spread of the virus. Wedding receptions will not be permitted as these are innately more social events.

Business restrictions

- 7.28 Businesses and venues must follow the restrictions imposed at Local Alert Level Medium and High. These include regulations requiring the closure of all hospitality venues, and leisure venues, from 22:00 to 05:00. This is to reduce the likelihood of people not adhering to social distancing rules, as compliance is often affected by alcohol consumption.

- 7.29 There are certain exemptions to this restriction including for Delivery, click and collect, and drive-thru services for the sale of food and drink during this time period; providing that an order has been made online, by phone, or by post (with certain exemptions).
- 7.30 There are also further exemptions for concert halls, theatres and cinemas so that they are able to conclude a performance that has begun before 22:00. Once this performance has concluded they must also close between 22:00 and 05:00.
- 7.31 In keeping with the restrictions on businesses and venues at Alert Level Medium and High, certain hospitality settings in Alert Level Very High must mandate table service for the consumption of food on their premises. This is to reduce the amount of time that customers spend out of their seated area, where there is a higher potential of social mixing with those outside their household, and therefore higher risk of transmission from those they do not live with.
- 7.32 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

- 7.33 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.
- 7.34 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.
- 7.35 In addition to the restrictions imposed at lower COVID Alert Levels, these Regulations mandate that hospitality venues that serve alcohol for consumption on the premises must close should they not only serve alcohol alongside a main course meal (with certain exemptions). These restrictions intend to limit the amount of time spent in hospitality and thus mitigate the risks posed by extended exposure time. By ensuring that people are eating and are not attending a venue solely to drink alcohol, the risk of falling inhibition leading to a lack of social distancing measures is reduced.
- 7.36 Given the likely impact of the new measures introduced in ‘Very High’ Alert level areas, it is important that local areas are able to shape the set of restrictions that are introduced. This is why, in addition to the measures outlined above, the respective local authorities for areas within Local Alert Level Very High may decide that more stringent measures are required.
- 7.37 These Regulations therefore include stricter restrictions specifically for the protected area of Halton Borough Council, Knowsley Metropolitan Borough Council, Liverpool City Council, Sefton Borough Council, St Helens Borough Council, and Wirral Metropolitan Borough Council, such that the following businesses and venues are required to close: casinos, indoor gyms, fitness and dance studios, and other sports facilities; betting shops; and adult gaming centres. Exemptions are provided for elite sport and dance, and supervised activities for children and disabled sport.

Fines

- 7.38 This instrument creates offences punishable by fines and provides for fixed penalty notices, which are explained in paragraphs 6.12 and 6.13 above.
- 7.39 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 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 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 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 The restrictions under these Regulations must be reviewed by the Secretary of State every 28 days starting on 11 November 2020 to ensure that they continue to be necessary 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. Areas that are part of the Alert Level Very High cease to be under the effect of these Regulations after 28 days, starting from the date of their inclusion in Schedule 2.

15. Contact

- 15.1 Kevin Dodds (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.