

## EXPLANATORY MEMORANDUM TO

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

2020 No. 1131

#### 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 certain areas to be moved from Local Covid Alert Level High to Local Covid Alert Level Very High enabling the higher tier public health measures provided for in the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 to be applied to these areas.

#### 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 16 October 2020 and was published on [www.legislation.gov.uk](http://www.legislation.gov.uk) later that day. The regulations will come into force on 17 October 2020, with the exceptions of regulation 2 in Schedule 2A, which will come into force on Monday 19 October. This instrument will cease to have effect at the end of the period of 28 days beginning with the day on which it is made unless, during that period, it is approved by a resolution of each House of Parliament. Further, this 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.

##### *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) (Amendment) Regulations 2020 are compatible with the Convention rights”

## **6. Legislative Context**

- 6.1 This instrument is made under section 45C of the Public Health (Control of Disease) Act 1984 (the “1984 Act”) 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).
- 6.2 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.
- 6.3 This instrument moves various geographical areas from Local Alert Level High to Local Alert Level Very High. Areas determined to be at Local Alert Level Very High will adhere to the regulations set out in the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020. Areas allocated to Local Alert Level Very High will be subject to review and may move to Local Alert Level Medium or Local Alert Level High accordingly.

## **7. Policy background**

*What is being done and why?*

### Local Covid Alert Levels

- 7.1 The introduction of The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020, the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020, and the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 on 12 October 2020 rationalised local interventions.
- 7.2 The framework consists of three local Alert Levels, with Local Covid Alert Level Medium consisting of the current national measures and representing the minimum level of restrictions in place across England. Local Covid Alert Level High is 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 Covid Alert Level Very High is triggered in geographical areas or nationally when Local Covid 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 Covid Alert Levels High and Very High are reviewed every two weeks.
- 7.3 This approach enables a coherent set of interventions across England, making it easier to communicate what restrictions apply in each area to the public, which 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 Local Covid Alert Level of their area changes.

Approach of 'baseline' Local Covid Alert Level Very High measures with additional, optional closures

- 7.4 These regulations amend the The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020 to move towards a model of implementing baseline measures for the Local Covid Alert Level Very High areas, but allow flexibility for Local Authorities to request additional business closures based on their understanding of the local area. For instance, this may be where they have expressed concerns about the safety of the environment, e.g., absence of proper cleaning regimes, or where compliance officers have observed a lack of compliance with gatherings restrictions.

Areas moving from Local Covid Alert Level High to Local Covid Alert Level Very High

- 7.5 In response to recent data, this instrument moves Lancashire from Local Covid Alert Level High to Local Covid Alert Level Very High.
- 7.6 In addition to the baseline measures in Very High regulations, local [partners / authorities?] in Lancashire have also requested the further closure of:
- Betting shops and adult gaming centres;
  - Casinos;
  - Bingo halls;
  - Soft play areas (with the exception for use by the disabled); and
  - Car boot sales.
- 7.7 In addition, the regulations correct a defect in the original regulations whereby the additional measures requested by Liverpool City Council were incorporated into the main body of the regulations. This gave the erroneous impression that these were part of the baseline for Covid Alert Level Very High. This is corrected in these regulations by inserting these additional measures into a Liverpool-specific schedule.
- 7.8 The regulations also make clarifications in respect of public outdoor space (such as parks) and private outdoor spaces (such as beer gardens). In Local Covid Alert Level Very High areas, outdoor private spaces are subject to the same mixing restrictions as indoors – i.e., household / bubble only, not rule of 6.
- 7.9 The regulations clarify that:
- Even if people are mixing as a small part of a wider Covid Secure gathering (such as worship, cinema or pub quiz) in a private outdoor setting, they should only mix as part of a household bubble, as for all other private outdoor settings;
  - Exemptions for death bed and care visits that apply indoors will also apply in private outdoor settings; and
  - The childcare bubble exemption for indoor gatherings also applies in outdoor private spaces (but not in public outdoor spaces, where the rule of six remains).

Restrictions for Local COVID Alert Level Very High

- 7.10 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. The current statutory instrument requires all

geographical areas determined to be at Local COVID Alert Level Very High to adhere to the restrictions provided for in the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020.

## **8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union**

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

## **9. Consolidation**

9.1 This instrument does not consolidate any legislation.

## **10. Consultation outcome**

10.1 There has been no public consultation in relation to this instrument.

## **11. Guidance**

11.1 The Government has published guidance in relation to Covid-19 at [www.gov.uk/coronavirus](http://www.gov.uk/coronavirus) and this guidance will include information in relation to geographic areas subject to closures and restrictions on movements and gatherings 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 which 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 the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 must be reviewed 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 the Coronavirus infection in England. Areas that are part of the Alert Level Very High cease to be under the effect of the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 after 28 days, starting from the date of their inclusion in Schedule 2.

**15. Contact.**

- 15.1 Beatrice Fannon at the Department for Health and Social Care Telephone: 0207 210 6346 or email: [beatrice.fannon@dhsc.gov.uk](mailto:beatrice.fannon@dhsc.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Kevin Dodds Deputy Director for Social Distancing Strategy, at the Department for Health and Social Care can confirm that this explanatory memorandum meets the required standard.
- 15.3 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.