

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, LOCAL COVID-19 ALERT LEVEL) (MEDIUM, HIGH AND VERY HIGH) (ENGLAND) (AMENDMENT) (NO. 3) REGULATIONS 2020

2020 No. 1183

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 enables several 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). It moves the following areas from Local Covid Alert Level High to Local Covid Alert Level Very High. This enables the higher 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. It also enables additional targeted measures to be applied to these areas:

- 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

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument is made under the emergency procedures set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22) (the '1984 Act'). 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 29 October 2020 and was published on www.legislation.gov.uk later that day. This instrument will come into force on 30 October 2020. This instrument will cease to have effect at the end of the period of 28

days beginning with the day on which it comes into force, unless, during that period, it is approved by a resolution of each House of Parliament.

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) (Medium, High and Very High) (England) (Amendment) (No. 3) Regulations 2020 are compatible with the Convention rights.”

6. Legislative Context

6.1 This instrument is made under section 45C of 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 the following areas from being subject to the restrictions in the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 (referred to as an area being in ‘Local Covid Alert Level High’) to being subject to the restrictions in the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 (referred to as an area being in ‘Local Covid Alert Level Very High’):

- 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

6.4 It also includes additional targeted restrictions in certain areas in relation to Nottinghamshire. These are contained in regulation 4(5)(b) of this instrument (which makes further amendments to Schedule 2A of the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020). These targeted restrictions are listed in paragraph 7.6 below and include restrictions on

hospitality businesses, which, subject to certain exceptions, includes a requirement for restaurants, cafes and other specified venues to close unless they are serving a table meal (though they are able to remain open for takeaway and delivery). In addition, businesses which provide waterpipes for the consumption of tobacco will be required to close (this will include, for example, shisha bars). There are further restrictions in respect of entertainment and tourism attractions, where bowling alleys, museums and certain indoor attractions will be among the venues that are required to close. Certain personal care businesses will also be required to close, including spas and nail parlours.

- 6.5 Additionally, while there are existing restrictions in respect of the sale of alcohol for consumption on the premises in paragraph 16 of Schedule 1 to the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020) (which applies to all areas in Local Covid Alert Level Very High), this instrument includes a targeted restriction for the areas listed in paragraph 6.3 above in relation to Nottinghamshire. This will prohibit the sale of alcohol for consumption off the premises between 21:00 and 05:00. This will apply to supermarkets, corner shops, restaurants, cafes and other retailers along in the areas listed above. There are exceptions for delivery and collection services.
- 6.6 Areas allocated to Local Alert Level Very High cease to be under that restriction at the end of 28 days.
- 6.7 This instrument also makes minor amendments to 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. For example, an amendment has been made to the exception which enables a workplace canteen to remain open between 22:00 and 05:00 so that it is a requirement that alcohol is not served between those hours.

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 14 October 2020 rationalised local Covid-19 interventions.

The Local Covid Alert Level framework consists of three Local Alert Levels, with Local Covid Alert Level Medium consisting of the national measures that were in place prior to the introduction of the Local Covid Alert Levels and representing the minimum level of restrictions in place across England at that time. 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 must be

reviewed at least every 14 days and the restrictions in the Local Alert Level High and Very High must be reviewed at least every 28 days.

Moving between Local Covid Alert Levels

- 7.2 Decisions about the appropriate Local Covid Alert Level in each area are made by the Government in discussion with local leadership and Directors of Public Health. Decisions are not based upon a single epidemiological factor, nor is there an automatic trigger for escalation. Instead, decisions are based upon recommendations provided by the Joint Biosecurity Centre and Covid-19 Task Force based on close monitoring of data and the spread of the virus across local areas. As part of this, the Joint Biosecurity Centre will consider prevalence, particularly in the over-60s, and positivity rates, as well as the capacity of local health services and the effectiveness of current interventions in the area. In addition, consideration will be given to the specific characteristics of individual areas, such as specific outbreaks and the impact of changes on the local economy and people's lives.

Engagement with local areas

- 7.3 The public health situation in each local area is kept under constant review and assessed through the weekly Local Action Committee framework. Engagement with Local Authorities is, and will continue to be, a key part of the response mechanism. The data collected by the Joint Biosecurity Centre is used to inform continuous engagement and consultation with local authorities, local leadership, and Directors of Public Health on the suitable recommendations for each area.

Substance of the regulations

- 7.4 This instrument moves the following local authority areas from Local Covid Alert Level High to Local Covid Alert Level Very High as set out below:

- Ashfield District Council;
- Bassetlaw District Council;
- Broxtowe Borough Council;
- Gedling Borough Council;
- Mansfield District Council;
- Newark & Sherwood District Council;
- Nottingham City Council; and
- Rushcliffe Borough Council

It also makes provision for specific business closure requirements.

- 7.5 In addition to the baseline measures in the Local Covid Alert Very High regulations, the following businesses will close:
- Restaurants, cafes, bars, public houses and social clubs, unless an exception applies (such as where they serve food and drink for consumption on the premises as, or as part of, a table meal, i.e., breakfast, lunch or dinner);
 - All businesses which provide waterpipes for the consumption of tobacco or any other substance or a device for the inhalation of nicotine or any other substances (for example, shisha bars) on the premises of the business;
 - Betting shops Casinos;

- Car Boot Sales Auction Houses with the exception of auctions for livestock or agricultural equipment Bingo halls;
- Indoor bowling alleys;
- Indoor amusement arcades and adult gaming centres;
- Indoor play areas and indoor play centres, including soft play centres and soft play areas;
- Games, recreation and entertainment venues (including, for example laser quests and escape rooms, but excluding cinemas, theatres and concert halls);
- Exhibition halls and conference centres when used for specific purposes such as conferences, exhibitions, trade shows and private dining events;
- Indoor attractions at typically outdoor facilities including:
 - Animal attractions (zoos, safari parks, aquariums, farms and other animal attractions)
 - Botanical gardens, biomes and greenhouses
 - Model villages
 - Heritage homes and sites (such as castles)
 - Adventure activities
 - Theme parks
 - Fun fairs and fairgrounds
 - Museums & galleries
- Sauna and steam rooms (including any saunas or steam rooms in gyms and leisure centres);
- Tattoo parlours;
- Tanning booths and salons;
- Nail bars and salons;
- Spas & beauty salons (not including hairdressers or barbers, providing that they do not provide other beauty services); and
- Piercing parlours

Hospitality closures

- 7.6 Analysis from the Scientific Advisory Group for Emergencies (“SAGE”) has indicated that restrictions on hospitality will have a moderate impact on the reduction of transmission rates. Decisions about these closures were guided by the overall intention of the local team to create a package that on aggregate has a sufficient impact on the trajectory of cases as well as responding to concerns over the complex cleaning regimes required to enable the safe sharing of shisha bar equipment.

Retail closures

- 7.7 Restrictions on auction houses and betting shops should contribute to the overall impact of the package by reducing transmission rates. Restrictions on car boot sales respond to the concern about the potential role of car boot sales in enabling large social congregations. The prohibition of the sale of alcohol after 21:00 would increase the effectiveness of the early closure of hospitality by limiting the opportunity for spontaneous alcohol purchases, reducing congregations in shops to purchase alcohol

and the displacement into house parties, which local police have reported as a problem. Stopping alcohol sales at 21:00 also provides for a staggered closing with the 22:00 closure of hospitality. The local area predicts that this may also ease transport pressures at hospitality closing time.

Entertainment and Tourism closures

- 7.8 Closure of indoor entertainment and tourism venues will contribute to the overall impact of the package on reducing the transmission of the virus.

Leisure

- 7.9 Closure of all indoor leisure venues would contribute to the overall impact of the package by reducing transmission of the virus. However, allowing gym, fitness, dance, and swimming use but prohibiting those activities with higher transmission risk (steam rooms/saunas, indoor group classes) balances the need to ensure people's wellbeing against the need to reduce the risk of the transmission of the virus.

Personal Care

- 7.10 Partial closure of the personal care sector would contribute to the overall impact of the package by reducing the transmission of the virus. Hairdressers and barbers' salons are seen as posing a lower risk by the local team than other personal care services, as the service is largely administered from behind.

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.

9. Consolidation

- 9.1 This instrument does not consolidate any legislation.

10. Consultation outcome

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

11. Guidance

- 11.1 The Government has published guidance in relation to Covid-19 at www.gov.uk/coronavirus and this guidance will include information in relation to geographic areas subject to closures and restrictions on movements and gatherings under this instrument.

12. Impact

- 12.1 The instruments that this instrument amends are temporary provisions, which are part of the Government's response to Covid-19, lasting only six months each. 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 restrictions under 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 must be reviewed at least once every 28 days, with the first review being by 11 November 2020. This is 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.
- 14.2 Areas that are a part of the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 must be reviewed at least once every 14 days with the first review being by 28 October. Areas that are part of the Alert Level Very High cease to have effect under the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020 after 28 days, beginning with the day on which that inclusion came into force.

15. Contact

- 15.1 Beatrice Fannon at the Department of Health and Social Care Telephone: 0207 210 6346 or email: 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 of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Matt Hancock, Secretary of State at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.