

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, LOCAL COVID-19 ALERT LEVEL) (HIGH) (ENGLAND) (AMENDMENT) (NO. 2) REGULATIONS 2020

2020 No. 1189

AND

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

2020 No. 1192

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 There are two separate instruments:
 - the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) (Amendment) (No.2) Regulations 2020
 - the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) (Amendment) (No.3) Regulations 2020
- 2.2 These instruments enable 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). They move certain areas from Local Covid Alert Level Medium to Local Covid Alert Level High, enabling the higher tier public health measures provided for in the Health Protection (Coronavirus, Local COVID-19 Alert Level) (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 These instruments are made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22). These instruments are made without drafts 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 these instruments 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 instruments were made on 30 October 2020 and were published on www.legislation.gov.uk later that day. These instruments will come into force on 31 October 2020. These instruments 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, they are 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 instruments apply to England only.

4. Extent and Territorial Application

4.1 The territorial extent of these instrument is England and Wales.

4.2 The territorial application of these instruments is England.

5. European Convention on Human Rights

5.1 The Minister of State Nadine Dorries 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) (Amendment) (No. 2) Regulations 2020 and the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) (Amendment) (No. 3) Regulations 2020 are compatible with the Convention rights”

6. Legislative Context

6.1 These instruments are 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 these instruments without drafts having been laid before, and approved by a resolution of, each House of Parliament.

6.3 These instruments move various geographical areas from being subject to the restrictions in the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020 (referred to as an area being in ‘Local Covid Alert Level Medium’) to 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’). Areas allocated as being in Local Covid Alert Level High will be subject to regular review and may move to being in Local Covid Alert Level Medium or Local Covid Alert Level Very 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 14 October 2020 rationalised local interventions.

- 7.2 The 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 Level High must be reviewed at least every 14 days and the restrictions in the Local Alert Levels Medium, High and Very High must be reviewed at least every 28 days.
- 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.
- 7.4 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.

Substance of the regulations

- 7.5 These instruments move certain areas between the two Local Covid Alert Levels as set out below.

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

- 7.6 In response to recent data, this instrument moves the following local authority areas from Local Alert Level Medium to Local Alert Level High:
- Amber Valley Borough Council;
 - Bolsover District Council;
 - Carlisle City Council;
 - Cannock Chase District Council;
 - Charnwood Borough Council;
 - Derby City Council;
 - Derbyshire Dales District Council;
 - Dudley Metropolitan Borough Council;
 - East Riding of Yorkshire Council;

- East Staffordshire Borough Council;
- High Peak Borough Council;
- Hull City Council;
- Lichfield District Council;
- Luton Borough Council;
- Newcastle-under-Lyme Borough Council
- North Lincolnshire Council;
- North East Lincolnshire Council;
- Oxford City Council;
- South Derbyshire District Council; South Staffordshire District Council;
- Stafford Borough Council;
- Staffordshire Moorlands District Council;
- Tamworth Borough Council; and
- Telford and Wrekin Council.

7.7 The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) (Amendment) (No.3) Regulations 2020 also makes amendments to the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 to correct a defect in the amendments made by the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) (Amendment) (No.2) Regulations 2020 so that Telford and Wrekin is correctly shown to be in the county of Shropshire.

Restrictions for Local Alert Level High

7.8 Areas at Alert Level High must comply with the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020. This means they must comply with Local Covid Alert Level Medium restrictions, except where these restrictions are superseded by the further restrictions placed upon Local Covid Alert Level High areas. These further restrictions limit social contact, particularly indoor social contact (with the exception of some life events and sporting activities) and are aimed primarily at targeting household to household transmission.

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

8.1 These instruments do not relate to withdrawal from the European Union/ trigger the statement requirements under the under European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 These instruments do not consolidate any legislation.

10. Consultation outcome

10.1 There has been no public consultation in relation to these instruments.

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 these instruments.

12. Impact

- 12.1 The instrument that these instruments amend is a temporary provision, which is 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 restrictions under the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 must be reviewed at least once every 28 days with the first review being by 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.
- 14.2 In addition, 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 first review took place on the 28 October 2020, and next review will take place by 11 November 2020.

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 David Lamberti, 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 Nadine Dorries MP, Minister of State at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.