

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND)
(NO. 4) (AMENDMENT) REGULATIONS 2020

2020 No. 1242

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 a number of public health measures to be taken to reduce the public health risks posed by the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in England which causes the disease Covid-19.

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 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 9 November 2020 and was published on www.legislation.gov.uk later that day. It is intended that this instrument will come into force on 10 November 2020. Having been made under the emergency procedure, it will automatically 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. However, the parent instrument also contains provision which provides that it expires at the end of the period of 28 days 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 This 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 the Rt Hon. Matt Hancock MP has made the following statement regarding Human Rights:

“In my view the provisions of the Health Protection (Coronavirus, Restrictions) (England) (No. 4) 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 an exemption to the provisions of the Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020 allowing for gatherings taking place outdoors in a place which is not a private dwelling to commemorate Remembrance Sunday, Armistice day, or in Westminster Abbey on the 11th November 2020 to commemorate Armistice Day and the centenary of the burial of the Unknown Soldier.

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.

7. Policy background

What is being done and why?

7.1 The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020 imposed a nationwide lockdown for a period of 28 days in order to slow the spread of Covid-19, thus easing NHS capacity and ensuring that the health system is not overwhelmed during the winter months.

7.2 Those Regulations provided that a person may not participate in any indoor gathering or an outdoor gathering, which is not in a public outdoor place, which consists of two or more people. In addition, outdoor gatherings in public outdoor places of more than two people are not allowed. However, there are a number of exemptions, including where the gathering includes people from the same or linked household.

7.3 There are exemptions for, among other things, attending gatherings taking place outdoors in a place which is not a private dwelling to commemorate Remembrance Sunday, or in Westminster Abbey on the 11th November 2020 to commemorate Armistice Day and the centenary of the burial of the Unknown Soldier.

7.4 This instrument adds a further exemption for Armistice Day commemorations, putting these on the same footing as Remembrance Sunday ones, by amending Regulations 6 and 11(18) to add the Armistice Day events.

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 and this guidance will include information in relation to geographic areas subject to closures and restrictions on movements and gatherings under this instrument. The guidance on Armistice Day commemorations will be amended to reflect the change made by this instrument.

12. Impact

12.1 This instrument is a temporary measure, which is part of the Government's response to Covid-19. As this instrument will cease to have effect after less than 12 months, a Regulatory Impact Assessment is not required and would be disproportionate. The events to which it refers will be of short and limited duration and impact, taking place on day only, and in a Covid secure manner.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 This instrument does not include a statutory review clause.

15. Contact

15.1 Neil Townley at the Department of Health and Social Care Telephone: 0207 210 5244 or email: neil.townley@dhsc.gov.uk can be contacted with any queries regarding this instrument.

15.2 Kevin Dodds, Deputy Director, DHSC Deputy Director, 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 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.