

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND)
(NO. 4) (AMENDMENT) (NO. 2) REGULATIONS 2020

2020 No. 1326

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 minor amendments to the Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020,¹ which enables a number of public health measures to be taken to reduce the public 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.
- 3.2 This instrument was made on 20 November 2020 and was published on www.legislation.gov.uk later that day. This instrument will come into force on 21 November 2020. Having been made under the emergency procedure, this instrument will cease to have effect at the end of the period of 28 days beginning with the day on which it was made unless, during that period, it is approved by a resolution of each House of Parliament. However, the Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020 contain a provision² which provides that it expires at the end of the period of 28 days beginning with the day it came into force, namely 5 November 2020. The instrument that this instrument amends expires on 2 December 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.

¹ SI/1200/2020

² Rule 23(1)

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

5.1 The Parliamentary Under-Secretary of State for Innovation, Lord Bethell, has made the following statement regarding Human Rights:

“In my view the provisions of the Health Protection (Coronavirus, Restrictions) (England) (No. 4) (Amendment) (No. 2) 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, includes legal powers to make regulations 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 of the 1984 Act and amends the Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020. The effect of the instrument is to permit shops, stalls, Christmas tree farms and other businesses selling or supplying natural Christmas trees to open.

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 as the amendment brings parity and non-bias to businesses.

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.

7.2 The policy intention of this instrument is to allow businesses selling or supplying natural Christmas trees to open.

8. European Union (Withdrawal) Act/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

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 This instrument is a temporary measure, which is part of the Government's response to COVID-19, lasting only four weeks. As noted above at paragraph 3.2, the instrument amended by this instrument expires on 2 December 2020. 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 instrument does not include a statutory review clause.

14.2 The instrument that this instrument amends ceases to have effect at the end of the period of 28 days beginning with the day that it came into force, namely 5 November 2020.

15. Contact

15.1 Beatrice Fannon at the Department of Health and Social Care Telephone: 02072106346 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 The Parliamentary Under-Secretary of State for Innovation, Lord Bethell, at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.