

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ALL TIERS)
(ENGLAND) REGULATIONS 2020

2020 No. 1374

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 in England of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) which causes the disease Covid-19. This instrument imposes a framework consisting of three Tiers of restrictions, with different Tiers applying in different areas. This is to ensure the right levels of intervention are made in the right places to manage Covid-19 outbreaks and help to suppress the virus and keep the R rate below 1.

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) (“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 30 November 2020 and was published on www.legislation.gov.uk later that day. This instrument will come into force on 2 December 2020 and will expire on 2 February 2021. 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. The Secretary of State must review the need for the restrictions in this instrument at least once every 28 days, with the first review to be carried out by 30 December 2020. The Secretary of State must review whether each area that is part of Tier 2 or Tier 3 should continue to be part of that area at least once every 14 days, with the first review to be carried out by 16 December 2020.
- 3.3 In keeping with the commitment made by the Secretary of State to the House of Commons on 30 September 2020 (Hansard cols 288-289), the intention is that this instrument will be debated after it is made and before 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)

- 3.4 This entire instrument applies to England only, including English airspace and the English territorial sea.

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) (All Tiers) (England) Regulations 2020 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 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 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).
6.5 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.
6.6 This instrument imposes a framework consisting of three Tiers of restrictions with different Tiers applying to different areas, in order to control the spread of Covid-19 and avoid overwhelming the NHS.
6.7 This instrument revokes the Health Protection (Coronavirus, Restrictions) (England) (No.4) Regulations 2020 (S.I. 2020/1200) (“the No.4 Regulations”), other than regulations 24 to 26.
6.8 This instrument also allows some temporary exceptions to gathering restrictions during the Christmas period (23 December to 27 December 2020) across all Tiers in order to balance people wishing to spend time with others over the Christmas period, whilst limiting the risk of spreading infection.

- 6.9 Regulation 1 of this instrument sets out the commencement date of this instrument (2 December) and their application.
- 6.10 Regulation 2 sets out the definitions of terms used in this instrument.
- 6.11 Regulation 3 defines the existing concept of a linked household (‘support bubble’), setting out how these can be formed and changed. This provision now enables a greater range of household compositions to form linked households than in previous coronavirus regulations to include the following in the definition of ‘the first household’:
- single-adult households; households containing one or more children and no adults;
 - households containing one or more adults with a child under the age of one;
 - households containing one or more adults with a child who has a disability and requires continuous care and is under the age of five; and
 - households containing one or more persons who have a disability and who require continuous care on their own or together with either:
 - one individual who does not have a disability; or
 - more than one such individual (but including no more than one adult who was 18 or over on 2 December 2020).

Regulation 3 enables the first household to form a supportive link with another household (and there is no restriction on the size of the second household). Having formed this link, a household can only form another such link with another household if the link ceases (either through choice or because the first household no longer qualifies) and at least 14 days after any member of a household last gathered with a member of the household to which they were previously linked in reliance of the fact they were in a ‘support bubble’.

- 6.12 Regulation 4 sets out how a ‘linked Christmas household’ can be formed for the purpose of gathering during the Christmas period (23 to 27 December). It provides that a household may be linked with up to two other households if: all the adult members who would be linked agree; and where a member who would be so linked is a child, a person with parental responsibility for the child (who is a member of the child’s household) also agrees. Except children who do not live in the same household as their parent(s) (and can therefore be a member of the linked Christmas household formed by each parent), people cannot form more than one linked Christmas household. Provision is made to allow anyone who has parental responsibility for such children to provide the necessary agreement for them to form a linked Christmas household, not just the parent whose household the child lives in.
- 6.13 Regulation 5 continues the idea of a ‘linked childcare household’ (‘childcare bubble’) from previous Covid-19 regulations to permit informal childcare.
- 6.14 Regulation 6 sets out when an organised gathering is permitted under this instrument and regulation 7 sets out the precautions that the gathering organiser must take in relation to the gathering.
- 6.15 Regulation 8 provides that: the restrictions for Tier 1 (set out in Schedule 1) apply to the Tier 1 area (all of England other than specified Tier 2 or Tier 3 areas); the restrictions for Tier 2 (set out in Schedule 2) apply to the Tier 2 area (specified in Part

1 of Schedule 4); and the restrictions for Tier 3 (set out in Schedule 3) apply to the Tier 3 area (specified in Part 2 of Schedule 4).

6.16 As of the date of this instrument coming into force the areas in Tier 1 are:

- Isle of Wight Council;
- Cornwall Council; and
- Council of the Isles of Scilly.

The areas in Tier 2 and Tier 3 are listed in Schedule 4. It is envisaged that areas can move between Tiers, in accordance with the review cycle.

6.17 Regulation 9 sets out who can enforce the Tier 1, 2 and 3 restrictions (which is a constable, a police community support officer, or a person designated by the relevant local authority or the Secretary of State for the purpose of regulation 9), their powers and how they should exercise that enforcement.

6.18 Regulation 10 sets out how a person or corporate body commits an offence under these regulations and how such an offence is punishable on summary conviction by a fine.

6.19 Regulation 11 provides that a fixed penalty notice (a notice which enables a person to discharge their liability to criminal conviction) may be issued by authorised persons (a constable, a police community support officer, or a person designated by the relevant local authority or Secretary of State for the purpose of regulation 11) to any person that the authorised person reasonably believes has committed an offence under this instrument, and is (in the case of an individual) aged 18 or over.

6.20 Regulation 12 sets out the fixed penalty amount for offences under this instrument. If the fixed penalty notice is the first one issued, the amount is £200, reduced to £100 if paid within 14 days. If a person has already received a fixed penalty notice under this instrument, or under any other relevant enactment listed in paragraph 12(2), the amount of the fixed penalty is then £400, doubling on each further repeat offence up to a maximum of £6,400. The amount of the fixed penalty for the business restriction offences is £1,000, increasing for subsequent offences to a maximum of £10,000.

6.21 Regulation 13 states that proceedings for an offence under this instrument may be brought by the Crown Prosecution Service and any person designated by the Secretary of State.

6.22 Regulation 14 provides that the Secretary of State must review whether each area under Tier 2 or 3 restrictions should remain in that Tier at least once every 14 days, with the first review to be carried out by 16 December 2020. In addition, the Secretary of State must review the need for the restrictions within each Tier at least once every 28 days with the first review to be carried out by 30 December 2020.

6.23 Regulation 15 stipulates that this instrument ceases to have effect on 2 February 2021.

6.24 Regulation 16 revokes the No. 4 Regulations other than regulations 24 to 26.

6.25 Regulation 17 provides that consequential, transitional and saving provisions are set out in Schedule 5.

6.26 Schedules 1, 2 and 3 set out the restrictions on gatherings and businesses in Tiers 1, 2 and 3 respectively. The restrictions for each Tier apply to both the areas within each Tier and the people living within each Tier.

Tier 1: Schedule 1

- 6.27 Part 1 of Schedule 1 sets out the restrictions on gatherings in Tier 1. Paragraph 1 provides that in Tier 1, no person may participate in a gathering in the Tier 1 area which consists of more than six people (the ‘Rule of Six’) unless an exception applies. Paragraph 2 prohibits a person from organising or facilitating a gathering in a Tier 1 area which consists of more than 30 persons and either: takes place indoors and would otherwise be considered a rave; or takes place in a private dwelling, a vessel, or public outdoor space, and does not fall within any exception set out in paragraph 3.
- 6.28 Paragraph 3 of Schedule 1 sets out the exceptions to the restrictions on gatherings in Tier 1 which include:
- where all the persons in the gathering are members of the same household or linked households;
 - where the gathering is a permitted organised gathering;
 - where the gathering is reasonably necessary for the purposes of education or training;
 - where the gathering is reasonably necessary for certain purposes – such as work, to provide care and assistance to a vulnerable person or a person who has a disability, or for the purposes of a house move;
 - discharging legal obligations or participating in legal proceedings;
 - where the gathering takes place in criminal justice or immigration detention accommodation;
 - participating in a support group, parent and child group, or for respite care;
 - attending a birth, permitted marriage, funeral, or commemorative event following a person’s death;
 - protest or picketing;
 - enabling elite athletes to train or compete, for outdoor sports or permitted indoor sports gatherings, or for relevant outdoor activities;
 - where the gathering is reasonably necessary for looking after children (for example, to enable contact with parents or siblings who they do not live with, to meet a prospective adopter, or for childcare or supervised activities for children);
 - enabling students to move from their term-time household to another household for a vacation that ends before 8th February 2021;
 - during the Christmas period for linked Christmas households.
- 6.29 Paragraph 4 sets out what is meant by a qualifying group in respect of permitted organised gatherings (defined in regulation 6). A qualifying group is up to six people or members of the same or linked household. Those in a qualifying group may not join another qualifying group or mingle with others at the event.
- 6.30 Part 2 of Schedule 1 sets out the businesses to be closed in Tier 1. Nightclubs, dance halls, discotheques, sexual entertainment venues and hostess bars remain closed and businesses which provide waterpipes to consume tobacco or other substances or other devices to inhale for recreational purposes nicotine or any other substance on the premises are also closed. Exceptions to these closures are set out at paragraph 7, such of Schedule 1, such as the use of premises to provide essential voluntary services or urgent public support services, for the purposes of voting, or for filming.

- 6.31 Part 3 of Schedule 1 sets out other restrictions on businesses in Tier 1, including that a person responsible for carrying on a restricted business or providing a restricted service must not accept any orders between 10pm – 5am for food and drink to be consumed on the premises, and businesses such as pubs, cafes, bars, social clubs and casinos, as well as bowling alleys, cinemas, theatres, amusement arcades, funfairs and fairgrounds, theme parks and adventure parks, bingo halls, concert halls and sportsgrounds must be closed between 11pm and 5am.
- 6.32 Exceptions to these restrictions are set out at paragraph 9 and include:
- orders for food and drink to be consumed off the premises made between 11pm and 5am by making deliveries or allowing collection (where the customer doesn't enter the premises) in response to orders received online, by post, or by phone (including text message) and drive through orders of food and drink;
 - performances at theatres, cinemas, sports grounds or concert halls may continue after 11pm for the purpose of concluding a performance, an exhibition of a film, or a sports event which started before 10pm;
 - motorway service stations; pubs, bars and restaurants in airports, ports and the international rail terminal at Folkestone; public transport such as aircrafts and trains; and workplace canteens or premises at a higher education provider where there is no practical alternative for staff and/or students, may serve food and drink (but not alcohol) between the hours of 11pm and 5am;
 - providing essential voluntary services or urgent public support services, including food banks, support for the homeless or vulnerable, blood donation sessions or support in an emergency;
 - making a film, television programme, audio programme or audio-visual advertisement;
 - for the purposes of voting
- 6.33 Paragraph 10 states that restaurants, cafes, bars and pubs which serve alcohol may only sell food and drink for consumption on the premises if they provide table service, except for cinemas, theatres, concert or performance halls or sports grounds who may serve customers with tickets food or drink to consume in the area where they are seated to watch the event. Hospitality venues which don't serve alcohol are under an obligation to take reasonable steps to ensure that customers remain seated while consuming food or drink on the premises.
- 6.34 Paragraph 11 lists the restricted business and services in Tier 1.

Tier 2: Schedule 2

- 6.35 Part 1 of Schedule 2 sets out the restrictions on gathering in Tier 2. Paragraph 1 of Schedule 2 provides that indoor gatherings of two or more people are prohibited in the Tier 3 area unless an exception applies. Paragraph 2 of Schedule 2 provides that no person may participate in an outdoor gathering in the Tier 2 area which consists of more than six people, unless an exception applies.
- 6.36 Paragraph 3 of Schedule 2 prohibits a person from organising or facilitating a gathering in a Tier 2 area which consists of more than 30 persons and either: takes place indoors and would otherwise be considered a rave; or takes place in a private dwelling, a vessel, or public outdoor space, and does not fall within any exception set out in paragraph 3.

- 6.37 Paragraph 4 sets out the exceptions to the restrictions on gatherings in Tier 2 which apply in all settings. Further exceptions to indoor gatherings limits in Tier 2 are set out in paragraph 5, which are visiting a person who is dying or receiving treatment and for taking part in indoor sports. Paragraph 6 sets out exceptions in relation to outdoor gatherings for outdoor sport and outdoor activities.
- 6.38 Paragraph 7 sets out what is meant by a qualifying group in Tier 2. In respect of permitted gatherings, a qualifying group only consists of members of the same household; linked households; linked childcare households if the gathering is for the purpose of providing informal childcare; or linked Christmas households if the gathering is in a place where linked Christmas households would otherwise be permitted to gather. A qualifying group can also consist of up to six people outdoors. As in Tier 1, a member of a qualifying group cannot join another qualifying group or mingle with other people outside their qualifying group.
- 6.39 Part 2 of Schedule 2 sets out the businesses to be closed in Tier 2, which include those required to close in Tier 1. The exceptions to business closures include those in Tier 1 and are set out in paragraph 10.
- 6.40 Part 3 of Schedule 2 sets out further restrictions on businesses in Tier 2. The exceptions to the restrictions in paragraph 12 mirror those in Tier 1. In addition to the requirements of Tier 1 that food or drinks are provided with table service (paragraph 13), paragraph 14 provides that pubs and bars or other businesses involving the provision of alcohol for consumption on the premises may only serve alcohol if it is accompanying a main meal. Cinemas, theatres, sports grounds and concert halls may serve alcohol to customers who have a ticket for an exhibition, performance or event at the venue without a main meal.
- 6.41 Paragraph 15 lists the restricted businesses and services in Tier 2.

Tier 3: Schedule 3

- 6.42 Part 1 of Schedule 3 sets out the restrictions on gatherings in Tier 3. Paragraph 1 of Schedule 3 provides that no person may participate in an indoor gathering in the Tier 3 area which consists of two or more people, unless an exception applies. Paragraph 2 of Schedule 3 provides that no person may participate in an outdoor gathering in the Tier 3 area which consists of two or more people (unless an exception applies), save for gatherings in certain public outdoor places (which meet the criteria in paragraph 2(4)), where the Rule of Six applies.
- 6.43 Paragraph 4 sets out the exceptions to the restrictions on gatherings in Tier 3 which apply regardless of location. Further exceptions for indoor and outdoor gatherings, which mirror those for Tier 2 are set out at paragraphs 5 and 6.
- 6.44 Paragraph 7 sets out what is meant by a qualifying group in Tier 3. This is members of the same household; linked households; linked childcare households and the gathering is for the purposes of providing informal childcare; or linked Christmas households. In respect of public outdoor places which meet the conditions in paragraph 2(4), a qualifying group may alternatively consist of up to six people, and only of members of the same household; linked households; linked childcare households; or linked Christmas households.
- 6.45 Part 2 of Schedule 3 sets out the businesses and services that must close and business restrictions in the Tier 3 area. Further businesses are required to close in Tier 3, such as indoor play areas and centres, cinemas (except drive-in cinemas), theatres (except

drive-in theatres), concert halls, bowling alleys and indoor attractions at venues including zoos, heritage sites and museums. Cafes, restaurants, bars and pubs are required to stop the sale of food and drink for consumption on the premises in accordance with paragraph 9.

- 6.46 Paragraph 10 sets out exceptions to business closures, which include exceptions to allow premises to open to: provide essential voluntary services or urgent public support services including food banks, support for the homeless or vulnerable, blood donation sessions or support in an emergency, or the purposes of voting; for the making of a film, television programme, audio programme or audio-visual advertisement. Facilities can open for the purposes of training by elite sportspersons, professional dancers and choreographers; and theatres or concert halls for education and training, rehearsal or to record a performance without an audience. Paragraph 11 of Schedule 3 provides that restaurants, cafes and bars in Tier 3 may provide takeaway food and drink between 5am and 11pm and otherwise sell food and drink that has been ordered online, by post, or by phone or via drive through in accordance with paragraph 11.
- 6.47 Paragraph 12 of Schedule 3 provides that holiday accommodation is required to close in Tier 3. There are some exceptions to this requirement in paragraph 12(2), such as where holiday accommodation is needed by a person in specific circumstances such as for work, education or training, moving house or to attend a funeral or medical appointment. Accommodation can also be used for other purposes such as refuge, to accommodate or support the homeless and for a person providing care or assistance to another person in the same accommodation.
- 6.48 Paragraph 13 lists the restricted businesses and services in Tier 3.
- 6.49 Paragraph 14 of Schedule 3 provides that drive-in cinemas, drive-in theatres, outdoor concert venues, and certain outdoor attractions are not allowed to carry on that business between the hours of 11pm – 5am, except for the purpose of concluding a performance which began before 10pm.

Financial support for businesses

- 6.50 The furlough scheme will be extended to run to 31 March 2021. This provision is not covered by this instrument.

7. Policy background

What is being done and why?

- 7.1 On the 5 November 2020, a national lockdown was imposed under the No. 4 Regulations, which are due to expire on 2 December 2020. The No. 4 Regulations placed England under strict measures to reduce the spread of the virus, ease NHS capacity and ensure that the NHS was not overwhelmed during this period. With the expiry of the national lockdown on 2 December, a new approach to managing the virus is required.
- 7.2 Prior to the national lockdown, a system of three levels of Local Covid-19 Alert Levels was in place, brought into force on 14 October under the Health Protection (Coronavirus, Local Covid-19 Alert Level) (Medium) (England) Regulations 2020 (S.I 2020/1103), the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 (S.I 2020/1104) and the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020

(S.I 2020/1105). Together these regulations established three levels of restrictions corresponding to the extent of transmission in different areas.

- 7.3 In anticipation of the expiry of the No. 4 Regulations, a return to a tiering system has been identified to replace the national lockdown as a means of managing the spread of the virus in certain parts of England with more stringent restrictions, whilst allowing more permissive restrictions in areas of England where the virus rates remain low.
- 7.4 This instrument revokes the No. 4 Regulations and introduces a revised tiering system that is different from the previous Local Covid-19 Alert Levels. It removes the ‘bespoke’ element from the previous Local Covid-19 Alert Level Very High and instead imposes tougher, set restrictions. The three tiers in this instrument are:
- Tier 1: Medium Alert, which will be the baseline measures nationally and represents the minimum level of restrictions considered appropriate given the current levels of national circulation of the virus;
 - Tier 2: High Alert, which places further restrictions on social contact aimed primarily at targeting areas of high transmission; and
 - Tier 3: Very High, which goes further in restricting social contact to continue to address household to household transmission and places further restrictions and closures on businesses, where the toughest of restrictions will be seen in areas with a high transmission risk.
- 7.5 This revised approach enables a coherent set of interventions across England, making it easier to communicate to the public what restrictions apply in each area. This will help to increase compliance and, consequently, the effectiveness of social distancing measures. It will enable the public to plan for what they will do differently if their area moves to a different tier.
- 7.6 Decisions on which tier will initially apply in each area were announced on 2 December and primarily based on five key indicators:
- Case detection rates in all age groups;
 - Case detection rates in the over 60s;
 - The rate at which cases are rising or falling;
 - Positivity rate (the number of positive cases detected as a percentage of tests taken); and
 - Pressure on the NHS, including current and projected occupancy.

Restrictions for Tier 1

- 7.7 Restrictions in Tier 1 create a national baseline position of coronavirus restrictions.

Gatherings restrictions

- 7.8 The Rule of Six applies in all locations, meaning that nobody can gather in a group of more than six individuals unless:
- everyone in the gathering is from the same household
 - the individual is part of a smaller group attending a larger gathering being held somewhere other than a private dwelling and operated by, or part of premises operated by, a business, a charitable, benevolent or philanthropic institution or a public body. The smaller group must be of six or fewer individuals (or 1 household or support bubble if more than six) and they cannot mingle with

anyone out of that smaller group, or join another group whilst at the larger gathering; or

- the individual is part of a smaller group attending a larger gathering being held on public outdoor space. The smaller group must be of six or fewer individuals (or 1 household or support bubble if more than six) and they cannot mingle with anyone out of that smaller group or join another group whilst at the larger gathering. The gathering organiser or manager must have carried out a risk assessment which would satisfy the requirements of regulation 3 of the Management of Health and Safety at Work Regulations 1999, whether or not the gathering organiser or manager is subject to those Regulations, and have taken all reasonable measures to limit the risk of transmission of the coronavirus, taking into account the risk assessment and any guidance issued by the government which is relevant to the gathering.

7.9 There are exemptions from the Rule of Six which include allowing:

- a household with only one adult in the home (known as a single adult household);
- a household containing children and no adults;
- a household containing one adult and one or more children under the age of eighteen;
- an adult household with a child or children under the age of one;
- households containing one or more adults with a child who has a disability and requires continuous care and is under the age of five;
- households containing one or more persons who have a disability and who require continuous care on their own or together with either: one individual who does not have a disability, or more than one such individual (but including no more than one adult who was 18 or over on 2 December 2020)

to link with another household of any size to form a support bubble.

7.10 A support bubble is a targeted policy intervention to support those most at risk of becoming isolated. A gathering that is solely made up of people from the same support bubble is not subject to the six person gathering limit.

7.11 It is permitted to change support bubble, subject to a 14 day break occurring after any contact with the previous support bubble before a new one is formed.

7.12 There is also an exemption to the Rule of Six to allow for a household (“the first household”) with at least one child aged 13 or under to link with one other household (“the second household”), for the purposes of the second household providing informal childcare to the child aged 13 or under.

7.13 There are also exemptions for some specific life events including weddings and civil partnership ceremonies and receptions, which are subject to a 15- person limit; funerals which are subject to a 30-person limit; and commemorative events following a person’s death, which are subject to a 15 person limit. The Government recognises that both weddings and funerals are significant life events for different reasons in difficult times. Allowing these events with a higher limit balances the needs of people to recognise these significant events while minimising the spread of the virus.

7.14 Further exemptions from the gathering limit include where a gathering is reasonably necessary for certain purposes which are listed in full in the Regulations. The Rule of Six, with exceptions, strikes a balance between reducing social contact whilst

allowing some socialising to continue and minimising negative social and economic impacts.

Business restrictions

- 7.15 This instrument requires the closure of all hospitality and leisure venues, including takeaways, from 23:00 to 05:00 (delivery only during that period) in order to reduce the likelihood of people not adhering to social distancing rules, as compliance is often affected by alcohol consumption.
- 7.16 This instrument also mandates table service in order to reduce the amount of time that customers spend at the ordering counter. This, in turn, will reduce the risk of transmission from people mingling with others they do not live with.
- 7.17 These restrictions reduce the amount of social contact that people have with each other, thereby controlling and reducing transmission of the virus, whilst allowing the businesses to continue to operate and the general public to use their services.

Business closures

- 7.18 This instrument requires that nightclubs, dance halls, discotheques, sexual entertainment venues; hostess bars; any other venue which opens at night, has a dance floor and provides music, whether live or recorded, for dancing and; businesses which provide waterpipes to consume tobacco or other devices to inhale nicotine or any other substance on the premises are closed to the general public.
- 7.19 These businesses or services provide a higher transmission risk and cannot currently be opened safely. We continue to work with representatives of these industries and business sectors to develop options to facilitate a safe way for them to open.

Restrictions for Tier 2

- 7.20 Areas at Tier 2 must comply with Tier 1 restrictions, except where these restrictions are superseded by the further restrictions placed upon Tier 2 areas.
- 7.21 These further restrictions limit social contact (with the exception of some life events and sporting activities) and are aimed primarily at targeting household to household transmission. This instrument requires all geographical areas determined to be at Tier 2 and the people living in those areas to adhere to the following restrictions:

Restrictions on Gatherings

- 7.22 Whereas at Tier 1, individuals must adhere to the Rule of Six in both indoor and outdoor gatherings, at Tier 2:
- All meetings in outdoor public spaces, outdoor Covid-secure retail and hospitality, and outdoor private dwellings (gardens) are to be limited to 6 people.
 - All meetings in indoor Covid-secure retail and hospitality, and indoor private dwellings (homes) that are within an area designated Alert Level High must be limited to one household or support bubble (unless exemptions apply)
 - A person living in an area designated Alert Level High must limit their meetings in indoor Covid-secure retail and hospitality, and indoor private dwellings (homes) to one household or support bubble (unless exemptions apply).

- 7.23 The same exemptions to the gathering limits in Tier 1 also apply in Tier 2. In addition, there are exceptions related to visiting a person who is dying or receiving treatment, some indoor sport and outdoor sport and activities.
- 7.24 The one household indoor gathering limit, with exemptions, is more restrictive because the virus is being transmitting at a higher level in this area. As a result, social contact needs to be further restricted to reduce transmission, thereby saving lives and protecting the vulnerable. The exemptions seek to minimise the negative impact this will have on individuals.

Business Restrictions

- 7.25 In addition to the restrictions imposed at Tier 1, this instrument mandates that hospitality venues that serve alcohol for consumption on the premises must close unless they only serve alcohol alongside a main course meal (with certain exemptions). These restrictions intend to limit the amount of time spent in hospitality and thus mitigate the risks posed by extended exposure time. By ensuring that people are eating and are not attending a venue solely to drink alcohol, the risk of falling inhibition leading to a lack of social distancing measures is reduced.

Business closures

- 7.26 The same business closures apply as those in place in Tier 2.

Restrictions for Tier 3

- 7.27 Areas at Tier 3 are subject to additional, stricter restrictions on social contact and businesses and venues because Covid-19 is being transmitted at a higher level in this area. All areas in Tier 3 and the people living in those areas must adhere to the following restrictions to reduce transmission, protect the vulnerable and save lives.

Restrictions on Gatherings

- 7.28 At Tier 3 meetings in indoor venues and private gardens within the area must be limited to a single household or support bubble (unless exemptions apply).
- 7.29 Meetings in outdoor venues must be limited to a single household or support bubble (with certain exemptions) unless these settings meet certain conditions, where they can continue in groups of up to six. These conditions are that a place is a public outdoor place, no payment is required by the public to access that place, or it falls within the following categories: outdoor sports grounds or sports facilities; botanical gardens; gardens or grounds of a castle, stately home or historic house. This does not include free to enter fun fairs, where any gathering must also be limited to a single household. Individuals living in the area must also follow these gathering limits when meeting people in these settings outside of the protected area.
- 7.30 The stricter gathering limit in certain outdoor settings intends to reduce mixing in more social settings such as fairgrounds and theme parks, whilst balancing this with the social and wellbeing benefits of meeting friends and family in settings such as parks and beaches, and to play sport in outdoor sports courts and facilities.
- 7.31 The exemptions on gatherings limits in Tiers 1 and 2 also apply at Tier 3, enabling support bubbles and childcare bubbles to be formed and exempting other gatherings from the limits in order to minimise the negative impact this will have on individuals.

Business closures

- 7.32 In addition to restrictions on businesses imposed at Tiers 1 and 2, at Tier 3 all hospitality businesses must close except for delivery, takeaway, click and collect and drive through, and holiday accommodation must close, except for certain exemptions which are listed in full in the regulations. This is to further reduce opportunities for transmission of Covid-19 as analysis (SAGE 67, 12 November 2020) has shown that the general picture in the UK (and overseas) is that it has only been possible to get R consistently below 1 in places where there have been substantial restrictions on hospitality.

Fines

- 7.33 This instrument creates offences punishable by fines and provides for fixed penalty notices, which are explained in paragraphs 6.18-6.20 above.
- 7.34 The vast majority of the general public will do the right things and follow the rules, but to protect public health it is important that police have appropriate powers to deal with those that flout the rules.

Christmas

- 7.41 As part of the Covid Winter plan, which includes Christmas, the agreed approach across the UK will be to allow families and friends to meet in a careful and limited way to create a 'Christmas Bubble' or Christmas linked households, permitted in all tiers from 23- 27 December 2020. The Christmas easements represent an increased transmission risk. It is likely that the average number of contacts will rise, including intergenerational mixing. However, this added risk must be balanced against the possible impact occasioned by widespread non-compliance with more stringent restrictions. As such a moderate, time-limited easing of gathering restrictions (with mitigations) to allow close family and friends to allow close family and friends to spend time together is proposed. Each area's existing restrictions on hospitality and business will remain in place throughout this period of temporary relaxation, as the aim is to enable families to get together rather than suspend social distancing.

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.

12. Impact

- 12.1 An Impact Assessment has not been prepared for this instrument because it is a temporary measure which is part of the Government's response to Covid-19. As this instrument will cease to have effect on 2 February 2021, 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 This instrument must be reviewed by the Secretary of State every 28 days.
- 14.2 This instrument ceases to have effect on 2 February 2021 when it will expire.

15. Contact

- 15.1 Christina Head at the Department of Health and Social Care Telephone: 07761328305 or email: christina.head@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 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.