

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (LEICESTER)
REGULATIONS 2020

2020 No. 685

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Department for 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 provision for the purpose of enabling 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 Leicestershire, 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 The instrument is made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22). The Regulations are 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 the order 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). The Regulations came into force at midnight on 4 July 2020 and were published on www.legislation.gov.uk on 3 July 2020. The Regulations cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament. Further, the regulations themselves provide that they expire at the end of the period of six months beginning with the day on which they came into force.

The entire instrument applies to England only.

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)

- 3.2 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 Leicester, England.

5. European Convention on Human Rights

5.1 The Secretary for 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, Restrictions) (Leicester) 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 (“the 2008 Act”), 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 A number of regulations under section 45C have been made, including regulations relating to (SARS-CoV-2) and Covid-19, such as the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (S.I. 2020/350), (the Restrictions Regulations”) its subsequent amending regulations, and the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 (“the England Regulations”) which were made at the same time as these regulations.

6.5 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).

6.6 This instrument requires the closure of some businesses and restrictions on others from midnight on 4 July 2020 in the protected area, as defined in Regulation 1 set out in Schedule 1.

6.7 Regulation 3(1) requires the closure of food and drink businesses including bars, pubs and nightclubs, except those listed in Part 1 of Schedule 3. The businesses required to close are only permitted to open to sell hot and cold food for collection and delivery to be consumed off the premises.

6.8 Regulation 4(1) requires businesses offering goods for sale or for hire, or providing library services, to close except for employees to respond to orders received online, telephone or by post. The instrument provides a list of businesses that are exempt from this in Part 3 of Schedule 3.

6.9 Regulation 4(3) to (4) requires that accommodation providers such as hotels, only open for individuals who are unable to return to their main residence (for example overseas visitors unable to return to their home country, who use the accommodation as their main residence, are in the process of moving house, are attending a funeral,

people isolating themselves as required by law, or key workers who are having to work away from home), are elite athletes (or their coaches or parents) who need accommodation for the purposes of training or competition. Accommodation providers are also permitted to provide services for the homeless, to host blood donation sessions and for people who need accommodation connected to their work.

- 6.10 Regulation 4(6) requires places of worship to close except for funerals, to broadcast an act of worship over the internet, radio or television, to provide essential voluntary services or urgent public support services such as blood donation sessions, for registered childcare, or for individual private prayer. Regulation 4(8) requires crematoria to close to members of the public, except for funerals or burials.
- 6.11 Regulation 4(7) requires community centres to close except to provide essential voluntary activities or urgent public support services such as blood donation sessions, or for registered early years' childcare.
- 6.12 Regulation 5 states that an individual who lives inside of the protected area may not stay overnight at any place other than the place where they are living, or where their linked household is living, except with reasonable excuse. An individual who lives outside the protected area may also not, without reasonable excuse, stay overnight at any place within the protected area other than the place where their linked household is living. Reasonable excuses include but are not limited to, attending a funeral, fulfilling a legal obligation, and providing care to a vulnerable person.
- 6.13 Regulation 6 states that individuals cannot participate in gatherings within the protected area in outdoor spaces (public or private) with more than six people from different households, subject to specific exceptions. Regulation 6 also states that two or more people from different households (apart from linked households) cannot participate in indoor (public or private) gatherings within the protected area, subject to specific exceptions. Exceptions include but are not limited to, attending a funeral, fulfilling a legal obligation, and providing care to a vulnerable person
- 6.14 Regulation 7 states that households comprised of either one adult, or one adult and one or more persons who are under the age of 18 on 12th June 2020, may choose to be linked with one other household, provided that neither household is linked with any other household for the purpose of these Regulations and that all the adult members of the households agree. Linked households can gather with each other indoor, and outdoors regardless of the total number of people across the two households. They may also stay overnight in the place where the other linked household lives.
- 6.15 Regulations 8, 9 and 10 state that a person who contravenes these Regulations commits an offence, punishable by a fine. It also includes a provision that a person designated by the Secretary of State may take necessary action in order to enforce a closure or restriction imposed by the regulation. This includes issuing a prohibition notice to prevent an individual from continuing to contravene a requirement of the Regulations, and to prosecute against any individual who obstructs a person designated by the Secretary of State.
- 6.16 The instrument also 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 (constable, police community support officer, or person designated by a local authority or the Secretary of State) to persons 18 or over whom they reasonably believe has committed an offence under the Regulations. The amount of the fixed

penalty is £100, reduced to £50 if paid within 14 days. If a person has already received a fixed penalty notice, under these regulations or the Restrictions Regulations or the England Regulations, the amount of the fixed penalty is £200, doubling on each further repeat offence up to a maximum of £3,200 and there will be no discount for repeat offenders paying within 14 days.

- 6.17 Environmental Health, Trading Standards and police officers will monitor compliance with these regulations. Businesses that breach them can be subject to prohibition notices, and potentially unlimited fines. Where a person who lives in the protected area is staying overnight in the protected area at a place other than where they or their linked household are living, they may be directed to return to the place where they are living. Similarly, where a person who lives outside of the protected area is staying overnight within the protected area other than the place where their linked household are living, they may be directed to return to the place where they are living. Where people are gathering in contravention of these regulations, they may be directed to disperse or return to the place where they are living. An individual who contravenes a direction given by a person designated by the Secretary of State, commits an offence and may thereby be issued a fine.

7. Policy background

What is being done and why?

- 7.1 The amendments to the 1984 Act made by the 2008 Act comprehensively modernised the legal framework for health protection. Part 2A of the 1984 Act, as inserted by the 2008 Act, takes an “all hazards” approach to health protection, where the criterion for action is based on the potential of an infection or contamination to present significant harm to humans, rather than on specific infectious diseases.
- 7.2 On 21 March 2020, the government took legislative measures with the making of the Health Protection (Coronavirus, Business Closure) Regulations 2020 (S.I. 2020/327). This decision sought to prevent the community transmission of disease, Severe acute respiratory coronavirus 2 (SARS-CoV-2). In order to limit the further spread of the disease, the Prime Minister announced further restrictions which came into force at 1pm on 26 March 2020, prohibiting people from leaving the place they live except for very limited purposes and banning public gatherings of more than two people. The legislative elements of these restrictions were given effect in the Restrictions Regulations.
- 7.3 On 22 April 2020 and on 12 May 2020, amendments to the Restriction Regulations came into force to make several minor and clarificatory changes to those regulations which addressed concerns raised by key stakeholders. This included ensuring key services such as, waste and recycling centres, remained accessible where required, and reopening garden centres.
- 7.4 In line with Step 2 of the government’s recovery strategy for the Covid-19 pandemic, several amendments were made in June 2020. This included reopening all non-essential retail, except for businesses and venues where the transmission risk was still too high, as well as outdoor areas of animal attractions. The stay at home Regulation 6 in the Restrictions Regulations was also removed, with a relaxation of the restrictions on gatherings and overnight stays for single occupancy households.
- 7.5 As part of Step 3 of the government’s recovery strategy for the Covid-19 pandemic, the government announced the opening of the hospitality sector from 4 July 2020. The

Prime Minister also announced on 23 June 2020 further relaxations in relation to gatherings to come into force in parallel. These further relaxations are possible due to the continued fall of the transmission rate and decreasing rates of hospitalisation and fatalities. The Chief Medical Officers have downgraded the UK's Covid-19 Alert Level from four to three, meaning that we no longer face a virus spreading exponentially, though it remains in general circulation. The Prime Minister noted that if rates increased again, relaxations will be reversed as appropriate.

- 7.6 Amendments to the Restrictions Regulations to achieve these relaxations would have been significant and as such, the Restriction Regulations, and the subsequent four amendments, are revoked, except for Regulation 2. The new England Regulations to replace them come into force on 4 July 2020.
- 7.7 In response to the high number of positive Covid-19 tests in Leicester in June 2020, the government announced a local lockdown in order to limit the further spread of the disease. The Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020 come into force on 4 July 2020, with restrictions that apply to the protected area in Leicester and to those who live within it. The restrictions in the England Regulations 2020, do not apply to the protected area in Leicester.
- 7.8 The instrument requires all non-essential businesses to close, except a limited number of exceptions such as, garden centres and vehicle showrooms and their outdoor areas. All leisure and recreational facilities other than outdoor sports courts or amenities, are also required to close, except for elite athletes to utilise for training. Food and drink establishments are not permitted to sell food and drink for consumption on the premises. The instrument requires places of worship to close other than for notable exceptions including, for individual private prayer. The instrument also prohibits anyone staying overnight in the protected area in a place other than the place where they live, or where their linked household lives, without reasonable excuse. Individuals living outside the protected area are also prohibited from staying overnight at any place within the protected area other than the place where their linked household is living, without reasonable excuse. The instrument also bans certain indoor and outdoor gatherings.

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

9. Consolidation

- 9.1 Not Applicable.

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 closures and restrictions on movements and gatherings in Leicester, England under these regulations.

12. Impact

This instrument is a temporary provision as 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 approach to monitoring of this legislation is to review the every two weeks. The instrument include a statutory review clause.

14.2 A statutory review clause is included in the Regulation. The instrument ceases to have effect at the end of the period of six months beginning on the day on which it comes into force. Prior to its expiry, the Secretary of State must review the need for restrictions and requirements imposed by these Regulations every 14 days. The first review will be carried out by 18 July 2020.

15. Contact

15.1 The Closures Team at the Ministry of Housing, Communities and Local Government; Email: ClosuresTeam.Covid19@communities.gov.uk can be contacted with any queries regarding the instrument.

15.2 Paul McCloghrie, Director at the Department of Health and Social Care; Email: Paul.Mccloghrie@Go-Science.gov.uk can confirm that this Explanatory Memorandum meets the required standard

15.3 Matt Hancock MP, Secretary of State for Health at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.