

EXPLANATORY MEMORANDUM TO
THE TOWN AND COUNTRY PLANNING (SPATIAL DEVELOPMENT
STRATEGY) (CORONAVIRUS) (AMENDMENT) REGULATIONS 2020

2020 No. 765

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities, and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the Town and Country Planning (London Spatial Development Strategy) Regulations 2000 (S.I. 2000/1491) (“the 2000 Regulations”) and the Combined Authorities (Spatial Development Strategy) Regulations 2018 (S.I. 2018/827) (“the 2018 Regulations”) in order to remove, on a temporary basis, the requirements on the Mayor of London and combined authorities with spatial development strategy making powers to make certain documents available for physical inspection and to provide hard copies on request. The temporary modifications are needed as a result of the effects of the coronavirus pandemic and will only apply until 31 December 2020. The documents will, instead, need to be made available on the relevant authority’s website.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

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 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

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 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The Greater London Authority Act 1999 (c. 29) (“the 1999 Act”) contains the power for the Mayor of London to exercise functions relating to a spatial development

strategy (“the London Plan”). The detailed requirements in relation to production of the spatial development strategy are set out in the 2000 Regulations.

- 6.2 Three mayoral combined authorities have also subsequently been given, by Order, the power to exercise in their area the functions relating to spatial development strategies that were given to the Mayor of London by the 1999 Act. The Orders that gave these powers to the mayoral combined authorities are the Greater Manchester Combined Authority (Functions and Amendment) Order 2016 (SI 2016/1267), the Liverpool City Region Combined Authority (Functions and Amendment) Order 2017 (SI 2017/430) and the West of England Combined Authority Order 2017 (SI 2017/126). The 2018 Regulations largely mirror the 2000 Regulations, by making provision in relation to the exercise of functions relating to a spatial development strategy in respect of these three mayoral combined authorities.
- 6.3 In response to the coronavirus pandemic, this instrument makes temporary modifications to the 2000 Regulations and the 2018 Regulations to disapply certain requirements to make documents available for inspection at premises and to provide hard copies on request. The documents will, instead, need to be made available on the relevant authority’s website.
- 6.4 In relation to the 2000 Regulations, temporary modifications are made to the provisions in regulations 9 (publication), 11 (duty to make documents available) and 12 (availability of spatial development strategy after publication), as the Mayor of London is shortly expected to publish a new spatial development strategy.
- 6.5 In relation to the 2018 Regulations, temporary modifications are made to the provisions in regulation 7 (public participation) and regulation 11 (availability of documents) to reflect that the mayoral combined authorities referred to in paragraph 6.2 above are at earlier stages of producing a spatial development strategy and have yet to consult on their strategies. No modifications are made to regulations 8 (examination in public), 9 (publication) or 12 (availability of spatial development strategy after publication) of the 2018 Regulations, as it is not anticipated that any of these mayoral combined authorities will be in a position to reach examination or publication of their spatial development strategy during the period in which these temporary modifications apply. The temporary modifications will apply during the period beginning with 12 August 2020 and ending with 31 December 2020.

7. Policy background

What is being done and why?

- 7.1 Effective engagement and consultation with a wide section of the community, businesses and other interested parties plays an important role in informing the preparation of spatial development strategies. This ensures that Mayors can, as far as possible, reflect a collective vision and a set of agreed strategic priorities for the sustainable development of the area.
- 7.2 At specified points in the production of spatial development strategies, certain documents must be made available at principal offices and other such places within the combined authority area as the Mayor considers appropriate. Copies must also be available to be sent out on request.
- 7.3 The effects of coronavirus have made the physical inspection of documents more difficult, for a number of reasons:

- The temporary closure of the offices of the relevant authorities means that it may be difficult to provide a physical address for inspection or to receive postal requests for documents
- The temporary closure of the offices of the relevant authorities and home working means that providing physical copies may be difficult, given the substantial print runs of large documents that may entail
- Changes in social distancing guidelines that came into force on 4th July 2020 have given an opportunity for some venues used for document inspection to open. However, not all of these venues will necessarily open and on-going social distancing requirements may make these venues less accessible than before.
- If offices and other venues used for document inspection were to open, those who are shielding, or are vulnerable may still be unable or unwilling to travel to inspect physical documents at premises.
- There remains a possibility that restrictions on movement for non-essential purposes is reintroduced in certain local areas if the Government considers it necessary to do so (for example, the Government's announcement on 29th June 2020 extending or reintroducing localised coronavirus lockdown measures in and around Leicester).

- 7.4 The above difficulties with complying with the availability of document requirements in the 2000 Regulations and the 2018 Regulations could lead to a pause in the preparation and publication of spatial development strategies. Notably, the London Plan is due for publication within weeks (taking into the account of discussions between the Mayor of London and the Secretary of State regarding directions made by the latter) and Greater Manchester Combined Authority is due to go out to consultation in Autumn 2020. An up to date spatial development strategy is crucial for setting out a framework for the future development of the area, including releasing land for housing. Spatial development strategies are also a key tool for encouraging and directing investment in the local area, helping to secure the housing and jobs that our communities need.
- 7.5 This instrument, therefore, removes, on a temporary basis, the requirements on Mayors to make certain documents available for physical inspection and to provide hard copies on request. The documents must instead be made available on the relevant authority's website. For example, regulation 9 of the 2000 Regulations is temporarily modified to require the Mayor of London to make his published spatial development strategy available on the Greater London Authority's website. Similarly, regulation 7 of the 2018 Regulations is modified to require a combined authority to make its proposed strategy available on its website. This will enable Mayors to progress spatial development strategies and act to get up to date strategic policies in place.
- 7.6 The instrument includes transitional provisions which make clear that, after 31 December 2020, the Mayor of London will be required, as soon as reasonably practicable, to make printed copies of his published strategy available for inspection at the principal office of the Greater London Authority. Similarly, if a combined authority makes a proposed strategy available for inspection on its website during the period in which the temporary modifications apply, after the end of that period, the combined authority must, as soon as reasonably practicable, also make copies of the strategy available for inspection at premises.

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 There are no immediate plans to consolidate the 2000 Regulations or the 2018 Regulations.

10. Consultation outcome

- 10.1 The temporary measures being urgently brought forward in this amending instrument have been drafted in response to concerns from the relevant authorities about meeting their statutory duties to make certain documents available given the effects of coronavirus, including restrictions on movement and office closures. Given the urgent timescales, there has been no public consultation. However, officials at the Ministry of Housing Communities and Local Government have consulted with all the authorities with spatial development strategy making powers. The most urgent need for these changes has been identified in relation to the Greater London Authority and Greater Manchester Combined Authority, with a small chance that Liverpool City Region Combined Authority could also need to make documents available for inspection under the 2018 Regulations before the end of this year.

11. Guidance

- 11.1 Government has already published draft guidance on [gov.uk](https://www.gov.uk) in relation to clause 21 of the Business and Planning Bill 2020 which makes similar provision to this instrument in relation to the Mayor of London's *current* spatial development strategy. Clause 21 temporarily modifies section 43 of the Greater London Authority Act 1999 to remove the requirement on the Mayor of London to make his current spatial development strategy available for physical inspection and to provide a hard copy on request. This is provided the strategy is available for inspection by appropriate electronic means. The draft guidance outlines mitigation measures the Mayor of London could undertake to assist those unable to access the strategy by electronic means. The Government also intends to publish guidance in relation to this statutory instrument on [gov.uk](https://www.gov.uk) regarding appropriate mitigation measures to assist those who may be unable to access the relevant documents by electronic means. This guidance is in line with feedback received from the Mayoral combined authorities. The Greater London Authority was consulted on the draft guidance in relation to the Business and Planning Bill 2020 and drafting took place incorporating its feedback.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 This temporary measure impacts on the public sector. It forms part of the Government's emergency response to the Coronavirus pandemic and temporarily removes the requirements on Mayoral combined authorities for certain spatial development strategy planning documentation to be made physically available for inspection. This should make it safer for planning officers employed by the Mayoral combined authorities and the public as well as providing a small reduction in administrative burdens. The impact is that it will allow spatial development strategies

to progress, notably in London and Greater Manchester, ultimately bringing land for development, including housing, into the system which would otherwise be delayed due to difficulties in adhering to the requirements to make documents physically available, as a result of the coronavirus pandemic.

- 12.3 An Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private or voluntary sector is foreseen and the temporary modifications will only have effect until 31 December 2020.

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 makes temporary modifications to the provisions of the 2000 Regulations and the 2018 Regulations which will only have effect until 31 December 2020. The impact of the instrument will be kept under review.

15. Contact

- 15.1 John Romanski at the Ministry for Housing Communities and Local Government be contacted on john.romanski@communities.gov.uk with any queries regarding the instrument.
- 15.2 Benjamin Clayton, Deputy Director for Planning – Development Plans, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Christopher Pincher, Minister of State at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.