

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS ON GATHERINGS) (NORTH OF ENGLAND)(AMENDMENT)(NO.2) REGULATIONS 2020

2020 No. 865

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the 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 amending the Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) Regulations 2020 (S.I. 2020/828) (“the North of England Regulations”) so that the provisions in the Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 (S.I. 2020/684) (“the National Regulations”) in relation to requirements on businesses and premises do not apply to the protected area as defined in Regulation 2 of the North of England Regulations. It also makes provision introducing requirements on businesses and premises in the protected area, to retain measures previously in place under the National Regulations to reduce the public health risks posed by the spread of severe acute respiratory syndrome coronavirus 2 (SARS-Co-V-2), which causes the disease COVID-19, in parts of the North of England.

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). These 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 these Regulations 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 will come into force on 15 August 2020 and will be published on www.legislation.gov.uk on 14 August 2020. The Regulations cease to have effect at the end of the period of 28 days (not including days in recess) beginning on 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 North of England Regulations provide that they expire at the end of the period of six months beginning with the day on which they came into force. These Regulations amend the title of the North of England Regulations in order that the title accurately reflects the restrictions and requirements put in place by the North of England Regulations, as amended by these Regulations.

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 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 Minister of State for Health, Edward Argar MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (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 (“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 inside or outside England and Wales.

6.4 A number of regulations under section 45C have been made, including regulations relating to COVID-19, such as the National Regulations, the Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020 (S.I. 2020/824) (the “Leicester Regulations”) and the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) Regulations 2020 (S.I. 2020/822) (the “Blackburn with Darwen and Bradford Regulations”).

6.5 This instrument is made under section 45C of the 1984 Act 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 The North of England Regulations came into force on 5 August 2020. They were amended to include Preston in the protected area with effect from 8 August.

6.7 These Regulations amend the North of England Regulations to introduce requirements in relation to premises and businesses.

6.8 Regulation 2 makes minor amendments to the North of England Regulations to account for the fact that the Regulations no longer just relate to gatherings, and that

they now impose requirements in relation to businesses and premises as well as restrictions on gatherings.

- 6.9 Regulation 2(7) and (12) makes provision inserting Regulation 7A and the Schedule into the North of England Regulations which maintain the closure of the following businesses and venues in the protected area:
- a. Nightclubs;
 - b. Dancehalls, discotheques and similar night time dance venues;
 - c. Sexual entertainment and hostess bars;
 - d. Casinos;
 - e. Indoor skating rinks;
 - f. Indoor play areas, including soft play areas;
 - g. Bowling alleys; and
 - h. Conference centres and exhibition halls, so far as they are used to host conferences, exhibitions or trade shows other than conferences or events which are attended only by employees of the person who owns or is responsible for running the conference centre or exhibition hall.
- 6.10 Conference centres and exhibition halls, so far as they are used to host conferences, exhibitions or trade shows other than conferences or events which are attended only by employees of the person who owns or is responsible for running the conference centre or exhibition hall.
- 6.11 Regulation 2 also amends Regulations 8, 9 and 10 of the North of England Regulations to ensure that that the enforcement provisions in the North of England Regulations are appropriate to address the requirements introduced by the new Regulation 7A.
- 6.12 Regulations 3(b), 4, 5 and 6, make consequential amendments to the National Regulations, the Leicester Regulations, the Blackburn with Darwen and Bradford Regulations, and the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 (S.I. 2020/750) to reflect the fact that the title of the North of England Regulations has been amended by these Regulations

7. Policy background

What is being done and why?

- 7.1 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, further restrictions came into force at 1pm on 26 March 2020 through the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020, prohibiting people from leaving the place they live except for very limited purposes and banning public gatherings of more than two people. These Regulations were then amended several times (22 April, 13 May, 1 June, 13 June, 15 June) to enable relaxation of certain public health measures, such as reopening garden centres and

non-essential retail, to relax stay at home measures and restrictions on gatherings, and to allow overnight stays.

- 7.2 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 and further relaxations on gatherings from 4 July through the National Regulations. These Regulations have since been amended three times (11 and 13 July as one set of amendments, 25 July, and 15 August) to enable the reopening of close contact services, swimming pools, gyms and indoor sports facilities, casinos, indoor skating rinks, indoor play areas, including soft play areas, bowling alleys, conference centres and exhibition halls.
- 7.3 Data shared by Public Health England and the Joint Biosecurity Centre indicated that the incidence rates of COVID-19 in the protected area were significantly above the national average, and the number of cases was increasing. The data also indicated that household transmission, either within the household or due to transmission between households, constituted a high proportion of COVID-19 transmissions. In response to this, restrictions were introduced on 5 August to prevent gatherings that include more than one household in private dwellings in the protected area, through the North of England Regulations.
- 7.4 Alongside the North of England Regulations, Government guidance was given to those living in or visiting the protected area, advising against gatherings at indoor public places. Guidance was also issued to businesses to not facilitate such gatherings. Care homes were also advised to only allow visits in exceptional circumstances. Though no restrictions were placed on travel, the Government advised people to not travel with other households as it does elsewhere in England.
- 7.5 On 13 August, it was decided that further business closures should be removed from the National Regulations, allowing them to re-open. Based on the epidemiological evidence, and in discussion with local leaders, it was decided that it was not appropriate to apply these easements in the protected area of the North of England Regulations. In a review of the restrictions applied in the protected area, undertaken in accordance with regulation 4 of the North of England Regulations, it was also determined that the restrictions on gatherings remain necessary to prevent, protect against, control or provide a public health response to the incidence or spread of COVID 19, and proportionate to that aim.
- 7.6 These Regulations give effect to that decision by inserting business closures provisions into the North of England Regulations, and disapplying the business closures provision in the National Regulations within the protected area of the North of England Regulations. This has the effect that amendments to the business closure provisions in the National Regulations coming into effect on 15 August will not take effect in the protected area. No amendments were required in relation to the gatherings restrictions, as these remain unchanged from the restrictions already contained in the North of England Regulations.
- 7.7 The businesses that are required to remain closed in the protected area but permitted to reopen elsewhere in England from 15 August, are:
 - a. Casinos;
 - b. Indoor skating rinks;
 - c. Indoor play areas, including soft play areas;

- d. Bowling alleys; and
- e. Conference centres and exhibition halls, so far as they are used to host conferences, exhibitions or trade shows other than conferences or events which are attended only by employees of the person who owns or is responsible for running the conference centre or exhibition hall.

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 the requirement for certain businesses in parts of the North of England to remain closed under these regulations.

12. Impact

- 12.1 The North of England Regulations as amended by this instrument are 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.
- 13.2 The basis for the final decision on what action to take to assist small businesses: we judge that there is no such action needed, since government has provided a number of financial support schemes.

14. Monitoring & review

- 14.1 The North of England Regulations, which this statutory instrument amends, include a statutory review clause.
- 14.2 The North of England Regulations cease to have effect at the end of the period of six months beginning on the day on which they came into force.
- 14.3 Prior to the expiry of the North of England Regulations, the Secretary of State must review the need for restrictions and requirements imposed by the North of England Regulations every 14 days. The next review will be carried out by 28 August 2020.

15. Contact

- 15.1 Lynne Henderson at the Department of Health and Social Care (Lynne.Henderson@dhsc.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Paul McCloghrie, Director of the Response, Support and Learning Directorate in the Joint Biosecurity Centre at the Department of Health and Social Care (Paul.Mccloghrie@dhsc.gov.uk) can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Edward Argar MP, Minister of State for Health at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.