

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

2020 No. 921

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 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), which causes the disease Covid-19, at the premises of Greencore Food to Go Ltd, Northampton (“Greencore”). This instrument enables the imposition of certain restrictions on Greencore workers and members of their households.

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 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) This instrument will come into force on 29th August 2020 and will be published on www.legislation.gov.uk on 28th August 2020. This instrument ceases to have effect 28 days after 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)

- 3.2 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 England.

5. European Convention on Human Rights

- 5.1 The Parliamentary Under Secretary of State at the Department of Health and Social Care, Jo Churchill MP, has made the following statement regarding Human Rights:
“In my view the provisions of the Health Protection (Coronavirus, Restrictions) (Greencore) 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 Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 (S.I. 2020/684) and the Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020 (S.I. 2020/824).
- 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). Public health measures are required to break the transmission of Covid-19 between and from employees of Greencore Food to Go Ltd by ensuring the effective self-isolation of those most at risk of developing coronavirus from working alongside colleagues who had the virus. In turn, this will reduce the risk of the need to impose further localised interventions on the wider community.
- 6.6 Regulation 2 defines the workers who are required to self-isolate as anyone whose main place of work, whilst working for or on behalf of Greencore Food to Go Ltd, is Units A, B, C, D and K at Greencore’s Northampton sites at any time between 7th and 21st August 2020. This applies whether the person is employed by Greencore or is an agency worker. Workers who received a positive test result from a SARS-CoV-2 test from 7th to 11th August 2020, self-isolated for 10 days and did not return to the sites before 21st August 2020 are exempted from the requirement to self-isolate. Workers who received a positive test result from 12th to 21st August, and self-isolated for ten days from the date the test was taken are also exempted from the requirement to self-isolate.
- 6.7 Regulation 3 defines which members of households of those workers required to self-isolate by regulation 2 are required to self-isolate as well. However, if either the worker or the member of their household moves away from the other at any point in time, the household member is no longer required to self-isolate.
- 6.8 Regulation 4 imposes the requirement for everyone meeting the conditions in regulations 2 and 3 to self-isolate until 5th September 2020. This can be their home, the home of a friend or family member or a hotel, hostel or other suitable place. If a person part way through a period of self-isolation when the instrument comes into force, the period for which they must self-isolate is not until 5th September 2020, but instead is the balance of the continuous period of 14 days of self-isolation.

- 6.9 If a person tested positive for SARS-CoV-2 at any time from 20th to 28th August and has been in self-isolation since that date, the continuous period they required to self-isolate is reduced to 10 days.
- 6.10 Regulation 4 also sets out the conditions required by self-isolation, including who the person in self-isolation does not need to isolate from, and the reasons that the person can leave or be outside of the place where they are self-isolating. The reasons that a person can be at the place someone is self-isolating without the person who is self-isolating having to isolate from them, include the provision of emergency assistance, and the provision of critical public services.
- 6.11 The reasons that a person who is self-isolating can leave or be outside their place of self-isolation include to seek medical assistance that is required urgently or on the advice of a registered medical practitioner, to avoid injury or risk of harm or on compassionate grounds.
- 6.12 Regulation 5 provides that if someone joins the household a person who is self-isolating, or if a person who is self-isolating joins another household, both the person self-isolating and the members of the household must then self-isolate for a further 14 days from when they joined the household.
- 6.13 Regulation 6 provides powers for an authorised person such as a police officer to enforce compliance with self-isolation requirements, including by directing them to return to their designated place for self-isolating or removing them to that place.
- 6.14 Regulation 7 creates summary only criminal offences for contravening a requirement to self-isolate, or for without reasonable excuse contravening a requirement imposed under the enforcement powers in regulation 6. It also creates a further offence of wilful obstruction, without reasonable excuse, of any person carrying out a function under the instrument. This offence replicates the offence created in other regulations which require individuals to self-isolate, for example the Health Protection (Coronavirus, International Travel) (England) Regulations 2020.
- 6.15 Regulation 8 authorises the issuing of fixed penalty notices to anyone who an authorised person has reasonable grounds to believe committed an offence under these regulations. The penalty to be paid is £100, except for in relation to the offence of wilfully obstructing, without reasonable excuse, a person carrying out a function under the instrument, in which case it is £1000. There is no increase in penalty for repeat offending, as included in other regulations that impose interventions in protected areas, given the short and defined period that this instrument will be in force.
- 6.16 Regulation 10 provides that designations of persons who may prosecute the offences, and officers who may collect fixed penalties that the Secretary of State has made in relation to the Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 are effective as designations for the equivalent provisions in this instrument.

7. Policy background

What is being done and why?

- 7.1 On 21st 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 the disease Covid-19

caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). In order to limit the further spread of the disease, further restrictions came into force at 1pm on 26th March 2020 through The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (S.I. 2020/350), prohibiting people from leaving the place they live except for very limited purposes and banning public gatherings of more than two people. Those Regulations were then amended several times (on 21st April by S.I. 2020/447, on 12th May by S.I. 2020/500, on 31st May by S.I. 2020/558, and on 12th June by S.I. 2020/588). These amendments enabled the relaxation of certain public health measures to reopen garden centres and non-essential retail, and to relax certain restrictions on stay at home measures, gatherings, and 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 Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations (S.I. 2020/684). Those Regulations have since been amended three times (on 9th July by S.I. 2020/719, on 22nd July by S.I. 2020/788, and on 14th August by S.I. 2020/863). These amendments enabled the reopening of close contact services, and 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 Alongside the Regulations referenced in paragraphs 7.1 and 7.2, 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.
- 7.4 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 4th July 2020. The Prime Minister also announced on 23rd June 2020 further relaxations in relation to gatherings to come into force in parallel. These further relaxations were possible due to the continued fall of the transmission rate and decreasing rates of hospitalisation and fatalities. The Chief Medical Officer downgraded the UK's Covid-19 Alert Level from four to three, meaning that we no longer faced a virus spreading exponentially, though it remains in general circulation. The Prime Minister noted that if rates increased again, relaxations would be reversed as appropriate.
- 7.5 In response to the elevated number of positive SARS-CoV-2 tests in the Greencore workforce in August 2020, the Government announced that there would be additional restrictions on staff and their households to limit the further spread of the disease. These Regulations come into force on 29th August 2020, with restrictions that apply to Greencore staff and to those that live with them.
- 7.6 During the period between the 9th and 15th August 2020 Northampton saw an increase of 8% in the number of individuals testing positive, raising the weekly incidence rate per 100,000 population to 116.4 from 38.6 the preceding week. Most of the Covid-19 transmission appears to have occurred within households and in community settings (based on NHS Test and Trace data) that can be traced back to staff who are employed or have worked at the Greencore Factories in Northampton. Greencore arranged for mass testing of the workforce of 1,140 workers of which 214

were positive, giving a positivity rate of 19%. A further 79 cases were identified through /NHS Test and Trace.

- 7.7 The aim of the restrictions introduced by this instrument is to reduce the likelihood of further transmission of the virus to other workers, associated families and reduce the risks of wider community transmission. These measures are taken to prevent wider geographic lockdown measures similar to those introduced in Leicester.

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 the requirement for certain Greencore workers and people they share households with to self-isolate under this instrument.

12. Impact

- 12.1 The Greencore workers and households impacted by this instrument are impacted temporarily as this is a temporary instrument, lasting for 28 days. 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 does not apply activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 This legislation will cease to be in effect on 26th September 2020, so no review clause has been put into the instrument.

15. Contact

- 15.1 Lynne.henderson@dhsc.gov.uk can be contacted with any queries regarding this instrument.
- 15.2 Paul McCloghrie, Director 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 Jo Churchill MP, Parliamentary Under 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.