

EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (BLACKBURN WITH DARWEN AND BRADFORD) (AMENDMENT) (NO. 3) REGULATIONS 2020

2020 No. 935

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 makes provision for the purpose of amending the protected area as defined in regulation 1 of the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) Regulations 2020 (S.I 2020/822) (“the Blackburn and Bradford Regulations”), which provide for 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), which causes the disease Covid-19, in the City of Bradford Metropolitan District Council and Blackburn with Darwen Borough Council, 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 imposed by the Blackburn and Bradford Regulations continue to be necessary and proportionate 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 at 12.01 a.m. on 3 September 2020 and will be published on www.legislation.gov.uk later that day. 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 Blackburn and Bradford Regulations provide that they expire at the end of the period of six months beginning with the day on which they came 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 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 Secretary of 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) (Blackburn with Darwen and Bradford) (Amendment) (No. 3) 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) (the “National Regulations”) and the North of England Regulations.

6.5 The Blackburn and Bradford Regulations came into force on 1 August 2020. This instrument required the closure of some businesses in the protected area in Blackburn with Darwen and Bradford, as defined in regulation 1 of those Regulations. The Blackburn and Bradford Regulations were amended on 5 August 2020 by the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020 (S.I. 2020/828) to include further restrictions on gatherings within the protected area and on participation in gatherings in private dwellings outside of the protected area by those who live within it. The Blackburn and Bradford Regulations were amended on 26 August 2020 by the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) (Amendment) Regulations 2020 (S.I. 2020/898) which revised the extent of the protected area, removing some of the wards within Blackburn with Darwen Borough Council. The Regulations were amended again at midday on 2 September 2020 by the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) (Amendment) (No.2) Regulations 2020 (S.I. 2020/930) to revise the extent of the protected area, removing some of the wards within the City of Bradford Metropolitan District Council.

- 6.6 These Regulations further amend the protected area in the Blackburn and Bradford Regulations.
- 6.7 Regulation 2 amends the definition of “protected area” in regulation 1 of the Blackburn and Bradford Regulations so that Windhill and Wrose is removed from the protected area of the City of Bradford Metropolitan District Council.
- 6.8 This instrument makes a minor amendment to the Blackburn and Bradford Regulations to reflect the policy on the protected area for Bradford, and is supplementary to the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) (Amendment) (No. 2) Regulations 2020 which came into force at midday on 2 September and is therefore, issued free of charge to all known recipients of those 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 (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. 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 In response to the elevated number of positive Covid-19 tests in Blackburn with Darwen and Luton in July 2020, the government announced that there would be ongoing restrictions in Blackburn with Darwen and Luton in order to limit the further spread of the disease. These restrictions were contained within the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Luton) Regulations 2020 (S.I. 2020/800) (“the Blackburn and Luton Regulations”) which came into force on 25 July 2020.
- 7.4 After a review of the restrictions by public health experts and Ministers, and due to the falling infection rates in Luton, it was decided that Luton should come back into line with the rest of England in terms of the legal restrictions. However, due to an increase in prevalence of the disease in the City of Bradford and with agreement from local leaders in the area, restrictions on businesses and people living within the City of Bradford were deemed necessary. Furthermore, as Blackburn with Darwen

continued to have a high incidence rate, restrictions were deemed necessary to stay in place in that area. These changes were made in the Blackburn and Bradford Regulations which revoked and replaced the Blackburn and Luton Regulations coming into force on 1 August 2020.

- 7.5 After a further review of the restrictions by public health experts and Ministers, and due to the consistently high rates of infection in Bradford and parts of Blackburn with Darwen, it was decided to maintain the restrictions in those areas. However, due to a lower prevalence of the virus, it was decided that the restrictions would be removed from some wards within Blackburn with Darwen Borough Council. The Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) (Amendment) Regulations 2020 introduced these amendments on 26 August 2020.
- 7.6 On 28 August 2020, a further review of data shared by Public Health England and the Joint Biosecurity Centre indicated that the incidence rates of COVID-19 in some parts of the City of Bradford Metropolitan District Council was decreasing and it was decided that the restrictions previously in place in those wards were no longer necessary. The Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) (Amendment) (No. 2) Regulations 2020 amended the Blackburn and Bradford Regulations to remove those wards from the protected area covered by the Blackburn and Bradford Regulations. These Regulations remove the ward of Windhill and Wrose so it is no longer in the protected area due to declining incidence rates and is subject only to the remaining national restrictions and guidance.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument is not being made 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 restrictions in force in of the protected area of Blackburn with Darwen and Bradford under the Blackburn and Bradford Regulations as amended by these Regulations.

12. Impact

- 12.1 The Blackburn with Darwen and Bradford 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 Blackburn with Darwen and Bradford Regulations, which this statutory instrument amends, include a statutory review clause.

14.2 The Blackburn with Darwen and Bradford 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 Blackburn and Bradford Regulations, the Secretary of State must review the need for restrictions and requirements imposed by the Blackburn and Bradford Regulations every 14 days. The next review will be carried out by 11 September 2020.

15. Contact

15.1 tim.charlton@dhsc.gov.uk at the Department of Health and Social Care can be contacted with any queries regarding the 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 Helen Whately, Minister of State at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.