

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

**2020 No. 974**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by 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 enabling a number of public health measures to be taken to reduce the public health risk posed by the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Bolton, 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 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 the 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). The instrument came into force at 6 p.m. on 10 September 2020 and will be published on [www.legislation.gov.uk](http://www.legislation.gov.uk). The instrument ceases 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 instrument itself provides that it expires at the end of the period of six months beginning with the day on which it 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 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 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 Health Protection (Coronavirus, Restrictions) (Bolton) 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, 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 (S.I. 2020/684) (the “National Regulations”), the Blackburn and Bradford Regulations, the Leicester Regulations and the North of England Regulations.

6.5 The North of England Regulations came into force on 5 August 2020. Part 2 of the North of England Regulations imposed restrictions on gatherings in the protected area defined in regulation 2 of those Regulations, and restrictions on people that lived in the protected area participating in gatherings in private dwellings outside of it. Bolton Metropolitan Borough Council was included in the protected area.

6.6 The North of England Regulations were amended to include Preston in the protected area with effect from 8 August 2020 and to include requirements on premises and businesses within the protected area with effect from 15 August 2020. The Regulations were amended on 26 August 2020 to change the definition of “protected area”, as defined in regulation 2 of the North of England Regulations to remove the following areas: Wigan Metropolitan Borough Council and Rossendale Borough Council. The regulations were amended again on 2 September 2020 to change the definition of “protected area” to remove the following areas: Stockport Metropolitan Borough Council, Burnley Borough Council, and Hyndburn Borough Council.

6.7 The Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford, Leicester, and North of England) (Amendment) Regulations 2020 came into force on 8 September 2020, amending the North of England Regulations to allow businesses part of the 15 August easing of restrictions to apply to the protected area, except in the area of Bolton Metropolitan Borough Council.

- 6.8 This instrument imposes restrictions in relation to a defined geographical area or “protected area”. The “protected area” is defined in regulation 1 of the instrument as the area of Bolton Metropolitan Borough Council.
- 6.9 Regulation 2(2) requires the restrictions imposed by the Regulations to be reviewed at least once every 14 days. The first review will be carried out by 24 September 2020.
- 6.10 Regulation 2(3) provides that the Secretary of State must publish a direction terminating a restriction if the Secretary of State considers that the restriction is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in England with the coronavirus. The Secretary of State may also give a direction to provide that any one or more specified local authority may also give a direction to provide that any one or more specified local authority areas no longer fall within the protected area.
- 6.11 Regulation 3(1) requires the closure of food and drink businesses including bars, pubs, and restaurants as listed in Part 1 of the Schedule. The businesses required to close are only permitted to open to sell food and drink for collection and delivery to be consumed off the premises. Such businesses are also required to cease selling food or drink between the hours of 22:00 and 5:00.
- 6.12 Regulation 3 (4) also requires the closure of certain businesses as listed in Part 2 of the Schedule, with certain exemptions, including for elite athletes.
- 6.13 Regulations 4 requires the closure of certain businesses selling goods or providing services between 22:00 and 5:00 (except for those listed in Part 3 of the Schedule), and those businesses listed in Part 4 of the Schedule, with certain exemptions.
- 6.14 Regulation 5 prohibits gatherings of two or more people from different households (apart from linked households) in private dwellings in the protected area and prohibits people living in the protected area from participating in a gathering in a private dwelling outside the protected area, unless those meeting are from linked households. There are specific exemptions, including but not limited to work purposes, education and the provision of emergency assistance. Hotels and certain other holiday accommodation, care homes, educational, military and prison accommodation are not included in the definition of “private dwelling”.
- 6.15 Regulation 6 sets out the circumstances in which households may choose to be linked households.
- 6.16 Regulation 7(1) prohibits a gathering of more than six people which takes place on a vessel (other than a houseboat or a vessel used for public transport) or in a public outdoor place which satisfies the conditions set out in regulation 7(2): land which is not operated by a business, a charitable, benevolent or philanthropic institution or a public body as a visitor attraction or part of premises used for the operation of a business, charitable, benevolent or philanthropic institution or public body.
- 6.17 Regulation 7(3) permits a gathering of more than six people in a public outdoor place or on a boat or ship where all persons in the gathering are members of the same household or are members of two linked households. Gatherings are also permitted where that gathering is organised by a person of the sort mentioned in regulation 7(2) or a political body, the organiser has carried out a risk assessment which would satisfy the requirements of regulation 3 of the Management of Health and Safety at Work Regulations 1999, and the organiser has taken all reasonable measures to limit the risk of transmission of the coronavirus, taking into account the risk assessment.

- 6.18 There are also exemptions for a gathering of more than six people where the person concerned is an elite sportsperson, their coach or their parents (if a minor), and the gathering is necessary for training or competition. Gatherings of more than six people are also permitted when reasonably necessary for work, voluntary or charitable services; to provide emergency assistance; to avoid injury or illness or escape from harm; for education or childcare (or as part of supervised activities provided for children), or to fulfil a person's legal obligation.
- 6.19 Regulation 7(4) also prohibits a gathering in the protected area of more than six people indoors which would be a gathering of the kind mentioned in section 63(1) of the Criminal Justice and Public Order Act 1994 (powers to remove persons attending or preparing for a rave) if the gathering took place in open air.
- 6.20 Regulations 8 and 9 provide that a person who contravenes these regulations without reasonable excuse commits an offence. They also include a provision that a constable, police community support officer, or person designated by the Secretary of State may take necessary action in order to enforce a closure or restriction imposed by the regulations. 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 and directing a gathering or attendees of the gathering to disperse where they are gathered in contravention of regulation 5 or 7.
- 6.21 Regulation 10 provides that a fixed penalty notice (a notice which enables a person to discharge their liability to criminal conviction) may be issued by a relevant person 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 other Regulations listed in regulation 10(9), 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.
- 6.22 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 gathering is held in contravention of these Regulations, any person in the gathering may be directed to disperse or return to the place where they are living. An individual who contravenes a direction given by a police officer, or person designated by the Secretary of State, commits an offence and may thereby be issued a fine.
- 6.23 Regulation 11 provides that proceedings for an offence under this instrument may be brought by the Crown Prosecution Service and any person designated by the Secretary of State.
- 6.24 Regulation 13 provides that a person designated by the Secretary of State under the relevant provisions in the North of England Regulations is to be treated as if they were designated for the purposes of this instrument.
- 6.25 Regulation 14 provides the consequential amendments to the North of England Regulations, the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020, the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020, the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) Regulations 2020, and the Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020.

## 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 that disease, the Prime Minister announced further restrictions which came into force 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. In line with Step 2 and 3 of the Government's recovery strategy for the Covid-19 pandemic, several amendments were made to these Regulations in June 2020, before they were revoked and replaced on July 4 through the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations. These Regulations have since been amended several times (11 and 13 July, 24 July, 15 August, 28 August 2020).
- 7.2 In response to an elevated number of positive cases of COVID-19 in the North of England, the Government introduced restrictions on 5 August 2020 to prevent gatherings that include more than one household in private dwellings in the protected area, through the North of England Regulations. These Regulations have since been amended several times to ensure that easing of restrictions for business closures in the National Regulations were disapplied within this protected area (13 August 2020); and to reduce the geographic scope of the protected area of these Regulations in response to low incidence rates in certain areas (26 August and 1 September 2020).
- 7.3 Following further reviews of the epidemiological evidence at the time, the North of England Regulations were amended again on 7 September to allow easing of restrictions for businesses and venues made elsewhere in England on 25 July and 15 August. However, the latter of these easing of restrictions was disapplied to the protected area of Bolton Metropolitan Borough Council within the North of England Regulations.
- 7.4 Due to the persistence of high incidence rates of Covid-19 in Bolton, this instrument places further restrictions on the protected area of Bolton Metropolitan Borough Council through the removal of this area from the North of England Regulations, and the laying of these Regulations, The Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020.
- 7.5 The instrument brings further restrictions on social contact by retaining the prohibition of mixing between households in private dwellings and gardens (unless this is a linked household as set out in regulation 6), and reducing the number of people who can gather in a public outdoor place to six.
- 7.6 The instrument requires certain venues to stay closed, such as nightclubs, to protect against the risks to public health arising from coronavirus. This instrument also places restrictions on businesses so that food and drink establishments are not permitted to sell food and drink for consumption on the premises. The instrument introduces restrictions on the operating hours of businesses so that they may not operate between 22:00 and 5:00, with certain exemptions.
- 7.7 These measures intend to reduce the transmission of Covid-19 in the protected area of Bolton Metropolitan Borough Council, particularly amongst younger people (amongst

whom incidence rates are highest), such that local incidence rates decline to a level where public health advice is that the local easing of restrictions can realign with measures in the rest of England.

- 7.8 These Regulations are supported by detailed Government guidance, providing advice to owners/operators on working safely across all affected sectors, as well as providing information to the public about how to stay safe and reduce the transmission risk.

## **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 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](http://www.gov.uk/coronavirus) and this guidance will include information in relation to closures and restrictions on movements and gatherings in Bolton, England under this instrument.

## **12. Impact**

- 12.1 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 instrument every two weeks. The instrument includes 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 24 September 2020.

## **15. Contact**

- 15.1 The Closures Team at the Ministry of Housing, Communities and Local Government; Email: [ClosuresTeam.Covid19@communities.gov.uk](mailto: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@dhsc.gov.uk can confirm that this explanatory memorandum meets the required standard.
- 15.3 Helen Whately MP, Minister of State for Care at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.