

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (STEPS AND
LOCAL AUTHORITY ENFORCEMENT POWERS) (ENGLAND) (AMENDMENT)
REGULATIONS 2021

2021 No. 455

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 amends the Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 (S.I. 2021/364) (“the Steps Regulations”) to move all of England into Step 2. It amends the Steps Regulations to allow businesses or services otherwise permitted to open at Step 2 to also open at self-contained accommodation, caravan parks and campsites. It also makes minor amendments to the content of the Steps Regulations. This instrument enables a number of public health measures to be taken to reduce the public health risks posed by the spread in England of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) which causes the disease Covid-19.
- 2.2 This instrument also amends the Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020 (“the LAEP Regulations”) to clarify that Coronavirus Improvement Notices (CIN) and Coronavirus Restriction Notices (CRN) which require businesses to remedy unsafe practices within a set period, or, where rapid action is needed, require a business to close and address an issue before reopening, may be issued in relation to the restrictions on accommodation venues in Step 2.

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) (“the 1984 Act”). 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 these Regulations without a draft being so laid and approved as the purpose of this instrument is to clarify and amend the existing substantive regulations which were made so that the appropriate public health measures can be taken in response to the severe and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). There is an obligation on the Government to ease restrictions as soon as reasonably possible when the previous stricter measures are no longer necessary.

- 3.2 This instrument was laid on 9 April 2021 and was published on www.legislation.gov.uk later that day. This instrument will come into force on 12 April 2021. The Steps Regulations, which this instrument amends, are set to expire on 30 June 2021. This instrument also amends the LAEP Regulations which will expire 6 months after they came into force on 2 December 2020. The Steps provide that the Secretary of State must review the Steps measures applicable to England every 35 days.
- 3.3 The Step 2 measures which this instrument implements were debated in Parliament on 25 March.

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)

- 3.4 This instrument applies to England only, including English airspace and the English territorial sea.

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 at the Department of 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) (Steps and Local Authority Enforcement Powers) (England) (Amendment) Regulations 2021 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 diseases, or contamination from chemicals or radiation. Part 2A 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 of infection or contamination can come from outside England and Wales.
- 6.4 This instrument is made under section 45C 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 coronavirus 2 (SARS-CoV-2).
- 6.5 In accordance with section 45R of the Act, the Secretary of State is of the opinion that, by reason of urgency, it is necessary to make this instrument without a draft having been laid before, and approved by a resolution of, each House of Parliament.

- 6.6 On 22 March 2021 the Government laid the Steps Regulations which revoked and replaced the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 (S.I. 2020/1374) with a legislative framework to apply the rest of the Step 1 restrictions from 29 March 2021 and which set out Steps 2 and 3 of the Roadmap out of lockdown. This instrument amends the Steps Regulations to apply the Step 2 restrictions to all of England and makes some additional amendments to the Steps Regulations and the LAEP Regulations as summarised below.
- 6.7 Regulation 1 provides that the Health Protection (Coronavirus, Restrictions) (Steps and Local Authority Enforcement Powers) (England) (Amendment) Regulations 2021 (“the Regulations”) come into force on 12 April 2021 and sets out their application.
- 6.8 Regulation 2(2) removes superfluous language from regulation 2 of the Steps Regulations.
- 6.9 Regulation 2(3) clarifies language in regulation 3(2) to make it clear that families with at least 1 child under 1 and/or at least 1 child under 5 with a disability which requires continuous care may form a support bubble.
- 6.10 Regulation 2(4) removes superfluous language from regulation 14 of the Steps Regulations.
- 6.11 Regulation 2(5) and (6)(b) corrects a referencing error in the licensing provisions applicable to Steps 1 and 2.
- 6.12 Regulation 2(6) amends Schedule 2 to clarify that in Step 2 customers may enter restricted indoor premises to pay for food and drink. This regulation also clarifies the restrictions on hospitality at motorway service areas in Step 2.
- 6.13 Regulation 2(6) also expands the list of shared facilities to remain open for Self Contained Accommodation to ensure consistency with the broader restrictions at Step 2. This regulation also clarifies that public toilets, baby changing rooms, or communal areas used for the purposes of breastfeeding are facilities which may be shared. This regulation also clarifies that indoor games and recreation venues including indoor paintballing and recreational driving facilities are closed at Step 2 as well as laser quest and escape rooms.
- 6.14 Regulation 2(7) amends Schedule 3 to ensure consistency with Schedules 1 and 2. The regulation clarifies that certain cafes and canteens are not required to provide table service to customers in Step 3.
- 6.15 Regulation 2(8) amends Schedule 4 to make every area of England subject to Step 2 restrictions.
- 6.16 Regulation 2(9) amends Schedule 6 to include representatives of the governments of Jersey, Guernsey, Alderney, Sark or the Isle of Man in those exempt from the requirement to complete a declaration of travel form.
- 6.17 Regulation 3 amends regulation 2 of the Local Authority Regulations to include paragraph 12 of Schedule 2 (closure of holiday accommodation in Step 2) of the Steps Regulations. This clarifies that Coronavirus Improvement Notices (CIN) and Coronavirus Restrictions Notices (CRN) which require businesses to remedy unsafe practices within a set period, or, where rapid action is needed, require a business to close and address an issue before reopening, may be issued in relation to the restrictions on accommodation venues in Step 2.

7. Policy background

What is being done and why?

- 7.1 On 22 February 2021 the Government set out the Covid-19 Response – Spring 2021 to chart a roadmap out of lockdown. This roadmap outlines four steps for cautiously easing restrictions and four tests against which the decision to proceed to the next step will be based. The data was reviewed against the four tests 4 weeks after the implementation of Step 1 and progress was considered satisfactory to allow the move to Step 2. The Prime Minister announced the change of Step on Monday 5 April, giving 1 weeks' notice before the measures would be introduced.
- 7.2 The Secretary of State is required to review the measures imposed by the Steps Regulations by 12 April, and thereafter every 35 days. This review resets the clock on the 35-day review requirement as of Monday 12 April and the next review will therefore be due by Friday 14 May.
- 7.3 New measures applicable at Step 2 (from 12 April).

Business and activities

- 7.4 Indoor leisure (including gyms) is permitted to re-open for use individually or within household groups, alongside libraries, community centres, personal care businesses, all retail, all children's activities and indoor parent and child groups with up to 15 attendees.
- 7.5 Outdoor hospitality re-opens with the requirement that customers at businesses serving alcohol must order, eat and drink while seated. Additionally, outdoor attractions may re-open, including zoos, theme parks, drive-in cinemas and drive-in performances.
- 7.6 Self-contained accommodation - those which are in separate and self-contained premises - may open for household groups. Campsites and caravan parks may also open (there is an exemption from the closure of shared facilities for washing facilities in campsites and caravan parks).

Events

- 7.7 Funerals with up to 30 attendees and wakes, weddings and outdoor wedding receptions with up to 15 attendees are permitted. Events pilots can also begin.

Travel

- 7.8 Stay in the UK provisions remain but domestic overnight stays are permitted for household groups.

Other amendments

- 7.9 This instrument also:
- Allows businesses or services otherwise permitted to open at Step 2 to also open at self-contained accommodation, caravan parks and campsites.
 - Clarifies that indoor games and recreation venues including indoor paintballing and recreational driving facilities (e.g. go-karting) are closed at Step 2 as well as laser quest and escape rooms. Clarifies that individuals may enter indoor premises that serve alcohol for the purposes of paying for food and drink.

- Exempts certain cafes and canteens from being required to provide table service at Step 3, ensuring consistency with Steps 1 and 2.
- Clarifies the application of support bubbles. Support bubble eligibility was extended last year to include families with a child or children under one or who was under that age on 2 December 2020, or a child or children who are disabled, require continuous care and are under 5 of were under that age on 2 December 2020. The Regulations clarify that households with a child under one, or a child under 5 with a disability which requires continuous care, and other children over the age of one are eligible to form a support bubble.
- LA Enforcement Powers: clarifies that Coronavirus Improvement Notices (CIN) and Coronavirus Restrictions Notices (CRN) which require businesses to remedy unsafe practices within a set period, or, where rapid action is needed, require a business to close and address an issue before reopening, made be issued in relation to the restrictions on accommodation venues in Step 2.
- Adds representatives of Crown Dependencies to the list of those exempt from completing a declaration of travel form
- Makes minor drafting changes to remove superfluous wording and to amend references.

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 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 easing of restrictions across the whole of England and closures and restrictions on movements and gatherings under these regulations.

12. Impact

- 12.1 An Impact Assessment has not been prepared for this instrument because it is a temporary measure which is part of the Government's response to Covid-19. As this instrument will cease to have effect at the end of 30 June 2021, a Regulatory Impact Assessment is not required and would be disproportionate.

13. Regulating small business

- 13.1 This instrument applies to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The Steps Regulations, which this instrument amends, must be reviewed by Secretary of State at least every 35 days.
- 14.2 The Steps Regulations will expire and cease to have effect on 30 June 2021.

15. Contact

- 15.1 Grace Hirst at the Department of Health and Social Care Email: grace.hirst@dhsc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Tim Baxter, Deputy Director for the Social Distancing Strategy Directorate, at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Matt Hancock MP, Secretary of State for Health at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.