

*Regulations made by the Secretary of State, laid before Parliament under section 45R of the Public Health (Control of Disease) Act 1984 (c. 22), for approval by resolution of each House of Parliament within twenty-eight days beginning with the day on which the instrument is made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.*

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STATUTORY INSTRUMENTS

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**2020 No. 1105**

**PUBLIC HEALTH, ENGLAND**

**The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020**

<i>Made</i>	- - - -	<i>at 5.00 p.m. on 12th October 2020</i>
<i>Laid before Parliament</i>		<i>at 6.00 p.m. on 12th October 2020</i>
<i>Coming into force</i>	- -	<i>14th October 2020</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 45C(1), (3)(c), (4)(b), (4)(d), 45F(2) and 45P of the Public Health (Control of Disease) Act 1984(1).

These Regulations are made 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) in England.

The Secretary of State considers that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with section 45R of that 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.

**PART 1**

**Introductory**

**Citation, commencement and application**

**1.—(1)** These Regulations may be cited as the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020.

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(1) 1984 c. 22. Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14).

- (2) These Regulations come into force on 14th October 2020.
- (3) These Regulations apply in relation to England only, including English airspace and the English territorial sea except as provided by paragraph (4).
- (4) Part 2 of Schedule 1 does not apply in English airspace or in the English territorial sea.
- (5) In this regulation—
- “English airspace” means the airspace above England or above the English territorial sea;
- “the English territorial sea” means the part of the territorial sea of the United Kingdom that is adjacent to England.

## Interpretation

### 2.—(1) In these Regulations—

- “care home” has the meaning given by section 3 of the Care Standards Act 2000 (2);
- “child” means a person under the age of 18;
- “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);
- “criminal justice accommodation” means—
- (a) a prison, within the meaning of the Prison Act 1952(3);
  - (b) a young offender institution, within the meaning of section 43 of that Act;
  - (c) a secure training centre, within the meaning of section 43 of that Act;
  - (d) approved premises, within the meaning of section 13 of the Offender Management Act 2007(4);
  - (e) a bail hostel, within the meaning of section 2 of the Bail Act 1976(5);
- “Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a Government department, or held in trust for Her Majesty for the purposes of a Government department, and includes any estate or interest held in right of the Prince and Steward of Scotland;
- “Crown land” means land in which there is a Crown interest or a Duchy interest;
- “Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall;
- “parent” of a child includes any person who is not a parent of the child but who has parental responsibility for, or who has care of, the child;
- “parental responsibility” has the meaning given in section 3 of the Children Act 1989(6);
- “person responsible” for carrying on a business includes the owner, proprietor and manager of that business;
- “Tier 3 area” has the meaning given by regulation 3(2)(b);
- “Tier 3 restrictions” has the meaning given by regulation 3(2)(a);
- “vessel” means any ship, boat, barge, lighter or raft and any other description of craft, whether used in navigation or not.

- (2) For the purposes of these Regulations, references to a “local authority” include references to a county council.

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(2) 2000 c. 14.  
 (3) 1952 c. 52.  
 (4) 2007 c. 21.  
 (5) 1976 c. 63.  
 (6) 1989 c. 41.

## PART 2

### Tier 3 restrictions

#### **Tier 3 restrictions**

- 3.—(1) Tier 3 restrictions apply in relation to the Tier 3 area in accordance with Schedule 1.
- (2) In these Regulations—
- (a) references to “Tier 3 restrictions” are references to the restrictions and requirements set out in Schedule 1;
  - (b) references to the “Tier 3 area” are references to the area for the time being specified or described in Schedule 2.

## PART 3

### Enforcement

#### **Enforcement of restrictions and requirements**

- 4.—(1) A relevant person may take such action as is necessary to enforce any Tier 3 restriction.
- (2) A relevant person may give a prohibition notice to a person if the relevant person reasonably believes that—
- (a) the person is contravening a Tier 3 restriction imposed by Part 2 of Schedule 1, and
  - (b) it is necessary and proportionate to give the prohibition notice for the purpose of preventing that person from continuing to contravene the restriction.
- (3) Where a relevant person considers that a number of people are gathered together in contravention of the Tier 3 restriction imposed by paragraph 1 or 2 of Schedule 1, the relevant person may—
- (a) direct the gathering to disperse,
  - (b) direct any person in the gathering to return to the place where they are living, or
  - (c) remove any person from the gathering.
- (4) A relevant person exercising the power in paragraph (3)(c) to remove a person from a gathering may use reasonable force, if necessary, in exercise of the power.
- (5) Where a person who is in a gathering in contravention of the Tier 3 restriction imposed by paragraph 1 or 2 of Schedule 1 is a child accompanied by an individual who has responsibility for the child—
- (a) the relevant person may direct the individual to take the child to the place where the child is living, and
  - (b) that individual must, so far as reasonably practicable, ensure that the child complies with any direction or instruction given by the relevant person to the child.
- (6) Where a relevant person has reasonable grounds to believe that a child is repeatedly failing to comply with the Tier 3 restriction imposed by paragraph 1 or 2 of Schedule 1, the relevant person may direct any individual who has responsibility for the child to secure, so far as reasonably practicable, that the child complies with the restriction.
- (7) A relevant person may exercise a power under paragraph (3), (5) or (6) only if the relevant person considers that it is a necessary and proportionate means of ensuring compliance with the Tier 3 restriction imposed by paragraph 1 or 2 of Schedule 1.

(8) A relevant person exercising a power under paragraph (3), (5) or (6) may give the person concerned any reasonable instructions the relevant person considers to be necessary.

(9) For the purposes of this regulation—

- (a) an individual has responsibility for a child if the individual—
  - (i) has custody or charge of the child for the time being, or
  - (ii) has parental responsibility for the child;
- (b) “relevant person” means—
  - (i) a constable,
  - (ii) a police community support officer,
  - (iii) subject to paragraph (10), a person designated by a local authority for the purposes of this regulation, or
  - (iv) a person designated by the Secretary of State for the purposes of this regulation.

(10) A local authority may designate a person for the purposes of this regulation only in relation to a Tier 3 restriction imposed by Part 2 of Schedule 1.

### **Offences and penalties**

5.—(1) A person commits an offence if, without reasonable excuse, the person—

- (a) contravenes a Tier 3 restriction,
  - (b) contravenes a requirement imposed, or a direction given, under regulation 4,
  - (c) fails to comply with a reasonable instruction or a prohibition notice given by a relevant person under regulation 4, or
  - (d) obstructs any person carrying out a function under these Regulations (including any person who is a relevant person for the purposes of regulation 4).
- (2) An offence under this regulation is punishable on summary conviction by a fine.
- (3) If an offence under this regulation committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of an officer of the body corporate, or
  - (b) to be attributable to any neglect on the part of such an officer,

the officer (as well as the body corporate) is guilty of the offence and liable to be prosecuted, proceeded against and punished accordingly.

(4) In paragraph (3), “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate.

(5) Section 24 of the Police and Criminal Evidence Act 1984<sup>(7)</sup> applies in relation to an offence under this regulation as if the reasons in subsection (5) of that section included—

- (a) to maintain public health;
- (b) to maintain public order.

### **Fixed penalty notices**

6.—(1) An authorised person may issue a fixed penalty notice to anyone that the authorised person reasonably believes—

- (a) has committed an offence under these Regulations, and

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(7) 1984 c. 60. Section 24 was substituted by s. 110(1) of the Serious Organised Crime and Police Act 2005 (c. 15).

- (b) is aged 18 or over.
- (2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to an authority specified in the notice.
- (3) The authority specified in the notice must be—
- (a) the local authority (or as the case may be, any of the local authorities) in whose area the offence is alleged to have been committed (“the relevant local authority”), or
  - (b) an officer designated by the Secretary of State, or by the relevant local authority, for the purposes of this regulation (“the designated officer”).
- (4) Where a person is issued with a notice under this regulation in respect of an offence—
- (a) no proceedings may be taken for the offence before the end of the period of 28 days following the date of the notice;
  - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.
- (5) A fixed penalty notice must—
- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
  - (b) state the period during which (because of paragraph (4)(a)) proceedings will not be taken for the offence;
  - (c) specify the amount of the fixed penalty;
  - (d) state the name and address of the person to whom the fixed penalty may be paid;
  - (e) specify permissible methods of payment.
- (6) Except in the cases mentioned in paragraphs (9) and (10), the amount of the fixed penalty to be specified under paragraph (5)(c) is as follows—
- (a) if the fixed penalty notice is the first one issued to the person under a relevant enactment, the amount is—
    - (i) £100, if the amount is paid before the end of the period of 14 days following the date of the notice;
    - (ii) otherwise, £200;
  - (b) if the fixed penalty notice is not the first one issued to the person under a relevant enactment, the amount is—
    - (i) £400, if it is the second fixed penalty notice so issued;
    - (ii) £800, if it is the third fixed penalty notice so issued;
    - (iii) £1,600, if it is the fourth fixed penalty notice so issued;
    - (iv) £3,200, if it is the fifth fixed penalty notice so issued;
    - (v) £6,400, if it is the sixth or any subsequent fixed penalty notice so issued.
- (7) In paragraph (6) “relevant enactment” means—
- (a) these Regulations;
  - (b) Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020<sup>(8)</sup>;
  - (c) Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020<sup>(9)</sup>;

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<sup>(8)</sup> S.I. 2020/1103.

<sup>(9)</sup> S.I. 2020/1104.

- (d) the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020(**10**);
- (e) the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020(**11**);
- (f) the Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020(**12**);
- (g) the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020(**13**);
- (h) the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Luton) Regulations 2020(**14**);
- (i) the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) Regulations 2020(**15**);
- (j) the Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020(**16**);
- (k) the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020(**17**);
- (l) the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020(**18**);
- (m) the Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020(**19**);
- (n) the Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020(**20**).

(8) For the purposes of determining how many fixed penalty notices have been issued to a person under a relevant enactment, no account is to be taken of any fixed penalty notice issued to the person under—

- (a) these Regulations, if the notice was issued to the person in respect of a business restriction offence or an offence of contravening a restriction or requirement imposed by paragraph 3 of Schedule 1 to these Regulations;
- (b) the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020, if the notice was issued to the person in respect of a business restriction offence as defined by regulation 6(12) of those Regulations or an offence of contravening a restriction or requirement imposed by paragraph 2 of Schedule 1 to those Regulations;
- (c) the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020, if the notice was issued to the person in respect of a business restriction offence as defined by regulation 6(12) of those Regulations or an offence of contravening a restriction or requirement imposed by paragraph 3 of Schedule 1 to those Regulations;
- (d) the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020, if the notice was issued to the person in respect of an offence of contravening a restriction or requirement imposed by regulation 4A, 4B, 5A or 5B of those Regulations;

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- (10) S.I. 2020/350, which was revoked by S.I. 2020/684, with savings.
  - (11) S.I. 2020/684, as amended by S.I. 2020/719, 750, 788, 800, 822, 824, 828, 863, 865, 907, 974, 986, 988, 1010, 1019, 1029, 1046 and 1057.
  - (12) S.I. 2020/685, which was revoked by S.I. 2020/824, with savings.
  - (13) S.I. 2020/750, as amended by S.I. 2020/800, 822, 824, 828, 865, 907, 974, 988, 1010 and 1019.
  - (14) S.I. 2020/800, which was revoked by S.I. 2020/822, with savings.
  - (15) S.I. 2020/822, which was revoked by S.I. 2020/1019, with savings.
  - (16) S.I. 2020/824, as amended by S.I. 2020/875, 828, 865, 907, 954, 974, 986, 987, 1010, 1019 and 1029.
  - (17) S.I. 2020/828, amended by S.I. 2020/846, 865, 897, 907, 931, 954, 974, 986, 1010, 1019, 1029 and 1074. The title of the Regulations was changed by S.I. 2020/865.
  - (18) S.I. 2020/974, which was revoked by S.I. 2020/1074.
  - (19) S.I. 2020/988, amended by S.I. 2020/1010, 1019 and 1029.
  - (20) S.I. 2020/1010, as amended by S.I. 2020/1012, 1019, 1029 and 1074. The title of the Regulations was changed by S.I. 2020/1019.

- (e) the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020, if the notice was issued to the person in respect of a business restriction offence, as defined by regulation 14(7D)(21) of those Regulations, committed on or after 14th October 2020.
- (9) In the case of a fixed penalty notice issued in respect of the offence under regulation 5(1)(a) of contravening a restriction imposed under paragraph 3 of Schedule 1, the amount of the fixed penalty to be specified under paragraph (5)(c) is £10,000.
- (10) In the case of a fixed penalty notice issued in respect of a business restriction offence, the amount of the fixed penalty to be specified under paragraph (5)(c) is—
- (a) £1,000, if the fixed penalty notice is the first one issued to the person in respect of a business restriction offence;
  - (b) £2,000, if the fixed penalty notice is the second one issued to the person in respect of a business restriction offence;
  - (c) £4,000, if the fixed penalty notice is the third one issued to the person in respect of a business restriction offence;
  - (d) £10,000, if the fixed penalty notice is the fourth one, or any subsequent one, issued to the person in respect of a business restriction offence.
- (11) In determining how many fixed penalty notices have been issued to a person for the purposes of paragraph (10), a fixed penalty notice issued to the person under the following Regulations is to be treated as if it were issued in respect of a business restriction offence—
- (a) the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020, if the notice was issued to the person in respect of a business restriction offence as defined by regulation 6(12) of those Regulations;
  - (b) the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020, if the notice was issued to the person in respect of a business restriction offence as defined by regulation 6(12) of those Regulations.
  - (c) the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020(22), if the notice was issued to the person in respect of an offence of contravening regulation 4A or 4B of those Regulations;
  - (d) the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020(23), if the notice was issued to the person in respect of a business restriction offence, as defined by regulation 14(7D) of those Regulations, committed on or after 14th October 2020;
  - (e) the Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020(24);
  - (f) the Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020(25);
- (12) In this regulation (other than in paragraph (11)(a), (b) and (d)), “business restriction offence” means—
- (a) an offence under regulation 5(1)(a) of contravening a Tier 3 restriction imposed by Part 2 of Schedule 1;
  - (b) an offence under regulation 5(1)(c) of failing to comply with a prohibition notice given under regulation 4(2).

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(21) paragraph 2(5) of Schedule 3 to the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020.

(22) [S.I. 2020/684](#).

(23) [S.I. 2020/750](#).

(24) [S.I. 2020/1005](#), as amended by [S.I. 2020/1045](#) and [1046](#).

(25) [S.I. 2020/1008](#), as amended by [S.I. 2020/1046](#) and [1057](#).

(13) Whatever other method may be specified under paragraph (5)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under paragraph (5)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).

(14) Where a letter is sent as mentioned in paragraph (13), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(15) In any proceedings, a certificate—

(a) that purports to be signed by or on behalf of—

(i) the chief finance officer of the relevant local authority, where the authority to which payment is made is a local authority, or

(ii) the designated officer, where that officer is the authority to which payment is made; and

(b) that states that the payment of a fixed penalty was, or was not, received by the date specified in the certificate,

is evidence of the facts stated.

(16) In this regulation—

(a) “authorised person” means—

(i) a constable;

(ii) a police community support officer;

(iii) a person designated by the Secretary of State for the purposes of this regulation;

(iv) subject to paragraph (17), a person designated by the relevant local authority for the purposes of this regulation;

(b) “chief finance officer”, in relation to a local authority, means the person with responsibility for the authority’s financial affairs.

(17) The relevant local authority may only designate a person for the purposes of this regulation to issue fixed penalty notices where the alleged offence relates to—

(a) the contravention of a Tier 3 restriction imposed by Part 2 of Schedule 1, or

(b) the obstruction under regulation 5(1)(d) of a person carrying out a function under regulation 4.

## **Prosecutions**

7. Proceedings for an offence under these Regulations may be brought by the Crown Prosecution Service and any person designated by the Secretary of State.

## **PART 4**

### **Final provisions**

#### **Review**

8.—(1) The Secretary of State must review the need for each of the Tier 3 restrictions at least once every 28 days, with the first review to be carried out by 11th November 2020.

(2) In carrying out a review under paragraph (1), the Secretary of State must in particular consider whether each of the Tier 3 restrictions continues to be necessary for the purposes of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection in England with the coronavirus.

### **Expiry**

**9.**—(1) An entry in Schedule 2 ceases to have effect at the end of a period of 28 days beginning with the day on which that entry came into force.

(2) These Regulations expire at the end of the period of six months beginning with the day on which they come into force.

(3) This regulation does not affect the validity of anything done pursuant to these Regulations before they expire.

### **Consequential amendments, revocations and transitional provisions**

**10.**—(1) Part 1 of Schedule 3 contains consequential amendments.

(2) Part 2 of Schedule 3 contains transitional provisions.

At 5.00 p.m. on 12th October 2020

*Matt Hancock*  
Secretary of State  
Department for Health and Social Care

## SCHEDULE 1

Regulation 3

### Tier 3 restrictions

## PART 1

### Restrictions on gatherings

#### **Participation in gatherings indoors and in private dwellings**

- 1.—(1) No person may participate in a gathering in the Tier 3 area which—
  - (a) consists of two or more people, and
  - (b) takes place in a private dwelling or in any indoor space.
- (2) No person living in the Tier 3 area may participate in a gathering outside that area which—
  - (a) consists of two or more people, and
  - (b) takes place in a private dwelling or in any indoor space.
- (3) Sub-paragraphs (1) and (2) do not apply if any of the exceptions set out in paragraph 4 or 5 apply.

#### **Participation in gatherings outdoors**

- 2.—(1) No person may participate in a gathering in the Tier 3 area which—
  - (a) takes place outdoors in a place which satisfies the conditions in sub-paragraph (4) and consists of more than six people, or
  - (b) takes place in any other outdoor place and consists of two or more people.
- (2) No person living in the Tier 3 area may participate in a gathering outside that area which—
  - (a) takes place outdoors in a place which satisfies the conditions in sub-paragraph (4), and consists of more than six people, or
  - (b) takes place in any other outdoor place and consists of two or more people.
- (3) Sub-paragraphs (1) and (2) do not apply if any of the exceptions set out in paragraph 4 or 6 apply.
- (4) Subject to sub-paragraph (5), a place satisfies the conditions in this sub-paragraph if it is a public outdoor place, and
  - (a) no payment is required by any member of the public to access that place, or
  - (b) the place falls within one of the following categories—
    - (i) outdoor sports grounds or sports facilities;
    - (ii) botanical gardens;
    - (iii) gardens or grounds of a castle, stately home or historic house.
- (5) A place does not satisfy the conditions in sub-paragraph (4) if it is a fairground or funfair.

#### **Organisation or facilitation of gatherings**

- 3.—(1) No person may hold, or be involved in the holding of, a relevant gathering in the Tier 3 area.
- (2) For the purposes of sub-paragraph (1) a person who only participates in a gathering by attending it is not to be taken as being involved in the holding of the gathering.

(3) A gathering is a “relevant gathering” for the purposes of this paragraph if it falls within sub-paragraph (4) or (5).

(4) A gathering falls within this sub-paragraph if it—

- (a) consists of more than 30 persons,
- (b) takes place indoors, and
- (c) would be a gathering of the kind mentioned in section 63(1) of the Criminal Justice and Public Order Act 1994<sup>(26)</sup> (powers to remove persons attending or preparing for a rave) if it took place in the open air.

(5) A gathering falls within this sub-paragraph if (not falling within sub-paragraph (4)) it—

- (a) consists of more than 30 persons,
- (b) takes place—
  - (i) in a private dwelling,
  - (ii) on a vessel, or
  - (iii) on land which satisfies the condition in sub-paragraph (6), and
- (c) is not a gathering in relation to which any of the exceptions set out in paragraph 4, 5 or 6, so far as capable of applying to the gathering, apply.

(6) Land satisfies the condition in this sub-paragraph if it is a public outdoor place which is not—

- (a) operated by a business, a charitable, benevolent or philanthropic institution, or
- (b) part of premises used for the operation of a business, a charitable, benevolent or philanthropic institution, or a public body.

(7) In sub-paragraph (5)(b)(ii) “vessel” means any ship, boat, barge, lighter or raft and any other description of craft, whether used in navigation or not, but does not include government vessels, vessels used for public transport or houseboats.

(8) In applying for the purposes of sub-paragraph (5)(c) the exceptions set out in paragraph 4, the following do not apply—

- (a) paragraph 4(3)(a), so far as relating to gatherings in public outdoor places operated by public bodies;
- (b) paragraph 4(3)(b).

### **General exceptions in relation to gatherings**

4.—(1) These are the exceptions referred to in paragraphs 1 and 2.

#### *Exception 1: same or linked households*

(2) Exception 1 is that all the people in the gathering—

- (a) are members of the same household, or
- (b) are members of two households which are linked households in relation to each other (see paragraph 7).

#### *Exception 2: permitted organised gatherings*

(3) Exception 2 is that—

- (a) the gathering is a permitted organised gathering (see paragraph 9), and

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(26) 1994 c. 33.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) the person concerned participates in the gathering alone or as a member of a qualifying group.

*Exception 3: gatherings necessary for certain purposes*

- (4) Exception 3 is that the gathering is reasonably necessary—
  - (a) for work purposes or for the provision of voluntary or charitable services;
  - (b) for the purposes of education or training;
  - (c) for the purposes of—
    - (i) childcare provided by a person registered under Part 3 of the Childcare Act 2006(27), or
    - (ii) supervised activities for children;
  - (d) to provide emergency assistance;
  - (e) to enable one or more persons in the gathering to avoid injury or illness or to escape a risk of harm;
  - (f) to provide care or assistance to a vulnerable person, including relevant personal care within the meaning of paragraph 7(3B) of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006(28);
  - (g) for the purposes of arrangements for access to, and contact between, parents and children where the children do not live in the same household as their parents or one of their parents;
  - (h) for the purposes of arrangements for contact between siblings where they do not live in the same household and one or more of them is—
    - (i) a child looked after by a local authority, within the meaning of section 22 of the Children Act 1989(29), or
    - (ii) a relevant child, within the meaning of section 23A(30) of that Act;
  - (i) for the purposes of arrangements for prospective adopters (including their household) to meet a child or children who may be placed with the prospective adopters as provided for by an adoption placement plan drawn up in accordance with the Adoption Agencies Regulations 2005(31) (see regulation 35(2) of those Regulations);
  - (j) to facilitate a house move.

*Exception 4: legal obligations and proceedings*

- (5) Exception 4 is that the person concerned is fulfilling a legal obligation or participating in legal proceedings.

*Exception 5: criminal justice accommodation*

- (6) Exception 5 is that the gathering takes place in criminal justice accommodation.

*Exception 6: support groups*

- (7) Exception 6 is that the gathering—
  - (a) is of a support group (see paragraph 11(1)),
  - (b) consists of no more than 15 persons, and

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(27) 2006 c. 21.

(28) 2006 c. 47.

(29) 1989 c. 41.

(30) Section 23A was inserted by the Children (Leaving Care) Act 2000 (c. 35).

(31) S.I. 2005/389.

- (c) takes place at premises other than a private dwelling.

*Exception 7: births*

(8) Exception 7 is that the person concerned is attending a person giving birth (“M”) at M’s request.

*Exception 8: marriages and civil partnerships etc*

(9) Exception 8 is that the gathering consists of no more than 15 persons and—

- (a) it is for the purposes of—
  - (i) the solemnisation of a marriage, formation of a civil partnership or conversion of a civil partnership into a marriage, in accordance with the Marriage Act 1949<sup>(32)</sup>, the Marriage (Registrar General’s Licence) Act 1970<sup>(33)</sup> or the Civil Partnership Act 2004<sup>(34)</sup>, or
  - (ii) an alternative wedding ceremony (see paragraph 11(2)), and
- (b) the gathering organiser or manager takes the required precautions in relation to the gathering (see paragraph 10).

*Exception 9: funerals*

(10) Exception 9 is that—

- (a) the gathering is for the purposes of a funeral,
- (b) the gathering consists of no more than 30 persons,
- (c) the gathering takes place at premises, other than a private dwelling, which—
  - (i) are operated by a business, a charitable, benevolent or philanthropic institution or a public body, or
  - (ii) are part of premises used for the operation of a business, a charitable, benevolent or philanthropic institution or a public body, and
- (d) the gathering organiser or manager takes the required precautions in relation to the gathering (see paragraph 10).

*Exception 10: commemorative event following a person’s death*

(11) Exception 10 is that—

- (a) the gathering is for the purposes of a commemorative event to celebrate the life of a person who has died (for example, a wake or stone setting ceremony),
- (b) the gathering consists of no more than 15 persons,
- (c) the gathering takes place at premises other than a private dwelling, and
- (d) the gathering organiser or manager takes the required precautions in relation to the gathering (see paragraph 10).

*Exception 11: protests*

(12) Exception 11 is that the gathering is for the purposes of protest and—

- (a) it has been organised by a business, a charitable, benevolent or philanthropic institution, a public body or a political body, and

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<sup>(32)</sup> 1949 c. 76.

<sup>(33)</sup> 1970 c. 34.

<sup>(34)</sup> 2004 c. 33.

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- (b) the gathering organiser takes the required precautions in relation to the gathering (see paragraph 10).

*Exception 12: elite sports*

- (13) Exception 12 is that—
  - (a) the person concerned is an elite sportsperson, the coach of an elite sportsperson or (in the case of an elite sportsperson who is a child) the parent of an elite sportsperson, and
  - (b) the gathering is necessary for training or competition.

*Exception 13: other sports*

(14) Exception 13 is that the person concerned is taking part in an outdoor sports gathering (see paragraph 11(3)(a)) or a permitted indoor sports gathering (see paragraph 11(3)(b)).

*Exception 14: Remembrance Sunday*

- (15) Exception 14 is that—
  - (a) the gathering takes place to commemorate Remembrance Sunday,
  - (b) the persons attending the gathering are limited to—
    - (i) persons there as part of their work,
    - (ii) persons providing voluntary services in connection with the event,
    - (iii) members of the armed forces,
    - (iv) veterans of the armed forces or their representatives or carers,
    - (v) spectators who participate in the gathering alone or as a member of a qualifying group, and
  - (c) the gathering organiser or manager takes the required precautions in relation to the gathering (see paragraph 10).

**Exceptions in relation to indoor gatherings**

5.—(1) These are the exceptions relating only to indoor gatherings.

*Exception 1: visiting a dying person*

- (2) Exception 1 is that the person concerned (“P”) is visiting a person whom P reasonably believes is dying (“D”), and P is—
- (a) a member of D’s household,
  - (b) a close family member of D,
  - (c) a friend of D.

*Exception 2: visiting persons receiving treatment etc*

- (3) Exception 2 is that the person concerned (“P”) is visiting a person (“V”) receiving treatment in a hospital or staying in a hospice or care home, or is accompanying V to a medical appointment and P is—
- (a) a member of V’s household,
  - (b) a close family member of V, or
  - (c) a friend of V.

*Exception 3: informal childcare*

(4) Exception 3 is that the gathering is reasonably for the purposes of informal childcare provided by a member of a household to a member of their linked childcare household (see paragraph 8).

### **Exception in relation to outdoor gatherings**

6.—(1) This exception relates only to outdoor gatherings.

*Exception: outdoor activities*

(2) This exception is that—

- (a) The gathering is for the purposes of a relevant outdoor activity (see paragraph 11(6)), and
- (b) the gathering organiser takes the required precautions in relation to the gathering (see paragraph 10).

### **Linked household**

7.—(1) For the purposes of this Part of this Schedule, a “linked household” means a household that is linked with another household in accordance with this paragraph.

(2) Where a household comprises one adult, or one adult and one or more persons who were under the age of 18 on 12th June 2020 (“the first household”), the adult may choose to be linked with one other household (“the second household”).

(3) But sub-paragraph (2) applies only if—

- (a) all adult members of the second household agree,
- (b) neither the first household nor the second household are linked with any other household for the purposes of these Regulations or any other regulations made under Part 2A of the Public Health (Control of Disease) Act 1984, and
- (c) neither of those households were, in the period beginning with 14th September 2020 and ending with 14th October 2020, linked with any other household for the purposes of any other regulations made under that Part.

(4) There is no limit on the number of adults or children who may be in the second household.

(5) The first and second households are “linked households” in relation to each other.

(6) The first and second households cease to be linked households if neither household satisfies the condition in sub-paragraph (2).

(7) Once the first and second households have ceased to be linked households, neither the first household nor the second household may be linked with any other household.

(8) The references in sub-paragraph (3) to neither household being linked with any other household does not include being linked with another household only for the purposes of informal childcare in accordance with regulations made under Part 2A of the Public Health (Control of Disease) Act 1984.

### **Linked childcare household**

8.—(1) For the purposes of this Part of this Schedule, a “linked childcare household” means a household that is linked with another household for the purposes of informal childcare in accordance with this paragraph.

(2) Where a household includes at least one child aged 13 or under (“the first household”), that household may link with one other household (“the second household”) for the purpose of the second household providing informal childcare to the child aged 13 or under in the first household if—

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- (a) neither the first household nor the second household are linked with any other household for that purpose in accordance with this paragraph or a provision of any other regulations made under Part 2A of the Public Health (Control of Disease) Act 1984, and
  - (b) all the adult members of both households agree.
- (3) The first household and the second household are “linked childcare households” in relation to each other.
- (4) The first household and the second household cease to be linked childcare households when neither household includes a child aged 13 or under.
- (5) Once the first household and the second household cease to be linked childcare households, neither household may be a linked childcare household with any other household.

### **Permitted organised gatherings and qualifying groups**

**9.—**(1) A gathering is a permitted organised gathering for the purposes of this Part of this Schedule if sub-paragraph (2) or (3) applies.

(2) This sub-paragraph applies to a gathering if it takes place on or at premises, other than a private dwelling, which are—

- (a) operated by a business, a charitable, benevolent or philanthropic institution or a public body, or
- (b) part of premises used for the operation of a business, a charitable, benevolent or philanthropic institution or a public body.

(3) This sub-paragraph applies to a gathering if it takes place in a public outdoor place not falling within sub-paragraph (2) and—

- (a) the gathering has been organised by a business, a charitable, benevolent or philanthropic institution, a public body or a political body, and
- (b) the gathering organiser takes the required precautions in relation to the gathering (see paragraph 10).

(4) A person participates in a gathering as a member of a qualifying group only if the person is a part of a qualifying group and, whilst participating in the gathering, the person does not—

- (a) become a member of any other group of persons participating in the gathering (whether or not that group is a qualifying group), or
- (b) otherwise mingle with any person who is participating in the gathering but is not a member of the same qualifying group as them.

(5) In sub-paragraph (4) “qualifying group”, in relation to a gathering, means—

- (a) in the application of this paragraph for the purposes of indoor gatherings, a group of people who are participating in the gathering which consists only of persons who are members of the same household, or are members of two households which are linked households in relation to each other;
- (b) in the application of this paragraph for the purposes of outdoor gatherings, a group of people who are participating in that gathering and which—
  - (i) consists of no more than 6 persons, or
  - (ii) consists only of persons who are members of the same household, or are members of two households which are linked households in relation to each other.

### **The required precautions**

**10.**—(1) The gathering organiser or (as the case may be) the manager in relation to a gathering takes the required precautions for the purposes of this Part of this Schedule by meeting both of the following requirements.

(2) The first requirement is that the organiser or manager has carried out a risk assessment that would satisfy the requirements of regulation 3 of the Management of Health and Safety at Work Regulations 1999<sup>(35)</sup> (whether or not the organiser or manager is subject to those Regulations).

(3) The second requirement is that the organiser or manager has taken all reasonable measures to limit the risk of transmission of the coronavirus, taking into account—

- (a) the risk assessment carried out under sub-paragraph (2), and
- (b) any guidance issued by the government which is relevant to the gathering.

### **Further interpretation**

**11.**—(1) In paragraph 4(7), “support group” means a group which is organised by a business, a charitable, benevolent or philanthropic institution or a public body to provide mutual aid, therapy or any other form of support to its members or those who attend its meetings, for example those providing support—

- (a) to victims of crime (including domestic abuse);
- (b) to those with, or recovering from, addictions (including alcohol, narcotics or other substance addictions) or addictive patterns of behaviour;
- (c) to new parents;
- (d) to those with, or caring for persons with, any long-term illness or terminal condition or who are vulnerable;
- (e) to those facing issues related to their sexuality or identity including those living as lesbian, gay, bisexual or transgender;
- (f) to those who have suffered bereavement.

(2) In paragraph 4(9), a gathering is for the purposes of an “alternative wedding ceremony” if—

- (a) it is for the purposes of a ceremony, including a ceremony based on a person’s faith or belief or lack of belief, to mark the union of two people, other than a ceremony conducted for a purpose mentioned in paragraph 4(9)(a)(i), and
- (b) it takes place—
  - (i) at premises, other than a private dwelling, which are operated by a business, a charitable, benevolent or philanthropic institution or a public body,
  - (ii) at premises, other than a private dwelling, which are part of premises used for the operation of a business, a charitable, benevolent or philanthropic institution or a public body, or
  - (iii) in a public outdoor place not falling within sub-paragraph (i) or (ii).

(3) In paragraph 4(14)—

- (a) an “outdoor sports gathering” means a gathering—
  - (i) which is organised by a business, a charitable, benevolent or philanthropic organisation or a public body for the purposes of allowing persons who are not elite sportspersons to take part in any sport or other fitness related activity,
  - (ii) which takes place outdoors, and

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<sup>(35)</sup> S.I. 1999/3242.

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- (iii) in respect of which the gathering organiser or manager complies with the required precautions (see paragraph 10);
  - (b) a “permitted indoor sports gathering” means a gathering which is organised for the purposes of allowing persons who have a disability and who are not elite sportspersons to take part in any sport or other fitness related activity, and—
    - (i) which is organised by a business, a charitable, benevolent or philanthropic institution or a public body,
    - (ii) which takes place indoors on relevant premises, and
    - (iii) in respect of which the gathering organiser or manager of the relevant premises complies with the required precautions (see paragraph 10),
- and a person taking part in a sports gathering does not include a spectator or the parent of a child taking part in the gathering.

(4) For the purposes of sub-paragraph (3)—

- (a) “relevant premises” means premises (other than a private dwelling)—
  - (i) which are operated by a business, a charitable, benevolent or philanthropic institution or a public body, or
  - (ii) which are part of premises used for the operation of a business, a charitable, benevolent or philanthropic institution or a public body;
- (b) a person has a disability if they have a physical or mental impairment which has a substantial and long term adverse effect on their ability to carry out normal day-to-day activities.

(5) Regulations 3 to 5 of the Equality Act 2010 (Disability) Regulations 2010<sup>(36)</sup> apply in considering for the purposes of sub-paragraph (6)(b) whether a person has an impairment.

(6) In paragraph 6(2) “relevant outdoor activity” means a physical activity which is carried on outdoors and for which a licence, permit or certificate issued by a public body to carry on the activity, or for any equipment used for the purposes of the activity, must be held by—

- (a) the gathering organiser, or
- (b) any person taking part in the activity.

(7) In sub-paragraph (7), the reference to a licence does not include a licence to drive a motor vehicle in the United Kingdom or to serve food or alcohol.

### **Part 1 of this Schedule: general interpretation**

12.—(1) This paragraph applies for the purposes of this Part of this Schedule.

(2) A gathering takes place when two or more persons are present together in the same place in order—

- (a) to engage in any form of social interaction with each other, or
- (b) to undertake any other activity with each other.

(3) A gathering takes place in the Tier 3 area if any part of the place where it takes place is in the Tier 3 area.

(4) A place is indoors if it would be considered to be enclosed, or substantially enclosed, for the purposes of section 2 of the Health Act 2006<sup>(37)</sup>, under the Smoke-free (Premises and Enforcement) Regulations 2006<sup>(38)</sup>.

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<sup>(36)</sup> S.I. 2010/2128.

<sup>(37)</sup> 2006 c. 28. Section 2 was amended by paragraph 4 of Schedule 2 to the Public Health (Wales) Act 2017 (2017 anaw 2).

<sup>(38)</sup> S.I. 2006/3368, to which there are amendments which are not relevant to these Regulations.

- (5) A place is a “public outdoor place” if it is an outdoor place to which the public have, or are permitted, access (whether on payment or otherwise) and includes—
- (a) land laid out as a public garden or used for the purpose of recreation by members of the public;
  - (b) land which is “open country” as defined in section 59(2) of the National Parks and Access to the Countryside Act 1949(39), as read with section 16 of the Countryside Act 1968(40);
  - (c) land which is “access land” for the purposes of Part 1 of the Countryside and Rights of Way Act 2000(41) (see section 1(1) of that Act)(42);
  - (d) any highway to which the public has access;
  - (e) Crown land to which the public has access.
- (6) References to a “private dwelling”—
- (a) include references to a houseboat and any garden, yard, passage, stair, outhouse or other appurtenance of the dwelling;
  - (b) do not, except in paragraph 9(2), include references to the following—
    - (i) accommodation in a hotel, hostel, campsite, caravan park, members club, boarding house or bed and breakfast accommodation;
    - (ii) care homes;
    - (iii) children’s homes, within the meaning of section 1 of the Care Standards Act 2000;
    - (iv) Residential Family Centres, within the meaning of section 4 of that Act;
    - (v) educational accommodation;
    - (vi) accommodation intended for use by the army, navy or air force;
    - (vii) criminal justice accommodation.
- (7) “A charitable, benevolent or philanthropic institution” means—
- (a) a charity, or
  - (b) an institution, other than a charity, established for charitable, benevolent or philanthropic purposes.
- (8) “Childcare” has the same meaning as in section 18 of the Childcare Act 2006(43).
- (9) “Educational accommodation” means—
- (a) accommodation provided for students whilst they are boarding at school, and
  - (b) halls of residence provided for students attending higher education courses and equivalent accommodation provided for students attending further education courses.
- (10) “Elite sportsperson” means an individual who—
- (a) derives a living from competing in a sport,
  - (b) is a senior representative nominated by a relevant sporting body,
  - (c) is a member of the senior training squad for a relevant sporting body, or
  - (d) is aged 16 or above and is on an elite development pathway.

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(39) 1949 c. 97.

(40) 1968 c. 41. Section 16 has been amended by section 111 of the Transport Act 1968 (c. 73), Schedule 27 to the Water Act 1989 (c. 15) and S.I. 2012/1659. There are other amendments to section 16 which are not relevant to this instrument.

(41) 2000 c. 37.

(42) The definition of “access land” has been amended by section 303(2) of, and Part 7 of Schedule 22 to, the Marine and Coastal Access Act 2009 (c. 23).

(43) 2006 c. 21. Section 18 has been amended by the Children and Young Persons Act 2008 (c. 23), Schedule 1, paragraph 19, and Schedule 4; the Criminal Justice and Courts Act 2015 (c. 2), Schedule 9, paragraph 21, and S.I. 2010/813.

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- (11) “The gathering organiser”, in relation to a gathering, means the person responsible for organising the gathering.
- (12) “The manager”, in relation to a gathering, means the person responsible for the management of the premises on which the gathering takes place.
- (13) “A political body” means—
- (a) a political party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000<sup>(44)</sup>, or
  - (b) a political campaigning organisation within the meaning of regulation 2 of the Health and Social Care (Financial Assistance) Regulations 2009<sup>(45)</sup>.
- (14) For the purposes of the definition of “elite sportsperson” in sub-paragraph (11)—
- (a) “elite development pathway” means a development pathway established by the national governing body of a sport to prepare sportspersons—
    - (i) so that they may derive a living from competing in that sport, or
    - (ii) to compete in that sport at the Tokyo or Beijing Olympic or Paralympic Games, or, if that sport is not part of the Tokyo Olympic and Paralympic Games programme, in the Commonwealth Games to be held in Birmingham;
  - (b) “relevant sporting body” means the national governing body of a sport which may nominate sportspersons to represent—
    - (i) Great Britain and Northern Ireland at the Tokyo or Beijing Olympic or Paralympic Games, or
    - (ii) England, Wales, Scotland, Northern Ireland, Gibraltar, Guernsey, Jersey or the Isle of Man at the Commonwealth Games to be held in Birmingham in those sports which are not part of the Tokyo Olympic and Paralympic Games programme;
  - (c) “senior representative” means an individual who is considered by a relevant sporting body to be a candidate to qualify to compete on behalf of—
    - (i) Great Britain and Northern Ireland at the Tokyo or Beijing Olympic or Paralympic Games, or
    - (ii) England, Wales, Scotland, Northern Ireland, Gibraltar, Guernsey, Jersey or the Isle of Man at the Commonwealth Games to be held in Birmingham in those sports which are not part of the Tokyo Olympic and Paralympic Games programme.
- (15) References to a “vulnerable person” include—
- (a) any person aged 70 or older;
  - (b) any person aged under 70 who has an underlying health condition, including (but not limited to) the conditions listed in sub-paragraph (17);
  - (c) any person who is pregnant.
- (16) The conditions referred to in sub-paragraph (16)(b) are—
- (a) chronic (long-term) respiratory diseases, such as asthma, chronic obstructive pulmonary disease, emphysema or bronchitis;
  - (b) chronic heart disease, such as heart failure;
  - (c) chronic kidney disease;
  - (d) chronic liver disease, such as hepatitis;

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<sup>(44)</sup> 2000 c. 41.

<sup>(45)</sup> S.I. 2009/649.

- (e) chronic neurological conditions, such as Parkinson’s disease, motor neurone disease, multiple sclerosis, a learning disability or cerebral palsy;
- (f) diabetes;
- (g) problems with the spleen, such as sickle cell disease or removal of the spleen;
- (h) a weakened immune system as a result of conditions such as HIV and AIDS, or medicines such as steroid tablets or chemotherapy;
- (i) being seriously overweight with a body mass index of 40 or above.

## PART 2

### Closure and restrictions on businesses

#### Restrictions on opening hours of businesses and services

**13.—**(1) A person responsible for carrying on a restricted business or providing a restricted service (“P”) in the Tier 3 area must not carry on that business or provide that service between the hours of 22:00 and 05:00.

(2) Where a restricted business or restricted service forms, or is provided as, part of a larger business and that larger business is not itself a restricted business, the person responsible for carrying on the larger business complies with the requirement in sub-paragraph (1) by not carrying on the restricted business, or by ceasing to provide the restricted service, between the hours of 22:00 and 05:00

(3) Sub-paragraph (1) is subject to paragraph 14.

(4) In this paragraph—

“restricted business” and “restricted service” means a business or service which—

- (a) is of a kind specified in paragraph 19(2) or (3), or
- (b) is carried on from, or provided at, premises of a kind specified in paragraph 19(2) or (3).

#### Exceptions from paragraph 13(1)

**14.—**(1) Paragraph 13(1) does not prevent P selling food or drink for consumption off the premises between the hours of 22:00 and 05:00—

(a) by making deliveries in response to orders received—

- (i) through a website, or otherwise by on-line communication,
- (ii) by telephone, including orders by text message, or
- (iii) by post,

(b) to a purchaser who collects food or drink that has been pre-ordered by a means mentioned in paragraph (a)(i) to (iii), provided the purchaser does not enter inside the premises to do so, or

(c) to a purchaser who collects the food or drink in a vehicle, and to whom the food or drink is passed without the purchaser or any other person leaving the vehicle.

(2) Where P’s restricted business or restricted service is carried on from, or provided at, a cinema, theatre or concert hall, paragraph 13(1) does not prevent P carrying on that business or providing that service at or after 22:00 hours for the purpose of concluding a performance which began before that time.

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(3) Paragraph 13(1) does not prevent P carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 19(2)(a) to (c) between the hours of 22:00 and 05:00 if—

- (a) the business or service is carried on or provided within a motorway service area, and
- (b) alcohol is not served between those hours in the carrying on of the business, or the provision of the service, concerned.

(4) Paragraph 13(1) does not prevent P carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 19(2)(a) to (e) between the hours of 22:00 and 05:00 if—

- (a) the business or service is carried on or provided within a part of—
  - (i) any airport or maritime port, or
  - (ii) the international rail terminal area within the vicinity of Cheriton, Folkstone (as referred to in section 1(7)(b) of the Channel Tunnel Act 1987(46)),
- (b) that part of the airport, maritime port or terminal area is accessible between the restricted hours to passengers, crew or other authorised persons but not to members of the general public, and
- (c) alcohol is not served between those hours in the carrying on of the business, or the provision of the service, concerned.

(5) Paragraph 13(1) does not prevent P carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 19(2)(a) to (e) between the hours of 22:00 and 05:00 if—

- (a) the business or service is carried on or provided in an aircraft, train or vessel,
- (b) the aircraft, train or vessel is providing a public transport service, and
- (c) alcohol is not served between those hours in the carrying on of the business, or the provision of the service, concerned (subject to sub-paragraph (6)(b)).

(6) In sub-paragraph (5)—

- (a) “public transport service” has the meaning given by regulation 2(2) of the Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020(47), but for these purposes does not include a service provided primarily for dining or other recreational purposes;
- (b) paragraph (c) does not apply in respect of the service of alcohol to persons who are seated on an aircraft.

(7) Where P’s restricted business or restricted service is carried on from, or provided at, a workplace canteen, sub-paragraph (1) does not prevent P carrying on that business or service between the hours of 22:00 and 05:00 if there is no practical alternative for staff at that workplace to obtain food or drink between those hours.

(8) In this Part of this Schedule “alcohol” has the meaning given in section 191 of the Licensing Act 2003(48).

### **Restrictions on service of food and drink for consumption on the premises**

15.—(1) A person responsible for carrying on a restricted business, or providing a restricted service, in the Tier 3 area which serves alcohol for consumption on the premises may sell food or drink for consumption on the premises only if—

- (a) the food or drink is ordered by, and served to, a customer who is seated on the premises, and

(46) 1987 c. 53.

(47) S.I. 2020/592, as amended by S.I. 2020/1021.

(48) 2003 c. 17. Section 191 was amended by the Policing and Crime Act 2017 (c. 3), section 135, and by S.I. 2006/2407.

(b) the person takes all reasonable steps to ensure that the customer remains seated whilst consuming the food or drink on the premises.

(2) A person responsible for carrying on a restricted business, or providing a restricted service, in the Tier 3 area which does not serve alcohol for consumption on the premises may sell food or drink for consumption on the premises only if the person takes all reasonable steps to ensure that the customer remains seated whilst consuming the food or drink on the premises.

(3) For the purposes of sub-paragraphs (1) and (2), an area adjacent to the premises of the restricted business or restricted service where seating is made available for its customers (whether or not by the business or the provider of the service) or which its customers habitually use for consumption of food or drink served by the business or service is to be treated as part of the premises of that business or service.

(4) If a restricted business or restricted service (“business A”) forms part of a larger business (“business B”)—

(a) the requirement in sub-paragraph (1)(a) does not apply where business B is a cinema, theatre or concert hall;

(b) the person responsible for carrying on business B otherwise complies with the requirement in sub-paragraph (1) or (2) if that person complies with the requirement in relation to business A.

(5) Sub-paragraphs (1) and (2) are subject to the restriction on opening hours in paragraph 13.

(6) In this paragraph, “restricted business” and “restricted service” mean a business or service which—

(a) is of a kind specified in paragraph 19(2);

(b) is carried on from, or provided at, premises of a kind specified in paragraph 19(2).

### **Requirement to close businesses selling alcohol for consumption on the premises**

**16.—**(1) A person responsible for carrying on a business of a public house, bar or other business involving the sale of alcohol for consumption on the premises must cease to carry on that business, unless paragraph (2) applies.

(2) This paragraph applies if alcohol is only served for consumption on the premises as part of a table meal, and the meal is such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal.

(3) For the purposes of sub-paragraph (1)—

(a) alcohol sold by a hotel or other accommodation as part of room service is not to be treated as being sold for consumption on its premises;

(b) an area adjacent to the premises of the business where seating is made available for customers of the business (whether or not by the business), or where customers gather to drink outside the business, is to be treated as part of the premises of that business.

(4) For the purposes of this paragraph, a “table meal” is a meal eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure serving the purposes of a table.

### **Requirement to close premises and businesses**

**17.—**(1) A person responsible for carrying on a restricted business, or providing a restricted service, in the Tier 3 area must cease to carry on that business or provide that service.

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(2) Where a restricted business or restricted service forms, or is provided as, part of a larger business and that larger business is not itself a restricted business, the person responsible for carrying on the larger business complies with the requirement in sub-paragraph (1) by closing down the restricted business or by ceasing to provide the restricted service.

(3) The requirement in sub-paragraph (1) is subject to the exceptions in paragraph 18.

(4) In this paragraph “restricted business” and “restricted service” means a business or service which—

- (a) is of a kind specified in paragraph 19(4), or
- (b) is carried on from, or provided at, premises of a kind specified in paragraph 19(4).

### **Exceptions**

**18.**—(1) Paragraph 17(1) does not prevent the use of—

- (a) any premises used for a restricted business or service to host blood donation sessions;
- (b) facilities for training by elite sportspersons, including indoor gyms, fitness studios and indoor sports facilities;
- (c) indoor fitness and dance studios by professional dancers and choreographers;
- (d) indoor gyms, fitness studios and indoor sports facilities for supervised activities for children, or by persons who have a disability and who are not elite sportspersons to take part in any sport or other fitness related activity.

(2) For the purposes of sub-paragraph (1)—

- (a) “elite sportsperson” has the meaning given in paragraph 12(10);
- (b) a person is a professional dancer or choreographer if that person derives their living from dance, or from choreographing dance, as the case may be;
- (c) a person who has a disability has the meaning given in paragraph 11(4).

(3) Paragraph 17(1) does not prevent a person responsible for carrying on a restricted business or providing a restricted service (“the closed business”), from—

- (a) carrying on a business of offering goods for sale or for hire in a shop which is separate from the premises used for the closed business,
- (b) carrying on a business of offering goods for sale or for hire by making deliveries or otherwise providing services in response to orders received—
  - (i) through a website, or otherwise by on-line communication,
  - (ii) by telephone, including orders by text message, or
  - (iii) by post.

### **Restricted business and services for purposes of Part 2 of this Schedule**

**19.**—(1) The restricted businesses and restricted services for the purposes of this Part of this Schedule are those falling within sub-paragraphs (2), (3) or (4).

(2) The following businesses and services fall within this sub-paragraph—

- (a) restaurants, including restaurants and dining rooms in hotels or members’ clubs;
- (b) businesses providing food or drink prepared on the premises for immediate consumption off the premises, but not including—
  - (i) supermarkets,
  - (ii) convenience stores, corner shops and newsagents,

- (iii) pharmacists and chemists, or
- (iv) petrol stations;
- (c) cafes, including workplace canteens, but not including—
  - (i) cafes or canteens at a hospital, care home or school,
  - (ii) canteens at criminal justice accommodation or an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence, or
  - (iii) services providing food or drink to the homeless;
- (d) bars, including bars in hotels or members' clubs;
- (e) public houses;
- (f) social clubs.
- (3) The following businesses and services fall within this sub-paragraph—
  - (a) bowling alleys;
  - (b) cinemas;
  - (c) theatres;
  - (d) amusement arcades or other indoor leisure centres;
  - (e) funfairs (indoors or outdoors), theme parks and adventure parks and activities;
  - (f) bingo halls;
  - (g) concert halls.
- (4) The following businesses and services fall within this sub-paragraph—
  - (a) nightclubs;
  - (b) dance halls;
  - (c) discotheques;
  - (d) any other venue (not falling with paragraph (b) or (c)) which—
    - (i) opens at night,
    - (ii) has a dance floor or other space for dancing by members of the public (and for these purposes members of the venue in question are to be considered members of the public), and
    - (iii) provides music, whether live or recorded, for dancing;
  - (e) sexual entertainment venues;
  - (f) hostess bars;
  - (g) casinos;
  - (h) betting shops and adult gaming centres;
  - (i) indoor gyms, fitness and dance studios;
  - (j) indoor sports facilities.
- (5) A business or service does not fall within sub-paragraph (4)(b), (c) or (d) if it ceases to provide music and dancing.
- (6) In sub-paragraph (4)(e) “sexual entertainment venue” has the meaning given in paragraph 2A of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982(49).

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(49) 1982 c. 30. Paragraph 2A was inserted by section 27 of the Policing and Crime Act 2009 (c. 26).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(7) In sub-paragraph (4)(f) “hostess bar” has the meaning given by paragraph 3B of that Schedule<sup>(50)</sup>.

## SCHEDULE 2

Regulation 3

### Tier 3 area

The areas of the following are within the Tier 3 area—

1. Halton Borough Council;
2. Knowsley Metropolitan Borough Council;
3. Liverpool City Council;
4. Sefton Borough Council;
5. St Helens Borough Council; and
6. Wirral Metropolitan Borough Council.

## SCHEDULE 3

Regulation 10

### Amendments and transitional provisions

## PART 1

### Amendments

#### **Amendments of the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020**

1.—(1) Regulation 9 of the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020<sup>(51)</sup> is amended as follows.

(2) In paragraph (9), at the end (but after paragraph (l) as inserted by the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 respectively) insert—

- “(m) Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020, other than notices issued in respect of a business restriction offence as defined by regulation 6(12) of those Regulations or an offence of contravening a restriction or requirement imposed by paragraph 3 of Schedule 1 to those Regulations.”.

#### **Amendments of the Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020**

2. In regulation 18 of the Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020<sup>(52)</sup>, in paragraph (7A)<sup>(53)</sup> after sub-paragraph (e) (as

<sup>(50)</sup> Paragraph 3B was inserted by section 33 of the London Local Authorities Act 2007 (c. ii).

<sup>(51)</sup> S.I. 2020/684.

<sup>(52)</sup> S.I. 2020/105.

inserted by the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020) insert—

“(f) the Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020, where the fixed penalty notice relates to a business restriction offence as defined by regulation 6(12) of those Regulations.”.

### **Amendments of the Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020**

**3.—**(1) The Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020<sup>(54)</sup> are amended as follows.

(2) In regulation 1, in paragraph (3)—

(a) after sub-paragraph (fa) (as inserted by Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020), insert—

“(fb) the “Tier 3 Regulations” means Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020;”;

(b) in sub-paragraph (h) after “Tier 2 Regulations” insert “or of the Tier 3 area for the purposes of the Tier 3 Regulations”.

(3) In regulation 1A—

(a) in paragraph (1), in the opening words, after “Tier 2 Regulations” insert “or of the Tier 3 area for the purposes of the Tier 3 Regulations”;

(b) after paragraph (1A), insert—

“(1B) A person who operates or occupies relevant premises in the Tier 3 area for the purpose of the Tier 3 Regulations must, during the emergency period, take all reasonable measures to ensure that—

(a) no bookings are accepted for—

(i) a group of more than six persons, where the group is to be located in a place which satisfies the conditions in paragraph 2(4) of Schedule 1 to the Tier 3 Regulations (“a relevant place”), unless one of the exceptions in paragraph 4 of that Schedule applies; or

(ii) a group of two or more persons to be located in a place which is not a relevant place, unless one of the exceptions in paragraph 4 of Schedule 1 to the Tier 3 Regulations applies;

(b) no persons are admitted to the premises—

(i) a group of more than six persons, where the group is to be located in a relevant place, unless one of the exceptions in paragraph 4 of that Schedule applies; or

(ii) a group of two or more persons to be located in a place which is not a relevant place, unless one of the exceptions in paragraphs 4 of Schedule 1 to the Tier 3 Regulations applies;

(c) no person joins another group or otherwise acts in a way which would contravene the Tier 3 Regulations.”

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<sup>(53)</sup> Paragraph (7A) was inserted by [S.I. 2020/1046](#).

<sup>(54)</sup> [S.I. 2020/1008](#).

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(4) In regulation 4, in paragraph (8A)(55), after sub-paragraph (e) (as inserted by the Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020) insert—

“(f) the Tier 3 Regulations, where the fixed penalty notice relates to a business restriction offence as defined by regulation 6(12) of those Regulations.”.

## PART 2

### Transitional provisions

4.—(1) A designation made, or treated as made, in exercise of the powers conferred by the following provisions is to be treated as if it had been made in exercise of the powers conferred by regulations 4(9)(b), 6(3)(b), 6(16)(a) or 7 (as appropriate) of these Regulations—

- (a) regulation 7(10)(b), 9(3)(b), 9(13) or 10 of the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020;
- (b) regulation 8(9)(c) or (d), 10(3)(b), 10(13) or 11 of the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020;
- (c) regulation 8(9)(b)(iii) or (iv), 10(3)(b), 10(14)(a) or 11 of the Health Protection (Coronavirus, Restrictions) (Bolton) Regulations;
- (d) regulation 7(9)(c), 9(3), 9(14) or 10 of the Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020;
- (e) regulation 8(9)(b)(iii) or (iv), 10(3)(b), 10(14)(a) or 11 of the Health Protection (Coronavirus, Restrictions) (North East and North West of England) Regulations 2020;
- (f) regulation 4(9)(b), 6(3)(b), 6(16) or 7 of the Health Protection (Coronavirus, COVID 19-Alert Level) (Medium) Regulations 2020;
- (g) regulation 4(9)(b), 6(3)(b), 6(16) or 7 of the Health Protection (Coronavirus, COVID 19-Alert Level) (High) Regulations 2020.

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations impose restrictions on gatherings and businesses in the areas specified in Schedule 2, where the COVID-19 alert level is assessed as being very high, and on gatherings elsewhere by persons living in the specified areas. The restrictions on businesses in the specified areas consist of limitations on the sale of alcohol for consumption on the premises, the imposition of restricted hours for certain businesses and closure of certain businesses in the specified areas.

The restrictions will cease to have effect in relation to a particular area 28 days from the date in which the restrictions came into force in that area, unless the Secretary of State directs otherwise. If such a direction is issued, the restrictions will continue in effect for a further 28 days.

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(55) Paragraph (8A) was inserted by [S.I. 2020/1046](#).

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The need for the restrictions in these Regulations must be reviewed by the Secretary of State every 28 days. The Regulations themselves expire six months after the date on which they are made.

No impact assessment has been prepared for these Regulations.