EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (BLACKBURN WITH DARWEN AND BRADFORD, LEICESTER, AND NORTH OF ENGLAND) (AMENDMENT) REGULATIONS 2020

2020 No. 954

1. Introduction

1.1 This explanatory memorandum has been prepared by Department for Health and Social Care and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument makes provision for the purpose of amending the restrictions and requirements placed on businesses by; the Health Protection (Coronavirus, Restrictions) (Leicester) (No.2) Regulations 2020 (S.I. 2020/824) (the "Leicester Regulations"), the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) Regulations 2020 (S.I. 2020/822) (the "Blackburn and Bradford Regulations") and the Health Protection (Coronavirus, Restrictions) (North of England) Regulations 2020 (S.I. 2020/828) (the "North of England Regulations"), which provide 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), which causes the disease Covid-19, in Leicester, Blackburn with Darwen and Bradford, and areas of the North of England.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The instrument is made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22). The Regulations are made without a draft having been laid and approved by a resolution of each House of Parliament. It is the opinion of the Secretary of State that, by reason of urgency, it is necessary to make the Regulations without a draft being so laid and approved so that public health measures imposed in Leicester by the Leicester Regulations, in Blackburn with Darwen and Bradford by the Blackburn and Bradford Regulations and in areas of North of England by the North of England Regulations, which these regulations amend, continue to be necessary and proportionate to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The Regulations come into force on 8 September and were published on www.legislation.gov.uk on 7 September 2020. The Regulations cease to have effect at the end of the period of 28 days (not including days in recess) 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 Blackburn and Bradford Regulations, the Leicester Regulations and North of England Regulations provide that they expire at the end of the period of six months beginning with the day on which they each 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 for 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) (Blackburn with Darwen and Bradford, Leicester, and North of England) (Amendment) 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 Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020 (S.I. 2020/685) (the "first Leicester Regulations") came into force from 4 July 2020. That instrument required the closure of some businesses and placed restrictions on movement and gatherings on 4 July 2020 in the protected area in and around Leicester. That instrument was revoked and replaced by the Leicester Regulations which came into force on 3 August 2020 and was subsequently amended on 19 August.

6.6 The Leicester Regulations require the closure of some businesses (listed in the Schedule) and impose restrictions on gatherings in the protected area, and elsewhere for those that live within the protected area. The protected area is defined in the Regulation 1 of that instrument as the area of the Leicester City Council.

6.7 All the Leicester instruments were made under section 45C of the 1984 Act to enable a number of public health measures to be taken for the purpose of reducing the public health risk posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

6.8 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. 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.

6.9 The Blackburn and Bradford Regulations came into force on 1 August 2020. This instrument required the closure of some businesses in the protected area in Blackburn with Darwen and Bradford, as defined in Regulation 1 of those Regulations. The Blackburn and Bradford Regulations were amended on 5 August 2020 by the Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) Regulations 2020 (S.I. 2020/828), to include further restrictions on gatherings within the protected area and on participation in gatherings in private dwellings outside of the protected area by those who live within it. Further amendments changed the definition of "protected area" as defined in Regulation 1 of the Regulations and came into force on 26 August 2020, 2 September 2020 and 3 September 2020.

6.10 This instrument eases the restrictions under the Regulations so that certain easements already made elsewhere in England in relation to business closures apply to the protected areas covered by the Blackburn and Bradford Regulations, North of England Regulations and Leicester Regulations.

6.11 Regulation 2 amends the Blackburn and Bradford Regulations to enable certain easements made elsewhere in England on 25 July and 15 August to apply to the protected area covered by those regulations.

6.12 Regulation 3 amends the Leicester Regulations to enable certain easements made elsewhere in England on 25 July to apply to the protected area covered by those regulations.

6.13 Regulation 4 amends the North of England Regulations to enable certain easements made elsewhere in England on 25 July and 15 August to apply to the protected area covered by those regulations, apart from the area of Bolton Metropolitan Borough Council.

6.14 The police and local authorities will continue to monitor compliance with the Leicester Regulations, Blackburn and Bradford Regulations and North of England regulations.

7. Policy background

What is being done and why?

7.1 On 21 March 2020, the government took legislative measures with the making of the Health Protection (Coronavirus, Business Closure) Regulations 2020 (S.I. 2020/327). This decision sought to prevent the community transmission of disease, severe acute respiratory coronavirus 2 (SARS-CoV-2). In order to limit the further spread of that disease, the Prime Minister announced further restrictions which came into force at 1pm on 26 March 2020, prohibiting people from leaving the place they live except for very limited purposes and banning public gatherings of more than two people.

7.2 In line with Step 2 of the government's recovery strategy for the Covid-19 pandemic, several amendments were made in June 2020. This included reopening all nonessential retail, except for businesses and venues where the transmission risk was still too high, as well as outdoor areas and animal attractions.

7.3 As part of Step 3 of the Government's recovery strategy for the Covid-19 pandemic, the Government announced the opening of the hospitality sector and further relaxations on gatherings from 4 July through the National Regulations. These Regulations have since been amended three times (11 and 13 July (as one set of amendments) 25 July, and 15 August) to enable the reopening of close contact services, swimming pools, gyms and indoor sports facilities, casinos, indoor skating rinks, indoor play areas, including soft play areas, bowling alleys, conference centres and exhibition halls.

7.4 In response to the high number of positive Covid-19 cases in Leicester in June 2020, the government announced a local lockdown in order to limit the further spread of the disease. The first Leicester Regulations came into force on 4 July 2020, imposing restrictions on those who lived within the Leicester protected area. The restrictions in the National Regulations do not apply to the Leicester protected area.

7.5 Following reviews by public health experts, the scope of the protected area covered by the first Leicester Regulations was gradually narrowed, removing all areas outside of the City of Leicester and the Borough of Oadby and Wigston on 18 July, and removing the Borough of Oadby and Wigston on 1 August. Following further review, a decision was also made to open additional businesses and venues in Leicester from 3 August, in line with the national changes of 4 July. As these changes were quite substantial, the first Leicester Regulations were revoked and replaced by the Leicester Regulations, which now contain the restrictions and requirements in relation to gatherings and business closures for the protected area of the City of Leicester.

7.6 As the number of positive Covid-19 cases in Leicester has declined since the first regulations were made, the regulations were amended on 19 August to open more business in the Leicester area.

7.7 In response to the elevated number of positive Covid-19 tests in Blackburn with Darwen and Luton in July 2020, the government announced that there would be ongoing restrictions in Blackburn with Darwen and Luton in order to limit the further spread of the disease. These restrictions were contained in the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Luton) Regulations 2020 (S.I. 2020/800) (the "Blackburn and Luton Regulations") which came into force on 25 July 2020.

7.8 After a review of the restrictions by public health experts and Ministers, and due to the falling infection rates in Luton, it was decided that Luton should come back into line with the rest of England in terms of the legal restrictions. However, due to an increase in prevalence of the disease in the City of Bradford and with agreement from local leaders in the area, restrictions on businesses and people living within the City of Bradford were deemed necessary. Furthermore, as Blackburn with Darwen continued to have a high incidence rate, restrictions were deemed necessary to stay in place in that area. These changes were made in the Blackburn and Bradford Regulations which revoked and replaced the Blackburn and Luton Regulations, coming into force on 1 August 2020.

7.9 After a further review of the restrictions by public health experts and Ministers, and due to the consistently high rates of infection in Bradford and parts of Blackburn with Darwen, it was decided to maintain the restrictions in these areas. However, due a lower prevalence of the virus, it was decided that restrictions would be removed from some wards within Blackburn with Darwen Borough Council. This change was made on 26 August 2020 in the Health Protection (Coronavirus Restrictions) (Blackburn with Darwen and Bradford) (Amendment) Regulations 2020 (S.I. 2020/898).

7.10 On 28 August 2020, a further review of data shared by Public Health England and the Joint Biosecurity Centre indicated that the incidence rates of COVID-19 in some parts of the City of Bradford Metropolitan District Council was decreasing and it was decided that the restrictions previously in place in those wards were no longer necessary. The Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/930) amended the Blackburn and Bradford Regulations to remove those wards from the protected area covered by the Blackburn and Bradford Regulations on 2 September 2020. The Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) (Amendment) (No. 3) Regulations 2020 (S.I. 2020/935) removed the ward of Windhill and Wrose on 3 September 2020 so that it was no longer in the protected area.

7.11 In response to elevated number of positive cases of COVID-19 in the North of England the Government introduced restrictions on 5 August to prevent gatherings that include more than one household in private dwellings in the protected area, through the North of England Regulations.

7.12 Alongside the North of England Regulations, Government guidance was given to those living in or visiting the protected area, advising against gatherings at indoor public places. Guidance was also issued to businesses to not facilitate such gatherings. Care homes were also advised to only allow visits in exceptional circumstances. Though no restrictions were placed on travel, the Government advised people to not travel with other households as it does elsewhere in England.

7.13 On 13 August, it was decided that further business closures should be removed from the National Regulations, allowing them to re-open. Based on the epidemiological evidence, and in discussion with local leaders, it was decided that it was not appropriate to apply these easements in the protected area of the North of England Regulations. In a review of the restrictions applied in the protected area, undertaken in accordance with regulation 4 of the North of England Regulations, it was also determined that the restrictions on gatherings remained necessary to prevent, protect against, control or provide a public health response to the incidence or spread of COVID 19, and proportionate to that aim.

7.14 Amendments were made by the Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (Amendment) (No. 2) Regulations 2020 (S.I 2020/865) to give effect to that decision by inserting business closures provisions into the North of England Regulations, and disapplying the business closures provision in the National Regulations within the protected area of the North of England Regulations.

7.15 Following further reviews of the epidemiological evidence, it was determined that due to the low incidence rates in certain areas, the additional restrictions under the North of England Regulations could be removed as they were no longer proportionate or necessary. Wigan Metropolitan Borough Council and Rossendale Borough Council were therefore removed from the protected area covered by Part 2 of the North of England Regulations by the Health Protection (Coronavirus, Restrictions) (North of England) (Amendment) Regulations 2020 (S.I. 2020/897), which came into force on 26 August 2020. A number of areas were removed from the protected area covered by those regulations by the Health Protection (Coronavirus, Restrictions) (North of England) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/931) which came into force on 2 September 2020.

7.16 The number of positive Covid-19 cases has continued to decline in Leicester, Blackburn and Darwen and North of England's (with the exception of the area of Bolton Metropolitan Borough Council) protected areas. As a result, this instrument will apply easements made elsewhere in England on 25 July to the areas covered by the Blackburn and Bradford Regulations and Leicester Regulations. In addition, the instrument will apply the easements made elsewhere in England on 15 August to the areas covered by the Blackburn and Bradford Regulations and North of England Regulations, apart from the area of Bolton Metropolitan Borough Council.

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 Not applicable.

10. Consultation outcome

10.1 There has been no public consultation in relation to this instrument.

11. Guidance

11.1 The Government has published guidance in relation to Covid-19 at www.gov.uk/coronavirus and this guidance will include information in relation to closures and restrictions on; movements and gatherings in Leicester and for people who live in Leicester under the Leicester Regulations, movement and gatherings in Blackburn with Darwen and Bradford and for the people who live in Blackburn with Darwen and Bradford, under the Blackburn and Bradford Regulations and movements and gatherings in the North of England and for the people who live under the North of England Regulations

12. Impact

12.1 The Leicester Regulations, the Blackburn and Bradford Regulations and the North of England Regulations as amended by this instrument are temporary provisions as part of the Government's response to Covid-19, lasting only six months. As this instrument will cease to have effect after less than 12 months, a Regulatory Impact Assessment is not required and would be disproportionate.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the amendment to these regulations permits many businesses, including small businesses to re-open, apart from the area of Bolton Metropolitan Borough Council.

13.3 The final decision on what action to take to assist small businesses is that no such action is needed, since the government has provided a number of financial support schemes.

14. Monitoring & review

14.1 This instrument does not include a statutory review clause. The instrument amends the Leicester Regulations, Blackburn and Bradford Regulations and North of England Regulations. The review and expiry provisions in these instrument will continue to apply.

14.2 The Leicester Regulations cease to have effect at the end of a period of six months beginning on 3 August 2020.Prior to the Leicester Regulations' expiry, the Secretary of State must review the need for the restrictions and requirements imposed by the Leicester Regulations every 14 days. The next review must be carried out by 11 September 2020.

14.3 The Blackburn and Bradford Regulations cease to have effect at the end of the period of six months beginning on the day on which they came into force. Prior to their expiry, the Secretary of State must review the need for restrictions and requirements imposed by the Blackburn and Bradford Regulations, as amended by these Regulations, every 14 days. The next review will be carried out by 11 September 2020

14.4 The North of England Regulations cease to have effect at the end of the period of six months beginning on the day on which they came into force. Prior to their expiry, the Secretary of State must review the need for restrictions and requirements imposed by the North of England Regulations, as amended by these Regulations, every 14 days. The next review will be carried out by 11 September 2020.

15. Contact

15.1 Tim Charlton, Joint Biosecurity Centre; Email: tim.charlton@dhsc.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 Matt Hancock MP, Secretary of State for Health and Social Care at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.