EXPLANATORY MEMORANDUM TO

THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (LEICESTER) (NO. 2) (AMENDMENT) (NO. 2) REGULATIONS 2020

2020 No. 875

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 amends the restrictions and requirements placed on some businesses by the Health Protection (Coronavirus, Restrictions) (Leicester) (No.2) Regulations 2020 (S.I. 2020/824) (the "Leicester 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.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument is made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22). This instrument is made without a draft having been laid and approved by a resolution of each House of Parliament. It is the opinion of the Secretary of State that, by reason of urgency, it is necessary to make this instrument without a draft being so laid and approved because public health measures imposed by the Leicester Regulations, which this instrument removes, are no longer considered 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). This instrument comes into force on 15th September and was published on www.legislation.gov.uk on 14th September 2020. This ceases 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 Leicester Regulations provide that they expire at the end of the period of six months beginning with the day on which they came into force.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 This entire instrument applies to England only.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

5.1 The Minister for Care Helen Whately MP, has made the following statement regarding Human Rights:

"In my view the provisions of The Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) (Amendment) (No. 2) Regulations 2020 are compatible with the Convention on Human 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") and the Leicester Regulations.

6.5 The Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020 (S.I. 2020/685) (the "first Leicester Regulations") came into force from 4th July 2020. That instrument required the closure of some businesses and placed restrictions on movement and gatherings on 4th 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 3rd August 2020 and was subsequently amended on 18th August by S.I. 2020/875 and 7th September by S.I. 2020/954.

6.6 The Leicester Regulations require the closure of some businesses (listed in its Schedule) and maintain 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 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 This instrument eases the restrictions under the Regulations so that the easing of restrictions lifted elsewhere in England on 15th August in relation to business closures apply to the protected area covered by the Leicester Regulations. These easing of restrictions enable the re-opening of casinos, indoor skating rinks, indoor play areas,

including soft play areas, and bowling alleys, and the full re-opening of conference centres and exhibition halls.

6.9 Regulation 3 amends the Leicester Regulations to enable certain easing of restrictions applied elsewhere in England on 15 August to apply to the protected area covered by those Regulations.

6.10 The police and local authorities will continue to monitor compliance with the Leicester Regulations.

7. Policy background

What is being done and why?

7.1 On 21st March 2020, the government took legislative measures by making the Health Protection (Coronavirus, Business Closure) Regulations 2020 (S.I. 2020/327). This decision sought to prevent the community transmission of the disease Covid-19 caused by severe acute respiratory syndrome 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 (S.I. 2020/350), prohibiting people from leaving the place they live except for very limited purposes and banning public gatherings of more than two people.

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 non-essential 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 by means of the National Regulations. These Regulations have since been amended three times (on 9th July by S.I. 2020/719, on 22nd July by S.I. 2020/788, and on 14th August by S.I. 2020/863) 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 4th July 2020, imposing restrictions on those who lived within the Leicester protected area. The restrictions in the National Regulations did 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 18th July (S.I. 2020/754), and removing the Borough of Oadby and Wigston on 1st August (S.I. 2020/823). Following further review, a decision was also made to open additional businesses and venues in Leicester from 3rd August, in line with the national changes of 4th 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 had declined since the first regulations were made, the Leicester Regulations were amended on 18th August by S.I. 2020/875 to open more business in the Leicester area including nail bars, salons and spas. Following a further review, SI 2020/954 was brought into effect on 8th September to lift the restrictions in Leicester to the level that was approved elsewhere in England on 25th July, enabling the opening of indoor swimming pools, gyms and other indoor sports facilities.

7.7 In order to bring Leicester into alignment with other local areas of national intervention within Greater Manchester and North West England, a decision was made on 11 September to ease restrictions lifted elsewhere in England on 15th August by S.I. 2020/863 within the protected area of Leicester. This instrument now enables the opening of casinos, indoor skating rinks, indoor play areas, including soft play areas, bowling alleys, conference centres and exhibition halls.

7.8 Therefore, the remaining restrictions in the Leicester protected area are limited to the restrictions on people gathering in private dwellings (including gardens) with any other household and the continued closure of nightclubs, dance halls, discotheques (and any other venue which opens at night, has a dance floor and provides music for dancing for the public), sexual entertainment venues and hostess bars.

8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union 2018

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 Not applicable.

10. Consultation outcome

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

11. Guidance

11.1 The Government has published guidance in relation to Covid-19 at www.gov.uk/coronavirus 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.

12. Impact

12.1 The Leicester 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.

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. This instrument amends the Leicester Regulations.

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 25 September 2020.

15. Contact

15.1 Elizabeth Allerson, Department of Health and Social Care; Email: elizabeth.allerson@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 Helen Whately MP, Minister for Care at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.