

WinckworthSherwood

English Lockdown Regulations

The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020 (the “Regulations”) were laid before Parliament on 3rd November with the intention that they come into force at 00:01am on Thursday 5th November 2020 and will expire at midnight on 2nd December 2020.

The Regulations cover the entirety of England, but do not extend to Wales, Scotland or Northern Ireland.

The Regulations replace previous restrictions including those that applied locally. The Government has suggested that localised restrictions are likely to return on 3rd December 2020.

This Briefing is a selected summary only of the parts of the Regulations that we believe will most impact on clients. It is not intended to be a full summary of the Regulations.

The Restrictions

Requirement to Stay at Home

The basic premise of the Regulations is that, except for a list of non-exhaustive exceptions, all members of the public must remain at home.

The rule is that no person may leave or be outside of the place where they are living without reasonable excuse.

One exception is when leaving home is reasonably necessary for certain purposes. A

list of such purposes is given including the buying of food and exercising.

However, as the list of purposes is non-exhaustive it seems that just about any purpose will do, provided it is reasonably necessary to leave home to carry out that purpose.

A visit to a linked household is also an exception and the Guidance has now been changed to allow such a visit to take place inside the home and in a private garden.

Gatherings

The Regulations prohibit any indoor gatherings between individuals who are not of the same household, linked household (which has the same meaning as previous regulations) or linked childcare household.

A linked childcare household relates to two houses, one of which provides childcare services to children under 13 years in the other.

Individuals may meet one person from a different household in public outdoor spaces. For the avoidance of doubt this does not include private gardens.

Children under the age of 5 and carers, provided no more than two are present, are not included in this limit.

There are some exceptions to this limitation such as providing emergency assistance or

fulfilling a legal obligation. A full list can be provided on request.

It is important to note that unlike the restrictions on leaving home, the Regulations set out the complete list of exceptions that can be applied. Sadly this now includes visiting a dying person. More positively those of us who participate in elite sport (no – Park Run still does not qualify) may gather for that purpose.

Remembrance Sunday events are permitted to go ahead provided that individuals attend alone or with members of their household, linked households or linked childcare households.

Weddings and Funerals

Weddings are now limited to exceptional circumstances, such as if one member of the couple has a terminal illness, and may be attended by no more than six people.

Funerals are permitted with up to 30 attendees, however the scattering of ashes and stone settings may only be attended by 15 people.

Closure of Businesses

All non-essential businesses and services must close. This includes aspects of a business that is otherwise allowed to remain open, such as a café operating within a supermarket.

Business that May Remain Open

Supermarkets, off-licences, newsagents, “corner shops” (not defined!), petrol stations, MOT centres, garden centres, hardware stores, laundrettes and dry cleaners are amongst the businesses that are permitted to remain open.

Alcohol Off Sales

There is no restriction on alcohol hours for off licences. Obviously any restrictions on the actual licences still apply.

This means that the Nottingham 9pm terminal hour no longer applies.

Hospitality Venues

Restaurants, cafés, bars, social clubs and public houses must close for consumption of food or drink on the premises, although they may still operate as a takeaway or delivery establishment.

An exemption is provided for food and drink at motorway service areas.

Food and drink, but no alcohol, may be sold directly from an establishment for consumption off the premises from 05:00-22:00.

Such businesses may still sell alcohol for consumption off the premises, at any time, in one of the following ways:

- By making deliveries in response to orders received via a website, phone/text message, or (yes, really) post
- To a purchaser who collects pre-ordered food or drink provided they do not enter inside the premises
- Via a drive-thru.

The above appears to be a last-minute change to the Regulations.

Businesses should note that ‘on premises’ includes areas adjacent to the business where seating is available or customers habitually gather, whether or not these areas are provided by the business themselves.

Hotels must close except for a finite list of exceptions, including providing accommodation to those who use hotels as their main residence and people who need accommodation whilst moving house. Again, a full list can be provided on request.

Closed businesses may still be used to host blood donations or as film or television sets amongst other matters. Theatres and concert halls may be used for training, rehearsal and performing, provided no audience is present.

Leisure and Exercise Facilities

Gyms, swimming pools, sports courts and most other fitness facilities must close.

However, some of these businesses may still be used for training for elite athletes and for the supervised activities of children or post-16 education and training.

Enforcement

A breach of the Regulations without reasonable excuse is an offence punishable on conviction by a fine.

Certain officers may, as an alternative, issue fixed penalty notices.

On a first offence, the Fixed Penalty Notice will be £200, halving to £100 if paid within 14 days.

On a second or subsequent offence, whether under these or any previous Covid Regulations, the fine increases to a maximum of £6,400.

The fine for organising or holding a gathering is set at £10,000, and those for business restriction offences start at £1,000 for a first offence and increase to a maximum of £10,000.

If an offence under the Regulations, committed by a company, is proved to have been committed with the consent or connivance of an officer of the company or is to be attributable to any neglect on the part of such an officer, the officer (as well as the company) is guilty of the offence and liable to be prosecuted.

Conclusion

Thankfully, for the lawyers at least, the Regulations stand on their own and so we do not have obscure references to the many regulations that have come before. The Regulations are easier to understand and so hopefully clearer to the public and to those who are tasked with enforcement. It is hoped that a pragmatic approach will be taken by officers and

the all-important law of common sense will be applied.

This is a brief summary of complex regulations. Please contact us if you have any questions.



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