

# HOUSE OF LORDS

## Secondary Legislation Scrutiny Committee

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### 25th Report of Session 2019–21

#### **Proposed Negative Statutory Instruments under the European Union (Withdrawal) Act 2018**

Drawn to the special attention of the House:

#### **Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020**

#### **Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 and three related instruments**

**Correspondence: Government draft options for regional  
or local interventions; Sunset provisions in statutory  
instruments dealing with COVID-19**

#### **Includes information paragraphs on:**

35 instruments relating to COVID-19

Draft Restriction of Public Sector Exit  
Payments Regulations 2020

Draft Air Quality (Domestic Solid Fuels  
Standards) (England) Regulations 2020

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### *Secondary Legislation Scrutiny Committee*

The Committee's terms of reference, as amended on 11 July 2018, are set out on the website but are, broadly:

To report on draft instruments and memoranda laid before Parliament under sections 8, 9 and 23(1) of the European Union (Withdrawal) Act 2018.

And, to scrutinise –

- (a) every instrument (whether or not a statutory instrument), or draft of an instrument, which is laid before each House of Parliament and upon which proceedings may be, or might have been, taken in either House of Parliament under an Act of Parliament;
- (b) every proposal which is in the form of a draft of such an instrument and is laid before each House of Parliament under an Act of Parliament,

with a view to determining whether or not the special attention of the House should be drawn to it on any of the grounds specified in the terms of reference.

The Committee may also consider such other general matters relating to the effective scrutiny of secondary legislation as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

### *Members*

<u><a href="#">Baroness Bakewell of Hardington Mandeville</a></u>	<u><a href="#">Viscount Hanworth</a></u>	<u><a href="#">The Earl of Lindsay</a></u>
<u><a href="#">Rt Hon. Lord Chartres</a></u>	<u><a href="#">Lord Hodgson of Astley Abbotts</a></u>	<u><a href="#">Lord Lisvane</a></u>
<u><a href="#">Rt Hon. Lord Cunningham of Felling</a></u>	(Chair)	<u><a href="#">Lord Sherbourne of Didsbury</a></u>
<u><a href="#">Lord German</a></u>	<u><a href="#">Lord Liddle</a></u>	<u><a href="#">Baroness Watkins of Tavistock</a></u>

### *Registered interests*

Information about interests of Committee Members can be found in the last Appendix to this report.

### *Publications*

The Committee's Reports are published on the internet at <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/>

### *Committee Staff*

The staff of the Committee are Christine Salmon Percival (Clerk), Philipp Mende (Adviser), Jane White (Adviser), Louise Andrews (Committee Assistant) and Ben Dunleavy (Committee Assistant).

### *Further Information*

Further information about the Committee is available at <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/>

The progress of statutory instruments can be followed at <https://statutoryinstruments.parliament.uk/>

The National Archives publish statutory instruments with a plain English explanatory memorandum on the internet at <http://www.legislation.gov.uk/uksi>

### *Contacts*

Any query about the Committee or its work, or opinions on any new item of secondary legislation, should be directed to the Clerk to the Secondary Legislation Scrutiny Committee, Legislation Office, House of Lords, London SW1A 0PW. The telephone number is 020 7219 8821 and the email address is [hlseclegscrutiny@parliament.uk](mailto:hlseclegscrutiny@parliament.uk).

# Twenty Fifth Report

## PROPOSED NEGATIVE STATUTORY INSTRUMENTS UNDER THE EUROPEAN UNION (WITHDRAWAL) ACT 2018

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### Proposed Negative Statutory Instruments about which no recommendation to upgrade is made

- Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020

## INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

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**Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 (SI 2020/755)**

**Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020 (SI 2020/756)**

**Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (SI 2020/757)**

*Date laid: 21 July 2020*

*Parliamentary procedure: negative*

**Town and Country Planning (Use Classes) (Amendment) (England) (No. 2) Regulations 2020 (SI 2020/859)**

*Date laid: 13 August 2020*

*Parliamentary procedure: negative*

**Town and Country Planning (Use Classes) (Amendment) (England) (No. 3) Regulations 2020 (SI 2020/895)**

*Date laid: 25 August 2020*

*Parliamentary procedure: negative*

*These instruments make substantial and wide-ranging changes to planning legislation. According to the Ministry of Housing, Communities and Local Government, the aim is to encourage and speed up the delivery of housing and to support the economic recovery after the pandemic, especially in relation to England's high streets. The changes are de-regulatory and concerns have been raised that they could lead to the construction of low-quality housing, an increased concentration of fast food restaurants with an impact on the health of local residents, and reduce the ability of local authorities to shape the character of their high streets. These are issues which the House may wish to explore, including in the context of the Government's plans for further, more fundamental reform of the local planning system which have been published for consultation. While the Committee notes the Government's intention to support the economic recovery from the pandemic, the plans for further reform do raise the question whether it would have been more appropriate to take forward the significant and far-reaching changes made by these instruments in a future planning bill, enabling Parliament to scrutinise the changes more fully.*

**The instruments are drawn to the special attention of the House on the ground that they give rise to issues of public policy likely to be of interest to the House.**

1. The Ministry of Housing, Communities and Local Government (MHCLG) has laid these five instruments with Explanatory Memoranda (EM), and with an Assessment of Impacts for two of the instruments (SIs 2020/756 and 2020/757). The purpose of the instruments is to make changes to planning legislation which, according to MHCLG, will encourage and speed up the delivery of new housing and allow local development to support the economic recovery from the pandemic, with a focus on reviving high streets. MHCLG says that the measures will increase densities by making effective use of

existing buildings and by avoiding the need to develop greenfield sites, as set out in the Planning for the Future policy paper in March 2020.<sup>1</sup>

2. The changes made by the five instruments are summarised below. The instruments are set in the wider context of the Government’s White Paper, which was published in August for consultation and sets out proposals to “streamline and modernise the planning process”.<sup>2</sup> MHCLG told the Committee that in contrast to these instruments, the proposals in the White Paper “would be longer term measures to introduce a new approach to the planning system to ensure more land is available for development where it is needed, including a focus on design and sustainability and a new system of developer contributions to infrastructure”.

### *SI 2020/755*

3. This instrument introduces a new permitted development right to allow certain existing houses to be extended upwards with additional storeys to provide extra living space. The instrument also introduces a new permitted development right for the construction of new self-contained homes by allowing additional storeys to be built on certain existing homes and commercial buildings. The changes mean that a lighter touch prior approval process will apply to these types of development, rather than the full local planning permission application process. According to MHCLG, the new arrangements will still allow for local consideration of key planning matters, as summarised in paragraph 7 below.
4. MHCLG says that the changes are the second phase of a reform of permitted development rights for the upward extension of buildings. An earlier instrument,<sup>3</sup> which the Committee drew to the special attention of the House in July, introduced a new permitted development right allowing up to two additional storeys to be constructed on purpose-built blocks of flats.
5. MHCLG says that allowing upward extensions of existing homes and commercial buildings will provide more certainty for homeowners and developers seeking additional living-space or wanting to create new homes. The new rights are subject to maximum height limits to reflect sensitivities around local amenity, and there are requirements to prevent overlooking and in relation to the external appearance of the extension. The new rights do not reduce building and fire safety requirements which are covered by separate regulations.

### *SI 2020/756*

6. This instrument introduces a new permitted development right to allow the demolition of certain types of buildings and the construction of replacement residential buildings to create new homes. The right will apply to vacant and redundant free-standing buildings that were built before 1 January 1990 and have been vacant for at least six months. While limits are placed on the scale of the new developments in terms of maximum height and footprint, no detailed consideration of the condition of the vacant building will be required.

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1 MHCLG, *Planning for the future* (12 March 2020): <https://www.gov.uk/government/publications/planning-for-the-future> [accessed 3 September 2020].

2 MHCLG, ‘Planning for the future White Paper’ (6 August 2020): <https://www.gov.uk/government/consultations/planning-for-the-future> [accessed 3 September 2020].

3 Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 (SI 2020/632), see: [21st Report](#), Session 2019–21 (HL Paper 96).

*Prior approval process*

7. As with current permitted development rights, the new rights introduced by SI 2020/755 and SI 2020/756 will be subject to prior approval by the local planning authority. While scrutiny under this process is less comprehensive than under the full planning permission application process, MHCLG says that it still enables local planning authorities to consider key planning matters, including any potential impact on the transport infrastructure; contamination and flood risks; the potential impact on the amenity of neighbouring premises, including overlooking, privacy and light; the design and external appearance of the development; the provision of adequate natural light; and the impact of additional residential use in an area. As SI 2020/756 allows for demolition, local consideration may also cover the impact of the development on heritage and archaeology; applications will have to include a heritage and archaeology statement and plans to mitigate any impact on heritage or archaeological assets. Given the potential impact of construction on occupiers and neighbours, the local planning authority will notify any adjoining owners or occupiers of proposed developments and developers will have to prepare a document setting out how they intend to minimise any adverse impacts of the building works on neighbours.
8. The new rights will not apply in Conservation Areas, National Parks and the Broads, areas of outstanding natural beauty, or sites of special scientific interest or if the building is listed or a scheduled monument. Local planning authorities will have eight weeks to make a decision on an application and may attach conditions on granting prior approval.
9. We asked MHCLG whether the new permitted development rights would allow local planning authorities also to consider the provision of affordable housing. MHCLG said that:
 

“The permitted development rights do not require affordable housing provision, therefore it is not a matter for prior approval consideration. Where additional residential floorspace is created through the rights in SI 755 and SI 756, and a local authority has a charging schedule in place, a community infrastructure levy may be payable.”
10. Concerns have been raised that, due to the lighter touch approval process, the changes could lead to the construction of low-quality housing. Research conducted by University College London and the University of Liverpool for MHCLG<sup>4</sup> concluded that “permitted development conversions do seem to create worse quality residential environments than planning permission conversions”. We asked MHCLG how concerns about low quality homes would be addressed under the new arrangements. MHCLG told the Committee that:
 

“Legislative changes were introduced in a Statutory Instrument (2020 No. 632) in June [ ... ] in response to concerns raised about the quality of homes delivered in some developments under existing permitted development rights for changes of use to housing. This requirement has also been included in SIs 755 and 756. The measure will improve the quality of new homes delivered under permitted development rights by

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<sup>4</sup> MHCLG, ‘Research into the quality standard of homes delivered through change of use permitted development rights’ (July 2020): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/902220/Research\\_report\\_quality\\_PDR\\_homes.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902220/Research_report_quality_PDR_homes.pdf) [accessed 3 September 2020].

requiring that adequate natural light is provided in all habitable rooms. The Amendment Regulations [SI 2020/632] introduced a new matter for prior approval consideration in respect of the provision of adequate natural light in all habitable rooms. Local planning authorities are required to refuse prior approval applications where inadequate natural light is provided.”

11. While adequate natural light is a key factor, **the House may wish to ask the Minister how local authorities will ensure that developments under the new permitted development rights also meet other important aspects of quality housing, such as access to services, transport and green spaces or standards on space.**

*SI 2020/757*

12. This instrument creates a number of new use classes in England. Use Classes group different uses of buildings and other land into different categories. A change of use within a single use class is not considered to be a development and therefore does not require planning permission. SI 2020/757 creates a new broad ‘Commercial, business and service’ use class (Class E) to incorporate previous use classes for shops, financial and professional services, offices, restaurants and cafes. It will also include uses such as gyms, nurseries and health centres and other uses which are suitable for a town centre. MHCLG says that this new use class allows for a mix of uses to reflect changing retail and business models, recognising that a building may be in a number of uses at the same time or that it may be used for different uses at different times of the day. MHCLG says that because planning permission will no longer be required, businesses will have greater freedom to adapt to changing circumstances.
13. The instrument also creates new use classes for ‘Learning and non-residential institutions’ for buildings such as schools, libraries and art galleries and ‘Local community’ uses for buildings such as swimming pools, skating rinks and areas for outdoor sports, as well as shops servicing the essential needs of local communities, such as small local shops that are needed to meet the day to day shopping needs of local communities, especially rural communities, large residential estates and communities outside main shopping areas.
14. The instrument also abolishes the former use class for “Drinking establishments” and “Hot food takeaway”. MHCLG says that changes in these categories can give rise to important local considerations, for example, to ensure that local pubs can be protected or to prevent the proliferation of hot food takeaways. These uses have therefore been included in a list which specifically identifies uses which do not now fall within any use class. This means that, in practice, changes to and from these uses will be subject to local consideration through the full planning application process. MHCLG has taken the same approach with cinemas as well as concert, dance and bingo halls which fell within the former use class which this instrument transfers into the new ‘Commercial, business and service’ use class (see paragraph 12).
15. During consultation on the proposals,<sup>5</sup> concerns were raised that creating a new broad use Class as set out in paragraph 12 could mean that changes

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<sup>5</sup> MCHLG, ‘Planning Reform: supporting the high street and increasing the delivery of new homes’, (last updated May 2019): <https://www.gov.uk/government/consultations/planning-reform-supporting-the-high-street-and-increasing-the-delivery-of-new-homes> [accessed 3 September 2020].

in the use of a building to restaurant use could take place without any local consideration of the potential impact from longer opening hours and increased noise and odours, and that this could also lead to a proliferation and increased concentration of restaurants, including fast food restaurants, in an area, with an impact on the health of local residents and local amenity. There were also concerns that the changes could limit the ability of local communities to shape their high streets as set out in local or neighbourhood plans. MHCLG says that in response to the economic impact of the pandemic on high streets, the Government has decided to introduce the reform of the change of use rules without further public consultation. We asked MHCLG how the concerns raised during consultation had been addressed. MHCLG responded that:

“The measures to amend and simplify the system of use classes in SI 757 are being introduced to support economic recovery. There will be significant changes required to our High Streets following the downturn due to the Covid 19, which will have to adapt to offer a wider range of facilities and services to attract people back. The new Class E Commercial, business and service use class allows change between a number of uses, and mixed use within those uses, giving greater freedom to adapt to changing circumstances. However hot food takeaways, in the former Class A5, are not included in the new use class (Class E) and an application for planning permission will always be required to change to, and from, this use. There is no separate class in the former use classes for “fast food” restaurants as the planning system does not consider there is a land use impact between restaurants providing different types of food.”

16. While it is reassuring that changing the use of a building to providing hot food takeaway will require full planning permission, the new Class E use class will allow for a wide range of uses, such as shops and restaurants, including fast food restaurant, and changes within this use class, including changes to use as a fast food restaurant, will not require planning permission. **The House may wish to press the Minister on the ability of local authorities to shape the character of their high streets under the new rules, in particular their ability to control the spread of fast food restaurants in their area.**

*Amendments and corrections*

17. SI 2020/859 and SI 2020/895 provide clarification and correct a drafting error in the substantive instruments summarised above, while SI 2020/859 ensures that Community Infrastructure Levy (CIL) charging schedules<sup>6</sup> continue to operate and have proper effect when SI 2020/757 comes into force, SI 2020/895 corrects a drafting error in SI 2020/757 to ensure the correct, smaller dimensions are applied in the definition of a shop within a certain use class. The smaller dimension (square metres, rather than metres square) was stated in the EM to SI 2020/757 but not in the regulations themselves. Having to bring forward two amending instruments in quick succession soon after laying the substantive policy instruments suggests that the policies and drafting may not have been checked properly before laying.

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<sup>6</sup> The CIL is a charge which can be levied by local authorities on a new development in their area to help them deliver the infrastructure needed to support the new development. The levy only applies in areas where a local authority has consulted on, and approved, a charging schedule which sets out its levy rates.



This is not an efficient way of legislating. **The Committee recommends that MCHLG reviews its processes to ensure that instruments meet the expected quality standards before being laid before Parliament.**

*Conclusion*

18. These instruments make substantial and wide-ranging changes to planning legislation to encourage and speed up the delivery of housing and to support the economic recovery after the pandemic, especially in relation to high streets. The changes are de-regulatory and concerns have been raised that they could lead to the construction of low-quality housing, an increased concentration of restaurants, including fast food restaurants, with an impact on the health of local residents, and reduce the ability of local authorities to shape the character of their high streets. These are significant issues which the House may wish to explore, including in the context of the Government's plans for further, more fundamental reform of the local planning system which have been published for consultation. While the Committee notes the Government's intention to support the economic recovery from the pandemic, the plans for further reform do raise the question whether it would have been more appropriate to take forward the significant and far-reaching changes made by these instruments in a future planning bill, enabling Parliament to scrutinise the changes more fully. **The instruments are drawn to the special attention of the House on the ground that they give rise to issues of public policy likely to be of interest to the House.**

## CORRESPONDENCE

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### Government draft options for regional or local interventions

19. In our 19th Report<sup>7</sup> we expressed concerns that there was a long gap between COVID-19 legislation being announced and it being laid before the House and that, when eventually laid, the regulations come into immediate effect thus denying Parliament the opportunity to scrutinise the detail before its implementation. We therefore welcomed the letter of 28 July 2020 from Helen Whately MP, Minister for Care, included in Appendix 1, which explained the government’s intended approach to local and regional lockdowns. The letter provides a policy statement for the way the Department for Health and Social Care (DHSC) intends to deal with local lockdowns during the pandemic. It refers to a “selection box” of standard format regulations on the Gov.uk website<sup>8</sup> that can be tailored to the particular need. We regard this as a sensible compromise in the difficult circumstances of the pandemic and welcome the DHSC’s aim to improve transparency and public understanding of emergency legislation on COVID-19 restrictions.

### Sunset provisions in statutory instruments dealing with COVID-19

20. We have noted in previous reports<sup>9</sup> that the majority of statutory instruments that relate to the Coronavirus pandemic included sunset provisions. To assist the House in scrutinising the legislation, we asked the Leader of the House of Commons to send us monthly updates so that they could be properly monitored. Two further monthly updates were received during the recess, which are published in Appendix 2 of this report.

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7 [19th Report](#), Session 2019–21(HL Paper 84).

8 DHSC, ‘Draft options for regional or local coronavirus interventions’ (24 July 2020): <https://www.gov.uk/government/publications/draft-options-for-regional-or-local-coronavirus-interventions> [accessed 9 September 2020].

9 For example, our 13th Report, Session 2019–21 (HL Paper 57).

## INSTRUMENTS RELATING TO COVID-19

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### Restrictions on businesses and public gatherings

*Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) Regulations 2020 (SI 2020/839)*

*Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) (No.2) Regulations 2020 (SI 2020/882)*

*Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) Regulations 2020 (SI 2020/906)*

21. These regulations correct and amend the original Face Coverings Regulations<sup>10</sup> to extend the range of indoor premises (“relevant places”) in which visitors must wear masks. SI 2020/839 adds places of worship, crematoria and burial ground chapels, museums, galleries, cinemas, public libraries, public spaces in hotels (such as lobby areas) and community centres, nail, beauty, hair salons and barbers, tattoo and piercing parlours, massage parlours, storage and distribution centres, auction houses, spas, funeral directors, veterinary practices and premises providing professional services, unless an exemption or reasonable excuse applies. SI 2020/882 adds further relevant places, including casinos, members clubs, social clubs and conference centres and revokes the previous exemption from the requirement to wear masks for funfairs, theme parks or other premises for indoor sports, leisure or adventure activities. Regulation 3(1) also adds exemptions from the requirement to wear face coverings for elite sportspersons and their coaches, referees, professional dancers and choreographers in the course of their employment, training or competing. Additionally, pupils at a religious school are exempted if undertaking education or training in a place of worship.
22. SI 2020/906 integrates the two parallel fixed penalties structures so that, from 29 August, those failing to wear a face covering either on public transport or in “a relevant place”, without reasonable excuse, will ramp up to the next penalty step on the scale.

*Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 3) Regulations 2020 (SI 2020/863)*

23. As part of the staged reopening of facilities, this instrument made further changes to the restrictions that apply nationally in England to allow casinos, indoor skating rinks, indoor play areas, bowling alleys, conference centres and exhibition halls to re-open from on 15 August 2020. (Some of the local lockdown instruments set out below disapply these provisions.)

*Health Protection (Coronavirus) (Restrictions on Holding of Gatherings and Amendment) (England) Regulations 2020 (SI 2020/907)*

24. These Regulations insert new regulations 5A and 5B into the Principal Regulations<sup>11</sup> to impose restrictions in England on the holding of gatherings, both inside and outside, of more than 30 people. This is in response to a number of recent impromptu gatherings and “raves”. Due to the increased

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<sup>10</sup> Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulation 2020 (SI 2020/791), which was subject to comment in our [24th Report](#), Session 2019–21 (HL Paper 116): 5th item in the COVID-19 Section.

<sup>11</sup> Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 (SI 2020/684).

public health risk, anyone who plays an active part in making such an event happen, as well as the organiser, will receive a Fixed Penalty Notice of £10,000.

25. Regulations 3 to 6 make consequential amendments to integrate with the special local lockdown restrictions in specified “protected areas” (see below). Part 3 of these Regulations also make minor (but unrelated) technical amendments to earlier regulations.

### Local restrictions

*Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) Regulations 2020 (SI 2020/822)*

*Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) (Amendment) Regulations 2020 (SI 2020/898)*

26. These Regulations revoke and replace the Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Luton) Regulations 2020.<sup>12</sup> Due to the falling infection rate, which almost halved from 18-24 July, Luton is now only subject to the same legal restrictions as the rest of England.
27. However, the closure of businesses listed in the Schedule, and restrictions on gatherings both inside and outside of more than 30 people, were retained for Blackburn with Darwen where the infection rate remains high. They were also extended to the City of Bradford. The closures and restrictions will last until they are terminated by a direction given by the Secretary of State and must be reviewed every 14 days. Following the first review, SI 2020/898 reduced the protected area to the area of the City of Bradford Metropolitan District Council and specified wards within the area of the Blackburn with Darwen Borough Council. The next review is due to be carried out by 8 September 2020.

*Health Protection (Coronavirus, Restrictions) (Leicester) (Amendment) (No. 3) Regulations 2020 (SI 2020/823)*

*Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020 (SI 2020/824)*

*Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) (Amendment) Regulations 2020 (SI 2020/875)*

28. In response to the high number of positive COVID-19 tests in Leicester in June 2020, the Government announced a local lockdown to limit the spread of the disease, which was implemented by the Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020 (S.I. 2020/685) on 4 July 2020. Subsequent instruments have amended the restrictions and the area that they apply to, including SI 2020/823, made on 31 July, which removed the Borough of Oadby and Wigston from the “protected area” with effect from 1 August. SI 2020/824, laid on 3 August, revoked the original Leicester Regulations (SI 2020/685) and the three subsequent amending Regulations, to reimpose restrictions on gatherings and the closure of listed businesses within the “protected area” of Leicester City Council only. Following the first statutory review of those Regulations on 17 August, the incidence of COVID-19 has declined and SI 2020/875 was made on 2 August to amend

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<sup>12</sup> Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Luton) Regulations 2020 (revoked) (SI 2020/800).

the Leicester restrictions so that services including spas and beauty salons, massage parlours and tattoo parlours, outdoor swimming pools and water parks can reopen. The next review had to be carried out no later than 31 August.

*Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) Regulations 2020 (SI 2020/828)*

*Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (Amendment) Regulations 2020 (SI 2020/846)*

*Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (Amendment)(No.2) Regulations 2020 (SI 2020/865)*

*Health Protection (Coronavirus, Restrictions) (North of England) (Amendment) Regulations 2020 (SI 2020/897)*

29. Data from Public Health England and the Joint Biosecurity Centre indicated that the incidence of COVID-19 in the certain areas of the North of England was significantly above the national average, and increasing, mainly due to transmission between households. Regulation 5 of SI 2020/828 therefore prohibits gatherings of two or more people from different households in private dwellings in the protected area, and prohibits people living in the protected area from gatherings in a private dwelling outside the protected area, unless those meetings are between linked households. Within the protected area, regulation 7(4) prohibits indoor gatherings for more than 30 people but permits more than 30 people in a public outdoor space under certain defined conditions. Regulation 2 of SI 2020/828 describes the “protected area” for these purposes as the areas of Tameside Metropolitan Borough Council, Bolton Metropolitan Borough Council, Bury Metropolitan Borough Council, Manchester City Council, Oldham Metropolitan Borough Council, Rochdale Borough Council, Salford City Council, Stockport Metropolitan Borough Council, Trafford Metropolitan Borough Council, Wigan Metropolitan Borough Council, Pendle Borough Council, Hyndburn Borough Council, Burnley Borough Council, Calderdale Metropolitan Borough Council and Kirklees Metropolitan Borough Council. SI 2020/846 added the area of Preston City Council into the protected area.
30. On 13 August restrictions on more types of business were removed from the National Regulations,<sup>13</sup> but based on the epidemiological evidence and discussion with local leaders, it was decided not to allow these restrictions to be lifted in the protected areas in the North of England. SI 2020/865 gives effect to that decision by disapplying the relevant provision in the National Regulations and inserting business closures provisions into the North of England Regulations. These are temporary regulations and must be reviewed at least once every 14 days; no changes were made to the restrictions on gatherings after the first review. Following a further review of the epidemiological evidence, SI 2020/897 removed Wigan Metropolitan Borough Council and Rossendale Borough Council from the protected area. The next review was due by 28 August 2020.

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13 Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 ([SI 2020/684](#)).

### Changes to business practice and regulation

#### *Enterprise Act 2002 (Turnover Test) (Amendment) Order 2020 (SI 2020/763)*

31. This Order amends section 23 of the Enterprise Act 2002 (“the Act”) which sets out when a “relevant merger situation” may arise which may be investigated by the Competition and Markets Authority on competition grounds, and in which the Secretary of State may intervene under section 42 of the Act on the ground of public interest, including national security considerations. Under the Act, a “relevant merger situation” is created if two or more enterprises cease to be distinct and the thresholds of a “turnover test” or “share of supply test” are met. These thresholds were amended in 2018 for certain “relevant enterprises”, so that a business being taken over must have a UK turnover of over £1 million, rather than £70 million, and the requirement in the share of supply test to increase the share of supply was removed.<sup>14</sup> The current “relevant enterprise” categories to which the lower thresholds apply are businesses involved in military or dual use technologies, computing hardware and quantum technologies. An earlier instrument<sup>15</sup> added three new types of enterprise to the businesses to which the lower share of supply test applies: enterprises involved in artificial intelligence, cryptographic authentication and advanced materials. This Order ensures that the lower turnover test also applies to these three additional categories of enterprise. The Department for Business, Energy and Industrial Strategy (BEIS) explains that the earlier instrument and this Order will come into force on the same day, and that this Order is intended as a “short-term measure” to protect key sectors of the economy at a time of uncertainty, including as a result of the pandemic, until more fundamental reform is taken forward through the National Security and Investment Bill. BEIS says that this Bill will be introduced “when Parliamentary time allows”. **The Committee reiterates its call on the Department, as highlighted in our report on the earlier instrument, to give a timetable for the introduction of the Bill without delay, given the significance of the issues and the urgency to act.**

#### *Infrastructure Planning (Publication and Notification of Applications etc.) (Coronavirus) (Amendment) Regulations 2020 (SI 2020/764)*

32. This instrument removes temporarily various publicity and notification requirements in relation to Development Consent Orders (DCOs), which grant planning consent for Nationally Significant Infrastructure Projects. Under this process, there are obligations on applicants (or the Secretary of State where relevant) to put documents at specified locations, for example near the proposed project, for inspection at certain stages of the process. The Ministry of Housing, Communities and Local Government (MHCLG) says that this instrument requires relevant documents to be made available for inspection on a website instead, which has to be maintained by or on behalf of the applicant or the Secretary of State (depending on the procedural step concerned). According to MHCLG, the instrument is necessary because of the restrictions on movement and accessibility that have resulted from the pandemic. The changes are temporary and will expire on 31 December 2020. **While we understand the need for flexibility at this time, as**

14 The original share of supply test set out that a relevant merger situation is created if a merger results in the creation of, or increase in, a 25% or more combined share of sales or purchases in the UK of goods or services.

15 Enterprise Act 2002 (Share of Supply) (Amendment) Order 2020 (SI 2020/748), see: [21st Report](#), Session 2019–21 (HL Paper 96).

**the Explanatory Memorandum (paragraph 7.6) acknowledges, “the changes could have the potential to reduce access to information, and the ability to make representations, for those people who do not have internet access at home”. The House may wish to press the minister for an assurance that this new provision does not compromise the principle of fair access to information for all those who may be affected by relevant infrastructure projects.**

*Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020 (SI 2020/765)*

33. This instrument removes temporarily the requirements on the Mayor of London and combined authorities that have powers to develop spatial development strategies, such as Greater Manchester and the Liverpool City Region, to make certain documents available for physical inspection and to provide hard copies on request. The documents will, instead, need to be made available on the relevant authority’s website. The Ministry of Housing, Communities and Local Government explains that spatial development strategies are needed to set out a framework for the future development of an area, including releasing land for housing, and for encouraging and directing investment into the area. The modifications are temporary and will apply until 31 December 2020.

*Road Vehicles (Certificates of Temporary Exemption) Regulations 2020 (SI 2020/812)*

34. Heavy vehicle roadworthiness testing was suspended in March 2020 due to the safety risk posed by coronavirus to testing staff. This had resulted in a backlog of over 200,000 incomplete tests by July 2020, when testing was reintroduced. This instrument allows the Secretary of State to issue certificates of temporary exemption (CTE) from the requirement to hold a test certificate for public service vehicles adapted to carry more than eight passengers and for goods vehicles, so that these vehicles do not have to be taken off the road. The Department for Transport will focus available testing capacity on the vehicles posing the highest road safety risk, while safer vehicles can be tested when capacity allows (criteria are set out in regulation 4). This new approach, which will necessarily involve the exercise of the Driver and Vehicle Standards Agency’s (DVSA) judgement, has been enabled by the changes introduced by the Business and Planning Act 2020. It is a **permanent change** which can be used whenever exceptional circumstances (including a fire, an epidemic, severe weather, or a failure in the supply of essential services) make it necessary. DVSA will monitor the effects on road safety.

*Employment Rights Act 1996 (Coronavirus, Calculation of a Week’s Pay) Regulations 2020 (SI 2020/814)*

35. This instrument ensures that various statutory entitlements in Great Britain that are based on a week’s pay and related to termination of employment are not reduced as a result of an employee being furloughed under the Coronavirus Job Retention Scheme (CJRS). The entitlements are redundancy pay; notice pay; compensation for unfair dismissal; payments resulting from a failure to provide a written statement of reasons for dismissal; payments resulting from a failure to comply with an order for reinstatement or re-engagement; and remuneration for time off to look for employment or arrange training. According to the Department for Business, Energy and Industrial Strategy

(BEIS), the policy objectives of the instrument are to provide greater certainty in the calculation of a week's pay and to ensure, for the benefit of furloughed employees whose employment is terminated, that the calculation of statutory entitlements relating to termination is based on their normal pay, rather than their furlough pay. BEIS says that the changes are time limited as they only concern employees furloughed under the CJRS. Equivalent legislation was commenced in Northern Ireland on 14 August.

*Electricity (Individual Exemptions from the Requirement for a Transmission Licence) (Coronavirus) Order 2020 (SI 2023/815)*

36. This instrument grants time limited exemptions from the requirement to hold an electricity transmission licence to four offshore wind farms. The Department for Business, Energy and Industrial Strategy (BEIS) explains that under the current rules, electricity generators build and test offshore wind farms and a tendering process is then used to select an independent offshore transmission owner (OFTO) to operate a wind farm. BEIS says that the pandemic has disrupted current tendering processes, so that generators are unable to transfer wind farms to an OFTO. The exemptions introduced by this instrument in effect extend the period during which generators can transmit electricity to the grid without a licence, to help ensure that projects have sufficient time to conclude commercial negotiations and complete the transfer of the asset to an OFTO. BEIS says that without the instrument, generators would be unable to continue generating and transmitting electricity lawfully. The exemptions will expire on the relevant date specified in the instrument, or upon transfer of ownership of the transmission asset to an OFTO if that is earlier. BEIS says that the Scottish Government were consulted on the exemptions, with particular reference to Beatrice wind farm, which is located within Scottish waters, and that they support the exemptions.

*Offshore Chemicals and Offshore Petroleum Activities (Oil Pollution Prevention and Control) (Coronavirus) (Amendment) Regulations 2020 (SI 2020/855)*

37. This instrument removes temporarily a requirement for offshore oil and gas operators to make certain documents available for public inspection at a specified UK address, if the effects of coronavirus, including restrictions on movement, mean that it is not reasonably practicable for the public to inspect the documents in this way. The documents relate to the application for permits required for the use and discharge of chemicals in connection with offshore petroleum activities and offshore storage and unloading activities. The Department for Business, Energy and Industrial Strategy (BEIS) says that the temporary changes are needed as there will be potentially three permit applications in 2020 that will be subject to public inspection, and that without the changes the developments would be delayed because offshore oil and gas operators would be unable to make copies of the required documents available for public inspection as required. BEIS explains that the public will be able to obtain copies of the relevant documents by post or electronically and that the applicant must make a copy of the application available online. The changes will cease to have effect 12 months from the date the instrument comes into force.



## Travel

### *Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 5) Regulations 2020 (SI 2020/813)*

38. This instrument amends the original Health Protection (Coronavirus, International Travel) (England) Regulations 2020<sup>16</sup> to take into account the outcome of the second statutory review of those Regulations, which was completed on 27 July 2020. The Regulations provide that a person who is required to be in self-isolation is not required to isolate themselves from a visitor who is there to provide certain services including care and medical assistance. They amend Schedule 2 to remove the exemption from the requirement to self-isolate for certain health or care professionals, and they update the list of elite sports competitions in Schedule 3. The instrument also corrects the original Regulations (as amended) to address concerns raised by the Joint Committee on Statutory Instruments so that the time periods specified are capable of being identified more precisely.

### *Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 6) Regulations 2020 (SI 2020/819)*

### *Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 7) Regulations 2020 (SI 2020/841)*

### *Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 8) Regulations 2020 (SI 2020/866)*

### *Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 9) Regulations 2020 (SI 2020/881)*

### *Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 10) Regulations 2020 (SI 2020/890)*

### *Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 11) Regulations 2020 (SI 2020/913)*

39. These six sets of regulations all amend the principal Regulations,<sup>17</sup> to add or remove specific countries from the lists in the Schedules that set out whether passengers arriving in England from those destinations will be required to self-isolate for 14 days. All changes are based on the latest assessment by the Joint Biosecurity Centre, with Public Health England, of COVID-19 infection rates in those countries:

- SI 2020/819 required all passengers arriving from Luxembourg after 31 July to self-isolate;
- SI 2020/841 required all passengers arriving from Andorra, the Bahamas and Belgium after 8 August to self-isolate but added Brunei and Malaysia to the exempt list with effect from 11 August;
- SI 2020/866 required all passengers arriving from Aruba, France, Malta, Monaco, the Netherlands, and Turks and Caicos Islands to self-isolate with effect from 15 August and amended the list of exempt elite sports competitions in Schedule 3 of the principal regulations;

<sup>16</sup> Health Protection (Coronavirus, International Travel) (England) Regulations 2020 ([SI 2020/568](#)).

<sup>17</sup> [SI 2020/568](#), as above.

- SI 2020/881 added Austria, Croatia and Trinidad and Tobago to the list of countries requiring passengers to self-isolate with effect from 22 August but added Portugal to the exempt list. It also added another event to the list of exempt elite sports competitions in Schedule 3 of the principal Regulations;
- SI 2020/890 revoked and replaced SI 2020/881 before it came into force, due to a clerical error in the physical document that was signed by the Secretary of State; and
- SI 2020/913 added the Czech Republic, Jamaica and Switzerland to the list of countries requiring passengers to self-isolate with effect from 29 August but added Cuba to the exempt list. All persons arriving in England from outside the Common Travel Area are now required to provide the address or addresses at which they will stay for 14 days following their arrival in the United Kingdom. As a result of the third statutory review of the principal Regulations, the instrument amends the exemption for inspectors and surveyors of ships and replaces the list exempt elite sports competitions in Schedule 3 of the principal regulations.

### Public services

#### *Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) (Amendment) Regulations 2020 (SI 2020/808)*

40. These Regulations amend the provisions made in an earlier instrument<sup>18</sup> for the conduct of local authority meetings held before 7 May 2021, and for public and press access to these meetings. The new Regulations amend the definition of “local authority” in the earlier instrument to include Mayoral Development Corporations, Transport for London, Urban Development Corporations and parish meetings. The amendments enable these bodies to hold and alter the frequency and occurrence of meetings without requirement for further notice and for members of these bodies to attend meetings remotely. The amendments also modify the statutory requirements relating to public and press access to meetings and decisions made by local authorities, so that such access may be provided remotely. The Regulations also disapply provisions requiring a parish meeting to hold an annual meeting and modify provisions requiring a parish meeting to give public notice of meetings. The Ministry of Housing, Communities and Local Government says that the instrument ensures that the temporary flexibility for local authority meetings applies to local authorities in the broadest sense, so that they can conduct their business whilst protecting the health and safety of members, officers and the public during the pandemic. The changes are time limited and apply only to meetings taking place before 7 May 2021.

#### *Education (Pupil Registration) (England) (Coronavirus) (Amendment) (No. 2) Regulations 2020 (SI 2020/816)*

41. This instrument enables schools to record when a pupil is not attending in circumstances relating to the coronavirus pandemic, by introducing a specific new category of non-attendance for the 2020–21 academic year. The change

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<sup>18</sup> Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ([SI 2020/392](#)), [11th Report](#), Session 2019–21 (HL Paper 49).

applies to all schools, including independent schools, in England, except schools where all pupils are boarders, and builds on an earlier instrument which suspended temporarily the attendance recording obligations of schools until the end of the 2019–20 academic year.<sup>19</sup> The Department for Education (DfE) explains that while attendance will be mandatory for all pupils of compulsory school age and the ability to issue penalty notices and to use other parental responsibility measures will be restored from the beginning of the new academic year, the changes in this instrument will enable consistent recording of non-attendance due to coronavirus across England and make such non-attendance clearly identifiable in school attendance registers to help schools’ local planning. According to DfE, the new category of non-attendance also supports the Government’s commitment that parents who follow public health advice on shielding, self-isolating or staying at home during a local lockdown will not be penalised and that their child’s attendance record will not be adversely impacted by following official advice. **While the temporary changes made by this instrument are practical and understandable, we take the view that schools will need to take particular care, so that the new category is not used inappropriately, in particular in relation to vulnerable pupils who would be disadvantaged further by not attending school.**

*Rating Lists (Valuation Date) (England) Order 2020 (SI 2020/832)*

42. This Order establishes 1 April 2021 as the valuation date for the next revaluation of non-domestic rates (known as business rates). The Ministry of Housing, Communities and Local Government says that revaluations are intended to reflect in business rate bills the relative movements in rental values since the last revaluation. During the revaluation process the Valuation Office Agency (VOA) updates all rateable values having regard to the rental market at a set date: the so-called valuation date. The valuation date is set two years in advance of the revaluation itself to give the VOA time to collect and analyse rents and set rateable values. Under current legislation, the next revaluation would take effect on 1 April 2022 based on pre-pandemic property values as of 1 April 2019. To reduce the uncertainty for businesses affected by the pandemic, the Government announced in July 2020 that the next revaluation of non-domestic property in England will instead take effect on 1 April 2023.<sup>20</sup> This instrument sets a new valuation date of 1 April 2021 to ensure that the revaluation better reflects the impact of the pandemic on property values.

*National Health Service (Coronavirus) (Charges and Further Amendments Relating to the Provision of Primary Care Services During a Pandemic etc.) Regulations 2020 (SI 2020/885)*

43. This instrument makes pandemic-related changes to some of the Regulations that set the regulatory framework for primary care in England. In particular, it allows for the form filling and provision of evidence (particularly signatures) connected with prescriptions and the provision of dentistry and ophthalmic services to be waived during the pandemic to reduce the risk of cross infection. The amendments also delay the production of pharmaceutical needs assessments by the Health and Wellbeing Boards of local authorities until 1 April 2022 and allow new pharmacy and appliance

<sup>19</sup> Education (Pupil Registration) (England) (Coronavirus) (Amendment) Regulations 2020 (SI 2020/544), see: [17th Report](#), Session 2019–21 (HL Paper 73).

<sup>20</sup> HC Deb, 21 July 2020, [HCWS400](#): (Commons written ministerial statement).

contractor premises a longer period in which to open before the permission to do so lapses.

### Changes to benefits

*Statutory Sick Pay (General) (Coronavirus Amendment) (No. 5) Regulations 2020 (SI 2020/829)*

*Statutory Sick Pay (General) (Coronavirus Amendment) (No. 6) Regulations 2020 (SI 2020/892)*

44. SI 2020/829 updates the Statutory Sick Pay (General) Regulations 1982<sup>21</sup> to align with the amended Guidance issued by Public Health England on 30 July 2020 to provide that a person continues to be eligible for Statutory Sick Pay (SSP) for up to 10 days instead of seven, if they have to self-isolate because they have tested positive for coronavirus or have symptoms of coronavirus.
45. SI 2020/892 extends eligibility for SSP to people who are required to self-isolate for up to 14 days prior to admittance to hospital for planned or elective surgery.

### Law and order

*Civil Procedure (Amendment No. 5) (Coronavirus) Rules 2020 (SI 2020/889)*

46. Given the public health need for people to isolate at home and to prevent homelessness, Practice Direction 51Z ('PD51Z')<sup>22</sup> was introduced on a pilot basis on 27 March to protect renters and homeowners from eviction until 25 June. This was put on a statutory basis and extended until 22 August 2020 by SI 2020/582.<sup>23</sup> Following concerns about rapid increases in infections in local areas this instrument amends Part 55 of the Civil Procedure Rules, the practical effect of which is to extend the current stay on possession proceedings for a further four weeks until 20 September 2020. The Ministry of Justice (MOJ) states that this short further delay will allow time to be sure that all practical arrangements to protect renters are in place, before the stay is lifted.
47. In supplementary material the MOJ stressed that they are trying to balance differing needs fairly. Recently implemented legislative changes now require landlords to provide tenants with six months' notice in most circumstances when seeking to evict, and to provide the court with information on how the tenant has been affected by COVID-19. However, there are some circumstances that are causing landlords, tenants and neighbouring communities untenable levels of stress and financial strain. Once the stay ends, courts will prioritise these most serious cases, particularly those involving anti-social behaviour and serious rent arrears. MOJ said that these additional provisions will be in force until 31 March 2021, reflecting the need to provide tenants with additional protections during the winter months and decisions will continue to be guided by the latest public health advice.

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21 [SI 1982/894](#) as amended by [SI 2020/287](#) among others.

22 MoJ, 'Practice Direction 51z: stay of possession proceedings, coronavirus' (11 June 2020): <http://www.justice.gov.uk/courts/procedure-rules/civil/rules/part51/practice-direction-51z-stay-of-possession-proceedings,-coronavirus> [accessed 3 September 2020].

23 Civil Procedure (Amendment No. 2) (Coronavirus) Rules 2020 ([SI 2020/582](#)) mentioned in our [19th Report](#), Session 2019–21 (HL Paper 84).

## **INSTRUMENTS OF INTEREST**

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### **Draft Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020**

48. This instrument proposes the phasing out of the sale of bituminous coal (traditional house coal), restrictions on the sale of wet wood sold in units up to 2m<sup>3</sup> for domestic burning and limits on the emission of sulphur and smoke from manufactured solid fuels. The restrictions are to apply in England and are backed by criminal sanctions, to be enforced by local authorities. According to the Department for Environment, Food and Rural Affairs (Defra), the measures are needed as domestic wood burning is a major contributor to emissions of fine particulate matter (PM2.5), contributing more to this form of pollution than industrial combustion and road transport combined. Defra emphasises that PM2.5 emissions have been identified by the World Health Organisation as the most damaging air pollutant, and that the instrument does not propose to ban stoves or open fireplaces, but instead encourages a shift to less polluting fuels, such as dry wood, smokeless coal and low sulphur manufactured solid fuels.
49. The Committee sought additional information from Defra about the proposed transition periods for the changes and the proposed certification scheme for wood and manufactured solid fuels, which we are publishing at Appendix 2 of this Report. We have asked the Department to revise the Explanatory Memorandum to include this additional information.
50. During an eight-week consultation in 2018, respondents raised concerns about the impact the measures could have on low income households in rural areas that rely on traditional house coal as a cheap form of heating. The Department responded that “people in fuel poverty should be protected from the effects of more polluting fuels as much as everyone else”, and that an analysis conducted on behalf of Defra showed that “manufactured solid fuels are actually cheaper to burn than coal when energy efficiency is taken into account.” To support these households, however, the Department proposes a transition period until 1 May 2023, during which coal merchants will still be able to sell loose traditional house coal direct to their customers and work with them to “identify alternative fuels which might meet their heating needs at comparable cost”. Defra will develop a communications campaign targeted at domestic burners and prepare plans for training for local authorities to help them provide advice to their residents.

### **Draft Restriction of Public Sector Exit Payments Regulations 2020**

51. This instrument proposes to restrict public sector bodies from making exit payments above £95,000. The power to introduce this cap was added to the Small Business Enterprise and Employment Act 2015 by section 41(1) of the Enterprise Act 2016. The UK public bodies covered by the cap are listed in the schedule to the draft Regulations. According to HM Treasury (HMT), exemptions are proposed for the Armed Forces, Government Communications Headquarters, the Security Service and the Secret Intelligence Service due to their special employment conditions. The Royal Bank of Scotland Group plc, Northern Rock Asset Management Limited and Bradford and Bingley are also to be exempt, as these firms are to be returned to the private sector. Exemptions from the cap are also proposed

for certain payments, such as for death in service or in relation to incapacity as a result of accident, injury or illness.

52. HMT explains that some public service pension schemes will have to be amended as the cap will apply to employer-funded arrangements for early access to pension which allow for early retirement when an employee is made redundant. Concerns were raised during consultation, including by the Trades Union Congress, that this could affect longer serving and lower earning employees, especially in local government, who will have accrued a larger pension over a greater number of years and will require a large employer payment to access their pension early. Such concerns were also raised when the proposed cap was debated during the passage of the Enterprise Bill.<sup>24</sup> HMT told the Committee that a payment in these circumstances is still “ultimately funded by the taxpayer and so we believe it is appropriate for it to be included in scope of the cap”. HMT expects that pension schemes where this may be an issue will be amended to allow members the option of using their own funds to make up any shortfall or taking a partially reduced pension. HMT added that “in exceptional cases, the waiver system [ ... ] can provide flexibility to protect individuals that would experience genuine financial hardship as a result of their exit payment being capped”. The proposed waiver system would also protect payments made in relation to, for example, whistleblowing or discrimination.

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24 HL Deb, Enterprise Bill, 4 November 2015, [cols 318–380](#) (Grand Committee).

## **INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE**

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### **Draft instruments subject to affirmative approval**

Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020

Restriction of Public Sector Exit Payments Regulations 2020

### **Made instruments subject to affirmative approval**

- SI 2020/822 Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) Regulations 2020
- SI 2020/823 Health Protection (Coronavirus, Restrictions) (Leicester) (Amendment) (No. 3) Regulations 2020
- SI 2020/824 Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) Regulations 2020
- SI 2020/828 Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) Regulations 2020
- SI 2020/839 Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) Regulations 2020
- SI 2020/846 Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (Amendment) Regulations 2020
- SI 2020/856 Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) (No. 2) Regulations 2020
- SI 2020/863 Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 3) Regulations 2020
- SI 2020/865 Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (Amendment)(No.2) Regulations 2020
- SI 2020/875 Health Protection (Coronavirus, Restrictions) (Leicester) (No. 2) (Amendment) Regulations 2020
- SI 2020/882 Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) (No.2) Regulations 2020
- SI 2020/897 Health Protection (Coronavirus, Restrictions) (North of England) (Amendment) Regulations 2020
- SI 2020/898 Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Bradford) (Amendment) Regulations 2020
- SI 2020/906 Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) Regulations 2020
- SI 2020/907 Health Protection (Coronavirus) (Restrictions on Holding of Gatherings and Amendment) (England) Regulations 2020

**Instruments subject to annulment**

- SI 2020/763 Enterprise Act 2002 (Turnover Test) (Amendment) Order 2020
- SI 2020/764 Infrastructure Planning (Publication and Notification of Applications etc.) (Coronavirus) (Amendment) Regulations 2020
- SI 2020/765 Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020
- SI 2020/769 Plant Breeders' Rights (Amendment) (EU Exit) Regulations 2020
- SI 2020/782 Friendly Societies Act 1992 (Accounts) (Amendment) Order 2020
- SI 2020/784 Air Traffic Management (Amendment etc.) (EU Exit) (No. 2) Regulations 2020
- SI 2020/785 Safety of Sports Grounds (Designation) (Amendment) (No. 3) Order 2020
- SI 2020/786 Railways (Miscellaneous Amendments, Revocations and Transitional Provisions) (EU Exit) Regulations 2020
- SI 2020/793 Single Digital Gateway Regulation (Revocation) (EU Exit) Regulations 2020
- SI 2020/796 Online Intermediation Services for Business Users (Amendment) (EU Exit) Regulations 2020
- SI 2020/798 Aviation Security (Amendment) (EU Exit) Regulations 2020
- SI 2020/808 Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) (Amendment) Regulations 2020
- SI 2020/812 Road Vehicles (Certificates of Temporary Exemption) Regulations 2020
- SI 2020/813 Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 5) Regulations 2020
- SI 2020/814 Employment Rights Act 1996 (Coronavirus, Calculation of a Week's Pay) Regulations 2020
- SI 2020/815 Electricity (Individual Exemptions from the Requirement for a Transmission Licence) (Coronavirus) Order 2020
- SI 2020/816 Education (Pupil Registration) (England) (Coronavirus) (Amendment) (No. 2) Regulations 2020
- SI 2020/818 Road Vehicles (Approval) Regulations 2020
- SI 2020/819 Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 6) Regulations 2020
- SI 2020/821 Nursing and Midwifery Council (Coronavirus) (Amendment) (No. 2) Rules Order of Council 2020



SI 2020/825	Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) Order 2020
SI 2020/826	Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) (Amendment) Regulations 2020
SI 2020/829	Statutory Sick Pay (General) (Coronavirus Amendment) (No. 5) Regulations 2020
SI 2020/832	Rating Lists (Valuation Date) (England) Order 2020
SI 2020/841	Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 7) Regulations 2020
SI 2020/849	Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration and Renewables Obligation (Amendment) (EU Exit) Regulations 2020
SI 2020/852	Product Safety and Metrology (Amendment) (EU Exit) Regulations 2020
SI 2020/855	Offshore Chemicals and Offshore Petroleum Activities (Oil Pollution Prevention and Control) (Coronavirus) (Amendment) Regulations 2020
SI 2020/864	Product Safety and Metrology etc. (EU Withdrawal and EEA EFTA Separation Agreements) (EU Exit) Regulations 2020
SI 2020/866	Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 8) Regulations 2020
SI 2020/881	Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 9) Regulations 2020
SI 2020/885	National Health Service (Coronavirus) (Charges and Further Amendments Relating to the Provision of Primary Care Services During a Pandemic etc.) Regulations 2020
SI 2020/889	Civil Procedure (Amendment No. 5) (Coronavirus) Rules 2020
SI 2020/890	Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 10) Regulations 2020
SI 2020/892	Statutory Sick Pay (General) (Coronavirus Amendment) (No. 6) Regulations 2020
SI 2020/913	Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 11) Regulations 2020
SR 165	Universal Credit (Managed Migration and Miscellaneous Amendments) (Amendment) Regulations (Northern Ireland) 2020

## **APPENDIX 1: CORRESPONDENCE: GOVERNMENT DRAFT OPTIONS FOR REGIONAL OR LOCAL INTERVENTIONS**

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### **Letter from Helen Whately MP, Minister of State for Care at the Department of Health and Social Care, to Lord Hodgson of Astley Abbots, Chair of the Secondary Legislation Scrutiny Committee**

Last week, the Government set out the CONTAIN framework for containing and controlling future outbreaks of COVID-19 and ensuring that national and local government can draw on each other to respond to outbreaks in the most effective way possible. Under the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020, made and laid last week, local authorities have powers to close specific premises, close public outdoor spaces, and cancel events. These powers will enable local authorities to act more quickly in response to outbreaks, where speed is paramount.

However, we recognise that actions by local authorities will not always be sufficient. Therefore, we have published draft regulations and guidance that set out clearly the ways in which the Government may intervene at a local level in England, building on the approach taken nationally in March and more recently in Leicester. The draft regulations set out a non-exhaustive set of options, illustrating the ways Government might legislate under the Public Health (Control of Disease) Act 1984 as part of a targeted approach that responds to the particular circumstances of a local outbreak. There are options to:

- close businesses and venues in whole sectors (such as food production or non-essential retail) or within a defined geographical area (such as towns or counties);
- impose general restrictions on movement of people (including requirements to ‘stay at home’ or to prevent people staying away from home overnight, or restrictions on entering or leaving a defined area);
- impose restrictions on gatherings by limiting how many people can meet and whether they can travel in and out of an area to do so;
- restrict local or national transport systems by closing them entirely or introducing capacity limits or geographical restrictions; and
- mandate the use of face coverings in a wider range of public places.

If regulations need to be made, Ministers will select the most appropriate options for the requirements of the local area, ensuring that the legislative response is tailored as appropriate, and alternative measures might be included if those circumstances require it. These measures will allow for effective targeted interventions, while seeking to avoid a return to a national lockdown. In the event that the Government does need to make a significant intervention, it would do so in a way that targets the transmission of the virus while minimising the disruption to the economy and society. As our response to COVID-19 and circumstances in local areas develop over time, we may develop new categories of intervention and will develop draft regulations accordingly.

In legislating to respond to coronavirus, we have had to act urgently and at pace to respond to events. Owing to the continued need to act at pace, we expect to continue to make use of urgent procedures so that these measures take effect as quickly as possible. Parliament would then scrutinise and approve those regulations in the usual way, under the requirements of the Act.

However, we recognise the concerns of parliamentarians and of the parliamentary scrutiny committees on this matter and, therefore, intend that publishing a draft, non-exhaustive set of options will help to address those concerns. By publishing the draft regulations, parliamentarians and the wider public have an opportunity to examine in detail how these regulations might operate and how we may legislate in response to local lockdowns. As such, we would welcome the views of your committees on the draft regulations.

**28 July 2020**

**Letter from Lord Hodgson of Astley Abbotts to Helen Whately MP**

Thank you for your letter of 28 July. The Committee greatly appreciated your decision to publish generic regulations to inform and facilitate our scrutiny role as far as is possible in these difficult times.

The role of the Secondary Legislation Scrutiny Committee is to consider the policy aspects of instruments laid before Parliament and, with regard to any local restrictions legislation, our principal focus would be on the evidence justifying action being taken in the area or region specified. It is not within our terms of reference to comment on draft regulations and illustrative examples.

The Committee nevertheless welcomes your aim to improve both transparency and public understanding of the restrictions legislation and we will publish your letter in our next Report so that the House may also benefit from your initiative.

**8 September 2020**

## APPENDIX 2: CORRESPONDENCE: SUNSET PROVISIONS IN STATUTORY INSTRUMENTS DEALING WITH COVID-19

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### Letter from the Rt Hon. Jacob Rees-Mogg MP, Leader of the House of Commons, to Lord Hodgson of Astley Abbots, Chair of the Secondary Legislation Scrutiny Committee

In my letter of 9 July 2020 I committed to provide an updated list of sunset provisions in statutory instruments (SIs) made in response to the coronavirus pandemic at the beginning of every month.

As of 30 July 2020 the Government has laid 143 SIs that fall into this category, of which 45 include a specific sunset provision.

Annex A sets out the SIs that have been laid in response to the pandemic that include a specific sunset provision along with the timing of that provision. This information is also included in the Explanatory Notes to each SI.

The Government continues to take every step to be as transparent as possible when bringing forward the urgent legislation needed to respond to the pandemic and whether or not it is appropriate to include a sunset provision is always carefully considered.

I hope that this further information is helpful to the Committee and I will continue to provide an updated list at the beginning of every month.

This letter has been copied to the Leader of the House of Lords and the Chairman of the Joint Committee on Statutory Instruments.

**4 August 2020**

*Annex A*

**Table 1**

<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
DHSC	Health Protection (Coronavirus) Regulations 2020	10/02/2022
DHSC	The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020	23/09/2020—This SI was revoked by the below SI.
DHSC	Health Protection (Coronavirus, Restrictions) (England) Regulations 2020	26/09/2020—Now revoked by Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020
DHSC	The Safeguarding Vulnerable Groups Act 2006 (Regulated Activities) (Coronavirus) Order 2020	31/10/2020

<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
HO	Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020	27/03/2021
MHCLG	Town and Country Planning (General Permitted Development) (Coronavirus) (England) (Amendment) Order 2020	31/12/2020
DWP	Universal Credit and Employment Support Allowance Amendment Regulations 2020	12/11/2020
DWP	Northern Ireland equivalent to above	12/11/2020
DWP	Social Security (Coronavirus) (Further Measures) Regulations 2020	12/11/2020
DWP	Social Security (Coronavirus) (Further Measures) Northern Ireland Regulations 2020	12/11/2020
DWP	The Social Security (Coronavirus) (Prisoners) Regulations 2020	12/11/2020
DWP	The Social Security (Coronavirus) (Prisoners) Regulations 2020 Northern Ireland	12/11/2020
DfE	The School Admissions (Appeals Arrangements) (England) (Amendment) (Coronavirus) Regulations 2020	31/01/2021
DfE	The Adoption and Children (Coronavirus) (Amendment) Regulations 2020	25/09/20
DfE	The Motor Vehicles (Tests) (Amendment) Regulations 2020	30/09/2021
DfE	The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020	25/09/2020
DfE	The Education (School Teachers' Qualifications and Induction Arrangements) (England) (Coronavirus) (Amendment) Regulations 2020	01/09/2020

<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
BEIS	Competition Act 1998 (Dairy Produce) (Coronavirus) (Public Policy Exclusion) Order 2020	01/08/20—No SI was laid to extend these provisions, the sunset provision has come into effect and therefore the SI is no longer in force.
DHSC	Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 2) Regulations 2020	26/09/20—Now revoked by Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020
MHCLG	The Town and Country Planning (Development Management Procedure) (England) (Coronavirus) (Amendment) Order 2020	31/12/2020
MoJ	Prison and Young Offender Institution (Coronavirus) (Amendment) (No. 2) Rules 2020	25/03/2022
MoJ	The Civil Legal Aid (Remuneration) (Amendment) (Coronavirus) Regulations 2020	08/06/2021
DfE	The Traffic Order Procedure (England) (Coronavirus) (Amendment) Regulations 2020	30/04/2021
DfE	School Forums (Coronavirus) SI	01/04/2021
DHSC	Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 3) Regulations 2020	26/09/2020—now revoked by Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020
DHSC	Health Protection (Coronavirus, International Travel) (England) Regulations 2020	08/06/2021
DIT	The Health Protection (Coronavirus, Public Health Advice for Passengers) (England) Regulations 2020	08/06/21—Updated by regulations laid on 6 July.
DIT/ DHSC	The Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020 (S.I., 2020, No. 592)	15/06/21

<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
DHSC	Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 4) Regulations 2020	26/08/2020—now revoked by Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020
MoJ	Competition Appeals Tribunal	25/03/2022
BEIS	The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020	05/04/2021
BEIS	Patents, Trade Marks and Registered Designs (Fees) (Coronavirus) (Amendment) Rules 2020	31/03/21
MOJ	The Secure Training Centre (Amendment) (Coronavirus) Rules 2020	25/03/22
DHSC	Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020	04/01/2021
DHSC	Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020	04/01/2021
DHSC	The Health Protection (Coronavirus, International Travel and Public Health Information) (England) (Amendment) Regulations 2020	08/06/21
HMRC	The Value Added Tax (Zero Rate for Personal Protective Equipment) (Extension) (Coronavirus) Order 2020	31/10/20
HMRC	Value Added Tax (Reduced Rate) (Hospitality and Tourism) (Coronavirus) Order 2020	12/01/21
MHCLG	Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020	31/12/20
MHCLG	Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020	31/12/20
MHCLG	Infrastructure Planning (Publication and Notification of Applications etc.) (Coronavirus) (Amendment) Regulations 2020	31/12/20

Dept	Title	Sunset Provision
MoJ	Civil Procedure (Amendment No. 4) (Coronavirus) Rules 2020	28/03/21
DHSC	Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020	17/01/21
DHSC	Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020	24/07/21
DHSC	Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Luton) Regulations 2020	25/01/21

Source: Leader of the House of Commons

### Letter from Jacob Rees-Mogg MP to Lord Hodgson

In my letter of 9 July 2020 I committed to provide an updated list of sunset provisions in statutory instruments (SIs) made in response to the coronavirus pandemic at the beginning of every month.

As of 27 August 2020 the Government has laid 174 SIs that fall into this category, of which 51 include a specific sunset provision.

Annex A sets out the SIs that have been laid in response to the pandemic that include a specific sunset provision along with the timing of that provision. This information is also included in the Explanatory Notes to each SI.

The Government continues to take every step to be as transparent as possible when bringing forward the urgent legislation needed to respond to the pandemic and whether or not it is appropriate to include a sunset provision is always carefully considered.

I hope that this further information is helpful to the Committee and I will continue to provide an updated list at the beginning of every month.

This letter has been copied to the Leader of the House of Lords and the Chairman of the Joint Committee on Statutory Instruments.

### *Annex A*

**Table 2: COVID-19 SIs with specific sunset provisions**

Dept	Title	Sunset Provision
DHSC	Health Protection (Coronavirus) Regulations 2020	10/02/2022
DHSC	The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020	23/09/2020—This SI was revoked by the below SI.



<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
DHSC	Health Protection (Coronavirus, Restrictions) (England) Regulations 2020	26/09/2020—Now revoked by Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020
DHSC	The Safeguarding Vulnerable Groups Act 2006 (Regulated Activities) (Coronavirus) Order 2020	17/10/2021
HO	Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020	27/03/2021
MHCLG	Town and Country Planning (General Permitted Development) (Coronavirus) (England) (Amendment) Order 2020	31/12/2020
DWP	Universal Credit and Employment Support Allowance Amendment Regulations 2020	12/11/2020
DWP	Northern Ireland equivalent to above	12/11/2020
DWP	Social Security (Coronavirus) (Further Measures) Regulations 2020	12/11/2020
DWP	Social Security (Coronavirus) (Further Measures) Northern Ireland Regulations 2020	12/11/2020
DWP	The Social Security (Coronavirus) (Prisoners) Regulations 2020	12/11/2020
DWP	The Social Security (Coronavirus) (Prisoners) Regulations 2020 Northern Ireland	12/11/2020
DfE	The School Admissions (Appeals Arrangements) (England) (Amendment) (Coronavirus) Regulations 2020	31/01/2021
DfE	The Adoption and Children (Coronavirus) (Amendment) Regulations 2020	25/09/20
DIT	The Motor Vehicles (Tests) (Amendment) Regulations 2020	30/09/2021

<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
DfE	The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020	25/09/2020
DfE	The Education (School Teachers' Qualifications and Induction Arrangements) (England) (Coronavirus) (Amendment) Regulations 2020	01/09/2020
BEIS	Competition Act 1998 (Dairy Produce) (Coronavirus) (Public Policy Exclusion) Order 2020	01/08/20—No SI was laid to extend these provisions, the sunset provision has come into effect and therefore the SI is no longer in

*Source: Leader of the House of Commons*

## APPENDIX 3: DRAFT AIR QUALITY (DOMESTIC SOLID FUELS STANDARDS) (ENGLAND) REGULATIONS 2020

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### Additional information from the Department for the Environment, Food and Rural Affairs

*Q1: The EM states at para 7.3 that the “princip[al] change is that we will be phasing out the supply of traditional house coal, wet wood sold in units up to 2m<sup>3</sup>, and introducing sulphur and smoke emission limits for manufactured solid fuels”. How will this be achieved and from when?*

A1: There will be a phased approach to restricting the sale of the three fuels mentioned above;

- Traditional house coal (aka Bituminous coal) will be phased out from sale for use in domestic combustion as follows;
  - From 1 May 2021 it will no longer be possible to sell bituminous coal in bags, it will only be possible to sell bituminous coal loose via an approved coal merchant.
  - From 1 May 2023 it will no longer be possible to sell bituminous coal for using in a domestic setting.
- Wet wood sales for domestic combustion;
  - From 1 May 2021 it will no longer be possible to sell wood that is not certified as having a moisture content of 20% or below in volumes of less than 2m<sup>3</sup>
  - From 1 May 2021 it will still be possible to sell wood in volumes of 2m<sup>3</sup> or more that has moisture content above 20% that can be dried at home by the consumer. It will be a requirement that suppliers provide guidance to consumers on how to dry wood at home to ensure it is not burnt until it is sufficiently dried.
- Sulphur and smoke limits for Manufactured Solid Fuels (MSFs);
  - From 1 May 2021 it will no longer be possible sell MSFs that exceed a sulphur content of 2% and have smoke emissions of 5g or more per hour.

Both Wood in volumes of less than 2m<sup>3</sup> and all MSFs will need to be certified to enable them to show they meet the restrictions and are therefore legal to be sold. The restrictions set out above apply in England ONLY.

*Q2: Para 10.4 refers to a mandatory certification scheme—are provisions made for this in this instrument? Can you explain how this new scheme will operate?*

A2: There are provisions in the instrument for the certification body for both wood and manufactured solid fuels.

The full details of how the scheme will operate are contained within the instrument (part 2, regulation 5 and part 4, regulation 11) certification will be required to enable small volumes of wood (below 2m<sup>3</sup>) or MSFs to be sold in England. The packaging of these fuels will carry the approved logo for the certification body and provide the certification no. of the supply and name. This will enable for easy identification for consumers and enforcement.

*Q3: The same para refers to a year's delay before the certification scheme is implemented—when will this new scheme start?*

A3: The scheme will come into effect from 1 May 2021, the years delay refers to the time between the Government response being published announcing our policy intent (published 21 February 2020) and the legislation coming into force. This has been extended to the 1 May 2021 to come into force at the end of the burning season rather than part way through.

*Q4: The same para also refers to an extra year for smaller suppliers—is that on top of the year's delay referred to previously and who qualifies as a "smaller" supplier? From when will smaller suppliers have to comply fully?*

A4: A small supplier or small forester is a person who for the purposes of these regulations supplied less than 600 cubic metres of wood for the period of one year ending 30th April 2021. Small foresters will be required to comply with the legislation fully by 1 May 2022, which would give them an extra year from the initial enforcement date of 1 May 2021.

*Q5: Para 10.7 states that "We have carried out analysis which shows that manufactured solid fuels are actually cheaper to burn than coal when energy efficiency is taken into account". Can all burners that use traditional house coal operate using manufactured solid fuels? Could you provide a summary of the analysis that the Department carried out in relation to the expected impact of the proposed measures on those in fuel poverty and could you set out its key findings please?*

A5: We commissioned a report looking a heat outputs of six different fuels, the full report can be found here but I have provided a high level summary below.

We have considered the financial impact on households switching from coal to manufactured solid fuels and commissioned research into the associated costs. The test results indicated that, whilst on face value (i.e. price per bag of fuel) manufactured solid fuels (MSF) are more expensive, they burn more efficiently than coal. This means that the cheapest MSFs, which are available in all areas of England, are in general less expensive on a heat output basis than coal.

Below is data taken from the report commissioned and shows that MSFs are consistently cheaper across England when compared to coal. When fuels were brought in bags MSF 2 was cheaper overall than both coal and MSF 1, when brought in bulk MSF 1 was cheaper than both house coal and MSF 2.

These tests were carried out on an open fire as it is not recommended that coal is burned on appliances other than open fires.

Region	Purchase Cost (£/kg)–Fuel brought in bags										Heat output cost (£/useful kWh output)	
	Average		Maximum		Minimum		Minimum		Heat output cost (£/useful kWh output)			
	House Coal	MSF 1	MSF 2	House Coal	MSF 1	MSF 2	House Coal	MSF 1	MSF 2	House Coal	MSF 1	MSF 2
NE	0.36	0.56	0.48	0.37	0.73	0.56	0.35	0.31	0.39	0.16571	0.17414	0.16193
NW	0.39	0.46	0.43	0.46	0.60	0.56	0.32	0.31	0.33	0.17802	0.14507	0.14386
M	0.37	0.43	0.44	0.39	0.49	0.54	0.35	0.31	0.39	0.17076	0.13382	0.14916
SE	0.45	0.62	0.54	0.50	0.75	0.64	0.40	0.34	0.42	0.20883	0.19519	0.18283
SW	0.37	0.40	0.39	0.37	0.50	0.39	0.37	0.31	0.39	0.17030	0.12606	0.13176

Region	Purchase Cost (£/kg)–Fuel brought in bags										Heat output cost (£/useful kWh output)	
	Average		Maximum		Minimum		Minimum		Heat output cost (£/useful kWh output)			
	House Coal	MSF 1	MSF 2	House Coal	MSF 1	MSF 2	House Coal	MSF 1	MSF 2	House Coal	MSF 1	MSF 2
NE	0.36	0.33	0.35	0.37	0.38	0.35	0.35	0.28	0.35	0.15010	0.10383	0.11825
NW	0.39	0.31	0.35	0.46	0.34	0.36	0.32	0.28	0.35	0.13296	0.09740	0.11993
M	0.37	0.39	0.37	0.39	0.47	0.40	0.35	0.28	0.35	0.16418	0.12173	0.12585
SE	0.45	0.45	0.45	0.50	0.64	0.53	0.40	0.31	0.38	0.18311	0.14157	0.15286
SW	0.37	0.28	0.35	0.37	0.28	0.35	0.37	0.28	0.35	0.15561	0.08864	0.11825

*Q6: Given the vulnerability of many people in fuel poverty—will the Department rely on coal merchants to inform their customers of the new rules or will there be an information campaign targeting those in fuel poverty?*

A6: Loose sales of traditional house coal sold direct to customers via coal merchants will be given an extra 2 years to come into compliance. This transition period will enable government to work with coal merchants through the Approved Coal Merchants' Scheme to advise and educate direct delivery customers with a view to switching them from coal to manufactured solid fuels. As stated in the Clean Air Strategy, we will develop a dedicated communications campaign targeted at domestic burners. This will explain the new requirements and encourage people to burn better and reduce harmful emissions. In response to requests for local education to help householders understand their responsibilities, we will develop plans for providing training for local authorities to help them provide advice to residents in their local areas.

**21 August & 1 September 2020**

## APPENDIX 4: INTERESTS AND ATTENDANCE

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Committee Members' registered interests may be examined in the online Register of Lords' Interests at <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 8 September 2020, Members declared no interests.

### **Attendance:**

The meeting was attended by Lord Chartres, Lord Cunningham of Felling, Lord German, Viscount Hanworth, Lord Hodgson of Astley Abbotts, Lord Lisvane, Lord Sherbourne of Didsbury and Baroness Watkins of Tavistock.