



# Further amendments to English COVID-19 emergency regulations

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The UK government and the UK devolved administrations have enacted emergency legislation to address the effects of the coronavirus pandemic. In England, regulations were originally laid and came into force from 26 March 2020 under the Public Health (Control of Disease) Act 1984. These are the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (the Restrictions Regulations), which impose, among other things, a lockdown on residents and businesses in England.

The Restrictions Regulations were updated with a series of amendments on 21 April 2020.

## Latest updates

On 13 May 2020, the UK government laid the most recent amendment regulations – the Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No.2) Regulations 2020 (the Amendment Regulations), which amend the Restrictions Regulations. These changes came into effect on 13 May 2020.

The latest amendments relax some of the lockdown restrictions, as announced by Prime Minister Boris Johnson in his video address to the nation on the evening of Sunday, 10 May 2020 and in the government's Cabinet Office guidance *Our plan to rebuild: The UK Government's COVID-19 recovery strategy*, published on 11 May 2020.

Most notably, the latest amendments broaden Regulation 6 (restrictions on movement) by providing more expansive examples of what constitutes a "reasonable excuse" for leaving the place where one lives or for remaining outside that place.

Failure to comply with the Restrictions Regulations remains a criminal offence. Individuals and businesses in England should, therefore, ensure they understand the rules, including the latest amendments.

## What are the changes, and what do they mean?

- Regulation 5(4) of the Restrictions Regulations is expanded to allow a person responsible for carrying on a business consisting of the provision of holiday accommodation (whether in a hotel, hostel, bed and breakfast accommodation, holiday apartment, home, cottage or bungalow, campsite, caravan park or boarding house) to provide accommodation for any person:
  - who works in one of the critical sectors listed in the guidance for critical workers who can access schools or educational settings published by the Cabinet Office and the Department for Education and updated on 5 May 2020; and
  - whose need for accommodation is connected to their work.

- Regulation 6(2) of the Restrictions Regulations is amended to create a new reasonable excuse for the need to collect goods ordered from a business in any way permitted under regulation 5(1)(a) (i.e. ordered through a website or otherwise by online communication, or by telephone, including orders by text message).
- Regulation 6(2)(b) of the Restrictions Regulations is amended to expand the reasonable excuse for taking exercise. The amendment is intended to permit exercise to be taken alone, with one or more members of the person's household, or with one member of another household.
- Regulation 6(2)(ba) is inserted into the Restrictions Regulations to create a new reasonable excuse to visit a public open space for the purposes of open-air recreation to promote that person's physical or mental health or emotional wellbeing – alone, with one or more members of their household, or with one member of another household.
  - There is a wide definition for “open public space.” It includes land laid out as a public garden or used for the purpose of recreation by members of the public; land that is “open country” as defined in section 59(2) of the National Parks and Access to the Countryside Act 1949 (as read with section 16 of the Countryside Act 1968); and land that is “access land” for the purposes of Part 1 of the Countryside and Rights of Way Act 2000 (see section 1(1) of that Act).
  - In our view, “promotion of physical, mental or emotional wellbeing” is subjective, and it would be difficult for any enforcement authorities to demonstrate that an individual is improperly using one of these purposes.
  - Although “open public space” is defined broadly, some care should be taken regarding privately owned land that, for outward purposes at least, is open to the public (e.g. the Canary Wharf Estate). Conceivably, this type of land could fall outside the scope of “open public space.”
- Regulation 6(2)(f) of the Restrictions Regulations is clarified to provide that a reasonable excuse includes the need to work or to provide voluntary or charitable services, where it is not reasonably possible for that person to work, or to provide those services, from the place where they're living.
- Regulation 6(2)(l) of the Restrictions Regulations is extended to permit the following specified activities in connection with the purchase, sale, letting or rental of a residential property:
  - visiting estate or letting agents, developer sales offices or show-homes;
  - viewing residential properties to look for a property to buy or rent;
  - preparing a residential property to move in;
  - moving home; and
  - visiting a residential property to undertake any activities required for the rental or sale of that property.
- Regulation 6(2)(n) is inserted into the Restrictions Regulations to create a new reasonable excuse to use a waste or recycling centre.
- Regulation 10 of the Restrictions Regulations is amended to increase the level of fines that may be issued under fixed penalty notices by approximately 40%, and to introduce a system of successively increasing fines for subsequent fixed penalty notices issued to repeat offenders – up to GBP3,200 in the case of a sixth and subsequent fixed penalty notice.
- Schedule 2 Part 2 paragraph 20 of the Restrictions Regulations is clarified so that only “indoor” sports courts are to be closed – previously the provision applied to all sports courts.
- Schedule 2 Part 3 paragraphs 43 and 44 of the Restrictions Regulations are amended to allow “garden centres” and “outdoor sports courts” to open.

## Conclusion

We're supporting businesses and public sector bodies affected by the new emergency measures enacted in response to

the COVID-19 pandemic. Please get in touch with Paul Stone or Paul Hardy, or your usual DLA Piper contact, for more help and advice.

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