



NEXSTART

PUBLIC HEALTH, ENGLAND

The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 4) Regulations 2020 (2020 No. 986)

Made on 13th September 2020

Coming into force at 12.01 a.m. on 14th September 2020

Laid before Parliament at 10.30 a.m. on 14th September 2020

AMENDED

EXPLANATORY NOTE

17/9/20

This Note is written in narrative form to give assistance as to what the latest regulations actually mean. Only occasional references are made to the new paragraph numbers, which are confusing and difficult to follow.

The new regulations mean as follows.

No person may participate (and note the reference to participation as well as organisation) in a gathering which consists of more than six people unless:

(a) all the people in the gathering are from the same household, or are members of two households which are linked households in relation to each other.

“Linked household” is defined (in new regulation 5ZA) as one household comprising **one** adult (with or without children) linked with another household (numbers of adults and children unlimited). These two households have to be exclusively linked to each other - no mix and matching with other households. This applies even if the two households stop being linked with each other – they still can’t link with other households. Rather obviously, the adults in both households have to agree to be linked.

So far as business premises are concerned, people can participate in a gathering on the premises either as a person on their own, or as a member of a “qualifying group”. Business premises are defined as premises operated by a business, a charitable or similar institution or a public body, and they would include hospitality premises, such as pubs, bars, restaurants, etc.

“Qualifying group” is defined in the new regulations as a group of persons who are participating in a gathering which either:

(i) consists of no more than six persons, or

(ii) consists of only persons who are members of the same household, or who are members of two households which are linked households in relation to each other (as explained above).

The person must stay within their qualifying group, and cannot go and join someone else’s group/ gathering and/ or “mingle” with anyone outside of their own qualifying group. The meaning of “mingle” is not clear.

As a result, it is now contrary to the Regulations as well as the Government COVID Guidance to allow groups of more than 6, or groups in their linked households to meet

inside premises. Premises can have more than six people in total, of course. But the organisation of those patrons inside the premises will depend, as before, on the Government COVID Guidance, and the individual risk assessments that premises have done.

<https://www.gov.uk/government/publications/coronavirus-covid-19-meeting-with-others-safely-social-distancing/coronavirus-covid-19-meeting-with-others-safely-social-distancing>

Other Outdoor Exemptions

There is another kind of exemption where a gathering of more than 6 is allowed, if the gathering takes place in another kind of public outdoor space, which isn't part of the premises of any business, charitable etc premises or public body premises. It might be a public open space, like a park, or a market square, or Trafalgar Square. This second kind of exemption applies if the gathering of more than 6 in such an open space has been *organised* by a business, a charitable etc institution, a public body, or a political body, and the gathering organiser complies with paragraph (5G).

Paragraph 5G Risk Assessment

The gathering organiser or manager (as the case may be) complies with paragraph 5 of the Regulations if, in relation to the relevant gathering (ie: the park, or Trafalgar Square kind of gathering), they

(a) have carried out a risk assessment which would satisfy the requirements of regulation 3 of the Management of Health and Safety at Work Regulations 1999, whether or not the gathering organiser or manager is otherwise subject to those Regulations, and

(b) have taken all reasonable measures to limit the risk of transmission of the coronavirus, taking into account (i) the risk assessment carried out under that satisfies the MHSAW Regs, as above, and (ii) any guidance issued by the Government which is relevant to the gathering.

“Gathering organiser” and “Gathering manager” are defined in new paragraph 5(8). Unsurprisingly, “the gathering organiser” means the person responsible for organising a

gathering; and “the manager” means the person responsible for the management of the premises on which a gathering takes place.

These are the other circumstances in which a gathering of more than 6 people can take place:

(b) the person concerned is an elite sportsperson, the coach of an elite sportsperson, or (in the case of an elite sportsperson who is a child), the parent of an elite sportsperson, and the gathering is necessary for training or competition,

(c) the gathering is reasonably necessary—

(i) for work purposes, or for the provision of voluntary or charitable services,

(ii) for the purposes of education or training,

(iii) for the purposes of childcare provided by a person registered under Part 3 of the Childcare Act 2006, or as part of supervised activities provided for children,

(iv) to provide emergency assistance,

(v) to enable one or more persons in the gathering to avoid injury or illness or to escape a risk of harm,

These ones are newly added in this place in the Regs:

(vi) to provide care or assistance to a vulnerable person, including relevant personal care within the meaning of paragraph 7(3B) of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006(a),

(vii) for the purposes of arrangements for access to, and contact between, parents and children where the children do not live in the same household as their parents or one of their parents,”

(d) the person concerned is fulfilling a legal obligation.

[Categories e, f and g are newly added in this place in the Regs:]

(e) the gathering is of a support group.

“Support group” is defined as a group which is organised by a business, a charitable, benevolent or philanthropic institution or a public body to provide mutual aid, therapy or any other form of support to its members or those who attend its meetings, such as (but not limited to) those providing support (a) to victims of crime (including domestic abuse); (b) to those with, or recovering from, addictions (including alcohol, narcotics or other substance addictions) or addictive patterns of behaviour; (c) to new parents; (d) to those with, or caring for persons with, any long-term illness or terminal condition or who are vulnerable; (e) to those facing issues related to their sexuality or identity including those living as lesbian, gay, bisexual or transgender; (f) to those who have suffered bereavement.

(f) the gathering consists of no more than 30 persons and it is for the purposes of a marriage or a civil partnership and it takes place on religious premises or premises which are approved for marriages by legislation. The manager (the statutory word used!) of the wedding etc has to do the paragraph 5G standard of risk assessment (see above).

(g) the gathering is a significant event gathering and (i) it consists of no more than 30 persons, (ii) it takes place at premises, or part of premises (other than a private dwelling) which are operated by a business, a charitable or similar institution or a public body, or in certain types of outdoor spaces that aren't business premises. Again, the manager of the significant event has to do the paragraph 5G standard of risk assessment.

“Significant life event” is defined as a gathering for the purposes of a ceremony, rite or ritual (a) to mark or celebrate a significant milestone in a person's life, according to their religion or belief, such as events to celebrate a rite of passage or entry into a particular faith or coming of age, but specifically NOT a birthday, or (b) to mark a person's death or celebrate their life following their death, such as a funeral, according to the deceased person's religion or belief, including no belief at all.

(h) the gathering is a wedding or civil partnership reception, after the ceremony and (i) it consists of no more than 30 persons, (ii) it takes place in premises other than a private dwelling, and (iii) the gathering organiser does the paragraph 5G standard of risk assessment.

(i) the gathering is for the purposes of protest and (i) it has been organised by a business, a charitable or similar institution, a public body, or a political body, and the gathering organiser complies with the paragraph 5G standard of risk assessment.

(j) the gathering is a sports gathering and the person concerned is taking part in that gathering. “Sports gathering” is defined as a gathering which is organised for the purposes for allowing persons who are not elite sportspersons to take part in any sport or other fitness related activity and (i) which is organised by a business, a charitable, benevolent or philanthropic institution, or a public body, (ii) which takes place on relevant premises or outdoors. A person taking part in a sports gathering does not include a spectator or a parent of any child who is taking part in the gathering.

“Relevant premises” is defined as a place other than a private dwelling (a) which comprise premises or part of premises operated by a business, a charitable or similar institution, or a public body. The manager must comply with the paragraph 5G standard of risk assessment.

(k) the gathering takes place in criminal justice accommodation.

(l) the gathering takes place outdoors (whether or not in a public outdoor space) and it is for the purpose of a relevant outdoor activity.

“Relevant outdoor activity” is defined as a physical activity which is carried on outdoors and for which a licence, permit or certificate issued by a public body is required in order for the organiser or a participant to carry on the activity, or for any of the equipment used for the purposes of the activity. This does not include a licence permitting a person to drive a motor vehicle in the United Kingdom, or a licence to serve food or alcohol - those sorts of licences do not come within the meaning of “relevant outdoor activity”. It might be something like shooting. The organiser of such an activity must comply with the paragraph 5G standard of risk assessment.

The final type of permitted gathering:

(m) the person concerned is attending a person giving birth (“M”), at M’s request.

Further restrictions on gatherings - paragraph 5(4).

The “indoor rave” provision has been reduced from 30 to 6:

5(4) During the emergency period, no person may participate in a gathering which—

(a) consists of more than ~~thirty~~ six persons,

(b) takes place indoors, and

(c) would be a gathering of a kind mentioned in section 63(1) of the Criminal Justice and Public Order Act 1994(2) if it took place on land in the open air. (ie: a rave).

Local Lock-Down

These latest Regulations do not affect the specific lock-down regulations, which apply on their own terms.

Track & Trace

There is no reference in these Regulations to mandatory track and trace, which is due to be implemented on Friday 18 September.

COVID Secure Marshalls

There is no reference to COVID Secure Marshalls.

Sarah Clover

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17 September 2020