

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Second Delegated Legislation Committee

HEALTH PROTECTION (CORONAVIRUS)  
REGULATIONS 2020

*Monday 9 March 2020*

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**Friday 13 March 2020**

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**The Committee consisted of the following Members:**

*Chair:* SIR GRAHAM BRADY

- |  |   |
|--|---|
| † Ahmad Khan, Imran ( <i>Wakefield</i> ) (Con)   | † Hodgson, Mrs Sharon ( <i>Washington and Sunderland West</i> ) (Lab)   |
| † Bacon, Mr Richard ( <i>South Norfolk</i> ) (Con)   | † Johnson, Kim ( <i>Liverpool, Riverside</i> ) (Lab)                    |
| † Baynes, Simon ( <i>Chwyd South</i> ) (Con)   | † Miliband, Edward ( <i>Doncaster North</i> ) (Lab)                     |
| † Bristow, Paul ( <i>Peterborough</i> ) (Con)  | † Murray, Ian ( <i>Edinburgh South</i> ) (Lab)                          |
| † Buck, Ms Karen ( <i>Westminster North</i> ) (Lab)  | † Norris, Alex ( <i>Nottingham North</i> ) (Lab/Co-op)                  |
| † Cadbury, Ruth ( <i>Brentford and Isleworth</i> ) (Lab)                                     | † Throup, Maggie ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| † Carter, Andy ( <i>Warrington South</i> ) (Con)   |   |
| † Churchill, Jo ( <i>Parliamentary Under-Secretary of State for Health and Social Care</i> ) | Laura-Jane Tiley, <i>Committee Clerk</i>                                |
| † Clarkson, Chris ( <i>Heywood and Middleton</i> ) (Con)                                     |   |
| † Crouch, Tracey ( <i>Chatham and Aylesford</i> ) (Con)                                      |   |
| † Double, Steve ( <i>St Austell and Newquay</i> ) (Con)                                      | † <b>attended the Committee</b>   |

## Second Delegated Legislation Committee

Monday 9 March 2020

[SIR GRAHAM BRADY *in the Chair*]

### Health Protection (Coronavirus) Regulations 2020

6 pm

**The Parliamentary Under-Secretary of State for Health and Social Care (Jo Churchill):** I beg to move,

That the Committee has considered the Health Protection (Coronavirus) Regulations 2020 (S.I. 2020, No. 129).

In the time available to me, I will remind hon. Members of the seriousness with which we should address the threat of covid-19, and the context for the Government's response. I will then explain the workings of the regulations and how they fit into our wider strategy for addressing the outbreak.

On 31 December 2019, Chinese authorities notified the World Health Organisation of an outbreak of pneumonia in Wuhan city, which was later classified as the new disease covid-19. Based on current evidence, the main symptoms of covid-19 are a cough, a high temperature and, in severe cases, shortness of breath. It is a new virus, so there is a lack of immunity in the general population and, as yet, no effective vaccine. This means that covid-19 has the potential to spread extensively in the population, as we are seeing.

As of 9 March, 36 further people in England have tested positive for covid-19, bringing the total cases in England to 280. The total for the United Kingdom now stands at 319, including 23 in Scotland, four in Wales and 12 in Northern Ireland. Fifteen cases have been discharged following two consecutive negative test results, and contact tracing is still under way for all cases, including where the route of transmission is not yet clear.

Although our knowledge is growing by the day, much remains unknown. The four UK chief medical officers have been clear that the disease currently presents a moderate risk to the public, but that planning and preparation for the potential of a more widespread outbreak is sensible. As the Prime Minister made clear, there could be a "very significant expansion" of the number of coronavirus cases in the UK.

Tackling covid-19 requires a robust, integrated and proportionate response. On 3 March, the Prime Minister introduced the UK's coronavirus action plan, providing the public with information on what the Government have done and plan to do to tackle the coronavirus outbreak. The Government's approach to tackling covid-19 can be summarised in four succinct phrases: contain, delay, research—this underpins everything—and mitigate. The Government have focused over past weeks on the containment phase, taking measures to limit the spread of the virus as much as possible. A crucial aspect of that is ensuring that people who are contacts of known cases, or who are considered to be at high risk of

infection, are isolated from others for a period of time, ensuring that they cannot infect others but can readily access help if they fall ill.

However, we are acutely aware of important gaps in our public health legislation that could undermine the success of this policy. It was to address these gaps that the Secretary of State for Health and Social Care laid the instrument before Parliament on 10 February 2020 and made a statement to the House on 11 February 2020 about that action. The regulations provide the power to screen, isolate and detain those at risk of spreading covid-19 and, if necessary, to keep them isolated for a period of time.

I will explain the powers in the regulations for the benefit of the Committee. Regulation 3 places stringent requirements on when the regulations can apply. First, the Secretary of State must declare

"that the incidence or transmission of Coronavirus constitutes a serious and imminent threat to public health".

Secondly, the incidence or transmission of the virus must be at such a point that the regulations may reasonably be considered effective in preventing further transmission.

Regulation 4 sets out that the Secretary of State or a registered public health consultant may require that someone is detained for screening and assessment, either if they reasonably believe that that person is, or may be, infected with coronavirus and may infect or contaminate others with that virus, or if that person has arrived into England from an affected area. Regulation 5 permits them to impose various restrictions to ensure that screening and assessment can take place. Regulation 6 outlines in more detail what screening may involve. Regulation 7 sets out further restrictions that may be applied, including restrictions on travel, activities and contact with others.

Regulation 8 covers the isolation of persons who are or who are suspected to be infected with coronavirus. Regulation 9 places a requirement on the Secretary of State to have regard to the wellbeing of anyone who is detained and to review any continued detention over a 14-day period. Those are important safeguards when imposing restrictions on individuals.

Regulation 10 relates to the application of the provisions to groups. Regulation 11 enables a registered public health consultant or the Secretary of State to apply for a part 2A order for powers to protect public health. Regulation 12 covers appeals, while regulations 13 and 14 enable police constables to enforce detention requirements or to initiate detention if they have reasonable grounds to suspect that someone is or may be infected with coronavirus. Regulation 15 covers offences, while regulation 16 sets out that the regulations are subject to sunset two years from the date of commencement.

The regulations enable the Government to take the necessary steps to minimise onward transmission by individuals who are or who may be infected with the covid-19 virus, and to ensure that those steps are proportionate and effective. I therefore commend the regulations to the Committee.

6.7 pm

**Mrs Sharon Hodgson** (Washington and Sunderland West) (Lab): It is an honour to serve under your chairmanship this afternoon, Sir Graham.

I thank the Minister for introducing the statutory instrument and summarising it so clearly. More generally, on behalf of the Opposition I thank the Government

for their co-operation on covid-19 and for regularly updating the shadow Secretary of State for Health and Social Care, my hon. Friend the Member for Leicester South (Jonathan Ashworth). It is very important that we work together as much as we can on this issue and I know that the Minister has been leading that process.

First and foremost, our thoughts are with the loved ones of the four people in the UK with covid-19 who have sadly died and with all those who have contracted the virus. I pay tribute to all health staff, as well as to the chief medical officer and the chief scientific adviser, who have shown exceptional leadership.

Public health and safety must come first, which is why the Opposition will not push for a vote on this SI. We will support and co-operate with the Government where decisions are based on scientific and medical advice, and of course we support the strategy to contain, delay, research and mitigate the disease.

That brings me to the SI that we are considering. I agree that the transmission of covid-19 constitutes a serious and imminent threat to public health, and I know that this outbreak will already be alarming to many people across the country. The Government must therefore ensure that their response is proportionate and timely.

We are not yet at the delay stage, but I understand that we are moving away from the contain stage. We have seen evidence of transmission within communities—that is, a number of people have contracted the virus who have not recently returned from an at-risk country. Given that, is the SI perhaps not already out of date? The Minister said that there will probably be further legislation in the weeks to come, and I am sure that the process will be ongoing. If the virus has already begun to spread, will quarantine alone deliver the ongoing delay that we all hope to see? If we are to move officially on to the delay stage in the coming days, can the Minister please outline what steps the Government will take in terms of emergency legislation?

The regulations mean that any patient who is deemed by a health professional to be at risk of spreading covid-19 must stay in supportive isolation before the quarantine period of 14 days is complete. Can the Minister please elaborate on how that will be enforced on a mass scale? The prospect of staying in quarantine for 14 days can understandably be alarming for some people, not least if they have a family to care for or a job that helps them to make ends meet. I will come on to that point more widely in a moment.

At what point will the regulations be enforced: when someone expresses a desire to leave quarantine, or when they actually attempt to leave quarantine? Will there be police on hand at each isolation facility to ensure that patients do not leave quarantine without permission? If so, have the Government made an assessment of what that will cost police forces? Will the Government be providing extra forces and funding to police forces to carry out that role? What guarantees can the Minister give to health professionals and police officers that they will be protected from the virus during this time?

I am grateful that the SI includes an expiry date, but can the Minister tell the House what assessment was made in choosing two years?

As has been mentioned, many people will be concerned about not only the virus, but the implications that the regulations could have for them. The gig economy,

zero-hours contracts and earnings thresholds mean that around 2 million workers are ineligible for statutory sick pay. It is unacceptable that some of the lowest-paid workers who need to self-isolate will be forced to make the choice between health and avoiding financial hardship. What regulation are the Government bringing forward to guarantee statutory sick pay from day one, and will it be backdated for people who have already self-isolated due to covid-19?

The Prime Minister suggested that those not entitled to SSP would be eligible for universal credit, but the Government's own guidance says that it takes about five weeks to get the first payment. That clearly is unacceptable. As I said during the debate on health inequalities last week:

“The Government's inaction to improve these inequalities in our society will not only continue to hurt the poorest and most vulnerable; in turn, the rest of society will also suffer.”—[*Official Report*, 4 March 2020; Vol. 672, c. 945.]

I hope that the Minister can answer those questions. I urge the Government to address the question of statutory sick pay and universal credit as a matter of urgency.

6.12 pm

**Jo Churchill:** I do not know whether I caught every one of those questions, but if I have missed any, I promise I will write to the hon. Lady to fill in the gaps. I will give it my best shot.

The legislation was made to ensure that we had the means of detention there, should we need it. If we go back—I see that one of the hon. Members from the Wirral, or near the Wirral, is here—

**Kim Johnson** (Liverpool, Riverside) (Lab): Liverpool.

**Jo Churchill:** Liverpool. I will take this moment to put on record how brilliant not only the health service, but the local councils and everybody involved in the self-isolation of individuals at both Arrowe Park and Kents Hill Park have been. However, the need to have a deterrent was made clear during that period. That is why this statutory instrument was brought forward. It was deemed that the powers to invoke section 2A, go to the magistrates and use that route would perhaps take too much time for us to be able to effect what we may—but what, in the circumstances at that time, we did not—need to do. This piece of legislation is there so that we can invoke it.

On the sunset clause, this legislation will drop after two years. That was deemed a suitable period of time, but if during that period it is determined that coronavirus is no longer a threat, the Secretary of State has the power to revoke. The chief medical officer and chief scientific advisers have indicated that we are not totally sure of the trajectory, and it may be that we get another peak later in the year. We therefore have the flex to allow us to invoke these measures. I hope that that provides clarity.

The regulations give public health consultants, public health officers, the Secretary of State and members of the constabulary the power to detain. All appropriate safety measures would be taken if we were to use those powers. The hon. Member for Washington and Sunderland West was rightly concerned for anyone enforcing these measures. Instructions on how people are to behave at the point at which these measures are invoked is covered, with the personal equipment they may need and so on,

[Jo Churchill]

to ensure that everyone is kept safe. Ensuring population safety and being led by scientific advice is at the heart of the Government's response to coronavirus.

It may be that we move on from self-isolation and need the regulations for something different. As we move forward, isolation will probably be for different reasons, such as protecting the vulnerable, among others.

I totally understand the hon. Lady's comments about statutory sick pay and so on, but the Secretary of State answered many of those points during the urgent question earlier. He said that many such challenges have been sorted out, but that some—particularly those for the self-employed—have proved trickier to deal with through the normal channels, because statutory sick pay is normally received from the employer.

**Ms Karen Buck** (Westminster North) (Lab): The Minister may be coming on to this, although she has moved on from the question she was asked about capacity. What are the resource implications if a small but potentially significant number of people need to be detained against their will? Even if only 0.1% of people needed to be detained, that would have significant implications in respect of where they are detained and how that is enforced, as well as for the police. Will she give us some detail on that?

**Jo Churchill:** On enforcement, the police have powers to take individuals into custody and return them to designated places. Just as we invoked Arrowe Park and Kents Hill Park, we have other facilities around the country to ensure that people can be encouraged to complete their period of quarantine to protect others. That is the point of these powers. It is not envisaged that this would be used for a mass quarantining situation.

**Tracey Crouch** (Chatham and Aylesford) (Con): I am sure that the Minister is coming to this point, but the hon. Member for Washington and Sunderland West asked a question that pricked up my ears, not just as a Member of Parliament but as the proud aunty of a police constable in Kent, about the advice officers will receive about maintaining their own wellbeing in the event of these powers being executed.

**Jo Churchill:** I am quite happy to write to my hon. Friend on the specifics, rather than give her something that is not correct, because I do not have the exact answers to hand and that is not really in the scope of the regulations. I hope she will forgive me.

**Tracey Crouch:** I will be happy to receive that correspondence, as I am sure will many colleagues, but it would be reassuring for Members of Parliament—as well as proud aunts—to know that such conversations are taking place with the Home Office and with police and crime commissioners, so that chief constables are getting out to their frontline police officers what protective measures they need to take when dealing with those who may need to be detained because of coronavirus.

**Jo Churchill:** I hear what my hon. Friend says and I assure her that conversations are under way with all elements of the public sector to ensure that people's safety is paramount at all times: proud aunts, worried

mums, brothers, sisters, all of them. She makes a serious point. We must have adequate information so that those whom we expect to do things feel safe. The same applies to the advice being given right through the health service. All those elements are extremely important.

However, I reiterate the point that this specific piece of legislation is to ensure that an individual can be encouraged to continue and fulfil their period in isolation if we are concerned that they might infect the broader population. The measure is for those single cases. It might not involve a police constable; it could just as likely be another individual if the powers are necessary. I stress that we have not used the regulations since they were laid on 10 February. They have been an excellent deterrent.

**Ruth Cadbury** (Brentford and Isleworth) (Lab): I thank the Minister for her explanation of the purpose of the regulations. I absolutely understand they might not be needed, because we hope that people will comply with what is best not only for themselves, but for the population as a whole. Unfortunately, this is an instance where human rights have to temporarily take a back seat to the importance of the health of the whole population, including the person concerned.

My hon. Friend the Member for Washington and Sunderland West has raised specific questions, and the Minister has been very kind in answering them. I have one question that my hon. Friend did not raise about appeals in regulation 12, which states:

“A person in relation to whom a restriction or requirement is imposed under these Regulations may appeal to the magistrates' court against the decision to impose that requirement or restriction.” Ditto a person with parental responsibility. I recognise that the Minister might need to get back to me, but what if a magistrate finds in favour of the state and upholds the state's restriction on that person? Does that person have a right of appeal? If the magistrate finds in favour of the person who is restricted and says, “No, it was not necessary to impose restrictions on you,” does the state have the power of appeal against the magistrate's decision?

**Jo Churchill:** If I may, I will write to the hon. Lady with accurate clarification on that, but the move to detain somebody would be when they were known to have the virus, and therefore on the basis of public health and taking the advice of public health officials, they would be a known risk to others. I would therefore argue that what she suggests would not apply. However, I will write to confirm that.

I thank hon. Members for their contributions to the debate. We must continue to take the most appropriate and effective measures to tackle the new virus. Keeping people safe is our absolute top priority. The regulations are an important part of that work and I conclude that they are essential to support the Government's response to the covid-19 outbreak. They are, as I have said, time-limited and include safeguards and requirements on those exercising the powers to ensure that they are used only for essential public health measures. I commend the regulations to the Committee.

*Question put and agreed to.*

6.24 pm

*Committee rose.*



