

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

HEALTH PROTECTION (CORONAVIRUS,
RESTRICTIONS) (NO. 2) (ENGLAND)
(AMENDMENT) REGULATIONS 2020

Monday 20 July 2020

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The Committee consisted of the following Members:

Chair: †JULIE ELLIOTT

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|---|---|
| † Ansell, Caroline (<i>Eastbourne</i>) (Con) | † Largan, Robert (<i>High Peak</i>) (Con) |
| † Bradley, Ben (<i>Mansfield</i>) (Con) | † Madders, Justin (<i>Ellesmere Port and Neston</i>) (Lab) |
| Brennan, Kevin (<i>Cardiff West</i>) (Lab) | † Throup, Maggie (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| Byrne, Liam (<i>Birmingham, Hodge Hill</i>) (Lab) | † Western, Matt (<i>Warwick and Leamington</i>) (Lab) |
| † Cartlidge, James (<i>South Suffolk</i>) (Con) | † Whately, Helen (<i>Minister for Care</i>) |
| Champion, Sarah (<i>Rotherham</i>) (Lab) | Whittome, Nadia (<i>Nottingham East</i>) (Lab) |
| † Crosbie, Virginia (<i>Ynys Môn</i>) (Con) | |
| Davies, Geraint (<i>Swansea West</i>) (Lab/Co-op) | Liam Laurence Smyth, <i>Committee Clerk</i> |
| † Grundy, James (<i>Leigh</i>) (Con) | |
| † Holden, Mr Richard (<i>North West Durham</i>) (Con) | † attended the Committee |
| † Hollinrake, Kevin (<i>Thirsk and Malton</i>) (Con) | |

Second Delegated Legislation Committee

Monday 20 July 2020

[JULIE ELLIOTT *in the Chair*]

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

The Chair: Before we begin, I re-emphasise that we must stick to the social distancing markers on the desks, so that we are all safe. I am happy for Members to take off their jackets on this warm afternoon. If Members speak, they may email their notes to handsardnotes@parliament.uk, rather than handing them over physically.

4.30 pm

The Minister for Care (Helen Whately): I beg to move,

That the Committee has considered the Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) Regulations 2020 (S.I., 2020, No.719).

It is a pleasure to serve under your chairmanship, Ms Elliott.

The regulations were made by the Secretary of State for Health and Social Care on 9 July and came into force on 11 and 13 July. I thank the House for being so flexible in scheduling this debate to allow for timely parliamentary scrutiny. I note that, because of that flexibility, we are debating this statutory instrument before it has been formally cleared by the Joint Committee on Statutory Instruments.

Thanks to an immense national effort to slow the spread of the virus, we have been able to restore some of the freedoms that are cherished by us all. The regulations made on 3 July allow us to do that. They were debated on 16 July, and they committed several sectors to reopen, including hospitality and leisure. They also require some businesses to remain closed, owing to increased transmission risk from covid. However, we continue to ease remaining restrictions as the Government work with the relevant sectors to develop covid-safe practices.

As set out in the Health Secretary's statement to the House on 16 July, we are moving from blanket national measures to targeted local measures, supported by our NHS test and trace system. Those measures may be implemented on a small scale, such as relating to an individual farm or a factory, but when needed, we may also act on a broader basis, as we did in Leicester. To allow that shift from national to local action, we have provided local authorities with new powers to enable those authorities to put in place local restrictions on individual premises, organised events and access to defined outdoor public spaces under the regulations that came into effect on Saturday. That includes the ability to require premises, events or public spaces to close.

The amendments we are debating allow outdoor facilities at water parks and outdoor swimming pools to reopen from 11 July, and allow the following close-contact services to open from 13 July: nail bars, tanning booths

and salons, massage parlours, tattoo parlours, body and skin piercing services, and spas and beauty salons. Guidance has been published for those sectors, outlining how they may open safely. For example, they set out that face treatments should not be offered, although those will be allowed from 1 August, and that indoor pools and gyms within a spa should not open.

Along with the changes to regulations, guidance has been issued on how organised outdoor grassroots team sports and participation events may begin again, and how outdoor performances with an audience may take place. This is an important milestone for our performing artists, who have been waiting patiently in the wings since March.

As the Committee is aware, we have announced plans for future changes. The Secretary of State for Digital, Culture, Media and Sport announced that we plan for fitness and dance studios, indoor gyms and sports venue facilities, and indoor swimming pools and water parks to be able to open from 25 July. People will be able to get back to their gyms, indoor swimming pools and leisure centres, and to jump on a spin bike or treadmill for the first time in months.

In addition, the Prime Minister set out that from 1 August, subject to prevalence remaining around or below current levels, we will reopen most remaining leisure settings, namely bowling, skating rinks and casinos, provided they follow covid-secure guidance; enable all close-contact services to resume, including treatments on the face, such as eyebrow threading and make-up applications; restart indoor performances to a live audience, subject to the success of pilots; pilot larger gatherings in venues with a range of sizes of crowds, including in sports stadiums and business events, with a view to a wider reopening later in the autumn; allow exhibition halls and conference centres to reopen; allow small wedding receptions of no more than 30 people; give employers more discretion on how they ensure that employees may work safely; and confirm that the clinically extremely vulnerable will no longer need to follow the advice on shielding. Those are all positive developments.

We continue to follow the science when making those changes so that we ensure that any remaining measures are both proportionate and necessary. That is why some businesses will still need to remain closed from 1 August. They are nightclubs, dancehalls, discotheques and other similar venues; sexual entertainment venues and hostess bars; and indoor play areas, including soft play areas. Those venues are unable to open at this time as they pose an increased risk of transmission, but we continue to work with those sectors to develop and agree safe ways for them to reopen.

As a nation we have made huge strides in getting the virus, which has brought grief to so many, under control. These regulations will help us to keep the virus cornered and to enjoy the summer safely. I am grateful to all parliamentarians for their valuable scrutiny and I commend the regulations to the Committee.

4.36 pm

Justin Madders (Ellesmere Port and Neston) (Lab): It is a pleasure to see you in the Chair, Ms Elliott, and I wish you success in your first outing chairing a Committee. I thank the Minister for her introductory remarks.

I would like to start by noting a few facts and figures. This statutory instrument amends the Health Protection (Coronavirus Restrictions) (No. 2) for the first time. This is the second time the Minister and I have debated lockdown restrictions, although this is the fifth such debate taking place. I must apologise to the Minister in advance, because the concerns I raised on the last occasion will be repeated today, although I will be a little briefer.

It is just four days since we were here to debate the previous set of regulations following their coming into force on 4 July. We are here today to debate amendments to those regulations, which were laid on 10 July and came into force on 11 and 13 July. This will be the fifth occasion on which I am forced to highlight the unsatisfactory approach to parliamentary scrutiny of the regulations, which was at least acknowledged by the Minister last week and again today. It is still the case, however, that we continue to debate regulations after they come into effect.

I would not be so churlish as not to acknowledge that some progress has been made, as today's debate comes only one week after the regulations came into effect, which is the shortest gap we have managed so far, but once again they have been superseded by events on Friday, when the Prime Minister announced sweeping changes to the regulations, with indoor gyms, pools and other sports facilities to reopen. In addition, the Government advice on going to work is changing from 1 August, along with the reopening of most remaining leisure settings and live indoor theatre settings.

To return to the regulations before us and the fact that we are debating them after the event, I have made it clear on numerous occasions that we accept that the initial regulations had to be hurriedly introduced in response to the rising number of infections. However, the House has now been running for more than two months and Members on both sides, and in the other place, have expressed concern about time not being provided to ensure future changes are debated before they are made. For me, it is evident that the Government are running out of excuses as to why they have failed to ensure that that happens.

As I said last Thursday, parliamentary scrutiny is not something that can be ditched because the timing is inconvenient, especially for regulations such as these, which have huge ramifications. These issues are too important not to be debated and given timely and full parliamentary scrutiny. Last Thursday, I made a plea to the Minister, and I will do so again: we need to find a better way of ensuring that these regulations are debated in a timely manner.

For example, take the set of regulations that were announced last Friday. The Government must have known that the instrument was going to be laid the next day, so surely some time could have been pencilled in this week to debate the regulations before the recess. The regulations contain a new raft of powers for local authorities to tackle local outbreaks, which is to be welcomed, but those important changes will now not be debated until September at the earliest. Without debate, we are unable to ascertain what support will be available to local authorities to utilise those powers. It is important that they have the powers, but they are being asked to exercise them without any guarantee that they will be financially recompensed for that work. What about the

impact on people and businesses affected by a new local lockdown? It would have been helpful to have that debate before the recess so that the Minister could have put on record the answer to those questions so that people knew exactly where they stand.

The Committee will be relieved to hear that that is the last I am going to say about the timing of the debates, but our concern is on the record. We have also made it clear, in previous debates, that it is not acceptable for us to debate the regulations without the full extent of the information on which the Government have based their decisions. I reiterate that position again today.

I have previously asked the Minister why the legally required reviews of 16 April, 7 and 28 May and 25 June have not been published. I have not as yet had a satisfactory answer, so I ask that question again today. The Secondary Legislation Scrutiny Committee has also called on the Government to ensure that that information is provided. Without those reviews, we are not in a position to judge the impact of previous regulations; and when it comes to the current regulations, all that has been published alongside them is an explanatory note telling us that no consultation has been carried out and no regulatory impact assessment has been undertaken.

The key question that we have to ask is whether these regulations will increase the spread of the virus. The answer appears to be that they may do, but the Opposition are in no position to judge the extent of that risk. The explanatory memorandum does tell us—at paragraph 7.4—as it did with the previous regulations, that there is “recognition that these changes may lead to an increase in transmission rates”

and that that

“will continue to be kept under review.”

Of course, we would expect all the regulations to be kept under review, but we do need some more meat on that bone.

Last week, on the previous set of regulations, I pressed the Minister on whether she was able to provide us with clarity about which measures, individually or collectively, were considered likely to lead to an increase in transmission rates, and she was not able to answer that. This is important not just for hon. Members when considering the legislation before us, but for public confidence in the Government's handling of the pandemic, particularly when we hear conflicting views on what the advice is.

For example, last Thursday, the Government's chief scientific adviser, Sir Patrick Vallance, told Members that there was “absolutely no reason” to change the Government's current guidance on working from home, but on Friday, the very next day, the Prime Minister announced that the guidance on working from home would be changed. Conflicting advice and statements from the Government only hinder our fight against the virus. Clear communication is vital in combating the spread of covid-19.

Matt Western (Warwick and Leamington) (Lab): My hon. Friend is making valuable points, as always. To be fair to the Government and to give them credit, when this crisis, the pandemic, started, the Government gave very clear messaging, and they are to be applauded for that. But over recent weeks—perhaps the last couple of months—it has become less clear and potentially more confused, and that is having a big impact on public

[*Matt Western*]

confidence. Also, the businesses that the changes are designed to help cannot keep up with those changes. One seems to replace another, but it is not clear to those businesses where they are in the cycle.

Justin Madders: As my hon. Friend knows, I will always be fair to the Government. The point that he makes is correct: when we first entered lockdown, the messaging was clear. It was probably easier to make things clear at that point, because a clear and consistent message was being applied across the board. But when we first discussed version one of the regulations, I made the point that as we moved forward it would be really important to have a much more nuanced and clear message for the variations that we are having as a result of the changes. My hon. Friend has explained very well why we are not doing quite as well there as we would like.

In terms of clarity, it is really important that we hear from the Minister about the detail behind the statement on transmission. Is that based on advice from scientific advisers? How is the risk quantified? Which elements of the relaxation are considered more risky than others? What mitigating measures are recommended?

There are some clues in the explanatory memorandum about some of the scientific advice on the measures. For example, it tells us:

“The decision to enable the re-opening of”

outdoor settings where multiple households gather, such as

“outdoor swimming pools and waterparks...has been taken based on SPI-M’s”—

SPI-M is the Scientific Pandemic Influenza Group on Modelling—

“previous statement that permitting outdoor contact...while continuing to maintain a 2m distance, would have no more than a very small impact on overall transmission rates.”

That has been considered alongside

“evidence...that UV exposure can reduce the half-life of the virus and ventilation can reduce the risk of aerosol transmission.”

The explanatory memorandum also tells us:

“The decision taken to enable the reopening of close contact services on 13 July is based on an assessment that Covid-19 Secure mitigations mean that existing restrictions are no longer necessary.”

Therefore, we have a little more information than we have seen with previous regulations, but it does seem a little at odds with the statement that these regulations may lead to an increase in transmission rates and it does not replace the need for the reviews of the regulations to be published in full, alongside the full scientific evidence and a full impact assessment.

I mentioned last Thursday that the frequently asked questions on the Government website about what people can and cannot do had not been updated since 9 July, and I am pleased to note that they now have been updated, so at least someone on the Government Benches listens to our speeches.

I also think it is helpful for us to remain clear and consistent about the Government rules as they move forward, as has already been mentioned in an intervention by my hon. Friend the Member for Warwick and Leamington, particularly as changes are coming thick and fast in the next few weeks. I am sure that many hon. Members will recognise that our inboxes are still full of

questions from constituents trying to navigate the constantly changing advice and guidance to keep them and their colleagues, employers, co-workers, friends and families safe. That is the barometer by which we measure the effectiveness of the Government’s communication strategy, and I think there is still some way to go.

Just this morning it has been reported that senior doctors are concerned about the Government’s mixed messages about face masks and returning to work. They warn that a second peak, if combined with a seasonal flu outbreak, could be devastating for the NHS. That highlights the challenge for us all in getting things right, and the importance of communicating changes clearly and consistently.

Matt Western: To amplify that point, the Government are spending a lot of money. Even in my local paper, the *Leamington Courier*, there is a double-page spread placed by the Government, entitled “All in, all together.” It would be interesting to know how much money is being spent on public health messaging and why the opportunity is not being used to place adverts saying clearly what should happen about wearing a face mask, and where.

Justin Madders: That is a fair point. I have been looking with interest at the advertising in my local newspaper. Some of it goes over the line of what would be considered public information and what would be considered the expounding of Government policies, but it is a fair point that if the contract with local newspapers still has, as I think it does, some way to run, clear messaging on the use of face masks would be beneficial as things move forward.

The Opposition will not oppose the regulations, but we remain concerned that we are entering another critical moment without having available the full information on which decisions are being made, without a clear understanding of the risks, and with the test and trace system not working at full efficiency. The gradual easing of lockdowns has to be done in a safe and cautious way. It should be carefully planned and clearly communicated, so that the public can have confidence in the measures that the Government have put in place, and the advice that has been given.

We need full transparency so that we can have confidence that the Government’s scientific advisers support the measures we are debating. That means that we need to end the promises of world-beating systems and record numbers of tests, because we know that the current system for testing and tracing is not reaching all those with suspected covid-19. Of course the app is nowhere to be seen.

It should be of concern when the director of public health in an area such as Blackburn with Darwen, where officials are currently battling a rise in cases, tells us that only 44% of the 799 close contacts of someone with coronavirus have been successfully contacted by the test and trace call handlers. That figure is roughly in line with the contact rate for non-complex cases nationally and it is clearly well below the level that is needed if we are to be confident that the system is working effectively.

We want the Government to succeed, but where things need to improve—and we have touched on only a few of those areas today—we shall continue to challenge them. It is right to challenge the Government on their

decisions, because it is our constitutional duty, but also because we cannot simply risk losing control of the situation again. Any challenge that we make today is hampered, because we debate the regulations after the event, having had little sight of the scientific advice on which they are based.

4.49 pm

Helen Whately: It is a pleasure to debate the regulations with colleagues, including the hon. Member for Ellesmere Port and Neston. I appreciate the tone that he brings to these conversations. I shall respond to some of his points, before bringing my remarks to a conclusion.

I note the hon. Gentleman's concerns about the process, and particularly its sequencing. However, I will say that I know he also appreciates the importance of our moving cautiously but also quickly to reduce the restrictions on people's lives—restrictions that limit economic activity and people's freedoms.

Secondly, the hon. Gentleman talked about the impact of local lockdowns through the demands they may place on local authorities and the impact on local businesses. The Government are mindful of both those things and are working closely with local authorities in places such as Leicester, where a local lockdown has been imposed. Both the Ministry of Housing, Communities and Local Government and the Treasury are also mindful of, and keep under review, what support may be required for local authorities and businesses in those areas that may be affected.

Thirdly, coming to the hon. Gentleman's point about clarity of messaging and the concerns expressed by the hon. Member for Warwick and Leamington that things might be moving too fast for businesses, I will say that certainly businesses in my constituency that have lobbied me as a constituency MP have wanted things to move forward. For instance, I had conversations with the pub sector, which very much wanted to be able to reopen and welcomed when things moved as swiftly as possible on that.

Clearly, there is some balance to be struck between not wanting to issue too much guidance too quickly or change things too quickly and, when it is safe for businesses and activities to restart, moving quickly to enable that to happen, which is in the interests of those businesses and the general public.

Matt Western: It was not so much the speed, but the sequencing of it, as my hon. Friend the Member for Ellesmere Port and Neston has said, and the consistency of some of the policies announced. That is why he has been trying to make those points over recent weeks. It is through a more open, collaborative approach, with scrutiny from all sides, that things such as the inconsistencies of barbers versus beauty salons would be addressed, and that would be in the best interests of businesses.

Helen Whately: I hear the hon. Gentleman's point. To address the specific example he gave of barbers versus beauty salons, there were indeed some conversations with colleagues about that, including female colleagues who said, "Hold on, what's going on here?" The fact is that we know there are additional risks in activities that involve close face-to-face contact for an extended period of time. That was the reason there was sequencing of the easing of restrictions from one to the other. There was a rationale behind those things.

Moving on, the hon. Member for Ellesmere Port and Neston brought up questions about wanting to have more access to the scientific guidance and the connection between that and transmission risks. It is absolutely clear that there is indeed some increased risk of transmission as people are able to do more things and are more likely to come into contact with each other. That is the reason why the reduction and easing of restrictions is a step-by-step and cautious process.

Therefore, all these decisions draw on the scientific advice about the risks involved. Overall, there is a cautious approach, because we know we must keep the transmission rates down. That goes hand in hand with careful monitoring across the country of what is happening in each local area so that, should we need to take local action, we are able to do so.

The hon. Gentleman mentioned the concern about whether there might be a second peak. I am acutely mindful of the challenges we will face come winter when, in addition to potentially having coronavirus around, we will also have the usual coughs and sneezes and flu, and it will be much harder to tell who might have what, along with people being less likely to be in well-ventilated areas. That is why there is extensive winter planning going on across health and social care to be ready for what comes our way, and also why it is essential that we have effective tracking and monitoring and the ongoing NHS test and trace system running, so that we can limit any onward transmission of the virus and keep it under control. That is essential.

In conclusion, I restate the Government's commitment to working with Parliament on this. We appreciate that the restrictions have placed a significant strain on individuals. The Government will only continue to impose restrictions that are necessary to protect the public from the spread of coronavirus. We will only make changes when we are confident it is safe to do so, and we remain prepared to reimpose stricter measures should that become necessary. It is a pleasure to serve under your chairmanship, Ms Elliott, and I commend these regulations to the Committee.

Question put and agreed to.

4.55 pm

Committee rose.

