



**Summary of the Health Protection (Coronavirus,
Restrictions) (No. 2) (England) (Amendment) (No. 4) and
(No. 5) Regulations 2020**

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Summary of the Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 4) and (No. 5) Regulations 2020

The Government published new [COVID-19 Regulations](#) just before midnight on 13 September 2020, a mere 28 minutes before they were due to come into force. These new Regulations contain the new “rule of six”, as announced by Boris Johnson during his 9 September press conference. The new Regulations amend the earlier The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020.

The new Regulations are complicated. People are now prohibited in England from meeting in groups of more than six people unless an exception applies.

Early in the morning of 24 September 2020, [further Regulations](#) came into force. These Regulations impose restricted opening hours and other restrictions on certain businesses in England selling goods or providing services. They also make changes to the restrictions on gatherings in England, in relation to gatherings for support groups, weddings and other significant events, and sports gatherings.

Note that the new restrictions on the number of people able to weddings and other ceremonies come into force later on 28 September 2020.

The Starting Point

The starting point is:

No person may participate 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,*
- b) the gathering is one to which paragraph (2) or (2A) applies and the person concerned participates in the gathering alone or as a member of a qualifying group, or*
- c) paragraph (3) applies.*

A “gathering” means “when two or more people are present together in the same place in order to engage in any form of social interaction with each other, or to undertake any activity with each other.”

The Exceptions

The “household exception”:

The Regulations state that:

During the emergency period, no person may participate 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 [...]*

The above amendment means that “linked households” may gather in numbers greater than six. A “linked household” means:

Where a household comprises one adult, or one adult and one or more persons who are under the age of 18 on 12 June 2020 (“the first household”), the adult may choose to be linked with one other household (“the second household”), provided that:

- a) *neither the first household nor the second household are linked with any other household for the purposes of these Regulations or any of the Regulations mentioned in regulation 1(4), and*
b) *all the adult members of the second household agree.*

There is no limit on the number of adults or children which may be in the second household. Where these requirements are met, the first and second households are “linked households” in relation to each other. The first and second households cease to be linked households if neither household satisfies the condition in the opening words of paragraph (1) (i.e. neither household comprises one adult, or one adult and one or more persons who are under the age of 18 on 12 June 2020).

Once the first and second households have stopped being linked households, neither the first household nor the second household may be linked with any other household.

This provision enables households where a child’s parents live apart to continue to gather.

The “work, education and activity exceptions”:

A group of more than six people can gather in the following circumstances, provided the gathering is **reasonably necessary**:

- a) for work purposes, or for the provision of voluntary or charitable services,
b) for the purposes of education or training,
c) 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,
d) to provide emergency assistance,
e) to enable one or more persons in the gathering to avoid injury or illness or to escape a risk of harm,
f) 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,
g) 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,
h) to fulfil a legal obligation,
i) the gathering is of a “support group”
 a. A “support group” means 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:

- i. to victims of crime (including domestic abuse);
- ii. to those with, or recovering from, addictions (including alcohol, narcotics or other substance addictions) or addictive patterns of behaviour;
- iii. to new parents;
- iv. to those with, or caring for persons with, any long-term illness or terminal condition or who are vulnerable;
- v. to those facing issues related to their sexuality or identity including those living as lesbian, gay, bisexual or transgender;
- vi. to those who have suffered bereavement.

The “weddings exception”:

Over six people may attend a wedding reception, reception following the formation of a civil partnership or reception following the conversion of a civil partnership to a marriage, provided that:

- a) it consists of no more than 15 persons;
- b) it takes place in premises other than a private dwelling; and
- c) the gathering organiser complies with paragraph (5G).

For the purposes of the Regulations, “the gathering organiser” means the person responsible for organising a gathering.

The “protest exception”:

Over six people may gather for a protest, provided that:

- a) the protest has been organised by a business, a charitable, benevolent or philanthropic institution, a public body, or a political body; and
- b) the gathering organiser complies with paragraph (5G).

The “outdoor sports gathering or permitted indoor sports gathering exception”:

Over 6 people may gather at an outdoor sports gathering or permitted indoor sports gathering providing the person concerned is taking part in that gathering.

An “outdoor sports gathering” is a gathering which is organised for the purposes of allowing persons who are not elite sportspersons to take part in any sport or other fitness related activity, and:

- a) which is organised by a business, a charitable, benevolent or philanthropic institution, or a public body,
- b) which takes place outdoors.

The manager (if the gathering takes place on relevant premises) or the gathering organiser, in any other case, must comply with the requirements of paragraph (5G).

A “permitted indoor gathering” is a gathering which is organised for the purposes of allowing persons who have a disability and who are not elite sportspersons to take part in any sport or other fitness related activity, and:

- a) the gathering is organised by a business, a charitable, benevolent or philanthropic institution, or a public body,
- b) the gathering takes place indoors on relevant premises, and
- c) the manager of the relevant premises complies with paragraph (5G).

Note that 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” means premises (other than a private dwelling):

- a) which are operated by a business, a charitable, benevolent or philanthropic institution or a public body, or
- b) which are part of premises used for the operation of a business, a charitable, benevolent or philanthropic institution or a public body;

A person has a disability if:

- a) they have a physical or mental impairment (and when considering whether a person has an impairment for these purposes, Regulations 3 to 5 of the Equality Act 2010 (Disability) Regulations 2010(a) apply), and
- b) the impairment has a substantial and long term adverse effect on their ability to carry out normal day-to-day activities.

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

The “criminal justice accommodation exception”:

Over six people may gather at criminal justice accommodation (i.e. prisons and bail hostels).

The “gatherings taking place outdoors exception”:

Over six people may gather where:

- a) the gathering takes place outdoors (whether or not in a public outdoor space) and:
 - a. it is for the purpose of a relevant outdoor activity; and
 - b. the gathering organiser complies with paragraph (5G).

A “relevant outdoor activity” means a physical activity which is carried on outdoors and for which a licence, permit or certificate issued by a public body (other than a licence permitting a person to drive a motor vehicle in the United Kingdom or a licence to serve

food or alcohol) to carry on the activity, or for any of the equipment used for the purposes of the activity, must be held by—

- a) the gathering organiser, or
- b) any person taking part in the activity.

The “births exception”:

A person may attend a gathering of in excess of six people where he or she is attending a birth at the expectant mother’s request.

Paragraph (5G)

Paragraph (5G) states that a gathering organiser must, in relation to the relevant gathering:

- 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(10), whether or not the gathering organiser or manager is subject to those Regulations, and
- b) have taken all reasonable measures to limit the risk of transmission of the coronavirus, taking into account—
 - a. the risk assessment carried out under sub-paragraph (a), and
 - b. any guidance issued by the government which is relevant to the gathering.”

The “funerals exception”:

A gathering of up to 15 people is permitted for funerals, provided that the funeral takes place:

- a) at premises (other than a private dwelling) which is operated by a business, a charitable, benevolent or philanthropic institution or a public body,
- b) at premises (other than a private dwelling) which are part of premises used for the operation of a business, a charitable, benevolent or philanthropic institution or a public body, or
- c) in a public outdoor space which does not fall within the above two paragraphs.

The manager, in the case of such a gathering, must comply with the requirements of paragraph (5G).

The “business, charitable and public body premises exceptions”:

As stated above, no person may participate 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,

- b) the gathering is one to which paragraph (2) or (2A) applies and the person concerned participates in the gathering alone or as a member of a qualifying group, or
- c) Paragraph (3) applies.

Paragraph (2) applies to a gathering if it takes place on or at premises, other than a private dwelling, which are:

- a) operated by a business, a charitable, benevolent or philanthropic institution or a public body, or
- b) part of premises used for the operation of a business, a charitable, benevolent or philanthropic institution or a public body.

Under paragraph (2B), a “**qualifying group**” in relation to a gathering, means a group of persons who are participating in that gathering and which consists of no more than six persons, or 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.

A person participates in a gathering as a member of a qualifying group only if they are part of a qualifying group and, whilst participating in the gathering, they do not become a member of any other group of persons participating in the gathering (whether or not that group is a “qualifying group”), or otherwise mingle with any person who is participating in the gathering but who is not a member of the same qualifying group as them.

Gatherings in public outdoor spaces:

Paragraph 2A applies to a gathering if it takes place in a public outdoor space which does not fall within paragraph (2)(a) or (b). Gatherings in a public outdoor space may take place in excess of six people where:

- a) the gathering has been organised by a business, a charitable, benevolent or philanthropic institution, a public body, or a political body, and
- b) the gathering organiser complies with paragraph (5G).

As stated above, the person participating in the gathering must either do so alone or as a part of a qualifying group. The person must not join another group of persons participating in the gathering (whether or not that group is a qualifying group), and he must not mingle with any person participating in the gathering who is not a member of the same qualifying group as the person.

The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 5) Regulations 2020

Definitions

For the purposes of the below, the following are business and services subject to restrictions:

- a) restaurants, including restaurants and dining rooms in hotels or members' clubs;
- b) businesses providing food or drink prepare on the premises for immediate consumption off the premises, other than:
 - a. supermarkets;
 - b. convenience stores, corner shops and newsagents;
 - c. pharmacists and chemists; and
 - d. petrol stations.
- c) Cafes, including workplace canteens, but not including:
 - a. Cafes or canteens at a hospital, care home or school;
 - b. Canteens at a prison or an establishment intended for use for naval, military or air force purposes; and
 - c. Services providing food and drink to the homeless.
- d) Bars, including bars in hotels or members' clubs;
- e) Public houses;
- f) Social clubs
- g) Casinos
- h) Bowling alleys;
- i) Cinemas;
- j) Theatres;
- k) Amusement arcades or other indoor leisure centres or facilities;
- l) Funfairs (indoors or outdoors), theme parks and adventure parks and activities;
- m) Bingo halls; and
- n) Concert halls.

Restrictions on opening hours of businesses and services

From 10:00pm on 24 September, a person responsible for carrying on a restricted business or providing a restricted service must not carry on that business or provide that service between the hours of 22:00 and 05:00.

This restriction does not prevent such a person from selling food or drink for consumption off the premises between the hours of 22:00 and 05:00:

- a) by making deliveries in response to orders received:
 - a. through a website (or otherwise by online communication);
 - b. by telephone (including orders by text message);
 - c. by post; or
- b) to a purchaser who collects the food or drink in a vehicle, and to whom the food or drink is passed without the purchaser or any other person leaving the vehicle.

Cinemas, theatres and concert halls may remain open beyond 22:00 for the purposes of concluding a performance which began before 22:00.

The restrictions do not apply to motorway service areas.

Restrictions on service of food and drink for consumption on the premises

Subject to the restriction on opening hours, businesses which serve alcohol for consumption on the premises may sell food and drink for consumption on the premises only if:

- a) the food or drink is ordered by, and served to, a customer who is seated on the premises; and
- b) the person takes all reasonable steps to ensure that the customer remains seated whilst consuming the food or drink on the premises.

A business which does not serve alcohol for consumption on the premises may sell food or drink for consumption on the premises only if the person takes all reasonable steps to ensure that the customer remains seated whilst consuming the food or drink on the premises.

An area adjacent to the premises of the business where seating is made available for customers of the business (whether or not by the business) or which customers of the business habitually use for consumption of food or drink served by the business is treated as being part of the premises of that business.

Fixed Penalty Notices (“FPNs”)

An authorised person may issue an FPN to anyone that they reasonable believe:

- a) has committed an offence under the Regulations; and
- b) is aged 18 or over.

An FPN must:

- a) give reasonable detailed particulars of the circumstances alleged to constitute the offence;
- b) state the period during which proceedings will not be taken for the offence (no proceedings may be taken before the end of the period of 28 days following the date of the notice);
- c) specify the amount of the fixed penalty;
- d) state the name and address of the person to whom the fixed penalty may be paid; and
- e) specify permissible methods of payment.

Where the FPN is issued in respect of offences of contravening, without reasonable excuse, the restrictions on opening hours of business and services or the restrictions on service of food and drink for consumption on the premises, the amount must be:

- a) in the in the case of the first fixed penalty notice received in relation to those offences, £1,000;
- b) in the case of the second fixed penalty notice received in relation to those offences, £2,000;
- c) in the case of the third fixed penalty notice received in relation to those offences, £4,000;
- d) in the case of the fourth and subsequent fixed penalty notices received in relation to those offences, £10,000.