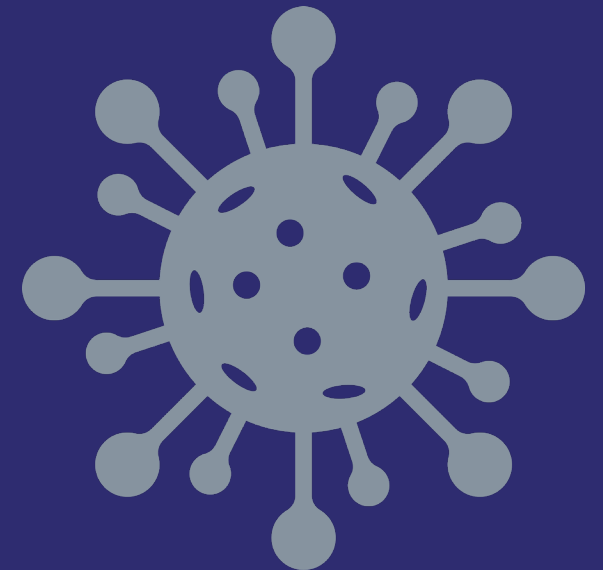


The Health Protection (Coronavirus, Restrictions) (England) (No 4) Regulations 2020

Business restrictions pack



5 November 2020





This pack covers the **Health Protection (Coronavirus, Restrictions) (England) (No 4) Regulations 2020** specifically the part of the Regulations relating to restrictions and closure of businesses. A separate briefing covering the detail of the **restrictions on movement and restrictions on gatherings** is available on our website.

Police Officers and PCSOs are not expected to lead on the enforcement of business closures. Local Authorities (Environmental Health Officers and Trading Standards Officers) will monitor compliance with business restrictions and will enforce them as necessary.

The police should only be required as a last resort and to support partner agencies where requested.

- The Regulations come into force on 5 November 2020 and expire 28 days after they come into force.
- The Regulations apply to England only.

The government tiered model of restrictions – the Local COVID-19 Alert Levels – have been revoked and all areas of England are now covered by these Regulations.

Other national Legislation still applies across England and should be viewed separately and include:

- Requirement to wear face coverings on public transport and in relevant places.
- International Travellers Regulations.
- Requirement to self-isolate.
- Coronavirus Act.

These are available on the **Covid-19 Hub** along with briefings for Wales and advice on PPE.



Police and local authority enforcement

Police will lead enforcement in relation to breaches of requirements placed on **individuals**.

Officers should continue to engage members of the public and explain changes. If necessary they should offer encouragement to comply. However if the individual or group do not respond appropriately, then enforcement can follow without repeated attempts to encourage people to comply with the law.

We police by consent. The initial police response should be to encourage voluntary compliance. Policing will continue to apply the four-step escalation principles:

- Engage
- Explain
- Encourage and only
- Enforce as a last resort

Enforcement action in relation to breaches by **businesses** will be led by Local Authorities (Environmental Health Officers and Trading Standards Officers). The police should only be required as a last resort and to provide support.



Closure of, and restrictions on, businesses

The Regulations provide for a number of business restrictions. These are split into 3 main Regulations:

- Restrictions on service of food and drink for consumption on the premises
- Requirement to close premises and businesses
- Further restrictions and closures

Police Officers and PCSOs are not expected to lead on the enforcement of business closures. Local authorities (Environmental Health Officers and Trading Standards Officers) will monitor compliance with business restrictions and will enforce them as necessary.

The police should only be required as a last resort and to support partner agencies where requested.

A **full briefing of the Regulations** is available on our website.



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

A person responsible for carrying on a restricted business, or providing a restricted service, must:

- close any premises, or part of premises, in which food or drink are provided for consumption on those premises, and
- cease providing food or drink for consumption on its premises

Note: this does not include food or drink provided by a hotel or other accommodation as part of room service.

In this regulation, 'restricted business' and 'restricted service' mean a business or service which includes:

- restaurants, including restaurants and dining rooms in hotels or members' clubs
- cafes, including workplace canteens (conditions and exemptions apply)
- bars, including bars in hotels or members' clubs
- social clubs
- public houses

Exceptions apply:

1. Where the restricted business or services is situated at:
 - a motorway service area, or
 - within a part of an airport or maritime port, or the international rail terminal area within the vicinity of Cheriton, Folkstone and where the area is accessible, between the restricted hours, to passengers, crew or other authorised persons but not to members of the general public

Food or drink for consumption on premises includes an area adjacent to the premises where seating is made available for its customers (whether or not by the business or the provider of the service) or which its customers habitually use for consumption of food or drink served by the business or service.



Exceptions (continued)

2. Restrictions regarding the selling of food and drink on premises does not prevent the person responsible for carrying on a restricted business, or providing a restricted service, from selling food or drink (but not alcohol) for consumption **off the premises** between the hours of 05:00-22:00.
3. Food and drink (but not alcohol) can be sold for consumption **off the premises** between the hours of 22:00-05:00:
 - by making deliveries in response to orders received:
 - through a website, or otherwise by on-line communication
 - by telephone, including orders by text message
 - by post
 - to a purchaser who collects food or drink that has been pre-ordered provided the purchaser does not enter inside the premises to do so
 - 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
4. Alcohol can be sold for consumption **off the premises** by making deliveries in response to orders received:
 - through a website, or otherwise by on-line communication
 - by telephone, including orders by text message
 - by post
 - to a purchaser who collects food or drink that has been pre-ordered provided the purchaser does not enter inside the premises to do so
 - 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

Where a restricted business or restricted service forms, or is provided as, part of a larger unrestricted business the person responsible for carrying on the larger business complies with the requirements by closing down the restricted business or by ceasing to provide the restricted service.



Exceptions (continued)

5. These restrictions do not prevent the sale of food and drink where:
 - the business or service is carried on or provided in an aircraft, train or vessel
 - the aircraft, train or vessel is providing a public transport service
 - alcohol is not served in the carrying on of the business, or the provision of the service, with the exception of persons seated on board an aircraft

Where a restricted business or restricted service forms, or is provided as, part of a larger unrestricted business the person responsible for carrying on the larger business complies with the requirements by closing down the restricted business or by ceasing to provide the restricted service.



Requirement to close premises and businesses

A person responsible for carrying on a restricted business, or providing a restricted service, must cease to carry on that business or provide that service.

Note: this restriction does not apply to criminal justice accommodation

Exceptions apply. The Regulations do not prevent the use of

- any premises used for a restricted business or service to host blood donation sessions
- any premises used for the making of a film, television programme, audio programme or audio-visual advertisement
- facilities for training by elite sportspersons, including stables, indoor gyms, fitness studios, and other indoor sports facilities, and any outdoor facilities for sport; indoor fitness and dance studios by professional dancers and choreographers
- theatres and concert halls for:
 - training
 - rehearsal
 - performance without an audience for broadcast or recording purposes
- indoor gyms, fitness studios, indoor sports facilities and other indoor leisure centres for supervised activities for children
- indoor gyms, fitness studios, indoor swimming pools, indoor sports courts and other indoor leisure centres and outdoor sports courts and swimming pools by schools or providers for post-16 education or training
- stables for the purpose of animal welfare



Exceptions to business closures (continued)

A person responsible for carrying on a restricted business or providing a restricted service may carry on a business which is not a restricted business, or provide services which are not restricted services:

- in premises which are separate from the premises used for the closed business
- by making deliveries or otherwise providing services in response to orders received
 - through a website, or otherwise by on-line communication
 - by telephone, including orders by text message
 - by post
- to a purchaser who collects goods that have been pre-ordered by a means detailed above, provided the purchaser does not enter inside the premises to do so
- operating a café or restaurant solely to sell food or drink for consumption off the premises, if the café or restaurant is separate from the premises used for the closed business

Note: Other businesses may remain open if not prohibited by the Regulations eg, office spaces, factories etc.

Where a restricted business or restricted service forms, or is provided as, part of a larger unrestricted business the person responsible for carrying on the larger business complies with the requirements by closing down the restricted business or by ceasing to provide the restricted service.



Restricted businesses which must close

- Cinemas.
- Theatres.
- Nightclubs, dance halls, discotheques and any other venue which, opens at night, has a dance floor or other space for dancing by members of the public and provides music, whether live or recorded, for dancing.
- Bingo halls.
- Concert halls.
- Museums and galleries.
- Casinos.
- Betting shops and adult gaming centres.
- Spas.
- Nail, beauty salons, hair salons and barbers.
- Tanning salons.
- Massage parlours.
- Sexual entertainment venues.
- Hostess bars.
- Tattoo and piercing parlours.
- Skating rinks.
- The following indoor facilities: dance studios, fitness studios, gyms, sports courts, swimming pools, bowling alleys, amusement arcades, playgrounds or soft play areas or other indoor leisure centres or facilities, including indoor games, recreation and entertainment venues.
- Circuses, funfairs and fairgrounds (whether outdoors or indoors), theme parks and adventure parks and activities.
- Outdoor sports centres or amenities, including water sports, stables, shooting and archery venues, golf courses, driving ranges, outdoor gyms, outdoor swimming pools, water parks and aquaparks.
- Outdoor markets (except for livestock markets, stalls selling food and any other retailer listed in Part 3).
- Showrooms and other premises, including outdoor areas, used for the sale or hire of caravans, boats or any vehicle which can be propelled by mechanical means, and car washes.
- Auction houses (except for auctions of livestock or agricultural equipment).
- Model villages.
- Visitor attractions at film studios.
- Aquariums, zoos, safari parks, farms, wildlife centres and any place where animals are exhibited to the public as an attraction.
- Indoor attractions at visitor attractions such as:
 - a. botanical or other gardens, biomes or greenhouses
 - b. stately or historic homes, castles or other heritage sites
 - c. landmarks, including observation wheels or viewing platforms
 - d. sculpture parks
- Conference centres and exhibition halls (conditions apply).



Businesses which may remain open

- Food retailers, including food markets, supermarkets, convenience stores and corner shops.
- Off licences and licensed shops selling alcohol (including breweries).
- Pharmacies (including non-dispensing) and chemists.
- Newsagents.
- Hardware stores.
- Building merchants, and building services.
- Petrol stations.
- Car repair and MOT services.
- Bicycle shops.
- Taxi or vehicle hire businesses.
- The following financial businesses:
 - a. banks
 - b. building societies
 - c. credit unions
 - d. short term loan providers
 - e. savings clubs
 - f. cash points
 - g. currency exchange offices, businesses that transmit money or cash cheques which are made payable to customers
- Post offices.
- Funeral directors.
- Laundrettes and dry cleaners.
- Dental services, opticians, audiology services, chiropody, chiropractors, osteopaths and other medical or health services, including services relating to mental health.
- Veterinary surgeons and pet shops.
- Agricultural supplies shop.
- Garden centres.
- Storage and distribution facilities, including delivery drop off or collection points, where the facilities are in the premises of a business permitted to remain open.
- Car parks.
- Public toilets.



Further restrictions and closures

A person responsible for carrying on a restricted business of offering goods for sale or for hire in a shop, or providing library services must:

1. Cease to carry on that business or provide that service except:
 - a. by making deliveries or otherwise providing services in response to orders received:
 - through a website, or otherwise by on-line communication
 - by telephone, including orders by text message
 - by post
 - b. to a purchaser who collects goods that have been pre-ordered provided the purchaser does not enter inside the premises to do so
2. Close any premises which are not required to carry out its permitted business or services.
3. Cease to admit any person to its premises who is not required to carry on its business or provide its service. Libraries are able to remain open for specific uses, eg, support groups or education and training.

A person responsible for carrying on a business or providing a service may open any premises for the purposes of making a film, television programme, audio programme or audio-visual advertisement.

Note: this does not apply to any business which provides hot or cold food for consumption off the premises, or goods or services to the homeless.



Further restrictions and closures: holiday accommodation

A person responsible for the provision of holiday accommodation (including but not limited to hotel, hostel, bed and breakfast, apartment, home, cottage or bungalow, campsite, caravan park) must cease to carry on that business unless:

- to provide accommodation for any person, who:
 - is unable to return to their main residence
 - uses that accommodation as their main residence
 - needs accommodation while moving house
 - needs accommodation to attend a funeral
 - is isolating themselves from others as required by law
 - is an elite athlete, the coach of an elite athlete, or (in the case of an elite athlete who is a child), the parent of an elite athlete, and needs accommodation for the purposes of training or competition
- to provide accommodation:
 - for any person who needs it for the purposes of their work
 - for any child who needs it for the purposes of education
 - for a woman's refuge or a vulnerable person's refuge
 - for support services for the homeless
 - for any person who was staying in that accommodation immediately before these Regulations came into force
- to host blood donation sessions
- for any purpose requested by the Secretary of State, or a local authority



Further restrictions and closures: Other premises

Places of worship

A person who is responsible for a place of worship must ensure that the place of worship is closed, exceptions apply.

A place of worship may be used:

- for funerals
- for commemorative events celebrating the life of a person who has died
- to broadcast an act of worship
- to provide essential voluntary services or urgent public support services
- for childcare provided by a registered person
- for individual prayer (which does not form part of communal worship)
- to host any permitted gathering

Community centres

A person who is responsible for a community centre or hall must ensure that the community centre or hall is closed except where it is used:

- to provide essential voluntary activities or urgent public support services
- for the purposes of education or training
- for the purposes of support groups
- for the purposes of childcare by a registered person or supervised activities for children

Crematoria/burial grounds

A person who is responsible for a crematorium or burial ground must ensure that the crematorium is closed to members of the public, except for funerals or burials, or commemorative events celebrating the life of a person who has died. Burial grounds can also open to allow a person to pay respects to a member of their household, a family member or friend.



Enforcement options

Business restrictions

Local authorities (Environmental Health Officers and Trading Standards Officers) will lead enforcement regarding business restrictions. The police should only be required as a last resort.

Offences

A person commits an offence if, without reasonable excuse, the person:

- contravenes a restriction or requirement
- contravenes a requirement imposed, or a direction given in the enforcement of the restrictions
- fails to comply with a reasonable instruction or a prohibition notice given by a constable or PCSO
- obstructs any person carrying out a function under these Regulations

An offence under this regulation is punishable on summary conviction by a fine.

Fixed Penalty Notices

Remember – local authorities (Environmental Health Officers and Trading Standards Officers) will monitor compliance with business restriction Regulations and will enforce them as necessary:

- The amount is £1,000 for the first offence, £2,000 for the second, £4,000 for the third and £10,000 for the fourth and subsequent offences. These increases apply only to FPNs issued for these offences.
- All business restriction offences will be taken into account when calculating the amount.



Recording

These are non-recordable offences. They can't be punished by imprisonment.

Powers of arrest




The necessity test under Section 24 PACE has been temporarily amended by the Health Protection Regulations to include:

- to maintain public health
- to maintain public order

Usual applications of Section 24 PACE still apply and officers' attention is specifically drawn to the necessity to arrest in relation to ascertaining name and address, and to protect a child or other vulnerable person from the person in question. In this context, this aspect is linked to the spread of infection. Officers may also wish to determine if breach of the peace powers apply.



Remember

-  **The Health Protection Regulations** (secondary legislation)
Yes, enforceable. Anyone contravening these requirements commits an offence, punishable on summary conviction by a fine.
-  **The Coronavirus Act 2020** (primary legislation)
Yes, enforceable. There are five main summary offences created by the legislation. These offences are punishable on summary conviction by a fine. You must obtain the advice of a public health officer before exercising these powers unless it is totally impractical to do so.
-  **Government guidance** – is not enforceable. Do not issue fines to people for not adhering to government guidance.