

The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 amended by the Health Protection (Coronavirus, Restrictions) (No. 3) (All Tiers) (England) (Amendment) Regulations 2021

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These Regulations came into force on 2 December 2020 and have been amended by Regulations coming into force on 6 January 2021. They apply to England only. All previous Health Protection (Coronavirus) Regulations are revoked, save for transitional provisions.

The amendments move all of England into Tier 4 and make some amendments to the restrictions applying within that Tier. The All Tiers Regulations are extended from 2 February 2021–31 March 2021, although they will be subject to fortnightly review.

Definitions

Child: person under 18

Childcare: uses the meaning in the Childcare Act 2006, and excludes care provided by a parent, relative, foster carer or children’s home.

Critical workers: the Cabinet Office and Department for Education (DfE) have published Guidance entitled *Children of Critical Workers and Vulnerable Children who can Access Schools or Educational Settings*, at:

<https://www.gov.uk/government/publications/coronavirus-covid-19-maintaining-educational-provision/guidance-for-schools-colleges-and-local-authorities-on-maintaining-educational-provision> which contains the definitions of critical workers. The list has been updated from the “keyworkers” list from the first lockdown.

Parent: includes any person with parental responsibility or who has care of the child.

Relevant outdoor activities: activities for which a licence, permit or certificate is required.

Vulnerable person: person over 70 or younger person with significant health conditions, including asthma and “seriously overweight” (BMI >40). Does not automatically include children in need.

Linked households

There are two types of linked households:

- A single person, or a single parent of children (under 18s only), or a couple with a child under one year old, or a couple with a disabled child under five, or a household that includes a disabled person or disabled persons who need continuous care but only one adult carer, may form a *linked household* with another household of any size and composition (Regulation 3).
- A family with a child age 13 or under may link with another household to provide informal childcare for that child, becoming a *linked childcare household* (Regulation 5).

All adult members of a household must agree to the linking arrangements, and all members of a household must be linked to the same second household. There is an exception to this which allows a child of separated parents to be a member of the households of each parent. Changes to linking arrangements can take place with the consent of all members of the

households, but there must be a break of 14 days between the ending of one linking arrangement and the start of the next.

Note that in the Guidance these linked households are referred to as “bubbles”.

Tier 4 – which covers the whole of England from 6 January 2021

Restrictions on leaving home

For any person living in Tier 4, there are restrictions on movement. People may not leave their home without reasonable excuse – a reasonable excuse includes (but is not limited to) the exceptions listed in para 2 of Schedule 3A. These are:

1. To obtain goods and services, to obtain or deposit money, to take exercise (with their household, a linked household, a linked childcare household or with one other person), to attend a place of worship, in connection with moving house, to visit a linked household, to collect food, goods, etc, to visit a waste disposal or recycling centre. When calculating “one other person”, no account is taken of a child under five or a carer for a disabled person.
Non-essential businesses have been ordered to close and leaving home for the purposes of outdoor recreation is no longer allowed. Visiting outdoor sports arenas, safari parks, city farms and similar attractions is no longer permitted.
2. To go to work or to provide charitable or voluntary services where it is not reasonably possible to do so from home, to attend education (including early years and “suitable education” for home-schooled children), to provide care to a vulnerable person, to fulfil a legal obligation, to access critical public services (including social services) and voluntary services including food banks.
3. For elite athletes to train or enter competitions.
4. To access medical services, to donate blood or participate in medical trials, to visit or support a person giving birth or receiving medical treatment.
5. To attend a support group or access respite care for a vulnerable person or to accommodate a looked after child in a short break arrangement.
6. To attend a deathbed.
7. To attend a funeral, commemorative event or visit a grave.
8. To attend a wedding or civil partnership service.
9. To arrange contact between a child and a parent, or between siblings of a child in care, to participate in adoption introductions or placement of a child with an alternative carer by social services, to take a child under 14 for informal childcare in their linked childcare household.
Travel is permitted to take a child to access later years provision or supervised activities, but only where the responsible adult is a critical worker.
10. To care for an animal, including exercising that animal or to attend veterinary services.
11. To return home from holiday if a person was away when the Regulations came into force.
12. To visit a family member or friend in prison or immigration detention centre.
13. To vote in an election arranged under a statutory provision or to attend a consulate, etc, as an overseas voter.
14. To take part in an outdoor sports/fitness gathering for non-elite athletes who are disabled people, organised by a business, charity or public body, in a public place and after a proper risk assessment.

15. It is no longer possible to leave home to attend a parent and child group.
16. For students to move from their student accommodation once, to one other home in vacation, before 8 February 2021, or to return to college after vacation.
17. To attend a permitted picketing gathering.

Restrictions on gatherings

No gatherings indoors are permitted in Tier 4, and there can be no gatherings in a “private dwelling” – which includes gardens, etc, which are attached to a house. Outdoor gatherings are limited to free public spaces, botanical gardens and the grounds of castles, stately homes, etc, and must not consist of more than two people.

General exceptions to the rules on gatherings are:

1. All members of the same household or two linked households.
2. Gatherings reasonably necessary for education and training.
3. Gatherings necessary for work, charitable or voluntary services, to provide emergency assistance or care to a vulnerable person, to avoid the risk of harm or to move house.
4. To fulfil a legal obligation.
5. Gatherings inside prison or immigration detention accommodation.
6. Support groups of up to 15 people (children under five not counted) where it is necessary to meet physically – cannot take place in a private dwelling.
7. Respite care for a vulnerable or disabled person, or a short break for a disabled child.
8. Attending a birth at the mother’s request.
9. A gathering of no more than six people for a wedding or civil partnership ceremony. This can only take place in a private dwelling if one of the parties is seriously ill. In any case, the organiser must carry out a full risk assessment and take appropriate precautions.
10. Up to 30 people may gather for funerals, not in a private dwelling, and the organiser must carry out a full risk assessment and take appropriate precautions.
11. Up to six people may gather for a commemoration event (e.g. a wake) following a death, and the organiser must carry out a full risk assessment and take appropriate precautions.
12. Elite sports training and events.
13. Gatherings reasonably necessary to:
 - a. Arrange contact for a child who does not live with one or both of their parents.
 - b. Arrange contact between a looked after or relevant child and their siblings.
 - c. Introduce a child to prospective adoptive families.
 - d. Place or facilitate placement of a child by social services in the care of another person, either temporarily or permanently.
 - e. Provide registered later years provision or supervised activities for a child, but only where the responsible adult is a critical worker or the child is a vulnerable child or young person. In this context, a vulnerable child or young person is one who meets the criteria set out in the Critical Workers Guidance.
 - f. Provide informal childcare within a linked childcare household.
14. Parent and child groups are no longer allowed to meet.
15. Students changing between home and college for vacation arrangements, where they will be counted as part of their “home” household. They may only move home once before 8 February 2021.

16. Communal worship attended alone or as part of a household, as long as the attendee does not mingle with anybody outside their household, linked household or linked child care household and the organiser must carry out a full risk assessment and take appropriate precautions.
17. Picket in accordance with trade unions legislation.

Exceptions to indoor gatherings are to visit a dying person or to visit a person receiving treatment in hospital, staying in a care home or hospice, or to take somebody to a medical appointment.

Exceptions to outdoor gatherings are for outdoor sports activities organised by a business, charity or public body for people with a disability and for which the organiser has carried out and implemented an appropriate risk assessment.

Regulations relating to the closure of businesses and enforcement rules have also been amended, but these are outwith the scope of this note.

More details are set out in the Regulations

<https://www.legislation.gov.uk/ukxi/2020/1374/contents> and in the Guidance

<https://www.gov.uk/guidance/national-lockdown-stay-at-home> . See also

<https://www.gov.uk/government/publications/coronavirus-covid-19-maintaining-educational-provision/guidance-for-schools-colleges-and-local-authorities-on-maintaining-educational-provision>, for the definition of critical workers and vulnerable children.

Note that the Guidance uses the term “bubble” where the Regulations refer to “linked households”. These terms appear to mean the same thing. This summary should not be used as definitive legal advice and specific legal advice should be sought if there are any concerns about how the Regulations apply in a particular situation.