

**IN THE MATTER OF THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS)
(ENGLAND) (NO. 3) REGULATIONS 2020**

(THE "REGULATIONS")

DIRECTION IN RELATION TO THE TEMPORARY CLOSURE OF PREMISES.

For the attention of:-

(a) Balram Chapagain, in his capacity as the manager and designated premises supervisor of The Chartwell Arms, West Avenue, Wigston, Leicestershire, LE18 2FB; and

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Newriver Trustee 8 Ltd (registered number RC114158) and Newriver Trustee 7 Ltd (registered number RC114157) of IFC 5 St Helier, Jersey, JE1 1ST, in their capacity as the registered owners of the Premises.

(each an "Addressee" and collectively the "Addressees")

Regarding the following premises:-

All that land and buildings at The Chartwell Arms, West Avenue, Wigston, Leicestershire, LE18 2FB, which is more particularly shown edged red on the attached title plan, excluding the area in edged blue (hereinafter referred to as the "Premises").

WHEREAS Leicestershire County Council (the "Council") is empowered to make directions imposing prohibitions, requirements or restrictions in relation to the entry into, departure from, or location of persons in certain premises'; and

UPON the Council having taken advice from the Director of Public Health regarding the coronavirus risks arising from ongoing activities at the Premises²; and

UPON the Council being satisfied that the Prescribed Conditions have been met (*see section 2 of the Explanatory Notes herewith*); and

UPON the Council being satisfied that, notwithstanding the imposition of this Direction, the public will continue to have access to essential goods and services³; and

UPON the Council having given notice on 23rd October 2020 to the operators of the business of the Council's intention to exercise powers pursuant to the Regulations.'

IT IS HEREBY DIRECTED as follows:-

- (1) For the duration of this Direction, no member of the public shall enter onto the Premises or remain there unless they are a person falling into one of the following categories: -

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| (a) "Persons Interested in the Premises" | Which expression shall, for the purposes of this Direction, mean the Addressees, any directors of any corporate Addressee or any lessee deriving title to the Premises (or part of it) from an Addressee; |
| (b) "Employees or agents of the Addressee" | Which expression shall, for the purposes of this Direction, mean any person employed by any of the Addressees or any lessee of the Premises; |
| (c) "Contractors" | Which expression shall, for the purposes of this Direction, mean any person contracted to provide professional services at the Premises and any other person contracted to maintain or repair the Premises. |
| (d) "Persons acting in an official capacity" | Which expression shall, for the purposes of this Direction mean any of the following persons visiting the Premises in the course of their professional duties:- |
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² Regulation 2(4)

¹ Regulation 4(4)

⁴ Per Regulation 4(8)

(a) members of the emergency services (including Police, Ambulance and Fire and rescue Services);

(b) Any employee or representative of Leicestershire County Council or Oadby & Wigston Borough Council;

(c) Any representative of Public Health England;

(d) Any other persons employed to undertake a health function including work intended to control the transmission of Covid 19.

Commencement

- (2) The restrictions referred to in Paragraph 1 above shall take effect from eight p.m. (20.00 hours) on Friday, 23 October 2020.

Review and Termination

- (3) Subject to periodical review(s) of the operation of this Direction, with the first review taking place not later than 30 October 2020, the restrictions referred to in Paragraph 1 above shall continue until eight p.m. (20.00 hours) on 23 November 2020.

AND FURTHER TAKE NOTICE THAT: -


- (a) It is an offence, without reasonable excuse, to contravene the terms of this Direction'. An offence may also be committed if a person obstructs an authorised officer or a constable carrying out functions pursuant to the Regulations.
- (b) Persons affected by this Direction' have the right to appeal against the terms of this Direction to the Leicester Magistrates Court. Further details of this right are set out in the explanatory notes accompanying this Direction.

^s Regulation 13(1)

A person affected by this direction is a person on whose activities or property is subject to a prohibition, requirement or restriction created under this direction.

- (c) If any persons affected by this Direction wish to exercise their right of appeal against this Direction, they should apply to the Leicester Magistrates Court at any stage prior to the scheduled expiry of this Direction.
- (d) Persons affected by this notice should further take note that they also have a right to make representations to the Secretary of State for Health and Social Care about the Directions.
- (e) Nothing in this Direction shall prevent persons from gaining access to or egress from the Premises for the purposes of:-
 - a. Ensuring the security of the Premises,
 - b. Maintaining or repairing the Premises;
 - c. Accessing any residential property which would ordinarily be accessed via the Premises.
 - d. Avoiding injury or illness or to escape a risk of harm,
 - e. Complying with a legal obligation.

Signed



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Gary Connors,
Head of Regulatory Services,
Leicestershire County Council.

Date 23 October 2020

EXPLANATORY NOTES

Background

1. On 18 July 2020 the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 (the "Regulations") came into force. The Regulations were made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984.
2. The Regulations enable English local authorities to place restrictions on properties (both premises and outdoor spaces) as well as on events as a means of combatting the transmission of Covid 19. Unless the Regulations are revoked sooner, these powers continue until 17 January 2021.

The Prescribed Conditions

3. The Local authority's powers to impose directions pursuant to the Regulations arise if certain prescribed conditions (the "Prescribed Conditions") are met. The Prescribed Conditions are as follows:-

(a) that the giving of a direction responds to a serious and imminent threat to public health,

(b) that the direction is necessary for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection by coronavirus in the local authority's area, and

(c) that the prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose.

4. In order to determine whether a direction is justified, Local Authorities are required to take advice from the Director of Public Health for their area. The Council may also consider evidence from the Local Resilience Forum, NHS Test and Trace, from Public Health England (PHE) and from other sources.

What will happen next

5. Following service of the notice the Council will notify the Secretary of State⁷ as soon as reasonably practicable. The Council will also give notice of the Direction to adjacent authorities⁸.
6. The Council may also publish the making of a direction in order to give notice to persons who may be affected by the direction. ⁹ The making of a direction will be published on the Council's website¹⁰.

Regulation 2(2)

⁸ Regulation 11(2)

⁹ Regulation 10(2)

¹⁰ Regulation 10(2)(a)

Reviews

7. The authors of the Regulations were aware that the imposition of prohibitions, restrictions and requirements would likely have an adverse effect on commercial activity. With that in mind, the Regulation provides for frequent reviews of the necessity of any restrictions imposed.
8. Accordingly, the Council will review the necessity for the Direction at least once every seven days from the date of its imposition". Upon each review, the Council will make an assessment to determine whether the Prescribed Conditions continue to be met.
9. If the Prescribed Conditions are no longer met, then the Council will either revoke the original Direction or issue a revised direction with amended restrictions. Again, the Council will consider the advice of the Director of Public Health in Leicestershire in respect of the appropriateness of revoking any direction.

Appeals & Representations

10. The Regulations allow persons affected to appeal, by way of complaint, against the terms of a direction to the Local Magistrates Court. The Council would expect to act in accordance with the directions of the Magistrates Court at all times up until the expiry of the Direction.
11. The contact details for the Leicester Magistrates Court are as follows: - Leicester Magistrates' Court, 15 Pocklington's Walk, Leicester, LE1 6BT ([Email: - leicenq@Justice.gov.uk](mailto:leicenq@Justice.gov.uk) / Phone number:- 0116 255 3666).
12. It is also open to affected persons to make representations to the Secretary of State. The Secretary of State has a duty to consider such representations as soon as reasonably practicable. If the Secretary of State considers that the Prescribed Conditions are not met, he can stipulate that a direction be revoked or replaced with a compliant direction.
13. Addressees who are unclear as to the exercise of their rights of appeal or their rights generally should take their own independent legal advice.

Enforcement

14. Both the Police and Local Authorities are authorised to enforce the Regulations. The police are, if necessary, entitled to use reasonable force in the exercise of their powers. Police can exercise their powers of arrest without a warrant.
15. A failure, without reasonable excuse to comply with the direction may amount to a criminal offence (per article 13(1) of the Regulations). In the first instance, enforcing authorities would expect to impose fixed penalties for any non-compliances. Non-payment may lead to a prosecution by either the local Authority or the Crown Prosecution Service.

ⁿ Per Regulation 2(2) of the Regulations.

16. Offences may be committed by corporation if an offence is committed with the consent connivance and neglect of an officer of that company.
17. Any queries regarding this notice should be directed to the Trading Standards Department of Leicestershire County Council for the Attention of Helen Donegan. Telephone queries should be made on the following number:- 0116 305 8000 and any email enquiries should be sent to tradingstandards@leics.gov.uk.

