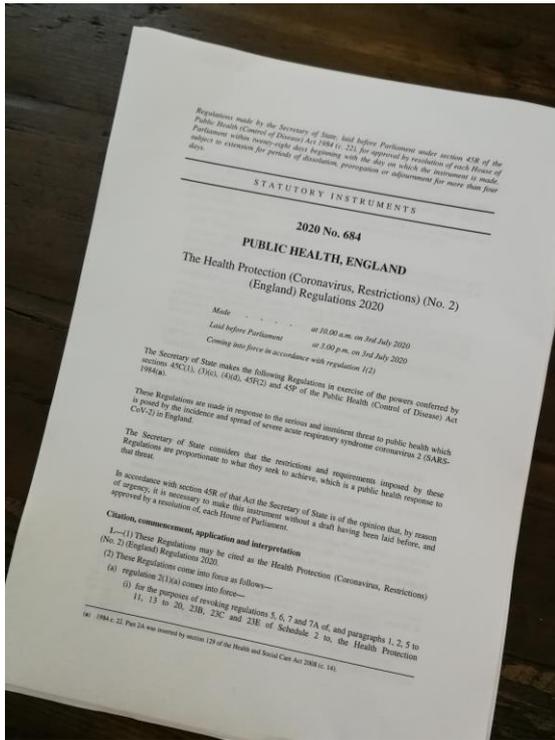




Holiday Home Association News

Edition 165 July extra 2020

Back in Business Regulations



In the afternoon of the day before they came into force, the government finally published the Health protection (Coronavirus Restrictions (No 2)(England) Regulations 2020 giving us just a few hours to know what was actually permitted in law and what was just advisory.

In News 165:

- Regulations Published
- Guidance on records
- Get out of the swimming pool
- Insurance tip
- CMA makes big players submit
- Track and trace update
- Small grants for growth

For self-caterers these regulations do provide a certain amount of clarity on some points. All the previous laws have been repealed therefore these are now the only covid-specific regulations that we need to follow as the law of the land.

The key points are that most of the so-called “rules” are now guidance, as promised by the Prime Minister in the House of Commons. Here are some key points for owners and agents that arise from this new legislation.

- There are no restrictions on holiday accommodation being open for business
- There are no laws on social distancing, or which families or households can holiday together.
- Holiday home operators are not given any specific duties or responsibilities in these regulations – you are not obliged to take on an enforcement role
- There is an issue regarding swimming pools and spas

- There is nothing specific in the regulations about cleaning arrangements

Health and safety law continues to apply and is legally enforceable, which creates a whole lot of grey areas as regards what is an is not required by law.

As reported in News 164 this presents a potential issue for self-caterers in that the government guidance that tells families only to be under the same roof as one other household is guidance and not a legal requirement. Is this a valid reason for cancellation of a booking? At the present time this is somewhat unclear. Where a booking, made before the coronavirus outbreak, is for a group of three or more households together, the customer is advised not to go ahead with the holiday as planned but not obliged to cancel by law.

The Competition and Markets Authority has been much involved in this issue, but their conclusions are based on the circumstances in which the holiday has been prohibited by means of regulations. They have taken the view that consumer protection law entitles customers to a full refund. The position is less clear now that advice, rather than legislation, is the driving force behind cancellations. HHA will endeavour to obtain the views of the CMA on this rather more “grey” area.

Getting out of the Swim

The new regulations require some businesses to remain closed. Two of the types of business that have to remain closed by law are:

- Swimming pools
- Spas

The wording is that “a person or business responsible for carrying on a business or providing a service which is listed in schedule 2 must cease to carry on that business or provide that service”. It is also stated that if the listed business forms part of a larger business then there is no offence committed if the listed part of the business (i.e. swimming pool or spa) is closed down.

So, although these regulations were probably aimed at swimming pools and spas shared by multiple people the letter of the law is that swimming pools that are part of holiday homes should remain closed.

This is, of course, an absurdity where the swimming pool is for the use of the holiday home occupants only and there are no changing facilities shared with others. The chlorine in most pools is understood to kill the virus in any case, reducing the risk.

Whilst we can most probably all recognise a swimming pool a spa is a rather more uncertain term and there is no definition of a spa in the regulations. The Oxford dictionary defines “spa” as meaning, amongst other things “A bath containing hot aerated water” but other dictionaries report that this definition is valid only in American English. Whether a hot tub is a spa is therefore unclear.

HHA will ask the Department of Health to alter this in the inevitable next set of amendments, although they may not take much notice. In the meantime, it is unlikely to be a priority for enforcement. There is greater risk where one pool is shared between two or more holiday homes and in that situation, closure would be more prudent.

Competition and Markets Authority forces two large firms on refunds

The Competition and Markets Authority has extracted undertakings from Vacation Rentals and Sykes to give refunds to those whose holidays had to be cancelled because of prohibition under the previous coronavirus regulations. These companies, and others, had resisted cash refunds and offered vouchers or postponement alternatives. The CMA says that “These two companies collectively account for a majority of all complaints received about holiday lets.” The CMA have taken the view that refusal of a full refund to consumers unable to take holidays during the lockdown was contrary to the Consumer Protection from Unfair Trading Regulations 2008, and the Consumer Rights Act 2015 although they have not published a clear explanation of which clauses of those legislative tomes they believe to have been breached.

The formal undertakings are understood to have been given in response to a threat of legal action by the CMA.

The undertakings make reference to the legislation rather than the government guidance and it is unclear what position the CMA will now take in the new situation where holidays for three or

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more households together are in breach of government guidance but not illegal.

Insurance Tips

From David Morris

The most popular question we have been asked as we approach the re-opening of self-catering businesses is whether a key safe affects the cover provided by the insurance policy.

As our Allianz underwritten self-catering does not have any security requirements and includes theft without a break in (and therefore includes theft by the holidaymaker, and theft where the holidaymaker has not secured the property), there is no issue with key safes. The cover is not affected.

We know that some self-catering insurance providers make it a requirement that the combination is changed after every letting. Whilst this is very sensible, our Allianz policy does not have that requirement, so if it is overlooked and a theft occurs, no problem!

David J Morris ACII

Chartered Insurance Broker

J L Morris (Insurance Brokers) Limited

www.selfcateringinsurance.co.uk

Track and Trace Update

Guidance has been published as to what holiday accommodation providers are asked to do to help with NHS Track and Trace. In most cases no additional work is involved as the contact information for the customer will already be held.

It has been clarified that when a booking is made by a group it is sufficient to have a record of the name and phone number of the group leader, you do not need to record names of the other members of the group.

The record should be of the date and time of arrival and any interaction with staff, and of the departure. A phone number is required.

Although not specifically mentioned in the guidance it would be in keeping with the general purpose to ask guests to record the name and number and arrival time of any visitors that they may receive during their stay. (You may be forgiven for wondering how this might apply to any visiting persons of easy virtue who may be summoned to the premises or to close encounters arranged through mobile phone applications – the guidance has nothing to say on that!)

The record needs to be kept for 21 days and must not be used for anything else – after three weeks it should be securely destroyed. You might be contacted by NHS Track and Trace and it is OK to pass that information to them.

Beware of fraud – you will need to log in to a government or NHS website – don't be fooled into parting with information to any fraudsters.

Providing the information is voluntary and you have no responsibility for checking it so if Mickey Mouse is recorded as staying in your property you are not responsible for that.

For most situations the details will all be on the booking form so this won't really involve any additional record-keeping or form-filling.

Small grants for Tourism Revival

The government has announced a Kick-starting Tourism Package fund that will be administered through local growth hubs. There is £10m available in England to be handed out without any need for match funding in grants of up to £5,000 which can be used for specialist professional advice such as human resources, legal or financial expertise, to adopt new technology and online systems or to purchase new equipment.

Finding out how to get your hands on the cash was something of a challenge but HHA News brought in a team of detectives who discovered that this money is to be administered by local growth hubs. These are connected to local enterprise partnerships and there are 39 of them covering all of England. (If you are very lucky you may be in two local growth hub areas at once).

At the time of writing a sample of several of the websites of these local growth hubs found that none of them had published any detail of eligibility or how to apply.

You can find the contact details for the local growth hub for your location at:

<https://www.lepnetwork.net/local-growth-hub-contacts/>

and we suggest keeping an eye on the local hub website or, if you have an idea for a grant application that will help you recover business in a post-covid world (maybe replacing key handling with electronic lock release?) we suggest giving the local hub an early prod.