



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

The above Regulations came into force on 5 November 2020. These Regulations have not been tested in the Courts and therefore are open to interpretation until there is a significant amount of case law. That said, our view set out below is our best interpretation of the Regulations as they currently stand.

Schedule Part 2 of the Regulations sets out in clear terms what businesses are subject to restrictions or closure. **Section 26 of Part 2 expressly states 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 carwashes.** Section 27 of Part 2 also includes auction houses. Thus, in our view all motor retail showrooms will have to remain closed and this will include any outdoor areas. Further, it will also include carwashes (subject to what is stated below).

Part 3 of the Regulations refers to businesses which are permitted to remain open. These businesses include petrol stations and car repair and MOT services (see sections 39 and 40 of Part 3).

Thus, in our view those retail sites which are offering repair and servicing facilities can remain open, provided of course the retail sites remain closed. For those carwashes which are part of a petrol retail site, it may be possible to argue that the carwash is permitted to remain open under section 39. This was argued on the last lockdown with success, but nevertheless is open to debate.

The Regulations are silent in a number of respects in relation to click and collect and/or test drives. Our view would be that both these operations could be conducted via the car repair/servicing operation and this was certainly done on the last lockdown.

That said, under Part 2 of the Regulations, there are detailed restrictions on individuals leaving home together with a number of exceptions. In our view, the restrictions prohibit individuals leaving home to pick up motor vehicles and/or have test drives, but obviously this will be a matter for the individuals themselves.

RMI members are encouraged to contact the RMI legal helpline if they have specific enquiries in relation to the Regulations.

Motor Industry Legal Services

Motor Industry Legal Services (MILS Legal Ltd) provides fully comprehensive legal advice and representation to UK motor retailers for one annual fee. It is the only law firm in the UK which specialises in motor law and motor trade law. MILS currently advises over 1,000 individual businesses within the sector as well as the Retail Motor Industry Federation (RMI) and its members.