

EXPLANATORY MEMORANDUM TO

The Health Protection (Coronavirus, Restrictions) (Amendment No. 6) Regulations (Northern Ireland) 2020

S.R. 2020 No. 103

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Health and is laid before the Northern Ireland Assembly to accompany the Health Protection (Coronavirus, Restrictions) (Amendment No. 6) Regulations (Northern Ireland) 2020.
- 1.2 The Statutory Rule is made under sections 25C(1), (3)(c), (4)(d) and 25F(2) of the Public Health Act (Northern Ireland) 1967 (“the 1967 Act”) and is subject to the emergency procedure under section 25Q of that Act.

2. Purpose of the Regulations

- 2.1 This Statutory Rule amends the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 (“the principal Regulations”).
- 2.2 Regulation 4 is further amended to remove the restrictions on businesses offering goods for sale or for hire in a shop, to allow providers of holiday accommodation to provide accommodation services to elite athletes, and to allow a place of worship or a community centre to open for the purpose of providing childcare.
- 2.3 Regulation 5 is further amended to provide that the list of reasonable excuses for leaving the place where a person is living includes the need to obtain goods for any business listed in Part 3 of Schedule 2; to move house and to undertake associated activities for that purpose; in the case of a person who lives alone, to visit or stay in another person’s dwelling; and in relation to an elite athlete, for the purpose of training.
- 2.4 Regulation 6A is amended, to allow for a total number of ten persons to participate in an outdoor gathering.

3. Matters of special interest to the Northern Ireland Assembly

- 3.1 The Statutory Rule is made under the emergency procedure set out in section 25Q of the 1967 Act. The Regulations are made without a draft having been laid before, and approved by a resolution of, the Assembly. The Department of Health is of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft being so laid and approved so that public health measures can be introduced, amended or withdrawn in response to the latest risk assessment associated with the incidence and spread of coronavirus disease. The provisions relating to childcare, retail and outdoor gatherings of up to 10 people all commenced at 11pm on 11 June. The provisions relating to home visits commenced at 11pm on 12 June and those relating to elite athletes and moving house commenced at 11pm on 14 June. The Statutory rule is available on the Department of Health website. The Regulations cease to have effect at the end of the period of 28 days beginning with the day on which the Statutory Rule is made

unless, during that period, the Statutory Rule is approved by a resolution of the Assembly.

4. Legislative Context

- 4.1 The 1967 Act and regulations made under it provide a legislative framework for health protection in Northern Ireland.
- 4.2 Part 1A of the 1967 Act, as inserted by the Coronavirus Act 2020 (“the 2020 Act”), provides a legal basis to protect the public from threats arising from infectious disease or contamination with coronavirus, and includes powers to impose restrictions or requirements on people, and in relation to things and premises, for use in rare circumstances where voluntary cooperation cannot be obtained. Overall, Part 1A of the 1967 Act sets out a framework for health protection which requires much of the detailed provisions to be delivered through regulations.
- 4.3 Section 25C of the 1967 Act provides a power for the Department of Health to make regulations to prevent, protect against, control or provide a public health response to the incidence or spread of infection or contamination with coronavirus in Northern Ireland. The threat can come from outside Northern Ireland.
- 4.4 These Regulations are made under section 25C to enable public health measures to be introduced, amended or withdrawn in respect of the public health risks posed by the incidence and spread of coronavirus disease.

5. Policy background

- 5.1 The temporary modifications to the 1967 Act made by the Coronavirus Act 2020 provide regulation making powers that were previously not available in Northern Ireland.
- 5.2 The Prime Minister addressed the nation on 23 March 2020 to announce the need for further restrictions to be underpinned by legislation. The principle Regulations provide for a range of restrictions and closures, as well as requiring persons to stay home by prohibiting people from leaving the place where they live except for limited purposes (such as shopping for basic necessities, exercise, to seek medical assistance or to provide care or assistance) and banning public gatherings of more than two people.
- 5.3 The Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 (as amended) are critical for the Executive to take all reasonable steps to prevent the community transmission of coronavirus disease where possible. It is also essential that the Executive retains public trust in its public health protection measures. This level of trust will be critical to ensuring that the public continues to engage and comply with interventions designed to protect individuals and communities during the period of transmission of the virus within Northern Ireland.
- 5.4 Regulation 4 of the principal Regulations requires the closure of certain businesses with some exemptions. Opening of the remainder of retail over and above those retailers already permitted to open is consistent with Step 2 ‘Retail’ of Executive Approach to Decision-Making. Extending the scope of goods retail by reopening the rest of the sector allows people to leave their homes to buy

goods, improving wellbeing and increasing the sense of normality. Protecting the jobs of those who work in these retail outlets and restoring people's livelihoods is critical for their wellbeing and their futures, as well as helping to improve the sustainability of public finances.

- 5.5 By ensuring that community centres and church halls are able to open to provide childcare will allow childcare providers to operate childcare provision from these venues. The availability of safe, regulated childcare allows parents/guardians to return to work, improving wellbeing of both parents and children and increasing a sense of normality. Re-opening of childcare facilities will enable childcare providers and childcare workers to return to work, providing a much needed service for parents/carers, enabling them in turn to return to their jobs thus allowing the economy generally to return to normal.
- 5.6 Regulation 5 of the principal Regulations (restrictions on movement) provides for a 'reasonable excuse' for a person leaving the place where they are living. The reopening of the housing market is consistent with Step 2 of Executive Approach to Decision-Making. There are negative impacts on households in terms of physical and mental health from restricting house moves any longer than is absolutely necessary. Reopening the housing market to allow households to move to a more suitable home is a low risk activity. One of the fundamentals of a functioning society is that households have access to housing that is safe and suitable for their needs.
- 5.7 Allowing people to meet indoors in a planned and limited way is consistent with Step 1 of Executive Approach to Decision-Making. Enabling people who live alone to form a small support unit (a bubble) with one other household would enable the person to visit, stay over and spend more time with their support network. This would help tackle isolation and is a first step towards allowing indoor visits from one household to visit another household in limited circumstances.
- 5.8 Allowing elite athletes to commence training and to allow outdoor elite facilities to be open is consistent with Step 2 of Executive Approach to Decision-Making. If the elite players/athletes cannot return to controlled training this will impact their ability to take part in competitive sport later this year, subject to continued health and scientific assessments. The change would allow elite sports and their athletes to begin to prepare for a return to contact training and eventually international competition/events when it is safe to do so and permitted by the Executive's Plan.
- 5.9 Regulation 6A permits up to six people who are not members of the same household to meet outdoors. Increasing the number of people from different households that can meet outdoors from 6 to 10 is consistent with Step 2 'Family and Community' in the Executive Approach to Decision Making. This will offer benefits in terms of personal well-being at low risk, given that the participants will meet outdoors where social distancing can be more easily maintained.

6. Consultation

- 6.1 Given the rapidly evolving global situation regarding the spread of coronavirus disease there has been no public consultation in relation to this Statutory Rule.

7. Equality impact

- 7.1 Given the rapidly evolving global situation regarding the spread of coronavirus disease there has been no assessment of equality impacts in relation to this Statutory Rule.
- 7.2 The public health restrictions and requirements introduced by the principal Regulations are part of a range of measures designed to assist and support efforts to protect the population of Northern Ireland by seeking to limit the spread of coronavirus disease.

8. Regulatory impact

- 8.1 Given the rapidly evolving global situation regarding the spread of coronavirus disease there has been no assessment of regulatory impacts in relation to this Statutory Rule.

9. Financial implications

- 9.1 Given the rapidly evolving global situation regarding the spread of coronavirus disease there has been no assessment of the financial impacts in relation to this Statutory Rule.

10. Section 24 of the Northern Ireland Act 1998

- 10.1 The Department of Health has considered section 24 of the Northern Ireland Act 1998 and is satisfied that these Regulations are not incompatible with any of the Convention rights; are not incompatible with Community law; do not discriminate against a person or class of person on the grounds of religious belief or political opinion; and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

11. EU implications

- 11.1 There are unlikely to be any EU implications.
- 11.2 This Statutory Rule does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

12. Parity or Replicatory Measure

- 12.1 Not applicable.

13. Additional information

- 13.1 Not applicable