

EXPLANATORY MEMORANDUM TO

The Health Protection (Coronavirus, Wearing of Face Coverings) (Amendment) Regulations (Northern Ireland) 2020

S.R. 2020 No. 164

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, Wearing of Face Coverings) (Amendment) 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 The Statutory Rule amends the Health Protection (Coronavirus, Wearing of Face Coverings) Regulations (Northern Ireland) 2020 in order to require members of the public to wear face coverings whilst inside a relevant place in order to protect against the risks to public health arising from coronavirus, except in certain limited cases.

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Regulations without a draft being so laid and approved so that public health measures can be introduced, amended or withdrawn in response to the latest risk assessment associated with the incidence and spread of coronavirus disease.
- 3.2 The Statutory Rule was made on 31 July 2020 and shall come into operation on such day as the Department of Health may by order appoint. A copy 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.
- 3.3 The need for the restrictions must be reviewed by the Department of Health within 6 months of their coming into operation.

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 provided 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. A series of 11 Amendment Regulations were subsequently made, gradually easing the restrictions and closures.

5.3 The requirement to wear face coverings on public transport was set out in the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 (as amended). Those Regulations have been revoked by the Health Protection (Coronavirus, Restrictions) (No. 2) Regulations (Northern Ireland) 2020 and the provisions relating to the wearing of face coverings are now set out in the Health Protection (Coronavirus, Wearing of Face Coverings) Regulations (Northern Ireland) 2020.

5.4 The Health Protection (Coronavirus, Wearing of Face Coverings) (Amendment) Regulations (Northern Ireland) 2020 further provides a power for the Department of Health to require the use of a face covering in a relevant place, broadly defined as a shop or shopping centre, but not a restaurant, bar, pub or bank or similar institution. A relevant place that can provide for social distancing and control by use of a ticketing or appointments system is excluded, as is a setting where the primary purpose of attendance is aerobic exercise.

5.5 In preparing the Regulations, the Minister noted that the mandatory use of face coverings in public transport had resulted in over 70% compliance, where in other indoor settings, where it remains voluntary, it is no greater than 10%. Current advice is that 80% usage of face coverings will be necessary to keep the virus within manageable levels.

- 5.6 The reasonable excuses not to wear a mask and provision for enforcement and penalties is unchanged, as is the need for the Department of Health to review the need for the requirements imposed.
- 5.7 These Regulations are a critical measure to protect individuals and communities during the period of transmission of the virus within Northern Ireland.

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