

## **EXPLANATORY MEMORANDUM TO**

# **The Health Protection (Coronavirus, Restrictions) (Amendment) Regulations (Northern Ireland) 2020**

### **S.R. 2020 No. 71**

#### **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) 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”) to remove the requirement to close burial grounds to members of the public and to clarify the circumstances in which a person may leave the place where they are living to take exercise.

#### **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 taken in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus. The Regulations came into force at 11.00pm on 24 April 2020 and were published on the Department of Health website soon after. 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 a number of public health measures to be taken for the purpose of reducing the public health risks posed by the incidence and spread of coronavirus.
- 4.5 The Statutory Rule amends regulation 4 of the principal Regulations to remove the requirement to close burial grounds to members of the public. Regulation 4A is inserted to impose a duty on a person who is responsible for a burial ground to take all responsible measures to ensure that a distance of at least two metres is maintained between every person at the burial ground, except between members of the same household. Regulation 5 is amended to include the need to visit a burial ground to pay respects to a member of the persons' household, family member or friend as a reasonable excuse for a person to leave the place where they are living. Regulation 5 is also amended to clarify the circumstances in which a person may leave the place where they are living to take exercise. .

## **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. These 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 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 if transmission of the virus within Northern Ireland increases in the coming weeks.
- 5.4 Regulation 4 of the principal Regulations requires that a crematorium or burial ground is closed to members of the public, except for funerals or burials. A number of representations have been received by Ministers seeking a relaxation to permit, for example, family members to visit a grave. Granting access to any public place might lead to some degree of risk, albeit this risk is considered to be relatively low, for visitors and anyone working at the burial ground. However, there is a need to consider the mental health and well-being of bereaved persons through facilitating the social customs associated with the grieving and remembering process. The amendment to the principal Regulations to allow burial grounds and cemeteries to open recognises that, particularly for those who are unable to attend funerals and those who derive great comfort from visiting the grave of a family member, there are compassionate grounds to allow them open if they are able to do so safely. This may be of particular

importance to those who may have lost a loved one to coronavirus disease and have not been able to visit their relative in hospital.

- 5.5 The Department has also been asked to clarify the circumstances in which a person can leave the house to exercise, including reasonable travel to exercise. The amendment to Regulation 5 of the principal Regulations provides that reasonable travel is permitted and that travel must be associated with the exercise.

## **6. Consultation**

- 6.1 Given the rapidly evolving global situation regarding the spread of coronavirus 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 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.

## **8. Regulatory impact**

- 8.1 Given the rapidly evolving global situation regarding the spread of coronavirus 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 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 The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 came into force at 9.00am on 21 April. The amendment regulations allow for burial grounds to be open but do not amend the requirements in respect of travel for the purpose of exercise. The Health Protection (Coronavirus, Restrictions) (England) (Amendment) Regulations 2020 came into force at 11.00am 22 April 2020. The amendment

regulations allow for burial grounds and gardens of remembrance to be open but do not amend the requirements in respect of travel for the purpose of exercise.

**13. Additional information**

13.1 Not applicable