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STATUTORY RULES OF NORTHERN IRELAND

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**2021 No. 93**

**The Health Protection (Coronavirus, Restrictions)  
Regulations (Northern Ireland) 2021**

**PART 6**

**ENFORCEMENT**

**Enforcement of requirement**

**20.**—(1) A relevant officer may take any action necessary to establish whether a breach of these Regulations has occurred or to enforce a requirement imposed under these Regulations.

(2) A relevant officer may give a prohibition notice to a person (P) if the relevant officer reasonably believes that—

- (a) P is contravening a requirement under these Regulations; and
- (b) it is necessary and proportionate to give the prohibition notice for the purpose of preventing P from continuing to contravene the requirement.

(3) A prohibition notice must specify the—

- (a) contravention to which it relates;
- (b) measures the enforcement officer requires P to take in order to ensure that P complies with the requirement; and
- (c) time limit, which must not be less than 48 hours beginning with the time the notice is issued, within which the measures must be taken.

(4) An enforcement officer must issue a notice terminating a prohibition notice (a “termination notice”) if satisfied that—

- (a) the measures specified in the prohibition notice have been taken; or
- (b) other measures have been taken to ensure that the requirement is complied with.

(5) A prohibition notice ceases to have effect upon the issue of a termination notice.

(6) A prohibition notice or a termination notice is issued by giving P a written copy of it, but where P is not on premises to which a notice relates when it is to be issued, the notice is to be treated as having been issued to P—

- (a) if a written copy of it is given to another person on the premises who appears to be involved in the business or service in question; or
- (b) if there is no such person on the premises at that time, a written copy of the notice is placed in a conspicuous position on or at the premises.

(7) A relevant officer may direct a person (P) to return to the place where P normally lives where—

- (a) the relevant officer considers that P is outside of the place where P normally lives; and
- (b) that P is engaged in, or is intending to engage in, activity prohibited by these Regulations.

*Status: Point in time view as at 12/04/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2021, PART 6. (See end of Document for details)*

(8) Where a relevant officer considers that there is a gathering in contravention of Part 3, the relevant officer may—

- (a) direct the gathering to disperse;
- (b) direct a person at the gathering to return to the place where they normally live; or
- (c) remove a person from the gathering and in doing so use reasonable force.

(9) Where a person who is in a gathering in contravention of Part 3, is a child accompanied by an individual who has responsibility for the child—

- (a) the relevant officer may direct that individual to take the child to the place where the child normally lives; and
- (b) that individual must, so far as reasonably practicable, ensure that the child complies with a direction or instruction given by the relevant officer to the child.

(10) Where a relevant officer has reasonable grounds to believe that a child is repeatedly failing to comply with the restriction under Part 3, the relevant officer may direct an individual who has responsibility for the child to secure, so far as reasonably practicable, that the child complies with that restriction.

(11) A relevant officer may only exercise the power under this regulation if the relevant officer considers that it is a necessary and proportionate means of ensuring compliance with any restriction or requirement in these Regulations.

(12) A relevant officer exercising a power under this regulation may give the person concerned any reasonable instruction the relevant officer considers to be necessary.

(13) For the purposes of this regulation—

- (a) “child” means a person under the age of 18;
- (b) an individual has responsibility for a child if the individual—
  - (i) has custody or charge of the child for the time being; or
  - (ii) has parental responsibility for the child (within the meaning of the Children (Northern Ireland) Order 1995<sup>M1</sup>).
- (c) references to a requirement include references to a restriction.

#### **Marginal Citations**

**M1** S.I. 1995/ 755 (N.I. 2)

### **Appeals against notices**

**21.—**(1) A person to whom a premises improvement notice or a prohibition notice (a “notice”) is issued may appeal to a court of summary jurisdiction against the notice if it contains a requirement or restriction to which this regulation applies and to which a person would not be subject but for the notice.

(2) This regulation applies to a requirement or restriction in a notice that a person—

- (a) wear protective clothing;
- (b) close premises or part of premises;
- (c) provide information or answer questions about the person's health or other circumstances;
- (d) attend training or advice sessions on how to reduce the risk of infecting or contaminating others;
- (e) disinfect or decontaminate premises or a part of premises or a thing;

- (f) abstain from working or trading.
- (3) An appeal must be made—
  - (a) to a court of summary jurisdiction in accordance with Article 76 of the Magistrates' Courts (Northern Ireland) Order 1981 <sup>M2</sup>; and
  - (b) within a period of 7 days beginning with the day the notice is issued.
- (4) A court of summary jurisdiction may allow an appeal to be made after the expiry of the period mentioned in sub-paragraph (3)(b) if satisfied that there is a good reason for the failure to appeal before the expiry of that period and for any delay in applying for permission to appeal out of time.
- (5) A court of summary jurisdiction may suspend the effect of a notice pending the determination of an appeal.
- (6) On an appeal against a notice, a court of summary jurisdiction may—
  - (a) confirm the decision to issue the notice;
  - (b) direct that the notice is to cease to have effect;
  - (c) modify the notice; or
  - (d) make any other order it considers appropriate.
- (7) An appeal by either party against the decision of a court of summary jurisdiction under this regulation may be made under Article 143(3)(c) of the Magistrates' Courts (Northern Ireland) Order 1981 to the county court which may confirm, vary or reverse the decision of the court of summary jurisdiction.

#### Marginal Citations

**M2** S.I. 1981/ 1675 (N.I. 26)

#### Offences and Penalties

- 22.**—(1) A person who, without reasonable excuse, contravenes a requirement under regulations these Regulations, commits an offence.
- (2) A person who, without reasonable excuse, obstructs a person carrying out a function under these Regulations commits an offence.
- (3) A person who, without reasonable excuse, contravenes a direction or fails to comply with a reasonable instruction, or fails to comply with an improvement notice given by an enforcement officer under regulation 18 or a prohibition notice given by a relevant officer under regulation 20, commits an offence.
- (4) An offence—
  - (a) under regulation [<sup>F13</sup> 3 to 8], 10(1), 16 or 17 is punishable on summary conviction by a fine not exceeding £10,000;
  - (b) under any other provision referred to in this regulation, is punishable on summary conviction by a fine not exceeding level 5 on the standard scale.
- (5) Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989 <sup>M3</sup> applies in relation to an offence under this regulation as if the reasons in paragraph (5) of that Article included—
  - (a) to maintain public health;
  - (b) to maintain public order.
- (6) For the purposes of this regulation, references to a requirement include references to a restriction.

*Status: Point in time view as at 12/04/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2021, PART 6. (See end of Document for details)*

**F1** Words in [reg. 22\(4\)\(a\)](#) substituted (12.4.2021) by [The Health Protection \(Coronavirus, Restrictions\) Regulations \(Northern Ireland\) 2021 \(Amendment\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/97\)](#), regs. 1(2), **16**

#### Marginal Citations

**M3** [S.I. 1989/1341 \(N.I. 12\)](#)

### Fixed Penalty Notices

**23.—(1)** A relevant officer may issue a fixed penalty notice to anyone that the constable reasonably believes has committed an offence under these Regulations and is aged 18 or over.

(2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging a liability to conviction for the offence by payment of a fixed penalty to the authority specified in the notice.

(3) The authority specified in the notice must be—

- (a) in the case of a notice issued by an enforcement officer, the district council in whose area the offence is alleged to have been committed; or
- (b) in the case of a notice issued by a constable, the clerk of petty sessions.

(4) Where a person is issued with a notice under this regulation for an offence—

- (a) no proceedings may be taken for the offence before the end of the period of 28 days beginning with the day immediately following the date of the notice;
- (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(5) A fixed penalty notice must—

- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
- (b) state the period during which (because of paragraph (4)(a)) proceedings will not be taken for the offence;
- (c) specify the amount of the fixed penalty;
- (d) state the name and address of the person to whom the fixed penalty must be paid;
- (e) specify permissible methods of payment;
- (f) inform the person to whom it is given of the right to ask to be tried for the offence.

(6) In the case of an offence consisting of—

- (a) a breach of regulation [<sup>F23</sup> 3 to 8], 10(1), 16 or 17;
- (b) obstruction referred to in regulation 22(2) which is committed in connection with the breach referred to in paragraph (a);
- (c) contravention or non-compliance referred to in regulation 22(3) which is committed in connection with the breach referred to in paragraph (a), the amount specified under paragraph (5)(c) must be—
  - (i) £1,000 if a fixed penalty notice is the first one issued to a person for such a breach;
  - (ii) £2,000 if a fixed penalty notice is the second one issued to a person for such a breach;
  - (iii) £4,000 if a fixed penalty notice is the third one issued to a person for such a breach;
  - (iv) £10,000 if a fixed penalty notice is the fourth one, or a subsequent one, issued to a person for such a breach.

- (d) For the purposes of paragraph (c) a breach of a requirement of the Health Protection (Coronavirus, Restrictions) (No.2) Regulations (Northern Ireland) 2020 may be treated as a breach of the same requirement of these regulations.
- (7) In the case of an offence consisting of—
- (a) a breach of any other provision of these Regulations;
  - (b) obstruction referred to in regulation 22(2) which is committed in connection with the breach referred to in paragraph (a);
  - (c) contravention or non-compliance referred to in regulation 22(3) which is committed in connection with the breach referred to in paragraph (a), the notice must specify that the amount of the fixed penalty is—
    - (i) £200; or
    - (ii) £100 if that amount is paid before the end of the period of 14 days following the date of the notice.
- (8) A person who has previously been issued with a fixed penalty notice for an offence referred to in paragraph (7) (“offence A”)—
- (a) shall not be issued with a fixed penalty notice for a further offence committed in connection with, offence A; but
  - (b) may be issued with a fixed penalty notice for a different offence under that paragraph (offence B) which is unconnected with offence A.
- (9) Despite a fixed penalty notice specifying some other method of payment under paragraph (5) (e), payment of a fixed penalty may be effected by posting to the person whose name is stated under paragraph (5)(d), at the stated address, a pre-paid letter containing the amount of the penalty (in cash or otherwise).
- (10) Where a letter is sent as mentioned in paragraph (9), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (11) In the case of a notice issued by an enforcement officer, the payment received by a district council under this regulation accrues to that council.
- (12) In any proceedings, a certificate—
- (a) that purports to be signed by or on behalf of the authority specified in the notice; and
  - (b) states that the payment of a fixed penalty was, or was not, received by the date specified in the certificate;
- is evidence of the facts stated.

**F2** Words in reg. 23(6)(a) substituted (12.4.2021) by [The Health Protection \(Coronavirus, Restrictions\) Regulations \(Northern Ireland\) 2021 \(Amendment\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/97\)](#), regs. 1(2), 17

**Status:**

Point in time view as at 12/04/2021.

**Changes to legislation:**

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