
STATUTORY RULES OF NORTHERN IRELAND

2021 No. 99

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

PART 4

Enforcement

Enforcement powers

Enforcement of requirement to isolate

19.—(1) Where a constable has reasonable grounds to believe that a person (P) has left or is outside of the place where they are isolating in contravention of these Regulations, the constable may—

- (a) direct P to return to the place where P is isolating,
- (b) remove P to the place where P is isolating,
- (c) where it is not practicable or appropriate in the circumstances to take the action in subparagraph (a) or (b), remove P to accommodation facilitated by the United Kingdom Government for the purposes of P's isolation.

(2) Paragraphs (1)(b) and (c) do not apply where P is a diplomat within the meaning of Schedule 4.

(3) A constable exercising the power in paragraph (1)(b) or (c) may use reasonable force, if necessary, in the exercise of the power.

(4) Where P is a child, and has left or is outside of the place where they are isolating and accompanied by an individual who has responsibility for them—

- (a) a constable may direct that individual to take P to the place where P is isolating, and
- (b) that individual must, so far as reasonably practicable, ensure that P complies with any direction given by the constable to P.

(5) Where P is a child, and a constable has reasonable grounds to believe that P is repeatedly failing to comply with the requirement to isolate, the constable may direct any individual who has responsibility for P to ensure, so far as reasonably practicable, that P so complies.

(6) A constable may only exercise a power in paragraph (1), (4) or (5) if the constable considers that it is a necessary and proportionate means of ensuring compliance with the requirement to isolate.

Additional enforcement powers in respect of managed isolation

20.—(1) This regulation sets out additional enforcement powers in respect of managed isolation under regulations 14 and 15 and Schedule 7 (“the managed isolation provisions”).

(2) Where an authorised person has reasonable grounds to believe that P is subject to the managed isolation provisions, the authorised person may do any of the following for the purpose of ensuring that P complies with those provisions—

- (a) give a direction to P, including a direction—
 - (i) that P remain in a particular area of a port to await transportation to accommodation designed for the purposes of those provisions,
 - (ii) that P move to a particular place to board transportation designated for the purposes of those provisions,
 - (iii) that P board transportation designated for the purposes of those provisions to travel to accommodation designated for the purposes of those provisions,
 - (iv) that P remain in the place where P is isolating,
- (b) remove P to accommodation designated for the purposes of those provisions.

(3) This regulation does not apply where P is a diplomat within the meaning of Schedule 4.

(4) An authorised person exercising the power in paragraph (2)(b) may use reasonable force, if necessary, in the exercise of the power.

(5) An authorised person may only exercise a power in this regulation if the authorised person considers that it is a necessary and proportionate means of ensuring compliance with the managed isolation provisions.

(6) For the purposes of this regulation, “authorised person” means—

- (a) a constable, or
- (b) an immigration officer.

Additional enforcement powers in respect of red list arrivals

21.—(1) This regulation sets out additional enforcement powers in respect of red list arrivals.

(2) Where an authorised person has reasonable grounds to believe that P is a red list arrival and that P has committed an offence under regulation 23(1)(a) or 23(4), the authorised person may—

- (a) require P to produce their passport or travel document for examination,
- (b) detain P for up to three hours,
- (c) search P and any baggage belonging to P or under P’s control, or any vehicle in which P has travelled, for evidence, other than items subject to legal privilege, that relates to the possible commission of an offence under regulation 23(4),
- (d) seize and retain any document or article recovered by a search under sub-paragraph (c).

(3) Paragraph (2) does not confer a power to detain or search an unaccompanied child.

(4) Any search under paragraph (2) must be conducted by an authorised person of the same gender as P.

(5) Paragraph (2) does not confer a power to conduct an intimate search.

(6) This regulation does not apply where P is a diplomat within the meaning of Schedule 4.

(7) An authorised person exercising the power in this regulation may use reasonable force, if necessary, in the exercise of the power.

(8) An authorised person may only exercise a power in this regulation if the authorised person considers that it is a necessary and proportionate means of ensuring compliance with the managed isolation provisions.

(9) For the purposes of this regulation, “authorised person” means—

- (a) a constable, or

- (b) an immigration officer.

Power of entry in respect of managed isolation

22.—(1) A constable may enter premises in order—

- (a) to search for a person who is suspected of committing an offence of contravening the requirement in paragraph 8 of Schedule 7,
- (b) to remove a person of the description in sub-paragraph (a) to accommodation designated by the Department for the purposes of Schedule 7.

(2) The power in paragraph (1) is exercisable if the constable—

- (a) has reasonable grounds to believe that a person of the description in paragraph (1)(a) is in or on the premises, and
- (b) has a reasonable belief that it is necessary and proportionate to enter the premises for the purposes specified in paragraph (1)(b).

(3) But the power in paragraph (1) does not authorise entry to any part of the premises which is used as a private dwelling, unless a magistrates' court has issued a warrant authorising this under paragraph (6).

(4) A constable exercising the power in paragraph (1) or executing a warrant under paragraph (6)

- (a) may use reasonable force if necessary, and
- (b) may be accompanied by a community support officer (within the meaning of the Police (Northern Ireland) Act 2003(1)).

(5) A constable exercising the power in paragraph (1) or executing a warrant under paragraph (6)

- (a) if asked by a person on the premises, must show evidence of the constable's identity and outline the purpose for which the power is being exercised, and
- (b) if the premises are unoccupied or the occupier is temporarily absent, must leave the premises as effectively secured against unauthorised entry as when the constable found them.

(6) If it is shown to the satisfaction of a magistrates' court on sworn information in writing that—

- (a) there are reasonable grounds to believe that a person of the description in paragraph (1)
 - (a) is in or on the premises, and
 - (b) it is necessary and proportionate to enter the premises for the purposes specified in paragraph (1)(b),

then the court may by signed warrant authorise a constable to enter the premises.

(7) In this regulation, "premises" includes any building or structure and any land.

Offences

Offences and penalties

23.—(1) A person who—

- (a) without reasonable excuse contravenes a requirement in regulation 4,
- (b) without reasonable excuse contravenes a requirement in regulation 6,

- (c) without reasonable excuse contravenes a requirement in regulation 8,
 - (d) contravenes a requirement in regulation 10,
 - (e) without reasonable excuse contravenes a requirement in paragraph 4 or 14(a) of Schedule 7,
 - (f) contravenes a requirement in any paragraph of Schedule 7 other than paragraph 4, 13 or 14(a),
 - (g) without reasonable excuse contravenes a requirement in or imposed under regulation 19 or regulation 21, or
 - (h) without reasonable excuse contravenes a requirement in or imposed under regulation 20, commits an offence.
- (2) But a person does not commit an offence where they contravene a requirement in—
- (a) regulation 6, if they reasonably believed at the time of the contravention that the notification of a negative result was valid and from a qualifying test,
 - (b) Schedule 7, if the accommodation or transport booked is no longer available for reasons beyond the person's control.
- (3) A person who, without reasonable excuse, intentionally obstructs any person carrying out a function under these Regulations commits an offence.
- (4) A person who intentionally or recklessly provides false or misleading passenger information commits an offence.
- (5) An operator (within the meaning of regulation 16) who contravenes regulation 17(3) or 18(3) commits an offence.
- (6) An offence under these Regulations is punishable on summary conviction by a fine—
- (a) not exceeding £10,000 in respect of a managed isolation offence, or a managed isolation (ports and travel information) offence, within the meaning of regulation 27,
 - (b) not exceeding level 5 on the standard scale in respect of any other offences.
- (7) Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽²⁾ (arrest without warrant: constables) applies in relation to an offence under this regulation as if the reasons in paragraph (5) of that Article included to maintain public health.

Reasonable excuses: contravention of regulation 6

- 24.** For the purposes of regulation 23(1)(b), reasonable excuses for contravening regulation 6 include, in particular, where—
- (a) a person was medically unfit to provide a sample for a qualifying test and possessed a document, in English or accompanied by a certified English translation, signed by a medical practitioner entitled to practise in the country or territory in which that practitioner was based, to that effect,
 - (b) it was not reasonably practicable for a person to obtain a qualifying test due to a disability,
 - (c) a person required medical treatment with such urgency that obtaining a qualifying test was not reasonably practicable,
 - (d) a person contracted coronavirus and required emergency medical treatment,
 - (e) a person was accompanying, in order to provide support, whether medical or otherwise, a person described in paragraph (c) or (d) where it was not reasonably practicable for the accompanying person to obtain a qualifying test,

- (f) a person began their journey to Northern Ireland in a country or territory in which a qualifying test was not available to the public, with or without payment, or in which it was not reasonably practicable for a person to obtain a qualifying test due to lack of reasonable access to a qualifying test or testing facility and it was not reasonably practicable for them to obtain a qualifying test in their last point of departure if this was different to where they began their journey,
- (g) the time it has taken a person to travel from the country or territory where they began their journey to the country or territory of their last point of departure prior to arriving in Northern Ireland meant that it was not reasonably practicable for them to meet the requirement in paragraph 1(c) of Schedule 5, and it was not reasonably practicable for them to obtain a qualifying test in their last point of departure.

Reasonable excuses: contravention of regulation 8

25.—(1) For the purposes of regulation 23(1)(c), reasonable excuses for contravening regulation 8(2), (3) or (4) include, in particular, where—

- (a) it was not reasonably practicable for a person to book a test due to a disability,
- (b) a person reasonably considered before arriving in Northern Ireland that it would not be reasonably practicable for the person (or, as the case may be, the child for whom the person has responsibility) to provide a sample for a test in accordance with regulation 8 due to a disability,
- (c) a person required medical treatment with such urgency that booking a test was not reasonably practicable,
- (d) a person was accompanying, in order to provide support, whether medical or otherwise, a person described in sub-paragraph (a) or (c) where it was not reasonably practicable for the accompanying person to book a test,
- (e) a person began their journey to Northern Ireland in a country or territory in which the person did not have reasonable access to the facilities or services required to book a test, with or without payment, and such facilities or services were not reasonably accessible in their last point of departure if this was different to where they began their journey.

(2) For the purposes of regulation 23(1)(c), reasonable excuses for contravening regulation 8(5) include, in particular, where—

- (a) it is not reasonably practicable for a person to undertake a test due to a disability,
- (b) a person requires medical treatment with such urgency that undertaking a test is not reasonably practicable,
- (c) a test is cancelled for reasons beyond the person's control,
- (d) a person has left Northern Ireland in accordance with regulation 10(3)(b), or left the common travel area in accordance with paragraph 11(1)(a) of Schedule 7.

Fixed penalty notices

Fixed penalty notices

26.—(1) An authorised person may issue a fixed penalty notice to anyone that the authorised person has reasonable grounds to believe—

- (a) has committed an offence under these Regulations, and
- (b) 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 any liability to conviction for the offence by payment of a fixed penalty to the clerk of petty sessions.

- (3) Where a person is issued with a notice under this regulation in respect of an offence—
- (a) no proceedings may be taken for the offence before the end of the period of 28 days 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.
- (4) 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 (3)(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 may be paid,
 - (e) specify permissible methods of payment, and
 - (f) inform the person to whom it is given of the right to ask to be tried for the offence.

(5) Whatever other method may be specified under paragraph (4)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under paragraph (4)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).

(6) Where a letter is sent as described in paragraph (5), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

- (7) In any proceedings, a certificate that—
- (a) purports to be signed by or on behalf of the clerk of petty sessions, 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.

- (1) In this regulation, “authorised person” means—
- (a) a constable, or
 - (b) an immigration officer, but only in relation to the issue of a fixed penalty notice in respect of—
 - (i) an information offence, within the meaning of regulation 27,
 - (ii) an offence described in regulation 23(1)(b), (1)(c), (1)(e), (1)(f), (1)(g), (1)(h).

Amount of fixed penalty

27.—(1) This regulation sets out the amount which must be specified, in accordance with regulation 26(4)(c), in a fixed penalty notice, in respect of different offences—

(2) Where the fixed penalty notice is issued in respect of an obstruction offence (green or amber list arrivals) then the amount specified must be £1,000.

(3) For the purposes of this regulation an obstruction offence (green or amber list arrivals) means an offence described in—

- (a) regulation 23(1)(g) (except in so far as it relates to a red list arrival), or
- (b) regulation 23(3) where the person is believed to have intentionally obstructed a person carrying out a function in relation to regulations 10 to 13, or regulation 19 (except in relation to a red list arrival).

(4) Where the fixed penalty notice is issued in respect of a self-isolation offence then the amount specified must be £1,000.

(5) For the purposes of this regulation a self-isolation offence means an offence described in regulation 23(1)(d).

(6) Where the fixed penalty notice is issued to a person in respect of a managed isolation offence then the amount specified must be—

- (a) in the case of the first fixed penalty notice, £5,000,
- (b) in the case of the second fixed penalty notice, £8,000,
- (c) in the case of the third and subsequent fixed penalty notice, £10,000.

(7) For the purposes of this regulation a managed isolation offence means an offence described in—

- (a) regulation 23(1)(e) or (1)(f) (except in the case of a contravention of a requirement in paragraph 2 of Schedule 7),
- (b) regulation 23(1)(g) (except in so far as it relates to green or amber list arrivals),
- (c) regulation 23(1)(h), or
- (d) regulation 23(3) where the person is believed to have intentionally obstructed any person carrying out a function relating to a red list arrival.

(8) Where the fixed penalty notice is issued in respect of a managed isolation (ports and travel information) offence then the amount specified must be £10,000.

(9) For the purposes of this regulation a managed isolation (ports and travel information) offence means an offence described in—

- (a) regulation 23(1)(f), in respect of the requirement under paragraph 2 of Schedule 7, or
- (b) regulation 23(4), in respect of information relating to the person's travel history in relation to a red list country.

(10) Subject to paragraph (8), where the fixed penalty notice is issued in respect of an information offence, then the amount specified must be—

- (a) in the case of the first fixed penalty notice, £500
- (b) in the case of the second fixed penalty notice, £1,000
- (c) in the case of the third fixed penalty notice, £2,000
- (d) in the case of the fourth and subsequent fixed penalty notices, £4,000.

(11) For the purposes of this regulation an information offence means an offence described in—

- (a) regulation 23(1)(a),
- (b) regulation 23(3), where the person is believed to have intentionally obstructed a person carrying out a function in relation to regulation 4,
- (c) regulation 23(4).

(12) Where the fixed penalty notice is issued in respect of a possession of negative test result offence then the amount specified must be—

- (a) in the case of the first fixed penalty notice, £500,
- (b) in the case of the second fixed penalty notice, £1,000,
- (c) in the case of the third fixed penalty notice, £2,000,
- (d) in the case of the fourth and subsequent fixed penalty notices, £4,000.

(13) For the purposes of this regulation, a possession of negative test result offence means an offence described in—

- (a) regulation 23(1)(b), or
 - (b) regulation 23(3) where the person is believed to have intentionally obstructed any person carrying out a function in relation to regulation 6.
- (14) Where the fixed penalty notice is issued in respect of a book and test offence, then the amount specified must be—
- (a) in the case of a fixed penalty notice issued in respect of a failure to possess a testing package in accordance with regulation 8(2), £1,000,
 - (b) in the case of a fixed penalty notice issued in respect of a failure to obtain a testing package in accordance with regulation 8(3), £2,000,
 - (c) in the case of a fixed penalty notice issued in respect of a failure to obtain a testing package in accordance with regulation 8(4), £1,000,
 - (d) in the case of a fixed penalty notice issued in respect of a failure to undertake a test in accordance with regulation 8(5) or (7), £2,000,
 - (e) in the case of the second fixed penalty notice issued in respect of a failure to undertake a test in accordance with regulation 8(5) or (7), £2,000.
- (15) For the purposes of this regulation, a book and test offence means an offence described in regulation 23(1)(c).

Amount of fixed penalty: offences committed under statutory provisions revoked by these Regulations

28.—(1) This regulation applies for the purposes of determining, in accordance with regulation 27, how many fixed penalty notices a person (P) has received in respect of an offence under these Regulations.

(2) An information offence, within the meaning of the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2020 is to be treated as an information offence within the meaning of regulation 27.

(3) But, in determining how many fixed penalty notices P has received in respect of an information offence, no account is to be taken of any such fixed penalty notice issued to P before 4.00 am on 30th January 2021.

(4) An offence described in regulation 7(6A) of the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2020 is to be treated as a possession of a negative test result offence within the meaning of regulation 27.

Effect of fixed penalty notice

29.—(1) This regulation applies if a fixed penalty notice is given to any person under regulation 26.

(2) If the person asks to be tried for the alleged offence, proceedings may be brought against the person.

(3) If by the end of the period mentioned in regulation 26(3)(a)—

- (a) the penalty has not been paid, and
- (b) the person has not made a request to be tried,

a sum equal to one and a half times the amount of the penalty (“the enhanced sum”) may be registered under regulation 31 for enforcement against that person as a fine.

(4) But the enhanced sum must not exceed £10,000.

Procedure where a fixed penalty notice has not been paid

Registration certificates

30.—(1) This regulation and regulation 31 apply where by virtue of regulation 29 the enhanced sum may be registered under regulation 31 for enforcement against any person as a fine.

(2) In this regulation and regulation 31—

- (a) that sum is referred to as a “sum payable in default”, and
- (b) the person against whom that sum may be so registered is referred to as the “defaulter”.

(3) The Chief Constable or an immigration officer—

- (a) may, in respect of any sum payable in default, issue a certificate (a “registration certificate”) stating that the sum is registrable under regulation 31 for enforcement against the defaulter as a fine; and
- (b) must cause any certificate so issued to be sent to the clerk of petty sessions.

(4) The Chief Constable may authorise a person to carry out the functions of the Chief Constable under paragraph (3).

(5) A registration certificate must—

- (a) give particulars of the offence to which the penalty notice relates; and
- (b) state the name and last known address of the defaulter and the amount of the sum payable in default.

Registration of penalty

31.—(1) Where the clerk of petty sessions receives a registration certificate in respect of any sum payable in default, the clerk must register that sum for enforcement as a fine by entering it in the Order Book of a court of summary jurisdiction.

(2) On registering any sum under this regulation for enforcement as a fine, the clerk of petty sessions must give to the defaulter notice of registration—

- (a) specifying the amount of that sum and requiring payment of it by such date, not less than 28 days from the date of registration, as may be specified in the notice, and
- (b) giving the information with respect to the offence included in the registration certificate by virtue of regulation 30(5)(a).

(3) On the registration of any sum in the Order Book of a court of summary jurisdiction by virtue of this regulation, any statutory provision referring (in whatever terms) to a fine imposed or a sum adjudged to be paid on a conviction of such court is to have effect in the case in question as if the sum so registered were a fine imposed by that court on the conviction of the defaulter on the date of the registration.

(4) The clerk of petty sessions must refer the case to a district judge (magistrates’ courts) for the judge to consider whether to make a collection order under section 3 of the Justice Act (Northern Ireland) 2016(3), and the order may be made without a court hearing.

(5) Where a collection order is made in that case, the date specified in the order as the date by which the sum due must be paid must, unless the court directs otherwise, be the same as the date specified in the notice of registration under paragraph (2)(a).

Challenge to notice

32.—(1) This regulation applies where—

- (a) a person who has received notice of the registration of a sum under regulation 31 for enforcement against that person as a fine makes a statutory declaration to the effect mentioned in paragraph (2), and
- (b) that declaration is, within 21 days of the date on which the person making it received notice of the registration, served on the clerk of petty sessions.

(2) The statutory declaration must state—

- (a) that the person making the declaration was not the person to whom the relevant fixed penalty notice was given, or
- (b) that the person gave notice requesting to be tried in respect of the alleged offence as permitted by the fixed penalty notice before the end of the period of 28 days following the date of the fixed penalty notice.

(3) In any case within paragraph (2)(a), the relevant fixed penalty notice, the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered are void.

(4) In any case within paragraph (2)(b)—

- (a) the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered are void, and
- (b) the case is to be treated after the declaration is served as if the person making the declaration had given notice requesting to be tried in respect of the alleged offence as stated in the declaration.

(5) References in this regulation to the relevant fixed penalty notice are to the fixed penalty notice relating to the penalty concerned.

(6) In any case within paragraph (2)(b), Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981(4) (limitation of time) has effect as if for the reference to the time when the offence was committed there were substituted a reference to the date of the statutory declaration made for the purposes of paragraph (1).

(7) Paragraph (8) applies where, on the application of a person who has received notice of the registration of a sum under regulation 31 for enforcement against that person as a fine, it appears to a court of summary jurisdiction that it was not reasonable to expect that person to serve, within 21 days of the date on which that person received the notice, a statutory declaration to the effect mentioned in paragraph (2).

(8) The court may accept service of such a declaration by that person after that period has expired; and a statutory declaration so accepted is to be taken to have been served as required by paragraph (1).

(9) In this regulation references to proceedings for enforcing payment of the sum registered are references to any process issued or other proceedings taken for or in connection with enforcing payment of that sum (including the making of a collection order).

(10) For the purposes of this regulation, a person is to be taken to receive notice of the registration of a sum under regulation 31 for enforcement against that person as a fine when that person receives notice either of the registration as such or of any proceedings for enforcing payment of the sum registered.

(11) Nothing in this regulation is to be read as prejudicing any rights a person may otherwise have by virtue of the invalidity of any action purportedly taken under these Regulations which is not in fact authorised by these Regulations in the circumstances of the case.

(12) Accordingly, references in this regulation to the registration of any sum or to any other action taken under these Regulations are not to be read as implying that the registration or action was validly made or taken.

Setting aside of sum enforceable under regulation 31

33.—(1) A court of summary jurisdiction may, in the interests of justice, set aside a sum enforceable as a fine as a result of regulation 31.

(2) Where a court sets aside such a sum, it must give a direction that either—

- (a) no further action is to be taken in respect of the alleged offence that gave rise to the fixed penalty notice concerned, or
- (b) that the case is to be treated as if the person concerned had given notice requesting to be tried in respect of the offence.

(3) Where a court gives a direction under paragraph (2)(a), the fixed penalty notice concerned, the registration and any proceedings taken for enforcing payment of the sum registered are void.

(4) Where a court gives a direction under paragraph (2)(b)—

- (a) the registration and any proceedings taken for enforcing payment of the sum registered are void; and
- (b) Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (limitation of time) has effect as if for the reference to the time when the offence was committed there were substituted a reference to the date of the setting aside.

(5) In this regulation references to proceedings for enforcing payment of the sum registered are references to any process issued or other proceedings taken for or in connection with enforcing payment of that sum (including the making of a collection order).