

## **EXPLANATORY MEMORANDUM TO**

### **The Health Protection (Coronavirus, Restrictions) (Amendment No. 10) Regulations (Northern Ireland) 2020**

#### **S.R. 2020 No. 128**

#### **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. 10) 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”) in order to:
  - permit the re-opening of museums, galleries and betting shops from 3 July;
  - permit the re-opening of massage, tattooing & piercing businesses from 6 July;
  - permit the re-opening of spas from 6 July, but not insofar as they provide services relating to water or steam;
  - permit the restricted opening of restaurants and bars in registered clubs from 3 July;
  - to ensure that funerals are no longer restricted to close family or friends;
  - to allow for attendance at a summer school or scheme; and
  - to correct the numbering of sub-paragraphs and ensure that beer gardens can sell intoxicating liquor without food.

#### **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Regulations without a draft being so laid and approved so that public health measures can be introduced, amended or withdrawn in response to the latest risk assessment associated with the incidence and spread of coronavirus disease.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 Regulation 1, 2(1) to (4), (6), (7) (insofar as it relates to regulation 5(2)(v) to (aa)), (8), (9), and (10)(a) and 3 came into operation at 11.30 pm on 2nd July 2020. The remainder of the Regulations came into operation at 11.00 pm on 5th July 2020

- 3.3 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 3 of the principal Regulations requires the closure of certain premises and businesses during the emergency period. Regulation 4 provides for further restrictions and closures with some exemptions. Regulation 5 (restrictions on

movement) provides for a ‘reasonable excuse’ for a person leaving the place where they are living. Regulation 6 of the principal Regulations places restrictions on gatherings.

- 5.5 Museums and galleries are key parts of tourism and cultural infrastructure. Allowing museums and galleries to reopen will help people to re-engage with a broader cultural life and assist in the restart of the economy. This is consistent with step 3 of the Executive’s Approach to Decision-Making.
- 5.6 Allowing bookmaking offices to open will allow people to leave their homes, improving wellbeing and increasing the sense of normality. Protecting the jobs of those who work in the sector will contribute to restoring people’s livelihoods. This is consistent with step 2 of the Executive’s Approach to Decision-Making.
- 5.7 Allowing the remaining close contact services, including massage, tattooing and piercing, and spa facilities to open will bring these businesses in line with earlier decisions for the nail, hair, beauty, etc, businesses and would ensure consistency across the sector. Spas would be able to recommence trading and to provide the wider range of well-being treatments, however, wet thermal treatments such as saunas, steam rooms, hydro-therapy pools and cold and ice rooms, should remain closed at this time. This is consistent with step 4 of the Executive’s Approach to Decision-Making.
- 5.8 Opening of both indoor and outdoor catering spaces in private members’ clubs along the same lines as the opening of restaurants, cafes and bars in other settings is consistent with step 5 of the Executive’s Approach to Decision-Making. Opening these facilities on a restricted basis will allow people to remain at the club for longer, improving wellbeing and increasing the sense of normality and will protect the jobs of those who work both in this sector and as part of the sector’s supply chain. Members’ clubs are open to members and guests only so footfall would be expected to be less than that in other hospitality premises and would appear to present a similar degree of risk.
- 5.9 For reasons of consistency and clarity, the reference in regulation 5 to who might attend a funeral should be removed now that the numbers of people permitted to gather outside have been increased, and changes to regulation 6 would clarify that summer schools and schemes can operate.

## **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