

Regulations made by the Department of Health and laid before the Assembly under section 25Q (Emergency procedure) of the Public Health Act (Northern Ireland) 1967, for approval of the Assembly before the expiration of 28 days beginning with the day on which they are made.

STATUTORY RULES OF NORTHERN IRELAND

2020 No. 150

PUBLIC HEALTH

**The Health Protection (Coronavirus, Restrictions)
(No. 2) Regulations (Northern Ireland) 2020**

| | | |
|---------------------------------|---------|--|
| <i>Made</i> | - - - - | <i>at 5.45 p.m. on 23rd July 2020</i> |
| <i>Laid before the Assembly</i> | | <i>at 9.00 a.m. on 24th July 2020</i> |
| <i>Coming into operation</i> | | <i>at 11.00 p.m. on 23rd July 2020</i> |

The Department of Health⁽¹⁾, makes the following Regulations in exercise of the powers conferred by sections 25C(1), (3)(c), (4)(d) and 25F(2) of the Public Health Act (Northern Ireland) 1967⁽²⁾.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Northern Ireland.

The Department of Health considers that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with section 25Q of that Act the Department of Health is of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft having been laid before, and approved by a resolution of, the Assembly.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus, Restrictions) (No. 2) Regulations (Northern Ireland) 2020 and shall come into operation at 11.00 pm on 23rd July 2020.

(2) In these Regulations —

“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

(1) Formerly the Department of Health, Social Services and Public Safety; see 2016 c. 5 (N.I.), s. 1(5)

(2) 1967 c. 36 (N.I.). Part 1A was inserted by section 48 of, and Schedule 18 to, the Coronavirus Act 2020 (c. 7)

“household” means one person living alone or two or more persons (whether or not related) living together at the same address;

“person responsible for carrying on a business or providing a service or operating any premises” includes the owner, proprietor and manager of that business or service or those premises;

“private dwelling” is a dwelling occupied by a person as their only or main residence and includes any garden, yard, passage, stair, outhouse or other appurtenance of the dwelling.

(3) There is a gathering when two or more persons are present together in the same place in order to engage in any form of social interaction with each other, or to undertake any other activity with each other.

(4) A place is indoor if it would be considered to be enclosed or substantially enclosed for the purposes of regulation 2 of The Smoke-free (Premises, Vehicle Operators and Penalty Notices) Regulations (Northern Ireland) 2007(3), and otherwise a place is outdoor.

(5) Any reference in these Regulations to a person designated by the Department of Health includes a reference to an authorised officer employed by a person so designated.

Revocations and Savings

2. The following Regulations are revoked—

- (a) The Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 (the Principal Regulations)(4);
- (b) The Health Protection (Coronavirus, Restrictions) (Amendment) Regulations (Northern Ireland) 2020(5);
- (c) The Health Protection (Coronavirus, Restrictions) (Amendment No. 2) Regulations (Northern Ireland) 2020(6);
- (d) The Health Protection (Coronavirus, Restrictions) (Amendment No. 3) Regulations (Northern Ireland) 2020(7);
- (e) The Health Protection (Coronavirus, Restrictions) (Amendment No. 4) Regulations (Northern Ireland) 2020(8);
- (f) The Health Protection (Coronavirus, Restrictions) (Amendment No. 5) Regulations (Northern Ireland) 2020(9);
- (g) The Health Protection (Coronavirus, Restrictions) (Amendment No. 6) Regulations (Northern Ireland) 2020(10);
- (h) The Health Protection (Coronavirus, Restrictions) (Amendment No. 7) Regulations (Northern Ireland) 2020(11);
- (i) The Health Protection (Coronavirus, Restrictions) (Amendment No. 8) Regulations (Northern Ireland) 2020(12);

(3) S.R. 2007 No. 94

(4) S.R. 2020 No. 55

(5) S.R. 2020 No. 71

(6) S.R. 2020 No. 82

(7) S.R. 2020 No. 84

(8) S.R. 2020 No. 86

(9) S.R. 2020 No. 96

(10) S.R. 2020 No. 103

(11) S.R. 2020 No. 109

(12) S.R. 2020 No. 118

- (j) The Health Protection (Coronavirus, Restrictions) (Amendment No. 9) Regulations (Northern Ireland) 2020(**13**);
- (k) The Health Protection (Coronavirus, Restrictions) (Amendment No. 10) Regulations (Northern Ireland) 2020(**14**);
- (l) The Health Protection (Coronavirus, Restrictions) (Amendment No. 11) Regulations (Northern Ireland) 2020(**15**).

(2) Notwithstanding the revocation of the Principal Regulations, they continue in operation, as amended, in relation to any offence committed under the Principal Regulations before these Regulations came into operation.

(3) A designation made in exercise of the power conferred by regulation 7(12)(b)(ii) or 9(10)(ii) of the Principal Regulations shall be treated as if it had been made in exercise of the power conferred by regulation 7(9)(c)(ii) or 9(12)(b) of these Regulations.

(4) A fixed penalty notice issued under regulation 9(1) of the Principal Regulations and which refers to those Regulations, shall continue to have effect as if it was issued under regulation 9(1) of these Regulations including for the purposes of calculating penalties in cases to which regulation 9(7)(b) applies or for dealing with any offence committed or reasonably believed to have been committed or otherwise processing the fixed penalty notice in accordance with regulations 9 to 14.

Review of the need for restrictions or requirements

3. The Department of Health must review the need for restrictions and requirements imposed by these Regulations at least once every 28 days, with the first review being carried out by 21 August 2020.

Requirement to close businesses and premises

4.—(1) A person responsible for carrying on a business or providing a service or operating any premises listed in the Schedule must cease to do so.

(2) If a business or service provider (“A”) listed in the Schedule forms part of a larger business or service provider (“B”), the person responsible for carrying on B complies with the requirement in paragraph (1) if it closes A.

Restrictions on gatherings

5.—(1) Subject to paragraphs (2) to (5), a person shall not participate in an indoor or outdoor gathering which consists of more than thirty persons.

(2) Paragraph (1) shall not apply to a gathering in a private dwelling.

(3) Paragraph (1) shall not apply to a gathering which is organised or operated for cultural, entertainment, recreational, outdoor sports, social, community, educational, work, legal, religious or political purposes and which fulfils the conditions in paragraph (4).

(4) The conditions referred to in paragraph (3) are that the person responsible for organising or operating the gathering—

- (a) has carried out a risk assessment which meets the requirements of the Management of Health and Safety at Work Regulations (Northern Ireland) 2000(**16**), whether or not that person is subject to those Regulations; and

(13) S.R. 2020 No. 121

(14) S.R. 2020 No. 128

(15) S.R. 2020 No. 139

(16) S.R. 2000 No. 388

- (b) takes all reasonable measures to limit the risk of transmission of the coronavirus, including implementing the preventive and protective measures identified in the risk assessment undertaken in accordance with sub-paragraph (a) and complying with any relevant guidance issued by a Northern Ireland Department.

(5) Paragraph (1) shall not apply to a gathering which is not organised for a purpose mentioned in paragraph (3) but which arises for the purpose of enabling any person to avoid injury or illness or to escape a risk of harm, or to provide emergency or medical assistance to any person.

Restrictions on gatherings: private dwellings

6.—(1) A person shall not participate in an outdoor gathering in a private dwelling which consists of more than thirty persons.

(2) Subject to paragraphs (3) and (4), a person shall not participate in an indoor gathering in a private dwelling which consists of—

- (a) more than ten persons; and
- (b) persons from more than four households.

(3) Paragraph (2) is modified in its application to a gathering in a private dwelling which is occupied by one household (“A”) in any case where household A consists of more than ten persons. In such a case, an indoor gathering of persons which consists of more than ten persons from household A does not contravene the restriction in paragraph (2), subject to the condition that no person from any other household participates in that gathering.

(4) Paragraph (2) does not apply where the gathering is for the purpose of—

- (a) the provision of care or assistance, including social services, to a vulnerable person;
- (b) the provision of emergency or medical assistance to any person; or
- (c) the fulfilment of a legal obligation.

Enforcement of requirement

7.—(1) A relevant person may take such action as is necessary to enforce any requirement imposed by regulation 4, 5 or 6.

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

- (a) the person is contravening a requirement in regulation 4, 5 or 6, and
- (b) it is necessary and proportionate to give the prohibition notice for the purpose of preventing that person from continuing to contravene the requirement.

(3) Where a relevant person considers that there is a gathering in contravention of regulation 5 or 6, the relevant person may—

- (a) direct the gathering to disperse;
- (b) direct any person in the gathering to return to the place where they are living; or
- (c) remove any person from the gathering.

(4) A relevant person exercising the power in paragraph (3) to remove a person from a gathering may use reasonable force, if necessary, in exercise of the power.

(5) Where a person who is in a gathering in contravention of regulation 5 or 6 is a child accompanied by an individual who has responsibility for the child—

- (a) the relevant person may direct that individual to take the child to the place where the child is living, and

(b) that individual must, so far as reasonably practicable, ensure that the child complies with any direction or instruction given by the relevant person to the child.

(6) Where a relevant person has reasonable grounds to believe that a child is repeatedly failing to comply with the restriction in regulation 5 or 6, the relevant person may direct any individual who has responsibility for the child to secure, so far as reasonably practicable, that the child complies with that restriction.

(7) A relevant person may only exercise the power in paragraph (3), (4), (5) or (6) if the relevant person considers that it is a necessary and proportionate means of ensuring compliance with the restriction in regulation 5 or 6.

(8) A relevant person exercising a power under paragraph (3), (5) or (6) may give the person concerned any reasonable instructions they consider to be necessary.

(9) 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⁽¹⁷⁾).

(c) a “relevant person” means—

(i) a constable, or

(ii) a person designated by the Department of Health for the purposes of this regulation;

(d) references to a requirement include references to a restriction.

Offences and penalties

8.—(1) A person who, without reasonable excuse, contravenes a requirement in regulation 4, 5 or 6 commits an offence.

(2) A person who, without reasonable excuse, obstructs any 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 a prohibition notice given by a relevant person under regulation 7, commits an offence.

(4) An offence under 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⁽¹⁸⁾ 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.

⁽¹⁷⁾ S.I. 1995/755 (N.I. 2)

⁽¹⁸⁾ S.I. 1989/1341 (N.I. 12). Article 26 was substituted by Articles 1(2) and 15(1) (with Article 15(3)) of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007

Fixed Penalty Notices

9.—(1) An authorised person may issue a fixed penalty notice to anyone that the authorised person reasonably believes—

- (a) has committed an offence under these Regulations;
- (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 authority specified in the notice.

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

- (a) in the case of a notice issued by a person designated in accordance with paragraph (12)(b), 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 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.

(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 may 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) The amount specified under paragraph (5)(c) must, subject to paragraph (7), be £60.

- (a) (7) (a) Unless sub-paragraph (b) applies, a fixed penalty notice must specify that if £30 is paid before the end of the period of 14 days following the date of the notice, that is the amount of the fixed penalty;
- (b) if the person to whom a fixed penalty notice is given has already received a fixed penalty notice under these Regulations—
 - (i) sub-paragraph (a) does not apply, and
 - (ii) the amount specified as the fixed penalty is to be—
 - (aa) in the case of the second fixed penalty notice received, £120;
 - (bb) in the case of the third and subsequent fixed penalty notice received, double the amount specified in the last fixed penalty notice received by that person, to a maximum of £960.

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

(9) Where a letter is sent as mentioned in paragraph (8), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(10) In the case of a notice issued by a person designated in accordance with paragraph (12)(b), the payment received by a district council under this regulation accrues to that council.

- (11) 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.

- (12) In this regulation “authorised person” means—
- (a) a constable;
 - (b) a person designated by the Department of Health for the purposes of this regulation.

Effect of fixed penalty notice

- 10.**—(1) This regulation applies if a fixed penalty notice is given to any person under regulation 9.
- (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 9(4)(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 12 for enforcement against the person as a fine.

Registration certificates

- 11.**—(1) This regulation and regulation 12 apply where by virtue of regulation 10 the enhanced sum may be registered under regulation 12 for enforcement against any person as a fine.
- (2) In this regulation and regulation 12—
- (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 a person designated by the Department of Health under regulation 9(12)(b)—
- (a) may, in respect of any sum payable in default, issue a certificate (a “registration certificate”) stating that the sum is registrable under regulation 12 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

- 12.**—(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 11(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 by a conviction of such court shall 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⁽¹⁹⁾, 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

13.—(1) This regulation applies where—

- (a) a person who has received notice of the registration of a sum under regulation 12 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 suspended enforcement period.

(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 shall be 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 shall be void, and
- (b) the case shall 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⁽²⁰⁾ (limitation of time) shall have effect as if for the reference to the time when

⁽¹⁹⁾ 2016 c. 21 (N.I.)

⁽²⁰⁾ S.I. 1981/1675 (N.I. 26)

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 12 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 shall 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 shall be taken to receive notice of the registration of a sum under regulation 12 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 12

14.—(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 12.

(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 shall be 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 shall be void; and
- (b) Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (limitation of time) shall have 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).

Expiry

15.—(1) These Regulations expire at the end of the period of six months beginning with the day on which they come into operation.

(2) This regulation does not affect the validity of anything done pursuant to these Regulations before they expire.

Sealed with the Official Seal of the Department of Health at 5.45 pm on 23rd July 2020

(L.S.)

Elizabeth Redmond
A senior officer of the Department of Health

SCHEDULE

Regulation 4

Businesses, services providers and premises subject to restrictions or closure

- 1.—(1) Subject to sub-paragraph (2)—
 - (a) Bars, including bars in hotels;
 - (b) Public houses;
 - (c) Clubs registered in accordance with the Registration of Clubs (Northern Ireland) Order 1996;
 - (2) A person responsible for carrying on a business which is listed in sub-paragraph (1) may sell intoxicating liquor, with or without food, for consumption on those premises in the following circumstances—
 - (a) if the service takes place indoors, intoxicating liquor may only be served with food and the food must be a main table meal;
 - (b) if the service takes place outdoors, intoxicating liquor may be served with or without food, but only to persons seated at a table and not at the bar.
 - (3) For the purposes of sub-paragraph (2)(a), a “main table meal” means a meal which is in its entirety, or which includes, a main course and which is eaten by a person seated at—
 - (a) a table; or
 - (b) a counter or other structure which serves the purpose of a table and which is not used wholly or mainly as a bar or for the service of refreshments for consumption by persons not seated at a table or that counter or structure.
- 2.—(1) Theatres.
 - (2) Nightclubs.
 - (3) Conference halls and conference facilities, including those in hotels.
 - (4) Concert halls.
3. Soft play areas.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020, with savings. They require the closure of certain businesses, services and premises listed in the Schedule, to protect against the risks to public health arising from coronavirus, except for limited permitted uses. They impose restrictions on gatherings, both indoor and outdoor, of more than 30 people, unless for certain purposes and the organiser or operator of the gathering undertakes a risk assessment and complies with relevant guidance. They also impose restrictions on gatherings in private dwellings, of more than 30 people outdoor or 10 people indoor, subject to exceptions.

Status: *This is the original version (as it was originally made).*

The need for the restrictions must be reviewed by the Department of Health every 28 days, with the first review taking place by 21 August 2020.

No impact assessment has been prepared for these Regulations.