



Northern Ireland  
Assembly

Committee for Health

# OFFICIAL REPORT (Hansard)

Health Protection Amendment Regulations 2020:  
Department of Health; Department of Finance

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spectators and for emergencies. Those restrictions were in place from 5 October and subject to statutory review after 14 days. They were overtaken, or repealed, however, by the next set of regulations.

The amendment (No. 9) regulations were made on 16 October. They introduced restrictions across Northern Ireland for a four-week period and are, substantially, the restrictions under which we are currently operating. They replaced both the Derry and Strabane restrictions and also those restrictions that were put in place by the amendment (No. 4) regulations, which were the ones that were determined by postcode, initially in Belfast, parts of Lisburn and Ballymena and then across Northern Ireland. Three subsequent sets of amendment regulations — the amendment (No. 10) regulations, the amendment (No. 11) regulations and the amendment (No. 12) regulations — were made to address points of detail in the amendment (No. 9) regulations. The amendment (No. 10) regulations are in front of us today. I will go through the key elements of the amendment (No. 9) regulations and refer to where the amendment (No. 10) regulations have amended them slightly.

In the amendment (No. 9) regulations, restrictions in a number of areas restrict overnight stays anywhere other than at home or in the home of a linked household: a bubble. An individual may be able to give a reasonable excuse for an overnight stay in other circumstances, and the regulations list such reasonable excuses. The regulations restrict gatherings in the home or in a private garden. There are to be no indoor gatherings involving members from more than one household and no outdoor gatherings of more than six from no more than two households. Children under 12 are not included in the six. It is worth noting that the definition of "home" in this case is not just a private dwelling but has been extended to include self-contained holiday accommodation, including caravans and self-catering cottages. A number of exemptions apply, and those are listed.

The regulations place restrictions on sporting events. There are to be no sporting events, with the exception of elite events; indoor one-to-one coaching without contact; and outdoor non-contact sport with 15 or fewer participants. The amendment (No. 10) regulations have ensured that dance is included in the definition of "sport" for the purposes of the regulations.

There are restrictions for all gatherings, distinct from gatherings in homes, so that no more than 15 people can gather together, either indoors or outdoors. There are exemptions allowing for workplaces, where work cannot be done from home, emergencies, weddings, funerals and services of worship. The amendment (No. 10) regulations add exemptions for educational training and blood donation sessions.

The regulations close a number of specific businesses and services, including close-contact services, such as hairdressing; driving instruction; campsites and caravan parks for touring caravans; museums and galleries; and a wide range of indoor leisure and entertainment facilities. It is worth noting that the amendment (No. 10) regulations ensure that therapies provided to elite athletes are not restricted under the definition of "close-contact services". They also clarify that motorcycle driving instruction is not restricted and provide an exemption for the use of caravan sites for accommodation in an emergency.

Hotels and other serviced accommodation are closed, except for specific categories of resident: those already resident when the restrictions came into place; those resident for work purposes; vulnerable people; and those not able to return to their own home owing to an emergency. The regulations place restrictions on the hospitality sector, to the effect that businesses cannot sell food or drink to be consumed on the premises, although they can sell orders to be taken off the premises before 11.00 pm. Takeaways can be sold for consumption off the premises until 11.00 pm. Off-sales from an off-licence but not from a pub or bar can carry on until 8.00 pm. There are exemptions for alcohol sales in airports, hotel and guest house restaurants serving residents, hotel minibars, workplace canteens, harbour terminals and motorway service stations. There is also a provision to ensure that an area adjacent to premises where seating is provided is to be treated as the premises. The amendment (No. 10) regulations add an additional exception for long-distance ferries.

Paragraph 9 of new schedule 2 in the amendment (No. 9) regulations requires face coverings to be worn in places of worship except when at a seat, with an exemption for the couple at a wedding or a civil partnership. There are new restrictions on weddings and funerals limiting numbers to 25. There is a provision that allowed small receptions to take place on the weekend immediately after the regulations were made. Otherwise, wedding receptions and events associated with a funeral are restricted. Libraries are able to operate a collection service and to admit people to use Internet facilities.

Those are extensive restrictions, and they must be understood in the context of a significant rise in levels of infection and the potentially very significant pressures on the health service. I make the point that the decisions are not taken lightly and that the restrictions are not to be in place any longer than is necessary.

**The Chairperson (Mr Gildernew):** Thank you, David. We will go across to Alasdair.

**Mr Alasdair MacInnes (Department of Health):** I am here to cover the face-covering regulations. You will recall that there were two initial sets: one covering transport, with the second covering retail. This third set brought together a package of measures that had been put forward by Departments and agreed by the Executive. They came to the Department of Health for it to make the regulations. This current set of regulations requires face coverings to be worn on private buses, on coaches and in taxis, and that includes drivers, unless they are behind a partition; in a vehicle being used to train for a driving test, and that includes the instructor or examiner; and on an aircraft and in an airport. The regulations require a face covering to be worn when you are a customer in a restaurant, cafe, bar or public house, unless seated. We brought in banks and other similar financial institutions, which we had omitted from the retail regulations. We included those parts of buildings used by Northern Ireland Civil Service Departments that are open to the public for them to access services. Finally, a face covering is required for staff in retail and hospitality settings, unless they are protected by a screen or a partition or are in an area of the premises that is not accessed by the public and where they can maintain social distancing.

All the exemptions from the wearing of face coverings carry across from the previous regulations. We have added one additional power to enable airport and airline staff to require individuals to remove their face covering temporarily for identification purposes. I will just mention that the Examiner of Statutory Rules picked up a minor legislative reference that needs to be corrected in the next set of regulations. That is a brief summary of the latest face-covering regulations, and I can now take questions.

**The Chairperson (Mr Gildernew):** Thank you. Alasdair, can you check whether your camera is on? We were able to hear you, but we could not see you. I reiterate this to everyone who is online: ensure that your microphone is muted when you are not speaking, as it interferes with the sound.

Thank you for the presentation. We are now halfway through the most recent four-week set of restrictions. What is your assessment of how the restrictions imposed by the amendment (No. 9) regulations are working to reduce the spread of transmission?

**Mr Hughes:** I do not have specific figures. My understanding is that these measures are effective. The Derry and Strabane figures improved over time, and there is always a time delay before an improvement can be seen once restrictions are put in place. Improvement was seen with the Derry and Strabane restrictions earlier. The figures were around 320 to 330 cases per 100,000 of the population at the point at which the restrictions came in. The figures rose, and they continued to rise quite significantly, hitting over 600 cases per 100,000 of the population. They are now back down to 300 cases per 100,000 of the population, so you can see the positive impact that the restrictions have had. I do not have to hand the figures for all of Northern Ireland that reflect the two weeks since the restrictions in the amendment (No. 9) regulations came in.

**The Chairperson (Mr Gildernew):** Thank you. You mentioned Derry and Strabane. Can you tell us your reason for seeking confirmation of the amendment (No. 8) regulations, even though the bulk of its provisions have now been revoked?

**Mr Hughes:** With a statute of this kind, it is quite correct to take it through its proper process so that the time in which it was in force is legitimised in effect.

**The Chairperson (Mr Gildernew):** OK. Thank you. I will now go to members for questions.

**Mr Chambers:** I understand that the Executive may well be discussing aspects of statutory rule (SR) 224, which is the amendment (No. 9) regulations, today. Notwithstanding whatever they decide, exactly when will the legislation cease to be in force? Hairdressers and barbers have been asking me when they can start taking appointments again. The legislation states:

*"these Regulations come into operation at the time that they are made."*

The SR was made at 10.30 pm on Friday 16 October. It states that the regulations will commence on that date, and the date was obviously 16 October. My reckoning is that the four weeks actually expire at midnight on Thursday 12 November, so my reading of it is that, if there is no ruling by the Executive today or during next week, then hairdressers can commence and take appointments from midnight on Thursday. Is my interpretation of that correct?

**Mr Hughes:** I certainly share your interpretation of that, because it says that is it the period of four weeks commencing on the date, which is 16 October. Therefore, that period comes to an end at midnight on Thursday 12 November.

**Mr Chambers:** Thank you.

**Ms Bradshaw:** My question is to Alasdair, and it is in relation to face coverings. You listed the third set of introductions of measures around [*Inaudible.*] Was there ever a time when you considered just having a blanket approach that people should wear face coverings when they are indoors? We see that across Europe, and it is just so much easier. You walk in through a door, where it has four walls and a roof, and you put a mask on. You talked about the Civil Service and the public service, and that it was only where it is customer-facing. However, we know that there are offices with a lot of people, and we now have a lot more evidence about how the droplets are spread and about the lack of ventilation in closed spaces. Is that something that you are looking at, or was it discounted, and if it was, why was that? Thank you.

**The Chairperson (Mr Gildernew):** Which of you would like to take Paula's question in relation to face masks?

You are on mute, David, if you are speaking. We are not hearing anything.

**Mr Hughes:** I think this one must be for Alasdair. I am not aware of the background of these.

**The Chairperson (Mr Gildernew):** Can you repeat that, David?

**Mr Hughes:** I think that this one will need to be for Alasdair. I am not sure that I can answer that one.

**The Chairperson (Mr Gildernew):** OK. Alasdair, did you hear that question from Paula? We cannot see you, Alasdair; I am not sure if your camera is switched on, but we have a back screen. Can you hear us, Alasdair?

OK, I will suspend the sitting for a minute to see if we can get Alasdair back on the line.

*The sitting was suspended at 11.32 am and resumed at 11.34 am.*

**The Chairperson (Mr Gildernew):** We are back online, and hopefully we have Alasdair online with us. Paula, can you please repeat the question for Alasdair?

**Ms Bradshaw:** In brief, was there ever consideration given for a blanket approach of masks indoors — anywhere where there are four walls and a roof — so that we would not have this complicated list of when you should and should not wear masks? There is so much more evidence now about how the virus is transmitted indoors. Thank you.

**Mr MacInnes:** Yes. It was talked about when I was brought in to do the initial set of regulations for retail settings. Certainly, the advice remains that, if you are inside, you should wear a face covering. We did not do it for the retail settings; the idea was that if we could get 80% compliance, we would be reasonably content with that. We wanted to make the message easy to understand. My thinking was about high street shopping. We did not want to get into a round of discussions about funeral directors and what we should require those people to do. My thinking was that most people go shopping most days, so if we could get 80% compliance for certain mass activities, then we would achieve the objectives of the regulations. To my knowledge, it has not been discussed since then.

**Ms Bradshaw:** I understand that you are talking about the behavioural science aspect of it. I am talking about the scientific evidence around how the droplets of the virus spread in unventilated or poorly ventilated spaces like offices, especially the longer you stay in them. Although the thinking at the start was that if you passed somebody in a supermarket you could infect them, we now know that

it is more likely if you are sitting beside somebody at a wedding for a number of hours. We have moved on in our understanding of the virus. Is that not something that you need to go back to and revisit?

**Mr MacInnes:** I will certainly bring that forward out of this meeting. It has not been the subject of any discussions that I have been involved in, but I can check that and come back to you.

**Mr Carroll:** I have two questions about the face mask regulations. First, have there been any further conversations about developing a strategy to introduce free masks? I raised this with the Finance Minister in the Chamber, but it is imperative in ensuring that people are wearing them and complying. Have there been any further conversations in either Department around that?

My second question is about massage therapy. My reading of the regulations is that it is available for elite athletes. However, there are people with severe physical disabilities —.

**Mr MacInnes:** Gerry, I cannot hear what you are saying, I am afraid; I am not picking you up at all.

**Mr Carroll:** OK. Do you want to suspend, or do you want to try again?

**The Chairperson (Mr Gildernew):** Perhaps you could try to go closer to the mic, Gerry. Try speaking directly into it.

**Mr Carroll:** Can you hear me now?

**Mr MacInnes:** Yes, that is better.

**Mr Carroll:** OK, thanks. My first question was about free masks. I raised it with the Finance Minister in the Chamber, but have there been any further discussions in either Department, or both, about providing free masks? It is important to be able to support people and ensure that they are being compliant and taking the correct public health measures.

My second question is about massage therapy. My reading of the regulations is that it is allowed for people who are described as elite athletes. What is the rationale for allowing it for those sections of society but not for people with arthritis or severe disabilities who see it and use it as an important form of healthcare? It is important that there is no discrepancy in that, but, if there is a public health rationale for it, I am all ears.

**Mr Hughes:** I will come in on that. I missed some of it; I think the microphone is faulty. I did not catch all of what you were saying. Paragraph 1 of schedule 2, as inserted under the No. 9 regulations, lists the close contact services and makes an exception for any of those close contact services which are ancillary to a medical or health service or social care service. If there are any close contact services which are part of a treatment programme, as you described, they will be fine.

**Mr Carroll:** Sorry to cut across you; I just want to have clarity. Are you saying that organisations that provide massage therapy can open if they are providing health care; is that correct?

**Mr Hughes:** They are not restricted if what they are providing is ancillary to a medical, health or social care service. We added to that to ensure that the sports therapy and so on provided to elite athletes would also not be restricted. That reflects the fact that elite sport has not been restricted, and therefore the therapies that are associated with that can continue.

**The Chairperson (Mr Gildernew):** To clarify that further, because I do not fully understand it, are you saying that you need to have a referral to the therapy to allow the therapist to engage in it?

**Mr Hughes:** I am not sure what would be required to demonstrate that what is being provided is ancillary to a medical or health service. Perhaps I can come back to you with more detail on that?

**The Chairperson (Mr Gildernew):** Yes, that would be helpful.

**Mr Carroll:** Chair, just for clarity, I have been contacted by people who rely on massage as a form of therapy. There appears to be a bit of a discrepancy and a lack of clarity. It is important that we get that.

A quick answer on the mask issue, please, if we can.

**The Chairperson (Mr Gildernew):** Is the masks question more relevant to Alasdair?

**Mr MacInnes:** I have not been aware of it, I have to say. I am not particularly involved in the discussions about the policy. I was really just brought in to do the legislation. Those conversations may have happened, but I am not privy to them. We can come back to you on that.

**Mr Carroll:** OK.

**Mrs Cameron:** Thank you for your attendance at the Committee today. Just on the back of Gerry's question about close contact services being allowed to operate for health reasons, I was trying to find a message somebody sent me recently asking about flotation. When you are looking into that, can you check flotation for health needs as well?

Do you have an update on enforcement of any of the regulations we are looking at today, any enforcement issues and any available statistics around what enforcement has happened and who specifically is taking responsibility for that enforcement?

**Mr Hughes:** I am afraid that there is not anything that I can contribute today about enforcement. I can come back to you on the degrees and extent of enforcement and how it has been taken forward, but I may need to do that separately.

**Mrs Cameron:** OK, please do. Thank you.

**Mr Sheehan:** Chair, can I just ask something?

**The Chairperson (Mr Gildernew):** Go ahead, Pat.

**Mr Sheehan:** David, while you are there, does this legislation in any way affect chiropractors or osteopaths and that type of profession?

**Mr Hughes:** My understanding is that those would be close contact services which would be ancillary to medical health. There are a number of services, such as you described — chiropractors and so on — that fall within that category. My understanding is that colleagues in the Department of Health will be able to set out the services that they recognise as being part of that carve-out, as it were.

**Mr Sheehan:** OK, thank you.

**Mr Buckley:** I suppose, being new to the Committee, that I am probably as bewildered as many of the public that, through the processes that we work in this place, here we are two weeks into the restrictive measures and are only now looking at the regulations, and that next week we will debate in the Assembly regulations that have already been introduced.

I also have had some of Gerry's comments and questions in relation to some therapies. How is that we can come to a Committee like the Health Committee, some two weeks in, and still not have the exact clarity that we need? Many of these businesses and livelihoods have been forced to close because of the perceived nature of the restrictions, as opposed to what the facts probably are.

In saying that, I realise the huge level of work that has gone into designing them. In a lot of my comments I have been critical of the regulations at the time, and of the restrictions, but I will probably keep a lot of that commentary for the debate next week. It seems that the analysis used has been more behaviour-focused than factual hard evidence, and some of it is conflicting. For example, church services remain open, albeit with social distancing measures, yet numbers at a funeral are significantly reduced although they are, potentially, in the same building that could facilitate larger numbers with social distancing. With close contact services such as hairdressers, where measures were put in place, we are more likely to look at behavioural analysis as opposed to the hard factual data.

In relation to Gerry's point about SR 2020/225 and the therapies, when you are getting clarity on that, can you maybe also outline whether, if those therapies are provided by a business operating from a home, that causes problems. Does it have to be within a medical setting? Also in SR 2020/225, in relation to "dance", can you give me clarity on dance classes? Are they permitted or not, from the educational perspective? Those are just a couple of things that I need clarity on.

You may not be able to answer a lot of my commentary, but it is something for debate, as is the fact that this Committee, and, indeed, the Assembly, are discussing regulations retrospectively. They deserve a lot more commentary in the Assembly before they should be passed.

**Mr Hughes:** I can come back on one or two of those points immediately. There is not a specific definition based on setting, but you will see at the bottom of page 2 of the No. 9 regulations that, where the business operates out of a home, it is deemed to be business premises. That is recognised as an element of how some of those services are delivered.

There was some discussion initially as to whether dance was a sport when we are talking about a sporting event. For the purposes of ensuring clarity in this context, it does need to be considered alongside what one normally considers to be sport. The regulation states:

*" 'sporting event' means a gathering for the purpose of exercise, competitive sport, recreational sport or sport training",*

and that includes dance. So a dance class would be a sporting event, and therefore the restrictions apply.

**Mr Buckley:** Has there been any analysis or data on the counterproductive potential of improper use of a face mask? We know of many in society who are using the same mask repeatedly, potentially not washing or replacing it, and reusing disposable masks as well. Has there been any evidence that that improper use of face masks might be having a counterproductive effect on case numbers?

**Mr MacInnes:** That is not a conversation that I am aware of, but I can find out and bring that back to the Committee.

**Ms Flynn:** This may be something that the Examiner of Statutory Rules is already looking at, but they are talking about junior pupils wearing face masks on public transport or when going back and forth to school. Will it not be the case that kids of a certain age who are not yet in secondary education are required to wear a face covering while on public transport, but not in retail settings? I wonder whether that is a possible drafting error. There will be a bit of confusion if it comes to that and kids have to wear face coverings on the school bus but not in shops and retail premises.

**Mr MacInnes:** *[Inaudible]* next set of regulations along. We did consider whether, because we wanted children to wear masks on school buses, it should follow that they should also wear them in shops. The instruction that we got was that it would just be on school transport, so we left it at that. If that is an issue that you think needs to be picked up, it can be considered the next time, certainly.

**Ms Flynn:** I am just thinking about the consistency of the message. It is probably difficult enough for adults, never mind when you are dealing with younger children. If they have to wear face coverings on the school bus, the messaging might come across as wee bit mixed, and it might cause issues. I just wanted to flag that up to see whether you were looking at it and considering it. Thank you.

**The Chairperson (Mr Gildernew):** David and Alasdair, I have to say that I am concerned about issues that have arisen today and the processes that are involved here. We understand the urgency, but it means that SRs are being made without consultation, and there is no impact assessment. We are then forced to scrutinise them post hoc. In carrying out that scrutiny, we need, and it is reasonable to expect that we would get, specific information on how they are working and the predicted modelling on how they will have worked by the end of the given period. Too often, in the meeting, we have heard that information will have to be brought back to members. It is reasonable for members to expect that the people who come to the Committee will have the answers and will have been involved in the relevant conversations. I ask you to reflect back to the Department, in the strongest terms, that that issue must be addressed.

Members have also requested information. On Monday, we are going into the Assembly to debate these measures. I would like that information to be with members in advance of the debate on Monday. We fully understand the urgency. However, as a Committee, we cannot countenance complacency with regard to our scrutiny. It is reasonable to expect that we would have that information on how the measures are impacting and what the predicted impact of them is.

Thank you for your contribution today. I ask you to bring our concerns very directly back to the Department and ensure that the information that you have committed to provide to us will be with members in a very timely fashion. Alasdair and David, thank you very much.

**Mr Hughes:** Thank you.

*The Committee suspended at 12.08 pm and resumed at 12.31 pm.*

### **Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 8) Regulations (Northern Ireland) 2020**

**The Chairperson (Mr Gildernew):** I remind members that the SR gives effect to the Executive's decision to introduce restrictions in the Derry City and Strabane District Council area that have since been revoked. The SR also made some technical amendments to definitions. The regulations came into operation on 5 October and are subject to confirmatory resolution. The Examiner of Statutory Rules has no comments to make on the SR. Have members any further issues that they wish to raise in relation to that rule?

If not, do members agree formally that the Committee for Health has considered SR 2020/213 The Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 8) Regulations 2020 and recommend that it be confirmed by the Assembly?

*Members indicated assent.*

### **Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 9) Regulations (Northern Ireland) 2020**

**The Chairperson (Mr Gildernew):** I remind members that SR 2020/224 introduces restrictions for a period of four weeks in relation to gatherings, sporting events, the hospitality sector, businesses, places of worship, marriages, funerals and libraries and amends an error in previous regulations. It also replaces the schedule dealing with postcode-based restrictions that could be amended by direction and revokes the schedule providing for the Derry and Strabane area restrictions. The regulations came into operation on 16 October and are subject to confirmatory resolution. The Examiner of Statutory Rules has drawn attention to a small drafting error, which the Department has agreed to correct, and is otherwise content. Have members any further issues that they wish to raise in connection with that statutory rule?

If not, do members agree formally that the Committee for Health has agreed formally SR 2020/224 The Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 9) Regulations 2020 and recommends that it be confirmed by the Assembly?

*Members indicated assent.*

### **Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 10) Regulations (Northern Ireland) 2020**

**The Chairperson (Mr Gildernew):** I remind members that SR 2020/225 amends some errors in previous regulations, permits sports and massage therapy to be provided to elite athletes, provides that dance of any type shall be deemed to be a form of exercise or sport and provides exemptions to restrictions for education, training, blood donation, motorcycle driving instruction, ferries and the use of touring caravans in an emergency. The regulations came into operation on 18 October and are subject to confirmatory resolution. The Examiner of Statutory Rules has no comments to make on the SR.

Do members have any further comments on it? No, thank you.

Do members agree formally that the Committee for Health has considered SR 2020/225 The Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 10) Regulations (NI) 2020 and recommends that it be confirmed by the Assembly?

*Members indicated assent.*

## **Health Protection (Coronavirus, Wearing of Face Coverings) (Amendment No. 2) Regulations (Northern Ireland) 2020**

**The Chairperson (Mr Gildernew):** The SR extends the requirements to wear a face covering to a bus, coach, taxi or a vehicle being used to train for or take a driving test, an aeroplane, airport, restaurant, cafe/bar or public house, a bank and public areas of government buildings. It also extends the requirement to wear a face covering to members of staff in retail and hospitality settings, when they are in areas accessible to the public, unless they are protected by a partition. The need for these restrictions must be reviewed by the Department of Health within six months of their coming into operation. The regulations came into operation on 13 October, and they are subject to confirmatory resolution. The Examiner of Statutory Rules has drawn attention to a small drafting error, which has since been corrected, and she is otherwise content. Have members any further issues that they want to raise with this rule? No. Thank you.

Do members agree formally that the Committee for Health has considered SR 2020/220 the Health Protection (Coronavirus, Wearing of Face Coverings) (Amendment No. 2) Regulations 2020, and recommends that it be confirmed by the Assembly? Are we agreed?

*Members indicated assent.*