



Northern Ireland
Assembly

Committee for Health

OFFICIAL REPORT (Hansard)

Health Protection (Coronavirus, Restrictions)
(No. 2) (Amendment No. 19) Regulations
(Northern Ireland) 2020

14 January 2021

NORTHERN IRELAND ASSEMBLY

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Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 19) Regulations (Northern Ireland) 2020

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Members present for all or part of the proceedings:

Mrs Pam Cameron (Deputy Chairperson)
Ms Paula Bradshaw
Mr Jonathan Buckley
Mr Gerry Carroll
Mr Alan Chambers
Ms Órlaithí Flynn
Ms Cara Hunter
Mr Pat Sheehan

Witnesses:

Ms Marian McKeever Department of Health
Ms Liz Redmond Department of Health

The Acting Chairperson (Ms Bradshaw): Members, we will now move to the consideration of the five statutory rules (SRs) on coronavirus restrictions. All five SRs are subject to confirmatory resolution. In her report yesterday, the Examiner of Statutory Rules drew attention to drafting errors in SRs 2020/343 and 2020/346, which are items 8 and 9. She advised that the Department has undertaken to correct the errors at the earliest opportunity. No other issues were raised. The Department has indicated that it hopes to bring the SRs to a plenary sitting during the week commencing 25 January. I advise members that officials from the Department of Health are here to brief the Committee on the regulations and to take questions. We will then consider each SR in turn.

I welcome Ms Liz Redmond, director of population health, and Ms Marian McKeever from the health protection branch. They are here to brief the Committee. Are you ready to go ahead?

Ms Liz Redmond (Department of Health): Thank you. Can you hear us? We are using the phone as our video would not work. Someone has just got it to work now. Unfortunately, we are in the wrong room. We can move if you would like us to.

The Acting Chairperson (Ms Bradshaw): The sound is clear. We will go ahead using the phone. When you speak, will you indicate who is speaking? Thank you.

Ms Redmond: I will do an introduction. Shall I start?

The Acting Chairperson (Ms Bradshaw): Yes, please, go ahead. Thank you.

Ms Redmond: Thanks for inviting us to the Committee today. We are considering amendment Nos 19, 20, 21, 22 and 23 to the Health Protection (Coronavirus, Restrictions) (No. 2) Regulations (Northern Ireland) 2020. My approach will be to briefly summarise all five SRs and to take them all together, if that is OK with you?

The Acting Chairperson (Ms Bradshaw): Yes, thank you.

Ms Redmond: I will set out the context of where we were when the first of the five sets of amendment regulations that we are discussing was made, because many changes have occurred since then and we should look back to where we were at that time.

A period of tighter restrictions that had commenced in mid-October was coming to an end. The regulations as amended, up to and including the amendment (No. 18) regulations, placed restrictions on hospitality in all forms, including pubs, restaurants and cafes; non-essential retail; the close-contact economy, including driving instructors; places of worship; indoor activity centres and attractions; most outdoor activity centres and attractions; sport, gyms and leisure; domestic gatherings; and large gatherings. The default position on 11 December was to revert approximately to the situation as it existed in law in mid-October.

Following the assessment of the disease situation and modelling of the potential for the epidemic to increase as soon as the restrictions were relaxed, the Executive agreed to allow a certain degree of reopening on 11 December but, in some areas, to regulate for tighter restrictions than those that existed before mid-October. I will summarise to help you to remember the situation. The Executive agreed that, from 11 December onwards, non-essential businesses would reopen, including non-essential retail and close-contact services such as driving instructors, and that most of hospitality, with the exception of traditional non-food pubs, would reopen, as would hotels and guesthouses. There would still be some restrictions on indoor sporting activity, but outdoor sporting activity would largely reopen, with limits on numbers. The absolute maximum for numbers gathering was 500. Places of worship would reopen, and there was a list of leisure and entertainment venues that could reopen, including museums and libraries. Traditional non-food pubs, concert halls and theatres, conference centres and night clubs would remain closed. Restrictions on household gatherings would also remain in place, except for some exceptions around Christmas, which we will come to. Basically, that was what was agreed and then made into regulations in the Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 19) Regulations (Northern Ireland) 2020 initially.

I will now turn to each of the amendment regulations in turn. I will start with SR 2020/323, the Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 19) Regulations (Northern Ireland) 2020. The regulations were made at 8.00 pm on 10 December and came into operation at 12.01 am on 11 December. They introduced seating requirements for unlicensed premises that had previously been in place for licensed premises only; that is that no more than six persons should be seated at a table unless from a single household, not including children aged 12 or under, with a maximum of two households per table. They also introduced a requirement for unlicensed premises to keep customer information — a measure that was previously in place only for licensed premises — and some changes to the information required, including a requirement for the name and telephone number of each person aged 16 or above to be collected. They also introduced an upper limit of 500 persons on an outdoor gathering organised or operated by a responsible person where a risk assessment had been carried out and a right of appeal to a court against premises improvement or prohibition notices.

Amendments were also made to requirements for sporting events so that the person responsible for organising or operating the gathering considers the risks to those outside the venue who are entering and leaving it. As I mentioned, outdoor sporting events were largely permitted. Restrictions on indoor sporting events were eased to permit individual training, one-to-one training or training by an individual and their carers. The regulations also introduced the upper limit of 500 spectators for organised sporting events.

The regulations also introduced requirements for those providing close-contact services. Those were that they must see clients by an appointment-only system and were required to obtain, record and retain information about their customers and the date and time of the services provided. The regulations removed restrictions on the opening of non-essential retail businesses and amended requirements on operating hours of hospitality services. The regulations also reverted to the mid-October restrictions on places of worship, marriages, civil partnerships, funerals and committals.

I move to the second amendment regulations that we are discussing today, SR 2020/335, the Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 20) Regulations (Northern Ireland)

2020. The regulations were made at 7.00 pm on 16 December 2020 and came into operation at the same time as they were made. The regulations made the following changes. An amendment was made to the requirement for a review of the regulations to allow extra time for data to become available after the Christmas holidays. An amendment to the period that a person must wait before forming a new linked household was also introduced, reducing it from 14 to 10 days, to reflect the changes in the self-isolation period. The regulations also permitted supermarkets to use any till or checkout aisle for intoxicating liquor off-sales to allow customers to use all aisles and reduce congestion and overcrowding in supermarkets. They also made some minor corrections and technical amendments to permit the continued operation of the business financial support schemes.

I move to the third set of amendment regulations that we are discussing today, SR 2020/343, the Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 21) Regulations (Northern Ireland) 2020. The regulations were made at 7.00 pm on 17 December 2020 and came into operation at the same time as they were made. The regulations provide clarity on what constitutes a single gathering if entertainment is provided in a venue and inserts a definition of entertainment for the purposes of the regulations. Essentially, in an indoor venue, each group at a table is considered to be a separate gathering; that is, if no entertainment is provided. However, all persons in a room are considered to be a single gathering if entertainment is provided.

The fourth set of amendment regulations is SR 2020/346, the Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 22) Regulations (Northern Ireland) 2020. They were made at 7.00 pm on 18 December 2020 and came into operation at the same time as they were made. The regulations provide for extended linked households at Christmas to reflect the guidance on three bubbles meeting over Christmas. They allow the use of conference facilities by courts and tribunals, and they correct some previous errors in the regulations.

The fifth set of amendment regulations that we are considering today is SR 2020/352, the Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 23) Regulations (Northern Ireland) 2020. They were made at 2.00 pm on 23 December 2020 and came into operation at the time and on the date that they were made. The regulations limited a Christmas bubble to one day and prohibited overnight stays connected to Christmas bubbles.

That is all that I was going to say about the detail of the regulations. I am happy to take any questions that members may have. Members will be aware that the scope of these regulations is far-reaching across the responsibilities of all Departments, so if we are unable to provide clarification or to answer your questions, we will seek that clarification from our colleagues subsequent to the meeting and give you feedback.

The Acting Chairperson (Ms Bradshaw): OK, that is great; thank you very much. I have some questions and, then, I will bring Pam in. If any other members want to indicate, I will bring them in after Pam.

The Committee has talked very much about the urgency with which the amendment regulations are developed and the lack of impact assessment and consultation in advance. What can you tell us about any progress in doing post hoc impact assessments to learn for further regulatory changes in future?

Ms Redmond: Thank you for your question. First, there has been an awful lot of consultation across government and with the sectors that are impacted during the development of the amendment regulations. We have got better at that during the year, and, as you are very well aware, we have made a lot of amendments. We have good connections with the sectors that we are regulating in this area. We have developed good methods for stakeholder engagement with the lead Departments.

We are in an ongoing review process when it comes to assessing the impact that we have had. As we come into a cycle where the disease is being brought under control by the current restrictions, we are going to be back to where we were last spring. We are certainly looking back and learning from what we did, how we did it and what impact we had at that time with the changes that we made to the regulatory regime. That is a constant and continuous process that we are in.

The Acting Chairperson (Ms Bradshaw): I just want to come back on that quickly. Will you be able to share that review when it has been completed?

Ms Redmond: That is something that we can take away and consider what we could share with you. Ultimately, you will find that that is going to play out in how we approach the situation in the next few

months. It is more like a continuous process rather than a specific review with a report that you might have in mind. I can certainly take away the request that anything that we produce might be shared.

The Acting Chairperson (Ms Bradshaw): OK, thank you. What are we learning about the impact of the particular regulations and restrictions that were put in just prior to Christmas and around the Christmas bubbling arrangements?

Ms Redmond: What we are seeing now is clearly the impact of the relaxations that we are talking about today. Is that where you are coming from? Is that right?

The Acting Chairperson (Ms Bradshaw): Yes, please. Thanks.

Ms Redmond: We know that the disease spreads through contact between people. There is a constant balancing act between allowing our economy and society to progress and function and preventing people being in contact with each other to stop further spread. That is a constant balancing act that is being done, as you are very well aware from having discussed it at length over the past year. When we brought in the amendment (No. 19) regulations, the disease was under control in the sense that we had got the R number below 1 per hospital admission. There was a significant reduction in the number of cases, and, obviously, the judgement at that time was that it was appropriate to make some relaxations to allow the economy and society to function in the lead-up to Christmas. There had been a long-standing desire for a way to allow families to plan together in a limited way over Christmas. However, because we are dealing with a virus that is still very much present in our community, we know that, when we relax measures that prevent people getting together, we will have virus transmission. That is what is playing out now. Whether that was the correct judgement at the time is a matter for history and depends on where you sit on that.

The last of the restrictions that we are talking about was brought in to limit the Christmas bubble to one day in the period of five because, at that time and leading up to Christmas, the metrics were showing us that the disease was spreading again. We also had the situation in the south-east of England that was extremely concerning. I think that all the Administrations in the UK were very concerned about that; it led to measures to restrict the Christmas bubbling arrangements across the UK. The fifth of the five reflects a response to the data that we were watching.

The Acting Chairperson (Ms Bradshaw): Finally from me, what is your assessment of the levels of compliance with the regulations?

Ms Redmond: It is fair to say that there are ongoing concerns about that. Very active discussions are ongoing with various groups and at various levels of government, local government and the sectors about compliance. The approach has always been to start with education and to take the approach that we do not want to be heavy-handed, but there is a lot of concern about that. The behavioural aspects of it are under consideration by various academics and groups, because the interplay between what you put in law, how you communicate it and how people respond to it is not necessarily predictable. It is a concern, and it is something that is under active consideration in government.

Mrs Cameron: Thank you, Liz and your team, for being here today at the Committee. I have mentioned before the issue of the wording of the regulations and the requirement for information to be gathered for contact tracing. I am thinking in particular of restaurants and that type of venue, when there are restrictions in regard to numbers that can sit at tables, how many households can sit at one table and that type of thing. I am very concerned that — I do not know why it is the case — we have never requested postal information from people as to where they live. A form of challenge — not a hard challenge but something that would allow people to question their own actions — would be to ask people not only for their name and telephone number but their postal address. That would point up how many households were at one table.

My second question is on amendment No 19, which introduces a right of appeal against a premises improvement notice or a prohibition notice. Is that mechanism still available and has the power ever been used to challenge enforcement?

Ms Redmond: Thank you very much for your questions. On the first question, we increased the requirement for visitor information. It is name and telephone number for persons aged 16 and above, and it includes the date of visiting, the arrival time and the number from each household. The purpose of gathering this information is a public health one, which is to be able to trace these people if there

are infected people on the premises. If it is found that there have been infected people, backward-tracing can be done for other people who were in the same room. That is the purpose of gathering that information. The issue of whether the people who are sitting at the table are from no more than two households is a separate question. We have not taken a heavy-handed approach to that. We expect people to do their bit, quite frankly, and be honest and responsible in this way. After all, we do this to protect them as well as others in the room and society. I hope that that answers the first of your questions.

Mrs Cameron: May I come back on that? It does not really answer my question in that I think that asking for additional information in legislation would be helpful and would challenge us as individuals on our actions. I do not see that as being heavy-handed, and I have raised that on a number of occasions. I think that it should be considered. I would appreciate it if you could take that back. There is always the chance that somebody will put their phone number down incorrectly. Additional information would be useful, even for tracking and tracing.

Ms Redmond: Thank you. I will do as you suggest and note that and take it away for consideration.

I am not sure that I can answer your second question. Would you mind repeating it so that I can be sure about it?

Mrs Cameron: It was on amendment No 19, which introduces a right of appeal against a premises improvement notice or a prohibition notice. Is that mechanism still available, and has the power ever been used to challenge enforcement?

Ms Redmond: I will have to take that one away, I am afraid. I do not have the information to hand, but we can come back to you on that.

Mrs Cameron: Thank you.

Mr Buckley: Which of these amendments currently apply, and how many have been replaced by recent Executive decisions?

The Acting Chairperson (Ms Bradshaw): Liz, did you catch that question?

Ms Redmond: Yes, I did. It is very complex, but the restrictions that commenced on 26 December have, to a very large degree, overwritten these regulations. One of the considerations, of course, is that, where we go back to amendment No 19, we were in such a different place. That is why I spent a bit of time on the context at the beginning of my briefing. Amendment No 19 was all about letting things happen and reopening, whereas we are now on the other side of the cycle. Even before Christmas, and at the time that the fifth of these amendments was made, we were drafting the regulations that were to be made the next day: 24 December for 26 December. That closed down a lot of the activities to which the regulations in No. 19 relate. It is, therefore, a different place. I appreciate that it is difficult to make that leap, but I hope that that helps to explain it to you.

Mr Buckley: Yes, thank you. What was the intent behind the changes to entertainment venues? Were those settings not already subject to regulations and restrictions?

Ms Redmond: It is more about the fact that the regulations that we are discussing today reopened those venues, and now they are shut.

Mr Buckley: OK. Thank you.

The Acting Chairperson (Ms Bradshaw): Before I bring Gerry in, I want to raise an issue that occurred to me at the weekend. I was spending a lot of time trying to clarify the changes to the restrictions for constituents. The current online information is not particularly clear. We are legislators. If it is not clear for us, it is probably even more difficult for people who work in different spheres. Is there any way that we could have tighter updated information on where we are with everything, because, as it is, you have to jump between schedules and jump back to the guidance and lists that come off it. Is everything in the one place anywhere?

Ms Redmond: There are two places. There is information on web pages on nidirect, and the Department of Health publishes a detailed guide. You have to click on and open the document on the Department of Health's website. I think that there is a link that takes you to it from the nidirect website, but I will double-check that. Our guide is a substantial document, so it will not address your request for brevity. However, it is almost impossible to sum this up quickly because of the complexity and reach of the regulations. They touch on all aspects of life. If you want me to, I will send you the link. The most recent update is up to 8 January. There was a time during December when there were rapid changes, and we were not able to keep up, but the up-to-date guide has been published. In the past year, we have had the guide translated into a number of languages of ethnic minority groups in this country, and we have found that people look at them. We did an assessment of how often the documents are looked at, and they are definitely looked at enough for us to continue to put energy into updating them.

The Acting Chairperson (Ms Bradshaw): I do not want to labour it, but sometimes it will instruct us to omit something or to put something in. Obviously, the language used is necessary, but it can be difficult. Sometimes you have to jump into other documents. If you send us the link, I will make sure that it is circulated. Gerry, would you like to come in?

Mr Carroll: Thanks. I have two questions around the SRs. My first question relates to SR 2020/323. It details the removal of restrictions on non-essential retail services, which, I think, was a mistake. A lot of people warned of the risks and of how the virus would spread and cases shoot up. The Minister expressed some regret in an interview with the 'Belfast Telegraph' today or yesterday. What assessment has the Department done to ensure that that strategy — the path of opening things up prematurely — will not be embarked on again?

Ms Redmond: That links to something that I said earlier. We are in a constant process of review. You will know that we have a modelling group that the Chief Scientific Adviser oversees. It updates its modelling every week. It is able to see what is going on as a result of measures that were taken three or four weeks previously, depending on whether you are looking at cases, hospitalisations or deaths. For hospitalisations, it takes some weeks to feed through. What we are seeing now is the result of what happened in December and this very set of regulations that we are discussing today. We are learning from it. This is not an exact science, and I am sure that you have sat through enough of these conversations to appreciate that fully. Everybody around the globe is learning. We will not always get it perfectly correct, but, as I said, a very difficult balance has to be struck all the time between allowing people to get on with their life and preventing them from transferring the virus to other people. Yes, we are learning. That is absolutely the case.

Mr Carroll: Thanks for the answer. I know that it is not primarily your responsibility, but we are almost a year into the pandemic, and the Executive are repeating mistakes and not learning from best practice in countries where there is a return to "normality" in some sense. We are a million miles away from that, so, rather than repeating the mistakes of the past and rushing to lift restrictions when it is far, far too soon, more work needs to be done. We should not waste this essential lockdown because it will be detrimental to people.

My final question is about SR 2020/326. There are two parts to it. The amendment reduces the period of self-isolation from 14 days to 10 days. Is that just for people travelling from Britain, or is it for everybody who gets a notification? Also, there are obviously sectoral exemptions in this regulation, including those for people working in television. My understanding is that that is much more far-reaching than is the case in other jurisdictions where there are exemptions for people engaging in public service broadcasting. The regulation here opens it up to a far greater number of people, and my concern is that it could mean more people are out of the home, when they are being told to stay at home and leave only if it is essential. Do you have an assessment of the number of workers and individuals affected by those sectoral exemptions?

Ms Redmond: There are two things going on here. Possibly, the second part of your question needs to be addressed through the evidence session on the international travel regulations. On self-isolation after travel, are you talking about within the UK and the common travel area?

Mr Carroll: The regulation states that the self-isolation period is reducing from 14 days to 10 days, and I just want clarification on whether that is for people travelling from Britain to Ireland? To whom does it apply?

Ms Redmond: Quite a few different things are intersecting here. This amendment is about the amount of time that a household needs to wait before it links with a different household. There are different

ways in which self-isolation applies. In this case — in the amendment that we are talking about today — it is about the length of time that a household needs to wait if it wants to re-bubble with a different linked household. It is no longer 14 days; it is 10 days. That aligns with the self-isolation period that you started to talk about, but that is not the subject of this amendment. Does that help?

The Acting Chairperson (Ms Bradshaw): Sorry, Gerry and Liz, may I jump in? We will be moving on to that amendment. That is probably why we have crossed wires.

Mr Carroll: No problem. Apologies.

The Acting Chairperson (Ms Bradshaw): I have not seen any other indications to come in at this point. Are we content?

Members indicated assent.

The Acting Chairperson (Ms Bradshaw): I thank Liz and Marian for their time in preparing for the Committee and for all their work on this. We wish you the best of luck.

Ms Redmond: Thank you very much.

The Acting Chairperson (Ms Bradshaw): We will now consider each of the statutory rules in turn.

The Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 19) Regulations (Northern Ireland) 2020 amend restrictions on gatherings, introduces requirements for close contact services and unlicensed premises, and removes restrictions on non-essential retail, places of worship, marriages, and civil partnerships, funerals and libraries. It introduces a right of appeal to the court against a premises improvement notice or a prohibition notice, and makes other consequential amendments, minor amendments and corrects errors.

Have members any further issues that they wish to raise in connection with this statutory rule? If not, may I ask members to agree formally that the Committee for Health has considered statutory rule 2020/323, the Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 19) Regulations (Northern Ireland) 2020, and recommends that it be confirmed by the Assembly? Are we agreed?

Members indicated assent.