



Northern Ireland  
Assembly

Committee for Health

# OFFICIAL REPORT (Hansard)

Health Protection Amendment Regulations 2021  
(Amendment Nos. 2, 3 and 4):  
Department of Health

18 February 2021



At the time of the 21 January review, there were extreme pressures on the health and social care system, and it was estimated that the third wave was at its peak by then. There had been a very rapid rise in hospital inpatient numbers and ICU bed occupancy, with 800 COVID-positive inpatients across the system on Monday 18 January, up from 542 on Monday 4 January — a 48% increase in 14 days. There were also 65 confirmed COVID-positive patients in ICUs, up from 39 on Monday 4 January — a 67% increase in two weeks compared with a maximum of 51 people in ICUs in April 2020 and a maximum of 52 people in ICUs in November 2020, during the first and second waves. From that, you can see that the picture was escalating very quickly at the time.

In addition to that, in January, the new variant was circulating across the UK, and there was an increased frequency of detection of that variant in Northern Ireland by our local sequencing laboratories. That new variant was estimated to be up to 70% more transmissible than the previous variant, and it significantly increased community transmission of the virus. There was emerging evidence that the huge pressure that the health service was experiencing would not have eased significantly or sufficiently by 6 February, when the regulations were due to expire, to allow any relaxation of the restrictions to take place. The Executive, therefore, agreed at that review on 21 January that the existing post-Christmas restrictions should remain in place until midnight on 5 March, with a review to take place on 18 February, which is today.

SR 2021/18, amendment No. 2 of 2021, was made at 4.30 pm on 2 February. Those regulations came into operation on 3 February 2021 and remain in place today. The SR amends the date on which the Department of Health must review the need for the restrictions and requirements that are imposed by regulation 3 of the principal regulations to on or before 18 February 2021. Regulation 3 also amends the expiry date of the principal regulations to midnight on 5 March 2021.

SR 2021/27, amendment No. 3 of 2021, was made at 4.00 pm on 5 February 2021. It came into operation on 6 February and remains in place today. That regulation permits a customer to collect a Motability vehicle from a car dealership following an online application. That amendment was made to resolve an issue with the Motability scheme that had been brought to our attention. The Motability scheme enables individuals to exchange disability benefits for a payment towards the lease on a new vehicle. It is a legal requirement for new Motability customers to collect their vehicle, which meant that car retailers were unable, within the terms of the Motability scheme, to deliver new vehicles to their Motability customers in the way in which they would be able to for other customers. Restrictions on movement and non-essential retail at that time prohibited customers from collecting vehicles from car dealerships. That resulted in new scheme users being unable to obtain a Motability vehicle, which, obviously, disadvantaged people with disabilities. While we recognise the need for the current restrictions and the critical importance of the message to stay at home, there was no policy intent to disadvantage any Motability scheme customer who required a vehicle for essential travel. The advice of the Chief Medical Officer (CMO) was sought. He advised that that was a low-risk activity if appropriate mitigations were in place. That is why the amendment was made.

The third of the three statutory rules that we are discussing today is SR 2021/29, amendment No. 4 of 2021, which was made at 2.00 pm on 9 February. It came into operation on 10 February and remains in place today. That regulation made an exemption to allow the provision of driving instruction by or on behalf of the Police Service of Northern Ireland (PSNI), the Northern Ireland Ambulance Service Health and Social Care Trust or the Northern Ireland Fire and Rescue Board for the purpose of testing the competence to drive a vehicle. That amendment arose from a request that was made to us by the Northern Ireland Fire and Rescue Service to allow it to resume driver training and testing for the emergency services. You will be aware that, under the existing regulations, driving lessons are considered to be close-contact services and are, therefore, not permitted, with an exemption for motorcycles. There was no exemption for emergency services to continue to provide that training. The Department recognised that that was also likely to be the case for driving instruction that was provided by the PSNI and the Ambulance Service, so, following receipt and consideration of proposed mitigations from the Fire Service, the PSNI and the Ambulance Service, that amendment was made to permit driver training to continue for the emergency services altogether.

I hope that that provides you with a summary of the context in which those regulations were made and an outline of their content. I am happy to take questions. As ever, bearing in mind that the regulations cross over the responsibilities of many Departments, if I am unable to provide an answer, I will certainly seek clarification from colleagues subsequent to the meeting.

**The Chairperson (Mr Gildernew):** Thank you, Liz.

**Mrs Cameron:** Thank you, Liz, for your brief to the Committee. Obviously, we will be content to support these rules. The additional discretion for Motability scheme customers and public services providing driving instruction for their workers is welcome and proportionate in the current climate.

I want to talk about essential shopping. Does the Department recognise that online sales are not a substitute for in-person visits to shops, in particular for nursery and baby goods, and children's footwear? Do you recognise that, and are we likely to see a phased opening that will see a move to appointment-only services, for instance? In addition to that, do you have an update on whether there is any indication of click-and-collect services being made available for those vital services for new mothers and young children?

**Ms Redmond:** Thank you for your questions and your support. On essential shopping, yes, that is actively under consideration. The services that you mentioned with respect to babies, new mothers, new parents and young children are part of that consideration, recognising that things that may not be essential in the short term can become essential as time ticks by. I cannot say any more about that today but I can tell you that it is under consideration and that the concerns that you raise are real and are recognised.

**Mrs Cameron:** Thank you for that, Liz. Hopefully, we will hear more on that later today or in the very near future.

**Mr Buckley:** Thanks for the presentation. Do officials have an update on the review of the Assembly's scrutiny of the COVID regulations?

**Ms Redmond:** I do not have an update to give you today. Apologies.

**Mr Buckley:** OK. I would appreciate that because the Committee has been asking that fundamental question since I joined it and, I am sure, long before that. Is it likely that the consolidated regulations will be repealed to ensure that we start with a clean slate for erasing the regulations, as we saw previously?

**Ms Redmond:** We all recognise that we now have a highly amended set of regulations that we made originally in July. Our intention is to move to a No. 3 set of regulations to consolidate what we have, and to start again. We probably all realise that the reality of the next few months is that we will be making a lot of amendments as we take a proportionate approach to responding to the evidence as it develops around the disease and the impacts of the restrictions on our lives and the economy. We will be piling on more amendments, and we recognise the need to "reset" — I think that that is the word.

**Mr Buckley:** It will be crucial for the Committee to play a central role in that, given some of the concerns that we have on record. How will we ensure that inconsistencies and grey areas are minimised when restrictions begin to ease?

**Ms Redmond:** We have a lot of experience now. We were certainly learning as we went along last year. I do not think that anybody had been in this situation before. The rate of change and the complexity of the regulations across the entire breadth of government and society here were unprecedented. We will learn from what we experienced last year. We have active cross-departmental discussions. We have a cross-departmental meeting every week, and we continue to have that meeting specifically to talk about these things to try to iron them out. I am very confident that we are learning lessons. It is not possible to guarantee that there will not be inconsistencies and grey areas in the future just because of the nature of the situation, and we have to be realistic. What we are doing is very complex, and it is unprecedented. All I can say is that we will look out for those things for sure.

**Mr Buckley:** I appreciate that, and I appreciate what you said to my colleague Pam Cameron about click-and-collect services. The Minister talked about the working group that was set up between the Department of Health and the Department for the Economy. I would appreciate it if you could give us an update on the final outcome of that.

On the matter of other restrictions being lifted for services that are needed and deemed essential, I think particularly of schools. My colleague Pam mentioned some of the nuances around new mothers and small children, and I have experienced the situation of children starting in new school settings. Sometimes, those are vulnerable children, and they cannot access school clothing because shops

selling school uniforms have had to close. Will those business outlets be taken into consideration? I am thinking largely about those that supply school uniforms.

**Ms Redmond:** I am not in a position to give you an outcome today, but I can tell you that those discussions are going on very actively.

**Mr Buckley:** I accept what you are saying, but surely, in coming before the Committee, you will have an update about what the conversations have been on click and collect. I do not think that it is acceptable that this discussion has now gone on actively for three or four weeks in the Assembly, and we still do not have an update. We were told about the working group. What is the outcome, and what are the challenges that are preventing click and collect to ensure that we have a level playing field? As I mentioned, will you take into consideration the particular nuances of those who supply school uniforms? I do not accept what you have said there.

**Ms Redmond:** I appreciate your frustration. This is a DFE-led piece of policy work to which we are inputting, and, ultimately, the Department of Health needs to make or amend the regulations according to what the Executive agree. As I said, I appreciate your frustration, and I understand why you are expressing those concerns. I feel that I can assure you that those conversations are going on very actively, and I hope that something can be said about that issue.

**Mr Buckley:** Chair, I will leave it there — not that I am satisfied with the answers that I received. I appreciate that those discussions are maybe live today for an Executive meeting, but the Committee has to be given its place as well.

**Ms Ní Chuilín:** Thank you for the update on the SRs. I have been on the Committee only for a few weeks, and, like Jonathan, I think that the Committee has been very patient and collegiate in accepting that these rules come, and people are trying to do the right thing. This is not directed at you as officials but is down to the Minister. I believe that constantly relying on the Committee to accept and look at statutory rules after the fact is not the way to do it. Questions have been asked and answers are not given, which is not satisfactory either. We have asked questions — I certainly have — regarding travel, particularly from areas with the Kent variant, and about passenger locator forms. I appreciate that more answers will be forthcoming, but I want to put on record that I am raising those issues again.

You will probably appreciate this issue. Outdoor training for young kids, even in a socially distanced way, is constantly coming up. It is impacting on the mental health of very young children, which was not the case previously. That needs to be discussed. For example, detached youth workers cannot talk to vulnerable young adults because of these restrictions — the restrictions that we all support. Just putting the same things down and expecting the same response needs to be recorded. While we are supportive in as much as we can be, the Committee's support has been taken for granted, and I want that to be recorded.

**The Chairperson (Mr Gildernew):** Do you have any comments on that, Liz?

**Ms Redmond:** Yes, I will take both points. The first set of comments was about process. We are using an emergency procedure that has a different set of processes from the other ways in which we make statutory rules. I am sure that you are all aware of that. Jonathan asked a question about the process, and we will have to look at that. We have been asking questions. However, we have to go through a process, with the Examiner needing to report and so forth. It is not what we usually do; this is an emergency, and we are using an emergency procedure. We will respond, but I am unable to do so in detail today.

On the second point, I completely hear what you are saying. It is of great concern to us in Health because it impacts on people's health. There are exemptions in the regulations to accommodate people who have special needs and who need care and mental health support. Those allowances are in the regulations. You spoke specifically about the population of young people in general being able to participate in sport and outdoor activity. That is certainly very high on the agenda in the discussions that we are having in the Department and across the piece in terms of looking ahead to where relaxations could be made. It is absolutely a key consideration.

**Mr Carroll:** Thank you, Liz. Along with other members, I am concerned by the process, which has been an ongoing and endemic problem. I am also concerned about the possible policy being adopted.

There are discussions around the amendment to extend the restrictions, and that is being reviewed today. What is the view and advice of the Department, the CMO and the Minister? I ask that because we have heard a lot about the R rate having to come down below 1 before we consider lifting restrictions. In reality, the R rate could drop, but there could still be hundreds of people in hospital, just as there are at the minute. I am concerned that there could be a plan — again — to lift the restrictions too soon when there are too many deaths and too many people hospitalised. What assurances can we get that that will not be the proposed strategy from the Department, the Minister and the Executive? That is my first point.

My second point is on the emergency services and driving lessons. How many people will that involve? I guess that the numbers are small, but, if there are large numbers, it would require further scrutiny. Do we have an assessment of the numbers?

**Ms Redmond:** Thank you. On the emergency services, it will not be big numbers. It is just to make sure that there is a continuous flow of new and suitably qualified drivers for those vehicles. We do not want a big interruption as this is extended into a longer period than had initially been intended.

On your initial comment, that is a point of discussion at the Executive today — probably right now, as we speak — so I will not comment on that in detail. Your point about lifting restrictions simply because the R number is less than 1 is valid, and most people now understand that. If the R number is less than 1 but there is still a high level of occupancy in our hospitals, which there is, easing restrictions could end up piling more people in behind and raising the pressure on the hospital system again. We definitely want to avoid that. Also, we have not yet reached the level of vaccination coverage in our community that will protect the most vulnerable. We are wary about that. The R value cannot be taken alone. In summary, it is necessary but not sufficient for it to be below 1.

**Mr Carroll:** I appreciate that, and I appreciate that you are not going to discuss what is being discussed or suggested by the Executive. It is concerning that we are not hearing what main principles are driving the Minister and the Department's approach. Obviously, the aim is to reduce numbers and hospitalisation, but, beyond that, at what stage will the Department and the Minister see that it is safe to open and lift restrictions? My concern is that it will be done quickly, and too soon. Unless the Department and the Minister are advising against that, with a plan in place, we will be subject to the same problems as last year. Will you give us a sense of the two, three, four or five guiding principles that the Department is working on in relation to when it will see fit to lift the restrictions?

**Ms Redmond:** The bigger strategic piece on the sequence in which we will lift restrictions is under development. I should say that it is being refreshed, because we did it last year. We are heading into another round where, all being well, we will lift restrictions in sequence. A strategic piece of work is going on between all Departments, led by the Executive Office, and the Department of Health is feeding the health intelligence into that. In that work, we will revisit guiding principles and all of the things that you have covered. You will hear more about that. You have summarised a lot of them.

We will want to know how much pressure is on the hospital system and how much it can bear. That is critical. I mentioned the vaccination coverage. That will also be important. The overall level of immunity in the community is important. I am not saying that this is a guiding principle, but it is important to mention in this conversation the threat of the emergence of more variants — more dangerous variants, in that our immunity, whether that is acquired through natural exposure to the virus or by vaccination, may not be protective against infection with a new variant. The interim Chief Scientific Adviser (CSA) has informed me that, if there is community circulation of the virus, as we still have, there is more chance of those types of variants emerging, because it is a natural biological process for the virus to select, or to be selected, to get around our immunity. That makes a lot of sense. Therefore, we need to be very careful about those new variants.

**Ms Bradshaw:** It might sound a bit repetitious, but I want to come back to click and collect. On Saturday, I was in one of our big supermarkets, which I will not name. It felt like, "You aren't stuck in traffic; you are traffic". It was absolutely bunged because many people were calling in to collect cards, flowers and presents. That was because non-essential retailers were closed. I went home and told my husband that it was like COVID central. I am concerned that the information about transmission that the contact tracing service will receive going forward will come from retail, which might then have an impact on the consideration of reopening other retailers. In many ways, that will penalise small retailers who have not been able to reopen. What are your thoughts about the concentration of people who are going to what are deemed essential retail shops at the moment?

**Ms Redmond:** Thank you for those observations, which are valid. We need to make sure that we are mindful of all of those when we are examining the data and looking at what we do next. That is all that I can say about that at this point.

**Ms Bradshaw:** My second question relates to driving lessons and tests for those working in emergency services. I very much welcome that move. The work that they have been involved in during the pandemic has been exemplary. I am conscious, however, that health and social care workers are also waiting to secure driving tests, and I wonder whether any special provision will be made for them. That was the case at one point during the pandemic, but it was withdrawn. What is the status of the Department of Health's negotiations with the Department for Infrastructure on that issue?

**Ms Redmond:** That has not come to my attention. We have not had a request for such an amendment to the regulations, but that is not to say that conversations are not going on. All that I can really say today is that I am not aware of that specific request being made. However, there are, potentially, other drivers who, you could argue, are in a priority area, such as those delivering food. The whole issue of driver training and driver instruction will come around. They are defined as being part of close contact services in the regulations at the moment, which is why they are required to cease operating.

**Ms Bradshaw:** OK, thank you. I do not expect a response to my next point, but I just want to put it on your radar. It occurs to me that driving centres have a huge backlog of people waiting to get a test. Is there not an opportunity to introduce rapid testing? It takes 12 to 15 minutes to get a result in emergency departments. To protect driving examiners, could driving test candidates not take a rapid test before getting into the car? That might unlock a lot of the backlog in the system and allay concerns.

**Ms Redmond:** Work streams are looking at how rapid testing can be deployed in a lot of realms of our lives and in the economy. Yes, that certainly could be looked at.

**The Chairperson (Mr Gildernew):** Liz, I want to go back to some of the things that you said in answer to questions around the whole process. You mentioned the very real and widely acknowledged threat of new variants. You also mentioned assessments of, for example, what a hospital can bear. Considering the minimum that we need to do to keep a hospital operating seems to be a very minimalist and dangerous approach. When we talk about hospitals, we are talking about hospital staff, and, as a result of the pandemic, we have pushed hospitals and front-line health staff beyond what they can bear.

I am curious: a year into the pandemic, why are we not looking at the maximum that we can do to ensure that we have the lowest virus transmission possible, rather than keeping the system at a point where it is assessing where the breaking point is? Why do we not take a maximum suppression — zero-COVID, no-COVID or whatever you want to call it — approach? Why is more energy not being put into that? At the start, we all understood that we were in unprecedented circumstances and that we were seeking to manage a very difficult situation. However, as time has gone on, the lack of ambition appears, to me, quite striking. We cannot create invaluable healthcare staff — nurses, doctors or domiciliary care workers — overnight, but we could employ more contact tracers. We could use maximum suppression tactics there. Where does that figure in the Department's thinking when it considers what regulations are necessary or what actions it can take? Where is that ambition to suppress COVID-19 transmission to the greatest degree possible?

**Ms Redmond:** That is what we are doing. Perhaps you slightly misunderstood what I meant when I talked about the "hospital system" and what it "can bear". We are all concerned about the totality of the capacity of hospitals to deal with not just COVID patients but non-COVID patients. That is a growing issue, as I am sure you are aware, given the waiting lists and people having to wait to access the treatment that they need.

**The Chairperson (Mr Gildernew):** That is exactly my point. As a result of increasing transmission rates, red flag surgery and other life-saving procedures are potentially at risk.

**Ms Redmond:** Yes. I understand what you are saying. I made a reference to what hospitals can bear, but I want to make it absolutely clear that I was not talking about the bare minimum that can be done to stop hospitals being in excess of capacity. I was not saying that at all, and I want to put that on the record.

**The Chairperson (Mr Gildernew):** I appreciate that. I am not directing those remarks to you personally, Liz. What I am saying is that there appears to be an overall approach that is based on what we need to do to keep things below breaking point, rather than what we can do to ensure maximum suppression of the virus in our community.

**Ms Redmond:** I contest that. We are looking at and doing the maximum to suppress the virus. That is exactly what we are doing. We are deploying all the tools that you mentioned. They include the restrictions, which is the reason that I am here. You mentioned the test, track and trace system, which is running very well. The more we can suppress the virus in the community, the better that system will work for us. The restrictions are needed to suppress community transmission of the virus. We are also doing very well on the roll-out of the vaccination programme. Our limiting factor is not the ability to get vaccines into people; it is the supply of the vaccine, which is a global issue. The UK as a whole is doing very well on obtaining supplies. We are, I think, pressing down very hard and using all the tools available to us.

**The Chairperson (Mr Gildernew):** OK. The role of the Committee is to ensure that that continues to be the case and that all steps are being taken. Everyone should do everything that they can on an individual basis, but the Department of Health has implemented a strategy that will impact on the need for this. As we all recognise, the current series of lockdowns makes it difficult to maintain social contact, mental health and well-being and economic activity. We absolutely need to see that type of maximum suppression strategy being deployed.

Thank you for that, Liz, and thank you for your attendance this morning. We will continue with our consideration of each of the SRs. Thank you for coming along and answering members' questions.

**Ms Redmond:** You are welcome. Thank you.

## **Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 2) Regulations (Northern Ireland) 2021**

**The Chairperson (Mr Gildernew):** We will now consider each of the SRs in turn, as we normally do. All three are subject to confirmatory resolution. This will be the Committee's last opportunity to consider the regulations before the debate in the Assembly scheduled for 22 February.

First, I remind members that SR 2021/18 amends the date by which the Department of Health must review the need for restrictions and requirements imposed by the principal regulations on or before 18 February 2021. It also amends the expiry date of the principal regulations to midnight on 5 March 2021. The Examiner of Statutory Rules has no issues to raise on the SR. Have members any further issues that they wish to raise on the statutory rule? I see no indication.

I ask members to agree formally that the Committee for Health has considered SR 2021/18, the Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 2) Regulations 2021, and recommends that it be confirmed by the Assembly.

*Question put and agreed to.*

## **Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 3) Regulations (Northern Ireland) 2021**

**The Chairperson (Mr Gildernew):** I remind members that the SR provides for exceptions to the restrictions on non-essential retail businesses. The Examiner of Statutory Rules has drawn attention to an issue arising from the drafting of the rule regarding the collection of mobility vehicles that the Department has agreed to amend in future regulations. Have members any further issues that they wish to raise on the statutory rule?

**Mr Buckley:** I will not oppose the rule but want to put on record my concern about the lack of information that we have received on click-and-collect services and about the equality issue that there seems to be with multinationals and small independent retailers. I am on record as saying that for a couple of weeks, and I do not think that we have been given satisfactory answers at the Committee. I want that on the record.

**The Chairperson (Mr Gildernew):** Thank you, Jonathan. If there are no further issues, I ask members to agree formally that the Committee for Health has considered —.

**Ms Ní Chuilín:** Sorry, Chair. I want to put that concern on record in respect of all of them, to be honest. We did not get the answers that we deserve to some of the questions that you asked the officials at the end. Even if they cannot answer, they could go away and try to get an answer. That seems to be lacking. There are equality implications with all of the regulations. We all understand that there is an emergency, but the way in which they are being brought forward is questionable, as is the whole process. I want that recorded.

**The Chairperson (Mr Gildernew):** OK. Thank you for that. I ask members to agree formally that the Committee for Health has considered SR 2021/27, the Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 3) Regulations 2021, and recommends that it be confirmed by the Assembly.

*Question put and agreed to.*

### **Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 4) Regulations (Northern Ireland) 2021**

**The Chairperson (Mr Gildernew):** Finally, we have SR 2021/29. I remind members that the SR allows for a person to provide driving instruction when that service is provided by or on behalf of the PSNI, the Ambulance Service or the NI Fire and Rescue Board for the purpose of testing competence to drive a vehicle. Have members any issues that they wish to raise on the statutory rule? I see no indication.

I ask members to agree formally that the Committee for Health has considered SR 2021/29, the Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 4) Regulations 2021, and recommends that it be confirmed by the Assembly.

*Question put and agreed to.*