



Committee for Health

OFFICIAL REPORT (Hansard)

SR 2023/139 — The Coronavirus Act 2020
(Extension of Powers to Act for the Protection of
Public Health) (No. 2) Order (Northern Ireland)
2023: Department of Health

22 February 2024

NORTHERN IRELAND ASSEMBLY

Committee for Health

SR 2023/139 — The Coronavirus Act 2020 (Extension of Powers to Act for the Protection of Public Health) (No. 2) Order (Northern Ireland) 2023: Department of Health

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Members present for all or part of the proceedings:

Ms Liz Kimmins (Chairperson)
Mr Danny Donnelly (Deputy Chairperson)
Mrs Linda Dillon
Mrs Diane Dodds
Miss Órlaithí Flynn
Mr Colin McGrath
Mr Alan Robinson

Witnesses:

Mr Vincent Gribbin	Department of Health
Mr Chris Matthews	Department of Health

The Chairperson (Ms Kimmins): I welcome from the Department of Health Chris Matthews, the director of emergency resilience and protecting health, and Vincent Gribbin, deputy principal in the public health Bill team. I invite you to give your briefing.

Mr Chris Matthews (Department of Health): Good afternoon. Thank you for the opportunity to address the Committee for Health. Statutory rule (SR) 2023/139, which is the Coronavirus Act 2020 (Extension of Powers to Act for the Protection of Public Health) (No. 2) Order (Northern Ireland) 2023, covers the period from 24 September 2023 to 24 March 2024 and is subject to the confirmatory resolution procedure. It extends the powers in the Coronavirus Act 2020 to enable Northern Ireland to continue to have public health-making powers. Those powers align Northern Ireland with the rest of the UK in the event that health protection measures need to be brought in at pace in response to a new COVID variant of concern. The retained powers would be used only in the event that they are absolutely necessary. Any decision to implement future restrictions will, of course, be subject to the public health advice at the time and ministerial decisions. If the powers are to be extended beyond 24 March 2024, the statutory rule would need to be made and laid before the Northern Ireland Assembly for approval before that date, as the extension of the powers needs to be continuous, with each extension following on from the previous one.

In the longer term, the Department is progressing a new public health (health protection) Bill to replace the Public Health Act (Northern Ireland) 1967. The proposed Bill, which is subject to ministerial agreement, would create permanent powers. To date, the extension order has been a contingency arrangement until that new legislation can be put in place. The Committee will be fully briefed by the public health Bill team on its policy content in due course. The indicative timing for the introduction of

the Bill in the Assembly is the autumn of 2024. I am now happy to discuss the order and take any questions from the Committee.

The Chairperson (Ms Kimmins): Thank you, Chris. My first question is this: does the Minister intend to seek a further extension at this stage? If so, would that require Executive agreement?

Mr Matthews: The Minister has not decided at this stage whether to request a further extension. Any decision would normally be based on the public health advice within a few weeks of the date of the current extension expiring. It is therefore likely that any advice and information from the Chief Medical Officer and Chief Scientific Adviser will be sought within the next couple of weeks and some advice provided to the Minister for consideration.

The Chairperson (Ms Kimmins): Diane, you have a question.

Mrs Dodds: When the powers were introduced, we were told that they would be time-limited, that they would be in place only for the exact period for which we needed them and that they would not be extended for any longer than was needed. They are quite extensive powers. This SR will extend them until March, and we are not sure whether the Minister will seek a further extension. What would be the impact of his not extending them?

Mr Matthews: The powers provide us with the primary legislation only to bring forward regulations, not to make those regulations. Any regulations that would come out of the powers would need to be considered based on the public health advice, the Minister's consideration and, potentially, Executive and Assembly consideration. If the Minister brings forward the extension, it will be only temporary, until the Bill is introduced. It is due to go to the Assembly, ideally in the autumn, for further consideration.

Mr Donnelly: I want to understand the rationale for the decision. You mentioned the public health advice that the Minister will be given. What are the current trends in COVID? Are we seeing an increase in hospital admissions or outbreaks in care homes? Are we seeing deaths?

My second question is about how COVID is monitored. Are new cases or new variants being picked up? Is there concern about that?

Mr Matthews: The situation is constantly monitored. There are no significant new variants at this point. The purpose of the powers is to give us alignment with the rest of the UK so that if there is a variant of concern, we will be at the starting point, along with the rest of the UK, and can bring forward regulations to bring in restrictions if they are needed. We are highly unlikely to do that, but the purpose of the extension order is to ensure that, until the Bill is brought in, we are in the same position as the rest of the UK in being able to join a UK response.

There have not been any significant increases. There were increases over the winter period, but flu was the main issue then. There were some increases, and testing has been ongoing. At this point, there is nothing significant. Advice from the Chief Medical Officer and the Chief Scientific Adviser will be sought in the next few weeks on whether, in their view, from the public health perspective, there should be a further extension.

Mr McGrath: The whole way through COVID, we highlighted, time and again, that we thought that the use of this power was undemocratic. It was not the right way to go about things, but it was the only way to go about them in the time available, because of what we were facing. Given that we are not necessarily facing those issues now, it seems a bit strange that we are trying to extend the very powers that many of us took to the Floor of the Assembly to say were undemocratic.

From that perspective, what is the alternative? If we do not approve the SR, regardless of whether it leaves us in line with other places, and if we then need to introduce legislation, can it be done quickly? How long would it take? What is the alternative to approving the SR that may give us the scope, if we were to face a difficult situation, to introduce the law that would allow us to take the decisions?

Mr Matthews: The option is there to introduce legislation at pace. It would take a number of weeks to do so, but it can be done. You will recall that, at the height of the pandemic, some of the regulations were brought in within days or even hours of a decision being made that the restrictions were required. That was possible because the primary powers were in place. So, yes, it can be done, but there is a delay in how quickly you could have those powers in place.

Mr McGrath: We put a Budget Bill through in two days this week. If required, we can be very nimble with legislation. It may not necessarily take weeks. In the previous mandate, the Executive came to the Assembly almost with the decisions taken; the Assembly was updated after the decisions were taken. That added a layer to the concern that the process was undemocratic, but, at that stage, we had an all-party Executive; we are not in that situation now. In a different scenario, we are handing the Government the power to introduce laws without necessarily having to run them past the legislature before the decisions are enacted. We are in a slightly different place. It may not do us any harm to take a week to think about the ramifications of these SRs before passing them, if we have a week to do so.

The Chairperson (Ms Kimmins): On that point, Colin, I suggest that we look at deferring this to next week — I think we have time to do that — and write to the Minister urgently for some clarification. We all share the concerns that have been raised about how broad these powers are. Obviously, they were in place during very difficult and different circumstances. My interpretation of what we have heard today is that if it were ever to be needed again, legislation could be brought forward. That does not necessarily back the argument for extending it further. I think it is important that we hear from the Minister on that.

Are members happy to defer this item of business until next week, pending further clarification?

Members indicated assent.