



Northern Ireland  
Assembly

Committee for Health

# OFFICIAL REPORT (Hansard)

Health Protection Regulations

3 June 2021

# NORTHERN IRELAND ASSEMBLY

## Committee for Health

### Health Protection Regulations

3 June 2021

**Members present for all or part of the proceedings:**

Mr Colm Gildernew (Chairperson)  
Mrs Pam Cameron (Deputy Chairperson)  
Ms Paula Bradshaw  
Mr Jonathan Buckley  
Mr Gerry Carroll  
Mr Alan Chambers  
Ms Órlaithí Flynn  
Ms Cara Hunter  
Ms Carál Ní Chuilín

**Witnesses:**

Mr Alasdair MacInnes	Department of Health
Ms Marian McKeever	Department of Health
Mr Nigel McMahon	Department of Health
Ms Jane Holmes	The Executive Office

**The Chairperson (Mr Gildernew):** I welcome Mr Nigel McMahon, Chief Environmental Health Officer (CEHO) in the Department of Health. Welcome back to the Committee, Nigel. Can you hear us OK?

**Mr Nigel McMahon (Department of Health):** I certainly can, Chair. Can you hear me?

**The Chairperson (Mr Gildernew):** Yes, thank you.

We are also joined by Mr Alasdair MacInnes, who is head of health protection in the Department of Health. Can you hear us, Alasdair?

**Mr Alasdair MacInnes (Department of Health):** Yes, I can. Thank you.

**The Chairperson (Mr Gildernew):** OK. I heard you very faintly, Alasdair. Hopefully, when we come back to you, the sound will have improved.

I also welcome Ms Marian McKeever, who is deputy principal in the Department of Health. Can you hear us, Marian?

**Ms Marian McKeever (Department of Health):** Yes, I can hear you. Thank you.

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

I also welcome Ms Jane Holmes, who works in COVID recovery in the Executive Office. I welcome all the officials to this meeting.

We have a range of officials and Departments represented, so I ask panel members to use headsets, where possible, to assist with the sound quality and to remain on mute when not contributing. I also ask for one official, if possible, to answer the substantive question. If there is something that absolutely needs to be added, we appreciate that input as well, but, otherwise, we ask for one official to deal with the substantive issue of the question. I will return to you, Nigel. Will you outline how you plan to brief us? Then we will go to questions and answers.

**Mr McMahon:** Thank you, Chair. I will give an overview of the context and the detail of the content of the three statutory rules (SRs) and then, when we finish that, we will take questions. I will do my best to direct those questions to my colleagues if it is more appropriate for them to answer the questions. Is that OK?

**The Chairperson (Mr Gildernew):** That sounds perfect, thank you.

**Mr McMahon:** Thank you, Chair, and members. The Committee is considering three statutory rules today: SR 2021/130, which is the fourth amendment to the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2021; SR 2021/131, which is the second amendment to the Health Protection (Coronavirus, Wearing of Face Coverings) Regulations (Northern Ireland) 2020; and SR 2021/141, which is the fifth amendment to the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2021.

The context of the regulations that we are discussing today was set around the Executive meeting on 20 May, when a number of decisions that had been announced on 13 May were reviewed and confirmed. At the time of that meeting on 20 May, the number of new positive cases and the percentage of positive tests had been steady over the past week. Derry and Strabane remained at a much higher level than the other local government districts. The R number (Rt) for cases was stable at around 1. Hospitals admissions for COVID-19 remained at a very low level, so it was no longer possible to provide an accurate value for Rt based on admissions. There had been a further fall in COVID-19 inpatient numbers and intensive care unit (ICU) occupancy. Overall, there had been no persistent adverse impact of the previous round of relaxations on the R number. On 6 May, the Committee was briefed about the previous round of relaxations, which included the reopening of retail business, outdoor tourist attractions, self-contained tourist accommodation and outdoor hospitality as well as relaxations around the number of people who can meet in their gardens, outdoor sport, band practice and close contact services.

The details of the relaxations proposed for 24 May, along with a number of other further relaxations, were considered by the Executive at their meeting of 13 May and subsequently of 20 May, when it was agreed that the time was right for these significant and carefully considered easements to be made. A further relaxation, proposed and considered by the Executive at their meeting of 13 May and confirmed on 27 May, commenced on 31 May. To remind members of the revised process, the Executive Office leads on supporting the pathway to recovery, and that includes receiving and managing proposals for change from the Executive Departments, managing the decision-making process through the Executive and facilitating consultation with the other Departments on the drafting of amendments if that is required. All of this work is now supported by a cross-government departmental working group that meets weekly, chaired by the director of the TEO COVID-19 task force team, with membership from all nine Departments and key stakeholders that include local government and the PSNI.

I move on to the three SRs. First is SR 2021/130, the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2021 (Amendment No. 4) Regulations (Northern Ireland) 2021. This is the fourth amendment to the 2021 regulations, and the regulations were made at 8.20 pm on 20 May. Regulation 3 permitted the Irish Cup final at Mourneview Park football stadium to be used as a logistical and operational learning event on 21 May, with up to 1,000 spectators in attendance. Regulation 4 provided an exemption from the restriction on the numbers at outdoor gatherings in respect of lawful industrial action. Both of these regulations commenced on 20 May.

The remaining regulations commenced on 24 May, allowing further relaxations on hospitality, tourist accommodation, sports and the number permitted to gather indoors and outdoors in private and in public. Unlicensed and licensed premises can reopen indoors with table service and other mitigations in place. Table numbers inside and outside are restricted to six people from an unlimited number of

households, but a maximum of 10 people are allowed to sit together if they are all from one household. The numbers do not include children aged 12 and under. Exemptions are made for events to celebrate weddings and civil partnerships, and social distancing is reduced to one metre in relevant hospitality venues. Otherwise, two-metre social distancing remains in place.

Indoor visits between two households are permitted up to a maximum of six people, not including children. Where a household has more than six members, a limit of 10 people applies. Up to 15 persons from no more than three households can gather outdoors in a private garden. The restriction on overnight stays has been removed, allowing tourist accommodation to open for groups of up to six people from two households or groups of 10 from one household, from two households in a bubble or from two households where there are more than six members in one or both of them. Essentially, it is the same requirements as for indoors in a private dwelling.

Indoor gatherings not including domestic settings are permitted subject to a risk assessment where the numbers exceed 15, and outdoor gatherings are subject to a limit of 500, with a number of exceptions and a risk assessment where numbers exceed 30. The restrictions on band practice and rehearsals were removed. Indoor sport, except competitive sport, may resume subject to mitigations, and all outdoor sport may resume, subject to a limit of 500 spectators, with a risk assessment where numbers exceed 30. Libraries may reopen subject to mitigations, and those responsible for indoor attractions, indoor sports facilities, indoor swimming pools and tourist accommodation must comply with the visitor and attendee information requirements.

I move on to SR 2021/131, the Health Protection (Coronavirus, Wearing of Face Coverings) (Amendment No. 2) Regulations (Northern Ireland) 2021. This SR is the second amendment this year to the Health Protection (Coronavirus, Wearing of Face Coverings) Regulations (Northern Ireland) 2020. The regulations were made at 4.00 pm on 21 May and came into operation on 24 May. These regulations support the relaxation of restrictions agreed by the Executive on 13 May.

As indoor leisure, entertainment, hospitality and non-essential retail settings are again open to the public, a precautionary approach is being taken, requiring the use of a face covering in enclosed public areas of premises to which the public have or are permitted access. That can be relaxed as necessary at some point in the future if the rate of infection remains low and there is no evidence of increased transmission in those settings. In discussion with the Executive Office, the Department reflected the view that had previously been expressed by the Committee that a face covering should be required in all indoor settings. The regulations retain the principle that a face covering is required in "a relevant place" but have changed the definition of "a relevant place" from "shops, shopping centres and churches" to "all indoor spaces to which the public have access". The exemption for businesses and settings that can control access by ticketing or appointment systems was removed, as it was incompatible with the principle that people should use a face covering indoors in the context of easing restrictions. Other than that, the extant exceptions and reasonable excuses not to wear a face covering were retained.

Finally, SR 2021/141, the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2021 (Amendment No. 5) Regulations (Northern Ireland) 2021, is the fifth amendment to the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2021, and it was made on 28 May at 1.30 pm. The amendment provided a further relaxation under regulation 11 to enable the full resumption of indoor competitive sport from 31 May on the basis that relevant risk assessments are implemented. That decision was ratified by the Executive at their meeting on 27 May.

The regulations made a number of technical changes that commenced at the time that the amendment was made on 28 May, including the removal of regulation 11(3A), which permitted the Irish Cup final at Mounview Park stadium to be used on 21 May with up to 1,000 spectators, as that event was no longer applicable. They inserted a definition of "a shop" to provide further clarification to businesses, and it is the same definition that was previously used in the face covering regulations. They provide clarification that up to 500 persons per gathering, rather than 500 people in total, may attend an outdoor sporting event. They insert an exemption under regulation 5, which is the restrictions on licensed and unlicensed premises, to enable venues used for marriages or civil partnership ceremonies, such as hotels, to permit a couple or a person to move within the premises to view the venue facilities as permitted under regulation 9 on gatherings. That was already permitted, but it was omitted in error when indoor hospitality was permitted to reopen.

Under regulation 17, which is the requirement in relation to social distancing, amendment No 4 divided the definition of "a relevant place" so that requirements were applicable to either "a relevant place" or

"a relevant hospitality venue". In error, the regulation had not included "relevant hospitality venue" in parts of the regulations, and a correction was therefore made.

I know that that was a very rapid run-through, Chair, but I hope that it provides you with a summary of the context in which the decisions were made at that time and an outline of the content of the regulations. The next formal review of the regulations has to take place on or before 10 June. As a reminder, the scope of the regulations reaches across all the Departments, so, if we are not able to answer any specific questions from the Committee today, I will be happy to take those away and come back to the Committee in due course. Thank you very much for listening and for taking our evidence today. I am happy to take any questions that the Committee may have.

**The Chairperson (Mr Gildernew):** Thank you, Nigel. We are all very conscious of how dynamic the situation is. You set out the context for the ability to ease some of the restrictions. We are already aware that significant challenges and dangers are emerging as a result of what is now referred to as the "Delta variant", which was previously referred to as the "Indian variant". There is talk of a third wave in England. By my count, we have had at least three, possibly four, waves to date, depending on how you delineate pre-Christmas and post-Christmas.

This is more of a comment than a question, in general terms. I take it that, in light of the worrying news about the other variant, you are looking at analysing a situation in which considerable caution may need to be taken in relation to any further easements. Is that already in train?

**Mr McMahon:** Absolutely, Chair. As far as the Department of Health is concerned, that is under pretty-much constant review. As we mentioned on previous occasions, although the legislation locks us into a set of dates for formal review, the reality is that the Executive consider their position at each of their meetings and that, on occasions when there is a suggestion that something needs to be done prior to an Executive meeting or by formal review, they have taken requests for urgent procedure changes from Departments.

That is very much under constant review. The Committee knows that there is a lot of uncertainty regarding what the impacts of the variant might be. In any case, much of the information about things that have a visible impact or signal is publicly available on the daily dashboard; that is not only case numbers, but numbers of admissions to hospital, which is very important to the health service, and, of course, numbers of deaths.

**The Chairperson (Mr Gildernew):** I referred to the situation where, even in recent days, in spring or summer, we are at 103% or 104%. That is extremely worrying. How many cases of the Delta variant are currently in the North? Are you aware of that number, Nigel?

**Mr McMahon:** I am sorry, but that information is not available to me at the moment.

**The Chairperson (Mr Gildernew):** OK. This is the last question from me before we go to Members. A number of Members are indicating that they want to ask a question.

I picked up on the fact that indoor band practices are now allowed. What is the situation with live music? We have a very vibrant but very challenged tradition of and sector for music, arts and culture, which has not been able to *[Inaudible owing to poor sound quality.]*

**Mr McMahon:** Sorry. You have frozen, Chair. I did not hear that.

**The Committee Clerk:** We may have lost him. We will try to get him back on the line. *[Pause.]* Sorry, Colm, you were frozen for a while.

**The Chairperson (Mr Gildernew):** Am I back with you now?

**The Committee Clerk:** We can hear you now.

**The Chairperson (Mr Gildernew):** I was asking Nigel about indoor band practice. There is a massive sector of music, arts and culture in which people, for a long time now, have lost their livelihood, as well as losing something that is their passion, their hobby or their interest. Can I clarify that indoor band practices are allowed again? What is the impact of that on live music and on the ability of musicians to ply their trade or indulge in music?

**Mr McMahon:** You raise an important issue, Chair. We are acutely aware of the pressures on that industry based on the correspondence and queries that we have received.

The remaining restriction on live music applies only to licensed and unlicensed premises. That relates to the impact that live music tends to have on personal behaviour in those scenarios. Outside of that, there is no blanket ban or restriction on music. The restrictions are around gatherings, numbers and the other required mitigations, especially around risk assessment. In theory, music events can take place outdoors.

You mentioned indoor music practice as well. As long as those are subject to the requirements for gatherings indoors and outdoors respectively, they can continue.

The Executive are keeping live music in hospitality premises under review. They are looking at it, and it is subject to ongoing consideration. You will probably be aware that the Communities Minister has announced the establishment of an arts and culture task force to look at how certain aspects of culture, arts and entertainment can return safely. Hopefully, its work will assist the Executive's consideration of when we can safely have live music in hospitality settings.

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

**Ms Bradshaw:** I want to pick up on the last point that Nigel made about music in licensed and unlicensed premises. Nigel, you said that it impacts on the behaviour of individuals. I can understand that if you are at a big rock concert, but if you are sitting in a country pub and somebody is sitting in the corner playing the violin or having a wee sing-song, I do not understand how that would impact on a person's behaviour. Will you elaborate on that? Thank you.

**Mr McMahon:** Thanks, Paula. The Executive are considering that. It is true that the ban on hospitality to this point has been broad-brush and has not been nuanced enough to pick out particular types of music, for example. Broadly speaking, the public health advice is not that you cannot have music; it just needs to be recorded music that is played at a level that people can engage in normal conversation. Once you get into a scenario in which people have to raise their voices to speak to each other, are leaning in to speak to each other or, indeed, are engaging in things like singing along, shouting or supporting, which is much more likely with live music, there is clearly an increased risk of spread and transmission. That is the background to the retention of the restriction to date.

**Ms Bradshaw:** OK. Thank you. Moving on slightly, I have been contacted by some religious ministers in my constituency about the wearing of face masks in church or at religious services. They have told me that they are socially distanced, are adhering to hygiene control and some elderly members of their congregations find wearing masks very uncomfortable. Will there be any movement soon on the requirement for people to wear face masks in church?

**Mr MacInnes:** I will take that one, Chair. We have had increased attention on churches recently, but I do not believe that we have looked at churches specifically in the context of a wider move on face coverings in indoor settings. The advice and guidance will remain that, by and large, you should wear a face covering when you are indoors with groups of other people who are not your friends or family. That advice has remained unchanged from the very beginning.

**Ms Bradshaw:** OK, so it is not the law as such, but advice/guidance.

**Mr MacInnes:** No, it is the law if you are in an enclosed space to which the public has access. What I said was that the guidance that you should wear a face covering inside has remained unchanged.

**Ms Bradshaw:** OK. No problem. My last question is about COVID vaccine passports. I am particularly interested in what is happening with those Irish passport holders who live in Northern Ireland and want to travel.

**Mr McMahon:** I will maybe take that, Chair, but only to say that, unfortunately, we are focusing on the restriction regulations. I do not think that anybody on our panel is involved in the travel aspects. I am afraid that we will not be able to answer that, but we can of course take that away and reply to the Committee afterwards.

**Ms Bradshaw:** I would appreciate that. As we get closer to the summer, more people are asking that question. They have seen some snippets on the news about what is happening in the South and over in GB and are left wondering what is happening here. Nigel, I appreciate your honesty and would appreciate any update that you could provide to the Committee. Thank you.

**Mr McMahon:** Thanks.

**Mr Carroll:** Thanks, Nigel. I have two questions. The first is about outdoor gatherings. There is a limit of 500 people for those. Can you confirm that that includes protests and demonstrations? I would like some clarity on that, please. One of the exceptions listed is lawful industrial action. I think that up to 1,000 people are allowed to take part. I presume that that is on the back of the Hovis strike, where there was confusion; police came to the picket line and told workers that they could not gather. Is that where that is coming from?

**Mr McMahon:** The outdoor gatherings restrictions are for any outdoor gathering. There is nothing specific about protests. If it is an organised protest, which it would need to be if you are going to exceed 30 people outdoors, the organiser has a responsibility in terms of risk assessment and taking measures and so on, but there is nothing that restricts or limits that type of protest.

On the question about the background to the industrial action, Minister Swann wrote to the First Minister and deputy First Minister on 19 May after he was made aware by the PSNI that members of Unite the union had been advised by the police that they were acting unlawfully in terms of the COVID regulations. Minister Swann was very keen to see the right to picket being upheld as a fundamental worker's right. Although he was made aware that such a picket would have become lawful in any case, with the changes that were coming in on Monday 24 May that allowed larger numbers in gatherings, he was keen for that to be addressed sooner if it could be. He asked for it to be considered urgently at the Executive meeting on 20 May. The Executive subsequently agreed to an exemption being made for lawful picketing. That amendment was made and came into force on the same day — 20 May — as the regulations were made. Effectively, it covered off any issues that could have arisen that day or over the weekend before the changes to gatherings came into force on the Monday.

**Mr Carroll:** I was at the picket line in support of the strike. It was quite bizarre that workers were targeted when they were outdoors, spread apart and wearing masks whereas, when they were in their workplace, there was no police action or investigation, as far as I am aware, about their safety.

I have one final point around fines. There has been a bit of confusion about responsibility over the past year. You will, no doubt, have seen the Public Prosecution Service (PPS) report yesterday on the decision not to prosecute people for the Black Lives Matter protests on 6 June 2020. That was a long-overdue and correct decision. The report commended the actions that were taken to reduce the spread of the virus by ensuring that people were socially distant and wore masks, and it mentioned the important right that people have to protest, as they do to strike, against racism and police violence. There is a renewed call, which I support, for the fines — other parties have called for this — to be rescinded because the action that was taken was deemed to be safe and legitimate. Who, ultimately, has the power to rescind those fines?

**Mr McMahon:** I am afraid that I cannot be definitive on that, but I imagine that it is the police. My understanding is that any fixed penalty notice that is issued can be rescinded by the authority that issued it. Are you talking about fines that were imposed by the court, or are we talking about fixed penalty notices?

**Mr Carroll:** Fixed penalty notices.

**Mr McMahon:** I think that, for fixed penalty notices, the enforcing authority can rescind them.

**Mr Carroll:** Can we get confirmation of that, Nigel? I appreciate that you said that that is your impression, but can we get a clarified response? Just to be clear, is it your understanding that no Minister can intervene to rescind those fines or make an SR or take a position that makes those fines null and void?

**Mr McMahon:** Not that I am aware.

**Mr Carroll:** OK. Thank you.

**Mr Buckley:** I will not detain us, as I know that we are running over. I totally agree with the sentiments of yourself and Paula regarding live music. I think that the blanket ban there is not appropriate; it must be much more circumspect in relation to individual circumstances. Paula made the point about how that could happen in different settings. There needs to be another look at that, bearing in mind that it is also about people's livelihoods.

I agree with the comments on masks and church. I think that there is a wee bit of semantics going on here, when people can get on a flight and wear a mask but be in close contact, as a plane inevitably requires, yet people who are socially distanced and spaced in a church with good ventilation are still wearing masks. I do not think that that is appropriate or needed. I support that being looked at.

On the Irish Cup final and the thousands of spectators who were permitted to attend. That was a bit of a learning experience. Will you explain what lessons were learned, because that may be a blueprint for how we go forward with events?

**Ms Jane Holmes (The Executive Office):** Yes, I will come in on that.

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

**Ms Holmes:** The Irish cup final on 21 May was used as a learning event. It was a slightly different format from that of the programme of events in England and Wales in that it was not scientific research; it was more about logistics and operational issues. We await a final report on how testing went. We expect that soon. The Irish football Association (IFA) has provided us with information that we are looking at at the moment. We are pulling that all together, and we hope to provide a report that will give us some information on organising larger events in future. That work is ongoing.

**Mr Buckley:** OK. I would appreciate it if the Committee could have sight of the report, because it would be good and useful for informing our thinking.

**Ms Holmes:** Certainly. Thank you.

**Mr Chambers:** Jonathan asked my question about the Irish Cup final. The supporters who attended the match very much appreciated being allowed to attend. I look forward to seeing the results coming back.

**The Chairperson (Mr Gildernew):** Thank you to our panel. I do not see any other indications from Members, so thank you for coming along, and on behalf of the Committee, I wish you all the very best personally and in your very important work and difficult decisions. I am conscious that while we are talking about it and welcoming some return to some normality, on the other side we have to keep a very cautious lookout for what is happening, because this virus has no mercy in its transmission. If it can spread and transmit, it will. There remains a substantial responsibility on us all to reduce that spread in order to contain it. We have heard not only about the very many deaths that have occurred in our community but about long COVID, which we discussed earlier. It is essential that, as far as we can, we prevent people contracting this very dangerous virus.

Thanks to all our officials, to Nigel and your entire team. We will go ahead and consider each of the SRs in turn. For now, thank you.

**Mr McMahon:** Thank you, Chair.

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

**The Chairperson (Mr Gildernew):** Members, we will take each of the SRs in turn. Item 9 is SR 2021/130. I remind members that the SR provides for a number of easements of the restrictions, including on sport and hospitality. The Examiner of Statutory Rules has no issues to raise in relation to the SR, and the SR is subject to confirmatory resolution.

Do members have any further issues to raise in relation to the SR? No. Thank you.



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

*Question put and agreed to.*

## **Health Protection (Coronavirus, Wearing of Face Coverings) (Amendment No. 2) Regulations (Northern Ireland) 2021**

**The Chairperson (Mr Gildernew):** Item 10 is SR 2021/131. I remind members that the SR required members of the public to wear face coverings whilst inside an enclosed public area. The Examiner of Statutory Rules has no issues to raise, and the SR is subject to confirmatory resolution.

Have members any further issues that they wish to raise in relation to this SR? No. Thank you, members.

I therefore ask you to agree formally that the Committee for Health has considered the Health Protection (Coronavirus, Wearing of Face Coverings) (Amendment No. 2) Regulations 2021 and recommends that it be confirmed by the Assembly. Are we agreed?

*Question put and agreed to.*

## **Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2021 (Amendment No. 5) Regulations (Northern Ireland) 2021**

**The Chairperson (Mr Gildernew):** Thank you, members. For the additional agenda item, I refer you to tab 15 of your tabled papers, which is SR 2021/141. I remind members that the SR places restrictions on indoor sporting events, subject to risk assessment in certain cases, and makes other technical changes. The Examiner of Statutory Rules has not yet reported on the SR, and the SR is subject to the confirmatory resolution process.

Have members any further issues that they wish to raise in relation to the SR? No. Thank you, members.

I ask you to agree formally that the Committee for Health has considered the Health Protection (Coronavirus, Restrictions) Regulations 2021 (Amendment No. 5) Regulations 2021 and, subject to the report of the Examiner of Statutory Rules, recommends that it be confirmed by the Assembly. Are we agreed?

*Question put and agreed to.*

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