

## MEMO

**From the Permanent Secretary  
and HSC Chief Executive**

From: Richard Pengelly

Ref: RP5211

Date: 20 May 2020

To: Permanent Secretaries

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### **HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) REGULATIONS (NORTHERN IRELAND) 2020: FURTHER PROPOSALS FOR SPECIFIC AMENDMENTS**

- 1 Further to the Executive's decisions on 14 May and subsequent announcements, I am writing to invite Departments to submit further specific proposals for changes to the Health Protection (Coronavirus, Restrictions) Regulations.
- 2 This Department has begun work on the third review of the restrictions and requirements in the Regulations. Minister Swann will bring the conclusions and recommendations from that review to the Executive meeting scheduled for Thursday 28 May. Ideally proposals for further amendments would be tabled at the same meeting, or the following Monday (1 June).
- 3 At the meeting of 7 May the Executive agreed a decision-making framework and a structured process for bringing forward proposals for amendments to the Regulations. Since then the Executive has published the Executive Approach to Decision-Making (12 May) and has agreed a series of amendments (14 May). Appendix 1 lists the proposals that have been brought to the Executive so far, along with DoH's recommendations and the Executive's decision on each.
- 4 In recent weeks this Department has received a number of proposals for amending the Regulations. For the most part these proposals have come ad hoc and in a variety of forms. So far only two Departments have used the process and the template agreed by the Executive on 7 May, the primary purpose of which is to facilitate a strategic assessment of specific proposals which takes into account the risks and benefits associated with each proposal. I am therefore reminding Departments that when developing a proposal to amend the Regulations they should:
  - a. have regard to the Executive Approach to Decision-Making, including the guiding principles of focus on primary purposes (controlling transmission and protecting healthcare service capacity); necessity; proportionality, and reliance on evidence, and
  - b. use the agreed templates (Appendix 2), which will help to bring together the key information needed to assess the proposed change.

- 5 I cannot guarantee that proposals received on an ad hoc basis, or which are not supported by the information needed to enable an adequate assessment of the merits of the proposal, will be presented to the Executive for consideration at the next opportunity. The template is designed to help Departments make the case for an amendment and to ensure that this process is no more onerous than it need be.
- 6 As I explained in my memo of 7 May, the risk/benefit ratings should reflect an analysis that is as rigorous as is feasible in the time available. When submitting proposals for amendments, Departments need not submit detailed supporting evidence as regards the potential benefits, beyond the commentary in the spaces provided. However, they should explain as fully as necessary their rating as regards the level of risk. This explanation should be sufficient to enable the Chief Medical Officer and the Chief Scientific Adviser to decide whether to concur with the risk rating.
- 7 The structured process and the template for proposing amendments are in Appendix 2. The template for the risk/benefit assessment matrix, with a worked example, is in Appendix 3.
- 8 If your Department wishes to propose any specific amendments to the Regulations, please submit completed templates for each amendment **no later than 7 a.m. on Friday 22 May**. Queries should be addressed to **Name Redacted** **NR** DoH Health Protection Branch: **Name Redacted** [@health-ni.gov.uk](mailto:Name Redacted@health-ni.gov.uk). Tel. **Irrelevant & Sensitive**

Personal Data

**RICHARD PENGELLY**

## Appendix 1

### Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020: list of amendments presented to the Executive for consideration

Dates tabled at Executive	Proposed change	Recommendation by DoH	Executive decision	Status at 19 May
17 April  14 May	Allow places of worship to open for individual acts of prayer.	17 April: adopt proposal  14 May: adopt	17 April: deferred.  14 May: agreed	SR being drafted.
17 April  24 April	Allow access to burial grounds other than for funerals	17 April: adopt proposal	17 April: deferred  24 April: agreed	Amended, 24 April
17 April	Allow businesses providing holiday accommodation to prepare for recovery by taking future bookings by telephone, post or internet.	Support	Deferred	No change
14 May	Allow services in larger churches.	Defer	Defer	No change
14 May	Allow participation in outdoor activities in general.	Adopt	Agreed	SR being drafted
17 April  14 May	Allow people to leave home to use critical services provided by a District Council or other public body, e.g. household recycling centres.	17 April: propose to broaden range of <i>critical public services</i> .  14 May: adopt.	17 April: no decision.  14 May: agreed.	SR being drafted
14 May	Allow urgent marriages (for couples where one or both parties is terminally ill)	Adopt.	Agreed	SR being drafted
14 May	Allow marriage ceremonies limited to immediate participants only.	Defer.	Deferred.	No change
14 May	Allow visits to family members indoors.	Defer.	Deferred.	No change
14 May	Allow outdoor gatherings of up to six people.	Adopt.	Agreed.	SR being drafted
14 May	Allow drive-in church services/drive-in gatherings for cultural purposes.	Adopt.	Agreed.	SR being drafted
14 May	Designate district councils as an enforcement body in respect of Regulations 3, 4 & 6.	Adopt.	Agreed.	SR being drafted
17 April  14 May	Clarify that the closure of auction houses does not apply to livestock markets (breeding or slaughter).	17 April: support.  14 May: adopt.	17 April: no decision  14 May: agreed	SR being drafted

17 April	Enforce 2-metre separation distance in the workplace.	Do not adopt.	Agreed: do not adopt.	No change
17 April	Introduce a distance limit on driving for purposes of taking exercise.	Do not adopt.	Agreed: do not adopt.	No change
17 May	Allow garden centres to open, although not their cafés.	17 April: defer decision.	17 April: defer.	SR being drafted
14 May		14 May: adopt	Agreed	

### Extract from Executive paper 7 May 2020 re review of COVID-19 restrictions and requirements

#### Decision-making framework and process for reviewing and amending specific restrictions and requirements of The Health Protection (Coronavirus, Restrictions) Regulations (NI) 2020

- 1 Approach and guiding principles for removing or amending specific restrictions will be as agreed by the Executive. The guiding principles are: (1) focus on primary purposes, i.e. controlling transmission and protecting healthcare capacity; (2) necessity; (3) proportionality and (4) reliance on evidence. These are quoted in full in Annex 2.
- 2 All restrictions and requirements in the Regulations will be treated as cross-cutting and therefore requiring Executive referral.
- 3 As the Regulations are the responsibility of DoH, any amending regulations should be prepared by DoH.
- 4 Any NI Department can initiate a review of specific restrictions or requirements and make proposals for legislative change.
- 5 A Department developing a proposal for change should engage at an early stage with all other Departments with a direct policy interest in the restriction(s) or requirement(s) being reviewed. Each Department should respond to other Departments' proposals as promptly as possible.
- 6 For this purpose each Department should have a designated a point of contact.
- 7 Given the stipulation in the Regulations that a restriction or requirement should be in place no longer than is considered necessary, reform should progress as quickly as is prudent in light of the public health modelling and advice.
- 8 In the interest of consistency of approach and to facilitate strategic and orderly management of ongoing review of the restrictions and requirements, Departments should use an agreed common template to set out the case for change and to ensure that this work is informed by the guiding principles. The template is intended to be flexible as regards presentation of different types of evidence. Draft template is at Annex 1.
- 9 Proposed changes to restrictions and requirements should be grouped whenever doing so would be more efficient and make the review process less onerous for Ministers, their Departments and other stakeholders.

#### Process for reviewing and amending a restriction or requirement

- 10 The step-by-step process is as follows.
  - (1) Dept x identifies a specific restriction or requirement to be reviewed and put to Executive for decision and seeks ministerial approval to proceed.
  - (2) Subject to ministerial approval, Dept x advises DoH, TEO and other Departments with a direct policy interest which restriction(s) or requirement(s) they are reviewing.

- (3) Dept x considers evidence of detrimental impacts, with other Departments as appropriate, and risks associated with withdrawal or amendment.
- (4) Dept x completes Part 1 of the template.
- (5) Dept x sends template to DoH for assessment.
- (6) DoH completes part 2.

***If DoH supports the proposed change***

- (7) DoH prepares amending SR. (This work could be started at an earlier stage if DoH believes that the proposal is likely to be accepted.)
- (8) DoH sends template and draft SR to DSO for advice.
- (9) On receipt of DSO advice, DoH prepares an Executive paper, or adds details of the proposed changes to an Executive paper that is already in preparation.
- (10) DoH Minister submits Executive paper.
- (11) If the proposed changes are agreed by the Executive DoH makes the amending SR.

***If DoH does not support the proposed change***

- (7) DoH advises Minister of position and discusses options with Dept x.

**TEMPLATE**  
**REVIEW OF SPECIFIC COVID-19 RESTRICTIONS AND REQUIREMENTS**

<b>Part 1, to be completed by initiating Department</b>		
Department initiating review		
Description of restriction or requirement		
Legislation reference		
Proposed change		
NI Departments with the most direct policy interest		
Advice received from these Departments		
Summary of evidence – quantitative or qualitative – that has been considered		
Summary of detrimental impacts of restriction or requirement, including references to evidence considered, and therefore benefits of removing or modifying the provision		
- Health		
- Society		
- Economy		
Summary of assessment of risks associated with removal or proposed modification		
- Health		
- Society		
- Economy		
Steps to mitigate any risks identified		
Commentary		
Current position on this restriction		
- England		
- Scotland		
- Wales		
- RoI, if applicable		
Conclusion		
Date:		
<b>Part 2, to be completed by DoH</b>		
DoH assessment including expected effect on R0 of removal or proposed change		
Date:		
<b>Part 3, to be completed by DoH</b>		
Summary of DSO advice		
Recommendation by DoH to Executive (Repeal / Modify / Retain)		
Date:		
<b>Part 4, to be completed by Executive Secretariat</b>		
Executive decision		Date:

**Risk and benefit assessment matrix**

Withdrawal or relaxation of COVID-19 restrictions and requirements: qualitative assessment of relative impact of easing social distancing measures

**TEMPLATE**

Possible change to restrictions / requirements	Impact on transmission <i>leading to serious disease</i>	Health impacts medium to long term	Society	Economy
	<b>RISK</b>	<b>POTENTIAL BENEFIT</b>		
<u>Commentary</u>				

**Overall rating of risk or potential benefit: key**

- 3: highest risk
- 2: significant risk
- 1: moderate risk
- 0: negligible risk or benefit, or neutral
- +1: moderate benefit
- +2: significant benefit
- +3: greatest benefit

These ratings are intended to reflect a qualitative assessment of the risks and potential benefits. They are not scores that can be summed for a particular proposal.

**Example**

Possible change to restrictions / requirements	Impact on transmission <i>leading to serious disease</i>	Health impacts medium to long term	Society	Economy
	RISK	POTENTIAL BENEFIT		
Schedule 2, Part 3 – types of businesses that may operate				
Amend to include garden centres and ornamental plant nurseries, but not garden centre cafés.	-1	+1	+1	+1
Commentary				

1. The sector comprises primarily wholesale growers of bedding plants, perennials, shrubs, ornamental plants and cut flowers. In Northern Ireland, there are 210 main producers selling approximately £24 million of product per year. The main outlets for produce are direct sales, garden centres, multiple retailers, and local retailers in Northern Ireland and the Republic of Ireland. There is a narrow window for sales and a short shelf life for the product with 60% of annual sales occurring from March to June. Most plants have a 'shelf life' in the nursery of 2-5 weeks and cut flowers a number of days – thereafter, they are unfit for market.
2. There is an argument that, as regards risk, garden centres are comparable with large, mixed hardware stores but are not being treated equitably by the regulations.
3. Work is ongoing at UK level to develop protocols on social distancing specifically for this sector.
4. SD risks may be lower in garden centres than in most hardware stores as there are normally fewer customers per square metre. Garden centres tend to be partially outdoors, which facilitates the management of SD.
5. The availability of gardening supplies helps people to engage in healthy and productive outdoor activity, and supports the 'stay at home' message.
6. May need to be added to the list of reasonable excuses to leave home.
7. Conclusion: amend.

Returns should be sent to **Name Redacted** Health Protection Branch, DoH  
**NR** [@health-ni.gov.uk](mailto:NR@health-ni.gov.uk), copied to **Name Redacted**  
**Name Redacted** [@health-ni.gov.uk](mailto:Name Redacted@health-ni.gov.uk).