EXPLANATORY MEMORANDUM TO

The Health Protection (Coronavirus, Restrictions) (Amendment No. 5) Regulations (Northern Ireland) 2020

S.R. 2020 No. 96

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Health and is laid before the Northern Ireland Assembly to accompany the Health Protection (Coronavirus, Restrictions) (Amendment No. 5) Regulations (Northern Ireland) 2020.

1.2 The Statutory Rule is made under sections 25C(1), (3)(c), (4)(d) and 25F(2) of the Public Health Act (Northern Ireland) 1967 ("the 1967 Act") and is subject to the emergency procedure under section 25Q of that Act.

2. Purpose of the Regulations

2.1 This Statutory Rule amends the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 ("the principal Regulations").

2.2 Regulation 4 is further amended to allow providers of holiday accommodation to provide services, other than accommodation, in response to enquiries or bookings received, and to allow a place of worship to open for the purpose of solemnising a marriage ceremony, subject to the ceremony taking place outdoors and a total number of ten persons being present.

2.3 Regulation 5 is further amended to provide that an outdoor activity may be undertaken in or by an outdoor sports facility and to add to the list of reasonable excuses for leaving the place where a person is living the need to attend to the care or welfare of animals or to attend or participate in an outdoor marriage or civil partnership ceremony, with consequential amendments to Schedule 2.

2.4 Regulation 6B is inserted, to allow for a total number of ten persons to participate in an outdoor gathering to celebrate a marriage or civil partnership ceremony.

2.5 Regulations 7 and 8 (enforcement and offences) are amended to provide for enforcement and offence in relation to breaches of regulations 6A and 6B.

2.6 Schedule 2 is further amended to add animal care or welfare services, retailers or wholesalers of motor vehicles and retailers of certain items which are situated in premises with direct street access or in a retail park or which are not themselves enclosed or substantially enclosed within other premises.

3. Matters of special interest to the Northern Ireland Assembly

3.1 The Statutory Rule is made under the emergency procedure set out in section 25Q of the 1967 Act. The Regulations are made without a draft having been laid before, and approved by a resolution of, the Assembly. The Department of Health is of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft being so laid and approved so that public health measures can be introduced, amended or withdrawn in response to the latest risk

assessment associated with the incidence and spread of coronavirus disease. The provisions relating to the enforcement of regulation 6A of the principal Regulations came into operation at 11pm on 5 June 2020 with the remaining provisions coming into operation at 11pm on 7 June 2020, and are available on the Department of Health website. The Regulations cease to have effect at the end of the period of 28 days beginning with the day on which the Statutory Rule is made unless, during that period, the Statutory Rule is approved by a resolution of the Assembly.

4. Legislative Context

4.1 The 1967 Act and regulations made under it provide a legislative framework for health protection in Northern Ireland.

4.2 Part 1A of the 1967 Act, as inserted by the Coronavirus Act 2020 ("the 2020 Act"), provides a legal basis to protect the public from threats arising from infectious disease or contamination with coronavirus, and includes powers to impose restrictions or requirements on people, and in relation to things and premises, for use in rare circumstances where voluntary cooperation cannot be obtained. Overall, Part 1A of the 1967 Act sets out a framework for health protection which requires much of the detailed provisions to be delivered through regulations.

4.3 Section 25C of the 1967 Act provides a power for the Department of Health to make regulations to prevent, protect against, control or provide a public health response to the incidence or spread of infection or contamination with coronavirus in Northern Ireland. The threat can come from outside Northern Ireland.

4.4 These Regulations are made under section 25C to enable public health measures to be introduced, amended or withdrawn in respect of the public health risks posed by the incidence and spread of coronavirus disease.

5. Policy background

5.1 The temporary modifications to the 1967 Act made by the Coronavirus Act 2020 provide regulation making powers that were previously not available in Northern Ireland.

5.2 The Prime Minister addressed the nation on 23 March 2020 to announce the need for further restrictions to be underpinned by legislation. The principle Regulations provide for a range of restrictions and closures, as well as requiring persons to stay home by prohibiting people from leaving the place where they live except for limited purposes (such as shopping for basic necessities, exercise, to seek medical assistance or to provide care or assistance) and banning public gatherings of more than two people.

5.3 The Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 (as amended) are critical for the Executive to take all reasonable steps to prevent the community transmission of coronavirus disease where possible. It is also essential that the Executive retains public trust in its public health protection measures. This level of trust will be critical to ensuring that the public continues to engage and comply with interventions designed to protect individuals and

communities during the period of transmission of the virus within Northern Ireland.

5.4 Regulation 4 of the principal Regulations requires the closure of certain businesses with some exemptions. Notwithstanding the uncertainty about when the hospitality sector can resume business or in what ways, the benefits of allowing the providers of holiday accommodation to take advance booking in terms of planning and preparation could be significant, at zero or negligible risk.

5.5 Allowing a place of worship to open for the purpose of solemnising a marriage ceremony, subject to the ceremony taking place outdoors and a total number of ten persons being present, is consistent with Step 2 'Family and Community' in the Executive Approach to Decision Making (gatherings of up to 10 people outdoors). This would offer benefits in terms of personal well-being at low risk, given that the number of such events will be relatively small and the participants will meet outdoors. While there would be some risk in terms of social distancing, the solemnisation of a marriage or civil partnership is a well-established, formal ritual in a relatively well controlled setting, which would lend itself to the necessary degree of control and personal responsibility and restraint.

5.6 Regulation 5 of the principal Regulations (restrictions on movement) provides for a 'reasonable excuse' for a person leaving the place where they are living. Allowing outdoor activity to be undertaken in or by an outdoor sports facility is consistent with Step 1 (sport, cultural and leisure activities) in the Executive Approach to Decision Making and aligns the regulations with the announcements by the Executive for a return to outdoor activities and sport.

5.7 'Reasonable excuse' for travel should include travel to address the needs and welfare of animals, for example, to exercise or train animals such as horses, or to access animal care or welfare services, such as hydrotherapy, grooming or boarding.

5.8 Regulation 6A permits up to six people who are not members of the same household to meet outdoors. Regulation 6B allows for a total number of ten persons to participate in an outdoor wedding. Consequential amendments will allow breaches of the requirements to be enforced.

5.9 Allowing retailers or wholesalers of motor vehicles and retailers of certain items which are situated in premises with direct street access or in a retail park is consistent with Steps 1 and 2 'Retail' of the Executive Approach to Decision Making. Whilst it is vital to balance the level of risk with economic benefit, any amendments to current restrictions will help to begin the recovery for this sector of retail. Allowing some types of retailers to reopen will likely have downstream supply chain impacts driven by an upturn in sales. This will help to bring economic benefit to other sectors beyond retail, for example, manufacturing, logistics etc.

6. Consultation

6.1 Given the rapidly evolving global situation regarding the spread of coronavirus disease there has been no public consultation in relation to this Statutory Rule.

7. Equality impact

7.1 Given the rapidly evolving global situation regarding the spread of coronavirus disease there has been no assessment of equality impacts in relation to this Statutory Rule.

7.2 The public health restrictions and requirements introduced by the principal Regulations are part of a range of measures designed to assist and support efforts to protect the population of Northern Ireland by seeking to limit the spread of coronavirus disease.

8. Regulatory impact

8.1 Given the rapidly evolving global situation regarding the spread of coronavirus disease there has been no assessment of regulatory impacts in relation to this Statutory Rule.

9. Financial implications

9.1 Given the rapidly evolving global situation regarding the spread of coronavirus disease there has been no assessment of the financial impacts in relation to this Statutory Rule.

10. Section 24 of the Northern Ireland Act 1998

10.1 The Department of Health has considered section 24 of the Northern Ireland Act 1998 and is satisfied that these Regulations are not incompatible with any of the Convention rights; are not incompatible with Community law; do not discriminate against a person or class of person on the grounds of religious belief or political opinion; and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

11. EU implications

11.1 There are unlikely to be any EU implications.

11.2 This Statutory Rule does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

12. Parity or Replicatory Measure

12.1 Not applicable.

13. Additional information

13.1 Not applicable