EXPLANATORY MEMORANDUM

The Health Protection (Coronavirus, Restrictions) (No. 2) (Amendment No. 10) Regulations (Northern Ireland) 2020

S.R. 2020 No. 225

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) (No. 2) (Amendment No. 10) 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 The Rule amends the Health Protection (Coronavirus, Restrictions) (No. 2) Regulations (Northern Ireland) 2020.

2.2 The Rule makes changes to the places where restrictions will apply. In particular, it amends some errors in previous regulations, permit sports and massage therapy to be provided to elite athletes, provide that dance of any type shall be deemed to be a form of exercise or sport, and provide exemptions to restrictions for education, training, blood donation, motorcycle driving instruction, use of touring caravans in an emergency and for ferries.

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Regulations without a draft being so laid and approved so that public health measures can be introduced, amended or withdrawn in response to the latest risk assessment associated with the incidence and spread of coronavirus disease.

3.2 The Statutory Rule came into operation at midnight on 16th October 2020 and is 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 provided 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. A series of 11 Amendment Regulations were subsequently made, gradually easing the restrictions and closures.

5.3 Regulation 2 of the Health Protection (Coronavirus, Restrictions) (No. 2) Regulations (Northern Ireland) 2020 revokes the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 (as amended). Regulation 3 sets out the duty to review the need for restrictions or requirements. Regulation 4 provides a requirement to close certain businesses and premises specified in the Schedule. Regulations 5 and 6 provide restrictions on gatherings, including specific restrictions on gatherings in private premises. Regulations 7 to 14 provide for enforcement, offences and fixed penalties. Regulation 15 provides for the regulations to expire after 6 months.

5.4 The Health Protection (Coronavirus, Restrictions) (No. 2) Regulations (Northern Ireland) 2020 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 continues to 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.

5.5 There has been a progressive rise in COVID-19 cases since early July, and recently there has been a further acceleration. Any approach to apply enhanced restrictions needs to be appropriate, proportionate and only applied for as long as is necessary. Further restrictions on domestic settings, on both indoor and outdoor

gatherings in general, including weddings and funerals, and upon the hospitality and leisure sectors were introduced to reduce the interactions between individuals, and hence to decrease transmission of the virus. These regulations make a number of minor amendments to those regulations to ensure clarity and ensure Executive policy is fully effected.

5.6 Regulation 2 of this Statutory Rule amends Schedule 2 of the Health Protection (Coronavirus, Restrictions) (No. 2) Regulations (Northern Ireland) 2020 to make the following provision:

a) Paragraph (2) provides for an exception to the list of close contact businesses subject to closure where therapy is provided to an elite athlete;

b) Paragraph (3) specifies that, within the definition of "sporting event" at paragraph 1 of Schedule 2 (interpretation and application), dance of any type is deemed to be a form of exercise or sport for the purposes of that schedule;

c) Paragraph (6) corrects a textual error made by previous amending regulations;

d) Paragraph (7) inserts two further exceptions to the restrictions on gatherings so as not to prohibit or prevent a person from: organising, operating or participating in a gathering for the purpose of education or training; and organising, operating or participating in a gathering which is a blood donation session;

e) Paragraph (9) amends paragraph 7(2)(c) of Schedule 2 (businesses subject to closure) so that it excepts motorcycle driving instruction; and does not prevent or prohibit a person using a caravan in, or the facilities of, a caravan park for touring caravans in the event of an emergency;

f) Paragraph (10) amends paragraph 8(5) of Schedule 2 (restrictions on the hospitality sector) to include a ferry crossing which lasts or is expected to last three hours or more within in the exceptions of food or drink (not including intoxicating liquor) sold or provided not to be treated as being sold for consumption, or as consumed, on its premise.

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