EXPLANATORY MEMORANDUM TO

THE LOCAL GOVERNMENT (CORONAVIRUS) (FLEXIBILITY OF DISTRICT COUNCIL MEETINGS) REGULATIONS (NORTHERN IRELAND) 2020

S.R. 2020 No. 74

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for Communities ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under section 78 of the Coronavirus Act 2020 ("the 2020 Act"). The Statutory Rule is subject to the negative resolution procedure.

2. Purpose

2.1. These Regulations make provision to enable councils in Northern Ireland to hold meetings remotely including by (but not limited to) telephone conferencing, video conferencing, live webcast and live interactive streaming. The Regulations further modify existing legislative provisions to allow councils to postpone annual meetings until 30 September at the latest, to hold other meetings as needed and to enable requirements for public access to council meetings and associated documents to be complied with by remote means and website access.

2.2. These Regulations apply to all councils and all council meetings, including a joint committee of two or more councils, an executive of a district council and a committee or a sub-committee of a council, an executive of a council or a joint committee.

2.3. These Regulations are time limited and apply to all council meetings held or to be held before 7th May 2021 and for the public access to these meetings.

2.4. These Regulations allow that where a member meets the conditions for remote attendance they are eligible to take part in votes. The conditions relate to the ability to hear and be heard and, where practicable, see and be seen.

2.5. Remote access includes access by the public to a council meeting to enable them to attend or participate in the meeting by electronic means, including by telephone conference, video conference, live webcasts and live interactive streaming.

2.6. These Regulations amend sections 39 (simple majority) and 40 (qualified majority) of the Local Government Act (NI) 2014 to ensure that references to "members present and voting" on a decision include a member in remote attendance.

2.7. These Regulations also amend the Local Government (Executive Arrangements) Regulations (NI) 2015 to ensure the public may access council executive meetings remotely.

3. Background

3.1. The Covid-19 pandemic is a severe public health emergency. Councils need to continue the effective delivery of local services, including planning and licensing. Councils also need to be mindful of the health and safety of their members, officers and the public. The Department for Communities is therefore making these Regulations which will relax some requirements in relation to council meetings for a specified period of time.

3.2. To allow councils to manage their resources, the Regulations allow councils to have the flexibility to hold meetings at any time of day, alter how frequently meetings can be held and to move or postpone meetings without requiring further notice. This will ensure that councils can divert resources to other efforts and have the flexibility to reallocate officers and members.

3.3. Being able to hold all meetings flexibly (including annual meetings, full council meetings, committee meetings, executive meetings and joint committee meetings) allows council business to continue while adhering to official public health guidance. It also allows the public the same flexibility to attend whilst adhering to the guidance. The Regulations provide for meetings to be held remotely. For the purposes of any statutory requirement, members of the council will be considered as attending the meeting if they can hear and be so heard, and where practicable see and be seen by other members and the public. This allows for meetings to be held by remote means including via telephone conferencing, video conferencing, live webchat and live streaming.

3.4. These Regulations also provide for councils to make standing orders about remote attendance at meetings in relation to voting; members and public access to documents; and what facilities are to be employed to allow the meeting to be held remotely to suit each council's own circumstances. These arrangements can be made by the council without any restrictions contained in any standing order of the council governing the meeting. This gives the council the flexibility to arrange and hold such meetings regardless of such existing restrictions.

3.5. By virtue of these Regulations the "place" at which a council meeting is held is not confined to the council building. The "place" may be where the instigator or arranger of the meeting is, or electronic, digital or virtual locations such as the internet locations, web addresses, or conference call telephone numbers. By virtue of these Regulations, a person is attending a meeting in a specific place of they are attending at different types of location, including physical, electronic, digital or virtual locations. These Regulations also provide requirements for a meeting being "open to the public" to be satisfied by a council holding the meeting remotely. This provides the council with the flexibility to facilitate remote meetings outside of council offices and to hold meetings entirely by remote means.

It also provides for members of the public to attend remotely rather than in person which may breach the Government's public health advice.

3.6. Where it is stipulated that documents are "open to inspection", these Regulations provide that this requirement is satisfied by the documents being published on the council's website. Documents include notices, agendas, reports, background papers, minutes, etc. The publication, posting or making available of documents at council offices includes publication on the council's website. This provides for council members, officers and the public, to have access to documents without attending council buildings and therefore without breaching the Government's public health advice.

3.7. These Regulations amend sections 39 (simple majority) and 40 (qualified majority) of the Local Government Act (NI) 2014 to ensure that a member in remote attendance meets the criteria of these sections in relation to being present and voting on a decision.

4. Consultation

4.1. These Regulations have been drafted as part of the Government's response to the Covid-19 pandemic. These Regulations enable councillors in Northern Ireland to be able to follow public health advice in relation to self and family isolation whilst continuing to participate in democratic local government. Given the urgency with which these Regulations are required it will not be possible to consult in the normal manner. The Department has engaged with the local government sector through contact with Council officials and the Northern Ireland Local Government Association who are supportive of immediate introduction.

5. Equality Impact

5.1. The Department, having carried out its own screening exercise, is satisfied that these Regulations will not lead to a significant discriminatory or negative differential impact on any particular Section 75 group.

5.2. These Regulations introduce temporary measures to enable council meetings to be held during the current emergency situation. The measures will ensure that council business can proceed with the involvement of as many members as possible.

6. Regulatory Impact

6.1. The Department has carried out a preliminary screening exercise in terms of the regulatory impact of these Regulations, and has determined that they will have no direct or indirect adverse impact on businesses, the voluntary and community sector (including charities) and the social economy sector.

7. Financial Implications

7.1. No Executive expenditure required.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department is satisfied that these Regulations comply with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. Not applicable.

11. Additional Information

11.1. Not applicable.

12. "21 day rule"

12.1. It is not possible in the case of these Regulations to comply with the 21-day rule which requires subordinate legislation to be laid before the Northern Ireland Assembly for at least 21 days prior to coming into operation. These Regulations were made as soon as practicable following the Coronavirus Act 2020 receiving Royal Assent and come into operation on 1 May 2020.