

Written Ministerial Statement

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Department of Health

EXTENSION OF POWERS IN THE CORONAVIRUS ACT 2020 IN RELATION TO PUBLIC HEALTH PROTECTION

Published on Friday 23 September 2022.

Mr Swann (The Minister of Health): Section 48 of and Schedule 18 to the Coronavirus Act 2020 (CVA) inserted powers into the Public Health Act (Northern Ireland) 1967 enabling my Department to make Health Protection Regulations (domestic restrictions and international travel regulations) for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of Coronavirus infection or contamination in Northern Ireland. These powers were to expire on 24 March 2022.

In order that the powers provided by the CVA did not lapse on 24 March 2022, I brought forward The Coronavirus Act 2020 (Extension of Powers to Act for the Protection of Public Health) Order (Northern Ireland) 2022 which came into operation on 23 March 2022. The Order provided that section 48 of and Schedule 18 to the CVA should not expire but be extended for a further 6 months to 24 September 2022.

In the continuing absence of a functioning NI Executive, it has again fallen to me as Health Minister to decide whether to extend these powers for a further period.

I have received legal advice that making a further extensions Order is not considered significant or controversial, as set out in paragraph 2.4 of the Ministerial Code because the CVA powers already exist along with the pre-existing power to extend. However, actually making restrictions regulations under the CVA powers could be deemed significant or controversial, depending on their content and all relevant circumstances, simply extending the powers to make regulations for six months is not.

I have no plans and certainly no desire to introduce any further restrictions. I am extremely hopeful that the question will not arise, given the trajectory of the pandemic, the success of our vaccination campaign and the effective COVID-19 treatments now available through the health service.

Furthermore, there is at the very least considerable uncertainty as to whether I would have the power to unilaterally introduce fresh restrictions, in the absence of an Executive.

It is one thing to retain the powers to make regulations, it would be another matter entirely to decide to use such powers.

The choice is whether to allow the powers to lapse at this stage, or to retain them as an option should they be required at some point in the future.

I am advised that to allow them to lapse would be problematic on a number of grounds.

Without these powers, Northern Ireland would be out of alignment with the rest of the UK in the event that health protections measures are needed to be brought in at pace in response to a new COVID-19 variant of concern.

The Chief Medical Officer and the Chief Scientific Adviser have advised that the risk of such a new variant emerging cannot be excluded.

I therefore believe allowing these powers to expire could bind the hands of future Ministers and the next Executive.

After due deliberation, I have therefore opted for a further six month extension.

I have asked my officials to draft the necessary order, using the powers under s90 of the Coronavirus Act 2020 and under the confirmatory resolution procedure. This ensures the legislation can take legal effect upon ministerial signature pending approval by the Assembly.