

COVID-19, Northern Ireland, and emergency law

A CAJ briefing note

This briefing note covers issues relating to emergency legislation introduced, and planned to be introduced, in Northern Ireland in relation to coronavirus.

NI faces a genuine and pressing public health emergency due to the COVID-19 pandemic. The UK and Irish governments have introduced emergency legislation. The UK plans more.

Emergency legislation in a time of such crisis can be necessary and actively support positive action to protect human rights – primarily the right to life and health of the population as a whole, but also basic socio-economic rights (right to food, shelter) of the affected population. Such emergency legislation can also restrict human rights, such as the right to liberty and freedom of movement, as in this case, as necessary steps to contain the virus.

The general principle is that emergency measures taken for such reasons must be necessary, proportionate, and time bound for the duration of the emergency. There should also be safeguards against abuses of power.

International Human Rights Law

Under Article 15 of the European Convention on Human Rights (ECHR), state parties can derogate from most ECHR rights for an emergency threatening the life of the nation to the extent strictly required by the exigencies of the situation.¹ In a public health emergency this could involve states exercising powers relating to detention without trial (quarantining persons) and limiting freedom of assembly (to prevent public gatherings), but does not extend to forced labour, torture, or measures that impinge on the right to life. The Council of Europe is to be notified of temporary derogations to this end. Rights such as freedom of assembly can also be restricted without derogation where it is necessary and proportionate to do so.

There are similar provisions under the International Covenant on Civil and Political Rights (ICCPR). The UN Special Rapporteur (UNSR) Fionnuala Ni Aolain² produced a detailed report on human rights protection and states of emergency in 2018.³ In March 2020, UNSRs and other UN Human Rights Experts urged states not to use COVID-19 emergency measures to suppress human rights.⁴

A further issue is the abuse of emergency-type powers for collateral (i.e. different) purposes. A current example in NI is the abuse of counter-terrorism questioning powers in ports in the Common Travel Area (CTA) for routine immigration control purposes. The collateral use of a statutory power is unlawful under UK law.

¹ ECHR ARTICLE 15 Derogation in time of emergency “1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law. 2. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision. 3. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.”

² Who is also a CAJ Board Member

³ https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/37/52

⁴ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25722&LangID=E>

COVID-19: the first English health emergency legislation

The [Health Protection \(Coronavirus\) Regulations 2020](#) were laid at Westminster on 10 February 2020. They apply to England only for a period of two years, and are applicable when the Secretary of State (SoS) issues a 'serious and imminent threat declaration' which can be revoked during this time.

The SoS made the 'serious and imminent threat declaration' on the same day (10 Feb).⁵ The regulations were made under primary public health legislation.⁶ The regulations give health professionals, and, strangely, the Secretary of State, powers to detain persons suspected of having COVID-19 for screening, assessment, and for isolation (quarantine).

The regulations also provide police officers with powers to enforce detention and to detain persons who abscond from detention (regulation 13). The stated policy intention is for such quarantine to apply for a period of 14 days.⁷ The UK government stated that they may formalise the regulations across the devolved administrations with the introduction of the Coronavirus Bill.⁸

There has been a human rights critique of the regulations that raises a number of points in relation to the regulations.⁹ A central criticism is that elements of the regulations overstep what is permitted from the primary legislation since - outside of the provisions on international travel - the legislation does not contain any power "to make regulations imposing detention, isolation or quarantine on any person". The author also queries the powers of medical professionals to detain persons being also vested in the SoS, pointing out that this would allow a Minister to detain persons even if an expert medical assessment had determined otherwise. Contrast is also drawn between the SoS's declaration of a 'serious and imminent threat' when on the same day the UK was still formally taking a position that the threat was 'moderate'.¹⁰

Scotland

In relation to Scotland, on 17 March 2020, the health minister announced in the Scottish Parliament that the NHS was formally being placed on an emergency footing for at least the next three months, citing powers under Section 1 and Section 78 of the NHS (Scotland) Act 1978, the latter of which specifically is an emergency provision empowering the health minister to confer health functions under the act by any such person or body.¹¹ The health minister stated: "Should I be required to lay new regulations to enable our boards to achieve this, I will bring them before this Parliament swiftly."¹²

Wales

On 18 March 2020, the Health Protection (Coronavirus) (Wales) Regulations 2020 were published and came into force having been laid before the Welsh Assembly the day before.¹³ The

⁵ <https://www.gov.uk/government/news/secretary-of-state-makes-new-regulations-on-coronavirus>

⁶ Section 45R of the Public Health (Control of Disease) Act 1984 (as amended by the Health and Social Care Act 2008). <http://www.legislation.gov.uk/ukpga/1984/22/section/45R> cited in <https://lordslibrary.parliament.uk/infocus/coronavirus-emergency-legislation/>

⁷ <https://www.gov.uk/government/news/health-secretary-announces-strengthened-legal-powers-to-bolster-public-health-protections-against-coronavirus>

⁸ [https://hansard.parliament.uk/lords/2020-03-09/debates/F57412E9-053E-470E-99F2-4CB6906CDE5D/HealthProtection\(Coronavirus\)Regulations2020](https://hansard.parliament.uk/lords/2020-03-09/debates/F57412E9-053E-470E-99F2-4CB6906CDE5D/HealthProtection(Coronavirus)Regulations2020) cited in <https://lordslibrary.parliament.uk/infocus/coronavirus-emergency-legislation/>

⁹ <https://ukhumanrightsblog.com/2020/02/13/corona-vires-has-the-government-exceeded-its-powers/>

¹⁰ As above.

¹¹ <http://www.legislation.gov.uk/ukpga/1978/29/contents>

¹² <https://www.gov.scot/publications/coronavirus-COVID-19-update-scottish-parliament/>

¹³ <https://gov.wales/health-protection-coronavirus-wales-regulations-2020>

regulations appear similar to those in England, with devolved ministers taking the powers of the SoS in the English Regulations.

Republic of Ireland

The cabinet approved the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Bill 2020 on 17 March 2020.¹⁴ The official statement set out that, in relation to COVID-19, this bill provides for (in summary):

- A number of social protection measures regarding enhanced income support and benefits;
- Extra powers “if extreme situations arise” to restrict public events and travel;
- Powers of detention for medical professionals to detain and isolate persons suspected of having COVID-19;

The detention powers are set out as powers the government “hopes it won’t have to use”, given the powers already in place under the existing Health Act 1947, but it has legislated for exceptional circumstances “in the unlikely event the need arises”.¹⁵ The bill passed through Dáil Éireann on 19 March 2020, then the Seanad on the following day.

The Irish Council for Civil Liberties (ICCL) produced a detailed briefing, addressing the duration of the measures and the powers to curtail freedom of assembly and detention, suggesting additional safeguards.¹⁶ The government responded by including a firm sunset clause in the legislation of November 2020.¹⁷

Northern Ireland

There have been a number of ministerial statements from the NI Health Minister Robin Swann.¹⁸ This included announcing on Monday 2 March 2020 that the Public Health Act (Northern Ireland) 1967 had been amended to include COVID-19 under the list of notifiable (infectious) diseases. This provides a number of powers in relation to persons with notifiable diseases. There was no other emergency legislation before the Coronavirus bill.

On Tuesday 24 March 2020, the NI Assembly will debate a Legislative Consent Motion to the Coronavirus Bill.¹⁹ The motion seeks consent in areas of devolved powers, and does not include

¹⁴ https://merrionstreet.ie/en/News-Room/News/Government_approves_legislation_to_support_national_response_to_COVID-19.html

¹⁵ As above

¹⁶ <https://www.iccl.ie/human-rights/COVID-19-emergency-legislation-everything-you-need-to-know/>

¹⁷ <https://twitter.com/ICCLtweet/status/1240744338277183500>

¹⁸ <https://www.health-ni.gov.uk/publications/doh-ministerial-announcements-and-statements-2020>

¹⁹ <http://www.niassembly.gov.uk/assembly-business/order-papers/session-2019-2020/24-march-2020/>

Legislative Consent Motion: Coronavirus Bill: Proposed:

“That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Coronavirus Bill dealing with: Emergency registration of health professionals in Clauses 2 and 4 and Schedules 1 and 3; Emergency volunteers in Clauses 7 and 8 and Schedule 6; Mental health and mental capacity in Clause 9 and Schedules 9 and 10; Health service indemnification in Clause 12; Registration of deaths and still-births etc in Clauses 17 and 20 and Schedule 12 (Part 3); Food supply in Clauses 23 to 27 and Schedule 14; Inquests in Clauses 29 and 30; Schools, childcare providers, etc in Clauses 35 and 36 and Schedules 15 (Part 3) and 16 (Part 3); Statutory Sick Pay in Clauses 40 to 42; Pensions in Clause 45; Protection of public health in Clause 46 and Schedule 17; Powers relating to potentially infectious persons in Clause 49 and Schedule 20 (Part 5); Powers relating to events, gatherings and premises in Clause 50 and Schedule 21 (Part 5); Courts and tribunals: use of video and audio technology in Clause 55 and Schedule 26; Powers in relation to bodies in Clause 56 and Schedule 27; Commencement in Clause 73; Power to suspend and revive provisions in Clause 74; Expiry in Clause 75; Power to alter expiry date in Clause 76; Power to amend Act in consequence of amendments to subordinate legislation in Clause 77; Power to make consequential modifications in Clause 78 and Procedure for certain orders made by a Northern Ireland department in Clause 82. Minister of Health.”

some of the more concerning powers, such as the detention powers for immigration officers, but should include sweeping powers to allow the health minister to make regulations.

UK Coronavirus Bill

The Coronavirus Bill was introduced on 19 March 2020. It applies to Northern Ireland in similar terms to England, Scotland and Wales, with differences largely relating to the separate institutional landscape in each jurisdiction.

Proportionality: a two year emergency?

Despite the Prime Ministers concurrent assertion that the UK could ‘turn the tide’ on the virus in 12 weeks²⁰ most of the powers in the coronavirus emergency bill last for two years.

This is in contrast with similar powers under the UK’s Civil Contingencies Act 2004, whereby emergency regulations can last for only up to 30 days, and would then have to be reissued to remain in force.²¹ This raises concerns regarding proportionality. Liberty has also questioned whether the Coronavirus powers are needed, in light of the existing powers under the Civil Contingencies Act 2004 and other legislation (presumably the aforementioned public health legislation).²²

Under clause 73 (commencement), most provisions come into force the day the act is passed (including those relating to detention powers, surveillance, and curtailing public gatherings).

There are powers to suspend and then revive provisions of the act vested in UK Ministers and, on transferred matters, NI departments (Clause 74) during this time. Many of the provisions expire in two years (including detention, surveillance, and public gathering powers) (Clause 75). The expiry date can however be amended by a UK Minister (or devolved bodies including a NI department for transferred provisions) (Clause 76).

CAJ shares the concerns of other human rights organisations that the two year limit in this fast tracked legislation is disproportionate and risks extraordinary provisions to deal with an emergency becoming more settled law, especially if there is not periodic parliamentary oversight. We would urge approval for a renewable limit of a number of months at a time, noting the equivalent Irish legislation lapses in November.

Positive duties to act: the measures in the bill

The bill contains a number of positive duty measures designed to assist dealing with the public health emergency. These include emergency registration provisions for medical and social work professionals, etc. The British Institute of Human Rights has raised concerns in a number of areas including:

- The impact on people with care and support needs, including disabled and older adults, and carers
- The impact on people with complex health needs being inappropriately discharged from hospital
- The impact on people with mental health issues;

²⁰ <https://www.theguardian.com/world/2020/mar/19/boris-johnson-uk-can-turn-tide-of-coronavirus-in-12-weeks>

²¹ <http://www.legislation.gov.uk/ukpga/2004/36/section/26>

²² <https://www.libertyhumanrights.org.uk/news/press-releases-and-statements/liberty-calls-continuous-scrutiny-coronavirus-bill>

These areas are covered in a detailed submission.²³

Liberty has also raised a number of chief concerns regarding the bill, including that:

- **“Greater surveillance** could be ushered in through the backdoor, and this may have already happened. The emergency legislation may increase State capacity to issue warrants to access our personal information and data for state surveillance. This includes intercepting digital communication, hacking into our computers and phones giving access to some of our most personal and sensitive data such as our religion, our sexual orientation, political views and medical history.”
- **“Lowering or removing care standards.** While the NHS core duty of care is not affected, how it prioritises patients will change under this legislation. This will affect those of us who are most at risk including older people, disabled people and those requiring hands-on care. Vital care assessments that some of us need may not take place and that could see standards drop. This measure is introduced to allow the health and social care system to shift its priorities. However, those of us who are deemed low risk could, without a good standard of care, escalate into high risk cases, putting further pressure on the system.”²⁴

This CAJ briefing will focus on three main areas in the regulations, namely the powers to curtail public assembly; the detention for examination powers; and the empowerment of emergency NI health regulations. We assess these with a recognition that we are in extraordinary times, where specific targeted powers and steps are required, but where we still need to be vigilant against excessive powers that may make the situation worse and not better.

We are also conscious of other measures that should be taken to protect persons during the public health emergency. This includes measures to tackle increased vulnerability to domestic and child abuse in the context of self-isolation and social distancing; measures to protect homeless persons who cannot self-isolate; and measures relevant to the specific circumstances of prisoners and immigration detainees.

As the commentary below further explains, the bill grants additional powers to immigration officers. Given current practices, we are concerned about racial discrimination and the targeting of ethnic minorities. We are also concerned that migrants who have (or are perceived to have) an irregular status may be deterred from accessing health care necessary for themselves or their family members because of the continued operation of the ‘hostile environment’ measures, and the seeming embedding of immigration officers in public health policy that the Coronavirus Bill appears to countenance.

We would seek an urgent policy change so that perceived ‘irregular’ migrants will not be reported to the Home Office for seeking medical care. The Irish government has already given assurances to this end.²⁵

Liberty and others have already called for the immediate suspension of the hostile environment. We would also caution against any military involvement in law enforcement, as experience in Northern Ireland shows this is likely to be counterproductive.

²³ <https://www.bih.org.uk/coronavirusbill-20march>

²⁴ <https://www.libertyhumanrights.org.uk/news/press-releases-and-statements/liberty-calls-continuous-scrutiny-coronavirus-bill>

²⁵ <https://mobile.twitter.com/MigrantRightsIr/status/1241070050796281859>

The next sections will deal with powers on public gatherings, detention and health emergency regulations in turn:

Powers to restrict public assembly

Clause 50 of the bill brings in Schedule 21, Part 5 of which provides NI powers to restrict events, gatherings and premises. These powers are vested in The Executive Office (TEO), led by the First and Deputy First Ministers. It is important to note throughout Northern Ireland's existence, the exercise of ministerial powers to control public gatherings has raised significant human rights concerns, with an independent Parades Commission established further to the Public Processions Act 1998 to undertake decisions on any restrictions on parades and counter protests. In particular, Ministerial Orders banning demonstrations were common place under the NI Special Powers Acts. Whilst the prevention of public gatherings and events that risk spreading COVID-19 is an urgent public health imperative, which will receive wide public and political support, the particular sensitivities and institutional arrangements in NI should be given due consideration.

TEO declaration to use powers (Para 35):

To use the powers under the bill, first the TEO must issue a declaration that there is a serious and imminent threat to public health in NI due to coronavirus, and that exercise of the powers would be an effective way of containing its spread or deploying emergency personnel. The TEO can also revoke the declaration. In both instances, this would require political consensus between the First and deputy First Ministers.

An alternative preferable model to agreed declaration and revocation model would be for the TEO to be required to renew the declaration periodically, e.g. monthly.

TEO directions on gatherings and events post-declaration (Para 37):

Once the declaration is in place the TEO can for the same reasons (containing spread, emergency deployment) issue a direction "prohibiting, or imposing requirements or restrictions in relation to, the holding of an event or gathering in Northern Ireland". Directions can cover a specific event or a series or type of events, and are binding on persons organising or otherwise involved in events, and the owners/occupiers of relevant premises. They are not binding on participants in events.

There are also powers to close premises²⁶ for the same reasons (Para 38). In issuing directions, the TEO must consult and have regard to advice from health officials. Directions can be enforced by a police officer or any other person designated by TEO (Para 40), who will have powers of entry and be permitted to use reasonable force. A fine of up to £100,000 can be levied for failing to comply with a direction without reasonable excuse (Para 42/43). Parallel powers to prohibit or restrict public gatherings are vested in the Justice Minister, PSNI, and, in relation to parades and counter protests, the Parades Commission, however the criteria for such restrictions in such powers do not relate to public health considerations.²⁷

Whilst the powers to issue directions vested in TEO contain significant qualification to limit misuse, one area of particular attention is the ability of the TEO to designate any person to

²⁶ Premises is to include any place, and including vehicles and other modes of transport.

²⁷ <http://www.legislation.gov.uk/nisi/1987/463/part/II> & <http://www.legislation.gov.uk/ukpga/1998/2/contents>

use reasonable force to enforce these directions – without such persons necessarily having PSNI-type training in reasonable and proportionate use of force.

Powers of detention and other powers to deal with ‘potentially infectious persons’

Section 49 and Schedule 20 on ‘powers relating to potentially infectious persons’ confer powers on public health officers, police officers and immigration officers, with Part 5 of the Schedule specifically covering NI. Public health officers in NI are officers of the Public Health Agency (PHA) or persons operating under the direction or advice of the PHA.²⁸

A potentially infectious person is a person who is or ‘may be’ infected/contaminated with coronavirus and who risks infecting/contaminating others. Or a person who has been in an ‘infected area’ outside the UK in the last 14 days. UK ministers will designate places considered ‘infected areas’

‘Screening’ is the process of assessing whether a person has been exposed to coronavirus; determining whether they are infected or contaminated; and assessing symptoms, state of health.

‘Assessment’ means assessment of measures appropriate to take to mitigate against the risk of a person infecting or contaminating others.

The NI Provisions: requiring screening and assessment

Once the NI Department of Health has issued a declaration of a transmission control period, public health officers will have powers to direct or remove (or get a police officer to remove) a person for screening and assessment if they have ‘reasonable grounds’ for suspecting they are potentially infectious. It is an offence not to comply with the direction or to abscond.²⁹

Under a second provision, both police officers and immigration officers have similar powers to direct or remove any person for screening or assessment where they have reasonable suspicion the person may be potentially infected. The powers of immigration officers can be exercised against any person and in any place – there is no restriction to ports/airports. This represents a dramatic extension of the role of an immigration officer. It is not clear on the basis whereby non-medically qualified officers will make a determination of suspicion of infection – although they are to consult a public health officer where reasonably practicable. There is no concurrent duty not to undertake any immigration operations unless accompanied by a public health officer. On the basis of present experience, there is a significant risk of powers being misused in a racially discriminatory manner. It is unclear if immigration officers will be accountable to the Police Ombudsman for the use of these powers.

NI provisions: at screening and assessment

A public health officer may require a potentially infectious person to remain in a place for screening and assessment for up to 48 hours, enforceable by a public health officer or police officer. A person is then required to provide samples and answer questions about their health and any other relevant matters (e.g. travel, contact with other persons), and to disclose any documents that may assist. It is an offence not to comply.³⁰

When a person is at an assessment or screening location (voluntarily or otherwise) and it is suspected that they are potentially infectious, they may be detained for up to 24 hours by the

²⁸ Paragraph 3 (2) “Public health officer” means— .. (d) in Part 5 of this Schedule—

(i) an officer of the Regional Agency for Public Health and Social Well-being, or

(ii) a person acting under the direction or advice of the Director of Public Health in Northern Ireland under arrangements for preventing or controlling the transmission of coronavirus.

²⁹ Schedule 20, pt 5, paragraph 71

³⁰ Schedule 20, pt 5, paragraph 73-77

police, or up to three hours by an immigration officer. This is extendable by 24 hours and nine hours respectively under the direction of a senior officer, until the individual in question is seen by a public health officer. It is an offence to abscond.³¹

There is no concurrent explicit duty to ascertain if the person in question has, for example, dependents who will require assistance whilst they are detained.

Overall, of particular concern is the extension of the role of immigration officers, especially in light of existing concerns regarding the discriminatory practices by these officers. Additionally, this change falls outside of the law enforcement accountability framework for NI.

In line with our call for hostile environment measures to be discontinued and for migrants to feel safe accessing public health services for the protection of themselves and others, we would urge any role of immigration officers is confined to ports of entry alongside public health officials.

NI provisions after assessment:

After a person has been screened/assessed by a Public Health Officer, and the results are either positive, inconclusive, or there are still reasonable grounds for considering that the person is potentially infectious; then the public health officer may impose requirements and restrictions on the person. This may include information provision; asking them to remain at a specified place or in isolation; or placing restrictions on the person's movements, activities, or contact with others. Failure to comply is an offence.³² A requirement to remain in a specified place may not exceed 14 days, and a person must be reassessed after 48 hours. Following 14 days and reassessment, the requirement may be re-imposed for up to 14 days with a daily review. It is possible to appeal in a court.³³

Further provisions in this part include Paragraph 83 on children; whereby a person responsible for a child, as far as is reasonably practicable, should ensure the child complies with any requirement under the above powers. Paragraph 84 makes clear that any 'direction, instruction, requirement or restriction' can be imposed orally as well as in writing, the former of which could make proof difficult. Post-assessment restrictions should be followed with written notice. Paragraph 88 on offences sets out that a level 3 fine is the punishment for transgressions.

Paragraph 85 sets out a series of 'ancillary' powers that empower health officers, police officers or immigration officers to give "reasonable instructions" in connection with directions or removal powers. It is an offence not to comply with these instructions. A person being removed to a place may be kept for an unspecified "reasonable period" of time pending their removal. The police and immigration officers can use 'reasonable force' to exercise these powers. Police (but not immigration) officers are also granted powers of entry to 'any place' to exercise any of the powers.

NI Emergency Health Regulations

Clause 46 and Schedule 17 give effect to the Public Health Act NI 1967 as if it had a new Part 1A inserted. This new part provides sweepingly broad regulation making powers vested in the NI Department of Health (DoH) in the following areas:

³¹ As overleaf: paragraph 78.

³² As overleaf: paragraph 79.

³³ As overleaf: paragraph 80-82

- (25B) **International travel:** This includes powers for medical examination, detention, isolation or quarantine of persons; disinfection or decontamination of persons and things; prohibiting or regulating entry or exit of persons or ‘things’; and requiring persons to provide information or answer questions on any subject (including, but not limited to their health). It is not clear if ‘international travel’ includes journeys within the Common Travel Area to the south of Ireland. If so, the powers may extend to the land border, but not domestic journeys across the Irish Sea.
- (25C) **Domestic regulations:** As well as duties on medical professionals to record and notify cases, this includes the imposition of requirements on persons, things and premises. This encompasses:
 - Requiring a child be kept off school;
 - Prohibitions or restrictions relating to an event or gathering;
 - Restrictions or requirements relating to burials/cremation, etc.

This regulation-making power also extends to placing ‘special restrictions or requirements’. This can mean any of the following requirements (among others):

- That a person submit to a medical examination;
- That a person be removed or detained in a hospital or ‘other suitable establishment’;
- That a person be kept in isolation or quarantine;
- That a person provide information or answer questions about their health or other circumstances;
- That a person attend training or advice sessions to reduce the risk of infecting others;
- That a person abstain from working or trading;
- In the case of a dead body, that the body be buried or cremated;
- That premises be closed, or disinfected or decontaminated or destroyed.

The special restrictions or requirements also apply to children. Some safeguards relating to proportionality are imposed on the regulation making powers, and a medical examination does not include treatment.³⁴ The regulation may create new criminal offences (limited to a fine of £10,000 and not imposing imprisonment).³⁵

It is notable that many of the above such matters are already covered by other provisions in the Coronavirus Bill and the necessity of duplicating such provision is not clear. We would urge that this section be reconsidered and restricted to the potential for powers that are not otherwise already provided for and are proportionate and necessary.

Regulations are normally subject to negative resolution in the Assembly, but an emergency procedure enabling their passage without a draft has been tabled for reasons of urgency.³⁶

Schedule 17 (25G) confers powers on magistrates’ courts to make orders that a person be subjected to medical examination, detention, isolation or other restriction where the court is

³⁴ 25D, 25E;

³⁵ 25F

³⁶ 25P-Q.

satisfied that they are infected and may pose a risk to others. There are also powers under (25H) in relation to infected property and 25I in relation to premises.

(25J) then makes provision for such orders to cover groups of persons, property ('things')³⁷ and premises. Under (25N), the Department of Health may make regulations pursuant to such orders, covering matters such as medical examination, responsibility, and cost. (25O) makes it an offence punishable by a level 5 fine not to comply without reasonable excuse with an order and other remedies, including enforcing detention. (25R) covers general powers of entry in relation to the regulations in Schedule 17, including allowing an 'authorised officer' the right to enter any premises (a warrant is needed for private dwellings) for the following purposes: (a) to ascertain whether there has been a contravention of the regulations on the premises; (b) to ascertain whether or not circumstances exist which would authorise the Regional Agency to take action; (c) to take any action provided for by the regulations; or (d) for the performance of the Regional Agency's functions under the regulations. Supplementary powers of entry in relation to the regulations are also provided for (25S-T).

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³⁷ Including human tissue and animals.