

EXPLANATORY MEMORANDUM TO

The Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021

S.R. 2021 No. 102

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, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021.
- 1.2 The Statutory Rule is made under sections 25B and 25F(2) of the Public Health Act (Northern Ireland) 1967 (“the 1967 Act”) and is subject to negative resolution.

2. Purpose of the Regulations

- 2.1 The Statutory Rule combines the provisions within the Health Protection (Coronavirus, Public Health Advice for Persons Travelling to Northern Ireland) (No.2) Regulations (Northern Ireland) 2020 and Part 2 of the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Amendment) Regulations (Northern Ireland) 2021 along with subsequent amendments to those Regulations.
- 2.2 Part 2 introduces requirements for persons operating commercial transport services (“operators”) for passengers travelling to Northern Ireland from outside the common travel area to ensure that passengers who arrive in Northern Ireland on such services have completed a Passenger Locator Form (regulation 6(1)) and possess notification of a negative test result (regulation 7(1)). Breach of the requirements is an offence (regulation 8(1)).
- 2.3 Upon completion of the Passenger Locator Form, passengers receive a unique passenger reference number from the Home Office. An operator who has recorded a unique passenger reference number in the format used by the Home Office will have a defence to the offence in regulation 8(1)(a) (regulation 8(3)).
- 2.4 Part 3 requires operators to provide certain information to passengers using their services in travelling to Northern Ireland.
- 2.5 Regulation 10 requires operators to ensure that passengers who arrive in Northern Ireland on such services have been provided with certain public health information in the required manner, on four separate occasions. Breach of this requirement is an offence.
- 2.6 Regulation 11 sets out the detail of what this information must contain.
- 2.7 Part 4 revokes the previous Regulations and provide that these Regulations will automatically expire in March 2022. The Regulations must also be regularly reviewed to ensure they are still needed.
- 2.8 The Statutory Rule came into operation at 4.00 am on 16 April 2021.

3. Matters of special interest to the Northern Ireland Assembly

- 3.1 The Statutory Rule is made under the 1967 Act, in breach of the 21 day rule. This has been necessary to introduce the requirement at the same time as The Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021, which themselves required a breach of the 21 day rule. This was in order to ensure managed isolation and post arrival testing requirements were fully in place in NI before direct international travel resumed.
- 3.2 Further, the principle Regulations provide that the Department of Health must review the need for the measures imposed by them at least once every 28 days.
- 3.3 The principle Regulations cease to have effect once The Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 cease to have effect.

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 25B to enable a number of public health measures to be taken for the purpose of preventing danger to public health from arrivals into Northern Ireland. They will also be made under 25F(2) which allows for enforcement provisions to be included.

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 These regulations are largely to replace existing, repealed regulations, and to update the information requirements for passengers and operator duties to reflect the new mandatory testing provision and managed isolation requirements in NI.

6. Consultation

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

7. Equality impact

- 7.1 An Equality Impact Assessment screening was not conducted on these regulations as obligations fall on operators, however there was an EQIA screening undertaken for The Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021. The EQIA screening for the those Regulations identified no disproportionate impact. Given these measures would reduce the transmission of coronavirus, there were positive benefits noted for those groups that are known to be, or suspected to be, more susceptible to the adverse effects of the virus, including older people, those with a disability and those in ethnic minority groups.
- 7.2 A human rights impact assessment was conducted for the main Regulations also, to ensure compliance with the European Convention on Human Rights. This assessed the proportionality of the measures being taken and mitigations which could be considered to reduce the impact on human rights that the assessment identified.

8. Regulatory impact

- 8.1 Given the rapidly evolving global situation regarding the spread of coronavirus 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 there has been no assessment of the financial impacts in relation to this Statutory Rule.
- 9.2 However it is likely there will be a financial impact on travel operators as there is potential for a reduction in demand as travellers may choose not to travel given the requirements in place.

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 England, Scotland and Wales are expected to make broadly similar regulations coming into force at the same time.

13. Additional information

- 13.1 Not applicable