

## **EXPLANATORY MEMORANDUM TO**

# **The Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) (Amendment No. 2) Regulations (Northern Ireland) 2021**

### **S.R. 2021 No. 213**

#### **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) (Amendment No. 2) 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 amends amend the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 (“the International Travel Regulations”).
- 2.2 Regulations 3 and 4 amend the International Travel Regulations so that a fully vaccinated amber list arrival does not need to self-isolate or take a day 8 test, in accordance with those regulations.
- 2.3 Regulation 5 makes amendments to Schedule 1 of the International Travel Regulations by adding “Cuba”, “Indonesia”, “Myanmar”, and “Sierra Leone”.
- 2.4 Regulation 6 makes amendments to Schedule 2 of the International Travel Regulations by adding “Bulgaria”, “Croatia”, “Hong Kong”, and “Taiwan” and omitting “Balearic Islands” and “British Virgin Islands”.
- 2.5 Regulation 7 makes amendments to Schedule 4 of the International Travel Regulations to introduce a new exempt category for fully vaccinated arrivals from amber list countries. A person who is in this category is exempt from the requirement to self-isolate that would otherwise apply and from the requirement to undertake a day 8 test post-arrival.
- 2.6 In order to avail of the exemption, the person in question must have proof of their exemption status and must make the appropriate declaration on their Passenger Locator Form. (The Passenger Locator Form contains passenger information and must be completed and produced if so required by the principal Regulations.)
- 2.7 Regulation 8 amends Schedule 6 of the International Travel Regulations as a consequence of the introduction of the new exemption.
- 2.8 These Regulations also amend the Health Protection (Coronavirus, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021 (“the Passenger Information Regulations”).
- 2.9 Regulation 10 imposes obligations on travel operators to check the evidence held by travellers claiming fully vaccinated exempt status to have systems and processes, and

regulation 11 makes provision for the offences applicable in case of breaches of those obligations.

- 2.10 Regulation 12 amends the Schedule to the Passenger Information Regulations as a consequence of the fully vaccinated exemption, where they will be exempt from the requirement to self-isolate and undertake a day 8 test post-arrival.
- 2.11 The Statutory Rule came into operation at 4.00 am on 19 July 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 regulation within a tight timeframe, to ensure that managed isolation and mandatory post arrival testing could proceed in Northern Ireland prior to the resumption of direct international flights to NI.
- 3.2 The principal 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 principal Regulations cease to have effect at the 24 March 2022.

### **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 This Statutory Rule amends the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 (“the International Travel Regulations”).
- 5.3 Cuba, Indonesia, Myanmar and Sierra Leone are added to the red list for international travel following the Joint Biosecurity Centre’s latest risk assessment, owing to an increase in risk of Variants of concern.

- 5.4 Bulgaria, Croatia, Hong Kong and Taiwan are added to the green list for international travel following the Joint Biosecurity Centre's latest risk assessment owing to a decrease in risk of Variants of Concern.
- 5.5 Balearic Islands and British Virgin Islands are removed from the green list and added to amber list for international travel following the Joint Biosecurity Centre's latest risk assessment, owing to an increase in risk of Variants of concern.
- 5.6 This Statutory Rule also introduces a new exemption category for amber list arrivals that have been fully vaccinated as part of the UK Vaccination programme/overseas rollout programme. A person who is in this category is exempt from the requirement to self-isolate that would otherwise apply and from the requirement to undertake a day 8 test post-arrival. This exemption also applies to those who have participated or are participating in relevant clinical trials, under 18's ordinarily resident in the UK and dependents of those vaccinated as part of the UK vaccination rollout overseas.
- 5.7 The Statutory Rule also provides provisions on the types of evidence required to claim the new exemption and makes amendments as a consequence of its introduction.
- 5.8 This Statutory Rule amends The Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021 (Passenger Information Regulations) to impose obligations on travel operators to check the evidence held by travellers claiming fully vaccinated exemption, to have systems and processes in place and makes provision for the offences applicable in case of breaches of those obligations.
- 5.9 It also amends the Passenger Information Regulations as a consequence of the fully vaccinated exemption, where travellers will be exempt from the requirement to self-isolate and undertake a day 8 test post-arrival.

## **6. Equality impact**

- 6.1 An Equality Impact Assessment screening was not conducted for this amendment. However for the principal regulations the EQIA screening 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.
- 6.2 A human rights impact assessment was conducted for the principal Regulations 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.

## **7. Regulatory impact**

- 7.1 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.

## **8. Financial implications**

- 8.1 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. Section 24 of the Northern Ireland Act 1998**

9.1 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.

## **10. EU implications**

10.1 There are unlikely to be any EU implications.

10.2 This Statutory Rule does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **11. Parity or Replicatory Measure**

11.1 This amendment will also be made in England, Scotland and Wales at the same time.

## **12. Additional information**

12.1 Not applicable