

## **EXPLANATORY MEMORANDUM TO**

# **The Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) (Amendment No. 7) Regulations (Northern Ireland) 2021**

**S.R. 2021 No. 278**

### **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. 7) Regulations (Northern Ireland) 2021.
- 1.2 The Statutory Rule is made under sections 25B and 25F 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 the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 (S.R. 2021 No.99) (“the principal Regulations”) and the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021 (S.R. 2021 No. 102) (“the Operator Liability Regulations”). It creates a new category of traveller known as an “eligible arrival” who if fully vaccinated and arriving in Northern Ireland from a list of specified countries, is exempt from the need to comply with the obligation to have proof of a negative test on arrival, to take a “day 8 test” or to self-isolate. The Rule makes amendments to the existing categories of travellers as a consequence of the new framework on non-eligible and eligible non-red list arrivals. An amendment is made to the nature of the medical evidence that travellers from red list countries and territories must provide if they seek exemption from the obligation to quarantine in designated accommodation. The Rule relieves operators of the obligation to check evidence of vaccination where a traveller's Passenger Locator Form has had appropriate evidence uploaded to it, and which states that the evidence has been verified. Changes are made to the information that operators must give to passengers, reflecting the changes made by these Regulations. The other provisions of these Regulations make minor and consequential amendments.

### **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 a new Global Travel Taskforce framework and a further expansion to the UK’s inbound vaccination policy within a tight timeframe, aligning with the rest of the UK. The principal Regulations and Operator Liability Regulations provide that the Department of Health must review the need for the measures imposed by them at least once every 28 days.

- 3.2 The principal Regulations cease to have effect from 24 March 2022 and the Operator Liability Regulations cease to have effect from 23 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.

#### **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 updates the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 (S.R. 2021 No.99) (“the principal Regulation”) and the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021 (S.R. 2021 No. 102) (“the Operator Liability Regulations”) to take advantage of the high vaccination rates amongst the UK adult population, along with the increasing evidence of vaccine efficacy overseas, to further facilitate international travel from countries not on the red list. This policy brings the UK in line with a number of other international travel hubs – particularly in Europe – to facilitate family reconnections, holidays and business travel. It will reduce the costs associated with the travel system and make it less complex to navigate.
- 5.3 All green list countries are removed from the list in Schedule 2 of the principal Regulations. There will now be a red list (as listed in Schedule 1) and the rest of the world (also known as non-red list countries). Border measures for arrivals from non-red list countries will depend upon the vaccination status of the traveller and the country in which they received their vaccination. There will be no amendments to the red list in this set of regulations.
- 5.4 The Rule amends the principal Regulations to differentiate between the borders measures applicable to eligible arrivals and the borders measures applicable to all other arrivals from non-red list countries.

- 5.5 It creates a category of “eligible arrival”. This will be a person arriving in Northern Ireland who has not been in a red list country in the last 10 days and who falls into one of the following groups:
- individuals who have completed a course of doses of one of the following, with the final dose having been received at least 14 days prior to arrival in Northern Ireland:
    - A vaccine authorised by the Medicines and Healthcare products Regulatory Authority (MHRA) on the date that the relevant provision comes into force and administered in the UK or under the UK vaccine roll-out overseas.
    - A vaccine authorised by any of the 11 regulators listed by World Health Organisation (WHO) in their Joint Statement on the Equal Recognition of Vaccines on the date that the relevant provision comes into force administered in the EU, Andorra, Iceland, Liechtenstein, Monaco, Norway, San Marino, The Vatican City State, Switzerland, the USA (where ordinarily resident in the USA), Australia or Canada.
    - A vaccine which is the same brand as those authorised by the MHRA in the UK on the date that the relevant provision comes into force and from the same manufacturer as those approved in the UK, if received in Antigua and Barbuda, Bahrain, Barbados, Brunei, Dominica, Israel, Japan, Kuwait, Malaysia, New Zealand, Qatar, Saudi Arabia, Singapore, South Korea, Taiwan or the UAE. This cohort will need to show evidence of vaccination by way of a certificate containing prescribed information.
  - past and present participants in a formally recognised clinical vaccine trial in the UK or the USA (where ordinarily resident in the USA) who can prove that participation;
  - a person under the age of 18 years who lives in one of the countries where vaccination is accepted under the Regulations.
- 5.6 It introduces a requirement that Eligible arrivals evidence their vaccination status either through the relevant approved UK health care digital apps, the EU Digital Covid Certificate, the CDC vaccination card (for UK, EU and USA vaccinations respectively) or with a vaccine certificate which meets the following minimum requirements for all other relevant countries:
- Written in English, French or Spanish;
  - Includes the traveller’s full name;
  - Their date of birth;
  - The name and manufacturer of the vaccine that they received;
  - The date that they received each dose of the vaccine;
  - Details of either the identity of the issuer of the certificate or the country of vaccination.
- 5.7 It ensures that Eligible arrivals are required to provide passenger information and undertake a mandatory day 2 test within the meaning of regulation 8, unless the bespoke worker testing regime applies to them. They will not have to provide a notification of a negative result from a pre-departure test and will not have to isolate after arrival (unless the result of their day 2 test requires them to isolate).
- 5.8 All other arrivals from non-red list countries (unless otherwise exempt) will continue to be required to:

- provide passenger information;
  - provide a notification of a negative result from a pre-departure test;
  - undertake mandatory or worker post-arrival testing;
  - isolate after arrival.
- 5.9 It amends the nature of the medical evidence that a person must provide in support of their exemption application to now include details of (a) the support the person would reasonably require in order to manage their medical or health condition if they were required to self-isolate in designated accommodation, and (b) the probable impact to their health if that support was not provided.
- 5.10 The Rule also makes a number of consequential amendments throughout the principal Regulations to update references to “red”, “amber” and “green”.
- 5.11 The Rule amends the Operator Liability Regulations to remove the obligation on operators to check evidence of vaccination status for verified eligible arrivals (an eligible arrival whose passenger locator form indicated that their vaccine status is verified). The eligible arrival will prove their vaccine status by scanning a QR code from an approved digital app in one of the UK nations when filling in the PLF.
- 5.12 It also replaces the specified information for passengers.

## **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 The amendments in relation to the creation of the new ‘non-red list eligible arrivals’ category and the recognition of vaccination certification in relation to a cohort of countries will also be made in England, Scotland and Wales at the same time.

**12. Additional information**

- 12.1 Not applicable