

EXPLANATORY MEMORANDUM TO

The Health Protection (Coronavirus, International Travel) (2021 Consolidation) (Amendment No. 8) Regulations (Northern Ireland) 2021

S.R. 2021 No. 293

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Health to accompany the Health Protection (Coronavirus, International Travel) (2021 Consolidation) (Amendment No. 8) 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 the negative resolution procedure.

2. Purpose

- 2.1 The Statutory Rule amends the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 (“the principal Regulations”) to:
 - introduce a further option allowing eligible arrivals to complete a lateral flow device (LFD) test on or before Day 2 of their arrival in Northern Ireland, when not having visited a red-list country in the previous ten days, as an alternative to polymerase chain reaction (PCR) testing;
 - amend the definition of ‘departing from or transiting through a country or territory’;
 - remove all countries and territories from the red list of countries and territories. The countries being removed are Peru, Ecuador, Colombia, Panama, Dominican Republic, Haiti, and Venezuela;
 - extend the criteria for an “eligible arrival” to include individuals who have participated/are participating in phase 2 or phase 3 of a clinical trial of a vaccine against coronavirus, and who can provide proof of their participation in the trial, and to individuals vaccinated in the British Overseas Territories and Crown Dependencies;
 - update the provision to treat a person who has received one dose of a two dose vaccine under the UK vaccine roll-out overseas and received the other dose in another country, as vaccinated under the UK vaccine roll-out overseas. This allows a person in this cohort to benefit from the requirement to simply provide proof of vaccination of the UK vaccine dose. A vaccine certificate is still required for the dose received in another country;
 - remove the requirement for a vaccinated eligible arrival to have received the vaccine in a relevant country or the UK, and update the definition of authorised

vaccine to include any of the four vaccines that are recognised by the UK wherever they are administered in the world;

- adds the following 35 new countries, Argentina, Angola, Azerbaijan, Belize, Botswana, Costa Rica, Djibouti, Eswatini, Guyana, Honduras, Lesotho, Mauritius, Mongolia, Nepal, Panama, Peru, Rwanda, Seychelles, Suriname, Tanzania, Trinidad and Tobago, Tunisia, Uganda, Uruguay, Anguilla, Armenia, Bermuda, Cambodia, Cayman Islands, Gibraltar, Lebanon, Madagascar, Occupied Palestinian Territories, Sierra Leone, and Sri Lanka, to the list of relevant countries for the purposes of recognition of a relevant country for vaccine certification, and
- amends Schedule 4 (Persons who are exempt) to remove the “no access to passengers” condition from the exemption from the requirement to complete a passenger locator form (PLF) for “Seamen and masters”, “Pilots (maritime)”, “Ship inspectors”, and “Air crew”; and to introduce an exemption from the requirement to provide information (PLF) for “Transit passenger” and “Road haulage worker”.

3. Background

- 3.1 The Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 (“the principal Regulations”) and the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021 (“the Operator Liability Regulations”) came into operation on 16 April 2021 to deliver a package of enhanced border measures in response to the risk of importation of harmful variants of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) into Northern Ireland. The principal Regulations were updated on 4 October 2021 to introduce a new framework of health measures at the border on the basis of arrivals from red and non-red countries, with testing and self-isolation requirements for non-red list arrivals determined by a traveller’s vaccination status (barring a limited number of exemptions including those for children). Vaccinated arrivals certified in specific countries, known as “eligible arrivals”, are required to take a day 2 PCR test but are not required to self-isolate, take a pre-departure test or day 8 test when arriving in Northern Ireland, provided that they have not been in a red list country in the last ten days. All other arrivals from non-red list countries are required to self-isolate for ten days and take each of the three tests.
- 3.2 This rule introduces an additional option for eligible arrivals, arriving from non-red list countries and territories, to allow them to complete their mandatory Day 2 test using an LFD test, as an alternative to a PCR test. This will be followed up with a mandatory confirmatory PCR test if an individual receives a positive result from their LFD test. The mandatory confirmatory PCR test will be provided free of charge.
- 3.3 This amendment is being implemented with a view to making travel to Northern Ireland more accessible and affordable to eligible non-red list arrivals given that fully vaccinated individuals benefit from a reduced risk of transmission. This change is expected to be beneficial for families, international students, other long-term residents and frequent travellers. More stringent testing measures, including a pre-departure test, and Day 2 and Day 8 PCR tests are retained for non-eligible arrivals returning from non-red list countries. If an individual received a positive LFD test, they will be

required to isolate for ten days from the point at which they received their LFD test result and take a confirmatory PCR test. The individual is responsible for booking their own confirmatory PCR test. If this PCR test result is negative, the individual is no longer required to self-isolate, if the result is positive then the individual must continue their ten day self-isolation period. In the case that the LFD test result is inconclusive (void), the individual's period of self-isolation begins from the point at which they receive their inconclusive result. If the individual does not take a replacement day 2 test, then they must remain in self-isolation up to the tenth day after they took the day 2 test. If they take a replacement day 2 test, the individual follows the same path as would have occurred following a positive or negative result of the original day 2 test. The test provider must be able to ensure that the same test result cannot be reused through the use of a unique booking reference and is responsible for verifying the result and reporting it to UKHSA and the individual. Individuals will also be subject to offences and penalties if they fail to book or undertake the relevant mandatory tests without a reasonable excuse.

- 3.4 A change is being made to ensure that passengers who remain on board an aircraft or vessel whilst travelling through a country or who change aircraft or vessel without passing through immigration control are not treated as having 'departed from or transited through that country or territory'. The purpose of this change is to simplify the current guidance for transiting passengers and operators, and to reduce potential public health risks as a direct result of congestion at UK border control.
- 3.5 The seven remaining countries are being removed from the red list. The revisions to the red list reflect the latest epidemiological data following the latest three-weekly review. The data indicates that stringent measures imposed on arrivals from existing red list countries are no longer required. The red list of countries will however still remain within the regulations to reflect potential changes to the red list in future.
- 3.6 This rule also expands the definition of "eligible arrival" to include individuals who can show that they have previously participated, or are currently participating, in a Covid-19 vaccine clinical trial regulated by the European Medicines Agency or a regulatory authority which is designated as a Stringent Regulatory Authority (SRA) by the World Health Organisation, which has reached at least Phase 2(therapeutic exploratory studies) or Phase 3(clinical efficacy and safety studies) of the trial, and can provide evidence of participation in that trial which meets the minimum dataset. This will reduce the burden of self-isolation and cost of testing for the traveller, and is deemed a proportionate expansion to the policy to recognise the valuable contribution made by vaccine trial participants in SRA countries. Moreover, vaccines in advanced trial stages usually offer a very high level of protection to participants.
- 3.7 This rule also expands the definition of "eligible arrival" to recognise vaccinations received in a larger number of countries internationally, 35 new countries have been added to the list. Additionally, it will ensure that individuals vaccinated in the British Overseas Territories and Crown Dependencies are included as 'eligible arrivals' and able to show proof of vaccine certification in the same manner as all other relevant countries and territories (including as applies to mixed doses). The purpose of these changes is to further facilitate international travel by simplifying measures for travellers vaccinated with an equivalent vaccine in a wider range of countries, given that they have not been in a red list country in the last 10 days. This will reduce the burden of self-isolation and cost of testing for the traveller, as well as the impact on carriers who

perform checks. This builds on the existing list of recognised countries in the context of the altered epidemiological and immunological situation seen domestically and worldwide and the increased protection provided by effective vaccines.

- 3.8 This rule updates the definition of authorised vaccine to include any of the four vaccines that are recognised by the UK wherever they are administered in the world. The requirement to have a vaccine certificate from a relevant country in order to be an ‘eligible arrival’ is maintained, so that people who are vaccinated with one of the four vaccines in a non-relevant country are only able to benefit from the eligible arrival status if they have a vaccine certificate from a relevant country. The requirement to have a vaccine certificate from a relevant country (or the NHS Covid Pass or certification issued by the Department of Health, or equivalent from NHS Scotland or NHS Wales, EU DCC Card, or CDC Card where appropriate) is maintained. This will shift the focus of the list of “relevant countries” to refer to those countries where the UK recognises vaccine certification. Anyone who has received one of the 4 recognised vaccines anywhere in the world will only be able to benefit from eligible arrival status if they have received a vaccine certificate from a relevant country. This will negate the scenario in which an individual cannot be granted eligible arrival status because they have been vaccinated in one country but received proof of vaccination from another, whilst protecting public health considerations.
- 3.9 This rule introduces an exemption to the requirement to complete a passenger locator form (PLF) for transit passengers including red list arrivals and road haulage workers. It also amends the exemption (removing the ‘no access to passenger’ condition) for the following groups of transport workers and crew who have travelled in the course of their work. These are:
- Seamen and masters
 - Pilots (maritime)
 - Ship inspectors and
 - Air crew

The purpose of these changes is to streamline and simplify the job-related exemptions regime in line with changes to the wider international travel regime.

- 3.10 The principal Regulations and the Operator Liability Regulations cease to have effect on the 24 March 2022 and 23 March 2022 respectively.

4. Consultation

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

5. Equality impact

- 5.1 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. Regulatory impact

- 6.1 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.

7. Financial implications

- 7.1 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.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 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.

9. EU implications

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

10. Parity or Replicatory Measure

- 10.1 These amendments are introduced to ensure alignment with Great Britain and will also be made in England, Scotland and Wales at the same time.

11. Additional information

- 11.1 Not applicable.