

EXPLANATORY MEMORANDUM TO

The Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) (Amendment No. 9) Regulations (Northern Ireland) 2021

S.R. 2021 No. 301

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Health to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 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 expand the “eligible arrival” category to recognise vaccinations certified by a larger number of countries, territories and states internationally, in line with the latest immunological picture. The definition of an “authorised vaccine” is being updated to include COVID-19 vaccinations authorised under the World Health Organisation Emergency Use List (WHO EUL), namely Sinovac, Sinopharm Beijing, and Covaxin, in addition to those vaccines already recognised. All individuals under the age of eighteen who have not been in a red list country in the previous ten days will also be treated as eligible arrivals. A number of exemptions will be introduced and updated for specified categories of individuals, such as hauliers. The Statutory rule will also correct minor errors identified in the principal Regulations.
- 2.2 The Statutory Rule also makes a consequential amendment to the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021 (“the Operator Liability Regulations”) as a result of previous amendments relating to the removal of the requirement to produce proof of residency for those vaccinated in the USA or those who have participated, or are participating, in a clinical trial regulated in the USA. The Statutory Rule also corrects a minor typographical error.
- 2.3 The Statutory Rule came into operation at 4.00am on 22 November 2021.

3. Background

- 3.1 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.
- 3.2 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. This included setting out the requirement for persons returning from areas where this risk is especially elevated (red list countries or territories) to book a managed quarantine hotel package.

- 3.3 The principal Regulations were updated on 4 October 2021 to introduce a new system of “red list” and “non-red list” countries, and to provide a new set of rules for non-red list arrivals based on their vaccination status. Robust health protection measures, including hotel quarantine, remain in place for red list arrivals. Non-red list arrivals who can prove that they have received the required doses of an authorised vaccine, and who were vaccine certificated in specific countries, are deemed “eligible arrivals”. They are required to complete a Passenger Locator Form; and to book, pay for and undertake day 2 PCR tests; but not required to take a pre-departure test, day 8 test, or self-isolate upon arrival in Northern Ireland provided that they have not been in a red list country in the last ten days.
- 3.4 The arrangements for “eligible arrivals” include persons ordinarily resident in Northern Ireland and who has participated, or is participating in, a clinical trial for a vaccine against Coronavirus regulated in the UK or USA, or in Phase 2 or Phase 3 clinical trials for a vaccine against Coronavirus regulated by the European Medicines Authority or a regulatory authority (other than in the UK or USA) which is designated as a Stringent Regulatory Authority by the World Health Organisation. They also include persons who have completed a course of doses of a vaccine under the UK Vaccine Rollout Overseas; and persons under 18 years of age upon arrival in Northern Ireland.
- 3.5 All other arrivals from non-red list countries are deemed “non-eligible arrivals” and are required to complete a Passenger Locator Form; provide evidence of a negative pre-departure test; book, pay for, and undertake day 2 and day 8 post arrival PCR tests; and self-isolate for ten days immediately upon arrival in Northern Ireland.
- 3.6 The Statutory Rule adds new definitions for the terms “EU Digital COVID Certificate”, “European Microstate” and North American Certificate”. This is to aid clarification of what these terms mean and how they are applied within the principal Regulations.
- 3.7 An interpretative provision is also being added to clarify that a reference in the principal Regulations to a specific country excludes reference to any overseas territories or dependencies of that country, unless otherwise stated. This is to aid clarification and ensure that, whilst overseas territories and dependencies may utilise their respective mainland countries’ certification solutions to benefit from eligible traveller status, their own certification solutions will not be accepted as proof of vaccination, unless or until they are accredited in their own right.
- 3.8 The principal Regulations will treat as eligible arrivals all individuals under the age of eighteen, irrespective of their vaccination status, who have not visited a red-list country in the previous ten days, thus exempting them from self-isolation as well as the requirements to take pre-departure and day 8 tests. An amendment is made to clarify that enforcement regarding a child isolating only applies when that child has arrived into Northern Ireland from a red list country.
- 3.9 The Statutory Rule amends a number of requirements relating to the “eligible arrival” to ensure that the provisions remain effective and proportionate, in line with public

health aims. Amendments are made to take advantage of increasing confidence in vaccination programmes overseas by expanding the category to recognise vaccinations certified by a larger number of countries internationally. Accordingly, 27 new countries are added to the list of countries and territories regarded as “relevant countries” for the purposes of vaccine certification. This will reduce some of the costs associated with the travel system, and further facilitate family reconnections, holidays, and business travel. Stringent public health measures remain in place for unvaccinated (“non-eligible”) arrivals.

- 3.10 The principal Regulations are being updated to allow for the recognition of certain USA state level vaccine certificates, as a part of the eligible arrival policy, where these are assessed as meeting UK minimum standards. The principal Regulations will now recognise the following certification issued by the following locations to provide acceptable alternatives to the CDC card: New York (the Excelsior Pass Plus), California (the Digital COVID-19 Vaccine Record), and Washington State (WA Verify).
- 3.11 The definition of an “authorised vaccine” is being updated to include COVID-19 vaccinations authorised under the WHO EUL, in addition to those vaccines already recognised. This will add Sinovac, Sinopharm Beijing, and Covaxin, and will mean that individuals fully vaccinated with any of these vaccines, including through mixed doses, will qualify as an eligible arrival if they are able to provide certification to that effect from a country whose vaccine certificates are recognised at the border. This update takes advantage of the protection offered by these vaccines against hospitalisation and mortality to improve access to international travel whilst robustly protecting public health aims.
- 3.12 The Statutory Rule updates the list of accepted forms of proof of vaccination to include certification issued by a number of countries and territories (list of approved third countries and territories) that have secured equivalency status with the EU Digital COVID Certificate. This update takes advantage of our judgement that the EU implements a robust system for validating equivalency status to simplify certification at the border even where that certificate does not meet the minimum dataset. Because of the time required for those countries to transition to new certificates, the update will not prevent travellers from those countries from continuing to rely on a “vaccine certificate” that meets the minimum dataset. The update applies to the following countries: Albania, Armenia, Faroe Islands, Israel, Morocco, North Macedonia, Panama, Turkey and Ukraine.
- 3.13 The Statutory Rule adjusts the exemptions for a number of specific occupational groups. Firstly, by attaching a condition to the exemption from the requirement to provide information, ie. complete a Passenger Locator Form (PLF) for “Transit passengers, meaning they are now only exempt from completing a PLF as long as they remain “airside” and do not pass through immigration control.
- 3.14 Secondly, by removing the “no red list arrivals” condition from the exemption from the requirement to provide information (complete a PLF) for “Seamen and masters”, “Pilots (maritime)”, “Ship Inspectors” and “Air Crew” meaning that these groups now do not need to complete a passenger locator form regardless of the country they have arrived from.
- 3.15 Thirdly, they remove the conditions from the exemption from the requirement to self-isolate, thereby granting a blanket exemption, and granting an exemption from the

requirement to enter managed isolation for road hauliers, escorts of prisoners and people being extradited, and foreign officials required to travel to the UK to undertake essential border security duties. This will ensure that these individuals will be fully exempt from the requirement to self-isolate, regardless of their country of ordinary residency, in order to effectively maintain essential supply and business chains and critical national infrastructure. This change is not considered to present a significant increase in the risk to public health due to the relatively small numbers of people in this cohort.

- 3.16 The Operator Liability Regulations are being amended to make consequential amendments as a result of previous amendments relating to the removal of the requirement on individuals who received their course of vaccination, or participated in a COVID-19 vaccine clinical trial in the USA, to demonstrate through evidence that they are ordinarily resident in the USA. Consequently, the requirement on operators to ensure that those travellers have evidence of residency in the USA, is removed.
- 3.17 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.