EXPLANATORY MEMORANDUM TO

The Establishment and Agencies (Fitness of Workers) Regulations (Northern Ireland) 2020

S.R. 2020 No. 60

1. Introduction

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.

The Statutory Rule is made under Articles 23(1), 2(b) and (h), (7)(c) and 48(c) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 and is subject to the negative resolution procedure.

2. Purpose

The Statutory Rule is being made to give effect to temporary changes to pre-employment vetting policy for health and social care roles to enable employers to start a worker in advance of full pre-employment vetting, but subject to certain conditions, including supervision. This is to ensure that pre-employment vetting does not cause undue delay in recruiting staff urgently to health and social care roles to cover for significant COVID-19 related staff absences and anticipated additional work load.

3. Background

The changes to legislation will be necessary to ensure the Health and Social care system can take steps to continue to provide essential health and social care services during the COVID-19 pandemic.

4. Consultation

Given the rapidly evolving global situation regarding the spread of COVID-19, there is insufficient time to fully consult on this proposal. The temporary legislative amendments/modifications are urgently needed to ensure the continued delivery of essential health and social care services. However, the proposal has been shared with key health and social care stakeholders and there is broad support for this temporary legislative change.

5. Equality Impact

In accordance with guidance produced by the Equality Commission for Northern Ireland and in keeping with Regulation 75 of the Northern Ireland Act 1998, the proposal was screened for equality impact and it is concluded that a full Equality Impact Assessment is not required.

6. Regulatory Impact

Given the rapidly evolving situation regarding the spread of COVID-19 and the urgent need for this temporary legislative amendment, there is insufficient time to consider regulatory impact screening more fully, however, it is not anticipated that any business, charity, social economy

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enterprise or the voluntary sector in Northern Ireland will be adversely affected by these changes.

7. Financial Implications

Any potential financial consequences are difficult to quantify; however any impacts are not likely to be significant. Additional costs may be incurred if AccessNI needs additional resource to facilitate the "fast check" of the barred lists.

8. Section 24 of the Northern Ireland Act 1998

Consideration has been given to the human rights implications of these regulations. They are considered compatible with Section 24 of the Northern Ireland Act 1998.

9. EU Implications

Not applicable.

10. Parity or Replicatory Measure

This temporary legislative amendment in pre-employment vetting will mirror policy being introduced in England and Wales. Scotland is also putting in place comparable arrangements. Secondary legislation is also being amended in those jurisdictions.

11. 21 Day Rule

Due to the rapidly evolving situation regarding the spread of Coronavirus (COVID-19) and the urgent, but temporary, nature of this legislative change the 21 Day Rule has not been adhered to. The Statutory Rule could not have been made and laid sooner and must come into operation on the day specified.

12. Additional Information

Not applicable

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