EXPLANATORY MEMORANDUM TO

The Health Protection (Coronavirus, International Travel) (Amendment No. 2) Regulations (Northern Ireland) 2021

S.R. 2021 No. 121

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) (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 the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 ("the principal Regulations").

2.2 Regulation 27 is amended to provide, in relation to a particular managed isolation offence, that an authorised person reasonably believes that such an offence was committed.

2.3 Schedule 1 (Red list countries) is amended to include The Maldives, Nepal and Turkey.

2.4 Schedule 4 (Persons who are exempt) is amended to include an additional exemption for transit passengers who arrive into Northern Ireland and immediately travel directly to the Republic of Ireland. Such passengers will not be required to comply with regulation 8 (requirement to book and undertake tests) if they are able to satisfy certain evidential requirements in relation to their residency and travel plans.

2.5 Schedule 8 (Prohibition on arrival of aircraft and vessels) is amended to include The Maldives and Turkey.

2.6 The Statutory Rule came into operation at 4.00 am on 12 May 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 These regulations address a drafting issue, raised by the Examiner of Statutory Rules, relating to offences and the grounds for higher amounts in fixed penalty notices for certain obstruction offences.

5.3 The Maldives, Nepal and Turkey are added to the red list for international travel following the Joint Biosecurity Centre's latest risk assessment, which assess risks of Variants of Concern. In addition, direct flights to NI from the Maldives and Turkey have been banned.

5.4 The regulations introduce an exemption from post-arrival testing for a passenger arriving into NI but transiting to ROI. The exemption is only available on the condition that they are able to provide evidence to support their onward travel plans to the satisfaction of Border Force officers.

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

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.

8.2 However it is likely there will be a financial impact on travel operators as there is potential for a reduction in demand as current domestic restrictions in Northern Ireland allow travel for essential reasons only.

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 has been introduced in Northern Ireland only at this time.

12. Additional information

12.1 Not applicable