EXPLANATORY MEMORANDUM TO

The Health Protection (Coronavirus, International Travel) (Amendment No. 9) Regulations (Northern Ireland) 2021

S.R. 2021 No. 69

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. 9) 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) 2020 (S.R. 2020 No. 90) ("the principal Regulations") to:

a) amend the travel history period from 14 days to 10 days in relation to countries considered to be high risk and subject to additional measures;

b) correct a drafting error in regulation 4B;

c) to include "Ethiopia", "Oman", "Qatar" and "Somalia" in the list of countries or territories subject to additional measures in Schedule 5;

d) to omit "Mauritius" and "Portugal" from the list of countries or territories subject to additional measures in Schedule 5;

e) to omit "The Azores", "Madeira" and "Portugal" from both the list of countries and territories referred to in regulation 4B(1) (prohibition on arrival of aircraft into Northern Ireland) and the list of countries and territories referred to in regulation 4C(1) (prohibition on arrival of vessels into Northern Ireland);

f) to include "Ethiopia", "Oman" and "Qatar" in the list of countries and territories referred to in regulation 4B(1) (prohibition on arrival of aircraft into Northern Ireland).

2.2 The Statutory Rule came into operation at 4.00 am on 19 March 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 requirement at the same time as the other UK regions in order to have consistency of approach.

3.2 Further, the principle 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 principle Regulations cease to have effect at the end of the period of one year beginning on the day on which they came into operation, i.e. the 8 June 2020.

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 During the first review of the Regulations, a process was developed to assess the risk travellers posed from various countries. Following concerns about the emergence of new variants of the virus, additional measures have been put in place in relation to certain countries that are considered to be a higher risk. This included imposing restrictions on travellers who had travelled, or transited through, higher risk countries in the previous 14 days. In line with England, Scotland and Wales it was agreed to reduce the travel history period to 10 days in relation to countries considered to be high risk and subject to additional measures.

5.3 Following new evidence, it was determined the risk for travellers from Ethiopia, Oman, Qatar and Somalia had increased and that they should be included in the list of countries subject to additional measures.

5.4 The evidence also showed that the risk of travellers from Madeira and Portugal had reduced and that they could be removed from the countries subject to additional measures. This consequentially allowed the restrictions on the arrival of aircraft and vessels from The Azores, Madeira and Portugal to be removed. A prohibition on the arrival of aircraft from Ethiopia, Oman and Qatar was imposed.

6. Consultation

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

7. Equality impact

7.1 Due to the rapidity of change, an Equality Impact Assessment screening was not conducted. The EQIA screening for the principal Regulations 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.

7.2 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.

8. Regulatory impact

8.1 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.

9. Financial implications

9.1 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.

9.2 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.

10. Section 24 of the Northern Ireland Act 1998

10.1 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.

11. EU implications

11.1 There are unlikely to be any EU implications.

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

12. Parity or Replicatory Measure

12.1 England, Scotland and Wales are expected to make broadly similar regulations coming into force at the same time.

13. Additional information

13.1 Not applicable