EXPLANATORY MEMORANDUM TO

The Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) (Amendment No. 4) Regulations (Northern Ireland) 2021

S.R. 2021 No. 225

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, Operator Liability and Information to Passengers) (Amendment No. 4) 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") and the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations 2021.

2.2 Regulation 2 introduces a revised definition of self-isolation to describe the context that it relates to.

2.3 Regulation 3 create the new category of amber plus list countries. If a fully vaccinated traveller arrives from an amber plus list country, they are not treated as if they had arrived from a green list country.

2.4 Regulation 4 amends and expands the fully vaccinated traveller exemption so that travellers who are fully vaccinated in the EU or USA, and who arrive in Northern Ireland from an amber list country are treated as if they had arrived from a green list country.

2.5 Regulations 5, 6, 7 and 8 establish a workforce test regime for certain categories of arrivals to Northern Ireland. Those arrivals must now undertake workforce tests after arrival.

2.6 Regulation 9 adds the requirement for operators to ensure that a passenger provides evidence of relevant vaccination.

2.7 The Statutory Rule came into operation at 4.00 am on 2 August 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 International Travel 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 International Regulations and the Passenger Information Regulations cease to have effect at the 24 and 23 March 2022 respectively.

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 This Statutory Rule amends the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 ("the International Travel Regulations") by introducing a revised definition of isolation. This is in respect of self-isolation at home following travel from an amber list country; managed isolation in a hotel following travel from a red list country or self-isolation in relation to the workforce testing regime.

5.3 Due to the elevated public health risk which was determined following the assessment of data of Variants of Concern by the Joint Biosecurity Centre, a new category of 'amber plus' has been introduced. Arrivals who have travelled from or through an amber plus list country in the previous 10 days are excluded from the fully vaccinated traveller exemption. If a fully vaccinated traveller arrives from an amber plus list country, they are not treated as if they had arrived from a green list country.

5.4 This Statutory Rule also extends the exemption category for amber list arrivals that have been fully vaccinated in the EU or USA. A person who is in this category is exempt from the requirement to self-isolate that would otherwise apply and from the requirement to undertake a day 8 test post-arrival.

5.5 This Statutory Rule also provides the requirements for a workforce testing regime for certain categories of arrivals to Northern Ireland. Those arrivals must now undertake workforce tests after arrival.

5.6 The Health Protection (Coronavirus, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021 (the "Passenger Information Regulations") are amended to reflect the requirements for operators of vessels and aircraft bringing passengers into Northern Ireland to ensure that a passenger provides evidence of relevant vaccination.

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.

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 will also be made in England, Scotland and Wales at the same time.

12. Additional information

12.1 Not applicable