EXPLANATORY MEMORANDUM TO

The Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) (Revocation) Regulations (Northern Ireland) 2022

S.R. 2022 No. 122

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(2) of the Public Health Act (Northern Ireland) 1967 ("the 1967 Act") and is subject to the negative resolution procedure.

Purpose

2.1 This Statutory Rule revokes 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"). They also revoke all subsequent Regulations which amended these Regulations. This comprises a revocation of all of the Regulations governing international travel made in consequence of coronavirus.

2.2 The Rule also includes a transitional provision which means that post arrival tests booked before these revocations take effect must still be undertaken if the person arrives in Northern Ireland before these revocations take effect.

2.3 The Statutory Rule came into operation at 4.00am on 18th March 2022.

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. More robust health protection measures, including hotel quarantine, were put in place for red list arrivals. Non-red list arrivals who could prove that they had received the required doses of an authorised vaccine, and who were vaccine certificated in specific countries, were deemed "eligible arrivals". Under the current arrangements (until the point of revocation) they were required to complete a Passenger Locator Form prior to their arrival in Northern Ireland. They were not required to take a pre-departure test, were not subject to post-arrival testing, and were not subject to self-isolation requirements.

3.4 The arrangements for "eligible arrivals" included persons ordinarily resident in Northern Ireland and who had participated, or were 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 included persons who had 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 were deemed "non-eligible arrivals" and were required to complete a Passenger Locator Form; to provide evidence of a negative pre-departure test; and were required to book, pay for, and undertake a day 2 post arrival PCR test.

3.6 Arrivals from red list countries were required to complete a Passenger Locator Form, provide evidence of a negative pre-departure test, and enter self-isolation upon arrival in Northern Ireland where they were also required to undertake day 2 and day 8 testing.

3.7 This Statutory Rule revokes 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"), and revokes all subsequent Regulations which amended these Regulations, from 4.00 am on 18th March 2022 following the decision to revoke all border health measures. This revocation means that there will no longer be any coronavirus related requirements or restrictions for any traveller entering Northern Ireland.

3.8 This Regulation also includes a transitional provision whereby any tests booked before these revocations take effect must still be undertaken if the person arrives in Northern Ireland before 4.00 am on 18th March 2022. This means that travellers who had booked tests and arrived in Northern Ireland prior to this time will not have wasted money on purchasing tests that they are no longer required to take.

3.9 Given the prevalence of Omicron both domestically and internationally, there is little difference between a positive COVID-19 case brought into Northern Ireland by an international traveller and a COVID-19 case contracted domestically. Following the recent removal of all remaining domestic self-isolation and testing requirements in Northern Ireland, there is a limited public health rationale for treating domestic and international arrival cases differently. As such, this Statutory Rule removes all requirements and restrictions on international travellers arriving in Northern Ireland.

3.10 Testing requirements were based on distinguishing arrivals by vaccination status. The public health justification for this distinction was that vaccinated travellers are overall

less likely to spread COVID-19 and have stronger and longer lasting protection against severe disease and hospitalisation. However, while the risk of both infection and severe disease will be lower for vaccinated travellers, there is evidence that vaccine efficacy wanes over time. Whilst the properties of future variants are not known, the impact of Omicron has been less severe than past variants. These factors increasingly undermine the public health rationale for continued border measures, and removes the public health justification for distinguishing between vaccinated and unvaccinated travellers at the border.

3.11 The revocation of these Regulations will also reduce the bureaucracy, and the costs of travel, for all individuals entering Northern Ireland rather than just for those who are vaccinated, and will further facilitate the reopening of international travel.

3.12 The principal Regulations and the Operator Liability Regulations are revoked with effect from 4.00 am on 18th March 2022.

Consultation

4.1 Temporary border measures were put into place at pace in response to the COVID-19 pandemic and as such no public consultation took place. Therefore, reverting to pre-pandemic status does not require public consultation in relation to this Statutory Rule.

Equality impact

5.1 An Equality Impact Assessment screening was not conducted for this Statutory Rule. Given that the revocation of border measures will cease to place restrictions on travellers to Northern Ireland, and will result in a return to pre-pandemic status, an Equality Impact Assessment is not required and would be disproportionate..

Regulatory impact

6.1 As the principal Regulations and Operator liability Regulations, which this Statutory Rule revokes, will cease to have effect at the point the Regulations come into force, a Regulatory Impact Assessment is not required and would be disproportionate.

Financial implications

7.1 The removal of all travel restrictions is expected to have a positive impact on the travel industry by reducing the bureaucratic and economic burden on carriers and passengers alike.

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.

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.

Parity or Replicatory Measure

10.1 This Statutory Rule is introduced to ensure alignment with Great Britain and will also be made in England, Scotland and Wales at the same time.

Additional information

11.1 Not applicable.