EXPLANATORY MEMORANDUM TO

The Health Protection (Coronavirus, Travel from Denmark) (Revocation) Regulations (Northern Ireland) 2020

S.R. 2020 No. 288

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, Travel from Denmark) (Revocation) Regulations (Northern Ireland) 2020.

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 revokes the Health Protection (Coronavirus, Travel from Denmark) Regulations (Northern Ireland) 2020 and the Health Protection (Coronavirus, Travel from Denmark) (Amendment) Regulations (Northern Ireland) 2020, which prohibited the arrival in Northern Ireland of vessels and aircraft travelling directly from Denmark.

2.2 The Statutory Rule came into operation on 28 November 2020.

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.

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. It was agreed that Northern Ireland would exempt travellers from countries where the risk was assessed as lower than the UK average.

5.3 Owing to emerging evidence from Danish health authorities' reports of widespread outbreaks of COVID-19 in mink farms, with subsequent spread of a mink-variant virus to the local community, the Department of Health made Regulations to prohibit the arrival in Northern Ireland of vessels and aircraft travelling directly from Denmark.

5.4 The COVID -19 mink variant problem in Denmark has since receded with Danish health authorities now considering the cluster 5 variant as likely extinct. Along with widespread testing of the population in affected areas of Denmark, this has led to scientific experts advising that the travel ban on Denmark should be lifted.

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 Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2020 identified no disproportionate impact. These regulations revoke previous regulations and so "undo" previous enhanced restrictions in relation to Denmark.

7.2 A human rights impact assessment was not conducted for these regulations but was conducted for the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2020 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, the lifting of these restrictions is likely to have a positive financial impact for those operating flights and freight services.

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 is expected to revoke their equivalent regulations (coming into force at the same time).

13. Additional information

13.1 Not applicable