

## **EXPLANATORY MEMORANDUM TO**

# **The Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) (Amendment No. 8) Regulations (Northern Ireland) 2021**

**S.R. 2021 No. 282**

### **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. 8) Regulations (Northern Ireland) 2021.
- 1.2 The Statutory Rule is made under sections 25B and 25F 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 (S.R. 2021 No.99) (“the principal Regulations”) and the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021 (S.R. 2021 No. 102) (“the Operator Liability Regulations”). It amends the principal Regulations to enable the EU Digital Covid Certificate to be a mechanism for providing proof of a negative pre-departure test. It removes countries from Schedule 1 of the principal Regulations, red list countries, and adds to the list of countries which are “relevant countries”, meaning that persons who receive vaccines in those countries can count as an “eligible arrival” for the purposes of the principal Regulations. Schedule 4 of the principal Regulations is amended to introduce new exempt categories: non-UK police officers, who can self-isolate if coming from a red-list country (rather than entering managed quarantine service) and can claim an exemption from self-isolation when undertaking the exempt activity; and Seasonal poultry workers, who can claim an exemption from self-isolation when undertaking the exempt activity. Technical amendments to existing exemptions in Schedule 4 in relation to the film and high end TV productions exemption to widen the existing exemption and reinstate the criteria in place during 2020, and to amend the exemption for Diplomats and members of their family, removing the requirement to self-isolate. The Operator Liability Regulations are amended to update a provision to enable the EU Digital Covid Certificate to be used as a means of providing proof of negative pre-departure test status.

### **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 protect public health whilst ensuring that restrictions in place remain proportionate. The principal Regulations and Operator Liability

Regulations provide that the Department of Health must review the need for the measures imposed by them at least once every 28 days.

- 3.2 The principal Regulations cease to have effect from 24 March 2022 and the Operator Liability Regulations cease to have effect from 23 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.

#### **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 updates the list of countries and territories in Schedule 1 of the principal Regulations, (colloquially known as “the red list”), as a part of the regular three-weekly review of the latest epidemiological and public health data. Afghanistan, Angola, Argentina, Bolivia, Botswana, Brazil, Burundi, Cape Verde, Chile, Congo, (Democratic Republic), Costa Rica, Cuba, Eritrea, Eswatini, Ethiopia, French Guiana, Georgia, Guyana, Indonesia, Lesotho, Malawi, Mayotte, Mexico, Mongolia, Montenegro, Mozambique, Myanmar, Namibia, Nepal, Paraguay, Philippines, Réunion, Rwanda, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Suriname, Tanzania, Thailand, Trinidad and Tobago, Tunisia, Uganda, Uruguay, Zambia, and Zimbabwe are removed from the “Red List”.
- 5.3 Further updates are also made to take advantage of the increasing evidence of vaccine efficacy overseas by expanding the “eligible arrival” category to recognise vaccinations from a larger number of countries internationally. Albania, Bahamas, Bangladesh, Bosnia and Herzegovina, Brazil, Chile, Colombia, Egypt, Georgia, Ghana, Grenada, Hong Kong, India, Indonesia, Jamaica, Jordan, Kenya, Kosovo, Maldives, Moldova, Morocco, Namibia, Nigeria, North Macedonia, Oman, Pakistan, The Philippines, Serbia, South Africa, St Kitts and Nevis, St

Lucia, St Vincent and the Grenadines, Thailand, Turkey, Ukraine and Vietnam are added to the list of countries in Schedule 2B of the principal Regulations. If an arrival can show they have been fully vaccinated in one of these countries with a vaccine which is authorised for supply in the UK (i.e. Pfizer/BioNTech, Oxford/AstraZenica, Moderna, Janssen) then they will meet the definition of “eligible arrival” and will not be required to self-isolate after arrival, take a pre-departure test or day 8 test.

- 5.4 The Statutory Rule expands the definition of eligible arrival to treat individuals who have received a course of doses of an authorised vaccine and administered by a person acting on behalf of the United Nations in an authorised capacity, as if they have received those doses in a relevant country listed in Schedule 2B.
- 5.5 It amends the existing exemption for foreign diplomats in Schedule 4 of the principal Regulations to introduce a self-isolation exemption for all UK-accredited or appointed diplomats, and their dependants, arriving from non-red list countries and introduces new exempt categories: non-UK police officers, who can self-isolate if coming from a red-list country (rather than entering managed quarantine service) and can claim an exemption from self-isolation when undertaking the exempt activity; and Seasonal poultry workers, who can claim an exemption from self-isolation when undertaking the exempt activity. Technical amendments are made to the existing exemption in relation to the film and high end TV productions to widen the existing exemption and reinstate the criteria in place during 2020.
- 5.6 It updates the list of accepted forms of pre-departure testing (PDT) certification to include the use of a valid EU Digital Covid Certificate (DCC) for EU citizens.
- 5.7 The Rule also amends the Operator Liability Regulations to update a provision to enable the EU Digital Covid Certificate to be used as a means of providing proof of negative pre-departure test status.

## **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 The amendments in relation to the update of red list countries, the addition of countries and expanded definition of eligible arrival included in the UK's inbound vaccination policy will also be made in England, Scotland and Wales at the same time.

## **12. Additional information**

- 12.1 Not applicable