

EXPLANATORY MEMORANDUM TO

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

S.R. 2022 No. 3

1. 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.

2. Purpose

- 2.1. The Statutory Rule amends the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 (“the principal Regulations”) to remove a number of the temporary border measures introduced in response to the risk posed by the transmission of the Omicron variant. The amendment removes the requirement for eligible non-red list arrivals to carry out a pre-departure test and to self-isolate until the receipt of a negative Covid-19 Day 2 test result. It also reintroduces the option for eligible non-red list arrivals to take a Day 2 Lateral Flow Device (LFD) test, instead of a day 2 PCR test. Additionally, the Regulations expand the lists of approved vaccines and recognised countries for the purposes of vaccine certification.
- 2.2. The Statutory Rule amends the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021 to update to the information provided by operators to passengers travelling to Northern Ireland.
- 2.3. The Statutory Rule came into operation at 4.00am on 7 January, 4.00am on 9 January and 4.00am on 10 January 2022.

3. 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. Currently, the requirements for an individual arriving in Northern Ireland under these

regulations are dependent on a combination of vaccination status, country of certification and the risk level of the country of departure, categorised as either a red list or non-red list country. There are currently no countries or territories on the red list. All individuals are required to fill in the Passenger Locator Form before arriving in the UK irrespective of vaccination status unless an exemption applies.

- 3.3. Vaccinated arrivals certified in specific countries, those who are participants or have participated in recognised clinical trials, and those under the age of 18, known as “eligible arrivals”, are subject to different requirements to unvaccinated arrivals. Provided they have not been in a red list country in the last 10 days, eligible arrivals are required to take a pre-departure test, day 2 PCR test and self-isolate until they receive a negative result, or remain in self-isolation for a longer period if the result is positive or inconclusive. All other arrivals (“non-eligible arrivals”) from non-red list countries are required to take a pre-departure test, book and take a day 2 and day 8 test and to self-isolate for 10 days. This amendment makes changes to these requirements.
- 3.4. The Statutory Rule updates the Regulations to remove a number of additional measures introduced specifically in response to the Omicron variant of Covid-19. The initial introduction of these temporary measures delayed the ingress of Omicron into the UK, allowing time to identify the properties of the variant and prepare for its potential impact ahead of the critical winter period. However, Omicron is now the dominant variant domestically and widely seeded throughout the UK. As a result, community transmission significantly outstrips importation from international arrivals. Additionally, there is initial evidence to show that booster vaccines provide protection against the variant and the clinical outcomes from infection in immunised people are generally less severe. In this new context, it is no longer considered proportionate to retain pre-departure testing (PDT) and self-isolation requirements for eligible arrivals, given that these measures are now likely to have limited impact on the prevalence of Omicron in the UK. It is also deemed proportionate to reintroduce the option for eligible arrivals to take a Day 2 Lateral Flow Device (LFD) test instead of a Day 2 PCR test. Where a Day 2 LFD test is positive, the eligible arrival will be required self-isolate and take a confirmatory PCR test.
- 3.5. Although pre-departure testing may detect higher numbers of the Omicron variant at the point of origin and prevent transmission during travel, this is now unlikely to have any meaningful impact on the growth of Omicron in the UK where 218,000+ cases were recorded domestically on 4th January. Similarly, although a PCR only based Day 2 testing system would likely detect a higher proportion of imported Omicron cases, the impact of reverting back to a model with the option of a Day 2 LFD test at this stage is negligible on overall domestic prevalence. Additionally, the LFD-option model provides sequencing coverage through confirmatory PCRs for positive test results. Self-isolation until receipt of a negative test result reduces the number of potential uncontrolled infectious hours of infectious travellers. However, isolation periods upon arrival have a less meaningful impact and can be deemed disproportionate once a variant becomes

dominant and prevalent in the UK. These measures also carry both economic and social costs for business and leisure travellers, as well as the travel industry.

- 3.6. The Statutory Rule also updates the lists of approved vaccines and recognised countries for the purposes of vaccine certification. This will reduce the costs associated with the travel system and make it less complex to navigate, further facilitating family reconnections, holidays and business travel.
- 3.7. The Statutory Rule will bring the following changes in to operation at 4am on Friday 7th January - remove the requirement for eligible arrivals to self-isolate upon arrival in Northern Ireland, remove the requirement for eligible arrivals to possess notification of a negative coronavirus test taken not more than 2 days before departure to Northern Ireland, removing the part of the notification to passengers which was specific to their positive test result identifying the omicron variant.
- 3.8. The Statutory Rule will re-introduce the option for eligible arrivals to take a day 2 LFD test instead of a day 2 PCR test. Where a day 2 LFD test is positive, the eligible arrival will be required self-isolate and take a confirmatory PCR. This change comes in to operation at 4am on Sunday 9th January.
- 3.9. The Statutory Rule will bring the following changes in to force at 4am on Monday 10th January - expand the “eligible arrival” category to recognise vaccinations certified by Bhutan, Cameroon, Cote d’Ivoire, Fiji, Iraq, Liberia, Mali, Mauritania, Niger, Palau, Paraguay, Solomon Islands, The Gambia, Uzbekistan, Papua New Guinea and Cyprus, northern. It will update the definition of an “authorised vaccination” to include Nuvaxovid and Covovax which are vaccines that are listed for Emergency use by the World Health Organisation. This means that individuals who are fully vaccinated with one of these vaccines, or through mixed doses with other recognised vaccines, will qualify as an eligible arrival if they are able to provide certification to that effect from a country whose vaccine certificates we recognise at the border if the vaccine they receive has been authorised or certified in that country.
- 3.10. The Statutory Rule will update the information that must be given to passengers travelling to Northern Ireland in relation to the new measures including the onboard announcement public health message on behalf of the UK’s public health agencies. This change will come into operation on 4am on Friday 7th January.

4. Consultation

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

5. Equality Impact

- 5.1. 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. Regulatory Impact

- 6.1. 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.

7. Financial Implications

- 7.1. 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.

8. 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.

9. EU Implications

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

10. Parity or Replicatory Measure

- 10.1. These amendments are introduced to ensure alignment with Great Britain and will also be made in England, Scotland and Wales at the same time.

11. Additional Information

- 11.1. Not applicable.