



Northern Ireland
Assembly

Committee for Health

OFFICIAL REPORT (Hansard)

Health Protection (International Travel)
Regulations: Department of Health

9 December 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Colm Gildernew (Chairperson)
Mrs Pam Cameron (Deputy Chairperson)
Ms Paula Bradshaw
Mr Gerry Carroll
Mr Alan Chambers
Mrs Deborah Erskine
Ms Órlaithí Flynn
Mr Colin McGrath

Witnesses:

Mrs Carol Picton-Lynas Department of Health

The Chairperson (Mr Gildernew): I welcome, via StarLeaf, Mrs Carol Picton-Lynas, who is head of international travel regulations.

The Chairperson (Mr Gildernew): Can you hear me, Carol? *[Pause.]* I cannot hear you, Carol. Will you check whether you are on mute? I still cannot hear you.

Mrs Carol Picton-Lynas (Department of Health): Apologies. Yes, I am here.

The Chairperson (Mr Gildernew): You sound fairly clear now. Thank you. Carol. Will you brief the Committee on the statutory rules (SRs)? Following that, we will go to members for questions.

Mrs Picton-Lynas: Thank you for the invitation to attend today's meeting of the Committee. The Committee is considering four statutory rules that have been made to underpin Executive decisions on international travel.

I will give an overarching summary of the suite of regulations that the Committee will wish to consider today. They are SR 2021/301, SR 2021/312, SR 2021/313 and SR 2021/316. This suite of regulations underpins the Executive's agreement to align with the UK Government and the other devolved Administrations on border measures for international travel and, in particular, the recent rapid response to the current omicron variant of concern.

If the Committee is content, I will briefly summarise each of the regulations in the order in which they were made. The first regulation that we will discuss is SR 2021/301: the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) (Amendment No. 9) Regulations (Northern Ireland) 2021. The regulations, which came into operation on 22 November 2021, made changes to the Health Protection (Coronavirus, International Travel) Regulations

(Northern Ireland) 2021 and the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021.

Primarily, the regulations were made to provide specific definitions in the principal regulations for the EU digital COVID certificate, the European microstate and the North American certificate. They also clarify that a reference to a country does not include a reference to the overseas territories and dependencies of that country unless otherwise stated. Regulation 5 of these regulations amends the principal regulations to make a typographical correction. These regulations also remove the provisions that a child under the age of 18 has to self-isolate, as the statutory rule introduces a policy that all children under the age of 18 are deemed as fully vaccinated for the purpose of international travel. They also clarify that enforcement of the requirement for a child to isolate applies only when that child has arrived in Northern Ireland from a red list country.

The regulations remove the requirement to provide proof of residency for those vaccinated in the United States, or those who have participated or are participating in a clinical trial regulated in the United States, and to accept vaccination certificates issued at the state level in three US states. They are the New York excelsior pass plus, the Californian digital COVID-19 vaccine record and the WA verify from Washington State. That is to provide parity for non-residents who have been vaccinated in the US, enabling them to comply with the inbound policy and to provide parity for the US and other countries and territories in the scope of the vaccinated policy.

As I mentioned earlier, the regulations clarify that all children under the age of 18 are deemed as fully vaccinated for the purpose of international travel requirements regardless of their country of residence. They also define the countries and territories that are approved third countries and territories for the purposes of vaccine certification and the UK vaccine roll-out overseas. They clarify the status of overseas territories and dependencies of relevant countries. This is where individuals can use their respective mainland country certification solutions. The regulations also insert 32 countries and overseas territories into the list of countries and territories that we now accept as part of the roll-out of the fully vaccinated policy.

Chair, do you want me to cite those 32 countries?

The Chairperson (Mr Gildernew): No. We have the information. We do not need to go through the countries.

Mrs Picton-Lynas: Thank you. The regulations also amend part 1 of schedule 4 of the persons who are exempt from the principal regulations, to clarify that seamen and masters, maritime pilots, ship inspectors and aircrew do not need to complete a passenger locator form (PLF) regardless of the country that they have arrived from. It clarifies that road haulage workers are exempt from completing a passenger locator form, and it simplifies the exemptions from the requirement to self-isolate that applies to certain categories of transport and border workers.

The regulations also amend schedule 4 in relation to foreign diplomats and their dependants, and they clarify the requirements for self-isolation and managed isolation. Foreign diplomats arriving from non-red list countries are now automatically exempt from self-isolation, in that there is no need for their mission to confirm that the individual is undertaking essential work.

Part 2 of schedule 4 further is further amended in relation to the condition that applies to the exemption from the requirement to provide information: the passenger locator form. Transit passengers will not need to complete a passenger locator form as long as they remain airside and do not pass through immigration control. Regulation 2 of the operator liabilities is amended to make a typographical correction.

Finally, the regulations make consequential amendments to the operator liability regulations. That regulation, 4A, is the requirement on operators to check vaccination status as a result of the amendments that I mentioned earlier relating to providing proof of residency for those vaccinated in the US or who have participated or are participating in a clinical trial regulated in the United States.

SR 2021/312 is the Health Protection (Coronavirus, International Travel) (2021 Consolidation) (Amendment No. 9) Regulations (Northern Ireland) 2021. They came into operation on 26 November. These regulations made changes to the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021.

These regulations were made to add the following 10 countries to the red list: Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, South Africa and Zimbabwe. They also amended schedule 7, which deals with managed isolation from red list countries:

"in respect of those people arriving from, or transiting through, a red list country between 4.00 p.m. on Friday 26th November 2021 and 4.00 a.m. on Sunday 28th November 2021 to self-isolate in their homes or other suitable places as though they were in accommodation designated by the Department of Health".

That period was the interim period between the making of the regulations and the standing up of the managed quarantine services.

They also amend schedule 8 of those regulations, "Prohibition on arrival of aircraft and vessels", to prevent aircraft and ships from the red list countries mentioned arriving in Northern Ireland except in limited circumstances. Those circumstances are that the operator must not cause or permit a relevant aircraft to land in Northern Ireland unless doing so is reasonably necessary to secure the safety of the aircraft or the health and safety of any person aboard it, or if the landing is only for the purpose of refuelling or aircraft maintenance, and no passengers are permitted to board or disembark from the aircraft, or the aircraft is an air ambulance and is landing for the purpose of transporting a person for medical treatment.

The third set of regulations are SR 2021/313. These regulations made changes to the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021. These are a small set of regulations that added two additional countries to the red list: Angola and Zambia. Similarly, they amended schedule 8, "Prohibition on arrival of aircraft and vessels", adding Angola and Zambia to prevent aircraft from those countries arriving in Northern Ireland except in limited circumstances.

The final set of regulations is SR 2021/316, the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) (Amendment No. 10) Regulations (Northern Ireland) 2021, and they came into operation on 30 November. These regulations were made primarily to slow the ingress of omicron cases and were deemed to be a proportionate response at that time.

These regulations made changes to the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 and the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021.

These regulations, as I mentioned, were made in response to the omicron variant of concern. They amend the testing regime for eligible non-red list arrivals: the arrivals to Northern Ireland who are fully vaccinated upon arrival to the effect that there is no longer the option to take a day-2 lateral flow device (LFD) test followed by a confirmatory PCR test. The provisions that we put in previous regulations are now undone, and all day-2 tests must be PCR tests. They also amend the self-isolation regime for eligible non-red list arrivals: those who are fully vaccinated, to the effect that they now must enter into self-isolation upon arrival and must remain in self-isolation for 10 days, or earlier if the day-2 PCR test yields a negative result.

Finally, the operator liability regulations are amended to update the information that must be given to passengers travelling to Northern Ireland.

Chair, I trust that has been helpful for members. I am happy to take any questions that members may have.

The Chairperson (Mr Gildernew): OK. Thank you, Carol. I do not have a question as such. I just want to state that it is appropriate and welcome that travel is looked at very quickly in the case of variants. I recognise that there is a bit of uncertainty around omicron. Certainly, everyone is hoping that it will have less impact. We are, however, worried about its transmissibility and, indeed, the lack of clarity. That said, you do not get a second opportunity to move quickly. It is also a welcome step that we are going back to what appears to be more robust PCR testing.

Mr McGrath: Thank you for giving us that information. When the Minister was here, I asked him about the day-2 PCR test, and I want you to underpin that for me. My understanding is that it can be taken before day 2: in other words, you can take it on day 1, or, potentially, if it was available, if you arrived into an airport, you could go straight to a testing centre and have the test. If you got an express result,

three hours later, that the test was negative, you would be free to release yourself at that stage. It is anywhere up to two days: is that correct?

Mrs Picton-Lynas: Yes, it is a test on or before day 2.

Mr McGrath: What about people who have had COVID in the past 90 days? If they travel, when they come back and take a PCT test, it might, because there could still be some of the virus in their system, show a positive result. How do they navigate that different scenario to provide proof? This has not been covered today. Now that they are required under new regulations to take a test before they come back, what happens if the test that they take, wherever they are, is positive because they still have the virus in their system?

Mrs Picton-Lynas: I will address your last question first. Possibly, that is not within the scope of these regulations, but you mentioned the pre-departure testing regulations that came into force on Tuesday morning. Pre-departure testing can be by way of a PCR test or an LFD test. The LFD test is slightly less sensitive, in the sense that for those who have had the illness, it might not pick up any positive result.

In answer to your first question, we are conscious of that issue. The UK Government, in particular, are looking at that issue and seeking further discussion. Obviously, as more people have become infected, that will become an issue. For the moment, however, we still insist on post-arrival PCR testing for the vast majority of travellers.

Mr McGrath: I want to tease that out a little. Someone who had COVID two weeks ago is going away for Christmas. Before coming back, they get a test that comes back positive because the virus is still in their system. That disbars them from travel, does it not? They are trapped wherever they are. Is there no system whereby proof can be provided on the passenger locator form? Could it not show that, even though that person has tested positive, it is in the system that they had COVID three weeks ago and, therefore, are unlikely to have it again?

Mrs Picton-Lynas: The clear policy at the moment is that we do not have provision for the COVID recovery certificate. Even if we did, the recovery certificate would be only for those who had recovered 30 to 180 days earlier. In the situation that you describe — someone who had COVID two weeks ago, it would not apply. There is no mechanism for putting anything on the passenger locator form; that is purely for contact tracing services and is separate from the testing regime.

Mr McGrath: What happens to a person in that situation?

Mrs Picton-Lynas: Unfortunately, if they test positive for COVID, they have to abide by the restrictions and regulations that are in place at that time.

Mr McGrath: I can see that causing quite a problem for people. Is there no way in which that can be resolved? You are saying that we just do not have such a mechanism. Is there a way of having it?

Mrs Picton-Lynas: Again, that would be a policy decision, and the Executive would need to make a decision on it as well, if we were to go down that route. As I mentioned before, all those issues are coming to the fore as a result of all the measures that have been brought in, and they will be discussed in due course.

Mr McGrath: Do other places have the capacity for those certificates etc?

Mrs Picton-Lynas: Some countries have COVID recovery certificates but, again, they relate to whether people have recovered more than 30 days ago.

Mr McGrath: Are any of those countries in the UK?

Mrs Picton-Lynas: No. The UK Government and the devolved Administrations do not have them at this point. That is not to say that they will not be on the table at some point, but it is not current policy.

Mr McGrath: If people are travelling into Northern Ireland to come home for Christmas, they are required to provide evidence of vaccination. Is there any cross-connectivity with the app that people

use to gain entry to hospitality venues? They will have had to prove their vaccination status to enter Northern Ireland, but they might not be able to download the certificate for hospitality venues, because they were not vaccinated here. Obviously, they have had to prove that they were vaccinated to get here. Is there any cross-connection with your work?

Mrs Picton-Lynas: The question about local restrictions is probably one for the next official. My understanding is that, in the proof of vaccination certification, the definition of "fully vaccinated" is reflected in local restrictions and regulations. I do not want to make a definitive comment on that. I assume that that proof of vaccination is acceptable for entry to establishments here. I am not sure, however, how that mechanism works. *[Inaudible]*

Mr McGrath: Carol, thank you very much indeed.

Mrs Cameron: Chair, Colin made some valid points about the COVID recovery certificate. Even if nowhere else in the UK has it, maybe the Committee should write to the Executive Office to clarify whether that scenario is being looked at. That is important.

Carol, thank you for your attendance at the Committee. In light of the removal of lateral flow testing as an option, there is obvious concern about the affordability of the pre-departure and day-2 and day-8 PCR testing. What discussions have taken place between the Department and test manufacturers about the affordability of PCR tests?

Mrs Picton-Lynas: Non-vaccinated arrivals are still in the same situation. Nothing has changed for them. The regulations that require people to undertake day-2 and day-8 testing remain the same. The provision of these tests is not devolved to Northern Ireland. It is a reserved matter because these are medical devices. Any discussions with the providers of the PCR tests are a matter for the Secretary of State for Health and Social Care, not this Department. Therefore, we are aligning to use the private providers to provide PCR tests, as we did with the LFD tests. Affordability and the cost to the public is a matter for HM Treasury and the Department of Health and Social Care, I am afraid, Pam.

Mrs Cameron: Thank you, Carol. What assessment has been conducted of the likely impact of fresh restrictions? I presume that you will tell me something similar in answer to this question. The drop in footfall will have an impact on the travel sector. In light of that, have there been any discussions aimed at securing additional funding for the travel sector?

Mrs Picton-Lynas: I will point out two things. These restrictions are temporary measures, so the idea is that we will review them within three weeks of when we implemented them. The three-week review is coming up next week or the week after. Consideration will be given to whether we can lessen these restrictions or whether we should maintain them. As I said before, talking to the travel industry is an issue for the Department for Transport, the Secretary of State and HM Treasury. Financial assistance to the travel industry is outside my remit, I am afraid.

Mrs Cameron: Thanks, Carol.

Mrs Picton-Lynas: I am sorry that I cannot be more helpful, Pam.

The Chairperson (Mr Gildernew): Thank you. In general terms, I note that you mentioned the review element of this. Are further travel regulations being considered as a result of the unfolding learning about omicron?

Mrs Picton-Lynas: As you probably know, Chair, the last set of regulations that we made came into operation on Tuesday 7 December. There are no plans to make additional regulations at the moment, either further restrictions or lessening existing restrictions, until that review is undertaken in the next week or two. I cannot commit to that, sorry.

The Chairperson (Mr Gildernew): OK. I do not see any other indications from members, so thank you for attending, for your remarks and for addressing members' questions.

Mrs Picton-Lynas: Thank you so much. Bye-bye.

Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) (Amendment No. 9) Regulations (Northern Ireland) 2021

The Chairperson (Mr Gildernew): We now move on to formal consideration of this set of regulations. All of the SRs are subject to the negative resolution procedure. The Examiner of Statutory Rules has said that these rules are in breach of the 21-day rule but that she is content that the Department has provided a satisfactory reason for the breaches.

Do members have any further issues that they wish to raise in connection with SR 2021/301? No.

I ask members to agree formally that the Committee for Health has considered SR 2021/301, the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) (Amendment No. 9) Regulations (NI) 2021, and has no objection to the rule?

Question put and agreed to.

Health Protection (Coronavirus, International Travel) (2021 Consolidation) (Amendment No. 9) Regulations (Northern Ireland) 2021

The Chairperson (Mr Gildernew): Do members have any further issues that they wish to raise in connection with SR 2021/312? No.

Members, I ask you to agree formally that the Committee for Health has considered SR 2021/312, the Health Protection (Coronavirus, International Travel) (2021 Consolidation) (Amendment No. 9) Regulations 2021, and has no objection to the rule.

Question put and agreed to.

Health Protection (Coronavirus, International Travel) (2021 Consolidation) (Amendment No. 10) Regulations (Northern Ireland) 2021

The Chairperson (Mr Gildernew): Do members have any further issues that they wish to raise in connection with SR 2021/313? No.

I ask members to agree formally that the Committee for Health has considered SR 2021/313, the Health Protection (Coronavirus, International Travel) (2021 Consolidation) (Amendment No. 10) Regulations 2021, and has no objection to the rule.

Question put and agreed to.

Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) (Amendment No. 10) Regulations (Northern Ireland) 2021

The Chairperson (Mr Gildernew): Finally, do members have any further issues that they wish to raise in connection with SR 2021/316?

Mr McGrath: Yes, Chair. If this has not been formalised after what Pam said, can we write to the Department to ask it about that scenario? Literally thousands and thousands of people — up to 10,000 — test positive every week. How do they progress with the requirement for a day-2 test when they return if that test is positive? If the virus is still in their system, they will be required to isolate for 10 days, and they may have had coronavirus only three, four or six weeks previously. Can we raise that with the Department and ask it whether it is any further on with adding a recovery certificate to the app?

The Chairperson (Mr Gildernew): Colin, are you content that we consider the rule formally and write to the Department in parallel?

Mr McGrath: Yes, absolutely. Testing is critical because it picks up people who have it the first time, which means that they do not come back and spread it. My concern is about the people who, in the one, two or three months previously, have had COVID and still have it in their system. Even though they do not have the virus again, they test positive. For no reason, they are then required to isolate for 10 days. That is the purpose of the recovery certificates that are used in other countries. I suggest that we write to see whether we are going to use them here.

The Chairperson (Mr Gildernew): So, it is more to ask a question arising as a result of the rule. Yes, OK. Members, are you content that we write along those lines?

Mrs Cameron: I agree with Colin completely, and I think that we should write to the Department of Health and the Executive Office, rather than writing only to the Health Department and being told in response that we need to write to the Executive Office.

The Chairperson (Mr Gildernew): Are you also content that we do that in parallel with consideration of the rule?

Mrs Cameron: Yes, Chair.

The Chairperson (Mr Gildernew): Are members content with the proposal that we write to both Departments on that?

Members indicated assent.

The Chairperson (Mr Gildernew): Members, I ask you to agree formally that the Committee for Health has considered SR 2021/316, the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) (Amendment No. 10) Regulations (NI) 2021, and has no objection to the rule.

Question put and agreed to.

The Chairperson (Mr Gildernew): Thank you, members.