



Number 37 of 2021

Health (Amendment) (No. 3) Act 2021



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HEALTH (AMENDMENT) (NO. 3) ACT 2021

An Act, to make exceptional provision, in the public interest and having regard to the manifest and grave risk to human life and public health posed by the spread of the disease known as Covid-19 and variants of that disease and in order to mitigate, where practicable, the effect of the spread of that disease, to amend the Health Act 1947 to provide for re-introduction on a temporary basis of the mandatory quarantine of persons coming into the State from certain areas from where there is known to be sustained human transmission of Covid-19 or any variant of the virus that causes that disease, or from which there is a high risk of importation of infection or contamination with Covid-19 or any variant of that disease by travel from that area; to provide for the designation of such areas by the Minister; to provide for the mandatory quarantine in certain circumstances of persons coming into the State who fail to comply with certain requirements relating to testing for the disease; to provide for the designation of facilities for such quarantine; to provide for the conveying of persons to those facilities; to provide for the making of service agreements to facilitate such quarantine; to provide for alternatives to such quarantine for persons coming into the State where such persons indicate an intention to apply for international protection or where such persons are children who are not accompanied by an adult; and to provide for related matters.

[9th December, 2021]

WHEREAS the disease known as Covid-19, and the emergence of variants of the disease, including variant of concern B.1.1.529, or Omicron, with evidence of potential for increased transmissibility and potential to evade immune response including in vaccinated persons, and the spread of those variants, presents a very serious risk to public health and it is important that persons testing positive or who are asymptomatic for the disease including, in particular, variants of the disease, are detected given that the transmission of the disease has proven difficult to prevent;

WHEREAS, notwithstanding that a programme of vaccinations for active immunisation to prevent the transmission of the disease has now been administered to a significant part of the population of the State, and the augmenting of that programme through the administration of additional vaccinations to certain categories of fully vaccinated

persons, travel into the State by persons from certain areas where variants of the disease exist and the spread of any such variants may pose a threat to the effectiveness of some vaccines already, or to be, administered as part of the programme of vaccination in the State, giving rise to an ongoing risk that the health system in the State may come under significant and sustained pressure;

WHEREAS the crisis occasioned by the spread of that disease is causing and will continue to cause significant damage to the economy of the State resulting, thus far, in a substantial increase in the number of persons who have become unemployed and a substantial increase in the national debt;

WHEREAS notwithstanding that the administration of vaccinations to a significant part of the population has resulted in the easing of many of the measures and safeguards which were for the time being in force for the purposes of preventing, minimising, limiting or reducing further transmission of that disease, there is, with the emergence and spread of the variant B.1.1.529, or Omicron, a need for the re-introduction of some restrictive measures with regard to travel by persons into the State from certain areas where that variant exists for the purposes of preventing situations and behaviours that may lead to further transmission of the disease;

WHEREAS the European Centre for Disease Control has advised that based on information available, the potential risks associated with the introduction and spread of the variant B.1.1.529, or Omicron, raise serious concerns that it may significantly reduce the effectiveness of vaccines and increase the risk of reinfections;

AND WHEREAS travel into the State by persons from certain areas with high incidence levels of the disease or variants of the disease or, in certain circumstances, by persons without taking the appropriate test for the disease is a significant concern, and measures adopted to date, including self-quarantining with its practical challenges in monitoring and enforcement, for the purposes of addressing that concern require to be supplemented by further measures in respect of those persons for compelling reasons of public interest and for the common good to safeguard the public, the health system and the vaccination programme;

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act, “Act of 1947” means the Health Act 1947.

Amendment of section 2 of Act of 1947

2. Section 2 of the Act of 1947 is amended, in subsection (1), by the insertion of the following definitions:

“ ‘applicable traveller’ has the meaning assigned to it by section 38N(1);

‘approved person’ has the meaning assigned to it by section 38T(1);

‘approved services provider’ has the meaning assigned to it by section 38U(1);

‘designated facility’ has the meaning assigned to it by section 38R(1);

‘designated state’ has the meaning assigned to it by section 38Q(1);

‘non-designated state’ has the meaning assigned to it by section 38N(1);

‘responsible person’ has the meaning assigned to it by section 38U(4);”.

Insertion of sections 38N to 38Z in Act of 1947

3. The Act of 1947 is amended by the insertion of the following sections after section 38M:

“Obligation on certain persons coming into State to quarantine in designated facilities in certain circumstances

38N. (1) Subject to regulations made under section 38S(1)(j)(i), this section applies to a person, other than an exempted traveller, (in this Act referred to as an ‘applicable traveller’)—

(a) who, on or after the commencement of this section, arrives in the State having been in a designated state at any time within the period of 14 days prior to such arrival, or

(b) not being a person to whom paragraph (a) applies, but being a person who stands, or a member of a class of person that stands, prescribed under section 38S(1)(e), who, on or after the commencement of this section, arrives in the State—

(i) having been in a state which is not a designated state (in this Act referred to as a ‘non-designated state’) at any time within the period of 14 days prior to such arrival, and

(ii) without the result of a pre-travel test as defined in, and in accordance with the requirements of, any regulations made under this Act.

(2) Subject to subsections (4) and (5), section 38Z(3), and any regulations made under section 38S(1)(j)(ii) and (iii), an applicable traveller shall quarantine at a designated facility and shall remain in quarantine at that facility in accordance with this Act—

- (a) where he or she is such a traveller by virtue of subsection (1)(a), until—
- (i) subject to subparagraph (iii), the expiration of a period of 14 days beginning on the day the person is admitted to a designated facility,
 - (ii) where the person takes a RT-PCR test on day 10 of quarantine and the result of that test is that Covid-19 or the virus SARS-CoV-2 is not detected, the receipt of such a result, or
 - (iii) where the person takes a RT-PCR test at any time during the 14 day period referred to in subparagraph (i) and the result of that test is that Covid-19 or the virus SARS-CoV-2 is detected, upon being examined by a registered medical practitioner, who is a medical officer of health—
 - (I) where the person was asymptomatic at the time of taking the test, the expiration of a further 14 day period in isolation commencing on the day he or she took that test, if for the duration of that 14 day period he or she remained asymptomatic,
 - (II) subject to clause (III), where the person was symptomatic at the time of taking the test, or subsequent to the taking of the test became symptomatic, the expiration of a further 14 day period in isolation commencing on the day he or she took the test (if symptomatic at that time) or became symptomatic (if later) subject to the person being fever free for the last 5 days of that 14 day period,
 - (III) where clause (II) applies and the person is not fever free for the last 5 days of that 14 day period, such time as the person is fever free for 5 consecutive days, or
 - (IV) where the registered medical practitioner is satisfied, having regard to all the circumstances, that the person no longer poses a risk to others of infection with Covid-19 or the virus SARS-CoV-2, such earlier date, after the expiration of a period of 10 days commencing on the day the person is admitted to a designated facility, that the medical practitioner determines,
- or
- (b) where he or she is such a traveller by virtue of subsection (1)(b), until—
- (i) subject to subparagraph (iii) and subsection (7), the expiration of a period of 10 days beginning on the day the person is admitted to a designated facility,

- (ii) where the person takes a RT-PCR test and the result of that test is that Covid-19 or the virus SARS-CoV-2 is not detected, the receipt of such a result, or
 - (iii) where the person takes a RT-PCR test at any time during the 10 day period referred to in subparagraph (i) and the result of that test is that Covid-19 or the virus SARS-CoV-2 is detected either—
 - (I) the expiration of the remainder of the 10 day period referred to in subparagraph (i), or
 - (II) such earlier period as is determined by a registered medical practitioner, who is a medical officer of health, on being satisfied, having regard to all the circumstances, that the person can effectively isolate in his or her place of residence.
- (3) For the purposes of calculating a period of quarantine referred to in subsection (2), a day shall be calculated on the basis of a 24 hour period.
- (4) A person who is an applicable traveller by virtue of subsection (1)(b) shall not be required to quarantine at a designated facility where the circumstances prescribed in regulations made under section 38S(1)(g) exist in relation to the person.
- (5) Where on the application of subsection (2) an applicable traveller is required to remain in a designated facility for a period of less than 14 days from the date of his or her admission to a designated facility, he or she shall be considered to be a person who is subject to the obligations to self-quarantine in any regulations made under this Act which apply to persons arriving in the State from a state other than a designated state and any period spent by him or her in a designated facility shall be included in the reckoning of a period during which he or she is required to self-quarantine in satisfaction of any such obligation.
- (6) For the purposes of subsection (2), an applicable traveller shall—
 - (a) prior to his or her arrival in the State, pre-book a place in a designated facility,
 - (b) present himself or herself—
 - (i) where his or her arrival in the State is at a port or an airport, to a relevant person, an approved person or a member of the Garda Síochána, or
 - (ii) where his or her arrival in the State is not at a port or airport, or is at a port or an airport in which there is no such person or member present, at the designated facility referred to in

paragraph (a) as soon as practicable but in any event no later than 4 hours after such arrival,

and

- (c) in the case of paragraph (b)(i), remain at the place where he or she presents himself or herself or at such other place as he or she may be directed to remain by the approved person or member concerned, until that person or member takes or arranges for the applicable traveller to be taken to the designated facility referred to in paragraph (a).
- (7) Where an applicable traveller who presents himself or herself in accordance with subsection (6)(b) is a person referred to in subsection (1)(b)(ii) without the result of a pre-travel test as defined in, and in accordance with the requirements of, any regulations made under this Act on the basis that the result shows that Covid-19 or the virus SARS-CoV-2 is detected, he or she shall—
- (a) as soon as practicable after his or her arrival in the designated facility be assessed by a registered medical practitioner who is a medical officer of health, and
 - (b) where that officer is—
 - (i) satisfied, having regard to all the circumstances, that the person can effectively isolate in his or her place of residence, be discharged from the facility, or
 - (ii) not so satisfied, remain in quarantine for the remainder of the 10 day period referred to in subsection (2)(b).
- (8) Where an applicable traveller fails or refuses to comply with subsection (6), a relevant person, on producing his or her warrant of appointment for inspection by the applicable traveller, or a member of the Garda Síochána may—
- (a) detain that applicable traveller for the purposes of paragraph (b), and
 - (b) arrange for an approved person to take the applicable traveller to a designated facility for the purposes of subsection (2).
- (9) A relevant person, approved person or member of the Garda Síochána shall, when an applicable traveller presents himself or herself in accordance with subsection (6) or is detained in accordance with subsection (8), as the case may be—
- (a) have the power to convey the applicable traveller and any dependant person referred to in subsection (10) to a designated facility,

- (b) furnish to the applicable traveller a written notice of the rights and obligations which apply in relation to such quarantine and information relating to the application of subsections (2) and (5), and
 - (c) advise the applicable traveller of his or her right to make a request under subsection (17) and the purposes for which he or she may, in accordance with subsection (20), leave a designated facility.
- (10) Subject to subsection (11), where an applicable traveller to whom subsection (1)(b) applies is accompanied by a person who appears to the relevant person, approved person or member of the Garda Síochána, as the case may be, to be a dependant person, then notwithstanding that the dependant person either has, or is exempt from the requirement to have, a pre-travel test as defined in, and in accordance with the requirements of, any regulations made under this Act, that dependant person shall accompany the applicable traveller to the designated facility concerned and remain at that facility for the duration of the period in which the applicable traveller is required to remain at the facility.
- (11) Subject to subsection (19), where subsection (10) applies, the applicable traveller referred to in that subsection may, on arrival at the designated facility or at any time thereafter, seek an assessment of the dependant person by a medical officer for health on the basis that it is inappropriate, having regard to any special needs or circumstances pertaining to the dependant person that he or she remains in quarantine and, where the medical officer for health determines that it is inappropriate, the dependant person shall no longer be obliged to remain in quarantine where the responsible person is satisfied that—
 - (a) there is another person in the State who can care for the dependant person,
 - (b) the applicable traveller consents to that other person caring for the dependant person, and
 - (c) that other person has indicated that they are willing to care for the dependant person.
- (12) Where an applicable traveller has on arrival in the State given an indication of any of the matters referred to in paragraph (a), (b) or (c) of section 13(1) of the International Protection Act 2015, the requirement in subsection (2) to quarantine at a designated facility shall be deemed to be satisfied—
 - (a) other than in the case of an applicable traveller to whom paragraph (b) applies, where he or she consents to effectively isolate (which isolation shall include the obligations to self-quarantine in accordance with any regulations made under this Act applicable to persons arriving in the State from a state other than a designated

state) in accommodation arranged by the Minister for Children, Equality, Disability, Integration and Youth and he or she is so accommodated, and

- (b) where it appears to a relevant person, approved person or a member of the Garda Síochána, as the case may be, that an applicable traveller is a child and is not accompanied by an adult who is taking responsibility for the child's care and protection, where he or she can effectively isolate (which isolation shall include the obligations to self-quarantine in accordance with any regulations made under this Act applicable to persons arriving in the State from a state other than a designated state) in accommodation arranged by the Child and Family Agency and he or she is so accommodated.
- (13) Where it appears to a relevant person, approved person or a member of the Garda Síochána, as the case may be, that an applicable traveller is a child and is not accompanied by an adult who is taking responsibility for the child's care and protection, a responsible adult in respect of the applicable traveller may accompany him or her to a designated facility and remain at that facility for the duration he or she is required to remain at the facility.
- (14) Where under subsection (13) a responsible adult in respect of an applicable traveller accompanies and remains with him or her at a designated facility, this section and sections 38O to 38W shall apply to the responsible adult as they apply to the applicable traveller for the period they apply to the traveller concerned.
- (15) Where subsection (13) applies and there is no responsible adult in respect of an applicable traveller to accompany and remain with him or her at a designated facility, the requirement in subsection (2) to quarantine at a designated facility shall be deemed to be satisfied—
- (a) other than where paragraph (b) applies, where—
 - (i) the relevant person, approved person or a member of the Garda Síochána, as the case may be, determines that the applicable traveller can effectively isolate in his or her place of residence and that the requirements referred to in subparagraphs (ii) to (iv) are satisfied,
 - (ii) a responsible adult in respect of the applicable traveller resides with him or her at the place of residence,
 - (iii) the responsible adult referred to in subparagraph (ii) undertakes in writing to supervise the effective isolation of the applicable traveller in the place of residence (which isolation shall include the obligations to self-quarantine in accordance with any regulations made under this Act applicable to persons arriving in the State from a state other than a designated state), and

(iv) the responsible adult referred to in subparagraph (ii) provides particulars relating to the place of residence to the relevant person, approved person or a member of the Garda Síochána, as the case may be,

and

(b) where the applicable traveller is in the care of the Child and Family Agency, where he or she can effectively isolate (which isolation shall include the obligations to self-quarantine in accordance with any regulations made under this Act applicable to persons arriving in the State from a state other than a designated state) in accommodation arranged by the Child and Family Agency and he or she is so accommodated.

(16) Where a relevant person, approved person or a member of the Garda Síochána considers it necessary to do so, he or she may request the responsible adult referred to in subsection (15)(a)(ii) to provide such information or documentation as may be required in order to verify any particular provided under subsection (15)(a).

(17) A person may request that his or her quarantine, or in the case of paragraph (f), the quarantine of a dependant person, be reviewed by a designated appeals officer on the grounds that—

(a) where the person is detained under subsection (8), the circumstances set out in paragraphs (a) and (b) of subsection (1) do not apply to him or her,

(b) at the time of making the request, the requirements of subsection (2)(a) which applied to the person have been satisfied,

(c) at the time of making the request, the requirements of subsection (2)(b) which applied to the person have been satisfied, or, if applicable, a determination of an officer under subsection (2)(b)(iii)(II) or subsection (7) that he or she can not effectively isolate at home, is erroneous,

(d) for medical or other exceptional reasons, including the necessity of providing care for any vulnerable person, his or her quarantine in the designated facility should be ended before the expiration of the period of quarantine required under subsection (2) in respect of him or her,

(e) he or she needs to leave the designated facility on urgent humanitarian grounds,

(f) a decision, made under subsection (11), not to allow a dependant person leave quarantine, was erroneous,

(g) he or she, being an applicable traveller by virtue of subsection (1)(a)—

- (i) has not been in a designated state at any time within the period of 10 days prior to his or her arrival in the State,
- (ii) can demonstrate that he or she has quarantined in a facility, equivalent to a designated facility, in a non-designated state for the duration of the period between leaving the designated state and arriving in the State,
- (iii) can demonstrate that the quarantine referred to in subparagraph (ii) was undertaken in a room on his or her own,
- (iv) has the result of a pre-travel test as defined in, and in accordance with the requirements of, any regulations under this Act,
- (v) has, on arrival in the State, taken a RT-PCR test and the result of that test is that Covid-19 or the virus SARS-CoV-2 is not detected, and
- (vi) has, on or after the fifth day of his or her arrival in the State, taken a RT-PCR test and the result of that test is that Covid-19 or the virus SARS-CoV-2 is not detected,

or

- (h) he or she, being an applicable traveller by virtue of subsection (1) (b), is at the time of making the request a person in relation to whom the circumstances prescribed in regulations made under section 38S(1)(g) exist.
- (18) Where a request is made by a person under subsection (17), his or her quarantine shall be reviewed by a designated appeals officer as soon as practicable but no later than 24 hours from the time of making the request and the designated appeals officer shall, having called on and considered such evidence as he or she requires to make a decision in relation to that request—
- (a) confirm that the person is no longer obliged to remain in quarantine where—
 - (i) in the case of a request made under paragraph (a) of that subsection, the officer is satisfied that the circumstances referred to in that paragraph do not apply to the person who made the request,
 - (ii) in the case of a request made under paragraph (b) of that subsection, the officer is satisfied that the requirements referred to in that paragraph have been satisfied by the person who made the request,
 - (iii) in the case of a request made under paragraph (c) of that subsection, the officer is satisfied that the requirements referred to in that paragraph have been satisfied by the person who made

the request, or, if applicable, the determination of the officer referred to in that paragraph was erroneous,

- (iv) in the case of a request made under paragraph (d) of that subsection, and subject to subsection (19), the officer, having considered the evidence of a registered medical practitioner where the request relates to any medical reason or relates to the care of a vulnerable person who would be in close contact with the applicable traveller if released, is satisfied that it is appropriate in all the circumstances, including the risk to public health involved, that his or her quarantine in the designated facility should cease,
- (v) in the case of a request made under paragraph (e) of that subsection and subject to subsection (19), the officer is, having considered the humanitarian grounds concerned, satisfied that it is appropriate in all the circumstances, including the risk to public health involved, that his or her quarantine in the designated facility should cease,
- (vi) in the case of a request made under paragraph (f) of that subsection and subject to subsection (19), the officer is satisfied that the decision referred to in that paragraph was erroneous,
- (vii) in the case of a request made under paragraph (g) of that subsection, the officer is satisfied that the requirements of subparagraph (i) to (vi) of that paragraph have been complied with, or
- (viii) in the case of a request made under paragraph (h) of that subsection and subject to subsection (19), the officer is satisfied that the circumstances referred to in that paragraph exist in relation to the person who made the request,

or

- (b) refuse a request made under that subsection and give reasons for that refusal.
- (19) Where an applicable traveller or a dependant person, as the case may be, in accordance with subsection (11) or subsection (18)(a)(iv), (v), (vi) or (viii), ceases to be obliged to remain in quarantine, he or she shall be considered to be a person who is, accordingly, subject to the obligations to self-quarantine in any regulations made under this Act applicable to persons arriving in the State from a state other than a designated state and any period spent by him or her in a designated facility shall be included in the reckoning of a period during which he or she is required to self-quarantine in satisfaction of any such obligation.

- (20) Subject to subsection (18) and section 38Z(5), an applicable traveller shall remain in a designated facility for the period specified in paragraph (a) or (b) of subsection (2), as the case may be, and may only leave a designated facility for such period as is strictly necessary where agreed with the responsible person for—
- (a) the purpose of transferring to another designated facility,
 - (b) a medical emergency,
 - (c) the purpose of availing of a RT-PCR test where that test cannot be provided at the designated facility, or
 - (d) such other purpose as may be prescribed in regulations made by the Minister under section 38S.
- (21) Where an applicable traveller leaves a designated facility for a purpose specified in subsection (20), or in accordance with a permission under section 38Z(5), the responsible person shall cause to be recorded in writing the time, date and purpose for which the person left the facility.
- (22) (a) The responsible person shall, without delay, notify the Garda Síochána in writing where an applicable traveller—
- (i) having left a designated facility for a purpose referred to in paragraph (b), (c) or (d) of subsection (20), or in accordance with a permission under section 38Z(5), fails to return at the expiration of the period which is strictly necessary for the purpose, or of the period specified in the permission, as the case may be,
 - (ii) leaves a designated facility for a purpose other than one referred to in any of paragraphs (a) to (d) of subsection (20) or in accordance with a permission under section 38Z(5).
- (b) The responsible person shall, at the request of a member of the Garda Síochána and to assist such member in the exercise of the powers, or performance of the functions, of such member in accordance with subsection (25)(b) or section 38O, provide to such member any other information in respect of the applicable traveller that is known to the responsible person.
- (23) An applicable traveller shall, while required to remain in quarantine in accordance with subsection (2), take a RT-PCR test at such time or times as shall be designated in writing by the Minister in line with the recommendations of the Health Protection Surveillance Centre of the Health Service Executive and such designated time or times shall be published on a website maintained by the Minister or the Government.
- (24) An applicable traveller may, at any time after his or her arrival in a designated facility, be moved—

- (a) for the purposes of isolation, to another part of that facility or another designated facility where a RT-PCR test taken by an applicable traveller detects the presence of Covid-19 or the virus SARS-CoV-2, or
 - (b) to another designated facility where it is necessary or expedient to do so for health and welfare of the traveller or for any other good reason.
- (25) A relevant person or an approved person may, in the course of exercising a power or performing a function conferred on him or her by this section or section 38O—
- (a) be accompanied and assisted by any other relevant person or approved person in such exercise or performance, and
 - (b) without prejudice to the generality of section 95, require a member of the Garda Síochána to assist in the exercise of the power or the performance of the function, including by way of temporarily detaining a person, bringing a person to any place, breaking open of any premises other than a dwelling, or any other action in which the use of force may be necessary and is lawful and a member of the Garda Síochána so required shall comply with the requirement.
- (26) In this section—
- ‘airport’ means any of the following airports:
- (a) Cork Airport;
 - (b) Donegal Airport;
 - (c) Dublin Airport;
 - (d) Ireland West Airport;
 - (e) Kerry Airport;
 - (f) Shannon Airport;
 - (g) Waterford Airport;
- ‘asymptomatic’ means not having any symptoms;
- ‘child’ means a person who is under the age of 18 years;
- ‘dependant person’ means—
- (a) a child, or
 - (b) a person who is 18 years or over and is suffering from a mental or physical disability to such an extent that it is not reasonably possible for him or her to look after himself or herself fully;
- ‘designated appeals officer’ means an independent appeals officer designated by the Minister;

‘exempted traveller’ means a person—

- (a) who arrives in the State in the course of performing his or her duties and either—
 - (i) holds a valid annex 3 certificate in accordance with the Communication from the Commission on the implementation of the Green Lanes under the Guidelines for border management measures to protect health and ensure the availability of goods and essential services, or
 - (ii) is a driver of a heavy goods vehicle,
- (b) who is an aircraft pilot, other aircrew, maritime master or maritime crew who arrives in the State in the course of performing his or her duties,
- (c) who travels to the State pursuant to an arrest warrant, extradition proceedings or other mandatory legal obligation,
- (d) who travels to the State in the course of performing his or her duties, and is a member of the Garda Síochána or of the Defence Forces or an equivalent body or organisation outside the State,
- (e) who travels to the State from a state in circumstances where it is impossible for the person to secure a pre-travel test result in accordance with the requirements of any regulations made under this Act before so travelling and is in possession of written confirmation from the Minister for Foreign Affairs that the person has an urgent humanitarian reason for so travelling,
- (f) who travels to the State for an unavoidable, imperative and time-sensitive medical reason and that reason is certified by a person who is a registered medical practitioner or a person holding an equivalent qualification outside the State,
- (g) who having been outside the State to provide services to, or perform the functions of—
 - (i) an office holder appointed under any enactment or under the Constitution, or
 - (ii) a member of either House of the Oireachtas or the European Parliament, is required to travel to the State in order to continue providing such services, or performing such functions, as the case may be,
- (h) to whom the privileges and immunities conferred by—
 - (i) the Vienna Convention on Diplomatic Relations done at Vienna on the 18th day of April 1961, or
 - (ii) the Vienna Convention on Consular Relations done at Vienna on the 24th day of April 1963, apply in the State,

(i) to whom the privileges and immunities conferred by an international agreement or arrangement or customary international law apply in the State, pursuant to the Diplomatic Relations and Immunities Acts 1967 to 2006 or any other enactment or the Constitution,

(j) who is a person who stands, or a member of a class of persons that stands, prescribed by the Minister in regulations made under section 38S;

‘place of residence’ has the same meaning as it has in section 38P;

‘port’ means any of the following ports:

(a) Cobh in the Port of Cork;

(b) Dublin Port;

(c) Killybegs Harbour;

(d) Port of Cork;

(e) Port of Galway;

(f) Port of Waterford;

(g) Rosslare EuroPort;

‘relevant person’ means—

(a) an authorised officer,

(b) a medical officer of health,

(c) an immigration officer appointed by the Minister for Justice under section 3 of the Immigration Act 2004,

(d) an officer of customs (within the meaning of the Customs Act 2015), or

(e) a person, or group of persons, appointed by the Health Service Executive;

‘responsible adult’ means, in relation to an applicable traveller who is a child, where the parent of the applicable traveller can be ascertained and reached within a time which is reasonable having regard to all the circumstances of the case, the parent concerned or in any other case a person acting *in loco parentis*;

‘RT-PCR test’, means a reverse transcription polymerase chain reaction test—

(a) the purpose of which is to detect the presence of Covid-19 or the virus SARS-CoV-2 in the person to whom it is administered,

- (b) administered by the Health Service Executive or a person on its behalf or a person approved by the Minister to conduct such a test and prescribed in regulations under section 38S;

‘state’ means any country, territory, region or other place outside the State other than Northern Ireland;

‘symptom’, in relation to Covid-19 or the virus SARS-CoV-2, means, subject to any regulations made under section 38S—

- (a) a fever being a temperature of 38 degrees Celsius or above,
- (b) a new cough,
- (c) shortness of breath or breathing difficulties,
- (d) loss of sense of smell or taste, or
- (e) change to sense of smell or taste.

Return of applicable traveller to designated facility

38O. (1) Where an applicable traveller leaves a designated facility—

- (a) subject to a permission granted to him or her under section 38Z(5)—
 - (i) for a purpose other than a purpose specified in, or accordance with, subsection (20) of section 38N, or
 - (ii) for a purpose specified in that subsection, but fails to return after the expiration of the period which is strictly necessary for the purpose,
- or
- (b) subject to section 38N(20), where he or she has been granted a permission under section 38Z—
 - (i) for a purpose other than a purpose specified in the permission, or
 - (ii) for a purpose specified in the permission, but fails to return after the expiration of the period specified in the permission,

the responsible person shall arrange for an approved person to return the applicable traveller to the designated facility or, if the approved person is unable to do so, the approved person may require a member of the Garda Síochána to assist, in accordance with section 38N(25) (b), in returning the applicable traveller to the designated facility concerned.

- (2) For the purposes of subsection (1), a member of the Garda Síochána, either alone or with any other member of the Garda Síochána—
 - (a) may detain the applicable traveller for the purposes of returning the applicable traveller to a designated facility,

- (b) where he or she so detains, shall return, or request a relevant person or an approved person to return, the applicable traveller to a designated facility, and
 - (c) where he or she so detains, shall cause to be furnished to the applicable traveller, as soon as practicable thereafter, a copy of the notification given to the Garda Síochána in respect of the applicable traveller concerned under section 38N(22) by the responsible person.
- (3) An approved person or a relevant person shall have the power to return an applicable traveller to a designated facility where the approved person or relevant person is requested to do so by a member of the Garda Síochána under subsection (2)(b).

Offences related to quarantine and power to give direction

38P. (1) A person shall be guilty of an offence where he or she—

- (a) fails to comply with the requirement in section 38N(6)(b) to present himself or herself in accordance with that provision,
- (b) fails to remain at the place where he or she presents himself or herself under section 38N(6)(c) or fails to comply with a direction given under that provision,
- (c) resists being detained or brought to a designated facility, or both, under section 38N(8),
- (d) while in a designated facility acts in a manner which endangers the life and health of any other person in the facility or acts with reckless disregard for the life and health of such a person,
- (e) leaves a designated facility—
 - (i) subject to a permission granted to him or her under section 38Z(5)—
 - (I) for a purpose other than a purpose specified in, or accordance with, subsection (20) of section 38N, or
 - (II) for a purpose specified in that subsection, for a period longer than that which is strictly necessary for the purpose,

or
 - (ii) subject to section 38N(20), where he or she has been granted a permission under section 38Z(5)—
 - (I) for a purpose other than a purpose specified in the permission, or
 - (II) for a purpose specified in the permission, for a period longer than the period specified in the permission,

or

- (f) refuses to take a RT-PCR test in contravention of the requirements of section 38N(23).
- (2) A person shall be guilty of an offence where he or she, without reasonable excuse, fails—
- (a) to comply with the requirement in section 38N(6) to pre-book a place in a designated facility prior to his or her arrival in the State as required by that provision, and
 - (b) in respect of an applicable traveller for whom he or she is a responsible adult, to pre-book a place in a designated facility for the traveller prior to the arrival in the State of that traveller as required by section 38N(6).
- (3) A person shall be guilty of an offence where he or she—
- (a) resists returning to a designated facility in accordance with section 38O,
 - (b) obstructs or interferes with the exercise of any power conferred on a relevant person, an approved person or a member of the Garda Síochána under section 38N, 38O or this section,
 - (c) in purported compliance with any requirement under section 38N, gives information to a relevant person, an approved person or a member of the Garda Síochána, as the case may be, that to the person's knowledge is false or misleading in any material particular,
 - (d) prevents or attempts to prevent the detention of an applicable traveller under subsection (8) of section 38N or the bringing of the applicable traveller to a designated facility in accordance with that subsection, or
 - (e) assists an applicable traveller in leaving a designated facility—
 - (i) subject to a permission granted to the applicable traveller under section 38Z(5), for a purpose other than one specified in section 38N(20), or
 - (ii) subject to section 38N(20), where the applicable traveller has been granted a permission under section 38Z(5), for a purpose other than one specified in a permission under section 38Z(5).
- (4) A person who is guilty of an offence under subsection (1), (2) or (3) shall be liable on summary conviction to a fine not exceeding €2,000 or to imprisonment for a term not exceeding one month, or both.
- (5) Where a member of the Garda Síochána suspects, with reasonable cause, that a person—
- (a) has contravened the requirement in section 38N(6)(b) to present himself or herself in accordance with that provision,

- (b) while in a designated facility is acting or has acted in a manner which endangers the life and health of any other person in the facility or with reckless disregard for the life and health of such a person, or
 - (c) has left a designated facility—
 - (i) subject to a permission granted to him or her under section 38Z(5)—
 - (I) for a purpose other than a purpose specified in, or accordance with, subsection (20) of section 38N, or
 - (II) for a purpose specified in that subsection, for a period longer than that which is strictly necessary for the purpose,or
 - (ii) subject to section 38N(20), where he or she has been granted a permission under section 38Z(5)—
 - (I) for a purpose other than a purpose specified in the permission, or
 - (II) for a purpose specified in the permission, for a period longer than the period specified in the permission,
- the member may direct the person to cease the contravention, cease acting in such manner or to return to the designated facility immediately, as the case may be.
- (6) Where a person has left a designated facility in a circumstance to which subsection (5)(c) applies, the member may give the direction referred to in subsection (5) in writing and leave it at the place of residence of the person, or any other place where the member has reasonable cause to believe the person is located.
 - (7) It shall be an offence for any person, without reasonable excuse, to fail to comply with a direction given by a member of the Garda Síochána under this section.
 - (8) (a) Where a member of the Garda Síochána suspects, with reasonable cause, a person of committing an offence under this section, the member may, without warrant, do one or more of the following:
 - (i) require the person to produce to the member his or her passport and travel documentation;
 - (ii) search the person's baggage or vehicle and may, if he or she thinks fit, in relation to a vehicle which is being searched, require the person who for the time being is in control of such vehicle if moving, to bring it to a stop and when stopped to refrain from moving it, or if the vehicle is stopped, to refrain from moving it;

- (iii) seize and retain any evidence of, or relating to, the suspected commission or attempted commission of an offence under this section.
- (b) Nothing in this subsection shall operate to prejudice any power to search, or to seize or retain property, which may be exercised by a member of the Garda Síochána apart from this subsection.
- (9) A member of the Garda Síochána who has reasonable grounds for believing that a person is committing or has committed an offence under this section may require the person to state his or her name and address.
- (10) A person who fails or refuses to state his or her name and address in compliance with a requirement under subsection (9), or who, in purported compliance with such a requirement, states a name or address that is false or misleading, shall be guilty of an offence.
- (11) (a) A member of the Garda Síochána may arrest without warrant any person whom the member has reasonable cause for believing has committed an offence under subsection (1)(a), (1)(c) or subsection (10).
 - (b) For the purpose of arresting a person in accordance with paragraph (a), a member of the Garda Síochána may enter (if need be, by use of reasonable force) and search any place (other than a dwelling) where the person is or where the member, with reasonable cause, suspects him or her to be.
 - (c) This subsection shall not affect the operation of any enactment or rule of law relating to powers of search or powers of arrest.
- (12) A person guilty of an offence under this section (other than an offence under subsection (1), (2) or (3)) shall be liable on summary conviction to a fine not exceeding €2,000 or imprisonment for a term not exceeding one month or both.
- (13) In this section—
 - ‘Covid-19 Passenger Locator Form’ means—
 - (a) the form which is required to be completed in certain circumstances by certain persons on or before arrival in the State after having been in a state (within the meaning of section 38N), and
 - (b) which form or a form to the like effect made available by the Health Service Executive is set out in—
 - (i) the Health Act 1947 (Section 31A – Temporary Requirements) (Covid-19 Passenger Locator Form) Regulations 2021 (S.I. No. 45 of 2021), or
 - (ii) any other Regulations made under this Act;

‘place of residence’ means—

- (a) where a Covid-19 Passenger Locator Form was completed in respect of the applicable traveller, the place of residence (other than a designated facility) specified on the Covid-19 Passenger Locator Form, or
- (b) where a Covid-19 Passenger Locator Form was completed in respect of the applicable traveller and the only place of residence specified was a designated facility or where no Covid-19 Passenger Locator Form was completed in respect of the applicable traveller—
 - (i) in relation to a person who is ordinarily resident in the State, the home in which the person ordinarily resides or if the person does not have a home, such other premises (other than a designated facility), if any, at which he or she is currently residing, whether on a permanent or temporary basis, or
 - (ii) in relation to a person who is not ordinarily resident in the State, the premises (other than a designated facility), in the State, if any, at which he or she is currently residing or intends to reside after arriving in the State, whether on a permanent or temporary basis;

‘responsible adult’ means, in relation to an applicable traveller who is a child, a person who—

- (a) is 18 years of age or older,
- (b) travels to the State with the applicable traveller, and
- (c) is responsible, alone or jointly with another person, for that applicable traveller for all or part of the journey by which the applicable traveller arrives in the State.

Designated state

- 38Q.** (1) Subject to subsection (3), the Minister may designate in writing any state (in this Act referred to as a ‘designated state’) where there is known to be sustained human transmission of Covid-19 or any variant of concern or from which there is a high risk of importation of infection or contamination with Covid-19 or any variant of concern by travel from that state.
- (2) The Minister shall, as soon as practicable after a designation is made under subsection (1), ensure that the fact of such designation is published on a website maintained by the Minister or the Government.
 - (3) When making a designation under subsection (1), the Minister shall—
 - (a) have regard to the matters referred to in paragraphs (a) and (b) of section 31A(2) and paragraphs (a) to (e) of section 38A(2), subject

to the modification that a reference in those paragraphs to Covid-19 shall be taken to include a reference to a variant of concern,

- (b) have regard to the advice of the Chief Medical Officer of the Department of Health, and
 - (c) consult with the Minister for Foreign Affairs and such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister of the Government.
- (4) The Minister shall on a regular basis review the situation in a state designated under subsection (1) and, shall, having regard to the matters referred to in subsection (3)(a) and (b) and having consulted in accordance with subsection (3)(c), revoke, in writing, a designation where appropriate.

- (5) In this section—

‘state’ has the same meaning as it has in section 38N;

‘variant of concern’ means a variant of Covid-19 whether or not a variant already specified as an infectious disease in accordance with Regulation 6 of, and the Schedule to, the Infectious Diseases Regulations 1981 (S.I. No. 390 of 1981), that—

- (a) in the view of the Chief Medical Officer of the Department of Health, were it to enter the State or having entered the State become more widespread in the State, would present—
 - (i) serious risks to preventing, limiting, minimising or slowing the spread of Covid-19 in the State, or
 - (ii) other serious public health risks,
- and
- (b) is designated by the Minister in writing and the fact of such designation is published on a website maintained by the Minister or the Government, and includes the variant known as B.1.1.529, or Omicron.

Designated facilities

- 38R.** (1) Subject to subsection (2), the Minister shall designate in writing such facility (in this Act referred to as a ‘designated facility’) or facilities in the State as he or she considers appropriate for the quarantine of applicable travellers under section 38N and different facilities may be designated for the quarantine of applicable travellers where a RT-PCR test in respect of such travellers detects the presence of Covid-19 or the virus SARS-CoV-2.
- (2) The Minister shall, before designating a facility under subsection (1), be satisfied that the facility concerned is suitable, and of sufficient

quality, to meet the health and welfare needs of those who will be quarantining in the facility.

- (3) The Minister shall, as soon as practicable after a designation is made under subsection (1), ensure that the fact of such designation is published on a website maintained by the Minister or the Government.
- (4) An applicable traveller shall be subject to one or more charges in respect of the costs incurred in the provision of—
 - (a) the accommodation, maintenance and any treatment provided to the applicable traveller and any dependant person who is in the designated facility with that traveller in accordance with section 38N(10) while he or she and any such dependant person are in a designated facility, and
 - (b) any services referred to in section 38T provided in respect of him or her and, where applicable, a dependant person.
- (5) The costs referred to in subsection (4) shall be payable by the applicable traveller in accordance with regulations made under section 38S and may be recovered as a simple contract debt in any court of competent jurisdiction from the applicable traveller concerned.

Regulations for giving further effect to certain matters relating to requirement to quarantine

- 38S.** (1) The Minister may make regulations for the purposes of giving further effect to sections 38N to 38Z and for any matter stated, in those sections, to be prescribed and without prejudice to the generality of the foregoing may—
- (a) provide for the manner in which services referred to in section 38T are to be established or to be operated, including, without prejudice to the generality of the foregoing, any of the following:
 - (i) the orderly establishment and operation of those services, including the manner in which such services, or class of services, are to be operated, staffed, monitored, developed, provisioned and secured;
 - (ii) the manner in which such services are to be operated so as to best prevent, limit, minimise or slow the spread (including outside the State) of Covid-19 and any variant thereof;
 - (iii) the manner in which service agreements relating to a service, or class of services, operate so as to prevent, limit, minimise or slow the spread (including outside the State) of Covid-19 and any variant thereof;
 - (iv) the manner in which personal data and special categories of personal data (within the meaning of section 38W) of applicable travellers and dependant persons are to be processed;

- (v) the proper use of resources, including human resources, provided to or used by a provider of services referred to in section 38T;
 - (vi) the safeguards, including medical procedures, standards and work practices, required to be put in place by approved persons providing the services, in relation to applicable travellers and dependant persons,
- (b) provide for the manner in which a designated facility, or class of designated facilities, is to be established or to be operated including, without prejudice to the generality of the foregoing, any of the following:
- (i) the orderly establishment and operation of those facilities, including the manner in which such facilities, or class of facilities, is to be operated, staffed, monitored, developed, provisioned and secured;
 - (ii) the manner in which such facilities are to be operated so as to best prevent, limit, minimise or slow the spread (including outside the State) of Covid-19 and any variant thereof;
 - (iii) the manner in which service agreements relating to a facility, or class of facilities, operate so as to prevent, limit, minimise or slow the spread (including outside the State) of Covid-19 and any variant thereof;
 - (iv) the manner in which personal data and special categories of personal data (within the meaning of section 38W) of applicable travellers and dependant persons who are required to quarantine in a designated facility are to be processed;
 - (v) the proper use of resources, including human resources, provided to or used by a designated facility;
 - (vi) the safeguards, including medical procedures, standards and work practices, required to be put in place by approved persons, or any other person working at or with a designated facility, in relation to applicable travellers and dependant persons while in the facility,
- (c) provide for such additional, incidental, consequential or supplemental matters as the Minister considers necessary or expedient for the purposes of giving full effect to sections 38N to 38Z,
- (d) prescribe a class or classes of persons as exempted travellers for the purposes of paragraph (j) of the definition of 'exempted traveller' in section 38N(26),

- (e) prescribe a class or classes of persons (which may include all persons) as persons to whom section 38N(1)(b) applies,
- (f) having regard to the advice of the Chief Medical Officer of the Department of Health, prescribe a test, the purpose of which is to detect Covid-19 or the virus SARS-CoV-2 in the person to whom it is administered, that may be used as an alternative to a RT-PCR test (within the meaning of section 38N(26)) for the purposes of such provisions of sections 38N to 38Z and such regulations made under this Act as he or she may prescribe and in so prescribing, the Minister may, in relation to such a test—
 - (i) provide for the manner in which the test shall be administered,
 - (ii) prescribe a person as a person approved by the Minister to conduct the test, and
 - (iii) prescribe such fee (if any) to be paid by a person who takes the test,
- (g) having regard to the advice of the Chief Medical Officer of the Department of Health, prescribe the circumstances in which a person who is an applicable traveller by virtue of section 38N(1)(b) shall not be required to quarantine at a designated facility and, without prejudice to the generality of the foregoing, may prescribe that such a person shall not be required to so quarantine where—
 - (i) the person presents himself or herself to a relevant person or a member of the Garda Síochána on his or her arrival in the State,
 - (ii) the person takes a test prescribed by, and in accordance with, regulations under paragraph (f) on his or her arrival in the State,
 - (iii) the person pays such fee as may be prescribed for the test,
 - (iv) the person remains at such place as he or she may be directed to remain by a relevant person or a member of the Garda Síochána until the receipt of the result of the test, and
 - (v) the result of the test is that Covid-19 or the virus SARS-CoV-2 is not detected,
- (h) prescribe a person as a person approved by the Minister to conduct RT-PCR tests,
- (i) prescribe other purposes referred to in section 38N(20)(d),
- (j) prescribe such lesser number of days for the purposes of—
 - (i) section 38N(1)(a) and (b) in relation to when a person was last in a designated state or non-designated state, as the case may be,
 - (ii) quarantine under section 38N(2), and

- (iii) isolation in section 38N(2) where Covid-19 or the virus SARS-CoV-2 is detected,
as the Minister considers appropriate having regard to the advice of the Chief Medical Officer of the Department of Health,
 - (k) prescribe for the rules and procedures to apply to the determination of a request made under section 38N(17) by a designated appeals officer (within the meaning of section 38N),
 - (l) prescribe—
 - (i) the manner in which costs chargeable to an applicable traveller under section 38R are to be paid and to whom, and
 - (ii) a class or classes of applicable traveller who shall be exempt, whether in whole or in part, from the obligation to pay such costs by reason of the financial circumstances of such persons,
 - (m) prescribe for the rules and procedures to apply to the making of an application under section 38Z, and the grounds (in addition to those specified in the section) on which such applications may be made and authorisations and permissions under that section may be granted,
 - (n) on the advice of the Chief Medical Officer of the Department of Health, remove or add to the symptoms listed in paragraphs (a) to (e) of the definition of symptom in section 38N, and
 - (o) make provision for such measures as appear to the Minister to be necessary or expedient for the effective operation and administration of the system of quarantine of persons provided for under sections 38N to 38Z, or the amelioration of the operation of such system, including making provision, in so far as appears to the Minister to be necessary or expedient, for giving effect, in conformity with the provisions of this Act, to the public health advice of the Chief Medical Officer of the Department of Health.
- (2) Without prejudice to the generality of subsection (1)(d), the Minister may prescribe as exempted travellers under that paragraph—
- (a) persons who perform essential services, including statutory duties or other specified public or other services, or
 - (b) persons arriving at a port or airport in the State for the purposes of travelling to another state, and who do not leave the port or airport before so travelling.
- (3) Without prejudice to the generality of subsection (1)(c), regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

- (4) The power of the Minister to make regulations under subsection (1)(a) or (b) is without prejudice to the power of the Minister to provide for any matter referred to in that provision by administrative arrangement or contract where it is appropriate to do so.

Service agreements for conveying and returning persons to designated facilities

- 38T.** (1) The Minister or, at the direction of the Minister, the Health Service Executive, or other person may enter, on such terms and conditions as he or she or it considers appropriate, into one or more agreements with one or more other persons (in this Act referred to as an ‘approved person’) for the provision by the approved person of services relating to any or all of the following:
- (a) being available as a person to whom applicable travellers may present themselves for quarantine in accordance with subsection (6) of section 38N;
 - (b) the conveying of applicable travellers from the place at which they present themselves to a relevant person, member of the Garda Síochána or approved person in accordance with that subsection;
 - (c) the conveying of applicable travellers from any place at which they are detained by a relevant person or a member of the Garda Síochána under section 38N(8) to a designated facility;
 - (d) the conveying of applicable travellers from one designated facility to another where section 38N(24) applies;
 - (e) the return of applicable travellers to designated facilities in accordance with section 38O;
 - (f) the provision of security arrangements in respect of any of the services referred to in paragraphs (a) to (e).
- (2) Where the Minister, or at the direction of the Minister, the Health Service Executive or other person, enters into an agreement under subsection (1) with an approved person, the approved person may, if authorised in that behalf by the Minister or, at the direction of the Minister, the Health Service Executive or other person and in accordance with such conditions (if any) of such authorisation, enter into an agreement with one or more other persons for the provision, of any one or more of the services, the subject of the agreement concerned and any such other person shall unless the agreement otherwise provides have all of the duties and obligations of an approved person provided for in this Act.
- (3) The Minister or the Health Service Executive or other person, as the case may be, shall, before entering in to agreement under subsection (1) or authorising an agreement referred to in subsection (2), be satisfied that the arrangements the subject of the agreement concerned

are suitable, and the services are of sufficient quality, to meet the health and welfare needs of applicable travellers.

- (4) An agreement referred to in subsection (1) shall require that an approved person implement—
 - (a) standards and protocols established by the Minister or, at the direction of the Minister, the Health Service Executive or other person, for services provided by the approved person, and
 - (b) the provisions of any regulations relating to services under this section made by the Minister under section 38S.
- (5) An approved person shall—
 - (a) keep, in such form as may be agreed, all proper and usual accounts and records of income received and expenditure incurred by it in the provision of the service,
 - (b) submit such accounts and financial statements annually for audit, and
 - (c) supply a copy of the audited accounts and financial statements and the statutory auditor's report on the financial statements to the person with whom the approved person entered into the agreement under subsection (1) within such period as may be specified by such person.
- (6) The Minister or, at the direction of the Minister, the Health Service Executive or other person, may make such arrangements as he or she considers appropriate to monitor—
 - (a) the expenditure incurred in the provision of services by approved persons, and
 - (b) the provision of those services by such approved persons.
- (7) An approved person who enters into any agreement under subsection (1) or (2) shall upon request provide to the Minister, or at the direction of the Minister, the Health Service Executive, such information and within such time period as may be specified in the request as is considered material to the provision of services in accordance with any such agreement.
- (8) An approved person to whom a request is made under subsection (7) shall comply with the request within the time period specified in the request.
- (9) At the Minister's request, the Health Service Executive or other person shall provide the Minister with any information given to it by an approved person in response to a request under subsection (7).
- (10) Nothing in this section shall operate to prevent the Minister, or at the direction of the Minister, the Health Service Executive or other person

from entering into an agreement in respect of the provision of services both under this section and section 38U.

- (11) An approved person may authorise in writing one or more of its servants, agents, contractors or employees to perform any function or exercise any powers conferred on the approved person under section 38O, and such servants, agents, contractors or employees of the approved person so authorised may perform the function or exercise the power accordingly.
- (12) In this section, a reference to an ‘applicable traveller’ shall, where the context so requires, include a reference to—
 - (a) a dependant person who is accompanying that traveller in accordance with section 38N(10), and
 - (b) a responsible adult within the meaning of section 38N.

Service agreements for accommodation and maintenance for purposes of quarantine

- 38U.** (1) The Minister or, at the direction of the Minister, the Health Service Executive, or other person may enter, on such terms and conditions as he or she or it considers appropriate, into one or more agreements with one or more persons (in this Act referred to as an ‘approved services provider’) for the provision by the approved person of services relating to any or all of the following:
- (a) the provision of accommodation services to applicable travellers for the purposes of quarantine and to dependant persons accompanying such travellers;
 - (b) the maintenance of applicable travellers and any dependant persons during their period of quarantine at a designated facility;
 - (c) the provision of security arrangements for a designated facility;
 - (d) the provision of any service relating to the operation of mandatory quarantine or otherwise required to give effect to this Act;
 - (e) the treatment, if necessary, of applicable travellers and dependant persons during the period of their quarantine at a designated facility.
- (2) Where the Minister, or at the direction of the Minister, the Health Service Executive or other person enters into an agreement under subsection (1) with an approved person, the approved person may, if authorised in that behalf by the Minister or, at the direction of the Minister, the Health Service Executive or other person and in accordance with such conditions (if any) of such authorisation, enter into an agreement with one or more other persons for the provision, of any one or more of the services the subject of the agreement concerned.

- (3) The Minister, the Health Service Executive or other person, as the case may be, shall, before entering in to agreement under subsection (1) or authorising an agreement referred to in subsection (2), be satisfied that the arrangements the subject of the agreement concerned are suitable, and the services are of sufficient quality, to meet the health and welfare needs of those who will be quarantining in the designated facility concerned.
- (4) An agreement referred to in subsection (1) shall—
- (a) require that an approved services provider implement—
 - (i) standards and protocols established by the Minister or, at the direction of the Minister, the Health Service Executive or other person, for services provided in the facility,
 - (ii) arrangements determined by the Minister or, at the direction of the Minister, the Health Service Executive or other person, for medical care and support for persons in the designated facility,
 - (iii) rules established by the Minister or, at the direction of the Minister, the Health Service Executive or other person, for applicable travellers and dependant persons in such facilities, and
 - (iv) the provisions of any regulations relating to services under this section made by the Minister under section 38S,
 - (b) provide for the appointment by the approved services provider of a person (in this Act referred to as a ‘responsible person’) who shall carry out such duties as are specified in the agreement and this Act, and
 - (c) set out review and complaint procedures for applicable travellers and dependant persons in relation to treatment and service in a designated facility.
- (5) An approved services provider shall—
- (a) keep, in such form as may be agreed, all proper and usual accounts and records of income received and expenditure incurred by it in the provision of the service,
 - (b) submit such accounts and financial statements annually for audit, and
 - (c) supply a copy of audited accounts and financial statements and the statutory auditor’s report on the financial statements to the person with whom the approved person entered into the agreement under subsection (1) within such period as may be specified by such person.

- (6) The Minister or, at the direction of the Minister, the Health Service Executive or other person, may make such arrangements as it considers appropriate to monitor—
- (a) the expenditure incurred in the provision of services by approved services providers, and
 - (b) the provision of those services by such approved services providers.
- (7) An approved services provider who enters into any agreement under subsection (1) or (2) shall upon request provide to the Minister, or at the direction of the Minister, the Health Service Executive, such information and within such time period as may be specified in the request as is considered material to the provision of services in accordance with any such agreement.
- (8) An approved services provider to whom a request is made under subsection (7) shall comply with the request within the time period specified in the request.
- (9) At the Minister's request, the Health Service Executive or other person shall provide the Minister with any information given to it by an approved services provider in response to a request under subsection (7).
- (10) Nothing in this section shall operate to prevent the Minister, or at the direction of the Minister, the Health Service Executive or other person from entering into an agreement in respect of the provision of services both under this section and section 38T.
- (11) In this section, 'dependant person' has the same meaning as it has in section 38N.

Requirements in relation to maintaining records for the purposes of section 38N

- 38V.** (1) A relevant person, approved person or member of the Garda Síochána, as the case may be, referred to in section 38N shall make and retain the following records in respect of an applicable traveller—
- (a) whether the person concerned is an applicable traveller by virtue of paragraph (a) or (b) of subsection (1) of that section,
 - (b) the date and time at which the applicable traveller presented himself or herself in accordance with subsection (6), or was detained in accordance with subsection (8), of that section, as the case may be,
 - (c) where the applicable traveller is in quarantine at a designated facility, confirmation of the designated facility concerned,
 - (d) the fact that, at the time referred to in paragraph (b), the applicable traveller was, in accordance with the requirements of subsection (9)

of that section, furnished with a written notice and advised of his or her right to make a request under subsection (17) of that section,

- (e) whether the applicable traveller has left a designated facility in accordance with subsection (20) of that section and the purpose in relation to which he or she so left,
 - (f) any information or documentation provided by a responsible adult referred to in subsection (15)(a)(ii) of that section in accordance with subsection (16) of that section, and
 - (g) such other matters as may be prescribed.
- (2) A relevant person or an approved person shall make available records retained in accordance with subsection (1) for the purposes of inspection by a member of the Garda Síochána acting in the course of his or her duties under this Act.
- (3) A relevant person, an approved person or a member of the Garda Síochána shall make available records retained in accordance with subsection (1) for inspection by a person appointed by the Health Service Executive for the purposes of the programme commonly known as the Covid-19 Contact Management Programme.

Data Protection

38W. (1) Personal data or special categories of personal data collected for the purposes of sections 38N and 38V may, insofar as necessary, be processed—

- (a) by an approved person, relevant person, member of the Garda Síochána, the Health Service Executive and the Minister for the purposes of the performance of their respective functions under those sections,
- (b) where an agreement has been entered into with an approved person in accordance with section 38T or an approved services provider in accordance with section 38U, by that approved person or approved services provider and the responsible person for the purposes of the performance of their respective functions under the agreement concerned or under sections 38U and 38V, and
- (c) by the Minister, the Health Service Executive and the Garda Síochána, for the purposes of—
 - (i) recording and verifying information regarding whether or not an applicable traveller was, on his or her arrival in the State, in possession of the result of a pre-travel test as defined in, and in accordance with the requirements of, any regulations made under this Act,

- (ii) recording information regarding the designated states (within the meaning of section 38Q) that an applicable traveller has been in in the 14 days prior to his or her arrival in the State,
 - (iii) identifying and recording the place of residence (within the meaning of section 38P) of an applicable traveller,
 - (iv) recording whether or not an applicable traveller has taken a RT-PCR test in the State and, if so, the result of such test,
 - (v) recording whether or not an applicable traveller has taken a test prescribed by regulations under section 38S(1)(f) in the State and, if so, the result of such test, and
 - (vi) identifying and recording other personal data, including special categories of personal data required in accordance with section 38N and regulations under section 38S(1)(f), in respect of applicable travellers.
- (2) For the purposes of this section, the Health Service Executive and the Minister are designated as data controllers in relation to personal data and special categories of personal data processed for the purposes referred to in subsection (1) and the Health Service Executive and the Minister, as the case may be, shall put in place appropriate data processing contracts, where necessary, with approved persons, approved services providers and any Minister of the Government in relation to whom the Minister has entered into an agreement in accordance with section 38X.
- (3) Subject to subsections (4) and (5), personal data and special categories of personal data processed for the purposes referred to in subsection (1) shall be permanently deleted no later than 42 days after the arrival in the State of the person in relation to whom the data relates.
- (4) Notwithstanding subsection (3), where an applicable traveller remains in quarantine in accordance with section 38N(2) for a period of more than 14 days, personal data and special categories of personal data processed in respect of the applicable traveller for the purposes referred to in subsection (1) shall be permanently deleted no later than 28 days after the end of the period of quarantine of the applicable traveller concerned.
- (5) Notwithstanding subsections (3) and (4), where personal data or special categories of personal data, processed in accordance with subsection (1), are required for the purposes of the prevention, investigation, detection or prosecution of a criminal offence, the data—
- (a) may be processed for as long as they are required for such prevention, investigation, detection or prosecution, and

- (b) shall be permanently deleted after they are no longer required for such prevention, investigation, detection or prosecution.
- (6) The Minister may, subject to the General Data Protection Regulation, and following consultation with such other Minister of the Government as he or she considers appropriate, make regulations—
- (a) in relation to the processing of personal data, including special categories of personal data, which is necessary for the purposes of this Act or any regulations under this Act,
- (b) designating a Minister of the Government, or such other person as the Minister considers appropriate, as a data controller for the purposes of this Act, and such Minister or person may be designated in addition to, or in substitution for, the Minister or the Health Service Executive.
- (7) Regulations made under subsection (6)(a) shall specify—
- (a) the personal data that may be processed,
- (b) the circumstances in which the personal data may be processed, including specifying the persons to whom the data may be disclosed, and
- (c) such other conditions (if any) as the Minister considers appropriate to impose on such processing.
- (8) In this section—
- ‘General Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);
- ‘personal data’ has the meaning it has in the General Data Protection Regulation;
- ‘processing’, in relation to personal data, has the meaning it has in the General Data Protection Regulation;
- ‘special categories of personal data’ has the meaning it has in the Data Protection Act 2018.

Arrangements with other Ministers of Government to carry out certain functions under Act

- 38X.** (1) The Minister may enter into an arrangement with another Minister of the Government (in this section referred to as a ‘relevant Minister’) for the performance by the relevant Minister of one or more specified functions.

¹ OJ No. L 119, 4.5.2016, p.1.

- (2) The arrangement referred to in subsection (1) shall be on such terms and for such period as may be agreed by the Minister and the relevant Minister.
- (3) Where an arrangement referred to in subsection (1) is entered into in respect of a particular specified function, the relevant Minister may—
 - (a) perform the specified function on behalf of the Minister in accordance with the arrangement, and
 - (b) do any act or thing relating to the performance of that specified function that the Minister would be authorised to do if he or she performed the function concerned.
- (4) Nothing in this section shall be construed as affecting the power of the Minister to perform a specified function or do any act or thing referred to in subsection (3)(b).
- (5) In this section, ‘specified function’ means a function of the Minister (including part of a function) under section 38R, 38T, 38U or 38W.

Obligations on travel organisers

- 38Y.** (1) A travel organiser, in relation to a person whose arrival in the State it organises, effects or facilitates shall—
- (a) take reasonable steps to inform the person, where he or she is an applicable traveller, of his or her obligation to pre-book a designated facility,
 - (b) take reasonable steps to check whether or not the person, where he or she is an applicable traveller, has pre-booked a designated facility, and
 - (c) subject to subsection (2), refuse to organise, effect or facilitate the travel of the person to the State where the person has not, to the satisfaction of the travel organiser, demonstrated that he or she has pre-booked such a facility.
- (2) Paragraph (c) of subsection (1) shall not apply in relation to a person whose arrival in the State is organised, effected or facilitated by a travel organiser where the person referred to in that paragraph declares to the travel organiser, or an officer, employee or agent of the travel organiser, that he or she is an exempted traveller.
- (3) In this section, ‘travel organiser’ means a person who—
- (a) by providing a person with access to or use of a vehicle, organises, effects or facilitates the arrival of an applicable traveller in the State, and
 - (b) is—
 - (i) a body corporate, or

- (ii) in relation to a person who organises, effects or facilitates the arrival of the person in the State by providing access to or use of a vehicle on a private and exclusive basis, the owner of such vehicle.

Authorisations and permissions for purposes of section 38N

38Z. (1) A person may, no later than 3 days in advance of his or her proposed arrival in the State, and in accordance with any regulations under section 38S(1)(m), apply to the Minister for an authorisation under subsection (2), on one or more of the following grounds:

- (a) medical or other exceptional reasons, including the necessity of providing care for any vulnerable person;
 - (b) urgent humanitarian grounds;
 - (c) such other grounds as may be prescribed under section 38S(1)(m).
- (2) The Minister shall grant an authorisation in writing to an applicant under subsection (1) only where the Minister—
- (a) in the case of an application made on a ground specified in subsection (1)(a), having considered the evidence of a registered medical practitioner where the request relates to any medical reason or relates to the care of a vulnerable person who would be in close contact with the applicant if the authorisation were granted, is satisfied that it is appropriate in all the circumstances, including the risk to public health involved, that the applicant should not be required to quarantine in a designated facility,
 - (b) in the case of an application made on a ground specified in subsection (1)(b), having considered the humanitarian grounds concerned, is satisfied that it is appropriate in all the circumstances, including the risk to public health involved, that the applicant should not be required to quarantine in a designated facility, or
 - (c) in the case of an application made on a ground specified in subsection (1)(c), having considered the grounds advanced, and having regard to the regulations concerned, is satisfied that it is appropriate in all the circumstances, including the risk to public health involved, that the applicant should not be required to quarantine in a designated facility.
- (3) A person to whom an authorisation under subsection (2) is granted—
- (a) for such period as is specified in the authorisation concerned, shall not be required under section 38N to quarantine in a designated facility, and
 - (b) shall be considered to be a person who is, accordingly, subject to the obligations to self-quarantine in any regulations made under

this Act applicable to persons arriving in the State from a state other than a designated state.

- (4) A person may, no later than 3 days in advance of his or her proposed arrival in the State, and in accordance with, and on such grounds as may be prescribed in, regulations under section 38S(1)(m), apply to a designated appeals officer for a permission under subsection (5).
- (5) A designated appeals officer shall grant a permission in writing to an applicant under subsection (4) only where the designated appeals officer, having considered the purposes for which the permission is sought, and having regard to the regulations concerned, is satisfied that it is appropriate in all the circumstances, including the risk to public health involved, to do so.
- (6) A person to whom a permission under subsection (5) has been granted may, while he or she is required to remain in a designated facility in accordance with section 38N, leave the designated facility for such purposes, and for such period, as are specified in the permission.”

Amendment of section 42 of Act of 1947

4. Section 42 of the Act of 1947 is amended—

- (a) in subsection (2), by the substitution of “Subject to subsection (2A), where a person is attended by a nurse” for “Where a person is attended by a nurse”,
 - (b) by the insertion of the following subsection after subsection (2):

“(2A) A charge shall be made for the attendance on persons at a designated facility.”,
- and
- (c) in subsection (3), by the substitution of “subsection (2) or (2A)” for “subsection (2)”.

Short title, commencement and operation

- 5.** (1) This Act may be cited as the Health (Amendment) (No. 3) Act 2021.
- (2) Subject to *subsection (3)*, this Act shall come into operation on such day or days as the Minister for Health may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
 - (3) *Sections 2, 3 and 4—*
 - (a) may, during the relevant period only, be the subject of an order under *subsection (2)*, and
 - (b) where they are the subject of such an order, shall, subject to *subsection (6)*, continue in operation during the relevant period only.

- (4) In this section, “relevant period” means—
- (a) the period of 3 months commencing on the day following the passing of this Act, or
 - (b) such further period as is specified in a resolution passed by each House of the Oireachtas under *subsection (5)*.
- (5) The relevant period may be extended by a resolution passed by each House of the Oireachtas—
- (a) before the expiry of the period of 3 months commencing on the day following the passing of this Act, or
 - (b) where the relevant period stands extended by a resolution under this subsection, before the expiry, in accordance with the resolution, of the relevant period, for such period (being a period not exceeding 3 months) as is specified in the resolution.
- (6) Where, in accordance with *subsection (3)(b)*, an amendment of the Act of 1947 referred to in that subsection ceases to be in operation on a particular date and, immediately before that date, a person is a person to whom this subsection applies, the amendment shall continue in operation in all respects for the purposes of ensuring that the quarantine or self-quarantine of the person in compliance with the amendment continues notwithstanding that cesser.
- (7) *Subsection (6)* applies to a person who is—
- (a) obliged under section 38N (inserted by *section 3*) of the Act of 1947 to quarantine, or
 - (b) obliged or considered to be obliged, under section 38N of the Act of 1947 or any regulations made under that Act which apply to persons arriving in the State from a state other than a designated state (within the meaning of section 38Q(1) of that Act), to self-quarantine.