



STATUTORY INSTRUMENTS.

S.I. No. 135 of 2021



HEALTH ACT 1947 (SECTION 31A - TEMPORARY RESTRICTIONS)
(COVID-19) (RESTRICTIONS UPON TRAVEL TO THE STATE FROM
CERTAIN STATES) (NO. 5) REGULATIONS 2021

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HEALTH ACT 1947 (SECTION 31A - TEMPORARY RESTRICTIONS)
(COVID-19) (RESTRICTIONS UPON TRAVEL TO THE STATE FROM
CERTAIN STATES) (NO. 5) REGULATIONS 2021

The Minister for Health, in exercise of the powers conferred on him by sections 5 and 31A (inserted by section 10 of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 (No. 1 of 2020)) of the Health Act 1947 (No. 28 of 1947) and –

- (a) having regard to the immediate, exceptional and manifest risk posed to human life and public health by the spread of Covid-19 and to the matters specified in subsection (2) of section 31A, and
- (b) having consulted with the Minister for Transport, the Minister for Foreign Affairs, the Minister for Housing, Local Government and Heritage, the Minister for Justice, the Minister for Enterprise, Trade and Employment, and the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media,

hereby makes the following regulations:

Part 1

Preliminary and general

Citation, revocation, commencement and operation

1. (1) These Regulations may be cited as the Health Act 1947 (Section 31A - Temporary Restrictions) (Covid-19) (Restrictions upon Travel to the State from Certain States) (No. 5) Regulations 2021.

(2) The Health Act 1947 (Section 31A - Temporary Restrictions) (Covid-19) (Restrictions upon Travel to the State from Certain States) (No. 4) Regulations 2021 (S.I. No. 44 of 2021) are revoked.

(3) These Regulations shall come into operation on the 26th day of March 2021 and shall have effect for the period beginning on that day and ending on the 9th day of June 2021.

Definitions

2. In these Regulations –

“Act of 1947” means the Health Act 1947 (No. 28 of 1947);

“Covid-19 Passenger Locator Form” means a Covid-19 Passenger Locator Form within the meaning of the Health Act 1947 (Section 31A - Temporary Requirements) (Covid-19 Passenger Locator Form) Regulations 2021 (S.I. No. 45 of 2021);

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 30th March, 2021.*

“designated state” has the same meaning as it has in the Act of 1947;

“exempted traveller” means –

- (a) a person –
 - (i) who –
 - (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 services¹, or
 - (II) is a driver of a heavy goods vehicle, and
 - (ii) who arrives in the State in the course of performing his or her duties,
- (b) 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) a person who –
 - (i) travels to the State from a relevant state in circumstances where it is impossible for the person to secure a relevant test result before so travelling, and
 - (ii) is in possession of written confirmation from the Minister for Foreign Affairs that the person has an urgent humanitarian reason for so travelling,
- (d) a person who travels to the State pursuant to an arrest warrant, extradition proceedings or other mandatory legal obligation,
- (e) a person who –
 - (i) travels to the State in the course of performing his or her duties, and
 - (ii) is a member of the Garda Síochána, the Defence Forces or an equivalent body or organisation outside the State,
- (f) a person 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, or
- (g) a person 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,

¹ OJ No. C 96I, 24.3.2020, p. 1

is required to travel to the State in order to continue providing such services, or performing such functions as the case may be;

“international organisation” means –

- (a) an organisation, and subordinate bodies of an organisation, governed by public international law, or
- (b) any other body that is established by, or on the basis of, an agreement between 2 or more states;

“place of residence” means –

- (a) in relation to a person who is ordinarily resident in the State –
 - (i) the home in which the person ordinarily resides, or
 - (ii) if the person does not have a home, such other premises, if any, at which he or she is currently residing, whether on a permanent or temporary basis, or
- (b) in relation to a person who is not ordinarily resident in the State, the premises 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;

“Regulations of 2021” means the Health Act 1947 (Section 31A - Temporary Restrictions) (Covid-19) (Restrictions upon Travel to the State from Certain States) (No. 4) Regulations 2021 (S.I. No. 44 of 2021);

“relevant geographical location” means a geographical location to which an affected areas order applies;

“relevant person” has the meaning assigned to it by Regulation 3;

“relevant state” means any state, country, territory, region or other place outside the State, other than Northern Ireland;

“relevant test result”, in relation to a person, means any record or evidence, in written or other electronic form, confirming that –

- (a) the person has been subject to a RT-PCR test,
- (b) such test was administered to the person no more than 72 hours before the person arrives in the State, and
- (c) Covid-19, or the virus SARS-CoV-2, was not detected in the person at the time of taking the test;

“relevant traveller” has the meaning assigned to it by Regulation 4;

“responsible adult” has the meaning assigned to it by Regulation 6;

“RT-PCR test” means a reverse transcription polymerase chain reaction test, 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;

“transit traveller” means a relevant traveller who arrives at a port or airport in the State for the purposes of travelling to another state, and does not leave the port or airport concerned before so travelling;

“travel organiser” has the meaning assigned to it by Regulation 7.

Relevant Persons

3. (1) Officers of the Minister for Justice, being immigration officers appointed by that Minister under section 3 of the Immigration Act 2004 (No. 1 of 2004) (each of whom, in these Regulations other than Regulation 9, is referred to as a “relevant person”) are specified as relevant persons for the purposes of these Regulations other than Regulation 9.

(2) Medical officers of health (each of whom, in Regulation 9, is referred to as a “relevant person”) are specified as relevant persons for the purposes of Regulation 9.

Relevant traveller

4. In these Regulations, “relevant traveller” means a person who –
- (a) is not an exempted traveller, and
 - (b) arrives in the State having been in a relevant state at any time in the period of 14 days prior to the date on which he or she so arrives.

Provision of certain information or documentation relating to travel

5. (1) A relevant traveller shall –
- (a) on arrival in the State, where the relevant traveller arrives in the State at a port or airport –
 - (i) present himself or herself to a relevant person, and
 - (ii) give or otherwise make available a relevant test result to the relevant person, or
 - (b) where the relevant traveller arrives in the State other than at a port or airport, or at a port or airport in which there is no relevant person –
 - (i) retain a relevant test result relating to himself or herself for a period of 14 days after so arriving, and
 - (ii) give or otherwise make available the relevant test result to a relevant person or a member of the Garda Síochána when requested to do so by such person or member.

(2) Where a relevant person or member of the Garda Síochána considers it necessary to do so, he or she may request a person, on the person’s arrival in the State or as soon as practicable thereafter, to provide or make available to the relevant person such information or documentation as the relevant person or member of the Garda Síochána may reasonably require in order to ascertain whether or not the person –

- (a) has a relevant test result,

- (b) is a relevant traveller,
- (c) is an exempted traveller, or
- (d) has been in a relevant state or a designated state in the period of 14 days prior to the date on which he or she arrives in the State.

(3) A person shall comply with a request under paragraph (2).

(4) Paragraphs (1) and (3) are penal provisions for the purposes of section 31A of the Act of 1947.

Part 2

Obligations relating to pre-travel Covid-19 tests

Obligations on relevant travellers

6. (1) A relevant traveller who is 18 years of age or older shall not travel to the State without having a relevant test result.

(2) A relevant traveller who –

- (a) is more than 7 years of age and less than 18 years of age, and
- (b) is not accompanied by a responsible adult,

shall not travel to the State without having a relevant test result.

(3) A person shall ensure that a relevant traveller in respect of whom he or she is a responsible adult does not travel to the State without having a relevant test result.

(4) Where –

- (a) there are 2 or more responsible adults in relation to a relevant traveller, and
- (b) the requirement in paragraph (3) is satisfied by any one of the responsible adults,

the requirement shall be deemed to be complied with by all such responsible adults.

(5) Without prejudice to paragraph (1), a relevant traveller (other than a transit traveller) who arrives in the State without having a relevant test result and is –

- (a) a person to whom the privileges and immunities conferred by the Vienna Convention on Diplomatic Relations done at Vienna on the 18th day of April 1961 or the Vienna Convention on Consular Relations done at Vienna on the 24th day of April 1963 apply in the State, or
- (b) a person 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,

shall, as soon as practicable after so arriving and in any event not later than 36 hours after so arriving –

- (i) undertake a RT-PCR test, and
- (ii) present himself or herself to a relevant person or a member of the Garda Síochána.

(6) Paragraphs (1), (3) and (5) are penal provisions for the purposes of section 31A of the Act of 1947.

(7) In this Regulation, “responsible adult” means, in relation to a relevant traveller who is more than 7 years of age and less than 18 years of age, a person who –

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

Obligations on travel organisers

7. (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 of his or her obligations under these Regulations,
- (b) take reasonable steps to check whether or not the person has a relevant test result, and
- (c) 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 a relevant test result.

(2) Paragraph (1)(c) 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 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 Regulation, “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 the person in the State from a relevant 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.

Part 3

Travel connected to certain states

Application of Part 3

8. (1) Subject to paragraph (2), this Part applies to a relevant traveller who is not, or is no longer, obliged to quarantine at a designated facility under section 38B of the Act of 1947.

(2) This Part shall not apply to a relevant traveller who is –

- (a) a transit traveller,
- (b) a person 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, or
- (c) a person 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.

Obligation on certain persons to self-quarantine

9. (1) Subject to this Regulation, a relevant traveller to whom this Part applies shall, during the period of 14 days beginning on the date on which he or she arrives in the State, remain in –

- (a) where a Covid-19 Passenger Locator Form was completed in respect of the relevant traveller, the place of residence specified on the Covid-19 Passenger Locator Form, or
- (b) where no Covid-19 Passenger Locator Form was completed in respect of the relevant traveller, the relevant traveller's place of residence.

(2) Where, for the purposes of paragraph (1), a relevant traveller specifies more than one place of residence on the Covid-19 Passenger Locator Form, or has more than one place of residence, the relevant passenger shall be deemed not to have complied with the requirement to remain in the place of residence under paragraph (1) where he or she so remains in more than one such place of residence.

(3) Paragraph (1) shall not apply to a person who is the subject of an order under section 38A of the Act of 1947.

(4) Subject to paragraphs (5) to (7), paragraph (1) shall no longer apply to a relevant traveller where he or she obtains written confirmation that –

- (a) the relevant traveller has been subject to a RT-PCR test,
- (b) such test was administered 5 days or more after the date on which the relevant traveller arrived in the State, and
- (c) Covid-19, or the virus SARS-CoV-2, was not detected in the relevant traveller at the time of taking the test.

(5) Where a relevant traveller to whom paragraph (1) applies has obtained written confirmation in accordance with paragraph (4) and the relevant traveller –

- (a) has been in a designated state at any time within the period of 14 days prior to the date on which he or she arrives in the State,
- (b) has, at any time within the period of 14 days prior to the date on which he or she arrives in the State, been in a relevant state that, after his or her arrival in the State, has become a designated state, or
- (c) has, at any time within the period of 14 days prior to the date on which he or she arrives in the State or following his or her arrival in the State, been in contact with a person who has been in a designated state at any time within the period of 14 days prior to the arrival of that person in the State,

then, notwithstanding the relevant traveller having obtained that written confirmation, a relevant person may, in writing –

- (i) notify the relevant traveller that paragraph (a), (b) or (c) applies, and
- (ii) direct the relevant traveller, subject to paragraphs (7) and (10), to remain in his or her place of residence until the expiration of a period of 14 days beginning on the date of his or her arrival in the State.

(6) A relevant traveller shall comply with a direction under paragraph (5).

(7) A direction of a relevant person under paragraph (5) shall no longer apply to a relevant traveller where the relevant traveller obtains written confirmation that –

- (a) the relevant traveller has been subject to a RT-PCR test,
- (b) such test was administered 10 days or more after the date on which the relevant traveller arrived in the State, and
- (c) Covid-19, or the virus SARS-CoV-2, was not detected in the relevant traveller at the time of taking the test.

(8) A person shall retain a written confirmation obtained under paragraph (4) or (7) for 14 days after receiving such confirmation.

(9) Paragraphs (1), (6) and (8) are penal provisions for the purposes of section 31A of the Act of 1947.

(10) A relevant traveller to whom paragraph (1) or a direction under paragraph (5) applies may only leave his or her place of residence during the

period to which that paragraph or direction applies for such period as is strictly necessary –

- (a) for unavoidable reasons of an emergency nature to protect a person's health or welfare,
 - (b) to avail of a test for the purposes of paragraph (4) or (7),
 - (c) to travel from his or her point of entry into the State to the place of residence in which he or she will remain in accordance with paragraph (1),
 - (d) to leave the State,
 - (e) to carry out essential repair, maintenance, construction or safety assurance of –
 - (i) critical transport infrastructure,
 - (ii) critical utility infrastructure,
 - (iii) manufacturing services,
 - (iv) information services, or
 - (v) communications services,
 - (f) where the relevant traveller is a member of staff of an international organisation, or a person invited to the State by an international organisation, to carry out functions required for the proper functioning of such organisations and which cannot be carried out remotely,
 - (g) where the relevant traveller is a journalist, to carry out his or her professional functions,
 - (h) where the relevant traveller has been provided by Sport Ireland with a written certification in accordance with paragraph (11), to attend the sporting event to which such certification relates, or to engage in training in relation to that event,
 - (i) in the case of a relevant traveller who, in accordance with section 38B(17)(a)(iv) of the Act of 1947, is no longer obliged to remain in quarantine in a designated facility, for the purpose of the matters referred to in section 38B(16)(d) of that Act on the grounds of which a review of the quarantine of the relevant traveller was requested under subsection (16) of that section, or
 - (j) in the case of a relevant traveller who, in accordance with section 38B(17)(a)(v) of the Act of 1947, is no longer obliged to remain in quarantine in a designated facility, for the purpose of the matters referred to in section 38B(16)(e) of that Act on the grounds of which a review of the quarantine of the relevant traveller was requested under subsection (16) of that section.
- (11) Sport Ireland may, in relation to a relevant traveller to whom this Part applies,
- (a) after consulting with the Health Service Executive, and

- (b) where it is satisfied that –
 - (i) the relevant traveller is a necessary person in relation to a sporting event,
 - (ii) the sporting event concerned is at an internationally important competitive level, and
 - (iii) satisfactory public health protocols and procedures are in place in relation to the sporting event for the purpose of preventing, limiting, minimising or slowing the spread of Covid-19,

provide the relevant traveller with a written certification stating that the relevant traveller may, notwithstanding paragraph (1) or a direction under paragraph (5), leave his or her place of residence during the period to which paragraph (1) or the direction applies for such period as is strictly necessary in order to attend the sporting event to which such certification relates, or to engage in training in relation to that event.

(12) In this Regulation –

“necessary person” means, in relation to a sporting event, any of the following persons whose presence at the sporting event is necessary for it to take place:

- (a) an athlete who is competing or playing in the sporting event, or who is eligible to so play or compete;
- (b) a coach or a trainer connected to an athlete referred to in paragraph (a);
- (c) medical personnel, including such personnel carrying out public health supervisory functions;
- (d) a person who attends the event in order to ensure that it is conducted in accordance with the rules of the sport concerned;
- (e) a person whose attendance at the event is necessary for it to be reported, recorded or broadcast;

“sporting event” means an event held wholly or partly for competitive sport reasons that is organised under the structure of, licenced by or otherwise authorised –

- (a) in relation to an event held, or to be held, in a relevant geographical location, by the national governing body of the sport in question, or
- (b) in relation to an event held, or to be held, in a place other than a relevant geographical location, by an organisation recognised by the national governing body of the sport in question as being responsible for organising international sporting competitions in that place.

Part 4
Miscellaneous

Data protection

10. (1) Subject to paragraphs (3) and (4), personal data, including data concerning health, provided to a relevant person or member of the Garda Síochána in accordance with these Regulations may be processed by the Minister for Justice and one or more relevant persons, for the purposes of –

- (a) recording and verifying information provided regarding a relevant test result, including whether or not a person is in possession of a relevant test result, and
- (b) recording and verifying information provided regarding whether or not a person –
 - (i) is an exempted traveller,
 - (ii) is a relevant traveller,
 - (iii) has been in a relevant state or a designated state in the period of 14 days prior to the date on which he or she arrives in the State, or
 - (iv) is a responsible adult.

(2) For the purposes of these Regulations, the Minister for Justice –

- (a) is designated as data controller in relation to personal data processed for the purposes of these Regulations, and
- (b) shall put in place appropriate data processing contracts, where necessary, with relevant persons processing personal data under these Regulations.

(3) Subject to paragraph (4) –

- (a) where a relevant person or member of the Garda Síochána is satisfied with a relevant test result presented to him or her under Regulation 6(5), no personal data or data concerning health shall be processed in relation to the relevant test result, and
- (b) personal data collected for the purpose of these Regulations shall not be retained for any period beyond which they are required for the purposes of these Regulations, and shall be permanently deleted after they are no longer so required.

(4) Notwithstanding paragraph (3), where personal data collected in accordance with these Regulations 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.

(5) Where, immediately before the coming into operation of these Regulations, personal data were being processed in accordance with –

- (a) Regulation 8(4) of the Health Act 1947 (Section 31A – Temporary Restrictions) (Covid-19) (Restrictions upon Travel to the State from Certain States) Regulations 2021 (S.I. No. 3 of 2021),
- (b) Regulation 8(4) of the Health Act 1947 (Section 31A – Temporary Restrictions) (Covid-19) (Restrictions upon Travel to the State from Certain States) (No. 2) Regulations 2021 (S.I. No. 11 of 2021),
- (c) Regulation 15(4) of the Health Act 1947 (Section 31A – Temporary Restrictions) (Covid-19) (Restrictions upon Travel to the State from Certain States) (No. 3) Regulations 2021 (S.I. No. 39 of 2021), or
- (d) Regulation 14(4) of the Regulations of 2021,

such data shall continue to be processed as if they were being processed under paragraph (4).

(6) In this Regulation –

“data concerning health” has the meaning it has in the General Data Protection Regulation;

“General Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 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)²;

“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.

Transitional arrangements

11. Notwithstanding their revocation by Regulation 1(2), the Regulations of 2021 shall, insofar as they relate to a relevant traveller within the meaning of the Regulations of 2021 who arrived in the State before the coming into operation of these Regulations and is required to remain in a place of residence in accordance with Regulation 10(1) or 12(1) of the Regulations of 2021, continue in operation in respect of the relevant traveller concerned until the requirement to remain in the place of residence no longer applies to the relevant traveller in accordance with the Regulations of 2021.

² OJ No. L 119, 4.5.2016, p. 1

Amendment of Health Act 1947 (Section 31A - Temporary Requirements) (Covid-19 Passenger Locator Form) Regulations 2021

12. The Health Act 1947 (Section 31A - Temporary Requirements) (Covid-19 Passenger Locator Form) Regulations 2021 are amended by the substitution of the following paragraph for paragraph (b) of Regulation 8(1):

“(b) the Garda Síochána, where required for the purposes of the prevention, detection, investigation or prosecution of a criminal offence arising from a contravention of a provision stated to be a penal provision under these Regulations, the Health Act 1947 (Section 31A - Temporary Restrictions) (Covid-19) (Restrictions upon Travel to the State from Certain States) (No. 4) Regulations 2021 (S.I. No. 44 of 2021) or the Health Act 1947 (Section 31A - Temporary Restrictions) (Covid-19) (Restrictions upon Travel to the State from Certain States) (No. 5) Regulations 2021 (S.I. No. SI 135 of 2021).”.



GIVEN under the Official Seal of the Minister for Health,
25 March, 2021.

FERGAL GOODMAN,

A person authorised under section 15 of the Ministers and
Secretaries Act 1924 to authenticate the seal of the
Minister for Health.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations made under Section 31A (inserted by section 10 of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 (No. 1 of 2020)) of the Health Act 1947 (No. 28 of 1947) place on obligations to observe pre-departure testing requirements and mandatory quarantine requirements on categories of international passenger.

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