

**EXPLANATORY MEMORANDUM TO**  
**THE STATUTORY SICK PAY (GENERAL) (CORONAVIRUS AMENDMENT)**  
**(NO. 5) REGULATIONS (NORTHERN IRELAND) 2020**

**S.R. 2020 NO. 167**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under 147(4) and (4A), 159(4) and 171(1), (3), (4) and (5A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the 1992 Act”), and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1 These Regulations amend the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982 in order to extend eligibility for Statutory Sick Pay (SSP) to cover people where they are self-isolating for a minimum of 10 days in line with the Statement from the UK Chief Medical Officers (CMO) on the extension of self-isolation period on 30 July 2020.

**3. Background**

- 3.1 The announcement by the UK CMO’s on 30 July 2020, advises that anyone having to self-isolate after this date because they have tested positive for coronavirus or have symptoms of coronavirus, are advised to do so for 10 days instead of 7. The existing SSP regulations ensure a person is eligible for SSP for 7 days if they are self-isolating because they have symptoms. This Statutory Rule amends the SSP Regulations to ensure that these people are paid SSP for the full 10 days.
- 3.2 SSP is paid by employers to employees who are incapable of work due to sickness. It is paid at a flat rate of £95.85 for up to 28 weeks. To be eligible for SSP, an individual must: be classed as an employee and have done some work for their employer; have been ill for at least 4 days in a row (including non-working days); earn an average of at least £120 per week; and tell their employer that they are sick before the employer’s deadline, or within 7 days if the employer has not set a deadline.
- 3.3 Powers under section 147(4) of the 1992 Act provide that regulations may be made which deem an employee to be incapable of work, meaning that they can potentially then be eligible for SSP. Under regulation 2 of the SSP Regulations as amended, individuals may be eligible for SSP if they stay at home and self-isolate in accordance with guidance because they have symptoms of coronavirus, or someone in their household is displaying symptoms, and they are unable to work as a result of that isolation. The SSP Regulations also clarify that a person is eligible for SSP where he or she is extremely vulnerable and at very high risk of severe illness from coronavirus

because of an underlying health condition and has been notified in accordance with public health guidance to follow shielding measures.

- 3.4 These regulations provide that a person continues to be eligible for SSP for up to 10 days if they have to self-isolate because they have tested positive for coronavirus or have symptoms of coronavirus.

#### **4. Consultation**

- 4.1 There is no requirement to consult on these regulations.

#### **5. Equality Impact**

- 5.1 An equality impact assessment has not been carried out in relation to this Statutory Rule because of the need to make and lay urgently to encourage those who need to shield to stay at home and minimise the risk to public health arising from COVID-19.

#### **6. Regulatory Impact**

- 6.1 The legislation applies to activities which are undertaken by small businesses and owing to the urgent nature of the requirement for this legislation it is not appropriate to carry out a Regulatory Impact Assessment.

#### **7. Section 24 of the Northern Ireland Act 1998**

- 7.1 The Department has considered section 24 of the Northern Ireland act 1998 and is satisfied that the Rule –
- (a) is not incompatible with any of the Convention rights;
  - (b) is not incompatible with Community law;
  - (c) does not discriminate against a person or class of person on the grounds of religious belief or political opinion; and
  - (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

#### **8. E U Implications**

- 8.1 Not applicable.

#### **9. Parity or Replicatory Measure**

- 9.1 These Regulations are equivalent to the Statutory Sick Pay (General) (Coronavirus Amendment) (No.5) Regulations 2020 (SI 2020/829) which were made in Great Britain on 4th August 2020 and came into force on 5th August 2020.

#### **10. Additional Information**

- 10.1 Not applicable.

#### **11. Guidance**

- 11.1 Public health guidance is available at this link:  
[www.publichealth.hscni.net/news/covid-19-coronavirus](http://www.publichealth.hscni.net/news/covid-19-coronavirus) (Regional Agency for Public Health and Social well- being)

## **12. 21 Day Rule**

- 12.1 The Department for Communities was unable to adhere to the 21 Day Rule in making this Statutory Rule due to a rapidly changing policy environment which necessitates immediate legislative change as a result of the coronavirus pandemic. The UK CMOs announced on 30 July 2020 that self-isolation would increase from 7 days to 10 days. In order for persons to be eligible for SSP over the 10 day shielding period, this Statutory Rule must be operative before 7 August 2020.