

EXPLANATORY MEMORANDUM TO

THE STATUTORY SICK PAY (GENERAL) (CORONAVIRUS AMENDMENT) (No. 2) REGULATIONS (NORTHERN IRELAND) 2020

S.R. 2020 No. 37

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 sections 147(4), 149(6) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations will ensure that Regulation 2 of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982 is amended to reflect the date of the latest guidance provided by the Regional Agency for Public Health and Social Well-being relating to coronavirus. It ensures that a person who is following that guidance and is self-isolating is deemed to be incapable of work, and therefore entitled to Statutory Sick pay.

3. Background

- 3.1. These are emergency regulations in relation to the Government's response to coronavirus. The regulations have been prepared as soon as it became clear that there was a need for the measures they contain. The measures are required as a matter of urgency as part of the Government response to a developing outbreak, in order to reduce the risk that employees will continue to work despite advice that they should self-isolate. These regulations will therefore come into force the day after they are made meaning that the usual period of 21 days between laying and coming into force will not apply.
- 3.2. This change will give certainty to individuals that they will be entitled to receive Statutory Sick Pay if they are self-isolating and therefore unable to work as a result of following government advice. This is essential to ensure people follow

government advice regarding self-isolation in order to minimise the risk to public health.

3.3. These regulations refer to guidance issued by the Regional Agency for Public Health and Social Well-being in relation to coronavirus, on a particular date. The original regulation reflected the guidance as at 12 March. This regulation reflects the fact that the guidance was updated on 16 March. As and when this guidance is updated again, these regulations will need to be amended accordingly, as a matter of urgency.

4. Consultation

4.1. Given the urgency of these Regulations no consultation has been carried out.

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 self-isolation and minimise the risk to public health arising from Coronavirus.

6. Regulatory Impact

6.1. 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 ground 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. EU 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.2) Regulations 2020 ([SI 2020/304](#)) which were made in Great Britain on 16th March 2020 and came into force on 17th March 2020.

10. Additional Information

10.1 Statutory Sick Pay is paid for by employers to employees who are incapable of work due to sickness. It is paid at a flat rate of £94.25 for up to 28 weeks. The rate will increase to £95.85 from 6 April 2020 in line with annual uprating. 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 £118 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.

Regulation 2 of the Statutory Sick Pay (General) Regulations 1982 provides for people to be treated as incapable of work if they are sick for the purposes of claiming Statutory Sick Pay. As a result of the Statutory Sick Pay (General) (Coronavirus Amendment) Regulations (Northern Ireland) 2020, provision is now included for those who are self-isolating as a result of government advice as at 12 March 2020. The Regulation therefore required amendment to refer to the amended guidance as issued on 16 March 2020.

The amended regulations refer to guidance issued by the Regional Agency for Public Health and Social Well-being in relation to coronavirus on a given date. The regulations will need to be amended as and when the guidance is revised. Such amendments may need to be made frequently, depending on the extent of changes to the guidance, and will need to be made quickly to ensure the regulations reflect the latest public health advice.