

EXPLANATORY MEMORANDUM TO
THE STATUTORY SICK PAY (GENERAL) (AMENDMENT)
REGULATIONS 2006

2006 No. 799

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 These regulations make amendments to the Statutory Sick Pay (General) Regulations 1982 (SI 1982/894). They are necessary to more accurately reflect the references in public health legislation to local authority powers to prevent a person from working. In doing so, they update the Statutory Sick Pay arrangements for dealing with a person who is not actually incapable of work but needs to be prevented from working because they are a carrier, or having come into contact with an infectious disease. The amendments replace out of date terminology and references. They do not change the existing policy intention.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Background**

4.1 The Public Health (Control of Disease) Act 1984 and the Public Health (Infectious Diseases) Regulations 1988 make provision for notices to stop work to prevent the spread of disease to be issued in England and Wales. Corresponding Scottish provision is made in the Health Services and Public Health Act 1968.

4.2 Section 151(4) of the Social Security Contributions and Benefits Act 1992 provides for regulations to prescribe the circumstances when an employee may be deemed to be incapable of work. Regulation 2(1)(b) of the Statutory Sick Pay (General) Regulations 1982 makes provision for deeming incapacity if an employee is “*excluded from work or work of such a kind, on the certificate of a Medical Officer for Environmental Health and is under medical observation by reason of his being a carrier, or having been in contact with a case of infectious disease*”.

4.3 Cross-Government contingency planning for the quarantine arrangements for dealing with a possible outbreak of disease brought to our

attention the fact that the provision of the Statutory Sick Pay (General) Regulations described in paragraph 4.2 above is no longer accurate. Public health legislation no longer refers to a '*certificate of a Medical Officer for Environmental Health*'. These amending regulations correct this error and adopt the appropriate terminology in order to maintain the longer established policy intention.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Statutory Sick Pay (SSP) is administered and paid for by employers, who have a statutory liability to pay SSP for up to 28 weeks, to any employee incapable of work under their contract of service, for four or more days in a row and who satisfy the qualifying conditions. Employers are entitled to ask for reasonable evidence of incapacity for work, for example a self-certificate for spells of four to seven days or a doctor's statement for periods after the first seven days.

7.2 There is provision in Public Health (infectious disease) legislation for a person to be asked by local authorities to stay off work for the purpose of preventing the spread of disease. These people may not actually be sick and incapable of work for SSP purposes. However, the long-standing policy intention is that, provided the qualifying conditions are met, they may be *deemed* incapable of work.

7.3 These amendments to the existing regulations are necessary to ensure the SSP legislation accurately reflects the terms and references in the public health legislation, in order that the policy intention is maintained. Specifically they remove reference to Environmental Health from the regulations and inserts details of 'public health provision'. They provide for an employee to be deemed incapable of work if he has abstained from work by a notice issued under the relevant public health legislation listed.

7.4 The regulations have been submitted to the Social Security Advisory Committee for their consideration. Under the powers conferred by Section 173(1)(b) of the Social Security Administration Act 1992, the Committee has decided that it does not wish to have the regulations formally referred[nor did they wish to seek any further consultation. No other consultation has taken place for this because this amendment corrects wording without changing the intention of this piece of legislation. There is very little capacity to alter this amendment so this would devalue any consultation.

8. Impact

8.1 A full regulatory impact assessment has not been produced for these regulations as they have no impact on the costs of business.

8.2 There is no impact on the public sector.

9. Contact

Ann-Maria Loughman at the Department for Work and Pensions Tel: 020 7962 8094 or e-mail: ann-maria.loughman@dwp.gsi.gov.uk can answer any queries regarding the instrument.