

EXPLANATORY MEMORANDUM TO

THE STATUTORY SICK PAY (GENERAL) (CORONAVIRUS AMENDMENT) (NO. 4) REGULATIONS 2020

2020 No. 539

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument provides that a person who has been advised, by a relevant notification, that they have had contact with a person who has coronavirus, and that they should stay at home and self-isolate as a result, is deemed to be incapable of work, and therefore entitled to Statutory Sick Pay. This forms an important part of the UK Government's Contact Tracing strategy.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The Secretary of State, in exercise of the powers conferred by sections 151(4) and 175(1), (3), (4) and (5A) of the Social Security Contributions and Benefits Act 1992(c. 4), makes these regulations.

The measures are required as a matter of urgency as part of the Government's response to coronavirus. The UK's contact tracing strategy forms a key part of the government's response to the coronavirus outbreak, both in terms of managing and limiting the spread of the virus. It is important that these regulations are in place when the scheme is launched, to provide financial support to those employees who are unable to work as a result of self-isolation.

The regulations will come into force on the day after they are laid, meaning that the usual period of 21 days between laying and coming into force will not apply.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England, Wales and Scotland ONLY. The instrument relates to a reserved matter within the devolved legislative competence of the Northern Ireland Assembly. The Department for Communities in Northern Ireland will make regulations to align with these changes.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 Statutory Sick Pay (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.

Powers under section 151(4) of the 1992 Social Security Contributions and Benefits Act 1992 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 regulations 2 of the Statutory Sick Pay (General) Regulations 1982 (SI 1982/894), 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 current regulations do not include individuals who are advised to stay at home and self-isolate if they have received notification to do so, on the grounds that they have come into contact with someone who has coronavirus, unless that person is a member of their household. The regulations therefore need to be amended to specifically include such cases.

These regulations amend the 1982 Regulations to extend SSP eligibility to those who have been notified that they should self-isolate because they have had contact with someone with coronavirus, and they are unable to work as a result.

These Regulations will be kept under review in line with any renewal or revision of the Coronavirus Act 2020.

7. Policy background

- 7.1 These regulations will provide certainty to individuals that they will be entitled to SSP if they are notified that they need to isolate because they have come into contact with someone who has coronavirus and they are unable to work as a result.

This is an important measure to provide an incentive to individuals to follow government advice and therefore it will support efforts to limit or contain the spread of the virus. It forms an important part of the UK Government's Contact Tracing strategy.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 Consolidation is not being done as this does not apply.

10. Consultation outcome

10.1 Given the urgency of these regulations, no consultation has been done.

11. Guidance

11.1 Guidance will be available on GOV.UK for individuals to understand how to comply with necessary actions as a result of contact tracing.

12. Impact

12.1 We have not assessed the impact on business, charities or voluntary bodies because of the need to make and lay the instrument urgently to encourage those to who need to self-isolate to stay at home and minimise the risks to public health arising from Covid-19.

12.2 We have not assessed the impact on the public sector because of the need to make and lay the instrument urgently to encourage those to who need to self-isolate to stay at home and minimise the risks to public health arising from Covid-19.

12.3 A full Impact Assessment has not been prepared for this instrument because of the need to make and lay the instrument urgently to encourage those to who need to self-isolate to stay at home and minimise the risks to public health arising from Covid-19.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 Given the urgency of these regulations, no consultation has been conducted.

14. Monitoring & review

14.1 These regulations will be reviewed in line with any revision or renewal of the Coronavirus Act or when the measures are no longer required.

15. Contact

15.1 Rachel Nicholls at the Department for Work and Pensions email: rachel.nicholls@dwp.gov.uk can be contacted with any queries regarding the instrument.

15.2 Angus Gray, Deputy Director at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Justin Tomlinson, Minister for Disabled People, Health and Work can confirm that this Explanatory Memorandum meets the required standard.