

EXPLANATORY MEMORANDUM TO

THE STATUTORY SICK PAY (CORONAVIRUS) (FUNDING OF EMPLOYERS' LIABILITIES) (CLOSURE) REGULATIONS AND THE STATUTORY SICK PAY (CORONAVIRUS) (FUNDING OF EMPLOYERS' LIABILITIES) (NORTHERN IRELAND) (CLOSURE) REGULATIONS 2021

2021 No. 1013

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) Regulations 2020 (SI 2020/512) and the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) Regulations 2020 (SI 2020/513). The instrument closes the Statutory Sick Pay (SSP) Rebate Scheme with effect from 30 September 2021 so that any absence related to coronavirus occurring after 30 September 2021 will not be eligible for the rebate. It also provides a three-month administrative period for businesses to make any remaining claims for eligible SSP costs incurred up to 30 September 2021; this administration period will end on 31 December 2021.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain and Northern Ireland.
4.2 The territorial application of this instrument is Great Britain and Northern Ireland.

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 The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) Regulations 2020 came into force on 26 May 2020, with mirroring changes for Northern Ireland in the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) Regulations 2020, under powers inserted into the Social Security Contributions and Benefits Act 1992 and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 by the Coronavirus Act 2020.
6.2 Those regulations were amended by the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Amendment) Regulations and the Statutory Sick Pay

(Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) (Amendment) Regulations 2020 (SI 2020/1030), which made several administrative amendments.

- 6.3 The regulations were further amended by the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Amendment) Regulations and the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) (Amendment) Regulations 2021 (SI 2021/281) to increase the maximum SSP costs that an employer may claim per employee from 6 April 2021, in line with the corresponding increase in the rate of SSP.
- 6.4 The Secretary of State for Work and Pensions concurred to the making of the final text of this instrument.

7. Policy background

What is being done and why?

- 7.1 At the Budget on 11 March 2020, the Chancellor announced that legislation would be introduced to refund some of the costs of SSP related to coronavirus to some employers. The SSP Rebate Scheme launched on 26 May 2020, enabling employers to access this support.
- 7.2 The government has since reviewed the wide range of support provided to businesses and employers as part of the broad COVID-19 financial support package. It has decided to close the SSP Rebate Scheme. This instrument will therefore close the scheme and return the funding of SSP entirely to the position prior to COVID-19, with employers meeting all the costs.
- 7.3 As a result, employers will no longer be able to claim for a rebate of qualifying SSP payments for any period of employee absence after 30 September 2021. However, employers will have until 31 December 2021 to claim a refund of qualifying SSP payments related to employees' absence up to, and including, 30 September 2021.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are no plans to consolidate as this legislation is time-limited by the Coronavirus Act 2020.

10. Consultation outcome

- 10.1 The SSP Rebate Scheme was introduced through temporary, emergency legislation, which provided the government powers needed to respond to the coronavirus epidemic. Powers were to be used only if needed, judged based on clinical and scientific advice. Safeguards were built in to ensure that powers were only used as necessary. The government has now concluded that the rebate is no longer necessary and have confirmed this temporary scheme will end on 30 September 2021. Given this instrument acts to deliver this decision, no consultation was considered necessary regarding its closure.

11. Guidance

- 11.1 The guidance continues to be available on GOV.UK for individuals and employers to understand how to access SSP and support with the costs of coronavirus related SSP. This guidance will be updated from 7 September 2021 to reflect the changes arising out of the closure of the scheme and can be found at <https://www.gov.uk/guidance/claim-back-statutory-sick-pay-paid-to-employees-due-to-coronavirus-covid-19>.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is that they will no longer be able to claim for a refund of qualifying SSP payments for any period of employee absence related to coronavirus that occurs after 30 September 2021. Funding of SSP will revert to being met entirely by the employer.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been produced for this instrument because it is covered by the Summary of Impacts published with the Coronavirus Bill on 19 March 2020 at <https://publications.parliament.uk/pa/bills/cbill/58-01/0122/Coronavirus%20Bill%20Impact%20Assessment%20final%20pdf.pdf> (see pages 72 to 73). Copies are also available from the Department of Health and Social Care, 39 Victoria Street, Westminster, London SW1H 0EU.

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 The basis for the final decision on what action to take to assist small businesses is that this instrument returns the funding of SSP to be met entirely by the employer.

14. Monitoring & review

- 14.1 The government keeps all areas of the tax and benefit system under review, and that includes this instrument.
- 14.2 These regulations do not include a statutory review clause because they are dependent on the Coronavirus Act 2020, which has a two-year expiry period.

15. Contact

- 15.1 Richard Greaves at HMRC Telephone: 03000 590820 or email: richard.greaves2@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Gareth Jones, Deputy Director for National Insurance Contributions Policy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.