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STATUTORY RULES OF NORTHERN IRELAND

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**2020 No. 281**

**EMPLOYMENT**

**The Employment Rights (Northern Ireland) Order  
1996 (Coronavirus, Calculation of a Week's Pay)  
(Amendment) Regulations (Northern Ireland) 2020**

*Made* - - - - *26th November 2020*  
*Coming into operation* *27th November 2020*

The Department for the Economy<sup>(1)</sup> makes the following Regulations in exercise of the powers conferred by Article 24(4) of the Employment Rights (Northern Ireland) Order 1996<sup>(2)</sup> and now vested in it<sup>(3)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Employment Rights (Northern Ireland) Order 1996 (Coronavirus, Calculation of a Week's Pay) (Amendment) Regulations (Northern Ireland) 2020 and come into operation on 27th November 2020.

**Amendment of the Employment Rights (Northern Ireland) Order 1996 (Coronavirus, Calculation of a Week's Pay) Regulations (Northern Ireland) 2020**

2. The Employment Rights (Northern Ireland) Order 1996 (Coronavirus, Calculation of a Week's Pay) Regulations (Northern Ireland) 2020<sup>(4)</sup> are amended as follows.

**Amendment of regulation 2 (interpretation)**

3. In regulation 2(1)—

(a) for the definition of “Coronavirus Job Retention Scheme” substitute—

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- (1) Formerly the Department of Economic Development; see Article 3(5) of the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I. 1)) and section 1(3) of the Departments Act (Northern Ireland) 2016 c. 5 (N.I.).
- (2) S.I. 1996/1919 (N.I. 16).
- (3) The functions of the Department of Economic Development under the Employment Rights (Northern Ireland) Order 1996 were transferred to the Department of Higher and Further Education, Training and Employment by S.R. 1999 No. 481, Article 4(b) and Schedule 2, Part II. The Department of Higher and Further Education, Training and Employment was renamed the Department for Employment and Learning by 2001 c. 15 (N.I.), section 1(1), and following the dissolution of that department by the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.)), section 1(10), its functions under the Employment Rights (Northern Ireland) Order 1996 were transferred to the Department for the Economy by S.R. 2016 No. 76, Article 6(1)(c).
- (4) S.R. 2020 No. 178.

““Coronavirus Job Retention Scheme” means the scheme of that name established by the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction, given by the Treasury under sections 71 and 76 of the Coronavirus Act 2020(5) on 15th April 2020, as modified from time to time by further Directions given by the Treasury under those sections, to provide for claims to be made in respect of E in relation to any period ending on or before 31st March 2021(6);”

- (b) omit the definition of “the first CJRS Direction”,
- (c) in the definition of “flexibly-furloughed employee”, for “paragraph 10.1 to 10.3 of the Schedule to the third CJRS Direction” substitute “the Coronavirus Job Retention Scheme”,
- (d) in the definition of “furloughed employee”, for “paragraph 6.1 to 6.12 of the Schedule to the second CJRS Direction, as modified by paragraph 4 of the Schedule to the third CJRS Direction” substitute “the Coronavirus Job Retention Scheme”,
- (e) omit the definition of “the second CJRS Direction”,
- (f) omit the definition of “the third CJRS Direction”.

#### **Amendment of regulation 3 (calculation of a week’s pay in relation to furloughed employees)**

- 4. In regulation 3(2)(a) for “31st October 2020” substitute “31st March 2021”.

Sealed with the Official Seal of the Department for the Economy on 26th November 2020.



*Colin Jack*  
A senior officer of the  
Department for the Economy

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(5) 2020 c. 7.

(6) The Coronavirus Job Retention Scheme established by that direction has been modified by the following directions given by the Treasury under sections 71 and 76 of the Coronavirus Act 2020: the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction given on 20th May 2020, the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction given on 25th June 2020, the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction given on 1st October 2020, and the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction given on 13th November 2020. Copies of the directions can be found at: <https://www.gov.uk/government/publications/treasury-direction-made-under-sections-71-and-76-of-the-coronavirus-act-2020>. Hard copies are available for inspection, free of charge, at the offices of HMRC at 10 South Colonnade, Canary Wharf, London E14 4PH. In an announcement relating to a policy paper published on 5th November 2020, HM Revenue and Customs stated that the Coronavirus Job Retention Scheme would remain open until 31st March 2021. A copy of that announcement can be found at: <https://www.gov.uk/government/publications/extension-to-the-coronavirus-job-retention-scheme/extension-of-the-coronavirus-job-retention-scheme>.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Employment Rights (Northern Ireland) Order 1996 (Coronavirus, Calculation of a Week's Pay) Regulations (Northern Ireland) 2020 ("the principal Regulations") set out how a week's pay is to be calculated in the case of an employee who has been furloughed under the Coronavirus Job Retention Scheme ("the CJRS"), for the purposes of calculating:

- a) any statutory remuneration for time off to look for employment or arrange training;
- b) any statutory notice payment;
- c) any statutory sum resulting from a failure to provide a written statement of reasons for dismissal;
- d) any statutory sum resulting from a failure to comply with an order for reinstatement or re-engagement;
- e) any statutory compensation for unfair dismissal; and
- f) any statutory redundancy payment,

to which in each case they are entitled. In such a case the Regulations also set out how a week's pay is to be calculated for the purpose of deciding whether an employee is taken to be on short-time for statutory purposes.

The CJRS was extended by the Coronavirus Act 2020 Functions of Her Majesty's Revenue and Customs (Coronavirus Job Retention Scheme) Direction, given by the Treasury under sections 71 and 76 of the Coronavirus Act 2020 on 13th November 2020. These Regulations make amendments to the principal Regulations consequent on the extension of the CJRS.

Copies of the Directions can be found at: <https://www.gov.uk/government/publications/treasury-direction-made-under-sections-71-and-76-of-the-coronavirus-act-2020>. Hard copies are available for inspection, free of charge, at the offices of HMRC at 10 South Colonnade, Canary Wharf, London E14 4PH.

No impact assessment has been prepared for these Regulations.