

## **EXPLANATORY MEMORANDUM**

### **THE STATUTORY SICK PAY (MAINTENANCE OF RECORDS) (REVOCATION) REGULATIONS (NORTHERN IRELAND) 2014**

**S.R. 2014 No. 65**

#### **1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under powers conferred by the Social Security Administration (Northern Ireland) Act 1992 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1 These regulations revoke regulation 13 of the Statutory Sick Pay (General) Regulations 1982 (SR 1982 No. 263) which provide for records concerning payments of Statutory Sick Pay to be retained by employers.

#### **3. Background**

- 3.1 On 17 February 2011 the UK Government called for a major review of the current sickness absence system. The review was commissioned and chaired by Dame Carol Black and David Frost CBE. A report of the review's findings entitled "Health at Work: An Independent Review of Sickness Absence" was published in November 2011 making 13 separate recommendations aimed at improving the existing sickness absence and benefits systems. This included the abolition of the Percentage Threshold Scheme (PTS) and the associated regulatory Statutory Sick Pay (SSP) record keeping obligations of employers.
- 3.2 The Statutory Sick Pay Percentage Threshold (Revocation, Transitional and Savings Provisions) (Great Britain and Northern Ireland) Order 2014 will abolish the Statutory Sick Pay Percentage Threshold Scheme in both Great Britain and Northern Ireland. SSP is funded by employers. However, the PTS allows employers to claim reimbursement of some, or all, of the costs they incur when the amount of SSP paid exceeds 13% of their National Insurance Contribution (NIC) liability in any tax month. Employers recover the payments of SSP by reducing the amount of their NIC payments to Her Majesty's Revenue and Customs (HMRC).
- 3.3 Regulation 13 of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982 requires employers in Northern Ireland to maintain records for each employee relating to sick absence and payment of SSP where

appropriate. These specific records support claims for reimbursement under the PTS and in addition HMRC may need sight of them to confirm that employers are claiming reimbursement correctly and/or meeting their obligation to pay SSP to qualifying employees.

- 3.4 The vast majority of employers meet their obligations with regard to payment of SSP and regulation 13A of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982 obligates employers to produce records to an authorised officer of the Commissioners of the Inland Revenue (now HMRC) to satisfy him that SSP is paid appropriately. This regulation remains unchanged.
- 3.5 With the withdrawal of the PTS the specific obligations of Regulation 13 are however no longer necessary and a regulatory burden can now be lifted from employers by virtue of the amending provisions of this statutory rule. Employers will be free to keep records in the manner which suits their particular business.

#### **4. Consultation**

- 4.1 A formal consultation on these regulations was not considered necessary as the changes are being made as a consequence of the UK Government's wider policy decision to withdraw the PTS.
- 4.2 The Social Security Advisory Committee considered similar Great Britain regulations at its meeting on 7th August 2013 and it was agreed that they should proceed without formal referral.

#### **5. Equality Impact**

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that the proposals do not have significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

#### **6. Regulatory Impact**

- 6.1 A Regulatory Impact Assessment on the impact of these Regulations on businesses, charities and the voluntary sector has been completed. Copies of that assessment may be obtained from the Department for Social Development, Social Security Policy and Legislation Division, Level 1, James House, 2 Cromac Avenue, Gasworks Business Park, Ormeau Road, Belfast, BT7 2JA or from the Departments website: <http://www.dsdni.gov.uk/index/ssa/ssani-publications/ssani-reports-plans.htm>.

## **7. Financial Implications**

7.1 There are no significant costs to the Department to implement these proposals.

## **8. Section 24 of the Northern Ireland Act 1998**

8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied 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.

## **9. EU Implications**

9.1 Not applicable.

## **10. Parity or Replicatory Measure**

10.1 The corresponding Great Britain Regulations are the Statutory Sick Pay (Maintenance of Records) (Revocation) Regulations 2014(S.I. 2014/55). In keeping with the long-standing principle of parity in social security, the Regulations will come into operation on 6 April 2014, the same date as the corresponding Great Britain Regulations.

10.2 Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.