

EXPLANATORY MEMORANDUM TO
THE STATUTORY SICK PAY (GENERAL) (CORONAVIRUS AMENDMENT) (NO. 4) REGULATIONS (NORTHERN IRELAND) 2020

SR 2020 No. 89

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under sections 147(4) and 171(1), (3), (4) and (5A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations amend the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982 (“1982 Regulations”). The effect of this amendment is to provide that a person who has been advised, by a relevant notification, that they have had contact with a person who has symptoms of coronavirus or has been infected by coronavirus, 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.

3. Background

- 3.1 The Minister for Communities, in exercise of the powers conferred by sections 147(4) and 171(1), (3), (4) and (5A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, makes these Regulations.
- 3.2 The measures are required as a matter of urgency as part of the Executive’s response to coronavirus. Contact tracing forms an important part of the Department of Health’s Test, Trace, Isolate, Support Strategy, both in terms of managing and limiting the spread of the virus. It is important that regulations amending Statutory Sick Pay are in place to extend it to employees who are advised to self-isolate and who are unable to work as a result of self-isolation to provide financial support and help ensure people follow self-isolation advice.
- 3.3 The Regulations will come into operation on the day after they are laid, meaning that the usual period of 21 days between laying and coming into operation will not apply.

4. Consultation

- 4.1 Given the urgency of these Regulations, no consultation has been carried out.

5. Equality Impact

- 5.1 An equality impact assessment has not been carried out in relation to this Statutory Rule because of the need to make and lay urgently to encourage those are advised to

self-isolate to stay at home and minimise the risk to public health arising from the coronavirus outbreak.

6. Regulatory Impact

- 6.1 The legislation applies to activities which are undertaken by small businesses and owing to the urgent nature of the requirement for this legislation it is not appropriate to carry out a Regulatory Impact Assessment.

7. Section 24 of the Northern Ireland Act 1998

- 7.1 The Department has considered section 24 of the Northern Ireland act 1998 and is satisfied that 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 grounds of religious belief or political opinion; and

(d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

8. E U Implications

- 8.1 Not applicable.

9. Parity or Replicatory Measure

- 9.1 These Regulations are equivalent to the Statutory Sick Pay (General) (Coronavirus Amendment) (No.4) Regulations 2020 (SI 2020/539) which were made in Great Britain on 26th May 2020 and came into force on 28th May 2020.

10. Legislative Context

- 10.1 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.

- 10.2 Powers under section 147(4) of the Social Security Contributions and Benefits (Northern Ireland) 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 regulation 2 of the 1982 Regulations (S.R. 1982 No. 263), 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 1982 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 symptoms of coronavirus or has been infected by coronavirus, unless that person is a member of their household. The 1982 Regulations therefore need to be amended to specifically include such cases.

- 10.3 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 symptoms of coronavirus or has been infected by coronavirus, and they are unable to work as a result.
- 10.4 These Regulations will be kept under review in line with any renewal or revision of the Coronavirus Act 2020.

11. Policy background

- 11.1 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 symptoms of coronavirus or has tested positive for coronavirus and they are unable to work as a result.
- 11.2 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.

12. Guidance

- 12.1 Guidance will be available on [NIDirect.gov.uk](https://nidirect.gov.uk) and www.health-ni.gov.uk for individuals to understand how to comply with necessary actions as a result of contact tracing. The public health guidance referred to in the Regulations is available at this link: www.publichealth.hscni.net/news/covid-19-coronavirus (Regional Agency for Public Health and Social well-being).

13. Monitoring & review

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

14. Contact

- 14.1 Anne McCleary at the Department for Communities. Telephone: 02890 839332 or email: anne.mccleary@communities-ni.gov.uk can be contacted with any queries regarding the Statutory Rule.