

**EXPLANATORY MEMORANDUM TO**

**THE EMPLOYMENT AND SUPPORT ALLOWANCE AND UNIVERSAL CREDIT  
(CORONAVIRUS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2021**

**S.R. 2021 No. 285**

**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 Articles 11(3) and (6) and 74(1) and (5) of the Social Security (Northern Ireland) Order 1998 and section 25(2) of, and paragraphs 1(a) and 2 of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007, and is subject to the negative resolution procedure.

**2. Purpose**

2.1. This Statutory Rule extends the provisions in the Employment and Support Allowance and Universal Credit (Coronavirus) Regulations (Northern Ireland) 2020 (S.R. 2020 No. 33) from 12 November 2021 until 24 March 2022, for those claiming or entitled to Employment and Support Allowance (“ESA”). This Statutory Rule does not extend the regulations for Universal Credit (“UC”). Subsequent provision in regulation 10(3) of the Social Security (Coronavirus) (Further Measures) Regulations (Northern Ireland) 2020 (S.R. 2020 No. 53), abolished the UC aspects of these regulations and introduced more sweeping measures to provide support to UC claimants affected by Covid-19.

2.2. The Regulations ensure that ESA claimants who meet the eligibility conditions and are:

- infected with Covid-19, or
- self-isolating in line with government guidance, or
- are looking after a child (or qualifying young person) who falls into either of these categories,

can be treated as having Limited Capability for Work for the purposes of ESA without the requirement to provide medical evidence or undergo a Work

Capability Assessment. The regulations also remove the need for them to serve waiting days, enabling ESA to be paid from day one of the claim

### **3. Legislative Context**

- 3.1. The Employment and Support Allowance and Universal Credit (Coronavirus) Regulations (Northern Ireland) 2020 (S.R. 2020 No. 33) which came into operation on 13 March 2020, expired after eight months on 12 November 2020. These were subsequently extended for six months by the Employment and Support Allowance and Universal Credit (Coronavirus) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020 No. 217), and then a further 6 months until 12 November 2021 by the Social Security (Coronavirus) (Miscellaneous Amendments) Regulations (Northern Ireland) 2021 (S.R. 2021 No. 105). They are now due to expire on 12 November 2021.
- 3.2. This Statutory Rule extends these provisions until 24 March 2022.

### **4. Background**

- 4.1. The Department continues to receive ESA claims under the Employment and Support Allowance and Universal Credit (Coronavirus) Regulations (Northern Ireland) 2020, which play an important role in supporting people who might otherwise not be entitled to ESA because they do not have a health condition or disability, to self-isolate in accordance with public health guidance. In addition, people who are infected with Covid-19 would not receive payment of ESA until day 8 of their claim.
- 4.2. The regulations, which came into operation on 13 March 2020 and were further extended from 12 November 2020 and 12 May 2021, will expire on 12 November 2021. Further extending the expiry date in the regulations to 24 March 2022 will allow us to continue to provide support and give certainty to those affected by the Covid-19 pandemic, as part of the Government's strategy. This extension will ensure that ESA claimants who satisfy the eligibility conditions and have Covid-19, or are self-isolating because of Covid-19, or are caring for a child (or qualifying young person) who has Covid-19 or is self-isolating, in line with government guidance, will continue to be supported.
- 4.3. By not extending the regulations, people who may not otherwise be entitled to ESA because they do not have a health condition or disability which limits their capability for work, may instead be inclined to continue working, against government and public

health advice to self-isolate. This in turn has implications for the wider general public and the Government who are trying to contain the spread of the virus as far as possible.

## **5. Consultation**

5.1 There is no requirement to consult on these Regulations.

## **6. Equality Impact**

6.1. 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 provide support and give certainty to those affected by the Covid-19 pandemic.

## **7. Regulatory Impact**

7.1. The proposed Rule does not require a Regulatory Impact Assessment as it does not impose any new costs on business, charities or voluntary bodies or on the public sector.

## **8. Financial Implications**

8.1. None for the Department.

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

9.1. 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 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.

## **10. EU Implications**

10.1. Not applicable.

## **11. Parity or Replicatory Measure**

11.1. These Regulations are equivalent to the Employment and Support Allowance and Universal Credit (Coronavirus Disease) (Amendment) Regulations 2021(S.I. 2021/1158) in Great Britain which come into force on 12th November 2021.

## **12. Additional Information**

12.1. Guidance will be issued to Department for Communities staff prior to this Statutory Rule becoming operational.