

EXPLANATORY MEMORANDUM TO

[Corporate Insolvency and Governance Act 2020 (Coronavirus) (Amendment of Certain Relevant Periods) Regulations (Northern Ireland) 2021

S.R. 2021 No. 75

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for the Economy to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under the powers conferred by section 42(1)(b) of the Corporate Insolvency and Governance Act 2020 ("the CIG Act) and is subject to the Confirmatory resolution procedure.

2. Purpose

- 2.1. This Statutory Rule will extend the periods during which some of the temporary modifications to corporate insolvency legislation that were included in the CIG Act will apply until 30 June 2021. The modifications are restrictions on the use of statutory demands and winding up petitions and the small supplier exemption from termination clause provisions.

3. Background

- 3.1. The CIG Act was made at Westminster as a piece of emergency legislation and extends to the whole of the UK. Provision for Northern Ireland was included under a Legislative Consent Motion passed by the Northern Ireland Assembly.
- 3.2. The CIG Act contains provisions to help companies and mutual societies deal with the serious economic consequences resulting from the Covid-19 pandemic and includes both corporate insolvency and company measures.
- 3.3. Some of these measures take the form of temporary modifications to corporate insolvency legislation applying in Northern Ireland, corresponding to modifications made to that applying in GB, specifically to address the crisis. These include temporary restrictions on the presentation of winding up petitions and the making of winding up orders and temporary exemption for small suppliers from having to comply with the requirement under Article 197B of the Insolvency (Northern Ireland) Order 1989 to maintain supplies to companies subject to insolvency proceedings
- 3.4. The CIG Act provided for all of the temporary modifications to automatically expire on 30 September 2020. However, there is also provision enabling the Department to extend the period during which they are to apply by up to six months if the Department considers it reasonable to do so to mitigate the effect of coronavirus.
- 3.5. The expiry date for the provisions restricting the presentation of winding up petitions and the making of winding up orders was changed to 31 December 2020 by the Corporate Insolvency and Governance Act 2020

(Amendment of Certain Relevant Periods) Regulations (Northern Ireland) 2020 (S.R. 2020 No. 199) and to 31 March 2021 by the Corporate Insolvency and Governance Act 2020 (Amendment of Certain Relevant Periods) (No. 2) Regulations (Northern Ireland) 2020 (S.R. 2020 No. 321).

- 3.6. The expiry date for the exemption for small suppliers from having to comply with the requirement to maintain supplies to companies subject to insolvency proceedings was changed to 30 March 2021 by the Corporate Insolvency and Governance Act 2020 (Amendment of Certain Relevant Periods) Regulation) (Northern Ireland) 2020 (S.R. 2020 No. 199).
- 3.7. The Statutory Rule to which this Explanatory Memorandum provides for the provisions restricting the presentation of winding up petitions and the making of winding up orders and the temporary exemption for small suppliers from having to maintain supplies to companies subject to insolvency proceedings to instead expire on 30 June 2021.

4. Consultation

- 4.1. It is not intended to carry out any consultation. The proposed Regulations do not make any amendments to the Corporate Insolvency and Governance Act 2020 other than the substitution of one expiry date for another and are needed so that companies and mutual societies in Northern Ireland can continue to avail of the same relief as available to their counterparts in the rest of the United Kingdom.

5. Equality Impact

- 5.1. Due to the urgency of the need to bring the CIG Act into force, screening was carried out retrospectively. It was determined that there is no undue impact on section 75 groups and therefore no mitigation is required, and no change to policy is required.
- 5.2. The proposed Regulations do not alter what is in the CIG Act, they simply extend the time period during which some of the provisions in the Act will apply.

6. Regulatory Impact

- 6.1. Impact assessment was fully addressed at the making of the primary legislation.

7. Financial Implications

- 7.1. None.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Regulations extend the period during which certain provisions in the CIG Act are to have effect. It is the view of the Secretary of State for Business, Energy and Industrial Strategy, that the provisions of the Act are compatible with the Convention rights, under section 19 of the Human Rights Act 1998.

9. EU Implications

- 9.1. None.

10. Parity or Replicatory Measure

- 10.1. These regulations correspond to provisions in the Corporate Insolvency and Governance Act 2020 (Coronavirus) (Extension of the Relevant Period) Regulations 2021 applying in GB.

11. Additional Information

- 11.1. N/A.