

EXPLANATORY MEMORANDUM TO
THE STATUTORY SICK PAY (CORONAVIRUS) (MISCELLANEOUS
AMENDMENTS) REGULATIONS 2022

2022 No. 176

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) Regulations 2022 (SI 2022/5) and the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) Regulations 2022 (SI 2022/9). The instrument closes the Statutory Sick Pay (SSP) Rebate Scheme with effect from 17 March 2022 so that any absence related to coronavirus occurring after 17 March 2022 will not be eligible for the rebate.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain and Northern Ireland.
4.2 The territorial application of this instrument is Great Britain and Northern Ireland.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) Regulations 2022 came into force on 14 January 2022, with mirroring changes for Northern Ireland in the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) Regulations 2022, under powers treated as inserted into the Social Security Contributions and Benefits Act 1992 and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 by the Coronavirus Act 2020.
- 6.2 The government first established a Statutory Sick Pay Rebate scheme at Budget 2020. This was given effect in Great Britain by the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) Regulations 2020 (S.I. 2020/512) and in Northern Ireland by the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) Regulations 2020 (S.I. 2020/513). The scheme closed to new claims on 30 September 2021 by virtue of the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Closure) Regulations and the Statutory Sick Pay

(Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) (Closure) Regulations 2021 (S.I. 2021/1013).

- 6.3 The Secretary of State for Work and Pensions concurred to the making of the final text of this instrument.

7. Policy background

What is being done and why?

- 7.1 On 21 December 2021, the government announced additional support for businesses impacted by the COVID-19 Omicron variant across the UK. This announcement included the reintroduction of the SSP Rebate Scheme, which helps small and medium-sized employers with the costs of employee absences related to COVID-19. The scheme enabled eligible employers to apply for a rebate for up to two-weeks SSP paid per employee. Claims could be submitted to HMRC from 19 January 2022 for eligible absences that occurred on or after 21 December 2021.
- 7.2 The scheme was intended as a temporary measure to support small and medium-sized employers with the increased cost of SSP during a severe wave of COVID-19. Now that most adults in the UK are fully vaccinated, and the number of individuals required to self-isolate has decreased, the cost to most employers in paying SSP related to COVID-19 will no longer be disproportionately high. This instrument will therefore close the SSP Rebate scheme and return the funding of SSP to the position prior to COVID-19, with employers meeting the full costs.
- 7.3 Employers will no longer be able to claim for a rebate of SSP for any period of absence that occurs after 17 March 2022. Employers will have until 24 March 2022 to submit their final claims.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are no plans to consolidate as this legislation is time-limited by the Coronavirus Act 2020.

10. Consultation outcome

- 10.1 The SSP Rebate Scheme was introduced through temporary, emergency legislation, which provided the government with powers needed to respond to the coronavirus pandemic. Powers were to be used only if needed, judged based on clinical and scientific advice. Safeguards were built in to ensure that powers were only used as necessary. The government has now concluded that the rebate is no longer necessary and have confirmed this temporary scheme will end on 17 March 2022. Given this instrument acts to deliver this decision, no consultation was considered necessary regarding its closure.

11. Guidance

- 11.1 Guidance for individuals and employers on SSP, including for the SSP Rebate Scheme, continues to be available on GOV.UK. This guidance will be updated from 24 February 2022 to reflect the changes arising out of the closure and can be found at:

<https://www.gov.uk/guidance/claim-back-statutory-sick-pay-paid-to-employees-due-to-coronavirus-covid-19>.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is that they will no longer be able to claim for a refund of qualifying SSP payments for any period of employee absence related to coronavirus that occurs after 17 March 2022. Funding of SSP will revert to being met entirely by the employer.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been produced for this instrument because it is covered by the Summary of Impacts published with the Coronavirus Bill on 19 March 2020 at <https://publications.parliament.uk/pa/bills/cbill/58-01/0122/Coronavirus%20Bill%20Impact%20Assessment%20final%20pdf.pdf> (see pages 72 to 73). Copies are also available from the Department of Health and Social Care, 39 Victoria Street, Westminster, London SW1H 0EU.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses derives from the policy intent: this instrument returns full responsibility for funding SSP to the employer.

14. Monitoring & review

- 14.1 The government keeps all areas of the tax and benefit system under review, and that includes this instrument.
- 14.2 These regulations do not include a statutory review clause because they are dependent on the Coronavirus Act 2020, which has a two-year expiry period.

15. Contact

- 15.1 Richard Greaves at HMRC Telephone: 03000 590820 or email: richard.greaves2@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Edmund Hair, Deputy Director for National Insurance Policy, International and Student Finance at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Lucy Frazer QC MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.