EXPLANATORY MEMORANDUM TO

The Business Tenancies (Coronavirus) (Restriction on Forfeiture: Relevant Period) (Northern Ireland) (No.3) Regulations 2020

S.R. 2020 No 332.

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Finance ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under section 83(7) of the Coronavirus Act 2020 ("the 2020 Act") and is subject to the negative resolution procedure.

2. Purpose

2.1. Section 83 of the Coronavirus Act 2020 provides that a right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced, by action or otherwise, during the relevant period.

2.2. “Relevant period” was originally defined in subsection (7) as the period starting with Royal Assent and ending with 30th June 2020 (or such later date as may be specified in regulations). It was later extended to the 30th September 2020, and then again to 31st December 2020 through the Business Tenancies (Coronavirus) (Restriction on Forfeiture: Relevant Period) (Northern Ireland) Regulations 2020 and Business Tenancies (Coronavirus) (Restriction on Forfeiture: Relevant Period) (Northern Ireland) (No.2) Regulations 2020 respectively.

2.3. Regulation 1 of these Regulations provides for citation, commencement and interpretation.

2.4. Regulation 2 specifies "31st March 2021" for the purposes of the definition of "relevant period" within section 83(7).

2.5. Regulation 3 revokes the previous Regulations, The Business Tenancies (Coronavirus) (Restriction on Forfeiture: Relevant Period) (Northern Ireland) (No. 2) Regulations 2020 that specified the prior "relevant period".

3. Background

3.1. Forfeiture is a right to end a lease by a landlord at an earlier date than the lease would normally end because of some default by the tenant. The right to forfeit is a contractual right rather than a common law or statutory right and most contracts contain express provisions for forfeiture.

3.2. The Coronavirus Act 2020 Act provided that where non-payment of rent would usually enable a landlord to treat a lease as forfeited, that right would not be able to be exercised for a period of three months (up to 30th June 2020) with a power to extend if it is needed. The Act brought in this provision separately in England, Wales and Northern Ireland. This period for Northern Ireland was subsequently extended until 30th September and then 31st December.

3.3. This amendment now extends the "relevant period" for Northern Ireland until 31 March 2021.

4. Consultation

4.1. These are emergency Regulations made in tandem with the Northern Ireland Executive's wider response to COVID-19 which necessitates a breach of the 21 day rule.

5. Equality Impact

5.1. These are emergency Regulations made in tandem with the Northern Ireland Executive's wider response to COVID-19 and have general application in respect of business tenancies.

6. Regulatory Impact

6.1. These Regulations are implemented in order to secure protections for businesses affected by the enforced closures resulting from the COVID-19 pandemic.

7. Financial Implications

7.1. There are no financial implications for the Department in respect of the Rule.

8. Section 24 of the Northern Ireland Act 1998

8.1. It is the view of the Department of Finance that this Order is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. None associated with this Statutory Rule.

10. Parity or Replicatory Measure

10.1. Equivalent English legislation is being prepared to extend their scheme at the same time as this Statutory Rule.

11. Additional Information

11.1. Not applicable.