EXPLANATORY MEMORANDUM TO

Children's Social Care (Coronavirus) (Temporary Modification of Children's Social Care) (Amendment) Regulations (Northern Ireland) 2020

S.R. 2020 No. 235

1. Introduction

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

1.2. The Statutory Rule is made under Article 10(1) of the Adoption (Northern Ireland) Order 1987 S.I. 1987 No. 2203 (N.I. 22), Articles 27(2)(a), 27(5), 28 (1), 28(3), 34F, 45(1), (2) and (5), 75(2), 75(4) and (5), 77(3), 89(1), 105(1) and (2)(l) of, and paragraph 6(2) of Schedule 5 to, the Children (Northern Ireland) Order 1995 S.I. 1995 No. 755 (N.I. 2) and Article 23(2)(d) and (f) and (5)(a) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 S.I. 2003 No. 431 (N.I. 9) and is subject to the negative resolution procedure.

2. Purpose

2.1. This Statutory Rule amends the Children's Social Care (Coronavirus) (Temporary Modification of Children's Social Care) Regulations (Northern Ireland) 2020 (S.R. 2020/78) to extend the period for which the temporary modifications provided for by those regulations will have effect. The amendment supports the continuation of measures relating to children's social care services to reduce the public health risks posed by the spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in Northern Ireland, which causes the disease Covid-19. In particular, it will provide for the continuation of emergency arrangements to protect looked after children, their families, foster parents and social care staff from the virus known as Coronavirus, ensuring that essential children's social care services are delivered in a safe manner.

2.2. Regulation 2 inserts new regulation 10 in the Children's Social Care (Coronavirus) (Temporary Modification of Children's Social Care) Regulations (Northern Ireland) 2020 to extend from 6 months to 12 months the period for which the modifications to Regulations made under the Adoption (Northern Ireland) Order 1987, the Children (Northern Ireland) Order 1995 and the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 are to have effect.

2.3. Given their urgent nature, the Regulations will come into operation on the day after they are made, meaning that the usual period of 21 days between laying and coming into operation will not apply.

3. Background

3.1. The Children's Social Care (Coronavirus) (Temporary Modification of Children's Social Care) Regulations (Northern Ireland) 2020 made

temporary modifications to eight Statutory Rules to provide Health and Social Care (HSC) Trusts and independent providers of children's social care services with the flexibility required to continue to provide essential services to looked after children, children in need and care leavers. Given the continued need for HSC Trusts and independent providers to rely on the modifications to support emergency working arrangements during the Covid-19 pandemic, an extension to the period of operation of the modifications is required.

4. Consultation

4.1. Given the urgent need to continue the emergency measures contained in the Children's Social Care (Coronavirus) (Temporary Modification of Children's Social Care) Regulations (Northern Ireland) 2020, there has been no public consultation on this amending Statutory Rule. The Department has consulted HSC Trusts and the HSC Board, who are very supportive of the extension of the operation of the modifications to enable the continued provision of essential children's social care services. The Department has written to relevant key stakeholders, including the Northern Ireland Commissioner for Children and Young People, the Children's Law Centre, the Northern Ireland Human Rights Commission and the Voice of Young People in Care, to advise them of the extended period of operation.

5. Equality Impact

5.1. In accordance with guidance produced by the Equality Commission for Northern Ireland and in keeping with section 75 of the Northern Ireland Act 1998, the proposals have been screened for equality impact and it is concluded that a full Equality Impact Assessment is not required.

6. Regulatory Impact

6.1. It is not anticipated that any business, charity, social economy enterprise or the voluntary sector in Northern Ireland will be adversely affected by these amendments.

7. Financial Implications

7.1. It is anticipated that there will be no cost implications for businesses, charities, social economy enterprises or the voluntary sector in Northern Ireland.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Statutory Rule is not deemed to breach section 24 of the Northern Ireland Act 1998 as it is considered to be compatible with any of the Convention rights or community law and does not discriminate against a person on the grounds of religious belief or political opinion.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The UK Government has extended until March 2021 some of the temporary amendments contained in the Adoption and Children

(Coronavirus) (Amendment) (No.2) Regulations 2020 relating to children's social care in England.

10.2. The Scottish Government has also extended until March 2021 provisions relating to looked after children and children's hearings in the Coronavirus (Scotland) Act 2020.

10.3. The guidance issued on children's social care during the Covid-19 pandemic by the Welsh Government has been revised to reflect changes to the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020, which came into force on 28 August 2020.

10.4. The Government of Ireland has extended for an additional 3 months amendments to the Child Care (Placement of Children in Foster Care) Regulations 1995 by way of the Child Care (Placement of Children in Foster Care) (Emergency Measures in the Public Interest - Covid-19) (Amendment) (No.1) Regulations 2020.

11. Additional Information

11.1. Not applicable