EXPLANATORY MEMORANDUM TO

The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Amendment of Certain Relevant Periods) (No. 2) Regulations (Northern Ireland) 2021

[S.R. 2021 No. 165

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 extends the period during which temporary measures included in the CIG Act which restrict the use of statutory demands and winding up petitions are to apply. This Rule provides for these measures to continue to apply up until 30 September 2021 instead of expiring on 30 June 2021.

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 includes temporary modifications to corporate insolvency legislation applying in Northern Ireland coresponding to modifications made to that applying in GB, specifically to address the serious economic consequences resulting from the Covid-19 pandemic.

3.3. These temporary modifications include a prohibition on the presentation of winding-up petitions where the statutory demand has been served during what is termed the relevant period and restrictions on the presentation of winding-up petitions and the making of winding-up orders where coronavirus has had an effect on a company's finances.

3.4. The CIG Act provided for all of the temporary modifications to insolvency legislation to automatically expire on 30 September 2020. However section 42(1)(b) of the CIG Act enables the Department to make Regulations 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 an effect of coronavirus.

3.5. The expiry date for the provisions rendering service of statutory demands during the relevant period void and 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), 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. No. 2020 No. 321) and to 30 June 2021 by the Corporate Insolvency and Governance Act 2020 (Coronavirus) (Amendment of Certain Relevant Periods) Regulations (Northern Ireland) 2021 (S.R. 2021 No. 75).

3.6. The Statutory Rule to which this Explanatory Memorandum relates further extends the relevant periods during which service of statutory demands is rendered void and the restrictions on presentation of winding up petitions and the making of winding up orders are to apply by providing that these periods are to expire on 30 September 2021 instead of 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 Goverance 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 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 wil apply.

6. Regulatory Impact

6.1. Impact assessment was fully addressed when the primary legislation was being made.

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 will replicate similar regulations being made in GB..

11. Additional Information

11.1. The Regulations were laid in breach of the 21 day rule.