EXPLANATORY MEMORANDUM TO

THE HEALTH AND SAFETY (FIRST-AID) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2017

S.R. 2017 No. 156

1. Introduction

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

1.2 The Regulations are made under Articles 17(1) to (5) and paragraphs 9 and 13 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978 and are subject to the negative resolution procedure.

1.3 The Rule is due to come into operation on 31st October 2017.

2. Purpose

2.1 The Statutory Rule amends regulation 3(2) of the Health and Safety (First-Aid) Regulations (Northern Ireland) 1982 (S.R. 1982 No.429) ("the 1982 Regulations") by removing the requirement for the Health and Safety Executive for Northern Ireland ("HSENI") to approve training and qualifications for the purposes of first-aid at work.

3. Background

3.1 This amendment is being made because the existing requirement for HSENI to approve training and qualifications for the purposes of first-aid at work is considered to be restrictive in terms of the choice of training provider available to employers, and to the qualifications permitted for the purposes of compliance with the Regulations.

3.2 Council Directive 89/391/EEC[1] of 12 June 1989 (Article 8) contains requirements relating to first-aid at work. In particular, these EU requirements impose a duty on employers to take necessary measures for first-aid adapted to the nature of the workplace, and approve workers required to implement these first-aid requirements. The 1982 Regulations were deemed sufficient to implement these provisions in Northern Ireland.

[1] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:31989L0391

3.3 The 1982 Regulations address first-aid equipment and facilities, numbers of first aiders and training of first aiders. Regulation 3 considers the duty on employers to make provision for first-aid, and also required an employer to ensure that they provided a suitable number of first-aiders who held adequate training and qualifications approved by the HSENI. Since the Regulations came into operation, the HSENI approval of training and qualifications has been undertaken by the direct approval of first-aid training providers themselves.

3.4 A UK government review 'Reclaiming Health and Safety for All: An Independent Review of Health and Safety Legislation' published in November 2011 by Professor Ragnar E Löfstedt, recommended removal of the requirement in the Health and Safety (First-Aid) Regulations 1981 ('the 1981 Regulations') for the Health and Safety Executive (HSE) to approve the training and qualifications of appointed first-aid personnel in Great Britain as these provisions exceeded the requirements of Council Directive 89/391/EEC ('the Directive') and had little justification. It was considered that so long as certain standards were met, allowing businesses to choose training providers should allow them greater flexibility to choose what is right for their workplace, and possibly reduce costs. The 1981 Regulations were subsequently amended by the Health and Safety (Miscellaneous Revocations and Amendments) Regulations 2013 to remove the requirement for HSE approval of first aid training and qualifications in GB.

3.5 Although the Lofstedt review did not extend to Northern Ireland, HSENI determined that the requirement under regulation 3(2) of the 1982 Regulations for it to approve training and qualifications for the purposes of first aid at work also went beyond the requirements of the Directive and should be amended.

4. Consultation

4.1 A consultation exercise ran from 18 March 2016 to 14 June 2016. There were approximately 500 consultees, including individuals, training organisations approved to train first-aid at work, bodies representative of section 75 of the Northern Ireland Act 1998 and other organisations with an interest in equality and related issues (including each member of the Northern Ireland Assembly).

4.2 In total there were 9 responses in relation to the proposed 2016 Regulations. Although responses to the consultation included some concerns that the proposed changes would result in a lowering of standards and a downgrading of first aid provision no supporting evidence to this effect has been offered. HSENI is confident that these concerns are unfounded and that it is appropriate to proceed with the removal of the requirement for HSENI to approve first-aid training and qualifications. Where issues have been raised around the possibility that the new arrangements may be perceived as 'devaluing' first-aid provision, the message surrounding the change will be managed to ensure that it is clear that this is not the case.

5. Equality Impact

5.1 The Statutory Rule has been screened for any possible impact on equality of opportunity affecting the groups listed in section 75 of the Northern Ireland Act 1998 and no adverse or differential aspects were identified.

6. Regulatory Impact

6.1 Since any overall costs or savings would be negligible, a Northern Ireland Regulatory Impact Assessment has not been required.

7. Financial Implications

7.1 An assessment of costs and benefits has been prepared by HSENI based on relevant data drawn from a range of sources including the assessment completed by HSE in respect of the equivalent GB proposals. The assessment suggests minimal familiarisation costs and, as a result a regulatory impact assessment is not considered necessary. It is estimated that if 85% to 90% of the 45 fully independent training providers seek approval by an Ofqual AO, five year costs to those providers could total between £8,740 and £38,800. However, the proposals do not *require* training providers to seek approval by Ofqual AOs. One-off familiarisation costs for current operators are estimated to be approx £1340 across the 128 existing training centres. There would be no additional costs for new entrants to the training market.

7.2 There may be some savings to training providers as the requirement to have two independent assessors would be removed.

7.3 A benefit would also be derived from the revised guidance which would ensure that employers established a level of first-aid provision that was adequate and appropriate for their business needs and was not disproportionate.

8. Section 24 of the NI Act 1998

8.1 The Department has considered the matter of Convention rights and is satisfied that there are no matters of concern.

9. EU Implications

9.1 None. This Statutory Rule does not implement any European Directives.

10. Parity or Replicatory Measure

10.1 In Great Britain the corresponding Regulations are the Health and Safety (Miscellaneous Revocations and Amendments) Regulations 2013 (S.I. 2013 No.

1512), which were made on 20 June 2013 with a coming into force date of 1 October 2013.

11. Additional Information

11.1 N/a.

Department for the Economy

15 August 2017