EXPLANATORY MEMORANDUM TO

The Rate Relief (Coronavirus) (Amendment) Regulations (Northern Ireland) 2020

SR 2020 No. 308

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 Article 30A of the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28) ("the 1977 Order") and is subject to the negative resolution procedure.

2. Purpose

2.1. This draft Rule amends the Rate Relief Regulations (Northern Ireland) 2017 (S.R. 2017 No. 184) ("the 2017 Regulations") which, among other things, provide what earned income shall be taken into account in the calculation of entitlement to rate relief.

2.2. Regulation 2(2) amends Regulation 10 of the 2017 Regulations to provide that where a claimant can show the relevant authority that their earned income includes payment in lieu of notice and/or holiday pay in lieu of holidays not taken, these are excluded from a claimant's earned income in the calculation of rate relief.

2.3. Regulation 2(3) amends Regulation 13 of the 2017 Regulations to ensure that claimants who have earned income taken into account in their award of rate relief shall have the award revised on the next relevant date.

2.4. Regulation 2(3) further amends Regulation 13 of the 2017 Regulations in conjunction with Regulation 2(4) which amends Regulation 14 of the 2017 Regulations. These amendments provide a new ground for revising a decision when payments in lieu of notice and holiday pay have been taken into account for rate relief claims with a start date effective after the coming into operation of the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 (now revoked). This effectively allows the new rule to apply back to the date of the first Coronavirus restrictions where claimants provide information to the relevant authority of these payments within 3 months of the operative date of these Regulations.

2.5. The new policy requires a consequential substitution of Regulation 14(3) of the 2017 Regulations. Regulation 14(3) of the 2017 Regulations currently provides that the relevant authority must be aware of any ignorance or mistake of fact in a decision within 3 months of the date it was made if it is to be revised to the advantage of the claimant. Regulation 2(4) substitutes Regulation 14(3) of the 2017 Regulations to take account of the fact that a claimant has to supply information and that must be done within the 3 month period.

3. Background

3.1. The development of a new scheme to administer rate relief in NI was required to ensure that help with rates continued to be provided for claimants no longer entitled to claim Housing Benefit as a consequence of the phasing out of Housing Benefit in conjunction with the introduction of universal credit (UC) in NI.

3.2. The Rate Relief Regulations (Northern Ireland) 2017 came into operation on 27th September 2017 in line with the phased introduction of UC in NI. The Regulations provide that the new rate relief scheme is only available to claimants in receipt of UC and will rely on UC information to enable rate relief entitlement to be calculated.

4. Consultation

4.1. The then Department of Finance and Personnel (DFP) undertook two consultations during 2013 to consider modifications to the rate rebate rules that operate under Housing Benefit so that UC claimants could continue to get help with their rates following the introduction of UC in NI and the consequential phasing out of Housing Benefit. Following the delay in the introduction of UC in NI a third consultation, which was informed by the two earlier consultations, was undertaken in November 2014 to seek views on proposed options for a long term rate relief scheme.

4.2. Following careful consideration of the responses to the consultation the policy position for the long term rate relief scheme was finalised. Executive agreement for consequential adjustments to rate support arrangements for low income households of working age was obtained on 25th February 2016. This agreement allowed the Department to bring forward the necessary legislation to provide for the new rate relief replacement scheme to be introduced at the same time as the introduction of UC in NI.

4.3. The Rate Relief Regulations (Northern Ireland) 2017 came into operation on 27th September 2017 in line with the phased introduction of UC. An unforeseen circumstance of first claiming UC when employment ceases is that final earnings can include payment in lieu of notice and holiday pay which would impact on the award of rate relief for the entire year. The rate relief scheme is based on data used by UC however these Regulations will remove payment in lieu of notice and holiday pay from the earnings that are taken into account for rate relief if the claimant can provide evidence of them. This is to the benefit of any claimant effected as it means less earned income is taken into account for rate relief even though the UC award takes it into account.

4.4. The Department recognises that many people are likely to be made redundant as a result of Coronavirus (Covid-19) and is making this amendment so that any payments in lieu of notice and holiday pay can be removed from the rate relief calculation. This is a permanent change as the issue was identified through the ongoing review of the rate relief scheme but to ensure that anyone facing redundancy as a result of Coronavirus can benefit the Regulations provide a new ground for revising a decision when payments in lieu of notice and holiday pay have been

taken into account for rate relief claims with a start date effective after the coming into operation of the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 (now revoked). This effectively allows the new rule to apply back to the date of the first Coronavirus restrictions where claimants provide information to the relevant authority of these payments within 3 months of the operative date of these Regulations.

4.5. This will give the claimant the standard 3 months from the date these Regulations come into operation in which to supply the information. Going forward, following the coming into operation of this rule, the 3 month time limit which a claimant has to supply information to the relevant authority will apply.

4.6. The Regulations also amend the 2017 Regulations to ensure that a claimant who had earnings taken into account in their award will get the award revised at the "annual review" date.

5. Equality Impact

5.1. This is a locally based scheme and the Department considers that there should be no disproportionate impact on any of the section 75 subgroups.

5.2. A full equality impact assessment was taken forward and published as part of the final consultation process when the scheme was first introduced. As the changes being made address an issue that was not anticipated, an Equality Impact screening exercise was undertaken in relation to this policy change. However as this change represents a mitigating measures resulting from the Covid-19 pandemic and one which is beneficial to all claimants affected, it is the Department's assessment that no further equality impact is required at this time.

6. Regulatory Impact

6.1. There is no impact on business, charities or voluntary bodies.

7. Financial Implications

7.1. While claimants will benefit from the new earned income rules and it will cost more than the current rules, this rule as it stands was an unforeseen circumstance that was never intended and will bring the scheme expenditure more in line with original predictions.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department considers the Regulations to be compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. There are no EU implications associated with this Rule.

10. Parity or Replicatory Measure

10.1. Not applicable; this scheme is unique to Northern Ireland.

11. Additional Information

11.1. Not applicable.