EXPLANATORY MEMORANDUM TO

THE PARENTAL BEREAVEMENT LEAVE AND PAY (MISCARRIAGE) REGULATIONS (NORTHERN IRELAND) 2026

2026 No. XXX

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for the Economy to accompany the Statutory Rule and is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under powers inserted into the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Employment Rights (Northern Ireland) Order 1996 by the Parental Bereavement (Leave and Pay) Act (Northern Ireland) 2022 and was to be subject to the draft affirmative resolution procedure.

2. Purpose

2.1 As per the statutory requirements under section 167ZZ19 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and Article 112EF of the Employment Rights (Northern Ireland) Order 1996, this Statutory Rule introduces a new criterion of entitlement for Parental Bereavement Leave and Pay on the grounds of miscarriage as specified in the Regulations.

2.2 The specified conditions include spontaneous miscarriages as well as those where medical intervention has occurred to protect the physical or mental health of the pregnant woman, or in cases of severe fetal impairment or fatal fetal abnormalities.

2.3 The new criterion will ensure that bereaved employees who have experienced a miscarriage on or after 6 April 2026 will have access to the rights and protections available in Parental Bereavement Leave and Pay. The same rights will apply to an employee who meets the relationship criteria for a connection to a woman who has experienced a miscarriage. The right to the entitlement begins on the date on which the woman experienced the miscarriage or the date on which the woman who experienced the miscarriage became aware of it.

2.4 These Regulations amend the Statutory Parental Bereavement Pay (General) (No. 2) Regulations (Northern Ireland) 2023 ("the Pay Regulations") to ensure that eligible employees and workers who are entitled to parental bereavement pay on the grounds of miscarriage are afforded the same entitlements as those who are entitled on the grounds of child death or stillbirth.

2.5 These Regulations also amend the Parental Bereavement Leave (No. 2) Regulations (Northern Ireland) 2023 to ensure that employees who are entitled to parental bereavement leave on the grounds of miscarriage are afforded the same entitlements as those who are entitled on the grounds of child death or stillbirth.

3. Background

3.1 Section 5 of the Parental Bereavement (Leave and Pay) Act (Northern Ireland) 2022 imposes a statutory obligation on the Department for the Economy ("the

Department") to guarantee that the entitlements to Parental Bereavement Leave and Pay, as established by Part 12ZD of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and Chapter 4 of the Employment Rights (Northern Ireland) Order 1996, are extended to individuals who have experienced a miscarriage. This requirement also applies to those who meet specified relationship criteria in relation to the individual who has experienced a miscarriage, with implementation required by no later than 6 April 2026.

3.2 The objectives of enhancing Parental Bereavement Leave and Pay policy to include cases of miscarriage are to:

- give bereaved eligible employees a statutory right to paid leave to provide space for them to grieve following the experience of a miscarriage, and
- embed the importance and value of recognising the impacts of such bereavements and providing adequate support for employed parents in such circumstances.

4. Consultation

4.1 A full public consultation was carried out to inform and determine the necessary modifications required to extend eligibility for Parental Bereavement Leave and Pay to the circumstances of miscarriage.

5. Equality Impact

5.1 The Department is required under section 75 of the Northern Ireland Act 1998 to screen the proposed changes to ascertain if an Equality Impact Assessment is required. The screening exercise was carried out, and no equality issues were identified.

6. Regulatory Impact

6.1 A full Regulatory Impact Assessment was undertaken to determine the impact on business; this impacting also demonstrates the costs to the Department for the introduction of the enhancements to Parental Bereavement Leave and Pay as well as the Department's financial liabilities.

6.2 As per the impact prior to the enhancement to include a miscarriage criterion as a ground of entitlement within Parental Bereavement Leave and Pay, it continues to be the case there is no impact on charities or voluntary bodies. The Statutory Rule imposes no new obligations on them, except in their capacity as employers. The impact on the public sector is limited to the extent to which they may need to administer this entitlement to an employee.

6.3 The Regulatory Impact Assessment can be found on the Department for the Economy website:

https://www.economy-ni.gov.uk/publications/regulatory-impact-assessment-enhancements-parental-bereavement-leave-and-pay-include-miscarriage-criterion-and-introduce-day-one

7. Financial Implications

7.1 The extension of Parental Bereavement Leave and Pay to encompass cases of miscarriage, as set out in the Regulations, will result in financial implications for the Department.

7.2 The Department will be responsible for the associated costs of all payments which relate to Statutory Parental Bereavement Pay on the grounds of miscarriage. The final costs will depend upon the level of payment uptake and will be influenced by the relevant employer's eligibility for small employers' relief per claim.

7.3 In order to implement the required modifications to the Statutory Parental Bereavement Pay scheme in accordance with the Pay Regulations, the Department incurred charges for the system changes and process adjustments within the UK wide HMRC statutory payment framework.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department considers that the Statutory Rule complies with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The Statutory Rule is not necessary for parity elsewhere.

11. Additional Information

11.1 Not applicable.

12. Contact

12.1 Geraldine Lavery at the Department for the Economy Telephone: 02890416728 or email: geraldine.lavery@economy-ni.gov.uk can be contacted with any queries regarding the instrument.

12.2 Colin Jack, Director of Business and Employment Regulation at the Department for the Economy, can confirm that this Explanatory Memorandum meets the required standard.