EXPLANATORY MEMORANDUM TO

THE EMPLOYMENT RIGHTS ACT 2025 (ENFORCEMENT) (CONSEQUENTIAL AMENDMENTS) REGULATIONS 2026

2026 No. 302

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Kate Dearden, Minister for Employment Rights and Consumer Protection for the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

2.2 James Stevens, Deputy Director for Employment Rights Enforcement, at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rhiannon Kavanagh at the Department for Business and Trade can be contacted by email at the following address with any queries regarding the instrument: rhiannon.kavanagh@businessandtrade.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes consequential amendments to certain secondary legislation, to ensure labour market enforcement and licensing functions can be exercised by the Secretary of State for Business and Trade. The legislation under which these labour market enforcement and licensing functions arise are set out in Part 1 of Schedule 7 to the Employment Rights Act 2025 ("the Act"). These functions of the Secretary of State will, in practice, be exercised operationally through the Fair Work Agency ("the FWA"). The FWA is an executive agency of the Department for Business and Trade.

4.2 The consequential amendments made by regulation 2 are required as a result of the Secretary of State assuming operational responsibility for enforcing legislation relating to agency workers, specifically, the Conduct of Employment Agencies and Employment Businesses Regulations 2003 ("the Conduct Regulations"). This function was previously performed by the Employment Agency Standards ("EAS") Inspectorate.

4.3 The remaining amendments in this instrument are necessary as a result of the abolition of the Gangmasters and Labour Abuse Authority ("GLAA") by section 148(1)(a) of the Act, and the transfer of its functions to the Secretary of State, as provided for by

Part 5 of the Act. Those provisions come fully into force at the same time as this instrument comes into force.

4.4 The instrument provides for continuity of operations in the transition from the EAS to the Secretary of State by replacing references to officers appointed under section 8A of the Employment Agencies Act 1973 with references to enforcement officers appointed under section 90 of the Act. The instrument also provides for continuity of operations in the transition from the GLAA to the Secretary of State. It achieves this by enabling the Secretary of State to exercise investigatory powers previously available for GLAA investigations, and for oversight arrangements, appeals processes, and responsibilities relating to the licensing of gangmasters to continue.

Where does the legislation extend to, and apply?

4.5 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Northern Ireland, with respect to regulations 4 and 9, England and Wales and Northern Ireland, with respect to regulation 13, and the United Kingdom with respect to all other regulations.

4.6 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Northern Ireland, with respect to regulations 4 and 9, England and Wales and Northern Ireland, with respect to regulation 13, and the United Kingdom with respect to all other regulations.

5. Policy Context

What is being done and why?

5.1 The Secretary of State will have powers to conduct investigations into compliance with certain employment legislation. Detail of the legislation for which the responsibility for enforcement and licencing is transferring to the Secretary of State is set out in Part 1 of Schedule 7 to the Act, and these will be exercised through the FWA from 7 April 2026.

5.2 FWA enforcement officers will assume operational responsibility for the enforcement of certain legislation relating to agency workers from the EAS. Regulation 2 amends the Conduct Regulations to omit references to officers appointed under the Employment Agencies Act 1973 and insert references to enforcement officers appointed under section 90 of the Act.

5.3 Section 90 provides the legal basis for the Secretary of State to appoint enforcement officers to enforce the Employment Agencies Act 1973 and associated Conduct Regulations. Part 5 of the Act and the consequential amendments made by this instrument also ensure that enforcement officers have a legal basis for their actions and access to enforcement powers within the amended legal framework established by the Act.

5.4 The Secretary of State will also assume operational responsibility for enforcing certain legislation previously enforced by the GLAA. Section 148(1)(a) of the Act abolishes the GLAA and Part 5 of the Act vests these functions in the Secretary of State, with effect from 7 April 2026 when these provisions come into force.

5.5 These functions include upholding licencing standards for gangmasters, issuing of licences to businesses operating as gangmasters, and along with other statutory bodies, responsibility for protecting workers from labour exploitation. These functions and responsibilities are transferred to the Secretary of State once the GLAA is abolished.

5.6 As a result of the abolition of the GLAA, Schedule 10 to the Act makes consequential amendments to primary legislation. This instrument makes consequential amendments to secondary legislation (set out in paragraph 5.7), to give full effect to the Act.

5.7 In the following regulations this instrument omits references to the GLAA and, where necessary, inserts references to the Secretary of State for Business and Trade:

- Regulation 3: The Gangmasters (Appeals) Regulations 2006.
- Regulation 4: The Gangmasters (Appeals) Regulations (Northern Ireland) 2006.
- Regulation 5: The Regulation of Investigatory Powers (Authorisations Extending to Scotland) Order 2007.
- Regulation 6: The Legislative and Regulatory Reform (Regulatory Functions) Order 2007.
- Regulation 7: The Gangmasters (Licensing Conditions) Rules 2009.
- Regulation 8: The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010.
- Regulation 9: The Gangmasters Licensing (Exclusions) Regulations (Northern Ireland) 2014.
- Regulation 10: The Economic Growth (Regulatory Functions) Order 2017.
- Regulation 11: The Trade Union (Facility Time Publication Requirements) Regulations 2017.
- Regulation 12: The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.
- Regulation 13: The Proceeds of Crime Act 2002 (References to Financial Investigators) (England and Wales and Northern Ireland) Order 2021.
- Regulation 14: The Register of Overseas Entities (Disclosure and Dispositions) Regulations 2023.
- Regulation 15: The Trade Union (Deduction of Union Subscriptions from Wages in the Public Sector) Regulations 2024.

5.8 Regulations 8 and 13 of this instrument make consequential amendments to secondary legislation, to ensure that investigatory powers previously exercisable in connection with GLAA functions are exercisable by the Secretary of State in connection with those transferred functions.

5.9 Regulation 8 amends the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 ("the 2010 Order"). Currently, certain officers of the GLAA are provided with powers under the Regulation of Investigatory Powers Act 2000 ("RIPA 2000"), including the ability to conduct covert surveillance and use human intelligence sources. As a consequence of the abolition of the GLAA and the transfer of these functions to the Secretary of State, this instrument omits references to officers of the GLAA and inserts references to an enforcement officer appointed under section 90 of the Act. The appointed officer must be at least Senior Executive Officer ("SEO") grade, or equivalent. This maintains current authorisation levels.

5.10 Regulation 13 amends the Proceeds of Crime Act 2002 (References to Financial Investigators) (England and Wales and Northern Ireland) Order 2021 ("the 2021 Order"). Currently, accredited financial investigators of the GLAA can access Proceeds of Crime Act 2002 ("POCA 2002") powers including the use of restraint orders, recovery of cash, and forfeiture of assets. As a consequence of the abolition of the GLAA and transfer of these functions to the Secretary of State for Business and

Trade, this instrument removes references to financial investigators of the GLAA and where necessary inserts references to the Department for Business and Trade. Where a level of grade is specified for particular powers, the appointed officer must be at least Senior Executive Officer ("SEO") grade, or equivalent. This maintains current authorisation levels.

5.11 This instrument does not confer new investigatory powers or alter the oversight mechanisms in place for powers exercised by the GLAA under RIPA 2000 and POCA 2002. Additionally, existing appeal mechanisms in relation to gangmaster licensing functions are being maintained. Amendments are purely consequential in nature, maintaining the existing regulatory framework while reflecting the organisational changes.

What was the previous policy, how is this different?

5.12 The GLAA previously had responsibility for licencing gangmasters and, consequently, appeals against these decisions were made to the GLAA. It also exercised powers under RIPA 2000 and POCA 2002 when carrying out its functions under the Gangmasters (Licensing) Act 2004. This instrument makes consequential amendments to ensure these processes and powers are exercisable by the Secretary of State for Business and Trade, in connection with transferred functions. The pieces of legislation relating to the GLAA that this instrument will amend are listed in paragraph 5.7.

6. Legislative and Legal Context

How has the law changed?

6.1 When section 90 of the Act comes into force on 7 April 2026, operational responsibility for enforcing legislation relating to agency workers, specifically the Conduct Regulations, transfers from the EAS to FWA enforcement officers.

6.2 In addition, section 148(1)(a) of the Act abolishes the GLAA. The GLAA's enforcement responsibilities under the Gangmasters (Licensing) Act 2004 as well as under sections 1, 2 and 4 of the Modern Slavery Act 2015 transfer to the Secretary of State for Business and Trade to be enforced in practice through the FWA.

6.3 This instrument makes consequential amendments, omitting obsolete references to the GLAA from certain secondary legislation and, where necessary, inserting references to the Secretary of State for Business and Trade. This ensures that certain enforcement functions and investigatory powers previously exercised by the GLAA become available to the Secretary of State, so they are exercisable through the FWA.

6.4 Section 154 of the Act enables the Secretary of State to make consequential amendments to other legislation to give full effect to the Act, including the transfer of functions from previous enforcement bodies. The pieces of legislation this instrument amends in relation to the GLAA are listed in paragraph 5.7. The amendments made by this instrument are a consequence of the enforcement officers appointed by the Secretary of State for Business and Trade under section 90 of the Act assuming responsibility for the enforcement of certain legislation relating to agency workers from the EAS, and the abolition of the GLAA and transfer of its functions to the Secretary of State. The amendments do not contain new policy.

6.5 This instrument also ensures the Secretary of State for Business and Trade has access to investigatory powers that were previously available to the GLAA, which are essential to delivering the Secretary of State's function of protecting workers from

labour exploitation. Amendments to the 2010 Order allow the use of certain investigatory powers in FWA investigations, including conducting covert surveillance and use of human intelligence sources. Amendments to the 2021 Order allow the use of certain investigatory powers in FWA investigations, including the use of restraint orders, recovery of cash, and forfeiture of assets.

6.6 This instrument forms part of a package of secondary legislation necessary to give full effect to provisions in Part 5 of the Act. Other instruments being made as a consequence of provisions in Part 5 of the Act are as follows:

- The Police and Criminal Evidence Act 1984 (Application to Enforcement Officers) Regulations 2026 (made on the same day as this instrument).
- The Employment Rights Act 2025 (Investigatory Powers) (Consequential Amendments) Regulations 2026 (laid in draft on 27 January 2026).

Why was this approach taken to change the law?

6.7 This instrument makes amendments that are consequential to the transfer of the GLAA's functions to the Secretary of State and of the other changes made in relation to enforcement of labour market legislation made by Part 5 of the Act. The amendments give effect to this transfer of functions, responsibilities, and investigatory powers and are therefore made using section 154 of the Act. The pieces of legislation relating to the GLAA that this instrument will amend are listed in paragraph 5.7.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Investigatory Powers Commissioner's Office was consulted in relation to the consequential amendments made by this instrument.

7.2 The consultation confirmed that the amendments are technical in nature and limited to ensuring continuity of existing powers following the transfer of functions.

7.3 The Department of Agriculture, Environment and Rural Affairs was consulted and gave approval for the consequential amendments which relate to Northern Ireland.

7.4 The consultation confirmed that the amendments are technical in nature and limited to ensuring continuity of existing powers following the transfer of functions.

8. Applicable Guidance

8.1 No new guidance is required as a result of this instrument. The use of investigatory powers under RIPA 2000 will continue to be overseen by the Investigatory Powers Commissioner. Both RIPA 2000 powers and those under POCA 2002 will continue to be supported by codes of practice which provide transparent and detailed guidance on their proper use.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full impact assessment has not been prepared for this instrument because it makes no substantive policy changes and maintains existing regulatory standards. The creation of the FWA and its taking on of enforcement functions from the EAS, the

GLAA, and HMRC (National Minimum Wage enforcement) were comprehensively assessed in the impact assessment and enactment assessment prepared for the Act[1].

9.2 The instrument is purely consequential in nature, ensuring the continuity of existing functions and investigatory powers following an organisational transfer of functions. There are no new regulatory burdens or changes to how these powers operate or are exercisable.

Impact on businesses, charities and voluntary bodies

9.3 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument makes purely consequential amendments and ensures that existing investigatory powers continue to be available following the transfer of enforcement functions from the GLAA to the Secretary of State.

9.4 The legislation applies to activities undertaken by small businesses but does not impose new regulatory burdens.

9.5 The legislation does not impact small or micro businesses differently from any other business size.

9.6 The impact on the public sector is limited to ensuring the continued exercise of existing investigatory powers by the Secretary of State through the FWA. There are no additional costs or operational changes beyond the administrative transfer of functions already provided for by the Act.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The amendments made by this instrument do not need bespoke monitoring or review. The instrument does not include a statutory review clause as it makes purely consequential amendments that maintain existing regulatory standards without introducing new policy or regulatory burdens.

10.2 The amendments are consequential in nature, and necessary to give full effect to the transfer of enforcement functions to the Secretary of State for Business and Trade. The Act provides for oversight and scrutiny of how these transferred functions are carried out, through annual reports and enforcement strategies. These documents are required to be published and laid before parliament under sections 94 and 95 of the Act.

10.3 Regulations 8 and 13 make amendments that provide the Secretary of State with investigatory powers under POCA 2002 and RIPA 2000.

10.4 Oversight of powers under RIPA 2000 is provided for within RIPA 2000. The Investigatory Powers Commissioner's Office has statutory oversight responsibility for reviewing the use of covert techniques by public authorities. This includes use of these powers by the enforcement officers appointed under section 90 of the Act, as was the case when these powers were used by the GLAA.

10.5 Oversight of powers under POCA 2002 is provided for through the existing framework under POCA 2002. Accredited financial investigators are assessed and verified annually by the National Crime Agency. This oversight arrangement is not being amended by this instrument. As was the case when these powers were exercised

[1] https://www.gov.uk/guidance/employment-rights-bill-impact-assessments

by the GLAA, these powers will be accessible only to enforcement officers appointed under section 90 of the Act, who are accredited financial investigators.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Alongside the instruments listed in paragraph 5.7, this instrument forms part of a wider package of secondary legislation, that is necessary to give full effect to provisions in Part 5 of the Employment Rights Act 2025.

11.2 Another instrument in this package, the Police and Criminal Evidence Act 1984 (Application to Enforcement Officers) Regulations 2026, provides for powers under the Police and Criminal Evidence Act 1984 to be conferred on enforcement officers appointed under section 90 of the Act. These powers were previously accessible by the GLAA.

11.3 Additionally, on 27 January 2026, the Employment Rights Act 2025 (Investigatory Powers) (Consequential Amendments) Regulations 2026 were laid in draft. This instrument makes consequential changes to ensure enforcement officers appointed under section 90 of the Act can access powers enabling the acquisition of communication data that were previously accessible to the GLAA.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).