EXPLANATORY MEMORANDUM TO

THE EMPLOYMENT RIGHTS ACT 2025 (PARENTAL AND PATERNITY LEAVE) (REMOVAL OF QUALIFYING PERIODS ETC.) (CONSEQUENTIAL AMENDMENTS) REGULATIONS 2026

2026 No. 15

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.

2. Declaration

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

2.2 Jayne McCann, Deputy Director for Participation, at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rowan Slaney at the Department for Business and Trade, can be contacted at: rowan.slaney@businessandtrade.gov.uk or Beth Pearce at the Department for Business and Trade, can be contacted at beth.pearce@businessandtrade.gov.uk with any queries regarding these instruments.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes amendments to secondary legislation in consequence of sections 15 to 17 of the Employment Rights Act 2025 (c. 36) ("the Act"). The Act amended the Employment Rights Act 1996 (c. 18) ("the 1996 Act") to remove the 26-week continuity of service requirement for Paternity Leave and the year-long continuity of service requirement for Parental Leave (also known as Unpaid Parental Leave or Ordinary Parental Leave), making employees eligible for these entitlements from their first day in a new job. It also amended the 1996 Act and the Social Security Contributions and Benefits Act 1992 (c. 4) ("the 1992 Act") to lift restrictions on taking Paternity Leave and Pay after Shared Parental Leave and Pay.

4.2 For birth parents, these changes to entitlements will apply in relation to a parent whose child has an expected week of childbirth (EWC) on or after 5 April 2026, or whose child is born on or after 6 April 2026. For adoptive parents, these changes to entitlements will apply in relation to a parent whose child is placed for adoption on or after 6 April 2026 in domestic adoption cases, and where the child enters Great Britain on or after 6 April 2026 for overseas adoption cases. In all cases, employees who are newly eligible for the entitlements will be able to take leave from 6 April 2026, provided they have given their employer the correct notice.

4.3 The instrument also introduces a transition period for Paternity Leave, to support parents who are newly eligible for the entitlement by reducing the notice period. Any employee who becomes eligible for Paternity Leave because of these changes may give 28 days' notice to their employer, where the EWC falls between 5 April 2026

and 25 July 2026. For EWCs from 26 July 2026 onwards, the standard 15-week notice period prior to the EWC will apply.

4.4 This instrument will ensure that legislation is coherent and that the Act works as intended. The various regulations amended by this instrument contain provisions in relation to Parental Leave, Paternity Leave or Shared Parental Leave which are updated to reflect the changes to primary legislation made by sections 15 to 17 of the Act.

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 England and Wales, and Scotland.

4.6 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, and Scotland.

5. Policy Context

What is being done and why?

5.1 The Act, which was introduced to Parliament on 10 October 2024 and which received Royal Assent on 18 December 2025, is designed to help more people to stay in work, support workers' productivity and improve living standards.

5.2 The Act aims to support family friendly rights by improving flexibility and security. It does this by making existing entitlements to Paternity Leave and Unpaid Parental Leave available from the first day of employment. This change is designed to make these entitlements accessible to all employees. It also brings these entitlements into alignment with other parental leave rights, such as Maternity Leave and Adoption Leave, thereby simplifying the system.

5.3 It is estimated that these changes will bring an extra 32,000 fathers or partners into scope of Paternity Leave and an extra 1.5 million parents into scope of Parental Leave.

5.4 The Act also removes the restriction that means that Paternity Leave and Pay cannot be taken after Shared Parental Leave and Pay, increasing flexibility around how parents take their parental leave and reducing the risk of losing entitlements due to misunderstanding the rules.

5.5 The legal changes introduced by this instrument are necessary to ensure that the new rights and related legislation are clear, enforceable, and consistent across the employment landscape.

What was the previous policy, how is this different?

5.6 Previously, under the Employment Rights Act 1996 and related secondary legislation, employees were required to meet continuity of service requirements to qualify for certain parental leave entitlements.

5.7 An employee was required to have worked for their employer for 26 weeks before they were eligible for Paternity Leave, and for a year before they were eligible for Parental Leave. This means parents lost access to these entitlements if they left their job to work for another employer and needed to build back up those weeks of service with a new employer before they qualified to take the leave. The previous rules may have deterred employees from changing jobs if they were a parent or expected to become one, and did not want to lose their entitlement to leave.

5.8 It was also required that employees took Paternity Leave and Pay before Shared Parental Leave and Pay, or their Paternity Leave and Pay entitlements were lost.

5.9 Now the Government has removed these continuity of service requirements, so Paternity Leave and Parental Leave are 'day one' rights. This means employees become eligible to these entitlements from their first day in a new job, regardless of how long they've worked for their employer.

5.10 The Act also removes the restriction that Paternity Leave and Pay must be taken before Shared Parental Leave and Pay, allowing parents to take Paternity Leave and Pay and Shared Parental Leave and Pay in any order they wish. This change provides greater flexibility and reduces the risk of losing entitlements due to misunderstanding the rules.

6. Legislative and Legal Context

How has the law changed?

6.1 The Act introduces legislative changes to the Employment Rights Act 1996 to remove continuity of service requirements for Paternity Leave and Parental Leave, and to remove restrictions on the sequencing of Paternity Leave and Shared Parental Leave. To do this:

- Section 15 of the Act amends section 76 of the 1996 Act. It removes provision for regulations to require an employee to be continuously employed for a specified period of time before they are entitled to be absent from work on Parental Leave.
- Similarly, section 16 of the Act amends section 80A and section 80B of the 1996 Act, to remove provision for regulations to require an employee to be continuously employed for a specified period of time before they are entitled to be absent from work on Paternity Leave following the birth or adoption of a child.
- Section 17 of the Act makes amendments to sections 80A and 80B of the 1996 Act and section 171ZE of the 1992 Act, to remove restrictions on taking Paternity Leave after having taken Shared Parental Leave and on receiving Statutory Paternity Pay after having received Statutory Shared Parental Pay or taken Shared Parental Leave.
- Section 154(1) of the Act gives the Secretary of State the power to make Regulations that are consequential on any provision made by the Act.
- Section 156(3) of the Act allows that the Regulations under the Act may contain supplementary, incidental, consequential, transitional or saving provisions.
- This instrument (regulations (4) to (8) and (10) to (14)) uses those enabling powers to make amendments to a number of instruments, that gave effect to sections 76, 80A and 80B of the 1996 Act, that are consequential on sections 15, 16 and 17 of the Act. Regulation 9 of this instrument makes transitional provision in relation to the giving of notices by or to an employee in relation to Paternity Leave.

Why was this approach taken to change the law?

6.2 As a consequence of the Act being passed, references to continuity of service requirements and sequencing restrictions in existing regulations needed to be amended to ensure that the law is coherent, enforceable, and aligned to the Government's policy objectives.

7. Consultation

Summary of consultation outcome and methodology

7.1 A formal consultation was not undertaken specifically for these changes because the policy builds on existing evidence and stakeholder engagement.

7.2 A large-scale evaluation of Shared Parental Leave, published in 2023, included findings from the Parental Rights Survey and other reports examining the wider parental leave landscape. Since then, officials have continued to engage with stakeholders, including charities, academics, and Business Representative Organisations. These stakeholders have expressed broad support for making Paternity Leave and Parental Leave 'day one' rights, and making Paternity Leave and Pay accessible after taking Shared Parental Leave and Pay.

7.3 In addition, the Government has launched a Parental Leave Review, which began in July 2025, and includes a Call for Evidence. This review is evidence-based and considers the perspectives and experiences of those who engage with the parental leave and pay system. Stakeholders have ongoing opportunities to contribute views and expertise throughout the review process.

7.4 No other consultation was carried out on account of the consequential nature of the amendments.

8. Applicable Guidance

8.1 Guidance will be available on gov.uk to coincide with the partial commencement of the relevant clauses in the Act. This will be on 18 February 2026, which is the first day that notice will be able to be given by newly eligible employees who wish to take Paternity Leave or Parental Leave. Updates will be made to existing guidance on parental leave entitlements for employers and employees, to reflect the changes.

8.2 The Advisory, Conciliation and Arbitration Service (ACAS) will publish guidance on this new entitlement for employers when the legislation is in force.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment (https://assets.publishing.service.gov.uk/media/67c5741416dc9038974dbd3f/Impact_assessment_day_1_right_to_paternity_leave_and_unpaid_parental_leave.pdf) was prepared to accompany the primary legislation and was published on gov.uk. A further impact assessment has not been undertaken due to the consequential nature of these amendments.

9.2 The primary legislation brings an estimated additional 32,000 fathers or partners into scope of Paternity Leave and an extra 1.5 million parents into scope of Parental Leave. As a result, there will be additional costs to employers in the form of ongoing re-organisation associated with employees taking time off work. This is expected to cost employers an estimated £24.7m per year. However, there are also expected to be non-monetised benefits through improved health and wellbeing for both parents and children. Evidence suggests that increased paternal involvement in a child's life will lead to better life outcomes for that child. Fathers/partners who are more involved with their children also report greater life satisfaction and better psychological well-being.

Impact on businesses, charities and voluntary bodies

9.3 The impact on business, charities or voluntary bodies is expected to be an estimated £24.7m per year, relating to ongoing re-organisation associated with employees taking time off work for Paternity Leave and Parental Leave. There may also be advantages for employers, including the potential to reduce absence rates and improve their ability to anticipate and manage staff absences. It may also help employers to gain access to a greater pool of potential candidates as parents may be more likely to apply for new jobs because they won't lose their access to Paternity Leave and Parental Leave, however this requires more evidence.

9.4 The legislation impacts small or micro businesses, who are expected to be slightly disproportionately impacted by Parental Leave reforms. They are estimated to bear 35.4% of the costs while only employing 29.0% of employees. However, given that these costs are comparatively small, and that the policy must be applied to all businesses to achieve its aim, no mitigations are being made for small and micro businesses in regard to the Parental Leave reforms. For Paternity Leave reforms the cost is not expected to be disproportionate following the changes.

9.5 The impact on the public sector is expected to be nil/negligible, beyond the expected costs as an employer. The impact on ACAS and the Employment Tribunal system, in terms of caseload, is assumed to be small. There may be some small public sector costs associated with administering leave requests for the new population brought into scope. However, these are small at the whole economy level and there is evidence that job tenure in the public sector tends to be longer. Therefore, these costs are likely to be smaller than if they were calculated based on the public sector share of employment.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is consistent with other, similar entitlements to family related leaves. We will monitor the take up of the entitlement and effectiveness of the legislation using stakeholder feedback. This will focus on assessing whether the changes enable more parents to access and take up Parental Leave and Parental Leave. We will conduct a non-statutory Post-Implementation Review (PIR) after at least five years following introduction, once the new entitlement has had sufficient time to embed, likely in 2031.

10.2 The instrument, which makes consequential and transitional provision only, does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Kate Dearden MP has made the following statement: "*Having had regard to sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 and Statutory Review Guidance for Departments published under section 31(3) of that Act, I have decided that to make provision for a statutory review in this instrument would be disproportionate taking into account the economic impact of the regulatory provision and would, therefore, be inappropriate. The Department for Business and Trade will undertake a non-statutory review of the policy in 2031 using stakeholder feedback to assess the effectiveness of the legislation and guidance*."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

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").