EXPLANATORY MEMORANDUM TO

THE POLICE AND CRIMINAL EVIDENCE ACT 1984 (APPLICATION TO ENFORCEMENT OFFICERS) REGULATIONS 2026

2026 No. 303

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 Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Kate Dearden, Minister for Employment Rights and Consumer Protection at 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 Chris Rowland at the Department for Business and Trade can be contacted by email at the following address with any queries regarding the instrument chris.rowland@businessandtrade.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This memorandum relates to the Police and Criminal Evidence Act 1984 (Application to Enforcement Officers) Regulations 2026 ("PACE Regulations"), which confers functions under the Police and Criminal Evidence Act 1984 ("PACE") on enforcement officers appointed by the Secretary of State under section 90 of the Employment Rights Act 2025 ("2025 Act").

4.2 The 2025 Act provides for the consolidation of labour market enforcement functions previously exercised by separate bodies, including the Gangmasters and Labour Abuse Authority ("GLAA"). Section 148(1)(a) of the 2025 Act abolishes the GLAA and Part 5 of the 2025 Act vests the enforcement functions of the GLAA in the Secretary of State. These functions are exercisable in practice through the Fair Work Agency ("FWA"), which will be an executive agency of the Department for Business and Trade ("DBT").

4.3 Prior to its abolition, labour abuse prevention officers ("LAPOs") of the GLAA were authorised to exercise certain investigatory powers under PACE. These officers were subject to independent complaints and misconduct oversight arrangements provided for in the Independent Office for Police Conduct (IOPC) through the Gangmasters and Labour Abuse Authority (Complaints and Misconduct) Regulations 2017.

4.4 The PACE Regulations provide that authorised Fair Work Agency enforcement officers appointed under Part 5 of the 2025 Act may exercise specified PACE powers. They also revoke existing provision applying those powers to LAPOs and apply equivalent provision to authorised FWA officers.

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.

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

5. Policy Context

What is being done and why?

5.1 The FWA is intended to provide a more coherent and effective system of labour market enforcement. As part of that change, enforcement functions previously exercised by the GLAA (including its responsibility for tackling aspects of serious labour abuse and modern slavery) are being transferred to the Secretary of State for Business and Trade to be exercised operationally through the FWA.

5.2 Enforcement officers of the FWA will require access to investigatory powers under PACE in connection with these functions transferred from the GLAA. The instrument ensures that authorised FWA enforcement officers may continue to exercise PACE powers previously available to LAPOs, avoiding any gap in enforcement capability following the abolition of the GLAA.

What was the previous policy, how is this different?

5.3 Prior to the establishment of the FWA, labour market enforcement functions in the relevant sectors were carried out by the GLAA.

5.4 The Police and Criminal Evidence Act 1984 (Application to Labour Abuse Prevention Officers) Regulations 2017 ("the LAPO Regulations") conferred certain PACE powers on LAPOs of the GLAA.

5.5 Section 148(1)(a) of the 2025 Act abolishes the GLAA and Part 5 of the 2025 Act transfers its enforcement functions to the Secretary of State to be exercised in practice by Fair Work Agency enforcement officers. The PACE regulations replicate previous arrangements so that authorised Fair Work Agency enforcement officers may continue to exercise equivalent PACE powers in connection with enforcement functions being transferred to the Secretary of State. They do not introduce new investigatory powers for enforcement officers of the FWA. The difference is institutional rather than substantive: the powers remain materially the same but apply to certain authorised Fair Work Agency enforcement officers instead of GLAA LAPOs.

6. Legislative and legal context

How has the law changed?

6.1 The 2025 Act vests in the Secretary of State functions relating to the enforcement of specified labour market legislation, bringing together functions previously exercised by separate enforcement bodies, including the GLAA. The 2025 Act abolishes the GLAA and transfers its enforcement functions to the Secretary of State. Detail of the legislation for which responsibility for enforcement is transferring to the Secretary of State is set out in Part 1 of Schedule 7 to the 2025 Act.

6.2 The PACE Regulations are made under section 114B of PACE (as amended by paragraph 63 of Schedule 10 to the 2025 Act) and apply, with modifications, PACE provisions to authorised enforcement officers appointed under section 90 of the 2025 Act. Section 114B of PACE enables the Secretary of State, by regulations, to apply specified provisions of the PACE to enforcement officers for the purposes of investigation of labour market offences. Regulations made under that section previously applied certain PACE powers to LAPOs of the GLAA. This instrument ensures continuity of access to investigatory powers following the abolition of the GLAA so that Fair Work Agency officers can investigate breaches of labour market offences within its enforcement remit from April 2026.

6.3 To ensure the use of PACE powers by enforcement officers appointed under section 90 of the 2025 Act are subject to IOPC oversight, the Gangmasters and Labour Abuse Authority (Complaints and Misconduct) Regulations 2017 (S.I. 2017/521) will continue to apply, with modifications. S.I. 2017/521 will remain in place until new regulations can be made under section 26CA of the Police Reform Act 2002.

Why was this approach taken to change the law?

6.4 The LAPO Regulations applied PACE powers to LAPOs of the GLAA. For reasons of legal clarity and to ensure the legal basis for actions is clear, we are revoking and replacing the LAPO Regulations rather than simply amending them by omitting references to LAPOs and inserting references to enforcement officers.

6.5 As with the LAPO regulations, the PACE Regulations are made under section 114B of PACE. This section, as amended by the 2025 Act, enables the Secretary of State, by regulations, to apply specified provisions of PACE to enforcement officers for the investigation of labour market offences.

7. Consultation

Summary of consultation outcome and methodology

7.1 The policy underpinning these instruments has been developed as part of the Government's wider programme of labour market enforcement reform.

8. Applicable Guidance

8.1 Operational guidance and training will be provided to Fair Work Agency enforcement officers authorised to exercise PACE powers. Officers will be required to comply with the relevant PACE Codes of Practice and any internal authorisation and governance arrangements established by the Fair Work Agency.

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 Fair Work Agency (FWA) and the transfer of enforcement functions from the Gangmasters and Labour Abuse Authority (GLAA), Employment Agency Standards Inspectorate (EAS), and HMRC National Minimum Wage (HMRC-NMW) enforcement were comprehensively assessed in the Impact Assessment and Enactment Assessment prepared for the Employment Rights Act 2025.[1]

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

9.2 The instrument ensures the continuity of existing investigatory powers following an organisational transfer of functions. There are no new regulatory burdens or changes to the scope or application of PACE powers and no change in how their use is overseen.

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 maintains existing investigatory powers.

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 than 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 Fair Work Agency. There are no additional costs or operational changes beyond the administrative transfer of functions already provided for by the Employment Rights Act 2025.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is provided through the existing oversight framework established by the Police and Criminal Evidence Act 1984 (PACE) and the Police Reform Act 2002.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 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 ERA 2025.

11.2 The following instruments in this package that will come into force at the same time as this instrument include: the Employment Rights Act 2025 (Enforcement) (Consequential Amendments) Regulations 2026 (which is made on the same day as this instrument) and the Employment Rights Act 2025 (Investigatory Powers) (Consequential Amendments) Regulations 2025.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 These instruments are 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").