EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY AND STATUTORY MATERNITY PAY (EVIDENCE OF PREGNANCY AND COMPENSATION OF EMPLOYERS) (AMENDMENT) REGULATIONS 2026

2026 No. 201

1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Baroness Sherlock, Minister for Lords at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

2.2 Helen Walker, Deputy Director for Life Events, Poverty and Disadvantage, at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Isobel Welton at the Department for Work and Pensions can be contacted by email at the following address with any queries regarding the instrument: smpand.mapolicy@dwp.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends legislation to allow claimants of both Maternity Allowance (MA) and Statutory Maternity Pay (SMP) to submit a copy of their proof of pregnancy (MATB1) certificate instead of the original.

4.2 It also makes minor, technical changes to The Statutory Maternity Pay (Compensation of Employers) and Miscellaneous Amendment Regulations (Northern Ireland) 1994[1] (NI 1994 Regulations) to clarify the method of calculation for the Small Employer Compensation (SEC) rate to correct a long-standing error by mirroring the equivalent Great Britain (GB) regulations (The Statutory Maternity Pay (Compensation of Employers) and Miscellaneous Amendment Regulations 1994[2]) (GB 1994 Regulations).

4.3 This instrument also amends the additional amount, the SEC rate, that a small employer may recover from His Majesty's Revenue and Customs (HMRC) where such an employer has paid out SMP to any qualifying employee(s) in a given tax year.

[1] https://www.legislation.gov.uk/nisr/1994/271/contents/made
[2] https://www.legislation.gov.uk/uksi/1994/1882/contents

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is that Regulations 1 and 2 extend to the whole of the United Kingdom. As maternity pay is transferred in Northern Ireland (NI), regulations 3, 4 and 5 extend to England, Wales and Scotland. Regulation 6 extends to NI only as the Secretary of State for Work and Pensions retains the power to make statutory instruments in respect of any changes to the SEC rate which impact NI.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is that Regulations 1 and 2 apply to the whole of the United Kingdom. Regulations 3, 4 and 5 apply to England, Wales and Scotland. Regulation 6 applies to NI only.

4.6 Officials have liaised with colleagues in the NI Department for Communities (DfC) about the proposed changes in legislation. DfC will be introducing equivalent legislation for NI which will mirror our amending regulations which permit claimants of MA and SMP to supply a copy of their MATB1 certificate.

5. Policy Context

What is being done and why?

Maternity Allowance (MA) and Statutory Maternity Pay (SMP)

5.1 There are two types of maternity pay available to pregnant working women, SMP, paid by employers to qualifying employed women, and MA, paid by the Department for Work and Pensions (DWP) to eligible women (including the self-employed and women in employment who are not eligible for SMP). The qualifying conditions for both are generally based on a woman's recent employment and earnings. To provide sufficient evidence of pregnancy for both, a woman must usually supply a MATB1 certificate (a paper form issued by a doctor or a midwife).

5.2 The relevant evidential regulations currently require that MATB1 certificates are signed in ink or another indelible substance by a doctor or midwife, inferring that original documents must be provided to enable decision makers or employers to verify that the certificate has been signed in an appropriate medium. The amended legislation will remove this requirement and effectively permit the provision of copies of MATB1 certificates, for example, in a digital form to support an online application. This will enable the beta testing[3] of online MA claims and ultimately allow DWP to give all MA claimants the option to apply online, improving claim timescales and streamlining the claim process. Making parallel amendments across MA and SMP will avoid confusion for claimants by ensuring that women claiming either payment are subject to the same evidence rules for proof of pregnancy.

Northern Ireland Regulations: Small Employer Compensation (SEC) rate calculation

5.3 Small employers (those who have gross Class 1 National Insurance Contributions (NICs) liability of £45,000 or less in the previous tax year[4]) can claim what is known as Small Employers Relief and recover 100 percent of SMP they have paid plus an additional compensation payment. The additional payment is known as SEC and supports small employers with the associated costs of having an employee on maternity leave.

[3] https://www.gov.uk/service-manual/agile-delivery/how-the-beta-phase-works
[4] https://www.gov.uk/recover-statutory-payments

5.4 For NI, details of the SEC rate are set out in the NI 1994 Regulations. The key enabling power under which the NI 1994 Regulations were made (and the equivalent power for GB) sets out the factors by reference to which the SEC rate should be calculated and specifies that the calculation method must be set out in regulations.

5.5 The required details of the calculation method are included in the equivalent GB 1994 Regulations[5] but are missing from the NI 1994 Regulations. This error was identified when the regulations were reviewed during the process of laying The Statutory Maternity Pay (Compensation of Employers) (Amendment) Regulations 2025[6]. The error has not affected the amount that small employers have been able to recover as the SEC rate has been calculated in the same way across the UK (as if these words were already included).

5.6 These legislative amendments insert details of the SEC calculation method into the NI 1994 Regulations, ensuring that they meet the requirements in the primary legislation and will fully mirror the GB 1994 Regulations. These amendments will not change how the SEC rate is calculated.

5.7 This will ensure that, if the SEC rate is amended in future, the regulatory power under which the new rate will be specified will be clearly compliant with all the requirements of the primary power. It will also provide clarity for employers in NI, avoid administrative issues and avoid any potential negative reputational impact, for both DWP and His Majesty's Revenue and Customs (HMRC).

Amendment to the Small Employer Compensation (SEC) rate

5.8 The SEC rate can vary as a natural consequence of the shift in the ratio between the SMP paid out and employers' share of NICs paid on SMP. For 2026-27, HMRC (who are responsible for the estimation function) have calculated the SEC rate as 9 percent, an increase of 0.5 percent from the 2025-26 rate of 8.5 percent. This rise is driven by small changes in average wages, an increase in the SMP rate (to £194.32 per week for 2026-27), and no changes to the employer NIC rates or thresholds.

What was the previous policy, how is this different?

Maternity Allowance (MA) and Statutory Maternity Pay (SMP)

5.9 The relevant evidential regulations for MA and SMP (see paragraphs 6.1 and 6.2) required that the proof of pregnancy (MATB1) certificate was signed in ink or another indelible substance by a doctor or midwife. This wording effectively required the original MATB1 certificate to be supplied to enable decision makers and employers to verify that the MATB1 certificate had been signed in an appropriate medium. Removing this requirement in the relevant evidential regulations will allow the provision of photos and scanned copies of MATB1 certificates.

Northern Ireland Regulations: Small Employer Compensation (SEC) rate calculation

5.10 There has been no change to the previous policy. These legislative amendments will correct a technical error by inserting additional wording specifying the formula by which the SEC rate is calculated in NI. This will reflect the equivalent provision in the GB 1994 Regulations and ensure that the method by which the SEC rate is to be

[5] For GB, the method by which the SEC rate is to be calculated is specified in Regulation 3 of the GB 1994 Regulations (https://www.legislation.gov.uk/uksi/1994/1882/regulation/3), as required by s 167(2)(b) of the SSCBA 1992 (https://www.legislation.gov.uk/ukpga/1992/4/section/167)

[6] https://www.legislation.gov.uk/uksi/2025/330/made

calculated is also detailed in the NI 1994 Regulations, in compliance with the requirements of the enabling legislation.

Amendment to Small Employer Compensation (SEC) rate

5.11 There has been no change to the previous policy; this instrument amends existing legislation to reflect an estimated increase in the SEC rate for the financial year 2026-27 calculated in accordance with a pre-determined formula. Legislation requires the SEC rate to be assessed and estimated annually by HMRC. It has been calculated at 9 percent for the financial year 2026-27. This instrument will therefore amend the SEC rate from 8.5 percent to 9 percent of any SMP the small employer has paid in the relevant tax year.

6. Legislative and Legal Context

How has the law changed?

Maternity Allowance (MA) and Statutory Maternity Pay (SMP)

6.1 The Social Security (Medical Evidence) Regulations 1976[7] previously effectively required claimants to supply an original MATB1 certificate as decision makers and employers had to be able to verify that the certificate was signed in ink or another indelible substance. The regulatory amendments amend paragraph 4 of Part 1 of Schedule 2 to The Social Security (Medical Evidence) Regulations 1976 so that the implied requirement to provide an original MATB1 certificate no longer applies.

6.2 This instrument also makes equivalent changes to the SMP provision set out in paragraph 4 of Part 1 of the Schedule to The Statutory Maternity Pay (Medical Evidence) Regulations 1987[8] to maintain consistency in evidentiary requirements.

Northern Ireland Regulations: Small Employer Compensation (SEC) rate calculation

6.3 The NI 1994 Regulations which specify the SEC rate that applies for small employers in NI do not set out how the SEC rate is to be determined. Section 163 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992[9] provides the enabling power to make regulations allowing qualifying small employers in NI to recover an additional compensation amount on top of any SMP paid out. The primary provision states that the method of calculation (as well as the rate itself) must be set out in regulations.

6.4 The equivalent enabling power which applies in GB (section 167 of the Social Security Contributions and Benefits Act 1992[10]) makes the same stipulations. Regulation 3 of the GB 1994 Regulations[11] explains the calculation the SEC rate will be based upon.

6.5 However, at present the wording of regulation 3 of the NI 1994 Regulations does not include the equivalent text and so does not fully comply with the requirements of the abovementioned NI enabling power. This instrument corrects this technical error and adds the additional wording regarding how the rate is calculated into the NI 1994 Regulations. This will also provide further clarity for NI employers as to how the SEC

[7] https://www.legislation.gov.uk/uksi/1976/615/contents
[8] https://www.legislation.gov.uk/uksi/1987/235
[9] https://www.legislation.gov.uk/ukpga/1992/7/section/163
[10] https://www.legislation.gov.uk/ukpga/1992/4/section/167
[11] https://www.legislation.gov.uk/uksi/1994/1882/regulation/3

rate is calculated and ensure that the NI secondary legislation is fully compliant with the requirements in the relevant primary enabling power.

Amendment to Small Employer Compensation (SEC) rate

6.6 Regulations made under section 167 of the Social Security Contributions and Benefits Act 1992 (and under section 163 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992) entitle employers to recover either some or all of the cost of making SMP payments.

6.7 The GB 1994 Regulations set out the employers' SMP reimbursement arrangements. Regulation 3 provides that the compensation amount is a percentage of any SMP the employer has paid that year.

6.8 Although maternity pay is transferred to NI, the enabling power under which equivalent NI provision for the SEC payable can be made or amended requires that any regulations making provision about the SEC payable for NI must be made by the Secretary of State for Work and Pensions. This requirement is specified in section 163(7) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

6.9 The same reimbursement arrangements apply to Statutory Paternity Pay[12], Statutory Shared Parental Pay[13], Statutory Adoption Pay[14], Statutory Parental Bereavement Pay[15] and Statutory Neonatal Care Pay[16] for UK and NI and existing legislation[17] means that the SEC payable in respect of these payments will increase at the same time.

Why was this approach taken to change the law?

Maternity Allowance (MA) and Statutory Maternity Pay (SMP)

6.10 These changes will enable the next stage of the MA Modernisation Project, which will require MA applicants taking part in online testing to be able to submit digital copies of MATB1 certificates. We are amending SMP regulations at the same time to ensure continued consistency of evidentiary requirements.

Northern Ireland Regulations: Small Employer Compensation (SEC) rate calculation

6.11 The statutory instrument required to make changes to the MA and SMP Regulations presents an opportunity to also correct the abovementioned technical error in the NI 1994 Regulations.

Amendment to Small Employer Compensation (SEC) rate

6.12 It is appropriate to use the existing enabling powers in the Social Security Contributions and Benefits Act 1992 and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 to make these changes, as these powers allow for the SEC amount to be specified and amended via regulations.

[12] https://www.gov.uk/employers-paternity-pay-leave
[13] https://www.gov.uk/shared-parental-leave-and-pay
[14] https://www.gov.uk/adoption-pay-leave/pay
[15] https://www.gov.uk/parental-bereavement-pay-leave
[16] https://www.gov.uk/neonatal-care-pay-leave
[17] https://www.legislation.gov.uk/uksi/2002/2820/regulation/3/made; https://www.legislation.gov.uk/uksi/2014/2929/regulation/3/made; https://www.legislation.gov.uk/uksi/2020/246/regulation/3/made; https://www.legislation.gov.uk/uksi/2025/206/regulation/3/made

7. Consultation

Summary of consultation outcome and methodology

7.1 Agreement to amend MA and SMP evidence requirements was sought and obtained from the Social Security Advisory Committee (SSAC) on 21 January 2026. SSAC did not take the regulations on formal reference and agreed that they may proceed accordingly; the minutes of the meeting will be published on GOV.UK[18].

7.2 Agreement was also sought and obtained from the NI DfC who have agreed to make equivalent amendments for NI which will mirror our amending regulations to allow submission of copy MATB1 certificates.

7.3 These regulations are also made with the concurrence of two Commissioners of HMRC, as required by section 167(7) of the Social Security Contributions and Benefits Act 1992 (in relation to GB) and by section 163(8) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (in relation to NI).

7.4 Consultation is not required to amend the SEC rate as this instrument amends existing legislation using a pre-determined formula.

8. Applicable Guidance

8.1 Internal guidance for DWP MA agents and Mail-Opening Unit staff will be aligned to the effective date of the measure. Guidance for employers will be published by HMRC. Guidance products will be supplemented with a communication bulletin to employers. HMRC employer helpline[19] staff will be able to answer employer questions about how this change might affect them.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

Maternity Allowance (MA) and Statutory Maternity Pay (SMP)

9.1 A full Impact Assessment has not been prepared for this instrument because minimal costs are expected to be incurred as a result of permitting the provision of copy MATB1 certificates by MA and SMP claimants. This is a positive change as the amendments to the relevant legislation, which deals with providing evidence of pregnancy, will support MA claimants who are applying online by allowing them to upload a copy of their MATB1 certificate, while maintaining the existing option for clerical submission of MATB1 certificates.

Northern Ireland Regulations: Small Employer Compensation (SEC) rate calculation

9.2 A full Impact Assessment has not been prepared because the instrument amends existing legislation for NI to add wording for a pre-determined formula, to mirror GB regulations.

[18] https://www.gov.uk/government/collections/social-security-advisory-committee-minutes-of-meetings
[19] https://www.gov.uk/find-hmrc-contacts/employers-general-enquiries

Amendment to Small Employer Compensation (SEC) rate

9.3 A full Impact Assessment has not been prepared for this instrument because it is not a regulatory provision[20]. The instrument does not impose new costs or burdens on businesses.

Impact on businesses, charities and voluntary bodies

9.4 The impact on business, charities or voluntary bodies is minimal. All employers must continue to pay SMP to all qualifying employees, however businesses may need to update internal guidance to include acceptance of non-original MATB1 certificates.

9.5 The legislation does impact small or micro businesses.

9.6 Should any such small or micro business, charity or voluntary body fall within the definition of a small employer, the legislation will have a positive impact as the increased SEC rate will help offset costs related to SMP.

9.7 The impact on the public sector will result from an increase in the Department for Work and Pensions' Annually Managed Expenditure which has been approved by His Majesty's Treasury. This additional expenditure figure requires approval by the Office for Budget Responsibility before it can be shared.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to annually assess and estimate the SEC rate payable.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The free issue procedure has been applied because the regulations include a correction to the NI 1994 Regulations and because the instrument as a whole is short and includes minor amendments only. We have complied with the requirement to consult with the SI Registrar (paragraph 4.7.6 of Statutory Instrument Practice[21]).

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").

[20] https://assets.publishing.service.gov.uk/media/67587ba55a2e4d4b993bfa83/better-regulation-framework-guidance-2023.pdf
[21] https://www.legislation.gov.uk/pdfs/StatutoryInstrumentPractice_5th_Edition.pdf