EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 4) REGULATIONS 2025

2025 No. 328

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) on behalf of His Majesty's Treasury and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 James Murray MP, the Exchequer Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Alison Woodhouse, Deputy Director for National Insurance Policy, International and Student Finance at HMRC, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Ashta Kalume at HMRC Telephone: 0300 051 7486 or email: nics.policy@hmrc.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Neonatal Care (Leave and Pay) Act 2023 (the "2023 Act") was enacted on 24 May 2023, making provision for Statutory Neonatal Care Leave and Payments to be made to employees whose child is in receipt of neonatal care. Entitlement to Neonatal Care Leave and Pay will come into effect from 6 April 2025.

4.2 This statutory instrument makes changes to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) ("the Contributions Regulations") as a direct consequence of the introduction of Statutory Neonatal Care Pay, by inserting reference to Statutory Neonatal Care Pay alongside references to existing statutory payments, to ensure payments of Statutory Neonatal Care Pay are treated as remuneration from an employed earner's employment for National Insurance Contributions (NICs) purposes.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England, Wales and Scotland.

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

5. Policy Context

What is being done and why?

5.1 Before the introduction of Statutory Neonatal Leave and Pay there was no specific statutory entitlement for an employee responsible for a child receiving neonatal care to take time off work (paid or otherwise) whilst the child is receiving neonatal care. Some employers would allow compassionate leave to be taken. This was at the discretion of the employer as there was no minimum standard across the board or statutory requirement in place.

5.2 The Neonatal Care (Leave and Pay) Act 2023 (the "2023 Act") was enacted on 24 May 2023. Entitlement to Neonatal Care Leave and Pay will come into effect from 6 April 2025.

5.3 The 2023 Act creates a statutory entitlement for employed parents to be absent from work for a prescribed period (set at a minimum of one week) in respect of a child who is receiving, or has received, neonatal care. All employees who meet the eligibility conditions will be entitled to this leave, regardless of how long they have worked for their employer.

5.4 The 2023 Act also creates a new statutory payment called Statutory Neonatal Care Pay, a right for those eligible parents who meet minimum requirements relating to continuity of employment (at least 26 weeks with their current employer) to be paid during that leave at a prescribed rate, which eligible employees will be entitled to claim. To qualify for Neonatal Care Leave and Pay, the responsible person must be an employee, and the child must be admitted to hospital as a neonate (28 days old or less) for a continuous period of 7 days or more. Depending on the length of stay in neonatal care, the employee may be entitled to up to 12 weeks of additional Leave and Pay. Statutory Neonatal Care Pay will be paid at the same standard weekly rate as all other statutory parental payments currently available, or 90% of their average weekly earnings (whichever is lower). Eligibility for leave will be a right from the employees first day of employment, whilst payment is subject to a requirement that the employee has worked for their employer for at least 26 weeks and has sufficient average weekly earnings. This mirrors the eligibility criteria for other similar statutory payments.

5.5 The introduction of a specific statutory entitlement to Neonatal Care Leave and Pay will set a minimum standard for employees and employers. The intention of the policy is to provide certainty for employed parents and employers in relation to parents' right to time off from work following the admission of a child into neonatal care. It also gives parents dedicated and protected time to spend with their baby whilst they are in hospital or other care settings.

5.6 The 2023 Act has been introduced by the Department for Business and Trade (DBT), and a number of consequential amendments to other legislation are required to enable eligible employees to claim entitlement to Statutory Neonatal Care Pay. The amendments made in this instrument do not create any new entitlement but are consequential amendments to the Contributions Regulations to bring Statutory Neonatal Care Pay in line with other statutory payments. The amendments ensure that any payments of Statutory Neonatal Care Pay are treated as remuneration from an employed earner's employment for NICs purposes.

5.7 Employment matters are devolved in Northern Ireland. It is for the Northern Ireland Assembly to decide if similar provisions should apply in due course to Northern Ireland.

What was the previous policy, how is this different?

5.8 There wasn't a previous policy in place for provisions in respect of Statutory Neonatal Care Leave or Pay.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument makes the changes set out at 4.2 to the Contributions Regulations, which are required as a consequence of legislation referred to at 5.2. It is also related to the forthcoming Social Security Contributions (Decisions and Appeals) (Amendment) Regulations 2025 and the Statutory Neonatal Care Leave and Pay (Miscellaneous Amendments) Regulations 2025.

6.2 The Social Security Contributions (Decisions and Appeals) (Amendment) Regulations 2025 makes amendments to the Social Security Contributions (Decisions and Appeals) Regulations 1999 (S.I. 1999/1027) to introduce references to Statutory Neonatal Care Pay. The Statutory Neonatal Care Leave and Pay (Miscellaneous Amendments) Regulations 2025 makes similar amendments to introduce references to Statutory Neonatal Care Pay into the Statutory Payment Schemes (Electronic Communications) Regulations 2002 (S.I. 2002/3047), the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) and the Income Tax (Construction Industry Scheme) Regulations 2005 (S.I. 2005/2045).

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 As the consequential changes introduced by this instrument result from the introduction of the 2023 Act, no HMRC consultation has taken place specifically in relation to this instrument.

7.2 In July 2019 the Department for Business, Energy & Industrial Strategy (BEIS) (a predecessor to DBT) published the Good Work Plan: Proposals to support families.

7.3 One of the proposals was for a new entitlement to Neonatal Care Leave and Pay. The policy is intended to support employees responsible for a child receiving neonatal care who face distinct, often significant, challenges in combining work with caring for a child who requires or received neonatal care. The consultation sought views on the design of this new entitlement, associated practical consideration and the implications for employers and employees. Specifically:

- Eligibility and qualifying conditions,
- The length of entitlement and when the entitlement can be taken,
- Notice and evidence requirements,
- Employment protections and parents' right to return to the same job.

7.4 The consultation closed on 11 October 2019, having received 1,364 responses in total.

7.5 In March 2020 the BEIS formal response to the consultation was published. It set out the creation of a new right to paid time off work for employees with responsibility for

children who have spent at least 7 days in neonatal care. The consultation document and government response are available to view on the gov.uk website.[1]

7.6 On 15 July 2022, the BEIS announced, 'parents whose babies require neonatal care to receive paid leave under new law backed by government.', and on 24 May 2023 the Neonatal Care (Leave and Pay) Act 2023 was enacted.

7.7 In June 2023, the Parental Leave and Pay, Good Work Plan: Proposals to Support Families Government Response was published, it is available to view on the gov.uk website.[2]

8. Applicable Guidance

8.1 The relevant guidance will be updated to reflect the changes to legislation made by this instrument. It will be available to view on the gov.uk website by 6 April 2025.

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 one was submitted by DBT in February 2022 for the primary Neonatal Care Leave and Pay legislation, it is available to view on the parliament.uk website.[3]

Impact on businesses, charities and voluntary bodies

9.2 There is no significant impact on business, charities or voluntary bodies because this legislation is making minor consequential amendments to the Contribution Regulations to add Neonatal Care Pay to the list of other existing statutory payments already in legislation.

9.3 The legislation does not significantly impact small or micro businesses.

9.4 No significant administrative burden for business is expected as a result of introducing this legislation.

9.5 No specific action is proposed to minimise the impact of the requirements on small businesses (employing up to 50 people).

9.6 The basis for a final decision on what action to take to assist small businesses is the same as that used for all statutory payments. Small businesses (defined for these purposes as those who pay £45,000 or less in Class 1 NICs) will be able to claim back 100% of the payment made to the employee as well as an additional amount of compensation, which is calculated annually as set out in legislation. For Tax Year 2025/2026, the rate of compensation will be 8.5%.

9.7 There is no significant impact on the public sector because this legislation is making minor consequential amendments to the Contributions Regulations to add Neonatal Care Pay to the list of other existing statutory payments already in legislation.

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[1] Consultation Document and Government Response: https://www.gov.uk/government/consultations/good-work-plan-proposals-to-support-families

[2] Parental Leave and Pay, Good Work Plan: Proposals to Support Families Government Response: https://assets.publishing.service.gov.uk/media/649c41fcbb13dc0012b2e29b/good-work-plan-consultation-government-response.pdf.pdf

[3] Impact Assessment for the primary Neonatal Care Leave and Pay legislation: https://bills.parliament.uk/publications/49446/documents/2770#:~:text=This%20statutory%20leave%20entitlement%20will,otherwise%20have%20been%20as%20a

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring the entitlement that this legislation introduces is for DBT to undertake a non-statutory Post-Implementation Review ("PIR") of the policy after, at least, 5 years following introduction. Data and information on take up will be monitored post implementation through administrative data from HMRC on parental pay receipts.

10.2 The instrument does not include a statutory review clause because the policy is being implemented through primary legislation and therefore falls outside of the statutory review requirements under the Small Business, Enterprise and Employment Act 2015.

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 resolution 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").