EXPLANATORY MEMORANDUM TO

THE STATUTORY NEONATAL CARE PAY (MISCELLANEOUS AMENDMENTS) REGULATIONS 2025

2025 No. 326

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.

2. Declaration

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

2.2 Lucy Morgan, Deputy Director for Tax Administration Directorate, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Sarah Reardon at HMRC Telephone: 03000 524966 or email: sarah.reardon@hmrc.gov.uk can be contacted with any queries regarding the instrument.

3.2 Sanna Kauser at HMRC Telephone: 03000 584052 or email: sanna.kauser@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 instrument makes a series of consequential amendments to various legislation, as set out below, to account for the introduction of this new statutory leave and pay entitlement.

4.3 The instrument makes amendments to the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (the "PAYE Regulations") by inserting reference to statutory neonatal care pay alongside references to existing statutory payments to ensure it is correctly accounted for by employers and is treated consistently with existing family-related statutory payments. The changes have effect from 6 April 2025.

4.4 The instrument makes amendments to the Statutory Payment Schemes (Electronic Communications) Regulations 2002 (the "Electronic Communications Regulations") by inserting reference to statutory neonatal care pay as one of the statutory payments. The vast majority of employers receive and deliver information relating to statutory

payments with HMRC via electronic communications. The change takes effect from 6 April 2025.

4.5 The instrument makes amendments to the Income Tax (Construction Industry Scheme) Regulations 2005 (S.I. 2005/2045) (the "CIS Regulations") by inserting reference to statutory neonatal care pay alongside references to existing statutory payments which contractors can offset using other deductions. The changes have effect from 6 April 2025.

Where does the legislation extend to, and apply?

4.6 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is the United Kingdom.

4.7 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The 2023 Act gives provision for statutory neonatal care leave and payments. To provide for this by 6 April 2025, secondary legislation is required. These amendments will not create any new entitlements, the consequential amendments to PAYE Regulations, Electronic Communications Regulations and CIS Regulations are required to bring statutory neonatal care pay in line with other statutory payments.

What was the previous policy, how is this different?

5.2 There wasn't a previous policy or entitlement in place for provisions in respect of statutory neonatal care pay. Entitlement to statutory neonatal care pay is a new provision introduced in the 2023 Act having effect from 6 April 2025.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument makes amendments as set out at paragraph 4.3 to the existing PAYE Regulations by inserting reference to statutory neonatal care pay alongside references to existing statutory payments to ensure it is correctly accounted for by employers and is treated consistently with existing family-related statutory payments.

6.2 This instrument makes similar amendments as set out at paragraph 4.4 to the Electronic Communications Regulations by inserting reference to statutory neonatal care pay as one of the statutory payments. Employers receive and deliver information relating to statutory payments with HMRC via electronic communications.

6.3 This instrument makes amendments as set out at paragraph 4.5 to the existing the CIS Regulations by inserting reference to statutory neonatal care pay alongside references to existing statutory payments which contractors can offset using other deductions.

Why was this approach taken to change the law?

6.4 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 statutory neonatal care pay through 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) (predecessor of Department for Business and Trade (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 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 2023 Act, it is available to view on the parliament.uk website.[3]

[1] Consultation Document and Government Response: assets.publishing.service.gov.uk/media/5e6a0db5d3bf7f26989028f1/neonatal-leave-and-pay-government_response.pdf

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

Impact on businesses, charities and voluntary bodies

9.2 There is no significant impact on businesses, charities or voluntary bodies because this is an extension of other statutory leave and 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 There is no, or no significant, impact on the public sector because this is an extension of other statutory leave and payments already in legislation.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 DBT will undertake a non-statutory Post-Implementation Review 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").

[3] Impact Assessment for the primary Neonatal Care Leave and Pay legislation: bills.parliament.uk/publications/4944/documents/2770