EXPLANATORY MEMORANDUM TO

THE TRADE UNIONS (RIGHT TO ACCESS WORKPLACES) (REQUIRED INFORMATION) REGULATIONS 2026

2026 No. 756

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 and Consumer Protection at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

2.2 James Silcox, Deputy Director for Trade Union and Collective Rights, at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Sam Pearce at the Department of Business and Trade can be contacted by email at the following address with any queries regarding the instrument: tradeunionpolicy@businessandtrade.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 Section 59 of the Employment Rights Act 2025 (the "2025 Act") inserted Chapter 5ZA into the Trade Union and Labour Relations (Consolidation) Act 1992 ("TULRCA"), establishing a statutory framework governing access agreements between qualifying trade unions and employers. That framework enables trade union officials to communicate with workers, including through physical entry into workplaces or by other means, such as digital.

4.2 Chapter 5ZA provides for access requests by qualifying trade unions, employer response notices, and the notification to the Central Arbitration Committee ("the CAC") of access agreements. These Regulations are made under powers conferred by sections 70ZB, 70ZD, 70ZG and 70ZN of TULRCA to prescribe the form, content and manner of those notices and notifications.

4.3 These Regulations exercise those powers by prescribing standardised requirements for the form, content and manner of:

- access requests;
- employer response notices;
- notifications to the CAC of access agreements; and
- notices to the CAC of any subsequent variation or revocation of those agreements.

4.4 Regulation 7 provides for a review of these Regulations in accordance with section 28 of the Small Business, Enterprise and Employment Act 2015. This requires the Secretary of State to carry out a review of the regulatory provisions and publish a report setting out the conclusions of that review.

4.5 These Regulations are procedural and administrative in nature and do not create new substantive rights or obligations beyond those established by Chapter 5ZA of TULRCA.

Where does the legislation extend to, and apply?

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

4.7 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 The Government committed in *Make Work Pay* to introduce an independent right for trade unions to access workplaces in a regulated and responsible manner, providing employers, unions and workers with clarity and certainty when navigating their interactions surrounding access.

5.2 This Government believes that unions are essential to tackling insecurity, inequality, discrimination, enforcement and low pay. The right of access for trade unions is intended to support fair, modern and effective industrial relations by enabling independent trade unions to engage directly with workers in workplaces across Great Britain.

5.3 The 2025 Act introduced a new statutory right for independent trade unions to access workplaces, both physically and/or digitally for the purposes of meeting, supporting, representing, recruiting or organising workers, and facilitating collective bargaining. It established a new legal framework for unions and employers to negotiate and agree statutory access agreements.

5.4 The statutory access framework was designed to encourage agreement between employers and trade unions wherever possible. In most cases, access arrangements should be reached through discussion and negotiation. However, where agreement cannot be reached, the case can be referred to the CAC who has a statutory role in determining whether access should take place, and if so, on what terms.

5.5 These Regulations give effect to powers inserted into TULRCA to prescribe procedural requirements necessary for the operation of that framework. The Regulations ensure that access requests, response notices and notifications to the CAC contain sufficient information to enable parties to engage effectively and to support the CAC in carrying out its functions.

5.6 By standardising procedural requirements, the Regulations reduce the risk of disputes arising from incomplete or unclear requests or responses and support earlier resolution of access arrangements.

What was the previous policy, how is this different?

5.7 Prior to the insertion of Chapter 5ZA into TULRCA, there was no statutory framework governing access agreements between trade unions and employers. In

practice, access agreements relied on voluntary arrangements between unions and employers or existing workplace recognition agreements.

5.8 Section 59 of the 2025 Act establishes for the first time a clear and structured legal basis for trade union representatives to access workplaces in accordance with a statutory access agreement, supported by a statutory framework. These Regulations supplement that framework by setting out the procedural detail required for its operation.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 59 of the Employment Rights Act 2025 inserted Chapter 5ZA into TULRCA. This Chapter introduced a statutory framework governing access arrangements between qualifying trade unions and employers, including provision for trade unions to make access requests and for employers to respond to those requests.

6.2 Chapter 5ZA also provides for access agreements to be negotiated between the parties and for the terms of those agreements, and any subsequent variation or revocation, to be notified to the CAC.

6.3 Sections 70ZB, 70ZD, 70ZG and 70ZN of TULRCA confer powers on the Secretary of State to make regulations prescribing the form, content and manner of access requests, employer response notices, and notifications to the CAC.

6.4 This statutory instrument exercises those powers by prescribing the information that must be included in:

- access requests made by qualifying trade unions;
- response notices given by employers; and
- notifications to the CAC of access agreements and of any variation or revocation of such agreements.

6.5 The Regulations do not amend the substantive rights and obligations established by Chapter 5ZA of TULRCA. Instead, they make procedural and administrative provision to support the effective operation of the statutory access framework alongside the statutory instrument, The Trade Unions (Right to Access Workplaces) Regulations 2026.

Why was this approach taken to change the law?

6.6 TULRCA provides for the use of secondary legislation to set out procedural and administrative detail in relation to access arrangements. This approach allows those requirements to be specified with an appropriate degree of flexibility, without placing unnecessary detail on the face of the primary legislation.

6.7 This approach ensures that procedural requirements can be refined, if necessary, while maintaining Parliamentary oversight.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Government consulted on the operational detail of the statutory right of access to workplaces as part of the consultation *Making Work Pay: Trade Union Right of Access*, which ran from 23 October 2025 to 18 December 2025.

7.2 The consultation received 1,612 responses from a wide range of stakeholders, including trade unions, employers, business representative organisations, individual workers, legal professionals and other interested parties.

7.3 The consultation sought views on how access requests should be made and responded to, the information that should be required, and how notifications to the CAC should operate.

7.4 A significant majority of respondents supported:

- access requests and responses being made in writing; and
- the use of standardised information requirements to promote clarity and consistency, provided these were proportionate and flexible.

7.5 The Government published its formal response to the consultation on 8 April 2026, setting out how stakeholder feedback informed the final policy design underpinning these Regulations. Please see the Government response here: www.gov.uk/government/consultations/make-work-pay-trade-union-right-of-access

7.6 The Regulations give effect to the Government's final policy position by setting out the operational and procedural detail of the statutory access framework, alongside the instrument, The Trade Unions (Right to Access Workplaces) Regulations 2026, and a statutory Code of Practice on trade union right of access which provides practical guidance – both of these have been laid concurrently with these Regulations.

7.7 There was no statutory requirement to consult devolved governments.

8. Applicable Guidance

8.1 A new statutory Code of Practice on the trade union right of access will be laid alongside these Regulations to provide practical guidance on how the statutory access framework should operate in practice and will include guidance, such as standard templates for access requests and responses.

8.2 The Code of Practice is intended to operate alongside these Regulations. While the Regulations set out binding legal requirements, the Code provides practical guidance and illustrative examples to support consistent and effective implementation of the statutory right of access.

8.3 The Code of Practice will be commenced and made publicly available at the time these Regulations come into force.

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 Department for Business and Trade analysts have concluded that annual costs to business are expected to remain below the De Minimis threshold. A De Minimis Assessment (DMA) is published on the gov.uk website.[1]

[1] www.gov.uk/government/consultations/make-work-pay-trade-union-right-of-access

Impact on businesses, charities and voluntary bodies

9.2 We expect the equivalent annual direct cost to business, charities and voluntary bodies (EANDCB) to remain below the £10 million de minimis threshold. The benefits of the policy have not been monetised.

9.3 The legislation does impact small or micro businesses.

9.4 To minimise the impact of the statutory right of trade union access on small or micro businesses (employing up to 50 people), the approach taken, in the Trade Unions (Right to Access Workplaces) Regulations 2026, is that the CAC, if asked to make a determination as to whether access should take place, must refuse access where an employer has fewer than 21 workers. The policy intention is that from 2027, employers who are covered by statutorily supported national bargaining frameworks (for adult social care and school support staff) will be exempt from this threshold. This is to enable trade unions to more easily engage with workers covered by these frameworks and working for these small and micro employers. The power of the CAC to make a determination that trade unions have access does apply to employers with 21 or more workers in order to maintain consistency with the statutory recognition framework.

9.5 The impact on the public sector is expected to be low due to high existing levels of unionisation, but resources for the Central Arbitration Committee will need to be increased to reflect the additional caseload.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation will focus on how the statutory right of access operates in practice, including the effectiveness of details set out in these Regulations and whether its implementation and operation meet the core objectives of the policy. The Government will monitor implementation through ongoing engagement with stakeholders, including employers, trade unions and the CAC, and through consideration of information arising from the operation of the statutory access framework, such as number and nature of access requests. Following implementation, the government will review the statutory access framework within 6 months of implementation to ensure it is delivering the policy objectives.

10.2 A statutory review clause is included in the instrument

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 The Parliamentary Under-Secretary of State for Employment Rights and Consumer Protection at the Department for Business and Trade has made the following statement regarding Human Rights: “In my view the provisions of The Trade Unions (Right to Access Workplaces) Regulations 2026 are compatible with the Convention rights.”

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").