

From: The DALO

Ms Emer Boyle
Communities Committee Clerk
Room 430
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Dear Emer,

The Social Security and Statutory Maternity Pay (Evidence of Pregnancy) (Amendment) Regulations (Northern Ireland) 2026

The Department for Communities proposes to make a Statutory Rule under powers conferred by sections 5(1)(j), 13(1)(a) and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992. The Statutory Rule is subject to the negative resolution procedure.

Purpose of the Statutory Rule

The Statutory Rule will allow for claimants of Maternity Allowance (MA) or Statutory Maternity Pay (SMP) to submit a copy of their proof of pregnancy (MATB1) certificate instead of the original document.

Currently claims to MA can be made in writing to the Department by submitting both the MA1 application form and the original (ink signed) MATB1. The new online option for applying for MA and providing copies of required evidence, rather than original documents, will sit alongside and

complement the existing application method. This will apply to claims being made online or clerically with effect from 1 April 2026 and will maintain parity with GB.

The change will benefit claimants of MA or SMP and will achieve this by making amendments to the following regulations:

- The Social Security (Medical Evidence) Regulations (Northern Ireland) 1976
- The Statutory Maternity Pay (Medical Evidence) Regulations (Northern Ireland) 1987

The proposed amendments are technical in nature and strengthen existing arrangements. They are not anticipated to have any significant practical or financial impact in NI.

Delivery of the new online MA process

The new online application will be rolled out across the UK in a staged approach beginning with a test phase in deployment which will allow no more than 100 claims to be submitted digitally each week from employed claimants in England and Scotland (NI and Wales are not part of the test phase). It has not been confirmed when claimants in NI will be able to access the service though it is anticipated this will be in the second half of 2026.

Even though the online service will not be available in NI from 1 April 2026, the Department is progressing with the legislative changes because the acceptance of a copy of maternity certificates will also apply to the paper-based claims process. This will ensure that claimants in NI who continue to use the clerical based claims process will not be disadvantaged.

Equivalent DWP legislation

The equivalent DWP legislation will be known as the Social Security and Statutory Maternity Pay (Evidence of Pregnancy and Compensation of Employers) (Amendment) Regulations 2026.

DWP are using their Statutory Instrument (SI) to provide for:

- the MA and SMP evidential changes needed to allow claimants to submit a copy of their proof of pregnancy certificate instead of the original when applying for MA;
- the correction of an error in regulation 3 of the Statutory Maternity Pay (Compensation of Employers) and Miscellaneous Amendment Regulations (Northern Ireland) 1994 (“the NI 1994 Regulations”); and
- an amendment to regulation 3 of the NI 1994 Regulations (and the GB equivalent SI) to increase the Small Employers Compensation (SEC) rate from 8.5% to 9%.

Proposed amendment of Statutory Maternity Pay (Compensation of Employers) and Miscellaneous Amendment Regulations (Northern Ireland) 1994

The Committee was notified on 28 January 2025 of changes to the SMP SEC rate, which came into effect on 6 April 2025. This change was implemented by a GB SI (the Statutory Maternity Pay (Compensation of Employers) Amendment Regulations 2025) which extended to NI.

It was during the drafting of the regulations for the 2025 amendment to the SEC that an error was identified in the NI 1994 regulations and the legal advice at the time was that it should be corrected as soon as a suitable legislative vehicle was available. Currently, the NI regulations only specify the current SEC rate which small employers are entitled to and the date from which that rate applied – it does not stipulate how it should be calculated and so, strictly speaking, they do not currently comply with the requirements of the primary enabling power.

As provided for in Section 163(7) and (8) of the Social Security (Contributions and Benefits) (Northern Ireland) Act 1992 any changes to the regulations (including the NI 1994 Regulations) relating to the SEC rate shall be made by the Secretary of State with the concurrence of the

Commissioners of Inland Revenue. As such, the Department does not have the authority to make the necessary amendment to the NI legislation.

Increase of the SEC rate for SMP 2026/27

Currently small employers are entitled to recover 100% of their SMP payments plus an additional compensation rate of 8.5% of any SMP payments made. DWP is making an amendment in their SI to increase the SEC rate from 8.5% to 9%. This will apply UK wide.

Detail

SMP is payable by employers to qualifying women who are pregnant or who have recently given birth. For the first six weeks, it is paid at a weekly rate equal to 90% of the woman's average weekly earnings, with no upper limit. For the remaining 33 weeks, it is paid at the lower of either the standard rate of £187.18 per week (2025/26) or 90% of the woman's average weekly earnings. Employers are entitled to recover some or all of the cost of making SMP payments, depending on the size of the employer.

Currently, larger employers (those who have gross class 1 National Insurance liability of more than £45,000 in a tax year) recover 92% of the cost by making deductions from the payments they are due to make to HMRC of tax and National Insurance Contributions (NICs).

Smaller employers (those who have gross Class 1 National Insurance liability of £45,000 or less in a tax year) can recover 100% of the SMP they have paid out, plus an additional compensation payment, the SEC, the rate of which is currently set at 8.5% of the total SMP paid by the employer.

The purpose of the SEC is to support smaller employers with the associated costs of having an employee on maternity leave (such as the employers' share of NICs that might be payable, as

well as administration and recruitment costs), which are not thought to affect large employers in the same way.

The statutory function of preparing the estimate for the SEC rate for any given financial year falls to HMRC. From 2011, the SEC rate was 3% before it was increased to 8.5% in 2025. This increase was driven by the increase in NICs payments by employers announced in the 2024 Autumn Budget.

For 2026/27 the SEC rate has been estimated by HMRC at 9% as a result of small changes in average wages (marginally offset by a slight decrease in hours), an increase in the SMP rate (set at £194.32 for 2026/27) and no changes to the employer NICS rates or thresholds.

The Statutory Maternity Pay (Compensation of Employers) and Miscellaneous Amendment Regulations (Northern Ireland) 1994 ('the 1994 Regulations') set out the employers' SMP reimbursement arrangements and determines the SEC rate.

Previous Engagement with the Committee

There has been no previous engagement with the Committee regarding the implementation of the proposed Statutory Rule.

Financial Implications

There are no financial implications to the NI Block Grant as the changes are the result of a joint project with DWP and provided NI regulations maintain parity with GB.

Consultation

Not applicable.

Compliance with Section 24 of the Northern Ireland Act 1998

The Department is content that the Rule complies with section 24 of the Northern Ireland Act 1998 (Convention rights, etc.) and is compatible with Article 2(1) of the Windsor Framework.

Consideration by the Executive

Not applicable.

Equality Impact

In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the proposals and has concluded that they do not have significant implications for equality of opportunity. In light of this, the Department considers that an Equality Impact Assessment is not necessary.

The SR, whilst supporting the development of the digital MA service, also provides for the acceptance of copy maternity certificates for paper-based claims. This is a positive measure for those claiming maternity payments.

Regulatory Impact

The proposed Rule does not require a Regulatory Impact Assessment as it does not impose any new costs on businesses, charities, or voluntary bodies.

Rural Needs Impact

As the proposed Rule makes no distinction between rural and urban dwellers, it is not deemed necessary to specifically identify the social and economic needs of people living in rural areas.

Data Protection Impact

A Data Protection Impact Assessment has been completed for this change in process.

Child Rights Impact

A Child Rights Impact Assessment has not been deemed necessary for this Statutory Rule as the Rule applies to the application for maternity payments, it does not directly, or indirectly, impact on children.

Position in Great Britain

The corresponding GB SI is expected to be made in March, coming into force on 1 April 2026. In line with section 87 of the Northern Ireland Act 1998, the proposed Rule should be made as soon as possible after the GB Instrument has been made.

Any other information

None.

Proposed timing of consideration of the SL1

This is a parity social security measure, which will mirror parts of an equivalent SI being put in place by the Department for Work and Pensions (DWP). It is anticipated the SI will be laid 3 March and come in force from 1 April 2026.

Social security legislative parity, as set out in section 87 of the Northern Ireland Act 1998, means parity of timing as well as substance and the Northern Ireland Rule should be made and implemented to timescales which align as closely as possible with the DWP SI.

In light of these circumstances the Minister has made the following statement:

“I am satisfied that ensuring the orderly making of this parity social security legislation in line with DWP timeframes gives rise to exceptional circumstances which require deviation from the normal process and timeframes set out in the Guidance for Departments on Delegated Legislation (SL1 Pre-Introductory Stage) (November 2025).

I would be grateful if the Committee would agree to approve the SL1 in the requested shortened timeframe in light of these exceptional circumstances. It is my intention to make the SR to align as closely as possible with the DWP timing for their corresponding SI.”

Proposed Operational Date

It is anticipated that the Statutory Rule will come into operation on 1st April 2026. When the Rule together with the Explanatory Memorandum has been laid at the Assembly Business Office, the Business Office will submit copies to the Committee.

I would be obliged if you would bring this matter to the attention of the Communities Committee.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Laura Coffey', with a long horizontal flourish extending to the right.

Laura Coffey

Departmental Assembly Liaison Officer

Private Office