

**Research Briefing**

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# Neonatal Care (Leave and Pay) Bill 2022-23: Progress of the Bill



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## Summary

The [Neonatal Care \(Leave and Pay\) Bill 2022-23](#) is a Private Member's Bill sponsored by SNP MP Stuart C McDonald who came first in the [Private Members' Bill ballot](#) for the 2022-23 session.

The Bill had its first reading on 15 June 2022 and passed second reading on 15 July 2022. The Bill completed its committee stage on 7 September 2022, with four amendments, all in the name of the sponsoring member and agreed without division. It is listed for remaining stages on 20 January 2023.

The [explanatory notes](#) for the Bill were drafted by the Department for Business, Energy and Industrial Strategy.

## Background

There have been calls since at least 2014 to extend parental leave and pay for parents of premature babies in receipt of neonatal care. Two charities dedicated to supporting parents with premature babies, Bliss and The Smallest Things, submitted a [joint petition calling for the Government to extend parental leave](#) for parents of premature babies in 2015. Both Bliss and The Smallest Things have continued campaigning on this issue in the years since.

In 2019 the Government launched [a consultation, Good Work Plan: Proposals to support families](#) which included proposals to introduce neonatal care leave and pay, the former as a day one right and the latter subject to the same service requirements as maternity pay. The [Government responded to this part of the consultation](#) in March 2020, committing to introduce neonatal care leave and pay.

Measures to introduce neonatal care leave and pay were included in the Employment Bill proposed in the [December 2019 Queen's Speech](#). The Employment Bill was not ultimately introduced in the 2019-21 session and did not reappear in the 2021 or 2022 Queen's Speeches. However, then Labour Markets Minister Paul Scully stated in response to a [Parliamentary Question on 25 May 2022](#) that the Government remained committed to introducing neonatal leave and pay.

## What does the Bill do?

The Neonatal Care (Leave and Pay) Bill would introduce two new rights: neonatal care leave and statutory neonatal care pay. Both rights would require the Secretary of State to pass regulations in order to bring them into force and specify the details of how they operate.

The right to neonatal leave would be a day one right, available to all employees. It would apply to parents of children who spend at least one week in neonatal care. The maximum duration of the leave and how and when it must be taken would be set by regulations but would be at least one week and the period in which it has to be taken would last a minimum of 68 weeks starting from the date of the child's birth.

The right to neonatal care pay during periods of neonatal care leave would be available to all employees with at least 26 weeks' continuous service and whose weekly earnings are at or above the lower earnings limit (currently £123 per week for 2022-23). The level and duration of pay would be set by regulations but the limit that could be claimed would be at least 12 weeks.

The new rights would apply to England, Scotland and Wales but not Northern Ireland where employment law is a devolved matter.

## Second reading and committee stage

At second reading on 15 July 2022, the Bill's sponsor, Stuart C McDonald, explained the purpose of the Bill as being to ensure that parents of premature babies are able to be present to care for their babies, on and after being on neonatal units, without suffering financial hardship. All members who spoke were in favour of the principle of the Bill and some shared stories of their own, relatives or constituents' experiences with premature babies. The Bill passed second reading without a division.

The Bill was considered by a Public Bill Committee on 7 September 2022. Four amendments were tabled in the name of the Bill's sponsor, Stuart C McDonald. Amendments 1-3 remove a Henry VIII power to amend primary legislation by regulation in Clause 2 of the Bill, converting it into a power to amend secondary legislation only. Amendment 4 changes the definition of "relevant week" to better align with other forms of statutory leave.

All contributions were in favour of the Bill and all four amendments were agreed to without division. Some members raised concerns about the length of time the Government was expecting to take for implementation of the Bill.

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# 1 Introduction

The [Neonatal Care \(Leave and Pay\) Bill 2022-23](#), Bill 14 of the 2022-23 session, was introduced on 15 June 2022 by SNP MP Stuart C McDonald as a Private Member's Bill, presented to Parliament through the ballot procedure. It is passed second reading on 15 July 2022 and completed committee stage on 7 September 2022.

The Bill would create new statutory entitlements to leave and pay for employees with responsibility for babies receiving neonatal care.

The Bill itself has extent across the UK, however the new rights to neonatal leave and pay would extend only to England, Scotland and Wales but not Northern Ireland where employment law is a devolved matter.

The [explanatory notes](#) for the Bill were drafted by the Department for Business, Energy and Industrial Strategy.

The explanatory notes to the Bill state, if passed in 2023, "it is likely that implementation will take place 18 months after that date."<sup>1</sup>

The explanatory notes also set out the financial implications of the Bill. It is estimated the annual cost to the Exchequer of Neonatal Care Leave, if paid at the statutory flat rate, would be £14.2m per year on average, alongside a one-off cost of £5m required to update HMRC's systems.<sup>2</sup>

A money resolution is required for the Bill, as although the liability to pay statutory neonatal care pay will fall on employers, this will be significantly indirectly funded by HMRC under section 7 of the Employment Act 2002.<sup>3</sup> A money resolution was passed for the Bill on 20 July 2022.

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<sup>1</sup> [Neonatal Care \(Leave and Pay\) Bill, Explanatory Notes](#), Para 75

<sup>2</sup> [Neonatal Care \(Leave and Pay\) Bill, Explanatory Notes](#), Para 76

<sup>3</sup> [Neonatal Care \(Leave and Pay\) Bill, Explanatory Notes](#), Para 78

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## 2 Background

### 2.1 Bliss campaign

Bliss, a charity supporting parents with sick and premature babies, has been campaigning since 2014 around extending leave and pay for parents of babies in neonatal care. As the charity's website states, their work in this area dates back several years:

- In February 2014 we launched our campaign and policy report, [Its Not A Game](#), to tackle the financial burden families face when their premature or sick baby is in hospital. This called on the Government to extend maternity leave and pay for these families. In response to our campaign, we secured a commitment in 2014 from the Department for Business, Innovations and Skills to [review how their policy on parental leave is working for parents whose babies are admitted to neonatal care](#) (28 Apr 2014 : Column 578W).
- On World Prematurity Day 2016, Bliss joined [The Smallest Things](#) to [hand in their petition](#) to the Minister responsible for parental leave. So far 180,000 people had signed, joining their call to extend leave for mums of premature babies.<sup>4</sup>

In 2019 the charity conducted a survey which found two thirds of fathers of premature babies had to return to work while their baby was still receiving neonatal care.<sup>5</sup>

In 2018 the charity also ran a campaign encouraging people to call their MPs “to put pressure on the Government to extend leave for parents of babies in specialist care”. The charity noted that over 90% of MPs were reached through this campaign.<sup>6</sup>

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<sup>4</sup> Bliss, [Parental leave](#), bliss.org.uk [accessed 5 July 2022]

<sup>5</sup> Bliss, [Two thirds of dads forced to return to work while their baby was still in neonatal care](#), [bliss.org.uk](#), 18 February 2019

<sup>6</sup> As above

## 2.2 The Smallest Things campaign

Premature baby charity The Smallest Things launched a change.org petition in 2015 calling for the Government to “Extend parental leave for parents of premature babies”, which has received 357,338 signatures to date.<sup>7</sup>

Since then the charity has continued to press for change in this area under their [Neonatal Leave Campaign](#), including a Twitter campaign using the hashtag #NeonatalLeaveNow. More recently the charity has been asking people to meet their MP and ask them to write to then Labour Markets Minister Paul Scully to ask when the neonatal leave measures announced by the Government in 2020 would be introduced.<sup>8</sup>

## 2.3 Parental Leave (Premature and Sick Babies) Bill 2017-19

On 12 June 2019 SNP MP David Linden introduced the Parental Leave (Premature and Sick Babies) Bill 2017-19 under the Ten Minute Rule. The Bill aimed to “to extend entitlements to parental leave for parents of babies born prematurely or requiring neonatal care”. It did not receive a second reading and fell at the end of the 2017-19 parliamentary session.<sup>9</sup>

## 2.4 2019 Government consultation

In July 2019 the Government launched a series of consultations under the Good Work Plan, one of which was entitled [Good Work Plan: Proposals to support families](#), seeking feedback on three issues:

- Parental leave and pay
- Neonatal leave and pay
- Transparency of flexible working and family related leave and pay policies<sup>10</sup>

The second of the three areas the Government sought responses on was a proposal to create “a new leave and pay entitlement for parents of babies that require neonatal care after birth”, with neonatal leave being a day one right and pay being a right subject to same service requirements as maternity

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<sup>7</sup> [Extend parental leave for parents of premature babies](#), change.org [accessed 5 July 2022]

<sup>8</sup> The Smallest Things, [Neonatal Leave Campaign](#), thesmallestthings.org [accessed 7 July 2022]

<sup>9</sup> [Parental Leave \(Premature and Sick Babies\) Bill 2017-19](#)

<sup>10</sup> HM Government, [Good Work Plan: Proposals to support families](#), 23 September 2021

pay. These rights would be available to parents whose baby spent two weeks or more in neonatal care, giving each parent an entitlement of a week of leave per week their baby was in care, subject to a potential cap.

The Government responded to this part of the consultation in March 2020, committing to introduce neonatal leave and pay, saying:

In the light of responses to this section of the consultation, we will:

- introduce leave for parents of babies in neonatal care
- introduce statutory pay for parents of babies in neonatal care
- legislate to implement the entitlement and the relevant commitments we are making in the forthcoming Employment Bill<sup>11</sup>

This commitment was also included in the text of the 2020 Budget published that month, which stated that:

The government will create an entitlement to Neonatal Leave and Pay for employees whose babies spend an extended period of time in neonatal care, providing up to 12 weeks paid leave so that parents do not have to choose between returning to work and taking care of their vulnerable newborn.<sup>12</sup>

## 2.5

## Employment Bill

The [December 2019 Queen's Speech](#) included mention of an Employment Bill that would introduce both the neonatal leave and pay rights, alongside a range of other commitments.<sup>13</sup> The Employment Bill was not ultimately introduced in the 2019-21 session and did not reappear in the 2021 or 2022 Queen's Speeches.<sup>1415</sup>

Since the end of the 2019-21 session, however, the Government has repeated its commitment to introduce neonatal leave and pay, including in the current session on 25 May in an answer to written Parliamentary Question from Justin Madders MP, when then Labour Markets Minister Paul Scully said "The Government is committed to introducing Neonatal Leave and Pay to meet this need and will bring forward legislation when Parliamentary time allows".<sup>16</sup>

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<sup>11</sup> As above

<sup>12</sup> HM Government, [Budget 2020](#), 12 March 2020

<sup>13</sup> Prime Minister's Office, [The Queen's Speech 2019: Background briefing notes](#), 19 December 2019

<sup>14</sup> HM Government, [Queen's Speech 2021](#), 11 May 2021

<sup>15</sup> HM Government, [Queen's Speech 2022](#), 10 May 2022

<sup>16</sup> PQ 3643 [on [Parental Leave](#)], 17 May 2022

## 2.6

# Adjournment debate, 9 February 2022

On 9 February 2022 Luke Hall MP (Con) secured an adjournment debate on Neonatal Leave and Pay. In the debate he stressed the value of parents of neonatal babies having the leave and pay needed for them to support their children while in neonatal care and pressing the Government to deliver on their pledge to introduce these measures, saying:

A wealth of evidence already exists that shows that, for children in neonatal care to have the best possible outcomes, they need their parents to be as involved in their care as much as possible and as early as possible. The Government already agree with this, and that the current leave and pay entitlements do not adequately support parents when their child is born sick or premature and requires neonatal care.<sup>17</sup>

Luke Hall MP went on to discuss his own experience of having his son in neonatal care for 72 days, before stressing the limitations of the current system of relying on existing maternity or shared parental leave for parents of premature babies:

Babies who have spent a long time in hospital after birth are usually at an earlier stage in their development when their mother or parents go back to work, in comparison with their peers. That can be particularly challenging for mothers, many of whom would have liked to have additional time with their child but cannot afford to take any more time off. That leads only in one direction—less parental involvement in care, causing immense stress and leaving parents unsupported. It reduces the opportunity for bonding time with their child.<sup>18</sup>

Responding for the Government, then Minister for Labour Markets Paul Scully stated that the Government remained committed to introducing neonatal care and leave, saying:

Considering those different scenarios, it is clear that the current leave and pay entitlements do not adequately support parents of babies in neonatal care. In March 2020, following a Government consultation on the issue, we committed to introducing the new entitlement to neonatal leave and pay, and I can assure my hon. Friend that we remain very much committed to that.<sup>19</sup>

To date the Government has not introduced any legislation to implement this commitment.

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<sup>17</sup> HC Deb [9 February 2022 c1053](#)

<sup>18</sup> HC Deb [9 February 2022 c1054](#)

<sup>19</sup> HC Deb [9 February 2022 c1058](#)

## 2.7

### Private Members' Bill ballot 2022

The Private Members' Bill ballot for the 2022-23 session was held on 19 May 2022. The MPs drawn in the top seven positions on the ballot receive a guaranteed full day of debate on their Bill. Stuart C McDonald, SNP MP for Cumbernauld, Kilsyth and Kirkintilloch East, was drawn in the top position on the ballot, granting him first choice over a Private Members' Bill Friday for to give priority to a second reading of a Bill he wished to introduce.<sup>20</sup>

On 15<sup>th</sup> June 2022, he introduced the Neonatal Care (Leave and Pay) Bill for first reading in the Commons. It received second reading on Friday 15 July 2022, where it was the first Private Member's Bill to be debated that day.

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<sup>20</sup> [Private Members' Bill ballot: 19 May 2022](https://www.parliament.uk/news-and-analysis/2022/may/19/private-members-bill-ballot-19-may-2022), parliament.uk, 19 May 2022

## 3 The Bill

### 3.1 Clause 1: Neonatal care leave and pay

**Clause 1** of the Bill explains the three parts of the Schedule to the Bill, stating that:

In the Schedule—

- (a) Part 1 creates a statutory entitlement to neonatal care leave,
- (b) Part 2 creates a statutory entitlement to neonatal care pay, and
- (c) Part 3 contains related amendments.

### 3.2 Clause 2: Power to make consequential provision

**Clause 2** grants powers to the Secretary of State to make regulations by statutory instrument to implement parts of this Bill, including to amend prior Acts of Parliament or future Acts in the same session. This is a Henry VIII power and deemed as necessary by the accompanying Delegated Powers Memorandum:

16. The purpose of this power is to ensure that this Bill, if successful in gaining Royal Assent, successfully works alongside other existing legislation which may be going through Parliament at a similar time.

17. It will also enable us to amend any existing legislation which we have yet to identify as necessary following the introduction of the Bill.<sup>21</sup>

This power was removed by amendment at the Public Bill Committee stage (see Committee Stage below).

Where they would amend other Acts of Parliament, any such statutory instruments would be subject to the affirmative procedure, otherwise to the negative procedure.

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<sup>21</sup> [Neonatal Care \(Leave and Pay\) Bill, Delegated Powers Memorandum](#), Para 16-17

## 3.3 Clause 3: Extent, commencement and short title

**Clause 3** sets out that the new leave and pay provisions would come into force on a date to be appointed by the Secretary of State via statutory instrument.

The Bill's powers extend across the UK insofar as they amend existing provisions that already do so. However, the new entitlements to neonatal care leave and pay outlined in the Schedule would only apply to Scotland, England and Wales and not apply to Northern Ireland.

If passed the Bill would be known as the Neonatal Care (Leave and Pay) Act 2022.

## 3.4 Schedule Part 1: Neonatal Care Leave

**Part 1** of the Schedule would amend the Employment Rights Act 1996 to add a new Chapter 5 to Part VIII of the Act, requiring the Secretary of State to make regulations providing a right to neonatal care leave. It specifies that this right would apply, from day one of employment:

- to employees;
- with a parental or other personal relationship with a child;
- who is receiving, or has received, neonatal care that lasts at least one week.

The exact details of when or how much leave can be taken would be left for the Secretary of State to determine through future regulations. However, the Bill would require that:

- The leave entitlement must be at least one week
- The period in which the leave must be taken must last a minimum of 68 weeks starting from the date of the child's birth

The rights of employees during and after the new leave are laid out to be broadly equivalent to those already granted by the Employment Rights Act 1996 to employees taking other forms of parental leave such as paternity or shared parental leave. The detail of these protections, including potential protections from dismissal or in cases of redundancy, would be left to the Secretary of State to lay out through future regulations.

New subsection 80E(1)(h) that would be added to the Employment Rights Act 1996 by this part would allow regulations to make provision applying,

modifying or excluding existing legislation under certain conditions in relation to a person entitled to take leave.

This is a Henry VIII power, deemed necessary by the Delegated Powers Memorandum which explains how it “replicates the power which exists in the statutory provisions relating to Maternity Leave, Adoption Leave, Paternity Leave and Shared Parental Leave.”<sup>22</sup> The Memorandum goes on to explain why this is needed, saying:

In relation to Maternity, Adoption, Paternity, Shared Parental Leave, and Parental Bereavement Leave the power at 80EI(1)(h) has been exercised in relation to situations where an employee is simultaneously entitled to both the statutory right and a corresponding contractual right. In those circumstances, an employee cannot exercise the rights separately but is entitled to take advantage of whichever right is, in any particular respect, the more favourable right. While this approach has so far been consistently applied to existing entitlements, the regulations might need to change in future if evidence emerged that it was either unclear or somehow ineffective in the case of employees with particular contractual entitlements. If so, then it would be important to be able to reflect the same changes in Neonatal Care Leave as for other types of family-related leave and pay.<sup>23</sup>

Regulations made under this new Chapter would be subject to the affirmative procedure for statutory instruments.

## 3.5

## Schedule Part 2: Neonatal Care Pay

**Part 2** of the Schedule would amend the Social Security and Benefits Act 1992 to add a new Part 12ZE on Statutory Neonatal Care Pay.

This would create an entitlement to statutory neonatal care pay for people meeting the criteria for neonatal care leave, above, providing they have “been in employed earner’s employment with an employer for a continuous period of at least 26 weeks ending with the relevant week”. The entitlement would also be subject to the lower earnings limit specified in section 5(1)(a) of the 1992 Act.

Employers would be liable to pay neonatal care pay to their employees, provided employees notify their employer of their intention to take leave. Further regulations could specify circumstances where this liability to pay neonatal care pay would shift from the employer to HM Revenue and Customs.

The Secretary of State would be authorised to make regulations further specifying the details of or otherwise applying limits to this entitlement.

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<sup>22</sup> [Neonatal Care \(Leave and Pay\) Bill, Delegated Powers Memorandum](#), Para 61

<sup>23</sup> [Neonatal Care \(Leave and Pay\) Bill, Delegated Powers Memorandum](#), Para 62

The rate of Neonatal Care Pay would be determined by regulations, as would the maximum number of weeks payable, though this must not be less than 12 weeks.

Regulations made under this new Part of the 1992 Act would be subject to the affirmative procedure for statutory instruments.

## 3.6 Schedule Part 3: Further Amendments to do with Neonatal Care Leave and Pay

**Part 3** of the Schedule would make a number of amendments to other pieces of existing legislation to take account of the creation of the new statutory rights to neonatal care leave and neonatal care pay.

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## 4 Parliamentary progress

First reading of the [Neonatal Care \(Leave and Pay\) Bill 2022-23](#) was on 15 June 2022. The long title of the Bill is:

A Bill to make provision about leave and pay for employees with responsibility for children receiving neonatal care.

The bill passed second reading on 15 July 2022 and completed its committee stage on 7 September 2022, with four amendments. It is listed for remaining stages on 20 January 2023.

### 4.1 Second reading debate

The Bill received its second reading on Friday 15 July 2022. It was passed without division and all members who spoke, from both sides of the House, were supportive of the principles of the Bill. The Bill's sponsor Stuart C McDonald explained the purpose of the Bill as being to ensure that parents of premature babies are able to be present to care for their babies, on and after being on neonatal units, without suffering financial hardship:

The Bill will create a new statutory leave and pay entitlement for the parents of babies receiving neonatal care. Employed parents who find themselves in this immensely challenging situation in the future will know that, as a minimum, they are entitled to time off work to care for their babies, and that they will not suffer any repercussions as a result. Crucially, the Bill will allow parents to have protected time off work to care for their children at such a difficult time.

...

No more should we be leaving parents to use up maternity and paternity leave travelling great distances to a neonatal ward. There should be no more forcing fathers back to work after two weeks with their newborn still on a ventilator, separating families at a crucial time, no more leaving mum to cope on a neonatal ward facing significant decisions alone and no more depriving babies in neonatal units of the support of both their parents. There should be no more making parents choose unnecessarily between being with their newborn baby in hospital and being able to secure an income through work. This Bill will help thousands of parents each year to spend more precious time with their premature and sick babies, so we need this Bill to succeed for them.<sup>24</sup>

Other contributions were all supportive of the Bill, including from Conservative, Labour and SNP members. Several members reflected on their

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<sup>24</sup> [HC Deb, 15 July 2022](#) cc596-597

own experiences as parents of neonatal babies or those of their families or constituents.

Shadow minister Kerry McCarthy said the Labour Party was very supportive of the Bill but expressed disappointment that the lack of earlier Government legislation on this issue had potentially delayed these measures, saying:

I do not want to get too party political, but I will say that it is disappointing, given that neonatal leave and pay was a manifesto commitment, that we are having to rely on a private Member's Bill to get to this stage. [Interruption.] The Under-Secretary of State for Work and Pensions, the hon. Member for Hexham (Guy Opperman), says, "It's faster; that's why we're doing it," but the Government consulted on this issue in the previous Parliament, and they said in their official response that Ministers remained committed to a new entitlement. They committed to it again in the "Good Work Plan", they committed to legislation in the 2019 manifesto, and they were due to address it in the employment Bill, which has twice been trailed and then dropped from the legislative programme. The shadow Secretary of State for Business, Energy and Industrial Strategy, my hon. Friend the Member for Stalybridge and Hyde (Jonathan Reynolds), said when it was dropped that that was an extraordinary move.

We are where we are. I hope that we can get the Bill through very quickly. Labour very much supports it.<sup>25</sup>

Responding for the Government, Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy Jane Hunt expressed support for the Bill, saying:

In conclusion, these measures would provide invaluable support and protection for parents during some of the most stressful days of their lives when their children are in neonatal care. That entitlement is also backed by Government evidence and analysis, showing a clear need for further support for those parents. Therefore, the Government are pleased to support the Bill. Supporting the Bill is in line with our ongoing commitment to support workers and build a high-skilled, high-productivity, high-wage economy. It is good to see support from across the political spectrum for this important measure, as is clear from the debate. I look forward to continuing to work with the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East to support the passage of the Bill.<sup>26</sup>

## Money resolution

A Money resolution required for the Bill was passed on 20 July 2022.

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<sup>25</sup> [HC Deb, 15 July 2022](#) c616

<sup>26</sup> [HC Deb, 15 July 2022](#) c620

## 4.2

## Committee stage

On 7 September the Bill was considered by a Public Bill Committee chaired by SNP MP Hannah Bardell. See the Annex to this paper for the full membership.

Four amendments were tabled in the name of the Bill's sponsor, Stuart C McDonald MP. Stuart C McDonald explained again the purpose of the Bill as being to “put on the statute book an entitlement to paid leave for employed parents of babies who require neonatal care” and went on to explain the purpose of the four amendments.

As he explained, amendments 1, 2 and 3 would together remove the Henry VIII power granting Ministers the power to amend primary legislation contained in clause 2 of the Bill and instead convert it into a power to amend secondary legislation only:

The amendments remove subsections (2) and (4) from that clause and subsequently modify the text in subsection (5). Taken together, the amendments have the effect of changing the Henry VIII power to a power to amend secondary legislation only, which is of course common in primary legislation.

The Henry VIII power was originally included to ensure that the Bill, if it was successful in gaining Royal Assent, worked effectively alongside other legislation going through Parliament at the same time, in particular the Carer's Leave Bill, which is being taken through by the hon. Member for North East Fife (Wendy Chamberlain). On further assessment and examination, it is not thought that the power is required any more.<sup>27</sup>

Amendment 4 instead would change the wording of the new text added by the Schedule Part 2 to proposed new section 171ZZ16(6) of the Social Security Contributions and Benefits Act 1992. This change would alter the definition of “relevant week” in determining the eligibility for statutory neonatal care pay, to align it better with other parental leave payments. As Stuart C McDonald explained, this was to ensure those on lower than usual incomes due to the pregnancy did not miss out:

The Bill as drafted on introduction defined the relevant week for determining entitlement to neonatal care pay as the week immediately before the week in which neonatal care starts. That was similar to the drafting of the equivalent provision for parental bereavement pay. However, if a parent is already receiving statutory pay in the relevant week before their child enters neonatal care, their income could be lower than usual, which would affect their ability to qualify for the neonatal care pay.

Commonly, a mother going through a difficult pregnancy might be on maternity pay earlier, or on sick pay. That could mean that her earnings fall below the threshold for neonatal care pay. The amendment changes the definition of “relevant week” so that it aligns with the same relevant week as

<sup>27</sup> [Neonatal Care \(Leave and Pay\) Bill Deb, 7 September 2022](#), c5. For more information about the Carer's Leave Bill 2022-23 see the [Library briefing paper for that Bill](#).

for other parental leave payments to which parents are entitled—for example, statutory maternity pay, statutory paternity pay, or statutory adoption pay. If a person would not qualify for any other statutory family pay, the relevant week will still be defined as the week immediately before the week in which neonatal care starts. Amending the Bill to align the relevant week with the same relevant week as other parental leave payments will resolve the issue and ensure that more parents who are already low earners do not miss out on the entitlement to statutory neonatal care.<sup>28</sup>

All members who spoke, including Jane Hunt as the responsible Government Minister, were supportive of both the Bill and all the proposed amendments.

## Concerns over implementation delay

Concerns were raised by two members – Conservative MP Luke Hall and SNP MP David Linden – about the expected 18-month period for implementing the Bill after Royal Assent. In response to these concerns, Minister Hunt responded that the Government would do what it could to accelerate implementation, saying:

I share their desire to implement the measures in the Bill as soon as possible. I am pleased that the Bill is at the front of the pack, and I hope and expect that it will progress quickly towards Royal Assent.

To implement the entitlement, it is necessary to have extensive secondary legislation and guidance in place that will take a significant time to prepare. It will also be necessary to make changes to HMRC systems so that employers and payroll providers have sufficient notice to update their pay systems. It is estimated that that work will take about 18 months following Royal Assent, but I have asked my officials and they are keen to help and to work with HMRC to investigate whether it is possible to speed up the work in a timely way.<sup>29</sup>

Amendments 1-4 were all agreed to without division and it was proposed and agreed that all clauses stand part of the Bill as amended.<sup>30</sup>

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<sup>28</sup> [Neonatal Care \(Leave and Pay\) Bill Deb, 7 September 2022](#), c5

<sup>29</sup> [Neonatal Care \(Leave and Pay\) Bill Deb, 7 September 2022](#), c10

<sup>30</sup> [Neonatal Care \(Leave and Pay\) Bill Deb, 7 September 2022](#), c11

## 5 Commentary

### 5.1 Political commentary

The Bill's sponsor Stuart C McDonald was quoted in the press on the day the Bill was introduced, saying why he believed his Bill was particularly important given the current cost of living crisis:

No parent should have to choose between being with their premature or sick baby in neonatal care and having to go back to work to earn a living.

With the cost of living soaring, it is more important than ever that we secure an urgent change in the law so that parents of babies in neonatal care get the paid leave and support they need at an incredibly challenging time.<sup>31</sup>

Fellow SNP MP David Linden, who had introduced a previous unsuccessful Private Member's Bill on neonatal leave in 2019,<sup>32</sup> issued a statement on his website on 16 June 2022 saying he was "delighted" by the introduction of the new Bill and expressing his support:

It is vital that this Bill now becomes a law so that tens of thousands of families each year will get a little bit of extra support when they need it most.<sup>33</sup>

While the Government has not commented publicly on the Bill since its introduction, they have previously made commitments to introduce neonatal leave and pay (see section 2.6 above). This pledge was reiterated by then Labour Markets Minister Paul Scully on 7 June 2022 in response to a Parliamentary Question by David Linden MP, saying the Government "are committed to introducing neonatal leave and pay to meet this need as soon as parliamentary time allows."<sup>34</sup>

On 15 June, the day the Bill was introduced, Minister Scully also suggested in a Westminster Hall debate that the Government would be open to seeing the Government's commitments on neonatal leave, alongside other matters, delivered via individual measures rather than through a single Employment Bill, saying:

I doubt any worker with a rogue employer is thinking, "I wish there was an employment Bill." They are probably thinking, "I need carer's leave," "I need neonatal leave," or, "I need flexible working." Those are the things that affect

<sup>31</sup> Andrew Learmonth, "[Ministers asked to back MP's bid to bring in neonatal pay and leave](#)", The Herald, 15 June 2022

<sup>32</sup> Parental Leave (Premature and Sick Babies) Bill 2017-19

<sup>33</sup> David Linden, "[Neonatal leave campaign leaps forward with Bill](#)", davidlinden.scot, 16 June 2022

<sup>34</sup> HC Deb [7 June 2022 c663](#)

people up and down the country; it is not that they need a single piece of legislation, tied up with a bow. That would be neat, clearly, but it is the measures to which we are committed, and that we will deliver.<sup>35</sup>

## 5.2 Other commentary

Premature baby charity The Smallest Things welcomed the introduction of the Bill which they say they have been campaigning for since 2015. Catriona Ogilvy, Founder of The Smallest Things, gave a statement explaining why they were welcoming the introduction of the Bill:

This legislation will give families the emotional and financial support they need at a time of great stress and trauma. No parent should be sitting next to an incubator or neonatal cot worrying about work and pay.<sup>36</sup>

The charity Bliss, which works to support parents of babies born premature or sick, published an update on their “[Neonatal Leave and Pay Campaign](#)” which discussed the Bill and included a downloadable “briefing for Members of Parliament” on the Bill.<sup>37</sup> This briefing included a statement from Bliss on why in their view the Bill was needed:

One in seven babies born in the UK receive some level of neonatal care shortly after birth. While some of these babies will receive just days of care, many will remain in hospital for weeks or months. Around 50,000 babies in the UK spend more than one week in neonatal care after birth every year.

For many families the inflexibility of current parental leave laws exacerbates the traumatic time experienced by parents and add to the stress of the whole family.<sup>38</sup>

The briefing also included a statement that “By supporting this Bill, Members will be providing essential support to tens of thousands of parents every year across Scotland, England, and Wales.”

Other charities including Rainbow Trust Children’s Charity and pregnancy charity Tommy’s have also issued statements expressing support for the Bill.<sup>39,40</sup>

Following the Bill’s second reading, Jane van Zyl, chief executive of Working Families, a charity supporting working parents and carers, was reported as supporting the Bill as a way of preventing parents having to choose between working and visiting their sick children, saying:

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<sup>35</sup> HC Deb [15 June 2022 c171WH](#)

<sup>36</sup> The Smallest Things, [Neonatal Leave & Pay](#), thesmallestthings.org [accessed 5 July 2022]

<sup>37</sup> Bliss, [Neonatal Leave and Pay Campaign](#), bliss.org.uk [accessed 5 July 2022]

<sup>38</sup> Bliss, [Neonatal Care \(Leave and Pay\) Bill Members briefing](#) (pdf), [accessed 5 July 2022]

<sup>39</sup> Rainbow Trust, [Rainbow Trust welcomes the introduction of the Neonatal Care \(Leave & Pay\) Bill to Parliament](#), www.rainbowtrust.org.uk, 22 June 2022

<sup>40</sup> Tommy’s, [Supporting a new neonatal leave and pay law for parents](#), tommys.org, 15 June 2022

For many families, the inflexibility of current parental leave laws exacerbates the traumatic time experienced by parents of babies who need extra care in hospital.

On our free legal advice helpline, we have heard from many parents who have been forced to make the impossible choice between visiting their sick baby and keeping their job and income. This is a choice that no parent should have to make.

This is not sustainable, and is costing employers significant sums of money as they cannot reclaim statutory sick pay. Under this bill, employers would be able to reclaim the cost of neonatal pay, representing a significant saving.<sup>41</sup>

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<sup>41</sup> Nosa Omoigui, "[Proposed Neonatal Care Bill offers flexibility to working parents](#)", HR magazine, 18 July 2022

## Annex

### Composition of Public Bill Committee, Wednesday 7 September 2022

*Chair:* Hannah Bardell

† Blomfield, Paul (*Sheffield Central*) (Lab)

Byrne, Ian (Liverpool, West Derby) (Lab)

† Davison, Dehenna (*Bishop Auckland*) (Con)

Eastwood, Mark (*Dewsbury*) (Con)

† Hall, Luke (Thornbury and Yate) (Con)

Harris, Carolyn (*Swansea East*) (Lab)

† Hollinrake, Kevin (*Thirsk and Malton*) (Con)

† Hunt, Jane (Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy)

† Linden, David (*Glasgow East*) (SNP)

Mackrory, Cherilyn (*Truro and Falmouth*) (Con)

† McDonald, Stuart C. (Cumbernauld, Kilsyth and Kirkintilloch East) (SNP)

† McDonnell, John (*Hayes and Harlington*) (Lab)

† Robinson, Mary (*Cheadle*) (Con)

† Russell, Dean (*Watford*) (Con)

† Smith, Cat (Lancaster and Fleetwood) (Lab)

Trott, Laura (*Sevenoaks*) (Con)

† Young, Jacob (*Redcar*) (Con)

Anne-Marie Griffiths, *Committee Clerk*

† attended the Committee<sup>42</sup>

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<sup>42</sup> [Neonatal Care \(Leave and Pay\) Bill Deb, 7 September 2022, c1](#)

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