



Neonatal Care (Leave and Pay) Bill

HL Bill 90 of 2022–23

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The [Neonatal Care \(Leave and Pay\) Bill](#) is a private member's bill that would create new statutory entitlements to leave and pay for employees with responsibility for a baby receiving neonatal care.

Under the bill, neonatal leave would become a 'day one' right and would apply to parents whose children spent at least one week in neonatal care. The maximum entitlement to this leave would be set by regulations but would be one week at a minimum. It would have to be taken within a minimum of 68 weeks starting from the date of the child's birth.

The right to neonatal care pay during periods of related leave (for example maternity, paternity or adoption leave) would be available to all employees with at least 26 weeks' continuous service and whose earnings were above the lower earnings limit for national insurance. Regulations would set out the level and duration of pay, but it would be able to be claimed for at least 12 weeks.

These new entitlements would apply in England, Scotland and Wales. They would not apply in Northern Ireland as employment law is devolved. However, the bill would extend to the whole of the UK.

In recent years, charities and politicians have called for a statutory entitlement to leave and pay for parents whose children are receiving neonatal care. The government has previously consulted on the topic and committed to legislating on the issue but has not introduced a bill in either House of Parliament. However, the former Department for Business, Energy and Industrial Strategy (BEIS) has supplied [explanatory notes](#), a [delegated powers memorandum](#) and an [impact assessment](#) for the current bill.

The bill was sponsored in the House of Commons by Stuart McDonald (SNP MP for Cumbernauld, Kilsyth and Kirkintilloch East). It completed its stages in the Commons on 20 January 2023. Four amendments were made to the bill at committee stage; these received cross-party support and were added without division. Overall, the bill received support from across the House, including from the government, at every stage. It has also been supported by charities, including Bliss, a charity for premature and sick babies.

The bill received its first reading in the House of Lords on 23 January 2023. It is sponsored by Baroness Wyld (Conservative) and is scheduled to have its second reading on 24 March 2023.

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I. What is the background to the bill?

I.1 Overview

Neonatal care is given to some babies born prematurely or to those who are sick.¹ Bliss, a charity for premature and sick babies, has estimated that over 90,000 babies in the UK need neonatal care every year. This means that around one in seven babies are admitted to a neonatal unit annually.

Currently, there is no specific statutory entitlement to leave and/or pay for parents of children requiring neonatal care.² This has meant that parents often spend a proportion of their existing family leave rights caring for their baby in hospital. In some cases, parents get signed off sick from work or even resign.

These issues have led to calls for a specific statutory leave entitlement for parents whose children are receiving neonatal care. Several charities and political parties have argued in favour of such a policy.³ The government has also previously consulted on the issue.⁴ However, it has not introduced any legislation in either House of Parliament. More recently, the government has given its support to the Neonatal Care (Leave and Pay) Bill.

I.2 Challenges related to neonatal care

The charity Bliss has said that every year thousands of parents have to return to work while their child is critically ill and receiving care in a neonatal unit.⁵ It has been highlighted that some babies spend weeks and months receiving care, meaning that parents use large amounts or in some cases all of their leave entitlements before their baby is well enough to go home. In addition, some babies have significant ongoing needs and cannot be placed in childcare by the time parents have to start work again.

Research has shown that these issues affect parents. A survey conducted by Bliss in 2019 of over 700 parents whose babies had received neonatal care highlighted some of these issues.

¹ Bliss, '[What is neonatal care?](#)', accessed 28 February 2023. 'Neonatal' refers to newborn children up to four weeks old.

² [Explanatory notes](#), p. 3.

³ As above, p 4.

⁴ Department for Business, Energy and Industrial Strategy, '[Closed consultation—Good work plan: Proposals to support families](#)', 19 July 2019; and Conservative Party, '[Conservative Party manifesto 2019](#)', 2019, p 39.

⁵ Bliss, '[Parental leave](#)', accessed 28 February 2023.

It found that:⁶

- 66% of fathers and partners had to return to work while their baby was still receiving specialist neonatal care
- 36% of fathers were signed off sick in order to spend time with their baby on the neonatal unit
- 24% of fathers said they were concerned for their job if they asked for more time off work
- 77% of parents felt their parental leave was too short, with this figure rising to 90% for parents whose babies spent 10 or more weeks in neonatal care
- half of all parents would have liked to take more parental leave but could not afford to
- 11% of parents left their jobs due to having insufficient leave after their baby was admitted to neonatal care

In addition, a review published by the National Institute for Health and Care Research (NIHR) found that around two in five (40%) parents had anxiety or post-traumatic stress when their newborn baby needed neonatal care.⁷ Although these levels were found to decline over time, research showed that a year after birth, one in four (25%) were still affected. These levels are much higher than those generally seen in new parents.

Bliss has highlighted that having a child in neonatal care also has financial implications for families.⁸ It has estimated that families lose on average nearly £3,000 in income during their baby's stay. The charity has argued that the financial strain can lead to parents not spending as much time with their baby as they would like.

In addition, the charity argued that parents spending time with their children while they are in neonatal care has benefits for the child's care.⁹ It has said that if parents can take the lead on caring for their baby, the baby can have better outcomes, including gaining more weight, being discharged earlier, improved breastfeeding, reduced pain during procedures and better gross motor development at four to five years. It has also said that increased parental involvement benefits parents as it allows them to bond with their child and feel like parents.

⁶ Bliss, '[Parental leave](#)', accessed 28 February 2023.

⁷ National Institute for Health and Care Research, '[Neonatal care: Parents may need long-term psychological support](#)', 28 June 2022.

⁸ Bliss, '[Financial costs facing families](#)', accessed 8 March 2023.

⁹ As above.

1.3 Campaigns for extending parental leave and pay

The charity Bliss has campaigned for a number of years on the issue of parental leave.¹⁰ It has argued that current statutory entitlements “are letting down both premature and sick babies and their families, and employers too”.¹¹ As a result, it has called on the government to extend both pay and leave for parents whose babies receive neonatal care.

The charity’s work on the issue dates back to 2014 when it launched the ‘It’s not a game’ report, which looked at the financial burden faced by families with premature or sick babies.¹² This report called on the government to extend maternity leave and pay for such families. In response to the campaign, the then Department for Business, Innovation and Skills (BIS) committed to reviewing how its policy on parental leave was working for parents whose babies were admitted to neonatal care.¹³

Since 2014, the charity has continued its campaign. For example, in 2016, on World Prematurity Day, Bliss joined another charity—The Smallest Things—to hand in a petition to the government which called for extended leave for parents and premature babies.¹⁴ In addition, in 2018 Bliss met with the government and MPs who have campaigned on the issue. It also encouraged people to write to their MP “to put pressure on the government to extend leave for parents of babies in specialist care”. It said that over 90% of MPs were reached by this campaign.¹⁵ More recently, Bliss has supported the Neonatal Care (Leave and Pay) Bill by working with the government and the bill’s sponsor.¹⁶

The Smallest Things, a charity for premature babies and their families, has also campaigned on the issue. Along with launching the petition it handed to the government with Bliss, the charity has called for change through its neonatal leave campaign.¹⁷ As part of this, it has asked supporters to write to the prime minister and relevant minister as well as meet with their MP.

¹⁰ Bliss, ‘[Parental leave](#)’, accessed 28 February 2023.

¹¹ As above.

¹² Bliss, ‘[It’s not a game: The very real costs of having a premature or sick baby](#)’, 2014.

¹³ House of Commons, ‘[Written question: Maternity and paternity pay](#)’, 28 April 2014, 195855.

¹⁴ Bliss, ‘[Parental leave](#)’, accessed 28 February 2023; and Change.org, ‘[Extend parental leave for parents of premature babies](#)’, accessed 28 February 2023. World Prematurity Day is marked on 17 November each year.

¹⁵ Bliss, ‘[Parental leave](#)’, accessed 28 February 2023.

¹⁶ Bliss, ‘[Historic Neonatal Care \(Leave and Pay\) Bill progresses to the House of Lords](#)’, 20 January 2023.

¹⁷ Change.org, ‘[Extend parental leave for parents of premature babies](#)’, accessed 28 February 2023; and The Smallest Things, ‘[Neonatal leave campaign](#)’, accessed 28 February 2023.

1.4 Government consultation

In July 2019, the government launched a consultation to gather views on several family leave issues entitled the ‘Good work plan: Proposals to support families’.¹⁸ As part of this, the government set out proposals for a new leave and pay entitlement for parents of babies that required neonatal care after birth.

Introducing these proposals, the government noted an internal review by the then Department for Business, Energy and Industrial Strategy which highlighted that parents of premature, sick and multiple babies can experience “significant challenges”. This was particularly the case where a baby or babies needed neonatal care for weeks or months.¹⁹ On the support available to parents, the review found that “evidence gathered so far suggests that current leave and pay entitlements do not adequately support parents in these circumstances”.

To respond to the issue, the government proposed a new pay and leave entitlement for parents.²⁰ It suggested that parents would receive one week of neonatal leave and pay for every week that their baby was in neonatal care, up to a maximum number of weeks to be determined. It suggested that this entitlement would apply to parents of babies who had spent a minimum of two continuous weeks in neonatal care immediately after birth. It also explained that the new entitlement would be a ‘day one’ right, meaning that it would be available to employees no matter how long they had worked for their employer. In addition, it said that other family-related leave and pay rights would be unaffected by the proposals and explained that neonatal care leave would be taken at the end of other leave periods. For example, a father would take it at the end of their paternity leave.

Responding to the results of the consultation in March 2020, the government said that it would:²¹

- 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 in an employment bill

¹⁸ Department for Business, Energy and Industrial Strategy, ‘[Closed consultation—Good work plan: Proposals to support families](#)’, 19 July 2019.

¹⁹ HM Government, ‘[Good work plan: Proposals to support families, consultation](#)’, July 2019, p 5.

²⁰ As above, p 32.

²¹ Department for Business, Energy and Industrial Strategy, ‘[Neonatal leave and pay—Good work plan: Proposals to support families, government response](#)’, March 2020.

In the March 2020 budget, the government reiterated this commitment:

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.²²

1.5 Proposed legislation

Since its consultation on the issue, the government has repeated its commitment to create a leave entitlement for parents whose children are receiving neonatal care. In its 2019 general election manifesto, the Conservative Party said that it would:

Legislate to allow parents to take extended leave for neonatal care, to support those new mothers and fathers who need it during the most vulnerable and stressful days of their lives. And we will look at ways to make it easier for fathers to take paternity leave.²³

Following the election, the government announced an Employment Bill as part of its December 2019 Queen's Speech.²⁴ It said that one of the main elements of the bill would be to allow parents to take extended leave for neonatal care. However, the bill was not introduced in the 2019–21 parliamentary session and did not feature in either the 2021 or 2022 Queen's Speech.²⁵

In the 2017–19 parliamentary session, David Linden (SNP MP for Glasgow East) introduced a private member's bill to "extend entitlements to parental leave for parents of babies born prematurely or requiring neonatal care" under the ten-minute rule.²⁶ The bill did not receive second reading in the Commons and fell at the end of the parliamentary session.

1.6 Recent developments

Although the government has not introduced legislation on neonatal leave and pay, it has repeated its commitment to this policy since 2019. For example, in a debate on parental leave and pay in March 2022, Paul Scully,

²² HM Treasury, '[Budget 2020](#)', updated 12 March 2020.

²³ Conservative Party, '[Conservative Party manifesto 2019](#)', 2019, p 39.

²⁴ Prime Minister's Office, '[The Queen's Speech 2019: Background briefing notes](#)', 19 December 2019, pp 43–5.

²⁵ Prime Minister's Office, '[The Queen's Speech 2021: Background briefing notes](#)', 11 May 2021; and '[The Queen's Speech 2022: Background briefing notes](#)', 10 May 2022.

²⁶ UK Parliament, '[Parental Leave \(Premature and Sick Babies\) Bill](#)', last updated 19 September 2019; and '[Ten minute rule bills](#)', accessed 1 March 2023.

then a parliamentary under secretary of state at BEIS, said:

As a government, we are committed to delivering a number of changes for new entitlements in this space, including making it easier for partners to take paternity leave, introducing neonatal leave and pay, and extending pregnancy and maternity discrimination protections.²⁷

Mr Scully had also repeated this commitment at other times, including during an adjournment debate in the House of Commons on 9 February 2022 and in response to a written question on the issue.²⁸

More recently, the government has given its support to the Neonatal Care (Leave and Pay) Bill. The former Department for Business, Energy and Industrial Strategy prepared the explanatory notes for the bill.²⁹

2. What would the bill do?

2.1 Overview

The Neonatal Care (Leave and Pay) Bill would create new statutory entitlements to leave and pay for employees with responsibility for babies receiving neonatal care.

The right to neonatal leave would be a ‘day one’ right, meaning that it would be available to employees no matter how long they had worked for their employer. It would apply to parents whose children spend at least one week in neonatal care. The maximum duration of the leave, as well as how and when it must be taken, would be set out in regulations. However, the entitlement would be at least one week’s leave that would have to be taken within a minimum of 68 weeks starting from the date of the child’s birth.

The right to neonatal care pay during periods of related leave, such as maternity, paternity and adoption leave, would be available to all employees with at least 26 weeks’ continuous service and whose earnings were above the lower earnings limit for national insurance contributions. Regulations would set out the level and duration of pay, but it would be able to be claimed for at least 12 weeks.

These new entitlements would apply in England, Scotland and Wales. They would not apply in Northern Ireland as employment law is devolved. However, the bill would extend to the whole of the UK.

²⁷ [HC Hansard, 22 March 2022, col 98WH.](#)

²⁸ [HC Hansard, 9 February 2022, col 1058](#); and House of Commons, ‘[Written question: Parental leave](#)’, 25 May 2022, 3643.

²⁹ [Explanatory notes.](#)

The government has estimated that if the bill completes all its parliamentary stages in 2023, it is likely to be implemented at least 18 months after that date.³⁰ It added that HM Revenue and Customs (HMRC) usually requires at least 18 months' lead time to implement changes which enable employers to administer new statutory payments.

The government has also assessed that the annual cost to the exchequer of neonatal care leave—paid at a statutory flat rate (currently £156.66 a week), or 90% of average earnings where it is lower—would be £14.2mn per year on average.³¹ It also said there would be an estimated £5mn one-off cost to amend HMRC's systems so that employers could reclaim a percentage of the statutory pay.

For businesses, the government estimated a one-off cost of familiarising themselves with new legislation at £4.7mn.³² The annual cost to businesses resulting from greater staff absence, recurring administrative cost and familiarisation, and in some cases contributing towards the statutory pay was estimated at £22.2mn.

2.2 Provisions of the bill

The bill contains three clauses and a schedule. The substance of how the new entitlements to neonatal pay and leave would work is outlined in the schedule.

Clause 1 would introduce the schedule and provide for:

- part 1 to create a statutory entitlement to neonatal care leave
- part 2 to create a statutory entitlement to neonatal care pay
- part 3 to contain related amendments

Clause 2 would allow the secretary of state to make regulations by statutory instrument that make consequential amendments to secondary legislation. These regulations would be subject to the negative procedure and would therefore become law on the day they are signed by the minister unless a motion, or a prayer, to reject it was tabled by either House within 40 sitting days.³³

Clause 3 would provide for the territorial extent of the bill. It would extend to the whole of the UK. However, as employment law is devolved to Northern Ireland, it would be for the Northern Ireland Assembly to decide if the bill's provisions would apply there. As a result, the bill would apply in

³⁰ [Explanatory notes](#), p 11.

³¹ As above.

³² As above.

³³ UK Parliament, '[Negative procedure](#)', accessed 2 March 2023.

England, Wales and Scotland. This clause would also provide for the bill's commencement and short title. Sections 1 and 2, as well as the schedule, would come into force on a day appointed by the secretary of state in regulations. Section 3 of the act would come into force on the day the bill received royal assent.

The bill's schedule is made up of three parts.

Part 1 would amend the Employment Rights Act 1996 to insert a new chapter 5 (made up of four new sections). This would require the secretary of state to make regulations to provide for an entitlement to neonatal care leave for employees who had a parental or other personal relationship with a child who was receiving, or had received, neonatal care without interruption for at least seven days.

These regulations would set out the duration of the leave as well as when the leave could be taken. Although the exact details would be for the secretary of state to decide, the bill would require certain provisions to be included in the regulations:

- an employee would be entitled to at least one week's neonatal care leave
- that leave must be taken within a period of at least 68 weeks starting from the date of the child's birth
- an employee is entitled to leave only if the neonatal care continued without interruption for a period of at least seven days beginning the day on which the care started

Part 1 would also define neonatal care as care that is:

- of a medical or palliative kind specified in the regulations; and
- that started before the end of a 28-day period beginning with the day after the date of the child's birth

Regulations made under part 1 of the bill's schedule would need to set out an employee's rights during and after neonatal care leave. These would outline an employee's:

- rights in relation to retaining their existing terms and conditions of employment whilst taking neonatal care leave
- obligations in relation to those terms and conditions
- right to return to work once their leave period had concluded and the nature of the job they were entitled to return to, as well as the terms and conditions applicable on return on matters such as seniority, pension and similar rights

In this context, terms and conditions would not be limited to contractual terms and conditions and would not cover remuneration. Regulations would be able to specify what things should or should not be seen as remuneration for this purpose.

Part 1 would also allow the regulations to make provisions about the redundancy and dismissal of employees during or after a period of neonatal care leave. This could include whether an employer was required to offer alternative employment and the consequences of failing to comply with the regulations.

In addition, the regulations would be able to make provision on supplemental issues. These would include:

- circumstances where neonatal care could be regarded as continuous despite an interruption
- what notices and evidence an employee must give their employer
- what procedures must be followed in order for someone to take neonatal care leave
- any requirements for record keeping
- the consequences of not complying with any of these requirements or procedures

Regulations under part 1 could also make provisions for when an employee had a non-statutory right to take neonatal care leave and modify the way in which a week's pay was calculated to take account of neonatal care leave and make special provision for different cases or circumstances.

The regulations made under part 1 of the schedule would be subject to the affirmative procedure and would therefore need to be actively approved by both Houses of Parliament.³⁴

Part 2 would amend the Social Security Contributions and Benefits Act 1992 to create a new entitlement to neonatal care pay. It would provide that an employee would be eligible for this pay if they met certain conditions. These would include that:

- the person had a prescribed parental or other personal relationship with a child who was receiving, or had received, neonatal care that continued without interruption for a period of at least seven days
- the employee had been continuously working for their employer for at least 26 weeks by the end of the 'relevant week'

³⁴ UK Parliament, '[Affirmative procedure](#)', accessed 2 March 2023

- the person's normal weekly earnings over an eight-week period ending with the relevant week were not less than the lower earnings limit (which is specified in section 5(1)a of the 1992 act)

Part 2 would also allow for regulations that may add a further condition that a person would not be entitled to pay for a particular week or period unless at the start of that week or period they remained employed by the same employer.

In addition, part 2 would provide a definition of neonatal care and set out what was meant by the 'relevant week'. It would also ensure that the condition requiring someone to be legally entitled to be in the employment in relation to which they were claiming statutory neonatal pay would only apply when section 63(3) of the Welfare Reform Act 2012—which makes similar provision for statutory maternity, adoption or paternity pay—comes into force.

Part 2 would also specify that in order to receive neonatal care pay an employee must give notice to their employer (in writing if required). It would allow for regulations to set out when that notice must be given and how this requirement could be disapplied or modified in specified circumstances.

Regulations would also be able to set out when a person would be eligible for neonatal care pay in respect of more than one child or when a child received neonatal care on more than one occasion. They could also set out further provisions on what would count as continuous employment and specify how earnings should be calculated or estimated for the purpose of deciding whether an employee met the earnings threshold.

Employers would be liable to pay their employee neonatal care pay if the conditions set out in the other sections were met. Regulations would also be required under part 2 to outline liability if an employer terminated their employee's contract in order to avoid paying them neonatal care pay. These regulations would also be able to specify conditions where the liability for neonatal care pay would shift to HM Revenue and Customs.

Part 2 would provide for regulations to set the weekly statutory rates of neonatal care pay and the maximum entitlement to it, which must not be less than 12 weeks. They would also set out when statutory pay is not payable and provide for employees to choose the start and end date of their statutory pay week.

In addition, the entitlement to statutory care pay would not be able to be "diluted or denied in an employee's contract", nor could they be required to contribute to the costs. It would also outline provisions on contractual remuneration, crown employment and special classes of person, as well as some supplementary provisions.

Regulations made under part 2 would also be subject to the affirmative procedure.

Part 3 of the schedule would make consequential amendments to other pieces of existing legislation to include references to neonatal care pay where relevant. A list of the acts that would be amended is set out in the explanatory notes to the bill.³⁵

3. What happened in the House of Commons?

The Neonatal Care (Leave and Pay) Bill completed its stages in the House of Commons on 20 January 2023. Four amendments were made to the bill at committee stage; these received cross-party support and were added without division. Overall, the bill received support from across the House, including from the government, at every stage.

3.1 Second reading

The bill received its second reading in the House of Commons on 15 July 2022.³⁶ It received cross-party support and was passed without division.

Introducing the bill, its sponsoring member, Stuart McDonald (SNP MP for Cumbernauld, Kilsyth and Kirkintilloch East), outlined its purpose:

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.³⁷

Stating that much of the framework and terminology of the bill “borrows from other related statutory rights”, Mr McDonald gave a summary of the new entitlements to neonatal care leave and pay.³⁸ He also explained that the entitlement to neonatal care leave would be flexible and would allow mothers to add it to the end of their maternity leave and other forms of parental leave to which they may be entitled. Mr McDonald argued that this would allow parents to take neonatal care leave when it suited them best.

Arguing that the bill would “make a big difference to tens of thousands of

³⁵ [Explanatory notes](#), p 10.

³⁶ [HC Hansard, 15 July 2022, cols 593–620.](#)

³⁷ [HC Hansard, 15 July 2022, cols 595–6.](#)

³⁸ [HC Hansard, 15 July 2022, col 596.](#)

families every year”, Mr McDonald noted that there was “overwhelming support” for it.³⁹ He highlighted that families, trade unions, health professionals, employers and MPs from all parties had voiced support for the bill. He also noted that it would deliver on a commitment made in both the SNP and Conservative Party manifestos.

Closing his speech, Mr McDonald focused again on his reasons for introducing the bill:

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.⁴⁰

Speaking for Labour, Kerry McCarthy, shadow minister for climate change, gave her party’s support to the bill. Ms McCarthy argued that parents should not have to be worrying about work when their child is in neonatal care.⁴¹ She thanked members for speaking about their own personal experiences and praised the cross-party support the bill had received. However, she was also critical of the government’s reliance on a private member’s bill to introduce the new entitlement, noting that the government’s work in recent years on the issue had not led to it introducing legislation as promised.⁴²

Responding for the government, Jane Hunt, the then minister for small business, consumers and labour markets, confirmed that ministers supported the bill.⁴³ Referring to the debate around the levels of support already offered by some employers, Ms Hunt said that the bill was “a floor, not a ceiling” and noted that she wanted to ensure that everybody gets a good level of care with some businesses adding further to it.⁴⁴

Addressing concerns around the time it would take for the bill to be implemented, Ms Hunt said that she hoped it would receive royal assent as

³⁹ [HC Hansard, 15 July 2022, col 597.](#)

⁴⁰ [HC Hansard, 15 July 2022, col 597.](#)

⁴¹ [HC Hansard, 15 July 2022, col 614.](#)

⁴² [HC Hansard, 15 July 2022, col 616.](#)

⁴³ [HC Hansard, 15 July 2022, col 616.](#)

⁴⁴ [HC Hansard, 15 July 2022, col 617.](#)

soon as possible. However, she warned that setting up new leave and pay entitlements takes time:

It requires secondary legislation and changes to government systems that administer statutory payments, and businesses need good notice in order to prepare. HMRC and commercial payroll providers require at least 18 months' lead time to implement such changes following royal assent. I spoke with my officials this week, however, and we are looking at what we can do to speed that up.⁴⁵

Focusing on the time taken to legislate for neonatal care pay and leave, Ms Hunt cited the Covid-19 pandemic, arguing that the government had rightly prioritised its response to the pandemic.⁴⁶ Concluding, she further expressed her support for the bill:

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 honourable member for Cumbernauld, Kilsyth and Kirkintilloch East to support the passage of the bill.⁴⁷

Following second reading, on 20 July 2022 the House of Commons approved a money resolution for the bill.⁴⁸ This authorised public spending relating to the bill.

3.2 Public bill committee

A House of Commons public bill committee sat on 7 September 2022 to consider the bill.⁴⁹ The bill's sponsor, Stuart McDonald, tabled four amendments, all of which were agreed to without a vote.⁵⁰ During committee, the bill continued to receive cross-party support.

⁴⁵ [HC Hansard, 15 July 2022, col 618.](#)

⁴⁶ [HC Hansard, 15 July 2022, col 619.](#)

⁴⁷ [HC Hansard, 15 July 2022, col 620.](#)

⁴⁸ House of Commons, '[Votes and proceedings](#)', 20 July 2022, p 4.

⁴⁹ [HC Hansard, 7 September 2022, cols 1–12.](#)

⁵⁰ House of Commons, '[Neonatal Care \(Leave and Pay\) Bill \(Committee stage decisions\)](#)', 7 September 2022.

3.2.1 Amendments

Speaking to his amendments, Mr McDonald explained that amendments 1, 2 and 3 would amend clause 2 of the bill to remove a Henry VIII power that would have granted ministers the ability to amend primary legislation through secondary legislation:

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.⁵¹

Commenting further on this proposed change, Mr McDonald said:

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 honourable member for North East Fife (Wendy Chamberlain). On further assessment and examination, it is not thought that the power is required any more. On that basis, I invite the committee to accept the amendments.⁵²

Focusing on amendment 4, Mr McDonald said that it was more significant. He explained that it would update part 2 of the schedule and would adjust the eligibility for statutory neonatal care pay by revising the definition of a "relevant week".⁵³ Commenting on why he believed the amendment was necessary, Mr McDonald said:

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.

⁵¹ [HC Hansard, 7 September 2022, col 5.](#)

⁵² [HC Hansard, 7 September 2022, col 5.](#)

⁵³ [HC Hansard, 7 September 2022, col 5.](#)

The amendment changes the definition of “relevant week” so that it aligns with the same relevant week as 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.⁵⁴

Asking the committee to accept the amendment, Mr McDonald argued that amending the bill would resolve the issue and “ensure that more parents who are already low earners do not miss out on the entitlement to statutory neonatal care”.⁵⁵

All members who spoke on the amendments expressed their support, including Jane Hunt, the then minister for small business, consumers and labour markets.⁵⁶ The four amendments were agreed to without division.⁵⁷

3.2.2 Implementation

Following questions on the timeline for implementation of the bill, Ms Hunt reiterated that she would like to implement its measures as quickly as possible.⁵⁸ However, she said that “it is necessary to have extensive secondary legislation and guidance in place that will take a significant time to prepare”. She also said that it would be necessary to make changes to HMRC systems so that employers and payroll providers would have sufficient time to update their systems. Ms Hunt estimated that this work would take 18 months following royal assent but said that she would work with HMRC to investigate whether “it is possible to speed up the work in a timely way”.

3.3 Third reading

The bill’s third reading took place on 20 January 2023.⁵⁹ The bill continued to receive support from across the House, with MPs sharing both their personal experiences and those of constituents. Various MPs also thanked charities that had campaigned on the issue, especially Bliss, for their work.

One issue that was raised and addressed by both the bill’s sponsor and the government was how neonatal care would be defined in the regulations.

⁵⁴ [HC Hansard, 7 September 2022, col 5.](#)

⁵⁵ [HC Hansard, 7 September 2022, cols 5–6.](#)

⁵⁶ [HC Hansard, 7 September 2022, col 9.](#)

⁵⁷ [HC Hansard, 7 September 2022, cols 10–12.](#)

⁵⁸ [HC Hansard, 7 September 2022, col 10.](#)

⁵⁹ [HC Hansard, 20 January 2023, cols 639–65.](#)

Stuart McDonald said that further thought was needed on “whether we limit that to care on a neonatal ward or whether we go further than that”.⁶⁰ He expressed hope that any definition would go further, citing families who have babies at home but were regularly required to attend hospital appointments or have regular interventions and people visiting to provide care and treatment.

Commenting on this, Kevin Hollinrake, the then minister for enterprise, markets and small business, said that the government would look at the definition of neonatal care in the regulations. He suggested however that hospital, outreach and “perhaps palliative care would be the key areas”.⁶¹

⁶⁰ [HC Hansard, 20 January 2023, col 643.](#)

⁶¹ [HC Hansard, 20 January 2023, col 664.](#)

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