
Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the
Neonatal Care (Leave and Pay) Act 2023, PART 3. (See end of Document for details)

SCHEDULE

NEONATAL CARE LEAVE AND PAY

PART 3

FURTHER AMENDMENTS TO DO WITH NEONATAL CARE LEAVE AND PAY

PROSPECTIVE

Social Security Act 1989

7 In Schedule 5 to the Social Security Act 1989 (employment-related schemes for pensions or other benefits to comply with the principle of equal treatment), after paragraph 5D insert—

“Unfair neonatal care leave provisions

- 5E (1) Where an employment-related benefit scheme includes any unfair neonatal care leave provisions (irrespective of any differences on the basis of sex in the treatment accorded to members under those provisions), then—
- (a) the scheme is to be regarded to that extent as not complying with the principle of equal treatment; and
 - (b) subject to sub-paragraph (3), this Schedule is to apply accordingly.
- (2) In this paragraph “unfair neonatal care leave provisions”, in relation to an employment-related benefit scheme, means any provision—
- (a) which relates to continuing membership of, or the accrual of rights under, the scheme during any period of paid neonatal care leave in the case of any member who is (or who, immediately before the commencement of such a period, was) an employed earner and which treats such a member otherwise than in accordance with the normal employment requirement; or
 - (b) which requires the amount of any benefit payable under the scheme to or in respect of any such member, to the extent that it falls to be determined by reference to earnings during a period which included a period of paid neonatal care leave, to be determined otherwise than in accordance with the normal employment requirement.
- (3) In the case of any unfair neonatal care leave provision—
- (a) the more favourable treatment required by paragraph 3(1) is treatment no less favourable than would be accorded to the member in accordance with the normal employment requirement; and
 - (b) paragraph 3(2) does not authorise the making of any such election as is there mentioned;

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but, in respect of any period of paid neonatal care leave, a member is only required to pay contributions on the amount of contractual remuneration or statutory neonatal care pay actually paid to or for the member in respect of that period.

(4) In this paragraph—

“the normal employment requirement” is the requirement that any period of paid neonatal care leave is to be treated as if it were a period throughout which the member in question works normally and receives the remuneration likely to be paid for doing so;

“period of paid neonatal care leave”, in the case of a member, means any period—

(a) throughout which a member who (for the purposes of section 171ZZ16 of the Social Security Contributions and Benefits Act 1992) has a parental or other personal relationship with a child who is receiving, or has received, neonatal care is absent from work for that reason, otherwise than by virtue of a period of leave mentioned in sub-paragraph (5); and

(b) for which the employer (or if the member is no longer in that person’s employment, his former employer) pays the member any contractual remuneration or statutory neonatal care pay.

(5) The periods of leave referred to in paragraph (a) of the definition of “period of paid neonatal care leave” are—

(a) a period of paid paternity leave (within the meaning of paragraph 5A),

(b) a period of maternity leave (within the meaning of the Equality Act 2010),

(c) a period of paid adoption leave (within the meaning of paragraph 5B),

(d) a period of shared parental leave (within the meaning of paragraph 5C), or

(e) a period of parental bereavement leave (within the meaning of paragraph 5D).”

Commencement Information

II Sch. para. 7 not in force at Royal Assent, see [s. 3\(3\)](#)

PROSPECTIVE

Finance Act 1989

8 (1) Section 182 of the Finance Act 1989 (offences relating to disclosure of information relating to social security functions etc) is amended as follows.

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(2) In subsections (1)(c), (2A)(a), (4)(c)(iii) and (5)(b), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.

(3) In subsection (11A)—

- (a) for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”;
- (b) for “or Part 12ZD” substitute “, Part 12ZD or Part 12ZE”.

Commencement Information

I2 Sch. para. 8 not in force at Royal Assent, see [s. 3\(3\)](#)

PROSPECTIVE

Social Security Contributions and Benefits Act 1992

9 The Social Security Contributions and Benefits Act 1992 is amended as follows.

Commencement Information

I3 Sch. para. 9 not in force at Royal Assent, see [s. 3\(3\)](#)

10 In section 1 (outline of contributory system), in subsection (5), for “and statutory parental bereavement pay” substitute “, statutory parental bereavement pay and statutory neonatal care pay”.

Commencement Information

I4 Sch. para. 10 not in force at Royal Assent, see [s. 3\(3\)](#)

11 In section 4 (payments treated as remuneration and earnings), in subsection (1) (a)—

- (a) omit “or” at the end of sub-paragraph (vi);
- (b) at the end of sub-paragraph (vii) (but before the “and”) insert “or (viii) statutory neonatal care pay;”.

Commencement Information

I5 Sch. para. 11 not in force at Royal Assent, see [s. 3\(3\)](#)

12 In section 4AA (limited liability partnerships), in subsection (2), for “or 171ZZ14” substitute “, 171ZZ14 or 171ZZ24”.

Commencement Information

I6 Sch. para. 12 not in force at Royal Assent, see [s. 3\(3\)](#)

Status: This version of this part contains provisions that are prospective.

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- 13 In section 4C (power to make provision in consequence of provision made by or by virtue of section 4B etc), in subsection (11), in paragraph (a) of the definition of “statutory payment”, for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.

Commencement Information

I7 Sch. para. 13 not in force at Royal Assent, see [s. 3\(3\)](#)

PROSPECTIVE

Social Security Administration Act 1992

- 14 The Social Security Administration Act 1992 is amended as follows.

Commencement Information

I8 Sch. para. 14 not in force at Royal Assent, see [s. 3\(3\)](#)

- 15 In section 5 (regulations about claims for and payments of benefits), in subsection (5), for “and statutory parental bereavement pay” substitute “, statutory parental bereavement pay and statutory neonatal care pay”.

Commencement Information

I9 Sch. para. 15 not in force at Royal Assent, see [s. 3\(3\)](#)

- 16 In section 122AA (disclosure of contributions information etc by HMRC), in subsection (1), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.

Commencement Information

I10 Sch. para. 16 not in force at Royal Assent, see [s. 3\(3\)](#)

- 17 In section 150 (annual up-rating of benefits), in subsection (1)(j), for “or 171ZZ9(1)” substitute “, 171ZZ9(1) or 171ZZ19(1)”.

Commencement Information

I11 Sch. para. 17 not in force at Royal Assent, see [s. 3\(3\)](#)

- 18 In section 163 (general financial arrangements), in subsection (1)(d), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.

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Commencement Information

I12 Sch. para. 18 not in force at Royal Assent, see [s. 3\(3\)](#)

- 19 (1) Section 165 (adjustments between the National Insurance Fund and the Consolidated Fund) is amended as follows.
- (2) In subsection (1)(b)—
- (a) omit “and” at the end of sub-paragraph (vi);
 - (b) at the end of sub-paragraph (vii) insert “, and (viii) statutory neonatal care pay.”
- (3) In subsection (5B)(a), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.

Commencement Information

I13 Sch. para. 19 not in force at Royal Assent, see [s. 3\(3\)](#)

PROSPECTIVE

Employment Rights Act 1996

- 20 The Employment Rights Act 1996 is amended as follows.

Commencement Information

I14 Sch. para. 20 not in force at Royal Assent, see [s. 3\(3\)](#)

- 21 In section 27 (meaning of “wages”), in subsection (1), after paragraph (cd) insert—
- “(ce) statutory neonatal care pay under Part 12ZE of that Act,”.

Commencement Information

I15 Sch. para. 21 not in force at Royal Assent, see [s. 3\(3\)](#)

- 22 In section 47C (leave for family and domestic reasons), in subsection (2), after paragraph (cb) (but before the “or”), insert—
- “(cc) neonatal care leave,”.

Commencement Information

I16 Sch. para. 22 not in force at Royal Assent, see [s. 3\(3\)](#)

- 23 In section 75I (rights during and after shared parental leave), in subsection (3)—
- (a) at the end of paragraph (e) omit “and”;
 - (b) at the end of paragraph (f) insert “, and (g) neonatal care leave.”

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Commencement Information

I17 Sch. para. 23 not in force at Royal Assent, see [s. 3\(3\)](#)

- 24 (1) Section 80C (rights during and after paternity leave) is amended as follows.
- (2) In subsection (2), after paragraph (bb) (but before the “and”) insert—
 “(bc) neonatal care leave.”
- (3) In subsection (4), after paragraph (bb) insert—
 “(bc) neonatal care leave.”

Commencement Information

I18 Sch. para. 24 not in force at Royal Assent, see [s. 3\(3\)](#)

- 25 In section 80EB (rights during and after bereavement leave), in subsection (2)—
- (a) at the end of paragraph (d) omit “and”;
- (b) at the end of paragraph (e) insert “, and
- (f) neonatal care leave.”

Commencement Information

I19 Sch. para. 25 not in force at Royal Assent, see [s. 3\(3\)](#)

- 26 (1) Section 88 (liability of employer to pay employee during period of notice: employments with normal working hours) is amended as follows.
- (2) In subsection (1)(c), after “parental bereavement leave,” insert “neonatal care leave.”
- (3) In subsection (2), after “statutory parental bereavement pay,” insert “neonatal care pay, statutory neonatal care pay.”

Commencement Information

I20 Sch. para. 26 not in force at Royal Assent, see [s. 3\(3\)](#)

- 27 (1) Section 89 (effect of notice of termination: employments without normal working hours) is amended as follows.
- (2) In subsection (3)(b), after “parental bereavement leave,” insert “neonatal care leave.”
- (3) In subsection (4), after “statutory parental bereavement pay,” insert “neonatal care pay, statutory neonatal care pay.”

Commencement Information

I21 Sch. para. 27 not in force at Royal Assent, see [s. 3\(3\)](#)

- 28 In section 99 (leave for family reasons), in subsection (3), after paragraph (cb) (but before the “or”), insert—

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“(cc) neonatal care leave.”.

Commencement Information

I22 Sch. para. 28 not in force at Royal Assent, see [s. 3\(3\)](#)

- 29 In section 235 (definitions), in subsection (1)—
- (a) at the appropriate place insert—
““neonatal care leave” means leave under section 80EF.”;
 - (b) in the definition of “week”, in paragraph (b), after “80EA” insert “, 80EF”.

Commencement Information

I23 Sch. para. 29 not in force at Royal Assent, see [s. 3\(3\)](#)

PROSPECTIVE

Social Security Contributions (Transfer of Functions, etc.) Act 1999

- 30 The Social Security Contributions (Transfer of Functions, etc.) Act 1999 is amended as follows.

Commencement Information

I24 Sch. para. 30 not in force at Royal Assent, see [s. 3\(3\)](#)

- 31 (1) Section 8 (decisions by officers of Revenue and Customs) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (f), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”;
 - (b) in paragraph (g), for “12ZD” substitute “12ZE”;
 - (c) in paragraph (g), for “and statutory parental bereavement pay” substitute “, statutory parental bereavement pay and statutory neonatal care pay”;
 - (d) in paragraph (ga), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.
- (3) In subsection (3)(b), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.

Commencement Information

I25 Sch. para. 31 not in force at Royal Assent, see [s. 3\(3\)](#)

- 32 In section 11 (appeals against decisions of officers of Revenue and Customs), in subsection (2)(a), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.

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Commencement Information

I26 Sch. para. 32 not in force at Royal Assent, see [s. 3\(3\)](#)

- 33 In section 14 (matters arising as respects decisions), in subsections (1)(a)(i) and (3), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.

Commencement Information

I27 Sch. para. 33 not in force at Royal Assent, see [s. 3\(3\)](#)

PROSPECTIVE

Finance Act 1999

- 34 (1) Sections 132 and 133 of the Finance Act 1999 have effect as if statutory neonatal care pay were a matter which is under the care and management of the Commissioners for Revenue and Customs.
- (2) In this paragraph “statutory neonatal care pay” includes statutory pay under Northern Ireland legislation corresponding to the provisions of Part 12ZE of the Social Security Contributions and Benefits Act 1992.

Commencement Information

I28 Sch. para. 34 not in force at Royal Assent, see [s. 3\(3\)](#)

PROSPECTIVE

Employment Act 2002

- 35 The Employment Act 2002 is amended as follows.

Commencement Information

I29 Sch. para. 35 not in force at Royal Assent, see [s. 3\(3\)](#)

- 36 (1) Section 7 (funding of employers’ liabilities as regards certain statutory pay) is amended as follows.
- (2) In subsection (1), for “and statutory parental bereavement pay” substitute “, statutory parental bereavement pay and statutory neonatal care pay”.
- (3) In subsection (2)(a) and (b), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.
- (4) In subsection (3)—

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- (a) for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”;
- (b) omit “or” at the end of paragraph (c);
- (c) at the end of paragraph (d) insert “, or
- (e) the period for which the payment of statutory neonatal care pay is made,”.

Commencement Information

I30 Sch. para. 36 not in force at Royal Assent, see [s. 3\(3\)](#)

- 37 In section 8 (regulations about payment), in subsections (1) and (2)(a), (b) and (d), for “and statutory parental bereavement pay” substitute “, statutory parental bereavement pay and statutory neonatal care pay”.

Commencement Information

I31 Sch. para. 37 not in force at Royal Assent, see [s. 3\(3\)](#)

- 38 In section 10 (powers to require information), in subsections (1) and (2)(a), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.

Commencement Information

I32 Sch. para. 38 not in force at Royal Assent, see [s. 3\(3\)](#)

- 39 In section 11 (penalties for failure to comply), in subsection (6), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.

Commencement Information

I33 Sch. para. 39 not in force at Royal Assent, see [s. 3\(3\)](#)

- 40 In section 12 (penalties for fraud or negligence), in subsections (2)(a), (2)(b) and (4), for “or statutory shared parental pay” substitute “, statutory shared parental pay or statutory neonatal care pay”.

Commencement Information

I34 Sch. para. 40 not in force at Royal Assent, see [s. 3\(3\)](#)

- 41 In section 13 (supply of information held by His Majesty’s Revenue and Customs), in subsection (1), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.

Commencement Information

I35 Sch. para. 41 not in force at Royal Assent, see [s. 3\(3\)](#)

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- 42 In section 14 (supply of information held by the Secretary of State), in subsections (1) and (2), for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”.

Commencement Information

I36 Sch. para. 42 not in force at Royal Assent, see [s. 3\(3\)](#)

- 43 In section 15 (use of information by His Majesty’s Revenue and Customs), in subsection (2)—
- (a) omit “and” at the end of paragraph (bb);
 - (b) after paragraph (bb) insert—
 - “(bc) their functions in relation to statutory neonatal care pay; and”.

Commencement Information

I37 Sch. para. 43 not in force at Royal Assent, see [s. 3\(3\)](#)

- 44 In section 55 (short title etc), in subsection (8)—
- (a) for “or statutory parental bereavement pay” substitute “, statutory parental bereavement pay or statutory neonatal care pay”;
 - (b) for “or Part 12ZD” substitute “, Part 12ZD or Part 12ZE”.

Commencement Information

I38 Sch. para. 44 not in force at Royal Assent, see [s. 3\(3\)](#)

PROSPECTIVE

Proceeds of Crime Act 2002

- 45 (1) Section 323 of the Proceeds of Crime Act 2002 (Revenue functions) is amended as follows.
- (2) In subsection (1), after paragraph (hb) insert—
 - “(hc) statutory neonatal care pay;”.
 - (3) In subsection (4), after paragraph (eb) insert—
 - “(ec) “statutory neonatal care pay” must be construed in accordance with section 171ZZ16 of that Act;”.
 - (4) In subsection (5), after paragraph (eb) insert—
 - “(ec) “statutory neonatal care pay” must be construed in accordance with any Northern Ireland legislation which corresponds to Part 12ZE of that Act;”.

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Commencement Information

I39 Sch. para. 45 not in force at Royal Assent, see [s. 3\(3\)](#)

PROSPECTIVE

Income Tax (Earnings and Pensions) Act 2003

46 The Income Tax (Earnings and Pensions) Act 2003 is amended as follows.

Commencement Information

I40 Sch. para. 46 not in force at Royal Assent, see [s. 3\(3\)](#)

- 47 (1) Section 660 (taxable benefits: UK benefits - Table A) is amended as follows.
- (2) In subsection (1), in Table A, after the entry relating to statutory parental bereavement pay insert—

“Statutory neonatal care pay	SSCBA 1992	Section 171ZZ16
	Any provision made for Northern Ireland which corresponds to section 171ZZ16 of SSCBA 1992”.	

- (3) In subsection (2), after the entry relating to statutory parental bereavement pay insert — “statutory neonatal care pay;”.

Commencement Information

I41 Sch. para. 47 not in force at Royal Assent, see [s. 3\(3\)](#)

- 48 (1) Schedule 5 (enterprise management incentives) is amended as follows.
- (2) In paragraph 12A(4)(b)(i), for “or parental bereavement” substitute “, parental bereavement or neonatal care”.
- (3) In paragraph 26(3)(b), after “parental bereavement leave” insert “, neonatal care leave”.

Commencement Information

I42 Sch. para. 48 not in force at Royal Assent, see [s. 3\(3\)](#)

Commissioners for Revenue and Customs Act 2005

- 49 In Schedule 1 to the Commissioners for Revenue and Customs Act 2005 (former Inland Revenue matters where functions vest in officers of Revenue and Customs), after paragraph 26C insert—

“26D Statutory neonatal care pay.”

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Commencement Information

- I43** Sch. para. 49 not in force at Royal Assent, see [s. 3\(3\)](#)
I44 Sch. para. 49 in force at 21.8.2023 for specified purposes by [S.I. 2023/904](#), [reg. 2\(b\)](#)

PROSPECTIVE

Income Tax Act 2007

50 The Income Tax Act 2007 is amended as follows.

Commencement Information

- I45** Sch. para. 50 not in force at Royal Assent, see [s. 3\(3\)](#)

51 In section 186A (enterprise investment schemes: the number of employees requirement for an issuing company), in subsection (4)(b)(i), for “or parental bereavement” substitute “, parental bereavement or neonatal care”.

Commencement Information

- I46** Sch. para. 51 not in force at Royal Assent, see [s. 3\(3\)](#)

52 In section 257DJ (seed enterprise investment schemes: the number of employees requirement for an issuing company), in subsection (4)(b)(i), for “or parental bereavement” substitute “, parental bereavement or neonatal care”.

Commencement Information

- I47** Sch. para. 52 not in force at Royal Assent, see [s. 3\(3\)](#)

53 In section 257MH (tax relief for social investments: the number of employees requirement), in subsection (4)(b)(i), for “or parental bereavement” substitute “, parental bereavement or neonatal care”.

Commencement Information

- I48** Sch. para. 53 not in force at Royal Assent, see [s. 3\(3\)](#)

54 In section 297A (venture capital trusts: the number of employees requirement for a qualifying holding), in subsection (4)(b)(i), for “or parental bereavement” substitute “, parental bereavement or neonatal care”.

Commencement Information

- I49** Sch. para. 54 not in force at Royal Assent, see [s. 3\(3\)](#)

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Changes to legislation: There are currently no known outstanding effects for the Neonatal Care (Leave and Pay) Act 2023, PART 3. (See end of Document for details)

PROSPECTIVE

Welfare Reform Act 2007

- 55 (1) Section 20 of the Welfare Reform Act 2007 (relationship with statutory payments) is amended as follows.
- (2) After subsection (7) insert—
- “(7A) Except as regulations may provide, a person who is entitled to statutory neonatal care pay is not entitled to an employment and support allowance in respect of a day that falls within a period in respect of which statutory neonatal care pay is payable.
- (7B) Regulations may provide that—
- (a) an amount equal to a person’s statutory neonatal care pay for a period shall be deducted from an employment and support allowance in respect of the same period,
 - (b) a person shall only be entitled to an employment and support allowance if there is a balance after the deduction, and
 - (c) if there is such a balance, a person shall be entitled to an employment and support allowance at a weekly rate equal to it.”
- (3) The references to an employment and support allowance in new subsections (7A) and (7B), and in sub-paragraph (4) of this paragraph, are references to an employment and support allowance payable under Part 1 of the Welfare Reform Act 2007 as amended by the Welfare Reform Act 2012.
- (4) For as long as a contributory allowance continues to be payable, new subsections (7A) and (7B) are to apply to a contributory allowance as they apply to an employment and support allowance.
- (5) In this paragraph—
- (a) “new subsections (7A) and (7B)” means subsections (7A) and (7B) inserted by this paragraph into section 20 of the Welfare Reform Act 2007;
 - (b) “contributory allowance” has the meaning given by section 1(7) of the Welfare Reform Act 2007 before its repeal by the Welfare Reform Act 2012.
- (6) In subsection (8), in the definition of “the adoption pay period”, for “that Act” substitute “the Contributions and Benefits Act”.

Commencement Information

I50 Sch. para. 55 not in force at Royal Assent, see [s. 3\(3\)](#)

PROSPECTIVE

Pensions Act 2008

- 56 In section 13 of the Pensions Act 2008 (qualifying earnings), in subsection (3), after paragraph (eb) insert—

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“(ec) statutory neonatal care pay under Part 12ZE of that Act;”.

Commencement Information

I51 Sch. para. 56 not in force at Royal Assent, see [s. 3\(3\)](#)

PROSPECTIVE

Corporation Tax Act 2009

57 In section 1058B of the Corporation Tax Act 2009 (PAYE and NIC liabilities), in subsection (5), after paragraph (e) insert—
 “(ea) statutory neonatal care pay;”.

Commencement Information

I52 Sch. para. 57 not in force at Royal Assent, see [s. 3\(3\)](#)

PROSPECTIVE

Finance Act 2013

58 In Schedule 45 to the Finance Act 2013 (statutory residence test), in paragraph 145, in the definition of “parenting leave”, for “or parental bereavement leave” substitute “, parental bereavement leave or neonatal care leave”.

Commencement Information

I53 Sch. para. 58 not in force at Royal Assent, see [s. 3\(3\)](#)

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Neonatal Care (Leave and Pay) Act 2023, PART 3.