

EXPLANATORY MEMORANDUM TO
THE CARER’S LEAVE (CONSEQUENTIAL AMENDMENTS TO SUBORDINATE
LEGISLATION) REGULATIONS 2024

2024 No. 266

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 This instrument makes necessary amendments to various pieces of secondary legislation in consequence of the Carer’s Leave Act 2023 which makes provision for the new statutory right to Carer’s Leave, available for employed carers from 6th April 2024. When calculating entitlements to certain other benefits or rights, leave is often a relevant factor. This instrument makes provision to ensure that it is clear in those pieces of secondary legislation how carer’s leave should be treated in those calculations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, and Scotland.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.
- 4.3 The regulations make consequential amendments to Acts of Parliament where competence is reserved to the UK government and in some containing areas of devolved competence.

5. European Convention on Human Rights

- 5.1 Kevin Hollinrake MP, the Minister for Enterprise, Markets and Small Business, has made the following statement regarding Human Rights:

“In my view the provisions of the Carer’s Leave (Consequential Amendments to Subordinate Legislation) Regulations 2024 are compatible with the Convention rights”.

6. Legislative Context

- 6.1 The powers being exercised in this instrument were given to the Government in a Private Members Bill, which was supported by the Government. This Private Members Bill received Royal Assent in May 2023 to become the Carer’s Leave Act 2023.

- 6.2 This instrument makes amendments to secondary legislation in consequence of the Carer’s Leave Act 2023 which makes provision for the new entitlement to carer’s leave.
- 6.3 Specifically, the instrument amends existing secondary legislation to insert references to “carer’s leave”.

7. Policy background

What is being done and why?

- 7.1 The objective of the carer’s leave policy is to introduce a new leave entitlement from the first day of employment, available to take flexibly and accessible to all employees who are providing care for a dependant with a long-term care need.
- 7.2 This instrument does not result in any change in policy effect but supports the policy objectives, by keeping other legislation up to date. It does this by inserting “carer’s leave” into other relevant secondary legislation to ensure that this entitlement is treated in the same way as other family related leave entitlements for the purposes of calculating entitlement to other statutory benefits or schemes.
- 7.3 If the amendments in this instrument were not made, there would cause lack of clarity over how carer’s leave should be treated in comparison to other family leave entitlements when dealing with calculations for statutory benefits or schemes, which could lead to an unfair outcome for carers.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 Not applicable.

10. Consultation outcome

- 10.1 The government ran a carer’s leave consultation from March 2020 to August 2020 which confirmed the intention to introduce an entitlement to carer’s leave as a day 1 right for employees.
- 10.2 The Government received over 800 responses to the consultation from a range of stakeholders and individuals. The response is available to view on <https://assets.publishing.service.gov.uk/media/614b43ace90e077a2cbdf396/carers-leave-consultation-government-response.pdf>.

11. Guidance

- 11.1 Guidance on the Carer’s Leave legislation will be available on gov.uk in advance of it coming into force on 6th April 2024.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is that they will need to understand the new Regulations and put processes in place to allow employees to take Carer's Leave if they need to.
- 12.2 The impact on the public sector is that they will need to understand the new Regulations and put processes in place to allow employees to take Carer's Leave if they need to.
- 12.3 A full Impact Assessment for Carer's Leave is published on the legislation.gov.uk website which can be found here:
<https://www.legislation.gov.uk/ukdsi/2024/9780348254808/impacts>.
This is the same Impact Assessment that accompanied the 2023 Act and the policy set by these regulations has no impact on the costs identified in the Impact Assessment.

13. Regulating small business

- 13.1 This legislation does impact on the activities that are undertaken by small businesses.
- 13.2 No special measures apply to small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is consistent with other, similar entitlements to family related leave.

15. Contact

- 15.1 Leona Hoxha-Kartallozi at the Department for Business and Trade email: labourmarketparticipation@businessandtrade.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Jayne McCann, Deputy Director for Participation and Individual Rights at the Department for Business and Trade can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Kevin Hollinrake MP, the Minister for Enterprise, Markets and Small Business, at the Department for Business and Trade can confirm that this Explanatory Memorandum meets the required standard.