

<b>Title:</b> <b>Protection from Redundancy (Pregnancy and Family Leave)</b>	<b>Regulatory Impact Assessment (RIA)</b>			
	<b>Date:</b> 28/06/24			
	<b>Type of measure:</b> Primary Legislation			
<b>Lead department or agency:</b> <b>DfE - BERD - Work Life Balance &amp; EU Exit</b>	<b>Stage:</b> Initial			
	<b>Source of intervention:</b> Domestic NI			
<b>Other departments or agencies:</b> <b>N/A</b>	<b>Contact details:</b>			
	<a href="mailto:goodjobsconsultation@economy-ni.gov.uk">goodjobsconsultation@economy-ni.gov.uk</a>			

## Summary Intervention and Options

<b>What is the problem under consideration? Why is government intervention necessary? (7 lines maximum)</b> Currently employees on maternity leave have some additional limited protection from redundancy above other affected employees. Their employer is required to offer them an alternative suitable role, not just invite them to apply. Though there are general protections provided under the Sex Discrimination Act 1975, current provisions do not offer additional protections against redundancy during pregnancy itself. Intervention is required to (i) simplify arrangements so they are better understood by employers and employees, and (ii) extend the protected period so pregnant employees and those who have recently returned to work following a period of maternity, adoption or shared parental leave, have safeguards against redundancy during these periods.				
<b>What are the policy objectives and the intended effects? (7 lines maximum)</b> Two inter-related policy objectives are under consideration – firstly, specific protections against redundancy for pregnant employees during their pregnancy, these protections would be akin to what is currently in place during Maternity Leave, Adoption Leave or Shared Parental Leave (relevant leave). The second consideration is an enhancement of the protections that are currently in place during a form of relevant leave that would extend the protections for a period after the end of the leave.				
<b>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) (10 lines maximum)</b> Option 1 – Do nothing.  Option 2 (non-legislative) – Provide more effective advice and guidance to encourage employers to recognise and address discrimination against pregnant women and new parents in the workplace.  Option 3 (preferred) - Extend redundancy protections afforded under MAPLE 1999 regulations beyond the maternity/adoption/shared parental leave period to pregnant women and those returning from maternity/adoption/shared parental leave for a blanket period of 18 months from child's birth/ placement for adoption etc. This option would align the rights with those in Britain, creating a consistent approach across the jurisdictions and ensures that employees here are not at a disadvantage.				
<b>Will the policy be reviewed?</b> It will be reviewed			<b>If applicable, set review date:</b> After consultation analysis and response	

Cost of Preferred (or more likely) Option		
Total outlay cost for business £K	Total net cost to business per year £K	Annual cost for implementation by Regulator £m
£651K familiarisation costs £11K recurring annual costs	-£2.6k (£11k recurring costs minus £13.6k ET and EC savings)	N/A

Does Implementation go beyond minimum EU requirements?		YES		
Is this measure likely to impact on trade and investment?		NO		
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes

The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

## Summary: Analysis and Evidence

## Policy Option 3

Description: Economic Assessment

### ECONOMIC ASSESSMENT (Option 3)

Costs (£m)	Total Transitional (Policy) (constant price)	Years	Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
<b>Best Estimate</b>	<b>£0.651m</b>		<b>£0.530m</b>	<b>£1.2m</b>

#### Description and scale of key monetised costs by 'main affected groups' Maximum 5 lines

One-off costs (best estimates):

Business – Familiarisation costs of £651k

Recurring annual costs (best estimates): Business – Contribution to Statutory Maternity Pay (SMP) of £11k

Exchequer - Additional payments for SMP £519k

#### Other key non-monetised costs by 'main affected groups' Maximum 5 lines

Costs to businesses in respect of retaining workers that they would otherwise make redundant are based on a number of theoretical assumptions that are not robust enough to be included in the main economic assessment.

Benefits (£m)	Total Transitional (Policy) (constant price)	Years	Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
<b>Best Estimate</b>	<b>£0.0m</b>		<b>£0.507m</b>	<b>£0.507m</b>

#### Description and scale of key monetised benefits by 'main affected groups' Maximum 5 lines

Recurring annual benefits (best estimates):

Businesses - £13.6k savings arising from Employment Tribunal (ET) and Early Conciliation (EC) claims.

Individuals: £99k (£93k in maternity pay (Statutory Maternity Pay minus Maternity Allowance), £6k in savings from avoiding ET and EC costs)

NI Executive: £394k (£388k savings arising from Maternity Allowance, £6,400 savings arising from ET and EC.

#### Other key non-monetised benefits by 'main affected groups' Maximum 5 lines

Individuals will benefit from retained employment and wages. Business will benefit from output of retained worker. Pregnant employees and new parents will benefit from improved work environments, reduced discrimination in workplaces, and improved job stability and career progression. These factors may impact positively on the health and well-being of affected individuals.

#### Key Assumptions, Sensitivities, Risks Maximum 5 lines

Estimated costs and benefits are sensitive to modelling of employers' and employees' behavioural responses to the policy. The main economic assessment also relies on several theoretical assumptions, known cost/benefits such as the amount of Statutory Maternity Pay/Maternity Allowance and standard approaches to estimating employer familiarisation.

### BUSINESS ASSESSMENT (Option 3)

Direct Impact on business (Equivalent Annual) £k		
Costs: £11k	Benefits: £13.6k	Net: -£2.6k

### Cross Border Issues (Option 3)

#### How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines

Implementation of this policy would bring the north of Ireland into alignment with the rights in place in Britain. The policy would also give employees in the North enhanced rights in comparison to EU States, including Ireland.

## Evidence Base

There is discretion for departments and organisations as to how to set out the evidence base. It is however desirable that the following points are covered:

### Problem under consideration

1. In 2015-2016, the Equality Commission for Northern Ireland (ECNI) examined the employment experiences of pregnant workers and mothers here. The investigation was carried out through surveys and focus groups which were composed of workers and employers<sup>1</sup>. In one element of the survey, the ECNI found that 50% of women thought their career opportunities were worse following their pregnancy than they were before, and 36% of those surveyed as part of the investigation believed that they were treated unfairly or disadvantaged at work as a result of their pregnancy or having taken maternity leave. Another element of the investigation found that 20% of those surveyed, felt that they had lost their job as a result of their pregnancy or taking maternity leave, this included dismissal, non-renewal of contract and redundancy. The investigation also found that 16% of employers which took part in a focus group, believed it was reasonable to give careful consideration to hiring younger women.
2. Similar issues were found in Britain. The Department for Business and Trade, in its equivalent Impact assessment stated: *'In 2016, BIS and EHRC commissioned research to investigate the prevalence and nature of maternity and pregnancy discrimination in the workplace. The research found that 77% mothers surveyed had experienced at least one discriminatory or possibly discriminatory experience at work, and 69% had experienced two or more such experiences. 11% of mothers surveyed felt forced to leave their job, either by being dismissed, made compulsorily redundant or because they were treated so poorly that they felt they had to leave. Discrimination against pregnant women and mothers was found to have increased since 2005, when similar research was conducted by the Equal Opportunities Commission.*
3. *The survey explored the views and experiences of 3,254 mothers on a range of issues relating to managing pregnancy, maternity leave and mothers returning to work<sup>2</sup>.*
4. *The research highlighted inconsistencies between employers' awareness of legal rights, their responsibilities and women's experiences in the workplace. 70% of employers reported high levels of awareness of female employees' rights, but when questioned further possible bias against pregnant women emerged. 70% of employers believed that women should declare their pregnancy during recruitment stage, and 25% of employers thought it was acceptable to ask a woman about their plans to have children during the recruitment process. Furthermore, half of mothers surveyed felt their pregnancy/maternity had negatively impacted their career. These findings raise the question of whether employers' awareness of rights is sufficient to ensure non-discriminatory behaviour. It is unlawful for an employer to discriminate against a woman because of her pregnancy under the Equality Act 2010. If an employer does ask in an interview whether someone*

---

<sup>1</sup> ECNI Investigation report - [ECNI - Expecting Equality - Summary](#) and [ECNI - Expecting Equality - Full report](#)

<sup>2</sup> The employer survey was based on a sample of workplaces (with at least 5 employees) across Great Britain and was drawn from the Interdepartmental Business Register (IDBR), with results based on 3,032 telephone interviews. Only workplaces with at least 5 staff members were sampled. Using a random sample of birth registration records held by the Office for National Statistics (ONS) and National Records of Scotland (NRS), mothers with children aged between 9 and 24 months were selected for telephone interviews.

*is pregnant or plans to have children, this is considered strong evidence that the employer is in breach of the laws against sex discrimination found in the Equality Act 2010.*

5. *In response to the findings of the BIS/EHRC research, the Women and Equalities Select Committee (WESC) launched an inquiry into pregnancy and maternity discrimination. The inquiry built on the existing evidence base, drawing on evidence presented by a large range of stakeholders including Maternity Action, Citizens Advice, and Unite<sup>3</sup>. Maternity Action reported there had been a “significant increase in rates of pregnancy discrimination in the past decade”, based on increases seen between the 2005 survey and 2014/15 and their experience of offering advice to pregnant women and mothers. Maternity Action found in 2005, 30,000 women lost their jobs as a result of pregnancy discrimination. The findings in 2015 indicated that 54,000 women lost their jobs (either dismissed; made compulsorily redundant, where others in their workplace were not; or treated so poorly they felt they had to leave their job) as a result of pregnancy discrimination. Citizens Advice provided figures<sup>4</sup> that showed the number of people it helped with specific maternity rights and discrimination issues increased between 2014/15 and 2016/17 and that there was a wider unmet need for advice and support to women experiencing pregnancy and maternity discrimination. WESC concluded that there were unacceptable levels of discrimination and significant issues around a new mother’s return to work. Employers frequently put mothers at risk of redundancy on their first day back from maternity leave, according to Your Employment Settlement Service Law<sup>5</sup>. WESC recommend extending redundancy protection to apply throughout pregnancy, maternity leave and for six months afterwards.*
6. *The Taylor Review of modern employment practices in Britain recommended consolidating the legislation and guidance for protections against pregnancy and maternity discrimination – the British Government has issued a number of consultations on these matters, including the policy on enhancing protections from redundancy for pregnant employees and those returning from relevant family leave’.*
7. Legislation subsequently introduced in Britain gives pregnant employees a specified right to protection against redundancy during their pregnancy - this protection is akin to the rights currently in place in the north of Ireland for those on Maternity Leave, Adoption Leave and Shared Parental Leave. The British Government also introduced an enhancement to the existing protections against redundancy that are in place during Maternity Leave, Adoption Leave and Shared Parental Leave; a person who has taken the qualifying relevant leave is now given further protections against redundancy as standard for a period of time after they have taken the leave, this period is 18 months from the birth, stillbirth, expected date of birth or placing for adoption of the child – the enhanced protected period is inclusive of the period taken for maternity, adoption or qualifying shared parental leave. The qualifying period of leave for shared parental leave is at least six weeks.
8. As the legislative framework and employment environment in the north of Ireland is analogous to that in Britain prior to these enhancements being introduced there, it is therefore considered to be

---

<sup>3</sup> WESC (2016), Report: Pregnancy and Maternity Discrimination at <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/90/90.pdf>

<sup>4</sup> In total, Citizens Advice helped 6,358 people in 2014/15 with, this number rising to 6,725 in 2015/16 on specific maternity rights and pregnancy discrimination issues. For pregnancy discrimination figures, the number of people it helped rose from 1,551 in 2014/15 to 1,923 in 2015/16. Similarly, the number of people it helped with maternity rights (maternity leave, contractual maternity pay, other maternity rights and redundancy during maternity leave) rose from 5,256 in 2014/15 to 5,324 in 2016/17.

<sup>5</sup> WESC (2016), Report: Pregnancy and Maternity Discrimination.

reasonable for the Department for the Economy to make a number of assumptions that the same factors are potentially present in the employment environment in the north of Ireland.

9. Employment law relating to pregnancy and maternity and redundancy is covered by the Sex Discrimination Act 1975 and the Employment Rights (Northern Ireland) Order 1996. The Sex Discrimination Act sets out a 'protected period' during which women who are pregnant or have recently given birth are explicitly protected from discrimination. During the 'protected period' a woman is protected against discrimination that arises due to her pregnancy; any illness related to her pregnancy, or absence because of that illness; being on compulsory maternity leave; or seeking to take, taking or having taken ordinary or additional maternity leave.
10. **Regulation 10** of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999 (MAPLE) takes this protection a stage further for the period of maternity leave. It states that if it is not practicable by reason of redundancy for an employer to continue to employ a woman on maternity leave, the employee is entitled to be offered (not just invited to apply for) a suitable available vacancy with her employer (or an associated employer). This gives priority over other employees who are at risk of redundancy, even if the other employees are better qualified for the job. This protection applies only whilst the woman is on maternity leave. There are equivalent protections provided for within the Paternity and Adoption Leave Regulations (Northern Ireland) 2002 in respect of Adoption Leave rights [**Regulation 23**], and similarly, there are equivalent protections in place in the Shared Parental Leave Regulations (Northern Ireland) 2015 [**Regulation 39**].
11. The Minister for the Economy wishes to ensure that employees here are afforded the same enhanced protections against redundancy during pregnancy and when returning to work from the relevant family leave.

### **Rationale for intervention**

12. Research carried out in Britain, which has an analogous employment environment, has demonstrated the extent of pregnancy and maternity discrimination which exists in the workplace, notwithstanding the fact that it is unlawful. It is right that the Department for the Economy intervenes in a similar manner to address issues that could also be present here given the similarities in law and practice within the employment environment.
13. Given the aforementioned analogous position between employment law in Britain and the north of Ireland, the Department for the Economy believes that the research in Britain gives a reliable indicator for similar needs and intervention here. That research indicated that the current legislative approach to redundancy for pregnant women and new parents may not be providing adequate protection as a result of the enhanced protections against redundancy under MAPLE only being available during maternity leave. This reasoning could be similarly applied to adoption and shared parental leave. Beyond this period, the level of protection is not as strong and pregnant women and returning parents could still be subject to redundancy discrimination. There is therefore a role for government to consider whether that protection might better be achieved by extending the protection afforded by MAPLE beyond the respective maternity, adoption and shared parental leave period.
14. There are societal benefits from new and expectant mothers being able to maintain close links to the labour market without facing the threat of redundancy. It could be argued that employers may be less incentivised to provide an adequate level of employment protection, with their concerns

more shaped with managing the costs associated with employing pregnant employees and new parents.

15. As mentioned in the Taylor review, there is a case for creating greater consistency between the legislation containing the redundancy protections against maternity and pregnancy discrimination, which are currently contained in separate pieces of legislation described earlier. A more consistent approach to the legislation would provide greater clarity and help employers more easily understand their obligations.
16. The proposed policy is likely to provide a more accepting environment for a parent returning to work, where they can address any possible misconceptions about their value to the employer. More widely, they are likely to be more productive when returning to the workplace than if they had been notified that they were at risk of being made redundant. Further benefits may also flow to the business resulting from having a more committed individual return to work having been supported through all stages of pregnancy.
17. Another important reason for government intervention is the achievement of equity objectives. It is important that Government supports all groups of people in the economy. Protection against redundancy for new and expectant parents will help tackle the issue of discrimination in the workplace. Looking further ahead, remaining in the labour market for longer could help combat widening wage differentials between men and women.

### **Policy Objective**

18. Providing greater consistency of approach to redundancy protections would:

- Tackle the perception by some employers that a new mother cannot make a full contribution in the workplace and also tackle discrimination against pregnant women and new parents returning to work, by protecting them from redundancy for a limited period beyond their statutory period of relevant leave.
- Make it easier for individuals to understand and then seek to exercise their rights and to increase business awareness of their rights and obligations to better tackle pregnancy discrimination in the workplace.

### **Description of options considered (including do nothing), with reference to the evidence base to support the option selection.**

**Option 1** - Do nothing.

The protection against redundancy afforded by the relevant leave regulations would continue to apply only to the respective periods of maternity, adoption and shared parental leave. Based on anecdotal evidence, the issue of different rights applying during the pregnancy and maternity, adoption and shared parental periods would remain with employers simply waiting and making a new parent redundant immediately on return to work would remain. This does not help increase the participation of women and new parents in work.

**Option 2** – More effective advice and guidance

Advice and guidance cannot address the specific issues of the different levels of protection which apply over different periods during pregnancy as well as the respective leave periods during and after maternity, adoption and shared parental leave.

**Option 3** – Legislate - This option would require both primary and secondary legislation.

Legislate to extend the existing protections provided during maternity, adoption and shared parental leave by the respective Regulations to pregnant employee, crucially, pregnant women will be protected from redundancy when they inform their employer.

There would be a further requirement to legislate to extend those rights currently in place during the relevant leave for a period after their return from the leave - this is envisioned to be 18 months from the date of birth, still birth, expected date of birth and placing for adoption of their child – this period will encompass any leave taken by a new parent in respect of any relevant family leave. Entitlement for the right after shared parental leave will be dependent upon the parent having taken at least 6 weeks of leave under that right.

The consultation will consider the point in pregnancy from which redundancy protection should apply. The initial preference set out in the consultation is that this should be consistent with the requirements of the Pregnant Workers Directive (when a woman informs her employer that she is pregnant) however the Department will invite participants of the consultation to provide additional information which may include suggestions for alternative models.

A blanket 18-month period following the child's birth, still birth, expected date of birth, or placing for adoption is considered sufficient time for new parents to re-establish themselves in the workplace. There is limited evidence on the effectiveness of similar proposals in other countries, but in Germany the redundancy protection period is 4 months. WESC recommended a protection period of 6 months. A blanket 18-month period of protection will ensure that most new parents are protected for at least 6 months after their return to work. The average duration of Maternity Leave is estimated at 9 months, based on evidence from the Maternity and Paternity Rights Survey (2008), and the maximum duration is 12 months.

Extending protections against redundancy akin to what is in place in the Maternity and Parental Leave Regulations (Northern Ireland) 1999, Paternity and Adoption Regulations (Northern Ireland) 2002 and Shared Parental Leave Regulations (Northern Ireland) 2015 to the new periods of time and types of leave will ensure consistency across legislations, and providing a blanket 18-month protection period is a simple approach that will be easy to understand for employers and employees. Including Shared Parental Leave (including the requirement to take six week or more) and Adoption Leave also ensures that we are not discriminating against parents who have taken long periods of these leave entitlements.

## **Risks and Assumptions**

### **Modelling risk and assumptions**

19. The analysis within the Impact Assessment is dependent on a number of key assumptions. We have identified areas where the existing evidence base supporting these assumptions is very limited in places and outline the key risks to the model and estimated costs below:

<b>Assumption Log</b>		
<b>Assumption</b>	<b>Detail</b>	<b>Discussion</b>
Eligible population – employment characteristics and take up rate	Eligible population figures detail the numbers of eligible employees likely to be impacted by the new protections.	The eligible population is determined using data on known pregnancies by age, adjusted for employment rates, and then further analysed to take account of a range of relevant policy parameters (e.g. risk of redundancy while pregnant, risk of redundancy upon return from leave, likelihood of accepting redundancy voluntarily and likelihood of being made redundant for certain accepted reasons.
Familiarisation costs	Familiarisation costs are captured explicitly for firms with 50 or more employees, whereas they are included as part of admin costs for small and medium firms (therefore familiarisation occurs when requests arise) for firms with fewer than 50 employees.	Due to the proposals being to bring in new legislation to the north of Ireland, familiarisation costs will have an impact on businesses. We believe smaller employers, who are unlikely to have a dedicated HR team, will spend a greater amount of time to familiarise themselves at the point in time when a redundancy process is being considered.
Administrative costs	These are the costs to business of considering a redundancy process involving someone falling within the proposed protections.	We have assumed that businesses with fewer than 50 employees will spend longer processing an application as they will familiarise themselves with the legislation at that time. Larger businesses are anticipated to already be familiar with the legislative requirements and will proportionately receive a larger number of requests and therefore will require a shorter period. As these activities are inherent with any redundancy process, we have not accounted for these as additional costs.

## **Eligible Population**

20. This policy is intended to benefit those who are pregnant and those returning from a period of maternity, adoption and 6 or more weeks of shared parental leave within 18 months of birth/placement for adoption etc. To consider the costs and benefits of the policy proposals, we are required to establish a methodology to identify the size of the eligible population.
21. Of the eligible population, we then need to estimate those who may be made redundant during the relevant periods of protection. We exclude new and expectant parents working in businesses with only one employee under the assumption that a proportion of these firms will genuinely require a redundancy and have no other staff who can be made redundant instead. We also exclude women within the eligible population who are likely to be self-employed. To the remaining group, we have applied a rate of 2% of eligible employees who will be made redundant following a period of relevant leave and 1% for those made redundant during a pregnancy. The same methodology was adopted in the GB impact assessment.
22. To estimate the number of new and expectant mothers we use the most recent data of pregnancies resulting in live birth or stillbirth from HSCNI, GOV.UK and NHS to identify the birth rate and female employment rate of those women of childbearing age. For this purpose we have assumed child bearing ages to be between the ages of 16 and 49. Pregnancies resulting in



multiple live births are only counted once. The total number of births are then multiplied by the percentage of women who are employees. This methodology excludes the self-employed as they are not eligible under the policy.

23. The same percentage of persons who would benefit from the new policy who were offered but subsequently decline an alternative position by their employer, and thus would be considered to be voluntary redundancies and have therefore excluded from the eligible population calculations, has been adopted as used in the GB impact assessment, (27%).

24. Under the current system, a pregnant employee or a person returning from a period of relevant leave can still be made redundant for reasons unrelated to their pregnancy or the birth/adoption of a child. Examples of these include where businesses are closing or relocating abroad. We have applied the same percentage as that used in the GB impact assessment of 31% to exclude these instances from the eligible population.

25. High level analysis was conducted to estimate the eligible population of partners returning from a period of 6+ weeks of shared parental leave, and adoption leave. Once adjusted using the relevant parameters set out above, the impact was estimated to be negligible and so while these groups will be provided the same protections as pregnant and returning mothers, the costs and benefits of doing so have not been accounted for in the analysis in the interests of proportionality. A similar methodology was used in the GB impact assessment and has been adopted.

26. Table 1 below sets out the relevant population group, broken down by category, using the methodology as set out above. The total eligible population is therefore estimated to be 184 in any given year.

**Table 1 – Eligible population**

Age Band	Estimated number of known pregnancies in NI that fall within scope of the policy	Employment Rate by age cohort	Estimated number of known pregnancies to women who are employed (other than self employed or working at 1 employee firms)	Estimated number of women made redundant while pregnant (1%)	Estimated number of women made redundant upon return from maternity leave (2%)	Total estimated number of women at risk of redundancy while pregnant or upon return from maternity.	Estimated number of voluntary redundancies (27%)	Estimated number of redundancies not in scope due to justifiable reasons (31%)	Estimated number of redundancies in scope
Under 20	449	0.483	199	2	4	6	2	2	3
20 24	2,420	0.483	1,075	11	21	32	9	10	14
25 29	5,385	0.751	3,718	37	74	112	30	35	47
30 34	7,940	0.751	5,483	55	110	164	44	51	69
35 39	4,590	0.801	3,380	34	68	101	27	31	43
40+	996	0.801	734	7	15	22	6	7	9
<b>Overall Figure</b>	<b>21,780</b>	<b>-</b>	<b>14,589</b>	<b>146</b>	<b>292</b>	<b>438</b>	<b>118</b>	<b>136</b>	<b>184</b>

**Monetised costs and benefits of each option (including administrative burden);**

27. This impact assessment is, in large part, drawn from the detailed impact assessment undertaken by the Department for Business and Trade. The costs and benefits below may mirror the same approach and/or reflect an extrapolation of the situation envisaged if similar provisions to those in Britain were introduced in the north of Ireland.

28. The estimated direct costs to business for the proposed reforms are based on two categories:

**a) Familiarisation Costs** – Costs incurred by businesses from having to understand any new requirements associated with the policy; and

**b) Recurring Costs** –

- i. **Net Business Costs:** Large employer contribution to maternity payments (minus benefit to small employers)
- ii. **Exchequer costs:** Statutory Maternity pay cost (discounted by amount covered by business)

## **Costs to Business**

### **One-off familiarisation costs**

29. The new policy will require businesses to familiarise themselves with the legislation. Businesses will already be broadly familiar with the policy as this legislation is an extension to existing legislation. Familiarisation with the legislation is assumed to consist of reading and understanding the legislation and informing staff.
30. How the legislation operates will be broadly similar to existing protections which apply when a person is on a period of maternity leave therefore we would expect that the familiarisation process would be straightforward for most businesses. Some of the familiarisation could include understanding how employer's own policies interact with the statutory requirements and updating their internal guidance accordingly. How far employers go beyond understanding the statutory requirements, updating systems and raising awareness of the entitlement would be at their own discretion and therefore estimates do not account for this.
31. Small and large businesses are differentiated in how they will familiarise with the policy by assuming that businesses with fewer than 50 employees will spend less time on familiarisation than large businesses at the outset, instead choosing to familiarise themselves with the legislation when an employee seeks to avail of the enhanced entitlements. We have therefore followed the GB approach and applied a 30-minute familiarisation time for small and medium businesses with less than 50 employees.
32. We assume that for employers with 50 or more employees, a manager/director/senior official will be responsible for familiarisation and will spend 2 hours on average, which will include: understanding the legislation, interaction with existing employer support, updating HR systems to process leave claims and updating any internal guidance for employees and managers.
33. Across all companies, resource costs are estimated using data from the Annual Survey of Hours and Earnings (ASHE) 2023. For both small and medium businesses, and for businesses with 50 employees or more, we assume a Manager/Director/senior official will lead on familiarisation. Using ASHE ('Managers, directors and senior officials' data), the median hourly wage of a Manager/Directors/Senior Officials is £25.85 per hour. Similarly to the methodology employed within the GB model, this salary is uprated by 17.95% to £30.49 per hour to include non-wage labour costs<sup>6</sup>. Box 1 shows how we have calculated these costs in practice.

---

<sup>6</sup>ONS, Index of Labour Costs per Hour UK (2019 Q4 - 2020 Q3 average)

### Box 1: Derivation of one-off familiarisation costs

The standard approach used in similar family-related leave entitlements to costing familiarisation has been used. Since these are one-off familiarisation costs, frequency is assumed to have value 1.

#### **Familiarisation cost**

= *Average wage rate per hour* (Manager/Director/senior official) × *time spent on activity* × *no. businesses affected* × *frequency*

£30.49 x 645 x 2 = £39,332 for Business with 50-99 employees

**Table 2 – Familiarisation costs**

One off Familiarisation costs			
Business size	Number of businesses	Assumed time	Estimated cost to business
1-9	32,120	0.5h	£489,669
10-19	3,725	0.5h	£56,788
20-49	2,200	0.5h	£33,539
50-99	645	2h	£39,332
100-199	280	2h	£17,074
200-249	60	2h	£3,659
250+	175	2h	£10,672
Total	39,205		£650,733

Source: IDBR 2023 and 2023 ASHE. Note that columns may not sum to total due to rounding.

34. There is a potential argument that firms with fewer than 50 employees will only familiarise themselves with this legislation reactively (i.e. only when required to do so because they are making redundancies that potentially fall within the scope of these policy proposals). This would adjust the figures above downward (perhaps significantly). A conservative approach has been adopted however (which reflects the assumptions used applied in the GB impact assessment) and the figures above are therefore based on all firms taking a proactive approach to familiarisation.

### **Recurring costs**

35. In calculating the recurring costs, we have mirrored the approach and narrative used by the Department for Business and Trade, using equivalent data applicable to the north of Ireland. The monetised recurring costs are:

- i) **Net business costs:** Large employer contribution to maternity payments (minus benefit to small employers)
- ii) **Exchequer costs:** Statutory Maternity Pay cost (discounted by amount covered by business)

### **i) Business costs: employer contribution to Statutory Maternity Pay (SMP) costs**

36. Firms who would have otherwise have made a pregnant woman redundant will now contribute to Statutory Maternity Pay (SMP). This entitlement is equivalent to 90% of salary for the first six weeks of maternity leave, and £184.03 per week for the subsequent 33 weeks. Employers administer statutory pay on behalf of Government and small employers can recover 103% of statutory payments that they make to their employees from HMRC. This represents a benefit to small businesses of 3% of their Statutory Maternity Pay. Larger employers (defined as those with a

National Insurance contributions bill of £45,000 or more) can recover 92% of Statutory Maternity Pay made to their employees, thus large employers face a cost of 8% of their Statutory Maternity Pay. Using Business Population Estimates we calculate an average contribution of 2.34% to Statutory Maternity Pay from NI employers. Data on firm size by NIC is not readily available for this calculation and so firm size by employee was used as a proxy.

37. To qualify for Statutory Maternity Pay, employees must have worked continuously for the same employer for at least 26 weeks and earned on average £123 per week. Analysis of LFS micro data by DBT showed that 95.7% of female employees with a dependent child under 1 have worked for the same employer continuously for at least six months. We have applied the same methodology. For the earnings requirement we referred to analysis in the GB impact assessment which indicates that a proportion of women earning above the relevant earnings threshold of £120 per week (now £123) was 92%.

**Table 3 – Statutory Maternity Pay costs for Employers**

Eligible population	61
% working at least 6 months	95.7%
% earning at least £123	92%
Population eligible for SMP	54
Maternity pay per person	£8,894
Estimated Business contribution	2.34%
Total Business contribution to SMP	£11,260*
*Differences in total due to rounding	

38. Overall, this yields a best estimate of maternity payments costs to employers of £11,300 per year.

**ii) Exchequer cost: Statutory Maternity Pay costs**

39. Statutory Maternity Pay mainly represent costs to the Exchequer. Pregnant women who previously would have been made redundant will now be able to claim SMP at cost to the Exchequer. The methodology set out above is used to estimate the number of eligible women who satisfy the criterion for claiming SMP.

40. As large employers can reclaim 92% of SMP and small employers 103%, the Exchequer cost of SMP represents 97.7% of payments to pregnant women.

41. Accounting for the proportion of the payment covered by large businesses and the (larger) proportion recovered by small businesses, we estimate annual Exchequer SMP costs at £469,000.

$$\text{Exchequer SMP costs (annual)} = (61 \times 95.7\% \times 92.0\%) \times (£8,894) \times (1 - 2.34\%)$$

By also accounting for the proportion of pregnant women who will not qualify for SMP, but claim Maternity allowance (calculations below), we estimate total annual costs of SMP and MA to the Exchequer of £519,000.

These costs (as with the Exchequer benefits below) are subject to uncertainty driven by the behaviour of employers in response to any new regulation. We will work closely with HMT and DWP to agree these and final estimates will be set out in an accompanying Impact Assessment when regulations to implement the entitlement are brought forward.

## **Maternity Allowance**

Eligible population for MA = Population size – Eligible population for SMP 61–54=7

Value of Maternity Allowance = 39 weeks x £184.03 (statutory flat rate) = £7,177.17

Total Maternity Allowance = Eligible Population for MA x Value of Maternity Allowance 7 x £7,177.17 = £50,240

## **Monetised benefits**

### **Recurring benefits**

The monetised recurring benefits are:

- i. **Benefits from improved employer relations:** (i.e. reduced Employment Tribunals and Early Conciliation) – benefits all groups
- ii. **Individual benefit:** additional statutory payments (Statutory Maternity Pay less Maternity Allowance payment)
- iii. **Exchequer benefit:** Savings from no longer paying Maternity Allowance

### **i) Benefits from improved employer relations – benefits businesses, individuals and Exchequer:**

42. We expect some savings associated with a reduction in the number of individuals seeking to enforce their rights through Employment Tribunal and Early Conciliation. The extension to the protected period will mean fewer pregnant women and returning parents will be made redundant. This avoids a source of potential employee-employer conflict, which may centre on the issue of fairness or on whether the correct process was followed. The sections below set out the business, employee and exchequer benefits from this change. We have assumed that the Maternity Allowance protection period of 6 months on return to work gives parents sufficient time to re-establish themselves in work and will mean employers will not simply delay any redundancy decisions to a later point.

### **Business savings from reduced Employment Tribunals and Early Conciliation**

43. Business may see savings from the reduction in pregnant women/returning parents made redundant going to an employment tribunal or seeking early conciliation. Applying the same methodology as the GB Impact assessment, we assume 4% of the total of 184 in scope redundancies would have resulted in 7 people seeking early conciliation and 2 people (1%) would have proceeded to Tribunal.

44. The employer savings from a reduction in employment tribunal (ET) cases arise from the Director and senior staff time spent, HR time spent and the median paid costs for advice and representation. Again, applying the same methodology as used in the GB Impact assessment, uprating costs for inflation and NI wage rates, we estimate employers would save £2,502 on the costs associated with early conciliation and £11,121 on the costs associated with Employment Tribunal proceedings.

## **Individual Savings from reduced Employment Tribunals and Early Conciliation**

45. Savings for individuals who no longer go to tribunal or early conciliation are calculated using original GB IA estimated unit costs of an employee preparing for / attending an Early Conciliation hearing and a Tribunal hearing uprated for inflation and adjusted for NI wages. These are then multiplied by the estimated number of cases that would have occurred but will now be avoided.
46. In the GB Impact Assessment, claimants were assumed to spend 7.5 days on a case and 8 working hours per day. Applying an estimated NI median hourly pay (£13.06 – calculated at £522.40 / 40) we estimate an individual would therefore spend £783 per case.
47. The median paid cost of advice and representation for a claimant was estimated in the GB IA to be £1,400, which, uprated for inflation is £1,828 and an additional £28 for communication and travel costs (SETA 2018) which uplifted for inflation is £34. In total therefore the unit individual cost of an ET hearing for claimants is estimated at £2,645. The estimated total savings to employees from avoided early conciliation are £1,075 and £4,867 for avoided Tribunal proceedings, representing a combined saving for employees of £5,942 per annum.

## **Exchequer Savings from reduced Employment Tribunals and Early Conciliation**

48. Like businesses and individuals, the Exchequer now benefits from savings relating to ET and EC claims for both pregnant women and mothers returning to work. The methodology is the same as for businesses and individuals, but we apply the unit Exchequer costs to derive the aggregate savings to the Exchequer.
49. In the GB Impact Assessment, the unit Exchequer cost of an employment tribunal hearing is £2,300 (MoJ estimate of the average cost of ET case to MoJ). The Exchequer cost of early conciliation is £170, taken from the Acas annual report 2020/2137. Uprating these figures for inflation the figures are £2,681.60 and £198.20 respectively. Applying these costs to the estimated number of eligible pregnant women and new parents who go through EC and ET, we estimate annual savings to the Exchequer of £6,393.

### **ii) Individual Benefit: Statutory Maternity Pay paid to individual following policy implementation (including SMP and MA) less Maternity Allowance (MA) payment before policy implemented**

50. Pregnant women who are no longer made redundant will now benefit from Statutory Maternity Pay (there may also be additional benefits from any occupational maternity pay the employers chooses to pay beyond the statutory rate) paid at 90% of average salary for the first 6 weeks and at the statutory rate for £184.03 per week for the remaining 33 weeks. However, we also assume that women who were made redundant prior to the implementation of the policy would claim MA, which is paid to those that do not qualify for SMP (including self-employed and unemployed) at the statutory rate for the entire 39 weeks (i.e. they do not receive 6 weeks at 90% of average salary). We calculate the difference to derive the net benefit of Statutory Maternity Pay compared to Maternity

Allowance to mothers. We assume that all pregnant women otherwise made redundant would have been able to claim MA given the low earning threshold for the qualifying criterion.

### **Maternity Pay to individuals following policy implementation (including SMP and MA)**

#### **Statutory Maternity Pay**

Eligible population for SMP = Population size x % employed for at least 6 months x percentage earning above Lower Earnings Limit  
 $= 61 \times 95.7\% \times 92.0\% = 54$

Average Statutory Maternity Pay = 6 weeks x (90%) Average Weekly Earnings + 33 weeks x £184.03 (statutory flat rate)  
 $(£470.16 \times 6) + (184.03 \times 33) = £8894$

Total Statutory Maternity Pay = Eligible Population for SMP x Average Statutory Maternity Pay  
 $54 \times 8,894 = £480,273$

\*The figures may not sum to total due to component figures being rounded.

#### **Maternity Allowance**

Eligible population for MA = Population size – Eligible population for SMP  
 $61 - 54 = 7$

Value of Maternity Allowance = 39 weeks x £184.03 (statutory flat rate)  
 $39 \times £184.03 = £7,177.17$

Total Maternity Allowance = Eligible Population for MA x Value of Maternity Allowance  
 $7 \times £7,177.17 = £50,240.19$

**Net benefit of Statutory Maternity Pay and Maternity Allowance to mothers following policy implementation = £480k + £50k = £530k**

51. For pregnant women no longer made redundant, we assume that this entire group would have claimed Maternity Allowance (MA) previously. These payments are calculated by taking the statutory pay rate for maternity allowance and assuming all pregnant women previously made redundant would have claimed this for the entire 39 weeks (this implicitly assumes that the employee will not secure alternative employment following their redundancy in the first 9 months after having a baby).

**Table 4: Maternity Allowance payments no longer paid**

Eligible population	54
Unit Cost of MA (£184.03 per week for 39 weeks)	£7,177
Total Savings of not having to pay MA	£387,567

52. The net benefits to individuals are estimated by calculating the total payments from maternity pay (SMP and MA) less maternity allowance prior to policy implementation, aggregated across all the women who would be protected from redundancy while pregnant.

**Table 5: Individual benefits (Statutory Maternity Pay and Maternity Allowance)**

<b>Before Policy Implemented (Counterfactual)</b>
Maternity Allowance- £387,567
<b>After Policy implemented</b>
Statutory Maternity Pay- £480,273
Maternity Allowance- £50,240.19
<b>Total (SMP + MA) £530,513.19</b>
<b>Net benefit- £142,946.19**</b>
**The figures may not sum due to rounding.

### iii) Exchequer benefit: Savings from no longer paying Maternity Allowance

53. As outlined above, for pregnant women no longer made redundant, we assumed that this entire group would have MA, which is less generous than SMP. These are both Exchequer costs (for SMP employers can reclaim the costs from Government). Under the proposed option, these women who are protected under the enhanced redundancy protection will no longer claim MA and instead be entitled to SMP. Therefore, we include the savings to the Exchequer from no longer incurring the costs associated with MA (the costs incurred from Statutory Maternity Pay are calculated separately).

54. Using the calculations in Table 4, we estimate annual savings to the Exchequer of £387,567 per year.

### **Non-monetised costs and benefits**

55. Extending the redundancy protections to cover pregnant employees and new parents will have costs and benefits beyond those estimated in the Impact Assessment, as some impacts (particularly indirect) are difficult to quantify, and relevant data sources are limited.

56. At a high level, these may include labour costs incurred by businesses retaining employees who in the absence of the legislation would have been made redundant as well as the additional benefit of those wages to the employee themselves and the retained output of that employee. It is hard to reliably quantify what the impact of these would be as they are heavily dependent on firm behaviour which is not accurately predictable.

57. It is possible for example that an employer will, when applying the policy, make an alternative person redundant which would cause associated costs to that individual in terms of lost earnings



and to the firm in the form of redundancy costs etc. Alternatively, an employer may try to absorb or pass on the costs of retaining an employee they would otherwise have made redundant. It is extremely difficult to forecast these behaviours and therefore to meaningfully quantify any associated net costs / benefits.

58. The economy will experience negative impacts associated with other workers being made redundant – loss of productivity, tax revenue and potential increases in welfare benefits.
59. Aside from the direct benefits from being paid their existing salaries individuals will return to a more accepting work environment, which is likely to benefit the family. For this group of individuals average job tenure may increase, during which they build their skills and knowledge, maintaining their attachment to the labour market and aiding with wage progression.
60. A more supportive work environment for affected individuals may also yield positive benefits in terms of improving wellbeing and health of the employees by being able to participate in the labour market for longer. A well-known paper<sup>7</sup> on wellbeing provides evidence highlighting the impact of income on wellbeing with empirical analysis finding that on average that higher income is associated with higher happiness. The same study also found that relative income, where people compare their own salary to others, also affected levels of wellbeing. Other studies have also found linkages with employment status being one of the most influential factors on well-being.<sup>8</sup>
61. Positive benefits may also flow to businesses driven by having employees who feel accepted in the workplace being more committed to the business. It is possible that employees may see a long-term future at the company, contributing to lower labour turnover and the business retaining the knowledge and skills of its workforce.
62. The policy supports broader goals of addressing the gender imbalance in the workplace and female labour market participation. There may also be potential benefits from changing workplace culture around redundancy discrimination and increasing employers' awareness of discrimination.
63. Supporting pregnant women and new parents through redundancy protections may confer benefits to the Exchequer if these individuals are able to maintain close attachment to the labour market, in the short and long-term. Increased female labour market retention can lead to increased productivity, economic diversification and reductions in income inequality<sup>9</sup>.

### **Small and Micro-Business Impact Assessment (SAMBIT)**

64. The proposed policy will affect employers of all sizes in order to consolidate redundancy protection across the labour market. Allowing opt outs for businesses of a certain size would go against the policy aims and would undermine the rights of the affected individuals. It would also allow smaller businesses to discriminate against pregnant women and new mothers returning to work. To meet our objectives this requires that the redundancy protections are consolidated across all businesses regardless of size. The analysis below shows that small businesses will not be disproportionately affected by the policy being implemented.

---

<sup>7</sup> Well-being over time in Britain and the USA, D. Blanchflower and A. Oswald, 2004

<sup>8</sup> Personal Wellbeing in the UK, ONS (2013)

<sup>9</sup> International Monetary Fund (2018). Pursuing Women's Economic Empowerment.

65. Using the latest Business population statistics<sup>10</sup>, we estimate that around 97% of businesses affected are small and micro businesses<sup>11</sup>, with these businesses accounting for 51% of total employees within Northern Ireland.

**Table 4: Number of businesses and employers by Business Size**

<b>Business Size (no. of employees)</b>	<b>No. Businesses</b>	<b>No. Employees</b>
1 to 9	32,120	119,000
10 to 19	3,725	52,000
20 to 49	2,200	67,000
50-99	645	45,000
100-199	280	39,000
200-249	60	13,000
250+	175	128,000
<b>Total businesses</b>	<b>39,205</b>	<b>463,000</b>
<b>Total in small and micro businesses</b>	<b>38,045</b>	<b>238,000</b>
<b>Share in small and micro businesses</b>	<b>97%</b>	<b>51%</b>

Source: Employment shares are taken from the Business Population Estimates 2023

66. Smaller employers will have less discretion in choosing alternative staff for redundancy and retaining other workers which could have an associated cost. However, to meet the policy objective of tackling discrimination in the workplace against pregnant women and new parents, the redundancy protections must apply to all firms irrespective of size. Allowing small businesses to opt out of the policy would undermine the policy objectives.

67. Furthermore, pregnant employees and new parents in small businesses may be more vulnerable to redundancy discrimination than their counterparts in larger firms. The BIS/EHRC report found that mothers working for small employers<sup>12</sup> were more likely to say that they felt forced to leave their jobs.

68. As a group, small businesses will not be disproportionately affected by this policy. 51% of all employees work in small and micro businesses<sup>13</sup>, meaning that almost half of employees eligible for redundancy protection work in medium and large businesses.

69. We have, however, considered how reduced discretion in redundancy decisions would affect small and micro businesses. It is likely that small firms are impacted more than larger firms by employee absence, in terms of workload, labour costs of finding a replacement, and internal knowledge and capabilities, for example.

70. Small and micro businesses will avoid the cost of contributions to Statutory Maternity/Paternity/Adoption pay as unlike larger businesses, small and micro businesses receive a monetary benefit for this component as they can recover 103% of statutory payments from Government.

<sup>10</sup> Employment shares are taken from the Business Population Estimates 2023 Survey

<sup>11</sup> Defined as having fewer than 50 employees at [Eurostat - Structural business statistics](#)

<sup>12</sup> The report defines small employers as those with under 50 employees.

<sup>13</sup> Business population statistics, 2023

71. Small and micro firms will face familiarisation costs, but we estimate that small and micro businesses will spend less time on familiarisation than larger firms as they have fewer managers/employees to inform and are able to quickly filter information throughout the organisation. More significantly, this policy will be familiar to businesses as the legislation extends existing redundancy protection for mothers.
72. Small and micro businesses may also reap the benefits of retaining staff and supporting pregnant mothers and new parents in the workplace – employee loyalty and morale, a positive and inclusive workplace culture that is associated with happy and productive employees, and retention of skills and knowledge for example.