

MINISTERIAL AND OTHER MATERNITY ALLOWANCES BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Ministerial and other Maternity Allowances Bill as brought from the House of Commons on 11 February 2021 (HL Bill 172).

- These Explanatory Notes have been prepared by the Cabinet Office in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Ministerial and other Maternity Allowances Bill

- 1 Women may be put off seeking high office due to inadequate maternity support. The Ministerial and other Maternity Allowances Bill (the Bill) provides for the Prime Minister, relying on the prerogative power to make appointments, to advise the Sovereign to appoint a current Government Minister to the position of ‘Minister on Leave’ for a time-limited period for six months under certain circumstances, namely to enable the Minister in question to take paid maternity leave.
- 2 The payment and office will not count for the salary and headcount limits specified in the Ministerial and other Salaries Act 1975 and the House of Commons Disqualification Act 1975.
- 3 The Bill also makes provision allowing for time-limited payments to be made to individuals who are providing cover for certain offices in Her Majesty’s Official Opposition (those listed in Schedule 2 to the Ministerial and other Salaries Act 1975) on the basis that the office holder in question is on maternity leave.

Policy background

Background and Current Framework

- 4 The current statutory framework relating to the issue of Ministerial appointments and pay, including the limits and restrictions applicable in this area, consists of three main Acts of Parliament:
 - a. The Ministerial and other Salaries Act 1975, which sets out what Ministers are to be paid at different ranks, and imposes cumulative limits on the number of salaries that can be paid at each rank. It also sets out the salary for named Opposition office holders.
 - b. The House of Commons Disqualification Act 1975, which places a limit on the number of ministerial office holders who are entitled to sit and vote in the House of Commons.
 - c. The Ministerial and other Pensions and Salaries Act 1991, which makes provision for certain payments and allowances, including notably a loss of office payment of one quarter of an office holder’s annual salary, at the point at which they cease to hold office, subject to certain conditions.
- 5 In addition to those Acts, the Constitutional Reform and Governance Act 2010 makes provision for the creation of a pension scheme for Ministers and certain other office holders in Parliament, including Opposition offices.
- 6 Successive Governments have operated at or close to the salary and headcount limits provided for in the Ministerial and other Salaries Act 1975 and the House of Commons Disqualification Act 1975 in appointments to their administrations. Prime Ministers may not make appointments that exceed these limits. If a woman holding high office were to want to take maternity leave, the Prime Minister does not normally have the flexibility to allow them to remain a salaried member of the Government in addition to appointing another Minister to fulfil their role for the period of their leave. The Opposition operates under similar constraints in terms of salaries for its office holders. Such constraints are a potential barrier to the full participation of women in public life.

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- 7 Ministers are public office holders. They are appointed by the Sovereign on the advice of the Prime Minister of the day under the powers of the Royal Prerogative. Their status and constitutional position means that they are not treated as workers or employees and as such have none of the rights or entitlements that many others working in the UK are afforded under employment legislation. In particular they have no rights in relation to maternity leave.
- 8 In 2014, the All Parliamentary Party Group on Women in Parliament produced a report which made the following recommendation in relation to payment to Ministers for parental leave:

“We note also that while Ministers are now entitled to take maternity and paternity leave, and their work is covered by Ministerial colleagues, there is no additional funding to pay the covering Ministers for their additional responsibilities. We believe that a system of paid cover for Ministers on parental leave should be considered.”
- 9 In 2019 the Ministerial Code was updated to insert provisions allowing for ministers to take a leave of absence from their post. Those provisions describe how ministers can take temporary “leave” for maternity, reflecting recent practice. Desk notes have been developed for departments to reflect the practical arrangements they should take to support Ministers while on maternity leave, keeping them in touch with developments and making arrangements for a supported return. In practice, under these arrangements, the functions and responsibilities of Ministers on maternity leave have been covered by other Ministers already serving elsewhere in Government. A number of women have used this approach, including in this Parliament.
- 10 Where it is an individual office or very senior office, these arrangements are particularly difficult to apply. This is because of the statutory limits on ministerial salaries and numbers set out in the legislation referred to above, and because the legal exercise of functions of such roles cannot be 'covered' by another Minister. The result is that a Minister in such a role who wished to take extended maternity leave would need to resign their office.
- 11 This Bill seeks to address this issue by providing for Ministers to be able to take paid maternity leave. The current arrangements already provide the mechanism for Ministers to take a short leave of absence for paternity leave.
- 12 The Bill, in providing for a Minister to be designated as a Minister on Leave, allows a Minister to take an extended period of maternity leave while remaining a member of the Government. As such, they would continue to be bound by the Ministerial Code and the principle of collective responsibility. While designated as a Minister on Leave, the office holder will have no specific duties or responsibilities, or exercise any powers in relation to their previous office. They will not be expected to account before Parliament on issues of Government policy while on leave. The Minister on Leave would be able to access papers they were able to access in their previous role (including Cabinet papers if they were a Cabinet Minister) and be kept updated on work going on in respect of their former role, but they could not commission work or take decisions. Ministers exercising powers (i.e. not designated as 'Minister on Leave') will remain accountable to Parliament.
- 13 In order to be designated as a Minister on Leave, the Minister would be appointed to a new ministerial office and no longer hold their previous office. It would be for the Prime Minister to advise the Sovereign on the appointment of a person to fill the role vacated by the person designated a Minister on Leave, and that person so appointed would then hold that office in full and without condition. In this way ministerial accountability and clarity in the exercise of the ministerial functions associated with that office will be maintained.

Approach Taken in the Bill

- 14 This Bill provides a mechanism whereby specific office holders (namely Ministers and certain

members of Her Majesty's Opposition) who wish to take maternity leave are able, subject to certain conditions and at the discretion of the Prime Minister or the Leader of the Opposition, to take up to six months leave at full pay, analogous to the situation applicable to the first six months of maternity leave for most Members of the Armed Forces and Civil Servants.

- 15 In relation to Ministers, the objective of the Bill is to enable any Minister (holding whichever office in the Government) to take a period of paid maternity leave, whilst remaining a member of the Government. It seeks to minimise any impact on wider constitutional issues by creating an ability to pay an allowance to a Minister appointed to the designated ministerial office as a 'Minister on Leave'; and for that office not to count towards the statutory limits on ministerial salaries and numbers.
- 16 A designation as a 'Minister on Leave' would automatically terminate after six months. An appointment to this office could be brought to an end sooner by either: the individual being appointed to another ministerial office (including being appointed to their previous role); the individual being dismissed (the prerogative power to dismiss Ministers is maintained); or by the individual resigning (e.g. as a result of losing their seat in an election held during the six month period, or if there was a change of Government).
- 17 Except where the Minister is appointed to another ministerial role, the Minister would be entitled to retain the payment in respect of the remaining duration of the six month period. They would also be entitled to the standard loss of office payment, equivalent to three months' salary, payable under section 4 of the Ministerial and other Pensions and Salaries Act 1991. Any residual payment would be made as a lump sum.
- 18 The Bill does not give or imply a right on the part of a Minister wishing to take maternity leave to be appointed as a Minister on Leave. Any appointment to such a role would remain a prerogative power on advice from the Prime Minister, as would appointment to the Minister's former ministerial office (or a new ministerial office) at the end of the maternity leave.
- 19 The Bill also covers the six Opposition offices whose salary is paid for under the ministerial salary legislation referred to above. They are the Leaders of the Opposition and the Chief Opposition Whips in each House, and two Assistant Opposition Whips in the House of Commons. To take account of the fact that such office holders are not appointed by the Prime Minister and do not have statutory functions, the Bill adopts a different approach for these offices. The office holder who is to take maternity leave would stay in post and the Bill instead authorises a payment to the person (at the discretion of the Leader of the Opposition in the relevant House) who covers their role, on similar terms as outlined above for Ministers. The arrangement may last for up to six months and the eligibility criteria are the same. There is no provision, on termination of the covering person's appointment before the end of six months, for them to receive any lump sum (as they are providing cover rather than taking the time off).
- 20 The Bill does not refer to biological sex or use gender-specific terms when referring to a Minister's pregnancy and maternity. This reflects common practice of avoiding gender-specific terms when drafting, further to [drafting guidance](#) first introduced in 2007.

Legal background

- 21 The relevant legal background is explained in the policy background section of these notes. Further information on the legislation amended by this Bill is also contained in the commentary on the individual Bill Clauses.

Territorial extent and application

- 22 Clause 7 sets out the territorial extent of the Bill; that is the legal jurisdictions of which the provisions in the Bill are intended to form part of the law. The extent of a Bill can be different from its application. Application is about where a Bill produces a practical effect. In this Bill, the application and extent are both to the whole of the United Kingdom.
- 23 The matters to which the provisions of the Bill relate are not within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly, and no legislative consent motion is being sought in relation to any provision of the Bill.
- 24 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions and matters relevant to Standing Orders Nos. 83J to 83X of the Standing Orders of the House of Commons relating to Public Business.

Fast-Track Legislation

- 25 The Government has asked Parliament to expedite the parliamentary progress of the Bill. In their report on Fast-track Legislation: Constitutional Implications and Safeguards,¹ the House of Lords Select Committee on the Constitution recommended that the Government should provide more information as to why a piece of legislation should be fast-tracked.²

Why is fast-tracking necessary?

- 26 The Bill seeks to provide the ability for Ministers and certain Opposition office holders to take paid maternity leave. The lack of statutory provision for such an eventuality is viewed as being a disincentive to prospective or new mothers seeking high office, and amending the law in this regard is viewed as a high priority for both the Government and the Opposition. The issue has been brought to the fore by a specific individual case of a female holder of an individual ministerial office wishing to take maternity leave. Were the Bill not to get Royal Assent swiftly, this individual would lose out on the benefits provided by the Bill.

What is the justification for fast-tracking each element of the Bill?

- 27 The Bill is required to ensure that the availability to Ministers and certain Opposition office holders of paid maternity leave is on the statute book. There are no elements of the Bill which could have been done at a slower pace compared to others without jeopardising the functionality of the Bill, or without providing for differing arrangements between Government Ministers and Opposition office holders, which was deemed to be inappropriate.

What efforts were made to ensure the amount of time made available for parliamentary scrutiny was maximised?

- 28 The Government made the Bill available as soon as possible for Parliament to consider, in addition to Explanatory Notes, to maximise understanding of the Bill's policy intention during its passage.

¹ House of Lords Constitution Committee, 15th report of session 2008/09, HL paper 116-I

² House of Lords Constitution Committee, 15th report of session 2008/09, HL paper 116-I, para. 186

To what extent were interested parties and outside groups given an opportunity to influence the policy proposal?

- 29 The Government worked closely with members of the Official Opposition in developing the Bill's policy and content. Given that the Bill's subject-matter relates to Government and Opposition office holders, the Government did not deem it necessary to give other parties or outside groups an opportunity to influence the policy proposal. Nevertheless, the Government did engage with relevant Select Committees and parliamentary groups prior to the Bill's introduction.

Does the Bill include a sunset Clause (as well as any appropriate renewal procedure)? If not, why does the Government judge that their inclusion is not appropriate?

- 30 The Bill does not include a sunset Clause. Including a sunset Clause in the Bill would not be appropriate as it would defeat the objective of the Bill, namely to provide financial security to those wishing to take maternity leave while holding the offices falling within the scope of the Bill. It would not be desirable for the arrangements put in place by the Bill to fall away after enactment, for example while a Minister or Opposition office holder was on maternity leave, as it would undermine the security that the Bill seeks to achieve.

Are mechanisms for effective post-legislative scrutiny and review in place? If not, why does the Government judge that their inclusion is not appropriate?

- 31 The legislation will be subject to post-legislative scrutiny in the usual manner.

Was an assessment made as to whether existing legislation was sufficient to deal with any or all of the issues in question?

- 32 Yes. The arrangements set out in existing legislation, and supplemented by the Ministerial Code, are not sufficient to achieve the aims that the Bill seeks to fulfil.

Commentary on provisions of Bill

Clause 1: Payment of maternity allowance: Ministerial office

- 33 This Clause sets out that the Prime Minister can designate a holder of Ministerial office as a ‘Minister on Leave’ for the purpose of paying them an allowance and the conditions which must be satisfied before a designation can take place.
- 34 Subsection (1) provides the basis for a Minister designated as a Minister on Leave to be paid an allowance under the Bill.
- 35 Subsection (2) specifies that, in order to be designated as a Minister on Leave, the person in question must fulfil the conditions set out in subsection (3) and that that person must have ceased to hold their previous ministerial office (“the first ministerial office”) immediately before appointment to a designated ministerial office, as Minister on Leave.
- 36 Subsection (2) further specifies that the person so designated by the Prime Minister will remain a member of Her Majesty’s Government for the duration of their tenure as Minister on Leave, because they continue to hold ministerial office.
- 37 Subsection (3) sets out the conditions which the person in question must satisfy in order to be eligible for designation as a Minister on Leave by the Prime Minister, specified by reference to the anticipated, or actual, birth date of a child. These conditions are framed by reference to other legislative provisions on maternity leave, and provide that the Minister is eligible to be designated as Minister on Leave if:
- a. they are pregnant and the due date is no more than 12 weeks away;
 - b. they have given birth within the last 4 weeks.
- 38 Subsection (4) provides that a “child” for the purposes of subsection (3)(b) includes a still-born child within the meaning of section 41(1) of the Births and Deaths Registration Act 1953.
- 39 Subsection (5) defines “ministerial office” for the purposes of this Bill as any of the ministerial offices specified in Parts 1 to 4 of Schedule 1 to the Ministerial and other Salaries Act 1975, as well as the office of Lord Chancellor, which is referred to elsewhere in that Act. This covers all Government ministers, including whips. It does not include Parliamentary Private Secretaries as they are not members of the Government.
- 40 Subsection (6) sets out that a designation as Minister on Leave ends either automatically after a period of six months or earlier if the Minister designated ceases to hold the office, for example because they are appointed to a new ministerial role, resign or are dismissed. The period for which an allowance may be paid to a Minister on maternity leave under this Bill is therefore six months.

Clause 2: Ministerial leave: amount and payment of allowance

- 41 Clause 2 sets out the amount of allowance that is to be paid to a person designated as a Minister on Leave and the modalities of the payment of that allowance.
- 42 Subsection (1) sets the allowance as being six times the monthly salary that the Minister on Leave received in their “first ministerial office”, that is, as described in Clause 1(2)(b), the office they held immediately before being appointed to the designated ministerial office i.e. before being appointed as ‘Minister on Leave’. It also provides that the allowance is to be paid in six monthly instalments, subject to subsections (2) to (4).

- 43 Subsection (2) provides that the allowance is only available where the Minister designated was in receipt of a salary in relation to their “first ministerial office”. A minister who was previously unpaid will not receive an allowance as a Minister on Leave.
- 44 Subsection (3) states that where the Minister on Leave leaves the Government (i.e. is no longer a Minister) before the end of the six-month period, they are to receive the remainder of the allowance as a lump sum. This is because while a right to maternity leave for a Minister cannot be conferred, certainty of financial support for the duration of that maternity leave can be provided.
- 45 Subsection (4) states that if the Minister on Leave ceases to be designated as such on account of being appointed to another ministerial office, or dying, the allowance is no longer payable and is reduced proportionately. In such cases, if there has been overpayment, subsection (4)(b) allows that any such overpayment may be recovered.
- 46 Subsection (5) defines when the ‘6-month period’ for the purposes of this Clause begins.
- 47 Subsection (6) sets out that the allowance is to be paid from either money provided by Parliament or is to be charged on and paid out of the Consolidated Fund, depending on how the payments made in respect of the “first ministerial office” as referred to in Clause 1(2)(b) were paid. With the exception of the Lord Chancellor, these ministers are paid from money provided by Parliament.

Clause 3: Ministerial leave: other provision

- 48 This Clause sets out how the arrangements made in this Bill interact with the existing statutory arrangements relating to ministerial offices and ministerial pay.
- 49 Subsection (1) provides that the designated ministerial office of Minister on Leave does not count for the purposes of the restriction set out in sections 2(1) and (2) of the House of Commons Disqualification Act 1975, which places a limit on the number of Ministers who can sit and vote in the House of Commons. Where a person is appointed to the designated ministerial office as a Minister on Leave and this is in excess of the limit, they will not be subject to the consequences of non-compliance with the provisions of the House of Commons Disqualification Act 1975.
- 50 Subsection (2) re-applies the restriction in the House of Commons Disqualification Act 1975 at the end of designation. It provides that, if the Minister on Leave loses the designation by virtue of six months having elapsed, but has not ceased to hold the designated ministerial office, then they are to be considered to have commenced holding that office when the designation ended for the purposes of section 2(2) of the House of Commons Disqualification Act 1975.
- 51 Subsection (3) sets out that a Minister on Leave who is paid an allowance under this Bill cannot also receive a salary under the Ministerial and other Salaries Act 1975.
- 52 Subsection (4) provides that ceasing to hold the designated ministerial office as Minister on Leave makes the office holder eligible for a loss of office payment under Section 4 of the Ministerial and other Pensions and Salaries Act 1991, subject to the conditions specified in that Act. For the purposes of calculating the amount payable, the relevant salary is the annual salary that the Minister received immediately before their appointment to the designated ministerial office.
- 53 Subsection (5) provides that where a Minister is appointed to the designated ministerial office and is a member of the House of Lords, they will not be eligible also to receive an allowance under section 5(1) of the Ministerial and other Pensions and Salaries Act 1991 (allowance for

ministerial and other office-holders in the House of Lords), sometimes known as the Lords Office Holder Allowance.

Clause 4: Payment of maternity allowance: Opposition office

- 54 This Clause enables payments to be made to a person providing cover for the holders of certain opposition offices, where the substantive office holder is on maternity leave.
- 55 Subsection (1) provides the basis for the payment of the allowance.
- 56 Subsection (2) identifies the opposition office for which an allowance may be paid and defines the term “Leader of the Opposition” in relation to both Houses for the purposes of this Bill by reference to section 2(1) of the Ministerial and other Salaries Act 1975.
- 57 Subsection (3) specifies that it is for the Leader of the Opposition in the House of Commons to make an appointment in relation to an office within subsection (2)(a) above and that it is for the Leader of the Opposition in the House of Lords to make an appointment in relation to an office within the meaning of subsection (2)(b) above.
- 58 Subsection (4) sets out that the initial appointment for the purposes of subsection (1) above can only be made if the person making the appointment considers that the conditions in subsection (5) are satisfied.
- 59 Subsection (5) sets out the conditions which must be satisfied before an appointment can be made for the purposes of subsection (1). These conditions are the same as those set out in Clause 1(3)(a) and (b) above.
- 60 Subsection (6) allows more than one person to provide cover for an Opposition office holder during maternity leave, providing only one person is providing cover at any one time and the period of cover is no more than six months in total. It prevents an appointment for the purposes of subsection (1) from being made after the six-month period, starting with the day on which the initial appointment is made, has elapsed, and also prevents concurrent appointments during that period.
- 61 Subsection (7) states that the reference to “child” for the purposes of subsection (5)(b) includes a still-born child within the meaning of the Births and Deaths Registration Act 1953.
- 62 Subsection (8) sets out that any appointment under subsection (1) above expires automatically after six months from the initial appointment or, if earlier, when it is terminated by the person who made the appointment.

Clause 5: Opposition leave: amount and payment of allowance

- 63 This Clause sets out the calculation of the allowance to be paid to a person pursuant to Clause 4(1) of this Bill.
- 64 Subsection (1) sets the rate of the allowance as being equivalent to the salary which is being paid to the holder of the opposition office for whom the person appointed under this Bill is providing cover. The allowance is paid in monthly instalments during the period of cover.
- 65 Subsection (2) provides that the allowance ceases to be payable when the appointment ends and that any overpayment may be recouped.
- 66 Subsection (3) provides that payments under this section are to be charged on and paid out of the Consolidated Fund. The salaries of these Opposition office holders are also paid out of the Consolidated Fund, under the Ministerial and other Salaries Act 1975.

Clause 6: Opposition leave: other provision

- 67 Subsection (1) provides that where an Opposition office holder in the House of Lords is on maternity leave, that person is not eligible for the Lords Office Holder Allowance (under section 5(1)(b) of the Ministerial and other Pensions and Salaries Act 1991); rather it is the person appointed to cover the maternity leave who is eligible for that allowance.
- 68 Subsection (2) states that the allowance paid to a person pursuant to Clause 4(1) of the Bill is to be treated as if it were service as an Opposition office holder for the purposes of the provision in the Constitutional Reform and Governance Act 2010 which allows those offices to be covered by the Ministerial Pension Scheme. No equivalent provision is needed to allow service as a Minister on Leave to be pensionable since that scheme is already open to them because of their ministerial status.

Clause 7: Extent, commencement and short title

- 69 Subsection (1) sets out the Bill's territorial extent, which extends to England and Wales, Scotland and Northern Ireland.
- 70 Subsection (2) provides that the Bill enters into force on the day that it receives Royal Assent.
- 71 Subsection (3) provides that the short title of the Bill is the Ministerial and other Maternity Allowances Act 2021.

Commencement

- 72 All the provisions of the Bill commence on Royal Assent, in accordance with Clause 7.

Financial implications of the Bill

- 73 The Bill has financial implications as set out in the following paragraphs.
- 74 Clause 1(1) allows a Minister on Leave to be paid an allowance in accordance with the provisions of the Bill, subject to certain conditions, and specifies the amount which is to be paid to that person (Clause 2(1)) and the source of that allowance (Clause 2(6)). The total amount of additional expenditure will be equivalent to a maximum of six months of each Minister on Leave's allowance (compared to them not having taken any maternity leave) or three months of each Minister on Leave's allowance where they otherwise would have resigned and received a three month loss of office payment. Ministerial salaries are established in the Ministerial and other Salaries Act 1975. The actual expenditure therefore depends on how many, if any, Ministers are designated to this office at any one time and what their former salaries were.
- 75 Clause 2(3) allows for a lump sum payment of any outstanding allowance should the Minister on Leave cease to hold office before the allowance has been paid in full, unless they have been appointed to another ministerial office. This does not represent additional expenditure since it is part of the six months' allowance but paid in a single instalment.
- 76 Clause 3(4) allows for payment of a severance grant to be made under section 4 of the Ministerial and other Pensions and Salaries Act if the Minister on Leave is not appointed to a ministerial office at the end of the leave. This payment would be equal to one quarter of the annual salary of the "first ministerial office" defined by Clause 1(2). This is not additional expenditure because it would either have been payable at the time of designation had the minister had to resign at that point and stand down to take maternity leave, or would be payable at some future point when the minister ceased to hold office.

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- 77 Ministerial salaries are paid out of departmental budgets, through money authorised by Parliament, with the exception of the Lord Chancellor whose salary is paid out of the Consolidated Fund. These arrangements will apply to the payment of allowances to any Minister on Leave as the Bill does not affect them.
- 78 Clause 4(1) allows for payments to be made to an individual or consecutive individuals covering one of the Opposition offices listed in the Bill, subject to certain conditions, and specifies the amount which is to be paid to that person (Clause 5(1)) and the source of that allowance (Clause 5(3)).
- 79 A person providing temporary cover for one of these offices in the Lords is eligible for the Lords Office Holder allowance (Clause 6(1)(b)). A period as temporary cover for an Opposition office holder is pensionable (Clause 6(2)). Again, the additional expenditure will depend on how many if any Opposition offices are being covered during maternity leave and on the level of salary for that office or offices.

Parliamentary approval for financial costs or for charges imposed

- 80 A money resolution is required where a Bill gives rise to, or creates powers that could be used so as to give rise to, new charges on the public revenue (broadly speaking, new public expenditure).
- 81 A money resolution in relation to the Bill will be required to cover the expenditure outlined above.
- 82 A ways and means resolution in relation to the Bill will not be required on account of the fact that the Bill does not impose taxation or fees, nor are there any delegated powers contained in the Bill which could be used for this purpose.
- 83 The money resolution was passed by the House of Commons on 11 February 2021.

Compatibility with the European Convention on Human Rights

- 84 The Minister, Lord True, has made a statement under section 19(1)(a) of the Human Rights Act 1998 that, in the Minister's view, the provisions of the Bill are compatible with the Convention rights.
- 85 While Article 8 of the European Convention on Human Rights (ECHR) does not include a right to maternity, paternity or parental leave or impose any positive obligation on States to provide leave allowances, such provisions do come within the scope of Article 8. As such, the Bill engages Article 8. By better enabling a Minister who has given birth to stay home and look after a new baby, the Bill is promoting family life, and it is considered that it does not interfere with Article 8 rights. Once the discretion to designate is exercised, the allowance could be a possession for Article 1, Protocol 1 purposes. There will not be an unlawful interference with such a possession because, at most, the Bill is conferring a possession, not interfering with one that already exists.
- 86 The Bill's provision of maternity leave raises a potential issue of compatibility with the right in Article 14 of the ECHR not to be discriminated against in the enjoyment of Convention rights, in this case the right to respect for private and family life (Article 8). It is considered that any

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differential treatment on the grounds of sex or other status (for example, fathers, partners or adoptive parents) is not unlawful discrimination because the comparators are not in a relevantly similar situation for these purposes; or would in any event be justified by the Bill's aim of modernising the terms of ministerial office so that they are more reflective of the expectations of the role of women in modern society.

Related documents

87 The following documents are relevant to the Bill and can be read at the stated locations:

- Ministerial Code:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf
- Report by the All-Party Parliamentary Group on Women in Parliament, 'Improving Parliament' (2014):
<http://www.appgimprovingparliamentreport.co.uk/>

Annex A – Territorial Extent and Application in the United Kingdom

88 This Bill extends and applies to the whole of the UK. The table below sets the position out in more detail.³

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of Senedd Cymru?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed / required?
Clause 1	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clause 2	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clause 3	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No

³ References in this Annex to a provision being within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J to 83X of the Standing Orders of the House of Commons relating to Public Business.

Clause 4	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clause 5	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clause 6	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clause 7	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No

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Ordered by the House of Lords to be printed, 11 February 2021

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