Draft Regulations laid before Parliament under section 176(1) of the Social Security Contributions and Benefits Act 1992, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Shared Parental Pay (Adoption from Overseas) Regulations 2014

Made - - - -	***
Coming into force - -	*5th April 2015*

A draft of these Regulations was laid before Parliament in accordance with section 176(1) of the Social Security Contributions and Benefits Act 1992(**a**) and approved by resolution of each House of Parliament.

This instrument contains only regulations made by virtue of, or consequential upon, section 119(1) of the Children and Families Act 2014(**b**) and is made before the end of the period of 6 months beginning with the coming into force of that enactment(**c**).

The Secretary of State, in exercise of the powers conferred by sections 171ZV(1) to (5), and (12) to (15), 171ZW(1), 171ZX(2) and (3), 171ZY(1), and (3) to (5), 171ZZ1(3), 171ZZ4(3), (4), (7) and (8), and 175(3) of the Social Security Contributions and Benefits Act 1992(**d**) and by section 5(1)(g), (i), (l) and (p) of the Social Security Administration Act 1992(**e**) and with the concurrence of the Commissioners for Her Majesty's Revenue and Customs in so far as such concurrence is required, makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Statutory Shared Parental Pay (Adoption from Overseas) Regulations 2014 and come into force on 5th April 2015.

(**a**) 1992 c. 4. Section 176(1) was amended by the Children and Families Act 2014 (c. 6), section 119(2); there are other amending instruments but none is relevant.

(**b**) 2014 c. 6.

(**c**) See section 173(5) of the Social Security Administration Act 1992 (c. 5). Pursuant to section 172 of that Act, where the Secretary of State proposes to make regulations under the Social Security Contributions and Benefits Act 1992, the Secretary of State is required to refer such proposals, normally in the form of draft regulations, to the Social Security Advisory Committee. This requirement does not apply where the regulations are contained in a statutory instrument made before the end of a period of six months beginning with the coming into force of the enactments by virtue or as a consequence of which the regulations are being made.

(**d**) Sections 171ZV to 171ZY, 171ZZ1 and 171ZZ4 were inserted by the Children and Families Act 2014, section 119(1). Section 171ZV was modified by S.I. 2014/XXXX.

(**e**) 1992 c. 5. Section 5(1) was amended by the Welfare Reform Act 2012 (c. 5), section 98, and the Children and Families Act 2014, Schedule 7, paragraphs 23 and 24; there are other amending instruments but none is relevant.

Interpretation

2. In these Regulations—

"1992 Act" means the Social Security Contributions and Benefits Act 1992;

"the Application Regulations" means the Social Security Contributions and Benefits Act 1992 (Application of Parts 12ZA, 12ZB and 12ZC to Adoptions from Overseas) Regulations 2003(**a**);

"the General Regulations" means the Statutory Shared Parental Pay (General) Regulations 2014(**b**); and

"statutory shared parental pay (adoption)" means any pay payable in accordance with the provisions of Part 12ZC of the 1992 Act(**c**) where the conditions in section 171ZV of that Act are satisfied.

Application of the General Regulations to adoptions from overseas

3.—(1) The provisions of the General Regulations mentioned in paragraph (2), in so far as they apply to statutory shared parental pay (adoption), apply to adoptions from overseas, subject to paragraphs (3) and (4) and the modifications set out in regulations 4 to 16 below.

(2) The relevant provisions are—

(a) regulation 2;

(b) regulation 3(b);

(c) Parts 3 to 5;

(d) Part 2 of the Schedule.

(3) Any references in the provisions of the General Regulations mentioned in paragraph (2) to the provisions of Part 12ZC of the 1992 Act must be construed as references to the provisions of Part 12ZC as modified by the Application Regulations.

(4) Any references in the provisions of the General Regulations mentioned in paragraph (2) to other provisions of the General Regulations must be construed as references to those provisions as modified by these Regulations.

Modifications to the General Regulations for the purposes of adoptions from overseas

4. The General Regulations are modified as follows.

5.—(1) Regulation 2 (definitions) is modified as follows.

(2) In paragraph (1)—

(a) for the definition of "A" substitute—

""A", in relation to C, means the person by whom C has been or is to be adopted;" and

(b) insert the following definitions in the appropriate places alphabetically—

""enter Great Britain" means enter Great Britain from outside the United Kingdom in connection with or for the purposes of adoption;";

""official notification" means written notification, issued by or on behalf of the relevant central authority, that it is prepared to issue a certificate to the overseas authority concerned with the adoption of C, or that it has issued a certificate and sent it to that authority, confirming, in either case, that A is eligible to adopt, and has been assessed and approved as being a suitable adoptive parent;";

""relevant central authority" means—

(**a**) S.I. 2003/499, as amended by S.I. 2014/XXXX; there are other amending instruments but none is relevant.
(**b**) S.I. 2014/XXXX.
(**c**) Part 12ZC was inserted by the Children and Families Act 2014, section 119(1).

(a) in the case of an adopter to whom Part 3 of the Adoptions with a Foreign Element Regulations 2005(**a**) applies and who is habitually resident in Wales, the Welsh Ministers;

(b) in the case of an adopter to whom the Adoptions with a Foreign Element (Scotland) Regulations 2009(**b**) apply and who is habitually resident in Scotland, the Scottish Ministers; and

(c) in any other case, the Secretary of State.".

6. In regulation 3 (application), for paragraph (b) substitute—

"(b) statutory shared parental pay (adoption) in respect of children who enter Great Britain on or after 5th April 2015.".

7.—(1) Regulation 17 (entitlement of adopter to statutory shared parental pay (adoption)) is modified as follows.

(2) In paragraphs (2)(b) and (3)(a) for "date of C's placement for adoption" substitute "date C enters Great Britain".

(3) In paragraph (2)(d) for "the placement for adoption of C" substitute "the adoption of C".

8.—(1) Regulation 18 (entitlement of partner to statutory shared parental pay (adoption)) is modified as follows.

(2) In paragraphs (2)(b) and (3)(a) for "date of C's placement for adoption" substitute "date C enters Great Britain".

(3) In paragraph 3(c) for "the placement for adoption of C" substitute "the adoption of C".

9.—(1) Regulation 19 (notification and evidential requirements relating to the adopter) is modified as follows.

(2) In paragraph (1)(b)—

(a) for "if C is not placed for adoption by that time" substitute "if C has not entered Great Britain by that time";

(b) for "placement of C" substitute "date of C's entry into Great Britain".

(3) In paragraph (3)(b) for "A was notified that A had been matched with C" substitute "A received the official notification".

(4) In paragraph (3)(c) for "date of C's placement for adoption" substitute "date of C's entry into Great Britain".

(5) For paragraph (4)(a) substitute—

"(a) the date on which A expects C to enter Great Britain; and".

10.—(1) Regulation 20 (notification and evidential requirements relating to the partner) is modified as follows.

(2) In paragraph (1)(b)—

(a) for "if C is not placed for adoption by that time" substitute "if C has not entered Great Britain by that time";

(b) for "placement of C" substitute "date of C's entry into Great Britain".

(3) In paragraph (3)(b) for "A was notified that A had been matched with C" substitute "A received the official notification".

(4) In paragraph (3)(c) for "date of C's placement for adoption" substitute "date of C's entry into Great Britain".

(5) For paragraph (4)(a) substitute—

(**a**) S.I. 2005/392, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 2009/182, to which there are amendments not relevant to these Regulations.

"(a) the date on which A expects C to enter Great Britain; and".

11. In regulation 23 (period of payment of statutory shared parental pay), in paragraph (1), for "C was placed for adoption (or where more than one child is placed for adoption as a result of the same arrangement, the date of placement of the first child to be placed as part of the arrangement)" substitute "C entered Great Britain (or where more than one child is adopted as a result of the same arrangement, the date on which the first child entered Great Britain)".

12. In regulation 24 (work during a period of statutory shared parental pay), in paragraph (1)(a)(ii), for "immediately preceding the 14th week before the expected week of the placement for adoption" substitute "in which A received the official notification".

13. In regulation 29 (conditions relating to employment and earnings of claimant's partner), in paragraph (5), for the definition of "calculation week" substitute—

""calculation week" means the week in which A received the official notification;".

14. In regulation 31 (conditions as to continuity of employment and earnings), in paragraph (2), for "A was notified of having been matched with C" substitute "A received the official notification".

15. In regulation 32 (normal weekly earnings of a claimant), in paragraph (9), in the definition of "appropriate date" for "the week in which A is notified of being matched with the child for the purposes of adoption" substitute "the week in which the official notification is sent to A".

16.—(1) Paragraph 12 (death of child) of the Schedule is modified as follows.

(2) In sub-paragraphs (1) and (2) for "or is returned after being placed" substitute "or regulation 28 of the Adoptions with a Foreign Element Regulations 2005 or regulation 31 of the Adoptions with a Foreign Element (Scotland) Regulations 2009 applies,".

(3) In sub-paragraph (3) for "the death of C or after C is returned after being placed" substitute "the date on which C dies or regulation 28 of the Adoptions with a Foreign Element Regulations 2005 or regulation 31 of the Adoptions with a Foreign Element (Scotland) Regulations 2009 applies".

(4) In sub-paragraph (4)—

(a) for "placed for adoption as a result of the same placement" substitute "adopted as a result of the same arrangement";

(b) for "all the children are returned after being placed" substitute "regulation 28 of the Adoptions with a Foreign Element Regulations 2005 or regulation 31 of the Adoptions with a Foreign Element (Scotland) Regulations 2009 applies in relation to all of the children";

(c) for paragraph (b) substitute—

"(b) a reference in this paragraph to the death of C or to the application of regulation 28 of the Adoptions with a Foreign Element Regulations 2005 or regulation 31 of the Adoptions with a Foreign Element (Scotland) Regulations 2009 (however expressed) is to the death of the last of those children to die or is to the last of those children in relation to whom those regulations applied.".

(5) Omit sub-paragraph (5).

Name
Parliamentary Under Secretary of State for Employment Relations and Consumer Affairs
Date Department for Business, Innovation and Skills

The Commissioners for Her Majesty's Revenue and Customs concur

Name
Name
Date Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to statutory shared parental pay in respect of adoptions from overseas. An adoption from overseas is defined in section 171ZZ4(1) of the Social Security Contributions and Benefits Act 1992 (c. 4) (as modified) as an adoption of a child who enters Great Britain from outside the United Kingdom in connection with or for the purposes of adoption which does not involve the placement of the child for adoption under the law of any part of the United Kingdom.

These Regulations should be read in conjunction with the Social Security Contributions and Benefits Act 1992 (Application of Parts 12ZA, 12ZB and 12ZC to Adoptions from Overseas) Regulations 2003 (S.I. 2003/499), which provide for the provisions of Part 12ZC of the Social Security Contributions and Benefits Act 1992 to have effect, with prescribed modifications, in relation to adoptions from overseas.

Regulation 3 sets out the extent to which the Statutory Shared Parental Pay (General) Regulations 2014 apply to adoptions from overseas.

Regulations 4 to 16 set out the modifications which apply to the Statutory Shared Parental Pay (General) Regulations 2014 for the purposes of adoptions from overseas. The modifications relate to dates and evidential requirements which are relevant to the entitlement and notification of statutory shared parental pay (adoption).

An impact assessment has not been prepared for these Regulations. These Regulations are part of a package of legislative measures and the relevant impact assessment is the *Modern Workplaces: shared parental leave and pay administration consultation impact assessment* which was published in February 2013. A copy of that impact assessment can be obtained from the Department for Business, Innovation and Skills, Labour Market Directorate, 1 Victoria Street, London, SW1H 0ET. Copies have also been placed in the libraries of both Houses of Parliament.

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