STATUTORY INSTRUMENTS

2010 No. 150

TERMS AND CONDITIONS OF EMPLOYMENT

The Ordinary Statutory Paternity Pay (Adoption), Additional Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoptions from Overseas) (Persons Abroad and Mariners) Regulations 2010

Made - - - - *28th January 2010*

Laid before Parliament *1st February 2010*

Coming into force in accordance with regulation 1(2)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 171ZI, 171ZJ(1), 171ZR and 171ZS(1) of the Social Security Contributions and Benefits Act 1992(**a**).

The Secretary of State makes these Regulations with the concurrence of the Treasury(**b**) and after agreement by the Social Security Advisory Committee that the proposals in respect of these Regulations shall not be referred to it(**c**).

Citation and commencement

1.—(1) These Regulations may be cited as the Ordinary Statutory Paternity Pay (Adoption), Additional Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoptions from Overseas) (Persons Abroad and Mariners) Regulations 2010.

(2) These Regulations come into force immediately after the coming into force of the Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations 2002 (Amendment) Regulations 2010(**d**).

Interpretation

2. In these Regulations, "adoption from overseas" means the adoption of a child who enters Great Britain from outside the United Kingdom in connection with or for the purposes of adoption

(**a**) 1992 c. 4. Sections 171ZI and 171ZJ were inserted by section 2 of the Employment Act 2002 (c.22), and sections 171ZR and 171ZS were inserted by section 4 of that Act. Sections 171ZJ(1) and 171ZS(1) are cited because of the meaning ascribed to the word "prescribed". Parts 12ZA and 12ZB of the Social Security Contributions and Benefits Act 1992 are, by regulations made under sections 171ZK and 171ZT (S.I. 2003/499 as amended by S.I. 2010/153), applied to cases which involve adoptions from overseas with the modifications prescribed by those Regulations.

(**b**) See sections 171ZI(1) and 171ZR(1) of the Social Security Contributions and Benefits Act 1992.

(**c**) Section 173(1)(b) of the Social Security Administration Act 1992 (c.5) provides that proposals in respect of regulations which would otherwise be referable to the Social Security Advisory Committee may not be so referred with the agreement of that Committee. These Regulations would otherwise be referable to that Committee by virtue of section 172(1) of that Act.

(**d**) S.I. 2010/151.

which does not involve the placement of the child for adoption under the law of any part of the United Kingdom.

Revocation

3. The Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoptions from Overseas) (Persons Abroad and Mariners) Regulations 2003(**a**) are revoked.

Application of the Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations 2002 to adoptions from overseas

4.—(1) The Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations 2002(**b**) shall have effect in relation to adoptions from overseas with the modifications set out in the following paragraphs of this regulation.

(2) In regulation 1(2) (interpretation)—

(a) omit the definitions of "additional statutory paternity pay (birth)" and "ordinary statutory paternity pay (birth);

(b) for the definition of "adopter", substitute—

""adopter", in relation to a child adopted from overseas, means—

(a) a person by whom the child has been or is to be adopted, or

(b) in a case where the child has been or is to be adopted by two people jointly, whichever of them has elected to take adoption leave under section 75A or 75B of the Employment Rights Act 1996 in respect of the child;";

(c) after the definition of "mariner", insert—

""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 the child, or has issued a certificate and sent it to that authority, confirming, in either case, that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent;";

(d) after the definition of "ordinary statutory paternity pay (adoption)", insert—

"relevant central authority" means—

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

(b) in the case of an adopter to whom Part 3 of the Adoptions with a Foreign Element (Scotland) Regulations 2009 apply and who is habitually resident in Scotland, the Scottish Ministers; and

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

(3) For regulation 1(3), substitute—

"(3) References in these Regulations to provisions of Parts 12ZA and 12ZB of the Act are to be construed as references to those provisions as modified by the Social Security Contributions and Benefits Act 1992 (Application of Parts 12ZA and 12ZB to Adoptions from Overseas) Regulations 2003.".

(4) In regulation 5 (entitlement to ordinary statutory paternity pay and additional statutory paternity pay where person has worked in an EEA State)—

(a) omit paragraph (1);

(**a**) S.I. 2003/1193.
(**b**) S.I. 2002/2821, amended by S.I. 2010/151.

(b) in the first line of paragraph (2), after "and who", insert ", in the week in which the person receives an official notification or completes 26 weeks' continuous employment with the person's employer, whichever is the later"; and

(c) in paragraph (2)(a) omit the words "in the week in which the adopter is notified of being matched with the child for the purposes of adoption".

(5) In regulation 6 (entitlement to statutory adoption pay where person has worked in an EEA State)—

(a) in the first line, after "and who", insert ", in the week in which the person receives an official notification or completes 26 weeks' continuous employment with the person's employer, whichever is the later";

(b) in paragraph (a), omit the words "in the week in which he is notified that he has been matched with the child for the purposes of adoption"; and

(c) in the full out, for the word "he", substitute "the person".

Pat McFadden
Minister of State for Business, Innovation and Skills
28th January 2010 Department for Business, Innovation and Skills

We concur in making these Regulations.

Tony Cunningham
Bob Blizzard
28th January 2010 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify the application of the Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations 2002 (SI 2002/2821 as amended by SI 2010/151) ("the Persons Abroad and Mariners Regulations") in relation to adoptions from overseas.

The Persons Abroad and Mariners Regulations provide for certain special classes of person to benefit from provisions in Parts 12ZA and 12ZB of the Social Security and Contributions Act 1992 relating to ordinary paternity pay, additional paternity pay and statutory adoption pay.

Regulation 4 modifies the application of the Persons Abroad and Mariners Regulations to cater for overseas adoptions. The Persons Abroad and Mariners Regulations refer in several places to a person being "matched" with a child for adoption. The modifications take account of the fact that there is no "matching" in the case of adoptions from overseas, by substituting alternative references and defining a point at which an overseas adopter receives "official notification" of the overseas adoption. Regulation 3 revokes the Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoptions from Overseas) (Persons Abroad and Mariners) Regulations 2003 (S.I. 2003/1193), which are replaced by these Regulations.

The Social Security Advisory Committee has agreed, under section 173(1) of the Social Security Administration Act 1992, that these Regulations need not be referred to it under section 172(1) of that Act.

A full impact assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

© Crown copyright 2010

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.00

E5889 02/2010 105889T 19585