STATUTORY RULES OF NORTHERN IRELAND

2015 No. 99

EMPLOYMENT

WORK AND FAMILIES

The Statutory Shared Parental Pay (Adoptions from Overseas) Regulations (Northern Ireland) 2015

Made - - - - 2nd March 2015

Coming into operation - 5th April 2015

Approved by resolution of the Assembly on 12th May 2015

The Department for Employment and Learning makes the following Regulations in exercise of the powers conferred by sections 167ZW, 167ZX(1), and (8) to (11), 167ZZ(1), 167ZZ1(2) and (3), 167ZZ2(1), and (3) to (5), 167ZZ4(3), 167ZZ7(3), (4), (7), and (8), and 171(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) and by section 5(1)(g), (j), (m) and (q) of the Social Security Administration (Northern Ireland) Act 1992(**b**) and with the concurrence of the Commissioners for Her Majesty's Revenue and Customs in so far as such concurrence is required.

Citation and commencement

1. These Regulations may be cited as the Statutory Shared Parental Pay (Adoptions from Overseas) Regulations (Northern Ireland) 2015 and come into operation on 5th April 2015.

Interpretation

2. In these Regulations—

"1992 Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

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

"the General Regulations" means the Statutory Shared Parental Pay (General) Regulations (Northern Ireland) 2015(**d**); and

(**a**) 1997 c. 7. Sections 167ZW, 167ZX, 167ZZ1, 167ZZ2, 167ZZ4 and 167ZZ7 were inserted by section 5 of the Work and Families Act (Northern Ireland) 2015 (c. 1 (N.I.). Sections 167ZW and 167ZX were modified by S.R. 2003 No. 221 as amended by S.R. 2015 No. 88.

(**b**) 1992 c. 8; section 5(4A)(a) was amended by 2015 c. 1 (N.I.), Schedule 1, paragraph 3(2); there are other amending instruments but none is relevant.

(**c**) S.R. 2003 No. 221, as amended by S.R. 2015 No. 88; there are other amending instruments but none is relevant.

(**d**) S.R. 2015 No. 94.

"statutory shared parental pay (adoption)" means any pay payable in accordance with the provisions of Part 12ZC of the 1992 Act(**a**) where the conditions in sections 167ZW and 167ZX 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.

(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 Northern Ireland" means enter Northern Ireland 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) in the case of an adopter to whom the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003(**b**) apply and who is habitually resident in Northern Ireland, the Department of Health, Social Services and Public Safety; and

(b) 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 Northern Ireland on or after 5th April 2015.".

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

(**a**) Part 12ZC was inserted by 2015 c. 1 (N.I.), section 5.
(**b**) S.R. 2003 No. 16, to which there are amendments not relevant to these Regulations.

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

(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 Northern Ireland".

(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 Northern Ireland by that time";

(b) for "placement of C" substitute "date of C's entry into Northern Ireland".

(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 Northern Ireland".

(5) For paragraph (4)(a) substitute—

"(a) the date on which A expects C to enter Northern Ireland; 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 Northern Ireland by that time";

(b) for "placement of C" substitute "date of C's entry into Northern Ireland".

(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 Northern Ireland".

(5) For paragraph (4)(a) substitute—

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

11. In regulation 23 (when statutory shared parental pay is not to be paid), in paragraph (1), for "C was placed for adoption (or where more than one child is placed for adoption through a single placement, the first anniversary of the date of placement of the first child)" substitute "C entered Northern Ireland (or where more than one child is adopted through a single arrangement, the first anniversary of the date on which the first child entered Northern Ireland)".

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", in each place where it occurs, substitute "or regulation 17 of the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003 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 17 of the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003 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 17 of the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003 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 17 of the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003 (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).

Sealed with the Official Seal of the Department for Employment and Learning on 2nd March 2015.

L.S.

Dr Stephen Farry
Minister for Employment and Learning

The Commissioners for Her Majesty's Revenue and Customs concur

Jim Harra
Edward Troup
10th March 2015 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 167ZX(13) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (as modified) as an adoption of a child who enters Northern Ireland 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 (Northern Ireland) Act 1992 (Application of Parts 12ZA, 12ZB and 12ZC to Adoptions from Overseas) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 221), which provide for the provisions of Part 12ZC of the Social Security Contributions and Benefits (Northern Ireland) 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 (Northern Ireland) 2015 apply to adoptions from overseas.

Regulations 4 to 16 set out the modifications which apply to the Statutory Shared Parental Pay (General) Regulations (Northern Ireland) 2015 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 impacts were assessed within the document 'Sharing parental rights, extending flexibility at work – public consultation', published in May 2013 (www.delni.gov.uk/index/consultation-zone/archived-consultations/archived-consultations-2013/working-parents-rights.htm), and supplemented by a further publication in April 2014 (www.delni.gov.uk/index/publications/equality-good-relations/shared-parental-leave-and-pay.htm).

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