



2015 CHAPTER 1

**PART 2**

**SHARED RIGHTS TO LEAVE AND PAY**

*Other statutory rights*

**Other statutory rights to leave of prospective adopters with whom looked after children are placed**

- 8.—(1) The Employment Rights Order is amended as follows.
- (2) In Article 107A (ordinary adoption leave), after paragraph (1) insert—
- “(1A) The conditions that may be prescribed under paragraph (1) include the condition mentioned in Article 107AB.”.
- (3) After that Article, insert—

**“Ordinary adoption leave: prospective adopters with whom looked after children are placed**

**107AB.**—(1) The condition referred to in Article 107A(1A) is a condition as to the employee—

- (a) being an approved foster parent,
- (b) being an approved prospective adopter,
- (c) being notified by an authority that a child who is looked after by it is to be, or is expected to be, placed with the employee by the authority under Article 27(2)(a) of the Children (Northern Ireland) Order 1995, in the circumstances mentioned in paragraph (2), and
- (d) satisfying such further conditions as may be prescribed.

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(2) The circumstances referred to in paragraph (1)(c) are that the authority—

- (a) is considering adoption for the child, or
- (b) has decided by virtue of regulation 11 of the Adoption Agencies Regulations (Northern Ireland) 1989 that it is satisfied that adoption is in the best interests of the child.

(3) In this Article—

“approved foster parent” means a person approved as a foster parent by the authority under regulation 3 of the Foster Placement (Children) Regulations (Northern Ireland) 1996,

“approved prospective adopter” means a person considered by the authority by virtue of the Adoption Agencies Regulations (Northern Ireland) 1989 to be a person suitable to adopt a child,

“authority” has the same meaning as in the Children (Northern Ireland) Order 1995 (see Article 2(2) and (3) of the Order),

“child who is looked after by an authority” has the same meaning as in that Order (see Articles 2(7)(b) and 25 of the Order).

(4) The Department may by order amend the definition of, or substitute another definition for the definition of, “approved foster parent” or “approved prospective adopter” for the time being contained in paragraph (3), in consequence of any modification or replacement of the regulations referred to in the definition.”.

(4) In Article 112B (entitlement to ordinary paternity leave: adoption), in paragraph (5), after sub-paragraph (a) insert—

- “(aa) make provision excluding the right to be absent on leave under this Article in the case of an employee who, by virtue of provision under Article 112BA(1), has already exercised a right to be absent on leave under this Article in connection with the same child;”.

(5) After that Article, insert—

**“Entitlement to paternity leave: prospective adopters with whom looked after children are placed**

**112BA.**—(1) Regulations made under Article 112B(1) are to include provision for leave in respect of a child who is looked after by an authority and who is to be, or is expected to be, placed by the authority under Article 27(2)(a) of the Children (Northern Ireland) Order 1995, in the circumstances mentioned in paragraph (2), with an approved foster parent who is also an approved prospective adopter.

(2) The circumstances are that—

- (a) the authority—

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- (i) is considering adoption for the child, or
- (ii) has decided by virtue of regulation 11 of the Adoption Agencies Regulations (Northern Ireland) 1989 that it is satisfied that adoption is in the best interests of the child, and
- (b) such conditions as may be specified are satisfied.
- (3) Regulations made under Article 112B(1) are to provide for Article 112B to have effect, in relation to provision made by virtue of paragraph (1), as if—
  - (a) references to a child being placed for adoption or placement for adoption were such references as may be specified,
  - (b) in paragraph (5), sub-paragraph (aa) were omitted.
- (4) In this Article, “approved foster parent”, “approved prospective adopter”, “authority” and “child who is looked after by an authority” have the same meaning as in Article 107AB.”.

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**Commencement Information**

**II** S. 8 in operation at 15.3.2015 by S.R. 2015/86, art. 3(1)(f)

**Other statutory rights to pay of prospective adopters with whom looked after children are placed**

- 9.—(1) The Contributions and Benefits Act is amended as follows.
- (2) After section 167ZB (entitlement to ordinary statutory paternity pay: adoption), insert—

**“167ZBA Entitlement: prospective adopters with whom looked after children are placed**

- (1) Subsection (3) applies in a case involving a child who is looked after by an authority and who is placed by the authority under Article 27(2)(a) of the Children (Northern Ireland) Order 1995, in the circumstances mentioned in paragraph (2), with an approved foster parent who is also an approved prospective adopter.
- (2) The circumstances are that—
- (a) the authority—
    - (i) is considering adoption for the child, or
    - (ii) has decided by virtue of regulation 11 of the Adoption Agencies Regulations (Northern Ireland) 1989 that it is satisfied that adoption is in the best interests of the child, and
  - (b) such conditions as may be prescribed are satisfied.

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(3) Section 167ZB has effect as if the following references or definitions were such references or definitions as may be prescribed—

- (a) the references in subsection (2) to a child being placed for adoption under the law of any part of the United Kingdom,
- (b) the reference in subsection (3) to the week in which the adopter is notified of being matched with the child for the purposes of adoption,
- (c) the reference in subsection (6) to placement for adoption,
- (d) the definition of “adopter” in subsection (7).

(4) Where, by virtue of subsections (1) to (3), a person becomes entitled to statutory paternity pay in connection with the placement of a child as mentioned in those subsections, the person may not become entitled to payments of statutory paternity pay in connection with the placement of the child for adoption.

(5) In this section—

“approved foster parent” means a person approved as a foster parent by the authority under regulation 3 of the Foster Placement (Children) Regulations (Northern Ireland) 1996,

“approved prospective adopter” means a person considered by the authority by virtue of the Adoption Agencies Regulations (Northern Ireland) 1989 to be a person suitable to adopt a child,

“authority” has the same meaning as in the Children (Northern Ireland) Order 1995 (see Article 2(2) and (3) of the Order),

“child who is looked after by an authority” has the same meaning as in that Order (see Articles 2(7)(b) and 25 of the Order).

(6) The Department may by order amend the definition of, or substitute another definition for the definition of, “approved foster parent” or “approved prospective adopter” for the time being contained in subsection (5), in consequence of any modification or replacement of the regulations referred to in the definition.”.

(3) In section 167ZE (rate and period of statutory paternity pay), after subsection (11) add—

“(12) Where statutory paternity pay is payable to a person by virtue of section 167ZBA(1) to (3), this section has effect as if the following references were such references as may be prescribed—

- (a) the references in subsections (3)(b) and (10) to placement for adoption,
- (b) the references in subsection (10) to being placed for adoption.”.

(4) After section 167ZL (entitlement to statutory adoption pay), insert—

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**“167ZLA Entitlement: prospective adopters with whom looked after children are placed**

(1) Subsection (3) applies in a case involving a child who is looked after by an authority and who is, or is expected to be, placed by the authority under Article 27(2)(a) of the Children (Northern Ireland) Order 1995, in the circumstances mentioned in paragraph (2), with an approved foster parent who is also an approved prospective adopter.

(2) The circumstances are that—

(a) the authority—

(i) is considering adoption for the child, or

(ii) has decided by virtue of regulation 11 of the Adoption Agencies Regulations (Northern Ireland) 1989 that it is satisfied that adoption is in the best interests of the child, and

(b) such conditions as may be prescribed are satisfied.

(3) Section 167ZL has effect as if the following references or definitions were such references or definitions as may be prescribed—

(a) the reference in subsection (2)(a) to a child being placed for adoption under the law of any part of the United Kingdom,

(b) the reference in subsection (3) to the week in which the person is notified that he has been matched with the child for the purposes of adoption,

(c) the reference in subsection (5) to placement, or expected placement, for adoption.

(4) Where, by virtue of subsections (1) to (3), a person becomes entitled to statutory adoption pay in respect of a child who is, or is expected to be placed as mentioned in subsection (1), the person may not become entitled to payments of statutory adoption pay as a result of the child being, or being expected to be, placed for adoption.

(5) In this section, “approved foster parent”, “approved prospective adopter”, “authority” and “child who is looked after by an authority” have the same meaning as in section 167ZBA.”.

(5) In section 167ZN (rate and period of statutory adoption pay), after subsection (8) add—

“(9) Where statutory adoption pay is payable to a person by virtue of section 167ZLA(1) to (3), this section has effect as if the reference in subsection (2F) to the week in which the person is notified that he has been matched with a child for the purposes of adoption were such reference as may be prescribed.”.

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*Changes to legislation: There are currently no known outstanding effects for the Work and Families Act (Northern Ireland) 2015, Cross Heading: Other statutory rights. (See end of Document for details)*

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#### Commencement Information

I2 S. 9 in operation at 15.3.2015 by S.R. 2015/86, art. 3(1)(g)

### Other statutory rights to leave of applicants for parental orders

10.—(1) The Employment Rights Order is amended as follows.

(2) After Article 107AB (ordinary adoption leave: prospective adopters with whom looked after children are placed) (inserted by section 8(3)), insert—

#### “Power to apply Article 107A to other cases

**107AC** The Department may by regulations provide for Article 107A to have effect in relation to cases which involve an employee who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order, with such modifications as may be prescribed”.

(3) After Article 107B (additional adoption leave), insert—

#### “Power to apply Article 107B to other cases

**107BA** The Department may by regulations provide for Article 107B to have effect in relation to cases which involve an employee who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order, with such modifications as may be prescribed”.

(4) In Article 107D (supplemental provision about adoption leave), after paragraph (1) insert—

“(1A) Where Article 107A or 107B has effect in relation to such cases as are described in Article 107AC or 107BA, regulations under Article 107A or 107B about evidence to be produced may require statutory declarations as to—

- (a) eligibility to apply for a parental order,
- (b) intention to apply for such an order.”.

(5) After Article 112BA (entitlement to paternity leave: prospective adopters with whom looked after children placed) (inserted by section 8(5)), insert—

#### “Power to apply Article 112B to other cases

**112BAA** The Department may by regulations provide for Article 112B to have effect in relation to cases which involve an employee who has applied, or intends to apply, with another person for a parental order under section 54

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of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order, with such modifications as may be specified”.

**Commencement Information**

**I3** S. 10 in operation at 15.3.2015 by S.R. 2015/86, art. 3(1)(h)

**Other statutory rights to pay of applicants for parental orders**

**11.—(1)** The Contributions and Benefits Act is amended as follows.

(2) In section 167ZK (power to apply Part 12ZA, statutory paternity pay, to adoption cases not involving placement)—

- (a) in the title, for “adoption cases not involving placement”, substitute “ other cases ”,
- (b) the existing text becomes subsection (1),
- (c) after that subsection add—

“(2) The Department may by regulations provide for this Part to have effect in relation to cases which involve a person who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order, with such modifications as may be prescribed.”.

(3) In section 167ZT (power to apply Part 12ZB, statutory adoption pay, to adoption cases not involving placement)—

- (a) in the title, for “adoption cases not involving placement”, substitute “ other cases ”,
- (b) the existing text becomes subsection (1),
- (c) after that subsection add—

“(2) The Department may by regulations provide for this Part to have effect in relation to cases which involve a person who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order, with such modifications as may be prescribed.

(3) Regulations under subsection (2) may modify section 167ZL(8)(c) so as to enable regulations made by virtue of section 167ZL(8) to impose requirements to make statutory declarations as to—

- (a) eligibility to apply for a parental order,
- (b) intention to apply for such an order.”.

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**Commencement Information**

**I4** S. 11 in operation at 15.3.2015 by S.R. 2015/86, art. 3(1)(i)

**Statutory paternity pay: notice requirement and period of payment**

**12.**—(1) The Contributions and Benefits Act is amended as follows.

(2) In section 167ZC (further provision as to entitlement to statutory paternity pay)—

(a) in subsection (1) (requirement to give notice), for the words from “only if” to the end substitute “only if he gives the person who will be liable to pay it notice of the week or weeks in respect of which he expects there to be liability to pay him statutory paternity pay.”,

(b) after that subsection insert—

“(1A) Regulations may provide for the time by which notice under subsection (1) is to be given.”.

(3) In section 167ZE (rate and period of statutory paternity pay)—

(a) in subsection (2) (period of pay), for the words from “be payable” to the end substitute “be payable in respect of—

(a) such week within the qualifying period; or

(b) such number of weeks, not exceeding the prescribed number of weeks, within the qualifying period,

as he may choose in accordance with regulations.”,

(b) after subsection (2) insert—

“(2A) Provision under subsection (2)(b) is to secure that the prescribed number of weeks is not less than two.”,

(c) after subsection (2A) (as inserted by paragraph (b)) insert—

“(2B) Regulations under subsection (2) may permit a person entitled to receive statutory paternity pay to choose to receive such pay in respect of non-consecutive periods each of which is a week or a number of weeks.”.

(4) In section 172 (Assembly control of regulations and orders), in subsection (2) (regulations to which confirmatory procedure applies), in paragraph (a), after “section 167ZE(1)” insert “or (2)(b)”.

**Commencement Information**

**I5** S. 12(1)(2) in operation at 15.3.2015 by S.R. 2015/86, art. 3(1)(j) (with art. 6(1))



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### Rate of statutory adoption pay

**13.—**(1) The Contributions and Benefits Act is amended as follows.

(2) In section 167ZN (rate and period of statutory adoption pay)—

(a) omit subsection (1) (rate of pay),

(b) after subsection (2D) (as inserted by section 6(6)) insert—

“(2E) Statutory adoption pay shall be payable to a person—

(a) at the earnings-related rate, in respect of the first 6 weeks in respect of which it is payable; and

(b) at whichever is the lower of the earnings-related rate and such weekly rate as may be prescribed, in respect of the remaining portion of the adoption pay period.

(2F) The earnings-related rate is a weekly rate equivalent to 90 per cent of a person's normal weekly earnings for the period of 8 weeks ending with the week in which the person is notified that the person has been matched with a child for the purposes of adoption.

(2G) The weekly rate prescribed under subsection (2E)(b) shall not be less than the weekly rate of statutory sick pay for the time being specified in section 153(1) or, if two or more such rates are for the time being so specified, the higher or highest of those rates.”,

(c) in subsection (7), for “subsection (2)” substitute “ subsections (2) and (2E) ”.

(3) In section 172 (Assembly control of regulations and orders), in subsection (2) (regulations to which confirmatory procedure applies), in paragraph (a), omit the words “or section 167ZN(1)”.

#### Commencement Information

**I6** S. 13 in operation at 5.4.2015 by S.R. 2015/86, art. 4(1)(c) (with art. 7(1))

### Further amendments

**14.—**(1) Schedule 1 (which contains further amendments relating to statutory rights to leave and pay) has effect.

(2) A reference to ordinary statutory paternity pay in an instrument or document made before the coming into operation of sub-paragraphs (8) and (9) of paragraph 2 of Schedule 1 is to be read, in relation to any time after the coming into operation of those paragraphs, as a reference to statutory paternity pay.

(3) A reference to statutory paternity pay in a statutory provision (including a statutory provision amended by this Act) or in an instrument or document is to be read, in relation to any time that falls—

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**Changes to legislation:** *There are currently no known outstanding effects for the Work and Families Act (Northern Ireland) 2015, Cross Heading: Other statutory rights. (See end of Document for details)*

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- (a) after the coming into operation of paragraphs 11 and 12 of Schedule 1 to the Work and Families (Northern Ireland) Order 2006, but
- (b) before the coming into operation of sub-paragraphs (8) and (9) of paragraph 2 of Schedule 1,

as a reference to ordinary statutory paternity pay.

(4) Subsection (3) does not apply to the extent that a reference to statutory paternity pay is a reference to additional statutory paternity pay.

(5) In this section, “statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

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#### **Commencement Information**

- I7** S. 14(1) in operation at 15.3.2015 for specified purposes by S.R. 2015/86, **art. 3(1)(k)**
- I8** S. 14(1) in operation at 5.4.2015 in so far as not already in operation by S.R. 2015/86, **art. 4(1)(d)**
- I9** S. 14(2)-(5) in operation at 5.4.2015 by S.R. 2015/86, **art. 4(1)(d)** (with art. 7(2))

**Changes to legislation:**

There are currently no known outstanding effects for the Work and Families Act (Northern Ireland) 2015, Cross Heading: Other statutory rights.