

**2004 No. 132**

**EMPLOYMENT**

**Statutory Paternity Pay and Statutory Adoption Pay  
(Amendment) Regulations (Northern Ireland) 2004**

*Made* - - - - - *24th March 2004*

*Coming into operation* *6th April 2004*

The Department for Employment and Learning<sup>(a)</sup> in exercise of the powers conferred on it by sections 167ZB(2)(a), 167ZJ(1) and (7), 167ZK, 167ZS(1) and (7), 167ZT and 171(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(b)</sup>, and of every other power enabling it in that behalf, and with the concurrence of the Commissioners of Inland Revenue in so far as such concurrence is required for this Statutory Rule, hereby makes the following Regulations:

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Statutory Paternity Pay and Statutory Adoption Pay (Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 6th April 2004.

(2) In these Regulations –

“the General Regulations” means the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations (Northern Ireland) 2002<sup>(c)</sup>;

“the Modification Regulations” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Application of Parts XIIZA and XIIZB to Adoptions from Overseas) Regulations (Northern Ireland) 2003<sup>(d)</sup>;

“the Overseas Adoptions Regulations” means the Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoption from Overseas) Regulations (Northern Ireland) 2003<sup>(e)</sup>.

**Amendment of the General Regulations**

**2.**—(1) The General Regulations shall be amended as follows.

(2) In regulation 11 (conditions of entitlement to statutory paternity pay (adoption): relationship with child and with person with whom the child is placed for adoption) –

(a) at the end of paragraph (2) (definition of “partner”), for “(3)” substitute “(2A)”;

(b) after paragraph (2), insert the following paragraph –

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(a) Formerly the Department of Higher and Further Education, Training and Employment; *see* 2001 c. 15 (N.I.)  
(b) 1992 c. 7; sections 167ZB, 167ZJ and 167ZK were inserted by Article 5 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)), and sections 167ZS and 167ZT were inserted by Article 6 of that Order  
(c) S.R. 2002 No. 378  
(d) S.R. 2003 No. 221  
(e) S.R. 2003 No. 223

- “(2A) The relatives of the adopter referred to in paragraph (2) are the adopter’s parent, grandparent, sister, brother, aunt or uncle.”;
- (c) in paragraph (3), for “(2)” substitute “(2A)”.

### **Amendment of the Modification Regulations**

**3.—**(1) The Modification Regulations shall be amended as follows.

(2) In Schedule 1 (Application of Part XIIZA of the Social Security Contributions and Benefits (Northern Ireland) Act to Adoptions from Overseas) –

- (a) omit the first modification to section 167ZB(2) of the Act (referring to subsection (3A));
- (b) after the third modification to section 167ZB(2) (relating to paragraph (a)(ii)), insert the following modification –

“In paragraph (b), omit “ending with the relevant week””;

- (c) for the modification to section 167ZB(3) (defining the relevant week), substitute the following modification –

“For subsection (3) substitute –

“(3) The references in subsection (2)(c) and (d) to the relevant week are to –

- (a) the week in which official notification is sent to the adopter, or
- (b) the week at the end of which the person satisfies the condition in subsection (2)(b),

whichever is the later.””;

- (d) omit the modification inserting section 167ZB(3A).

(3) In Schedule 2 (Application of Part XIIZB of the Social Security Contributions and Benefits (Northern Ireland) Act to Adoptions from Overseas) –

- (a) omit the first modification to section 167ZL(2) of the Act (referring to subsection (3A));
- (b) after the second modification to subsection 167ZL(2) (relating to paragraph (a)), insert the following modification –

“In paragraph (b), omit “ending with the relevant week””;

- (c) for the modification to subsection 167ZL(3) (defining the relevant week), substitute the following modification –

“For subsection (3) substitute –

“(3) The reference in subsection (2)(d) to the relevant week is to –

- (a) the week in which official notification is sent to the adopter, or
- (b) the week at the end of which the person satisfies the condition in subsection (2)(b),

whichever is the later.””;

- (d) omit the modification inserting section 167ZL(3A).

### **Amendment of the Overseas Adoptions Regulations**

**4.—**(1) The Overseas Adoptions Regulations shall be amended as follows.

(2) In regulation 3(4) (application of regulation 40 of the General Regulations subject to modified definitions), for paragraph (a) (definition of the “appropriate date”) substitute –

- “(a) in paragraph (2)(b), for “the week in which the adopter is notified of being matched with the child for the purposes of adoption” there were substituted –

“the week in which –

- (i) official notification is sent to the adopter; or
- (ii) the person satisfies the condition in section 167ZB(2)(b) or 167ZL(2)(b) of the Act (26 weeks’ continuous employment),

whichever is the later.””

Sealed with the Official Seal of the Department for Employment and Learning on 24th March 2004.

(L.S.)

*R. B. Gamble*

A senior officer of the Department for Employment and Learning

The Commissioners of Inland Revenue hereby concur

*Ann Chant*

*Helen Ghosh*

1st April 2004

Two of the Commissioners of Inland Revenue

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### **EXPLANATORY NOTE**

*(This note is not part of the Regulations.)*

These Regulations amend provisions in three statutory instruments relating to statutory paternity pay and statutory adoption pay.

Regulation 2 amends regulation 11 of the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations (Northern Ireland) 2002 (“the General Regulations”), which concerns certain of the conditions of entitlement to statutory paternity pay (adoption). One of the conditions is that a person is married to or the partner of a child’s adopter. The amendment remedies an omission from the definition of “partner”, listing relatives of the adopter who are not to be regarded as his or her partner.

Regulation 3 amends provisions in the Schedules to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Application of Parts XIIZA and XIIZB to Adoptions from Overseas) Regulations (Northern Ireland) 2003 (“the Modification Regulations”). The provisions in question modify the conditions of entitlement to statutory paternity pay (adoption) and statutory adoption pay contained in sections 167ZB and 167ZL of the 1992 Act, to take account of differences between the procedures for domestic adoptions and those for adoptions from overseas. The condition, in subsection (2)(b) of both sections, requiring 26 weeks’ continuous employment ending with the week in which the adopter is notified of being matched with a child for the purposes of adoption is modified – by a change in the definition of “the relevant week” – to refer to 26 weeks’ continuous employment ending with the week in which the adopter is sent official notification that he or she has been approved as a suitable adoptive parent. However, by virtue of an exception inserted as subsection (3A) of sections 167ZB and 167ZL, a person is enabled to qualify by virtue of employment partly before and partly after official notification is sent. The amendments in these Regulations remove both the requirement that a person’s 26 weeks’ employment must be prior to the week of notification and the exception to it. In consequence a person is enabled to satisfy the qualifying employment condition even where he or she was in a different employment or unemployed at the time at which official notification was received.

The amendments in regulation 3 also modify the definition of “the relevant week” for the purpose of the condition that a person’s normal weekly earnings exceed the lower earnings limit for national insurance during the 8 weeks ending with the relevant week. The relevant week becomes the later of the week in which official notification is sent and the week in which the person completes the qualifying employment condition.

Regulation 4 amends regulation 3(4) of the Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoption from Overseas) Regulations (Northern Ireland) 2003 (“the Overseas Adoptions Regulations”), which modifies regulation 40 of the General Regulations in relation

to adoptions from overseas. Regulation 40 provides for the calculation of a person's normal weekly earnings by reference to a period linked to an "appropriate date". In relation to statutory paternity pay (adoption) and statutory adoption pay, the appropriate date is defined as meaning the first day of the week after the week in which the adopter is notified of being matched with a child for the purpose of adoption. Regulation 3(4) of the Overseas Adoptions Regulations modifies the definition to refer to the week in which the adopter receives official notification. The amendment in these Regulations corresponds to that made to the definition of the relevant week. The appropriate date becomes the first day of the week after the official notification week or the week in which the qualifying employment requirement is satisfied, whichever is the later.

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