
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 98

**The Shared Parental Leave and Paternity and Adoption Leave
(Adoptions from Overseas) Regulations (Northern Ireland) 2015**

PART 3

Application of the Leave Regulations

Application of the Leave Regulations to adoptions from overseas

7.—(1) The provisions of the Leave Regulations mentioned in paragraph (2), insofar as they apply to shared parental leave (adoption), apply to adoptions from overseas, subject to the modifications set out in paragraphs (3) and (4) and regulations 8 to 21.

(2) The relevant provisions are—

- (a) regulation 2;
- (b) regulation 3;
- (c) Parts 3 to 6;
- (d) Part 2 of the Schedule.

(3) Any references in the provisions of the Leave Regulations mentioned in paragraph (2) to the provisions in Chapter 1B of Part 9 of the 1996 Order must be construed as references to the provisions of Chapter 1B as modified by the Application Regulations.

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

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

8. The Leave Regulations are modified as follows.

9. In regulation 2 (application) for paragraph (2) substitute—

“(2) The provisions relating to shared parental leave in Part 3 have effect only in relation to children who enter Northern Ireland on or after 5th April 2015.”.

10.—(1) Regulation 3 (interpretation) 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, or, in a case where two people have adopted C jointly, whichever of them has elected to be the adopter for the purposes of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002(1);”;

- (b) for the definition of “AP” substitute—
- ““AP” means the person who at the date on which C enters Northern Ireland is married to, or the civil partner or the partner of, A;” and
- (c) 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) where the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003(2) apply to A and A 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.”.

11.—(1) Regulation 20 (adopter’s entitlement to shared parental leave) is modified as follows.

(2) In paragraphs (2)(b) and (3)(b) for “of the placement for adoption of C” substitute “on which C enters Northern Ireland”.

(3) In paragraph (4) for “placed for adoption through a single placement” substitute “adopted as part of the same arrangement”.

12.—(1) Regulation 21 (adopter’s partner’s entitlement to shared parental leave) is modified as follows.

(2) In paragraphs (2)(b) and (3)(b) for “of the placement for adoption of C” substitute “on which C enters Northern Ireland”.

(3) In paragraph (4) for “placed for adoption through a single placement” substitute “adopted as part of the same arrangement”.

13. In regulation 23 (periods when shared parental leave may be taken), for paragraph (1) substitute—

“(1) Shared parental leave may be taken at any time within the period which begins on the date on which C enters Northern Ireland (or where more than one child is adopted as a result of the same arrangement, the date on which the first child entered Northern Ireland) and ends on the day before the first anniversary of that date.”.

14.—(1) Regulation 24 (adopter’s notice of entitlement) is modified as follows.

(2) For sub-paragraph (c) in paragraph (2) substitute—

“(c) the date that A received the official notification;”.

(3) For sub-paragraph (d) in paragraph (2) substitute—

“(d) the date on which C is expected to enter Northern Ireland (except as provided for in paragraph (5));”.

(4) For paragraph (5) substitute—

“(5) Where a notice is given under paragraph (1) before the date that C enters Northern Ireland and C enters Northern Ireland less than eight weeks before the start of the first period of shared parental leave, A must give the date of C’s entry into Northern Ireland to A’s employer as soon as reasonably practicable and, in any event, before the first period of shared parental leave to be taken by A.”

15.—(1) Regulation 25 (adopter’s partner’s notice of entitlement) is modified as follows.

(2) For sub-paragraph (c) in paragraph (2) substitute—

“(c) the date that A received the official notification;”

(3) For sub-paragraph (d) in paragraph (2) substitute—

“(d) the date that C is expected to enter Northern Ireland (except as provided for in paragraph (4));”

(4) For paragraph (4) substitute—

“(4) Where a notice is given under paragraph (1) before the date that C enters Northern Ireland, AP must give the date of C’s entry into Northern Ireland to AP’s employer as soon as reasonably practicable after the entry and, in any event, before the first period of shared parental leave to be taken by AP.”

16.—(1) Regulation 26 (supplementary evidence) is modified as follows.

(2) For sub-paragraph (a) of paragraph (1) substitute—

“(a) a copy of the official notification; and”

(3) For sub-paragraph (a) of paragraph (2) substitute—

“(a) a copy of the official notification; and”

17. In regulation 28 (period of leave notice), for sub-paragraph (c) of paragraph (4) substitute—

“(c) if given before C enters Northern Ireland—

(i) contain a start date for the leave which is the day on which C enters Northern Ireland or which is expressed as a number of days following the date of C’s entry into Northern Ireland;

(ii) contain an end date expressed as a number of days following the date of C’s entry into Northern Ireland.”

18. In regulation 34 (entitlement in the event of disrupted placement or death), for paragraph (b) substitute—

“(b) regulation 17 of the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003 applies.”

19. In regulation 35 (continuity of employment test), in sub-paragraph (b) of paragraph (3), for “A was notified of having been matched for adoption with C” substitute “A received the official notification”.

20. In regulation 36 (employment and earnings test), in paragraph (5), for the definition of “calculation week” substitute—

““calculation week” means the week during which C enters Northern Ireland;”

21.—(1) Paragraph 10 (entitlement in the event of disrupted placement or death) of the Schedule is modified as follows.

(2) For sub-paragraph (1) substitute—

“(1) Where after a notice of entitlement has been given under regulation 24—

- (a) C dies; or
 - (b) regulation 17 of the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003,

the modifications set out in paragraphs (3), (5) and (6) apply in relation to the entitlement of A to shared parental leave after C dies or either of those regulations apply.”.
- (3) For sub-paragraph (2) substitute—
 - “(2) Where after a notice of entitlement has been given under regulation 25—
 - (a) C dies; or
 - (b) regulation 17 of the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003 applies,

the modifications set out in paragraphs (4) to (6) apply in relation to the entitlement of AP to shared parental leave after C dies or either of those regulations apply.”.
- (4) For sub-paragraph (6) substitute—
 - “(6) In regulation 32, for paragraph (1) substitute—
 - “(1) After the date on which C dies or regulation 17 of the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003 applies, only one notice may be given under regulation 31.”.”.
- (5) For sub-paragraph (7) substitute—
 - “(7) Where more than one child is adopted as a result of the same arrangement, 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 must be construed as a reference to the last of those children to die or to the last of those children in relation to whom those regulations applied.”.