

**2003 No. 920**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Employment Rights Act 1996 (Application of Section 80B to Adoptions from Overseas) Regulations 2003**

*Made* - - - - - *26th March 2003*

*Coming into force* - - - *1st April 2003*

Whereas a draft of the following Regulations was laid before Parliament in accordance with section 236(3) of the Employment Rights Act 1996(a) and approved by a resolution of each House of Parliament:

Now, therefore, the Secretary of State, in exercise of her powers under section 80B(8) of that Act(b), hereby makes the following Regulations—

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Employment Rights Act 1996 (Application of Section 80B to Adoptions from Overseas) Regulations 2003 and shall come into force on 1st April 2003.

(2) In these Regulations—

“the Act” means the Employment Rights Act 1996;

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

**Application of section 80B of the Employment Rights Act 1996 to adoptions from overseas**

2. Section 80B of the Act shall have effect in relation to adoptions from overseas with the modifications of the provisions specified in the first column of the Schedule to these Regulations that are set out opposite those provisions in the second column of that Schedule.

*Alan Johnson,*  
Minister of State for Employment Relations,  
Industry and the Regions,  
Department of Trade and Industry

26th March 2003

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(a) 1996 c. 18; section 236(3) was amended by paragraph 42 of Part 3 of Schedule 4 to the Employment Relations Act 1999 (c. 26) and paragraph 49 of Schedule 7 to the Employment Act 2002 (c. 22).

(b) Section 80B of the Employment Rights Act 1996 was inserted by section 1 of the Employment Act 2002.

SCHEDULE

Regulation 2

<i>Provision</i>	<i>Modification</i>
Section 80B(1)	In paragraph (b), for “placed, or expected to be placed, for adoption under the law of any part of the United Kingdom” substitute “who is the subject of adoption from overseas”.
	In paragraph (c), for “a person with whom the child is, or is expected to be, so placed for adoption” substitute “an adopter of the child”.
	At the end, for “person by reference to whom he satisfies the condition under paragraph (c)” substitute “the child’s adopter”.
Section 80B(4)	For “child’s placement for adoption” substitute “child’s entry into Great Britain”.
Section 80B(5)	In paragraph (a), for “a person with whom a child is placed for adoption” substitute “a child’s adopter”.
	In paragraph (b), for “exercises a right to be absent from work on adoption leave” substitute “is a child’s adopter”.
	In paragraph (c), for “is placed for adoption” substitute “is the subject of adoption from overseas”.
Section 80B(6)	For subsection (6) substitute— “(6) Where more than one child is the subject of adoption from overseas as part of the same arrangement, and the date of entry of each child is different, the reference in subsection (4) to the date of the child’s entry into Great Britain shall be interpreted as a reference to the date of the entry of the first child to enter Great Britain.”.
Section 80B(7)	For subsection (7), substitute— “(7) In this section— “adopter”, in relation to a child, means a person by whom the child has been or is to be adopted or, in a case where the child has been or is to be adopted by two people jointly, whichever of them is the child’s adopter for the purposes of regulations under this section; “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 which does not involve the placement of the child for adoption under the law of any part of the United Kingdom; “week” means any period of seven days.”.

## **EXPLANATORY NOTE**

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

Section 80B of the Employment Rights Act 1996 contains the powers under which the Secretary of State may make regulations entitling an employee to paternity leave. These Regulations, made under section 80B(8) of that Act, provide for section 80B to have effect, with modifications, in relation to an adoption from overseas. This means the adoption of a child who enters Great Britain from outside the United Kingdom in connection with or for the purposes of an adoption which does not involve the placement of the child for adoption under the law of any part of the United Kingdom.

Children who are adopted from overseas are not placed for adoption. In England and Wales they are treated as privately fostered under section 66 of the Children Act 1989 or as protected children under sections 32–37 of the Adoption Act 1976. In Scotland children who have been brought into Great Britain from overseas for the purpose of adoption are treated as privately fostered in terms of the Foster Children (Scotland) Act 1984. Accordingly, where section 80B refers to the placement of a child, it is modified by these Regulations to refer to the entry of the child into Great Britain. Where section 80B refers to the person with whom a child is placed, it is modified to refer to the child's adopter.

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