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STATUTORY INSTRUMENTS

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**2006 No. 2012**

**TERMS AND CONDITIONS OF EMPLOYMENT**

The Adoption and Children Act 2002 (Consequential Amendment to Statutory Adoption Pay) Order 2006

*Made* - - - - 23rd July 2006  
*Coming into force* - - 1st October 2006

The Secretary of State makes the following Order in exercise of the powers conferred by sections 140(7) and 142(1) of the Adoption and Children Act 2002<sup>(1)</sup> (“the Act”).

A draft of this Order has been laid before Parliament in accordance with section 140(3)(c) of the Act and approved by resolution of each House of Parliament.

**Citation and commencement**

1. This Order may be cited as the Adoption and Children Act 2002 (Consequential Amendment to Statutory Adoption Pay) Order 2006 and shall come into force on 1st October 2006.

**Application**

2.—(1) The amendment to the Social Security Contributions and Benefits Act 1992<sup>(2)</sup> provided for in this Order shall have effect only in relation to a person with whom a child is expected to be placed for adoption, where the placement is expected to occur on or after 1st October 2006.

(2) For the purposes of paragraph (1), the date on which the child is actually placed for adoption is immaterial.

**Social Security Contributions and Benefits Act 1992**

3. Section 171ZL of the Social Security Contributions and Benefits Act 1992 is amended as follows—

- (a) in subsection (4) for paragraph (b) substitute—  
“ (b) he falls within subsection (4A). ”;
- (b) after subsection (4) insert—

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(1) 2002 c. 38.

(2) 1992 c. 4. Section 171ZL (inserted by section 4 of the Employment Act 2002 (c. 22)) was amended by section 254(1) of, and paragraph 50 of Schedule 24 to, the Civil Partnership Act 2004 (c. 33).

- “(4A) A person falls within this subsection if—
- (a) the child is, or is expected to be, placed for adoption with him as a member of a couple;
  - (b) the other member of the couple is a person to whom the conditions in subsection (2) above apply; and
  - (c) the other member of the couple has elected to receive statutory adoption pay.
- (4B) For the purposes of subsection (4A), a person is a member of a couple if—
- (a) in the case of an adoption or expected adoption under the law of England and Wales, he is a member of a couple within the meaning of section 144(4) of the Adoption and Children Act 2002<sup>(3)</sup>;
  - (b) in the case of an adoption or an expected adoption under the law of Scotland or of Northern Ireland, he is a member of a married couple.”.

*Jim Fitzpatrick*  
Parliamentary Under Secretary of State for  
Employment Relations  
Department of Trade and Industry

23rd July 2006

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(3) Section 144(4) was amended by section 79(1) and (12) of the Civil Partnership Act 2004.

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## EXPLANATORY NOTE

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

This Order makes a consequential amendment to the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”) which is necessary following the coming into force of the Adoption and Children Act 2002 (“the 2002 Act”).

Section 171ZL of the 1992 Act is amended to provide that in England and Wales a person may not elect to receive statutory adoption pay where a child is placed or about to be placed with him as a member of a couple and his partner satisfies the entitlement conditions for statutory adoption pay and has elected to receive it. “Couple” is defined in section 144(4) of the 2002 Act as a married couple, two people who are civil partners of each other or two people (whether of different sexes or of the same sex) living as partners in an enduring family relationship.