

2007 No. 2286

TERMS AND CONDITIONS OF EMPLOYMENT

**The Flexible Working (Eligibility, Complaints and Remedies)
(Amendment) (No. 2) Regulations 2007**

<i>Made</i>	- - - -	<i>31st July 2007</i>
<i>Laid before Parliament</i>		<i>2nd August 2007</i>
<i>Coming into force</i>	- -	<i>1st October 2007</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred on him by sections 80F(1)(b) and 80F(10) of the Employment Rights Act 1996(a):

Citation and commencement

1. These Regulations may be cited as the Flexible Working (Eligibility, Complaints and Remedies) (Amendment) (No. 2) Regulations 2007 and shall come into force on 1st October 2007.

Amendment of the Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002

2. The Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002(b) are amended as follows.

3. In regulation 2(1) (interpretation)—

(a) for the definition of “adopter” substitute—

““adopter”, in relation to a child, means—

(a) a person with whom an adoption agency has decided the child should be placed for adoption, or

(b) a person who has given notice of his intention to apply for an adoption order as required by section 44 of the Adoption and Children Act 2002(c) or section 22 of the Adoption (Scotland) Act 1978(d);”;

(b) after the definition of “adopter” insert—

““adoption agency” means an adoption agency within the meaning of section 2 of the Adoption and Children Act 2002, Article 3(3) of the Adoption (Northern Ireland) Order 1987(e) or section 1(4) of the Adoption (Scotland) Act 1978;”;

(a) 1996 c.18; section 80F was inserted by the Employment Act 2002 (c.22), sections 47(1) and (2) and amended by the Work and Families Act 2006 (c.18), section 12.

(b) S.I. 2002/3236; amended by S.I. 2005/2114, 2006/3314, 2007/1184.

(c) 2002 c.38.

(d) 1978 c.28; section 22 was amended by the Children Act 1989 (c.41), Schedule 10, paragraph 38. The Adoption (Scotland) Act 1978 (except Part IV) is prospectively repealed by the Adoption and Children (Scotland) Act 2007 (asp 4) but the relevant provisions have not yet been commenced.

(e) S.I. 1987/2203 (N.I. 22); Article 3(3) was amended by S.I. 1994/429 (N.I. 2).

(c) after the definition of “partner” insert—
““private foster carer” means a person fostering a child privately within the meaning of section 66 of the Children Act 1989(a) or an individual other than a parent of the child who maintains the child as a foster child for the purposes of the Foster Children (Scotland) Act 1984(b), or otherwise looks after the child in circumstances in which that Act applies by virtue of section 17 of that Act;”;

(d) after the definition of “relative” insert—
““residence order” means a residence order as defined by section 8(1) of the Children Act 1989 or section 11(2)(c) of the Children (Scotland) Act 1995(c);”.

4. In regulation 3 (entitlement to request a contract variation to care for a child) for paragraph (1)(b) substitute—

“(b) is either—

- (i) the mother, father, adopter, guardian, special guardian, foster parent or private foster carer of, or a person in whose favour a residence order is in force in respect of, the child; or
- (ii) married to, the civil partner of or the partner of—
 - (aa) the child’s mother, father, adopter, guardian, special guardian, foster parent or private foster carer, or
 - (bb) a person in whose favour a residence order is in force in respect of the child;”.

31st July 2007

Stephen Timms
Minister of State for Competitiveness
Department for Business, Enterprise & Regulatory Reform

(a) 1989 c.41; section 66 was amended by the Care Standards Act 2000 (c.14), section 116 and Schedule 4, paragraphs 14(1) and (15).
(b) 1984 c.56; section 1 was amended by the Children Act 1989 (c.41), Schedule 12, paragraph 41, and Schedule 15; section 2 was relevantly amended by the Children Act 1989 (c.41), Schedule 12, paragraph 42, by the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 35, and by the Regulation of Care (Scotland) Act 2001 (asp 8), Schedule 3, paragraph 12.
(c) 1995 c.36.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002 (S.I. 2002/3236) (“the 2002 Regulations”) in respect of the categories of person entitled to make a request under the statutory right for employees to request a contract variation to care for a child or an adult.

The right is provided for in the Employment Rights Act 1996 as amended by the Work and Families Act 2006.

Regulation 3 amends the definitions in regulation 2(1) of the 2002 Regulations. Those amendments redefine “adopter”, to extend the definition to those who are adopting a child, whether domestically or intercountry, where the child has not been placed with those adopters by a UK adoption agency. They also add definitions of “adoption agency”, “private foster carer” and “residence order”.

Regulation 4 adds private foster carer, and the spouse, partner and civil partner of a private foster carer, to the list of those people who are entitled to request a contract variation to care for a child, to encompass a category of people who foster children privately rather than those with whom children are placed by fostering services. It also adds a person in whose favour a residence order is in force in respect of a child, and the spouse, partner or civil partner of such a person, to that list.

No Impact Assessment of the costs and benefits of these Regulations to business has been prepared because the additional costs to business are estimated to be negligible.

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£3.00

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E1210 8/2007 171210T 19585