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STATUTORY RULES OF NORTHERN IRELAND

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**2003 No. 222**

**Paternity and Adoption Leave (Adoption from Overseas) Regulations (Northern Ireland) 2003**

**PART I  
GENERAL**

**Entitlement to paternity leave: adoption from overseas**

7. For regulations 8 to 10 of the Leave Regulations substitute –

**“Entitlement to paternity leave**

8.—(1) An employee is entitled to be absent from work for the purpose of caring for a child adopted from overseas or supporting the child’s adopter if he –

- (a) satisfies the conditions in paragraph (2), and
- (b) has complied with the notice requirements in regulation 10 and, where applicable, the evidential requirements in that regulation.

(2) The conditions referred to in paragraph (1) are that –

- (a) the child’s adopter has received an official notification;
- (b) the employee has been continuously employed for a period of not less than 26 weeks either –
  - (i) ending with the week in which the official notification was received, or
  - (ii) commencing with the week in which the employee’s employment with the employer began;
- (c) the employee is either married to or the partner of the child’s adopter, and
- (d) the employee has, or expects to have, the main responsibility (apart from the responsibility of the child’s adopter) for the upbringing of the child.

(3) In paragraph (2)(b), “week” means the period of seven days beginning with and including Sunday.

(4) An employee shall be treated as having satisfied the condition in paragraph (2)(c) if he would have satisfied it but for the fact that the child’s adopter died during the period of 56 days commencing with the date on which the child entered Northern Ireland.

(5) An employee shall be treated as having satisfied the condition in paragraph (2)(d) if he would have satisfied it but for the fact that the child has ceased to live with the adopter.

(6) An employee’s entitlement to leave under this regulation shall not be affected by the fact that more than one child is the subject of adoption from overseas by the adopter as part of the same arrangement.

### **Options in respect of leave under regulation 8**

9.—(1) An employee may choose to take either one week's leave or two consecutive weeks' leave in respect of a child under regulation 8.

(2) The leave may only be taken during the period of 56 days beginning with the date on which the child enters Northern Ireland.

(3) Subject to paragraph (2) and, where applicable, paragraph (4), an employee may choose to begin the period of leave under regulation 8 on –

- (a) the date on which the child enters Northern Ireland; or
- (b) a predetermined date, specified in a notice under regulation 10, which is later than the date on which the child enters Northern Ireland.

(4) In a case where the adopter received an official notification before 9th April 2003 and the adopter's child enters Northern Ireland after that date, the employee may choose to begin a period of paternity leave only on a predetermined date, specified in a notice under regulation 10, which is later than the date of entry and, unless the employer agrees to an earlier commencement of the leave period, is at least twenty-eight days after the date on which that notice was given.

### **Notice and evidential requirements for leave under regulation 8**

10.—(1) An employee intending to take paternity leave in respect of a child must give his employer notice of each of the following matters –

- (a) the date on which the adopter of the child received an official notification;
- (b) the date on which the child is expected to enter Northern Ireland;
- (c) the date which the employee has chosen as the date on which his period of paternity leave should begin, and
- (d) the date on which the child enters Northern Ireland.

(2) Notice provided for in –

- (a) paragraph (1)(a) and (b) must be given to the employer no more than 28 days after the date on which the adopter of the child receives the official notification or the date on which he completes 26 weeks' continuous employment with the employer, whichever is later;
- (b) paragraph (1)(c) must be given to the employer at least 28 days prior to the date which the employee has chosen as the date on which his period of paternity leave should begin, and
- (c) paragraph (1)(d) must be given to the employer no more than 28 days after the date on which the child enters Northern Ireland.

(3) Where the employer requests it, an employee must give his employer, within 14 days of receipt of a request, a written declaration, signed by the employee, to the effect that his partner or spouse has received an official notification and that he satisfies the conditions of entitlement in regulation 8(2)(c) and (d).

(4) A choice made under regulation 9(3) is not irrevocable but where an employee subsequently makes a different choice the notification requirements contained in paragraphs (1)(c) and (2)(b) shall apply to that choice.

(5) Any notice under paragraph (1) shall be given in writing, if the employer so requests.

(6) Where it becomes known to the employee that the child will not enter Northern Ireland, he shall notify the employer of the fact as soon as is reasonably practicable.”