STATUTORY RULES OF NORTHERN IRELAND

2015 No. 98

EMPLOYMENT

WORK AND FAMILIES

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

Made - - - - 2nd March 2015

Coming into operation 5th April 2015

Approved by resolution of the Assembly on 12th May 2015

The Department for Employment and Learning makes the following Regulations in exercise of the powers conferred by Articles 70C(2)(**1**), 107A(1), (2A) and (2B), 107B(3)(a) and (aa), and (3A), 107D(1)(a) and (2)(**2**), 107G (1) to (6), 107I(1), (4), (7) to (14) and (16), 107J(1), 107K(1), (4) and (5), 107L, 107M(1)(**3**), 112B(2) and (4A)(**4**), and 131(**5**) of the Employment Rights (Northern Ireland) Order 1996(**6**).

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Shared Parental Leave and Paternity and Adoption Leave (Adoptions from Overseas) Regulations (Northern Ireland) 2015 and come into operation on 5th April 2015.

Interpretation

2. In these Regulations—

(**1**) Article 70C was inserted by the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9)), Schedule 4, Part 3, paragraph 3; relevant amendments were made by the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2), Schedule 2, paragraph 4(6) and the Work and Families Act (Northern Ireland) 2015 (c. 1), Schedule 1, paragraph 4(1) and (5).

(**2**) Articles 107A, 107B and 107D were inserted by S.I. 2002/2836 (N.I. 2), Article 3. Articles 107A and 107B were amended by the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)), Schedule 1, paragraphs 32 and 33 and by 2015 c. 1 (N.I.), section 3(4) and (5). There are other amendments which are not relevant.

(**3**) Articles 107G to 107M were inserted by 2015 c. 1 (N.I.), section 2.

(**4**) Article 112B was inserted by S.I. 2002/2836 (N.I. 2), Article 4; paragraph (4A) was inserted by 2015 c. 1 (N.I.), section 3(7).

(**5**) Article 131 was substituted by S.I. 1999/2790 (N.I. 9), Schedule 4, Part 3, paragraph 8 and amended for relevant purposes by 2015 c. 1 (N.I.), Schedule 1, paragraph 4(16)(b).

(**6**) S.I. 1996/1919 (N.I. 16).

"the 1996 Order" means the Employment Rights (Northern Ireland) Order 1996(**7**);

"the Application Regulations" means the Employment Rights (Northern Ireland) Order 1996 (Application of Articles 107G and 107I to Adoptions from Overseas) Regulations (Northern Ireland) 2015(**8**);

"adoption from overseas" means the adoption of a child who enters Northern Ireland 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, and references to a child adopted from overseas shall be construed accordingly;

"Curtailment Regulations" means the Maternity and Adoption Leave (Curtailment of Statutory Rights to Leave) Regulations (Northern Ireland) 2015(**9**);

"enter Northern Ireland" means enter Northern Ireland from outside the United Kingdom in connection with or for the purposes of adoption;

"Leave Regulations" means the Shared Parental Leave Regulations (Northern Ireland) 2015(**10**);

"PAL (Adoption from Overseas) Regulations" means the Paternity and Adoption Leave (Adoption from Overseas) Regulations (Northern Ireland) 2003(**11**).

PART 2

Application of the Curtailment Regulations

Application of the Curtailment Regulations to adoptions from overseas

3.—(1) The provisions of the Curtailment Regulations, insofar as they provide for the curtailment of statutory adoption leave, apply to adoptions from overseas, subject to the modifications set out in paragraph (2) and regulations 4 to 6.

(2) Any references in the provisions of the Curtailment Regulations to the provisions in Chapter 1B of Part 9 of the 1996 Order(**12**) must be construed as references to the provisions of Chapter 1B as modified by the Application Regulations.

Modifications to the Curtailment Regulations

4. The Curtailment Regulations are modified as follows.

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

"(2) Part 3 of these Regulations has effect only in relation to children who enter Northern Ireland on or after 5th April 2015.".

6.—(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

(**7**) S.I. 1996/1919 (N.I. 16).
(**8**) S.R. 2015 No. 97.
(**9**) S.R. 2015 No. 95.
(**10**) S.R. 2015 No. 93.
(**11**) S.R. 2003 No. 222.
(**12**) Chapter 1B was inserted by the Work and Families Act (Northern Ireland) 2015 (c. 1 (N.I.)), section 2(2).

elected to be the adopter for the purposes of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002(**13**);";

(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) after the definition of "declaration of consent and entitlement", insert—

""enter Northern Ireland" means enter Northern Ireland from outside the United Kingdom in connection with or for the purposes of adoption;".

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(**14**);";

(**13**) S.R. 2002 No. 377.
(**14**) S.R. 2002 No. 377; election is dealt with in regulation 2(4)(c) of those Regulations.

(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(**15**) 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—

(**15**) S.R. 2003 No. 16