STATUTORY RULES OF NORTHERN IRELAND

2015 No. 95

EMPLOYMENT

WORK AND FAMILIES

The Maternity and Adoption Leave (Curtailment of Statutory Rights to Leave) Regulations (Northern Ireland) 2015

Made - - - -	*2nd March 2015*
Coming into operation	*15th March 2015*

The Department for Employment and Learning makes the following Regulations in exercise of the powers conferred by Articles 103(2), (3)(ba) and (bb) and (3A), 105(2), (3)(a) and (aa) and (3A), 107(1)(a) and (2), 107A(1A), (2), (2A) and (2B), 107B(2), (3)(a) and (aa) and (3A) and 107D(1)(a) and (2) of the Employment Rights (Northern Ireland) Order 1996 [F1].

F1 S.I. 1996/1919 (N.I. 16). Articles 103(3)(ba) and (bb) and (3A) were inserted by the Work and Families Act 2015 (c. 1), **section 3(2)**. Paragraph (3)(a) of Article 105 was amended by and paragraphs (3)(aa) and (3A) of that Article were inserted by section 3(3) of that Act. Articles 107A, 107B and 107D were inserted by the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)), **Article 3**. Paragraph (1A) of Article 107A was inserted by 2015 c. 1 (N.I.), **section 8(2)**. Paragraph (2A) was inserted by the Work and Families (Northern Ireland) Order 2006 (S.I 2006/1947 (N.I. 16), Schedule 1, paragraph 32. Paragraph (2A) of Article 107A was amended by and paragraph (2B) was inserted by section 3(4) of 2015 c. 1 (N.I.). Paragraph (3)(a) of Article 107B was amended by and paragraphs (3)(aa) and (3A) were inserted by section 3(5) of that Act.

Modifications etc. (not altering text)

C1 Regulations applied in part (with modifications) (15.3.2015) by The Paternity, Adoption and Shared Parental Leave (Parental Order Cases) Regulations (Northern Ireland) 2015 (S.R. 2015/101), **regs. 4**, 18, 19 (as amended (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), **Sch. 2 para. 13**)

C2 Regulations applied in part (with modifications) (5.4.2015) by The Shared Parental Leave and Paternity and Adoption Leave (Adoptions from Overseas) Regulations (Northern Ireland) 2015 (S.R. 2015/98), **regs. 3-6**

C3 Regulations: amendment to earlier affecting provision S.R. 2015/101, regs. 4, 18, 19 (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), **Sch. 2 para. 13**

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Maternity and Adoption Leave (Curtailment of Statutory Rights to Leave) Regulations (Northern Ireland) 2015 and come into operation on 15th March 2015.

Application

2.—(1) Part 2 of these Regulations has effect only in relation to children whose expected week of birth begins on or after 5th April 2015.

(2) Part 3 of these Regulations has effect only in relation to children placed for adoption on or after 5th April 2015.

Interpretation

3.—(1) In these Regulations—

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

"A", in relation to C, means the person with whom C is, or is expected to be, placed for adoption, or, in the case where two people have been matched jointly, whichever of them has elected to be C's adopter for the purposes of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002 [F2];

"adoption agency" has the meaning given—

(a) in relation to Northern Ireland, by Article 3(3) of the Adoption (Northern Ireland) Order 1987 [F3],

(b) in relation to England and Wales, by section 2 of the Adoption and Children Act 2002 [F4], and

(c) in relation to Scotland, by section 119(1) of the Adoption and Children (Scotland) Act 2007 [F5];

"AP" means the person who is married to or is the civil partner or the partner of A;

"C" means—

(a) in Part 2 of the Regulations, the child in relation to whom M has an entitlement to statutory maternity leave;

(b) in Part 3 of the Regulations, the child in relation to whom A has an entitlement to statutory adoption leave;

"declaration of consent and entitlement" means—

(a) in Part 2 of the Regulations, a written declaration signed by M stating that—

(i) P has given a notice to his employer in accordance with regulations made under Article 107E(4)(d) of the 1996 Order [F6]; and

(ii) M has consented to the amount of leave that P intends to take in accordance with regulations made under Article 107E(4)(e) of the 1996 Order;

(b) in Part 3 of the Regulations, a written declaration by A stating that—

(i) AP has given notice to AP's employer in accordance with regulations made under Article 107G(4)(d) of the 1996 Order [F7]; and

(ii) AP has consented to the amount of leave that AP intends to take in accordance with regulations made under Article 107G(4)(e) of the 1996 Order;

"expected week of birth" means the week, beginning with midnight between Saturday and Sunday, in which it is expected that the child will be born;

"leave curtailment date" means the date specified in a leave curtailment notice;

"leave curtailment notice" means—

(a) in Part 2, a notice which complies with the requirements of regulation 6;

(b) in Part 3, a notice which complies with the requirements of regulation 10;

"M" means the mother (or expectant mother) of C;

"notice of entitlement" means—

(a) in Part 2 of the Regulations, a notice given by M in accordance with regulations made under Article 107E(1)(f) of the 1996 Order;

(b) in Part 3 of the Regulations, a notice given by A in accordance with regulations made under Article 107G(1)(f) of the 1996 Order;

"P" means the father of C, or the person who is married to, or is the civil partner or partner of M;

"partner" in relation to M or A means a person (whether of a different sex or the same sex) who lives with M or A and with C in an enduring family relationship but is not M or A's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew;

"placed for adoption" means—

(a) placed for adoption by virtue of regulation 12 of the Adoption Agencies Regulations (Northern Ireland) 1989 [F8];

(b) placed by an authority with a person who is an approved foster parent who is also an approved prospective adopter [F9] where the authority—

(i) is considering adoption for the child, or

(ii) is satisfied that adoption is in the best interests of the child,

and is considering whether that person would be a suitable adoptive parent for that child;

(c) placed for adoption under the Adoption and Children Act 2002 [F10] or the Adoption and Children (Scotland) Act 2007; or

(d) placed in accordance with section 22C of the Children Act 1989 [F11] with a local authority foster parent who is also a prospective adopter;

"revocation notice"—

(a) in Part 2, is a notice which complies with the requirements of regulation 8(3);

(b) in Part 3, is a notice which complies with the requirements of regulation 12(2);

"shared parental leave" means leave under Article 107E or 107G of the 1996 Order;

"shared parental pay" means shared parental pay payable in accordance with the provisions of Part 12ZC of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 [F12];

"statutory adoption leave" means leave under Article 107A of the 1996 Order (ordinary adoption leave) and leave under Article 107B of the 1996 Order (additional adoption leave);

"statutory maternity leave" means leave under Article 103 of the 1996 Order (ordinary maternity leave) and leave under Article 105 of the 1996 Order (additional maternity leave);

"week" means any period of seven consecutive days.

(2) References to relationships in the definition of "partner" in paragraph (1)—

(a) are to relationships of the full blood or half blood or, in the case of an adopted person, such of those relationships as would exist but for the adoption, and

(b) include the relationship of a child with his adoptive, or former adoptive, parents but do not include other adoptive relationships.

(3) For the purposes of these Regulations a person is matched with a child when—

(a) an adoption agency decides that that person would be a suitable adoptive parent for the child, either individually or jointly with another person;

(b) each of the following conditions is met—

(i) that person is an approved foster parent and an approved prospective adopter, and the child is, or is expected to be, placed by the authority with that person under Article 27(2)(a) of the Children (Northern Ireland) Order 1995;

(ii) the authority—

(aa) is considering adoption for the child, or

(bb) is satisfied that adoption is in the best interests of the child;

(iii) the authority is considering whether that person would be a suitable adoptive parent for that child; or

(c) a decision has been made in accordance with regulation 22A of the Care Planning, Placement and Case Review (England) Regulations 2010 [F13] and an adoption agency has identified that person as the person with whom the child is to be placed in accordance with regulation 12B of the Adoption Agencies Regulations 2005 [F14].

(4) In paragraph (d) of the definition of "placed for adoption" in paragraph (1)—

"local authority foster parent" means a person approved as a local authority foster parent in accordance with regulations made by virtue of paragraph 12F of Schedule 2 to the Children Act 1989 [F15];

"prospective adopter" means a person who has been approved as suitable to adopt a child and has been notified of that decision in accordance with regulation 30B(4) of the Adoption Agencies Regulations 2005 [F16].

F2 S.R. 2002 No. 377; election is dealt with in regulation 2(4)(c) of these Regulations.
F3 S.I. 1987/2203 (N.I. 22); Article 3(3) was amended by S.I. 1994/429 (N.I. 2).
F4 2002 c. 38.
F5 2007 asp 4.
F6 Article 107E was inserted by 2015 c. 1 (N.I.), **section 2(2)**.
F7 Article 107G was inserted by 2015 c. 1 (N.I.), **section 2(2)**.
F8 S.R. 1989 No. 253.
F9 "Approved foster parent", "approved prospective adopter" and "authority" are defined in Article 107AB(3) of S.I. 1996/1919 (N.I. 16), as inserted by 2015 c. 1 (N.I.), **section 8(3)**.
F10 2002 c.38.
F11 1989 c.41; section 22C was inserted by the Children and Young Persons Act 2008, section 8(1) and was amended by the Children and Families Act 2014, section 2.
F12 1992 c. 7; Part 12ZC was inserted by section 5(2) of the Work and Families Act (Northern Ireland) 2015 (c. 1).
F13 S.I. 2010/959, amended by S.I. 2014/1556.
F14 S.I. 2005/389; regulation 12B was inserted by S.I. 2014/1556, **regulation 5**.
F15 Paragraph 12F was inserted by the Children and Young Persons Act 2008 (c. 23), **Schedule 1**, paragraph 4.
F16 Regulation 30B was inserted by S.I. 2013/985.

Notices

4.—(1) Where a notice is to be given under these Regulations, it may be given—

(a) where paragraph (2) applies, by electronic communication;

(b) by post; or

(c) by personal delivery.

(2) This paragraph applies where the person who is to receive the notice has agreed that the notice may be given to the person by being transmitted to an electronic address and in an electronic form specified by the person for the purpose.

(3) Where a notice is to be given under these Regulations it is to be taken to have been given—

(a) if sent by electronic communication, on the day of transmission;

(b) if sent by post in an envelope which is properly addressed and sent by prepaid post, on the day on which it is posted;

(c) if delivered personally, on the day of delivery.

PART 2

CURTAILMENT OF STATUTORY MATERNITY LEAVE

Entitlement to curtail statutory maternity leave

5.—(1) M may bring forward the date on which her ordinary maternity leave period [F17] or additional maternity leave period [F18] ends by giving her employer a leave curtailment notice and either—

(a) a notice of entitlement; or

(b) a declaration of consent and entitlement.

(2) M must give her employer her leave curtailment notice at the same time as she gives her employer either a notice of entitlement or a declaration of consent and entitlement.

(3) If M has an entitlement to statutory maternity leave with more than one employer in relation to C, she must curtail her ordinary maternity leave period or additional maternity leave period in accordance with paragraphs (1) and (2) with each of those employers at the same time.

(4) M's obligation in paragraph (3) does not apply in relation to any employer with which she has returned to work on or before the date on which she gives notices in accordance with paragraphs (1) and (2).

F17 Ordinary maternity leave period is determined in accordance with Article 103(2) of the 1996 Order and S.R. 1999 No. 471.

F18 Additional maternity leave period is determined in accordance with Article 105(2) of the 1996 Order and S.R. 1999 No. 471.

Leave curtailment notice

6.—(1) A leave curtailment notice must be in writing and must state—

(a) where M curtails her ordinary maternity leave period, the date on which M's ordinary maternity leave period is to end;