STATUTORY RULES OF NORTHERN IRELAND

2015 No. 92

EMPLOYMENT

WORK AND FAMILIES

The Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) 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 sections 167ZB(2)(a), 167ZBA(2)(b), 167ZC(1A) and (3)(a), (c), (d), (f) and (g), 167ZD(2) and (3), 167ZE(2), (3), (7) and (8), 167ZG(3), 167ZJ(1), (3) (4), (7) and (8), 167ZL(8)(b) to (d), (f) and (g), 167ZLA(2)(b), 167ZM(2) and (3), 167ZN(2), (5) and (6), 167ZP(6), 167ZS(1), (3), (4), (7) and (8) and 171(4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 [F1], section 5(1)(g), (j) and (q) of the Social Security Administration (Northern Ireland) Act 1992 [F2] and Articles 9(1) and (2)(c) and 16(1) of the Employment (Northern Ireland) Order 2002 [F3] and with the concurrence of the Commissioners for Her Majesty's Revenue and Customs, in so far as such concurrence is required.

F1 1992 c. 7; sections 167ZA to 167ZJ were inserted by the Employment (Northern Ireland) Order 2002 (No 2836 (N.I. 2)), Article 5 and sections 167ZL to 167ZT by Article 6 of that Order; sections 167ZB, 167ZC, 167ZE, 167ZL, 167ZN were amended by sections 9 and 12 of the Work and Families (Northern Ireland) Act 2015 (c. 1); section 167ZB and 167ZL are modified in so far as they apply to parental order cases by S.R.2015 No. 90*see* sections 167ZJ(1) and 167ZS(1) for the definition of 'prescribed'.

F2 1992 c. 8.

F3 S.I. 2002/2836 (N.I. 2). Articles 8, 9 and 11 were amended by 2015 c. 1, **Schedule 1**, paragraph 6(2), (3) and (4).

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations (Northern Ireland) 2015 and come into operation on 15th March 2015.

Interpretation

2. In these Regulations—

"Administration Regulations" means the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations (Northern Ireland) 2002 [F4];

[[F5]"intended parent", in relation to a child, means a person who, on the day of the child's birth—

(a) applies, or intends to apply during the period of 6 months beginning with that day—

(i) with another person for an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of the child; or

(ii) as the sole applicant for an order under section 54A of that Act in respect of the child; and

(b) expects the court to make an such order in respect of the child;**]**

[F6]…

"Pay Regulations" means the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations (Northern Ireland) 2002 [F7].

[[F5]"section 54 parental order parent" means a person—

(a) on whose application the court has made an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of a child; or

(b) who is an intended parent of a child by reference to an application or intended application for such an order;**]**

[[F5]"section 54A parental order parent" means a person—

(a) on whose application the court has made an order under section 54A of the Human Fertilisation and Embryology Act 2008 in respect of a child; or

(b) who is an intended parent of a child by reference to an application or intended application for such an order.**]**

F4 S.R. 2002 No. 379.
F5 Words in reg. 2 inserted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 11(2)(a)**
F6 Words in reg. 2 omitted (3.1.2019) by virtue of The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 11(2)(b)**
F7 S.R. 2002 No. 378; amended by S.R 2004 No. 132, S.R. 2005 No. 167 and S.R. 2015 No. 89.

3.—(1) The amendments made in Part 2 and 4 of these Regulations have effect only in relation to children matched with a person who is notified of having been matched on or after 5th April 2015.

(2) For the purposes of paragraph (1)—

(a) a person is matched with a child for adoption when an adoption agency decides that that person would be a suitable adoptive parent for the child;

(b) in a case where sub-paragraph (a) applies, a person is notified as having been matched with a child on the date that person receives notification of the agency's decision, under regulation 11(2)(d) of the Adoption Agencies Regulations (Northern Ireland) 1989 [F8], regulation 33(3)(a) of the Adoption Agencies Regulations 2005 [F9], regulation 28(3) of the Adoption Agencies (Wales) Regulations 2005 [F10] or regulation 8(5) of the Adoption Agencies (Scotland) Regulations 2009 [F11];

(c) a person is matched with a child where 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 [F12] with that person under Article 27(2)(a) of the Children (Northern Ireland) Order 1995 [F13];

(ii) the authority—

(aa) is considering adoption for the child, or

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

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

(d) in a case where sub-paragraph (c) applies, a person is notified as having been matched with a child on the date that that person receives notification from the authority that the conditions in that paragraph have been met;

(e) a person is also matched with a child for adoption when a decision has been made in accordance with regulation 22A of the Care Planning, Placement and Case Review (England) Regulations 2010 [F14] and an adoption agency has identified that person with whom the child is to be placed in accordance with regulation 12B of the Adoption Agencies Regulations 2005 [F15];

(f) in a case where sub-paragraph (e) applies, a person is notified as having been matched with a child on the date on which that person receives notification in accordance with regulation 12B(2)(a) of the Adoption Agencies Regulations 2005.

(3) In paragraph (2) "adoption agency" has the meaning given—

(a) in relation to Northern Ireland, by Article 3(3) of the Adoption (Northern Ireland) Order 1987 [F16];

(b) in relation to England and Wales, by section 2 of the Adoption and Children Act 2002 [F17]; and

(c) in relation to Scotland, by section 119(1) of the Adoption and Children (Scotland) Act 2007 [F18].

F8 S.R. 1989 No. 253.

F9 S.I. 2005/389.

F10 S.I. 2005/1313.

F11 S.S.I. 2009/154.

F12 "Approved foster parent", "approved prospective adopter" and "authority" are defined, in relation to statutory paternity pay: adoption and statutory adoption pay, respectively, in sections 167ZBA(5) and 167ZLA(5) of 1992 c. 7, as inserted by 2015 c. 1 (N.I.), **section 9(2)** and (4).

F13 S.I. 1995/755 (N.I. 2).

F14 S.I. 2010/959; amended for relevant purposes by S.I. 2014/1556.

F15 Regulation 12B was inserted by S.I. 2014/1556.

F16 S.I. 1987/2203 (N.I. 22); Article 3(3) was amended by S.I. 1994/429 (N.I. 2).
F17 2002 c. 38.
F18 2007 asp 4.

PART 2

AMENDMENT OF THE PAY REGULATIONS

4.—(1) Regulation 2 (interpretation) of the Pay Regulations is amended as follows.

(2) For paragraph (2) substitute—

"(2) For the purposes of these Regulations—

(a) a person is matched with a child for adoption when an adoption agency decides that that person would be a suitable adoptive parent for the child;

(b) in a case where sub-paragraph (a) applies, a person is notified as having been matched with a child on the date that person receives notification of the agency's decision, under regulation 11(2)(d) of the Adoption Agencies Regulations (Northern Ireland) 1989, 33(3)(a) of the Adoption Agencies Regulations 2005 [F19], regulation 28(3) of the Adoption Agencies (Wales) Regulations 2005 or regulation 8(5) of the Adoption Agencies (Scotland) Regulations 2009;

(c) a person is also matched with a child where 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, and

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

(d) in a case where sub-paragraph (c) applies, a person is notified of being matched with a child on the date on which that person receives notification from the authority that the conditions in that sub-paragraph have been met;

(e) a person is also matched with a child for adoption when a decision has been made in accordance with regulation 22A of the Care Planning, Placement and Case Review (England) Regulations 2010 and an adoption agency has identified that person with whom the child is to be placed in accordance with regulation 12B of the Adoption Agencies Regulations 2005;

(f) in a case where sub-paragraph (e) applies, a person is notified as having been matched with a child on the date on which that person receives notification in accordance with regulation 12B(2)(a) of the Adoption Agencies Regulations 2005.".

(3) After paragraph (2), as substituted by this regulation, insert—

"(3) A reference (however expressed) in these Regulations to "placed for adoption" means—

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

(b) placed by an authority with a person who is an approved foster parent who is also an approved prospective adopter 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 or the Adoption and Children (Scotland) Act 2007; or

(d) placed in accordance with section 22C of the Children Act 1989 [F20] with a local authority foster parent who is also a prospective adopter.

(4) In paragraph (3)(d)—

"the 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;

"the 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.".

F19 S.I. 2005/389.
F20 1989 c. 41; section 22C was inserted by section 8(1) of the Children and Young Persons Act 2008 (c. 23).

5.—(1) Regulation 22 (adoption pay period in cases where adoption is disrupted) of the Pay Regulations is amended as follows.

(2) Paragraph (1)(a)(ii) is substituted by—

"(ii) the child is returned after being placed, or".

(3) After paragraph (4) insert—

"(5) In paragraph (1) "returned after being placed" means—

(a) returned to the authority under Article 31(3) of the Adoption (Northern Ireland) Order 1987;

(b) where the child is placed for adoption in the circumstances described in paragraph (b) of the definition of "placed for adoption" in regulation 2(3), returned to the authority following termination of the placement;

(c) returned to the adoption agency under sections 31 to 35 of the Adoption and Children Act 2002;

(d) in Scotland, returned to the adoption agency, adoption society or nominated person in accordance with section 25(6) of the Adoption and Children (Scotland) Act 2007; or

(e) where the child is placed in accordance with section 22C of the Children Act 1989, returned to the adoption agency following termination of the placement."