STATUTORY RULES OF NORTHERN IRELAND

2015 No. 87

EMPLOYMENT

WORK AND FAMILIES

The Paternity and Adoption Leave (Amendment) Regulations (Northern Ireland) 2015

Made - - - -	*2nd March 2015*
Coming into operation	
for the purpose of regulations 1, 2, 3(a)(i) and (ii) (partially), 4, 5(a), 5(b) (partially), 6, 9, 10, 12, and 14(1), (2), (4) and (6)	*15th March 2015*
for all other purposes	*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)(aa) and (ab)(**1**), 107A(1), (1A) and (3)(c), 107D(2)(**2**), 112A(4A), 112B(1), (4A) and (5)(aa) and (ba), 112BA(1), 112C(1)(c), 112D(1)(**3**) and 131(1), (2) and (3)(aa) and (ab)(**4**) of the Employment Rights (Northern Ireland) Order 1996(**5**).

Citation and commencement

1.—(1) These Regulations may be cited as the Paternity and Adoption Leave (Amendment) Regulations (Northern Ireland) 2015.

(2) This regulation and regulations 2, 3(a)(i) and (ii) (except for the definitions of "placed for adoption" and "prospective adopter"), 4, 5(a) and (b) (so far as it relates to new sub-paragraph (a) of new paragraph (1A)), 6, 9, 10, 12 and 14(1), (2), (4) and (6) come into operation on 15th March 2015.

(**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. Paragraphs (aa) and (ab) were inserted into Article 70C(2) by the Work and Families Act (Northern Ireland) 2015 (c. 1 (N.I.)), sections 15(4) and 17(4).

(**2**) Articles 107A and 107D were inserted by the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)), Article 3. Article 107A(1A) was inserted by 2015 c. 1 (N.I.), section 8(2).

(**3**) Articles 112A to 112D were inserted by S.I. 2002/2836 (N.I. 2), Article 4. Article 112A(4A) was inserted by 2015 c. 1 (N.I.), section 3(6). Article 112B(4A) was inserted by 2015 c. 1 (N.I.), section 3(7). Article 112B(5)(aa) was inserted by 2015 c. 1 (N.I.), section 8(4). Article 112B(5)(ba) was inserted by 2015 c. 1 (N.I.), section 17(5). Article 112BA(1) was inserted by 2015 c.1 (N.I.), section 8(5).

(**4**) Article 131 was substituted by S.I. 1999/2790 (N.I. 9), Schedule 4, Part 3, paragraph 8. Paragraph (3)(aa) was inserted by 2015 c. 1 (N.I.), section 15(5) and paragraph (3)(ab) was inserted by 2015 c. 1 (N.I.), section 17(6).

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

(3) Regulations 3(a)(ii) (in so far as it is not already in operation) and (b), 5(b) (so far as it relates to sub-paragraphs (b) and (c) of new paragraph (1A)), 7, 8, 11, 13 and 14(3) and (5) come into operation on 5th April 2015.

Amendments to the Paternity and Adoption Leave Regulations (Northern Ireland) 2002

2. The Paternity and Adoption Leave Regulations (Northern Ireland) 2002(**6**) are amended as follows.

3. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) in the definition of "adoption agency", for "section 1(4) of the Adoption Act 1976(**7**)" substitute "section 2(1) of the Adoption and Children Act 2002(**8**)";

(ii) after the definition of "paternity leave" insert—

""placed for adoption" means—

(a) placed for adoption by virtue of regulation 12 of the Adoption Agencies Regulations (Northern Ireland) 1989(**9**);

(b) placed by an authority with a person who is an approved foster parent who is also an approved prospective adopter(**10**) 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(**11**) or the Adoption and Children (Scotland) Act 2007(**12**);

(d) placed in accordance with section 22C of the Children Act 1989(**13**) with a local authority foster parent who is also a prospective adopter;

"prospective adopter" means a person who has been notified of being an approved prospective adopter or 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(**14**);

"shared parental leave" means leave under Article 107E or 107G of the 1996 Order(**15**);";

(b) for paragraph (4) substitute—

"(4) For the purposes of these Regulations—

(**6**) S.R. 2002 No. 377.
(**7**) 1976 c. 36. The Adoption Act 1976 was repealed by the Adoption and Children Act 2002 (c. 38), section 139(3), Schedule 5, paragraph 1.
(**8**) 2002 c. 38.
(**9**) S.R. 1989 No. 253.
(**10**) "Approved foster parent", "approved prospective adopter" and "authority" are defined in Articles 107AB(3) and 112BA(4) of S.I. 1996/1919 (N.I. 16), as inserted by 2015 c. 1 (N.I.), section 8(3).
(**11**) 2002 c. 38.
(**12**) 2007 asp 4.
(**13**) 1989 c .41; section 22C was inserted by the Children and Young Persons Act 2008 (c. 23), section 8(1), and subsections (9A) to (9C) were inserted by the Children and Families Act 2014 (c. 6), section 2.
(**14**) S.I. 2005/389; regulation 30B was inserted by S.I. 2013/985.
(**15**) Articles 107E and 107G were inserted by 2015 c. 1 (N.I.), section 2.

(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 either individually or jointly with another person;

(b) in a case where sub-paragraph (a) applies, a person is notified of 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, regulation 33(3)(a) of the Adoption Agencies Regulations 2005, regulation 28(3) of the Adoption Agencies (Wales) Regulations 2005(**16**), or regulation 8(5) of the Adoption Agencies (Scotland) Regulations 2009(**17**);

(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(**18**);

(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;

(d) in a case where sub-paragraph (c) applies, a person is notified as having been matched with a child on the date 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(**19**) 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(**20**);

(f) in a case where sub-paragraph (e) applies, a person is notified of 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 of the decision to place for adoption the child with that person.

(4A) For the purposes of these Regulations, a person elects to be a child's adopter, in a case where the child is matched with him and another person jointly, if he and that person agree, at the time at which they are matched, that he and not the other person will be the adopter.".

4. In regulation 4 (entitlement to paternity leave: birth)—

(a) in paragraph (1), for "An" substitute "Subject to paragraph (1A), an";

(b) after paragraph (1) insert—

"(1A) An employee is not entitled to be absent from work under paragraph (1) if the employee has taken any shared parental leave in respect of the child.".

(**16**) S.I. 2005/1313.
(**17**) S.S.I. 2009/154.
(**18**) S.I. 1995/755 (N.I. 2), as amended by S.I. 2003/431 (N.I. 9).
(**19**) S.I. 2010/959, as amended by S.I. 2014/1556. There is another amending instrument but it is not relevant.
(**20**) Regulation 12B was inserted by S.I. 2014/1556.