STATUTORY RULES OF NORTHERN IRELAND

2010 No. 306

EMPLOYMENT

WORK AND FAMILIES

The Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 2002 (Amendment) Regulations (Northern Ireland) 2010

Made - - - -	*9th September 2010*
Coming into operation	*3rd October 2010*

The Department for Employment and Learning makes the following Regulations in exercise of the powers conferred by sections 167ZI, 167ZJ(1), 167ZR and 167ZS(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and with the concurrence of the Treasury(**2**).

Citation and commencement

1. These Regulations may be cited as the Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 2002 (Amendment) Regulations (Northern Ireland) 2010 and shall come into operation on 3rd October 2010.

Amendment of the Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 2002

2. The Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 2002(**3**) shall be amended in accordance with regulations 3 to 7.

Amendment of regulation 1 (citation, commencement and interpretation)

3.—(1) Regulation 1 is amended as follows—

(2) In paragraph (2), after the definition of "the Act", insert the following definitions—

(**1**) 1992 c. 7. Sections 167ZI and 167ZJ were inserted by Article 5 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)), and sections 167ZR and 167ZS were inserted by Article 6 of that Order. Sections 167ZJ(1) and 167ZS(1) are cited because of the meaning ascribed to the word "prescribed".

(**2**) *See* sections 167ZI(1) and 171ZR(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(**3**) S.R. 2002 No. 382.

""additional statutory paternity pay (adoption)" means additional statutory paternity pay payable in accordance with the provisions of Part 12ZA of the Act where the conditions specified in section 167ZEB(2) of the Act are satisfied;

"additional statutory paternity pay (birth)" means additional statutory paternity pay payable in accordance with the provisions of Part 12ZA of the Act where the conditions specified in section 167ZEA(2) of the Act are satisfied;".

(3) In paragraph (2), for the definition of "adopter" substitute—

""adopter", in relation to a child, means—

(a) in the context of ordinary statutory paternity pay, a person who has been matched with the child for adoption,

(b) in the context of additional statutory paternity pay, a person who has been matched with the child for adoption and who has elected to take adoption leave under Article 107A or 107B of the Employment Rights (Northern Ireland) Order 1996(**4**) in order to care for the child;".

(4) In paragraph (2), after the definition of "EEA State", insert the following definition—

""foreign-going ship" means any ship or vessel which is not a home-trade ship;".

(5) In paragraph (2), after the definition of "the General Regulations", omit the definitions of "statutory paternity pay (birth)" and "statutory paternity pay (adoption)" and insert the following definitions—

""home-trade ship" includes—

(a) every ship or vessel employed in trading or going within the following limits, that is to say, the United Kingdom (including for this purpose the Republic of Ireland), the Channel Islands, the Isle of Man, and the continent of Europe between the river Elbe and Brest inclusive;

(b) every fishing vessel not proceeding beyond the following limits—

(c) on the South, Latitude 48°30'N,

(d) on the West, Longitude 12°W, and

(e) on the North, Latitude 61°N;

"mariner" means a person who is or has been in employment under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—

(a) the employment in that other capacity is for the purposes of that ship or vessel or her crew or any passengers or cargo or mails carried by the ship or vessel; and

(b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on her voyage;

but does not include a person in so far as their employment is as a serving member of the forces;

"ordinary statutory paternity pay (adoption)" means statutory paternity pay payable in accordance with the provisions of Part 12ZA of the Act where the conditions specified in section 167ZB(2) of the Act are satisfied;

"ordinary statutory paternity pay (birth)" means statutory paternity pay payable in accordance with the provisions of Part 12ZA of the Act where the conditions specified in section 167ZA(2) of the Act are satisfied;

(**4**) S.I. 1996/1919 (N.I. 16). Articles 107A and 107B were inserted by Article 3 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)).

"serving member of the forces" means a person, other than one mentioned in Part 2 of the Schedule, who, being over the age of 16, is a member of any establishment or organisation specified in Part 1 of that Schedule (being a member who gives full pay service) but does not include any such person while absent on desertion;".

(6) For paragraph (3), substitute—

"(3) 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) a person is notified of having been matched with a child on the date on which the person receives notification of the agency's decision, under regulation 11(2) of the Adoption Agencies Regulations (Northern Ireland) 1989(**5**), regulation 33(3)(a) of the Adoption Agencies Regulations 2005(**6**), regulation 28(3) of the Adoption Agencies (Wales) Regulations 2005(**7**) or regulation 8(5) of the Adoption Agencies (Scotland) Regulations 2009(**8**).".

(7) After paragraph (3), insert—

"(4) For the purposes of these Regulations, the expressions "ship" and "ship or vessel" include hovercraft, except in regulation 8(3).".

Amendment of regulation 2 (restriction on scope)

4. In regulation 2, for "(statutory paternity pay)" substitute "(ordinary and additional statutory paternity pay)".

Substitution of regulation 5 (entitlement to statutory paternity pay where person has worked in an EEA State)

5. For regulation 5, substitute—

"**Entitlement to ordinary statutory paternity pay and additional statutory paternity pay where person has worked in an EEA State**

5.—(1) A person who is an employee or treated as an employee under regulation 3 and who—

(a) in the week immediately preceding the 14th week before the expected week of the child's birth was in employed earner's employment with an employer in Northern Ireland; and

(b) had in any week within the period of 26 weeks immediately preceding that week been employed by the same employer in another EEA State,

shall be treated for the purposes of section 167ZA of the Act (entitlement to ordinary statutory paternity pay (birth)) and section 167ZEA of the Act (entitlement to additional statutory paternity pay (birth)) as having been employed in employed earner's employment in those weeks in which the person was so employed in the other EEA State.

(2) A person who is an employee or treated as an employee under regulation 3 and who—

(**5**) S.R. 1989 No. 253.
(**6**) S.I. 2005/389.
(**7**) S.I. 2005/2689 (W. 189).
(**8**) S.S.I. 2009/154.