STATUTORY RULES OF NORTHERN IRELAND

# 2008 No. 374

# EMPLOYMENT

## The Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations (Northern Ireland) 2008

*Made - - - - 1st September 2008*

*Coming into operation 1st October 2008*

*Approved by resolution of the Assembly on 10th November 2008*

The Department for Employment and Learning(**1**) makes the following Regulations, in exercise of the powers conferred by Articles 70C(2)(**2**), 105(4), (6) and (7), 107B(4), (7) and (8)(**3**) and 131(1)(**4**) of the Employment Rights (Northern Ireland) Order 1996(**5**), and now vested in it(**6**):

### Citation and commencement

**1.** These Regulations may be cited as the Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations (Northern Ireland) 2008 and shall come into operation on 1st October 2008.

### Application

**2.**—(1) The amendments to the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999(**7**) provided for in these Regulations have effect only in relation to employees whose expected week of childbirth begins on or after 5th October 2008.

(**1**) Formerly the Department of Higher and Further Education, Training and Employment; S*ee*2001 c. 15 (N.I.)

(**2**) Article 70C was inserted by paragraph 3 of Part III of Schedule 4 to the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9)) and paragraph (2) was amended by sub-paragraphs 6 and 7 of paragraph 4 of Schedule 2 to the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)). Further amendments which are not relevant to these Regulations have been made to Article 70C by paragraph 29 of Schedule 1 to the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16))

(**3**) Articles 103 to 112 were substituted by Part I of Schedule 4 to the Employment Relations (Northern Ireland) Order 1999. Paragraph (3) of Article 103 was substituted by paragraph 30 of Schedule 1 to the 2006 Order. Paragraph (3) of Article 105 was substituted by paragraph 31 of Schedule 1 to the 2006 Order. The word "prescribed" in Article 105(3) of the 1996 Order is defined in Article 107(2) of that Order. Paragraph (4) of Article 106 was modified by Article 14(5) of the 2002 Order

(**4**) Article 131 was substituted by paragraph 8 of Part III of Schedule 4 to the Employment Relations (Northern Ireland) Order 1999. Further amendments which are not relevant to these Regulations have been made to Article 131 by sub-paragraphs 13 and 14 of paragraph 4 of Schedule 2 to the 2002 Order and paragraph 40 of Schedule 1 to the 2006 Order

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

(**6**) *See*S.R. 1999 No. 481 Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999

(**7**) S.R. 1999 No. 471, as previously amended by S.R. 2002 No. 135, S.R. 2002 No. 355 and S.R. 2006 No. 372

(2) The amendments to the Paternity and Adoption Leave Regulations (Northern Ireland) 2002(**8**) provided for in these Regulations have effect only in relation to an employee with whom a child is expected to be placed for adoption, where the placement is expected to occur on or after 5th October 2008.

(3) For the purposes of paragraph (2) the date on which the child is actually placed for adoption is immaterial.

(4) The amendments to the Paternity and Adoption Leave Regulations (Northern Ireland) 2002 applied to adoption from overseas by virtue of and as modified by the Paternity and Adoption Leave (Adoption from Overseas) Regulations (Northern Ireland) 2003(**9**) have effect only where the adopter's child enters Northern Ireland on or after 5th October 2008.

(5) For the purposes of paragraph (4)—

"adopter", in relation to a child, means a person by whom the child has been or is to adopted or, in a case where the child has been or is to be adopted by two people jointly, whichever of them has elected to take adoption leave in respect of the child;

"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;

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

## Amendments to the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999

**3.** The Maternity and Parental Leave etc. Regulations (Northern Ireland) are amended in accordance with regulations 4 to 7.

## Application of terms and conditions during ordinary maternity leave and additional maternity leave

**4.**—(1) In regulation 9 (application of terms and conditions during ordinary maternity leave)–

(a) in the heading, after "ordinary maternity leave", insert "and additional maternity leave";

(b) in paragraph (1), after "ordinary maternity leave", insert "or additional maternity leave";

(c) in paragraph (1)(b), for "the exception in Article 103(4)(b)", substitute "the exceptions in Articles103(4)(b) and 105(4)(b)";

(d) in paragraph (2), for "Article 103(5)", substitute "Articles 103(5) and 105(5)";

(e) in paragraph (3), for "Article 103(4)(b)", substitute "Articles 103 and 105" ; and

(f) after paragraph (3) insert—

"(4) In the case of accrual of rights under an employment-related benefit scheme within the meaning given by Schedule 5 to the Social Security (Northern Ireland) Order 1989(**10**), nothing in paragraph (1)(a) concerning the treatment of additional maternity leave shall be taken to impose a requirement which exceeds the requirements of paragraph 5 of that Schedule.".

(2) In regulation 17(1) (application of terms and conditions during periods of leave), omit "additional maternity leave or".

(**8**) S.R. 2002 No. 377, as amended by S.R. 2004 No. 116, S.R. 2005 No. 48 (C. 5) and S.R. 2005 No. 520
(**9**) S.R. 2003 No. 222
(**10**) 1989 No. 1342 (N.I. 13)