STATUTORY RULES OF NORTHERN IRELAND

2007 No. 393

EMPLOYMENT

WORK AND FAMILIES

The Flexible Working (Eligibility, Complaints and Remedies) (Amendment) (No. 2) Regulations (Northern Ireland) 2007

Made - - - -	*3rd September 2007*
Coming into operation	*1st October 2007*

The Department for Employment and Learning(**1**), in exercise of the powers conferred by Articles 112F(1)(b) and 112F(9) of the Employment Rights (Northern Ireland) Order 1996(**2**), and now vested in it(**3**), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Flexible Working (Eligibility, Complaints and Remedies) (Amendment) (No. 2) Regulations (Northern Ireland) 2007 and shall come into operation on 1st October 2007.

Amendment of the Flexible Working (Eligibility, Complaints and Remedies) Regulations (Northern Ireland) 2003

2. The Flexible Working (Eligibility, Complaints and Remedies) Regulations (Northern Ireland) 2003(**4**) are amended as follows.

3. In regulation 2(1) (interpretation)—

(1) for the definition of "adopter" substitute—

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

(a) a person with whom an adoption agency has decided the child should be placed for adoption; or

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

(**2**) S.I. 1996/1919 (N.I. 16). Article 112F was inserted by Article 15 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836) (N.I. 2)) and amended by Article 14 of the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16))

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

(**4**) S.R. 2003 No. 174 as amended by paragraph 15 of the Schedule to the Civil Partnership Act 2004 (Amendments to Subordinate Legislation) Order (Northern Ireland) 2005 (S.R. 2005 No. 520) and the Flexible Working (Eligibility, Complaints and Remedies) (Amendment) Regulations (Northern Ireland) 2007 (S.R. 2007 No. 53)

(b) a person who has given notice of an intention to apply for an adoption order as required by Article 22 of the Adoption (Northern Ireland) Order 1987(**5**) or, in relation to England and Wales, as required by section 44 of the Adoption and Children Act 2002(**6**) or, in relation to Scotland, as required by section 22 of the Adoption (Scotland) Act 1978(**7**);";

(2) after the definition of "adopter" insert—

""adoption agency" means an adoption agency within the meaning of Article 3(3) of the Adoption (Northern Ireland) Order 1987(**8**) or, in relation to England and Wales, of section 2 of the Adoption and Children Act 2002 or, in relation to Scotland, of section 1(4) of the Adoption (Scotland) Act 1978;";

(3) after the definition of "partner" insert—

""private foster carer" means a person fostering a child privately within the meaning of Articles 106 and 107 of the Children (Northern Ireland) Order 1995(**9**) or, in relation to England and Wales, within the meaning of section 66 of the Children Act 1989(**10**) or, in relation to Scotland, an individual other than a parent of the child who maintains the child as a foster child for the purposes of the Foster Children (Scotland) Act 1984(**11**), or otherwise looks after the child in circumstances in which that Act applies by virtue of section 17 of that Act;";

(4) after the definition of "relative" insert—

""residence order" means an order as defined by Article 8(1) of the Children (Northern Ireland) Order 1995(**12**) or, in relation to England and Wales, section 8(1) of the Children Act 1989 or, in relation to Scotland, section 11(2)(c) of the Children (Scotland) Act 1995(**13**);".

4. In regulation 3 (entitlement to request a contract variation to care for a child) for paragraph (1)(b) substitute—

"(b) is either—

(i) the mother, father, adopter, guardian, special guardian, foster parent or private foster carer of, or a person in whose favour a residence order is in force in respect of, the child; or

(ii) married to, the partner or civil partner of—

(aa) the child's mother, father, adopter, guardian, special guardian, foster parent or private foster carer, or

(bb) a person in whose favour a residence order is in force in respect of the child;".

(**5**) S.I. 1987/2203 (N.I. 22) as amended by Schedule 1 to the Health and Personal Social Services (Northern Ireland) Order 1994 (S.I. 1994/429 (N.I. 2)) and paragraph 148 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))

(**6**) 2002 c. 38

(**7**) 1978 c. 28; Section 22 was amended by paragraph 38 of Schedule 10 to the Children Act 1989 (c. 41). The Adoption (Scotland) Act 1978 (except Part IV) is prospectively repealed by the Adoption and Children (Scotland) Act 2007 (asp 4) but the relevant provisions have not yet been commenced

(**8**) S.I. 1987/2203 (N.I. 22); Article 3(3) was amended by S.I. 1994/429 (N.I. 2)

(**9**) S.I. 1995/755 (N.I. 2). Articles 106 and 107 were amended by Schedule 4 to the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)). Article 107 was previously amended by paragraph 45 of Schedule 5 to the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))

(**10**) 1989 c. 41. Section 66 was amended by section 116 of and paragraphs 14(1) and (15) of Schedule 4 to the Care Standards Act 2000 (c. 14)

(**11**) 1984 c. 56. Section 1 was amended by paragraph 41 of Schedule 12 and Schedule 15 to the Children Act 1989 (c. 41); section 2 was relevantly amended by paragraph 42 of Schedule 12 to the Children Act 1989 (c. 41), paragraph 35 of Schedule 4 to the Children (Scotland) Act 1995 (c. 36) and paragraph 12 of Schedule 3 to the Regulation of Care (Scotland) Act 2001 (asp 8)

(**12**) S.I. 1995/755 (N.I. 2). Article 8 was amended by Schedule 3 to the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6)) and further amended by the Civil Partnership Act 2004 (c. 33)

(**13**) 1995 c. 36