STATUTORY RULES OF NORTHERN IRELAND

2003 No. 174

EMPLOYMENT

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

Made - - - -	*13th March 2003*
Coming into operation	*6th April 2003*

The Department for Employment and Learning(**1**) in exercise of the powers conferred on it by Articles 112F(1)(b), 112F(5) and (8)(a), 112H(3)(b) and 112I(3) of the Employment Rights (Northern Ireland) Order 1996(**2**), and now vested in it(**3**), and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Flexible Working (Eligibility, Complaints and Remedies) Regulations (Northern Ireland) 2003 and shall come into operation on 6th April 2003.

Interpretation

2.—(1) In these Regulations –

"the 1996 Order" means the Employment Rights (Northern Ireland) Order 1996;

"the Procedure Regulations" means the Flexible Working (Procedural Requirements) Regulations (Northern Ireland) 2003(**4**);

"adopter", in relation to a child, means a person who has been matched with the child for adoption;

"application" means an application under Article 112F of the 1996 Order (statutory right to request contract variation);

"contract variation" means a change in the terms and conditions of a contract of employment of a kind specified in Article 112F(1)(a) of the 1996 Order;

(**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); Articles 112F, 112H and 112I were inserted by Article 15 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2))
(**3**) *See*S.R. 1999 No. 481 Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999
(**4**) S.R. 2003 No. 173

"electronic communication" means an electronic communication within the meaning of section 15(1) of the Electronic Communications Act 2000(**5**);

"foster parent" means a foster parent within the meaning of regulation 1(2) of the Foster Placement (Children) Regulations (Northern Ireland) 1996(**6**) or, in relation to England and Wales, of regulation 2(1) of the Fostering Services Regulations 2002(**7**) or, in relation to Scotland, a foster carer within the meaning of regulation 2(1) of the Fostering of Children (Scotland) Regulations 1996(**8**);

"guardian" means a person appointed as a guardian under Article 159 or 160 of the Children (Northern Ireland) Order 1995(**9**) or, in relation to England and Wales, under section 5 of the Children Act 1989(**10**) or, in relation to Scotland, under section 7 or 11 of the Children (Scotland) Act 1995(**11**);

"partner" in relation to a child's mother, father, adopter, guardian or foster parent, means a person (whether of a different sex or the same sex) who lives with the child and the mother, father, adopter, guardian or foster parent in an enduring family relationship but is not a relative of the mother, father, adopter, guardian or foster parent of a kind specified in paragraph (2);

"writing" includes writing delivered by means of electronic communication.

(2) The relatives of a child's mother, father, adopter, guardian or foster parent referred to in the definition of "partner" in paragraph (1) are the mother's, father's, adopter's, guardian's or foster parent's parent, grandparent, sister, brother, aunt or uncle.

(3) References to relationships in paragraph (2) –

(a) are to relationships of the full blood or half blood or, in the case of an adopted person, such of those relationships as would exist but for the adoption; and

(b) include the relationship of a child with his adoptive, or former adoptive, parents;

but do not include any other adoptive relationships.

Entitlement to request contract variation

3.—(1) An employee is entitled to make an application to his employer for a contract variation if he –

(a) has been continuously employed for a period of not less than 26 weeks;

(b) is either –

(i) the mother, father, adopter, guardian or foster parent of the child; or

(ii) married to, or the partner of the child's mother, father, adopter, guardian or foster parent; and

(c) has, or expects to have, responsibility for the upbringing of the child.

(2) The reference in paragraph (1) to a period of continuous employment is to a period computed in accordance with Chapter III of Part I of the 1996 Order, as if that paragraph were a provision of that Order.

(**5**) 2000 c. 7
(**6**) S.R. 1996 No. 467
(**7**) S.I. 2002/57; amended by S.I. 2002/865
(**8**) S.I. 1996/3263
(**9**) S.I. 1995/755 (N.I. 2)
(**10**) 1989 c. 41
(**11**) 1995 c. 36; section 11 was amended by the European Communities (Matrimonial Jurisdiction and Judgments) (Scotland) Regulations 2001 (S.S.I. 2001/36)