STATUTORY RULES OF NORTHERN IRELAND

2002 No. 382

EMPLOYMENT

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

Made - - - -	*6th December 2002*
Coming into operation	*8th December 2002*

The Department for Employment and Learning, in exercise of the powers conferred on it by sections 167ZI and 167ZR of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and with the concurrence of the Treasury(**2**), and of every other power enabling it in that behalf, hereby, by this Statutory Rule, which contains only regulations made by virtue of Articles 5 and 6 of the Employment (Northern Ireland) Order 2002(**3**) and is made before the end of the period of 6 months beginning with the coming into operation of that statutory provision(**4**), makes the following Regulations–

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 2002 and shall come into operation on 8th December 2002.

(2) In these Regulations–

"the Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"adopter", in relation to a child, has the same meaning as it has in the General Regulations;

"the Contributions Regulations" means the Social Security Contributions Regulations 2001(**5**);

"EEA" means European Economic Area;

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**6**) as adjusted by Protocol signed at Brussels on 17th March 1993(**7**);

"EEA State" means a State which is a contracting party to the EEA Agreement;

(**1**) 1992 c. 7; section 167ZI was inserted by Article 5 of the Employment (Northern Ireland) Order 2002 (S.I.2002/2836(N.I. 2)) and section 167ZR was inserted by Article 6 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2))
(**2**) *See* sections 167ZI and 167ZR of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)
(**3**) S.I. 2002/2836 (N.I. 2)
(**4**) *See* section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
(**5**) S.I. 2001/1004
(**6**) Cm. 2073 and O.J. No. L1, 3.1.1994, p. 3
(**7**) Cm. 2183 and O.J. No. L1, 3.1.1994, p. 572

"the General Regulations" means the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations (Northern Ireland) 2002(**8**);

"statutory paternity pay (birth)" and "statutory paternity pay (adoption)" have the same meaning as they have in the General Regulations;

"week" means a period of 7 days beginning with Sunday.

(3) For the purposes of these Regulations, a person is notified of having been matched with a child for the purposes of adoption on the date on which he receives notification, under regulation 11(2) of the Adoption Agencies Regulations (Northern Ireland) 1989(**9**) or regulation 11(2) of the Adoption Agencies Regulations 1983(**10**) or regulation 12(3) of the Adoption Agencies (Scotland) Regulations 1996(**11**), that an adoption agency has decided that the person would be a suitable adoptive parent for the child, either individually or jointly with another person.

Restriction on scope

2. A person who would not be treated under regulation 32 of the General Regulations as an employee for the purposes of Parts XIIZA (statutory paternity pay) and XIIZB (statutory adoption pay) of the Act if his employment were in Northern Ireland shall not be treated as an employee under these Regulations.

Treatment of persons in other EEA States as employees

3. A person who is–

(a) gainfully employed in an EEA State other than the United Kingdom in such circumstances that, if his employment were in Northern Ireland, he would be an employee for the purposes of Parts XIIZA and XIIZB of the Act, or a person treated as such an employee under regulation 32 of the General Regulations; and

(b) subject to the legislation of the United Kingdom under Council Regulation (EEC) No. 1408/71(**12**),

notwithstanding that he is not employed in Northern Ireland, shall be treated as an employee for the purposes of Parts XIIZA and XIIZB of the Act.

Treatment of certain persons absent from Northern Ireland as employees

4. Subject to regulation 8(3), where a person, while absent from Northern Ireland for any purpose, is gainfully employed by an employer who is liable to pay secondary Class 1 contributions in respect of his employment under section 6 of the Act or regulation 146 of the Contributions Regulations, he shall be treated as an employee for the purposes of Parts XIIZA and XIIZB of the Act.

Entitlement to 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,

(**8**) S.R. 2002 No. 378
(**9**) S.R. 1989 No. 253
(**10**) S.I. 1983/1964
(**11**) S.I. 1996/3266
(**12**) *See* O.J. No. L28, 30.1.1997, p. 1