

2003 No. 1192

**TERMS AND CONDITIONS OF EMPLOYMENT
SOCIAL SECURITY**

**The Statutory Paternity Pay (Adoption) and Statutory
Adoption Pay (Adoptions from Overseas) (Administration)
Regulations 2003**

Made - - - - - *23rd April 2003*
Laid before Parliament *30th April 2003*
Coming into force - - - *23rd May 2003*

The Secretary of State, in exercise of the powers conferred on her by sections 7(1), (2)(a) and (b), (4)(a), (b) and (c) and (5), 8(1) and (2)(a), (b) and (c), 10(1) and (2) and 51(1) of the Employment Act 2002^(a) and sections 8(1)(f) and 25 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999^(b) and with the concurrence of the Commissioners of Inland Revenue, hereby makes the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoptions from Overseas) (Administration) Regulations 2003 and shall come into force on 23rd May 2003.

Interpretation

2. In these Regulations, “adoption from overseas” means the adoption of a child who enters Great Britain 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.

Application of the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002 to adoptions from overseas

3.—(1) The Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002^(c) shall apply in the case of adoptions from overseas with the modifications set out in the following paragraphs of this regulation.

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

(a) in the definition of “adopter”, for the words “with whom the child is matched for adoption” substitute “by whom the child has been or is to be adopted”;

(b) after the definition of “income tax quarter”, insert—

““official notification” means written notification, issued by or on behalf of the relevant domestic authority, that it is prepared to issue a certificate to the overseas authority concerned with the adoption of the child, or has issued a

(a) 2002 c. 22.

(b) 1999 c. 2; paragraph (f) of section 8(1) was amended by section 9(2) of the Employment Act 2002.

(c) S.I. 2002/2820.

certificate and sent it to that authority, confirming, in either case, that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent;”;

(c) in the definition of “paternity leave”, insert at the end “as modified in its application to adoptions from overseas by the Employment Rights Act 1996 (Application of Section 80B to Adoptions from Overseas) Regulations 2003”; and

(d) after the definition of “paternity pay period” insert—

““relevant domestic authority” means—

(a) in the case of an adopter to whom the Intercountry Adoption (Hague Convention) Regulations 2003 apply and who is habitually resident in Wales, the National Assembly for Wales;

(b) in the case of an adopter to whom the Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003 apply and who is habitually resident in Scotland, the Scottish Ministers; and

(c) in any other case, the Secretary of State;”.

(3) After regulation 2(2), insert—

“(3) References in these Regulations to provisions of Parts 12ZA and 12ZB of the Contributions and Benefits Act are to be construed as references to those provisions as modified by the Social Security Contributions and Benefits Act 1992 (Application of Parts 12ZA and 12ZB to Adoptions from Overseas) Regulations 2003.”

(4) In regulation 11(3)(b)(ii) (time within which an employer is required to give decision that he has no liability to make payments), for “the end of the seven-day period that starts on the date on which the adopter is notified of having been matched with the child” substitute “the date on which the employee’s evidence was provided, or, where not all of the evidence referred to in paragraph (1) was provided on one date, the date on which the last of the evidence was provided”.

(5) Omit regulation 11(4).

Signed by authority of the Secretary of State for Trade and Industry

15th April 2003

Alan Johnson,
Minister of State for Employment Relations, Industry and the Regions,
Department of Trade and Industry

The Commissioners of Inland Revenue hereby concur.

23rd April 2003

Nick Montagu,
Dave Hartnett,
Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002 to adoptions from overseas with the necessary modifications.

The modifications relate to definitions and to regulation 11 of the 2002 Regulations. Regulation 11 requires that an employer who has been given evidence of an employee's entitlement to statutory paternity pay or statutory adoption pay, but decides that he has no liability to make payments, must furnish the employee with details of the decision and the reasons for it. Paragraph (3)(b)(ii) provides that this requirement must be complied with within seven days of the date on which an adopter is notified of having been matched with a child, and paragraph (4) defines what is meant by notification of matching. There is no matching of a child with an adopter in the case of adoptions from overseas. Paragraph (3)(b)(ii) is accordingly amended to refer to the date on which the employee's evidence of entitlement was provided, or, where not all of the evidence referred to in paragraph (1) was provided on one date, the date on which the last of the evidence was provided.

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