

**2003 No. 1193**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Statutory Paternity Pay (Adoption) and Statutory  
Adoption Pay (Adoptions from Overseas)  
(Persons Abroad and Mariners) Regulations 2003**

<i>Made</i> - - - - -	<i>28th April 2003</i>
<i>Laid before Parliament</i>	<i>30th April 2003</i>
<i>Coming into force</i> - -	<i>23rd May 2003</i>

The Secretary of State, in exercise of the powers conferred upon her by virtue of sections 171ZI, 171ZJ(1), 171ZR and 171ZS(1) of the Social Security Contributions and Benefits Act 1992(a) and with the concurrence of the Treasury, by this instrument, which contains only provision made by virtue of sections 2 and 4 of the Employment Act 2002(b) and is made before the end of the period of 6 months from the coming into force of those enactments, 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) (Persons Abroad and Mariners) 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 (Persons Abroad and Mariners) Regulations 2002 to adoptions from overseas**

3.—(1) The Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations 2002(c) shall have effect in relation to adoptions from overseas with the modifications set out in the following paragraphs of this regulation.

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(a) 1992 c. 4. Sections 171ZI and 171ZJ were inserted by section 2 of the Employment Act 2002 (c. 22) and sections 171ZR and 171ZS by section 4 of that Act. Sections 171ZJ(1) and 171ZS(1) are cited because of the meaning ascribed to the word “prescribed”. Parts 12ZA and 12ZB of the Social Security Contributions and Benefits Act are, by regulations made under sections 171ZK and 171ZT, namely the Social Security Contributions and Benefits Act 1992 (Application of Parts 12ZA and 12ZB to Adoptions from Overseas) Regulations 2003 (S.I. 2003/499), applied to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom, with the modifications prescribed by those Regulations.

(b) 2002 c. 22.

(c) S.I. 2002/2821.

- (2) In regulation 1(2) (interpretation)—
- (a) in the definition of “adopter”, for “has the same meaning as it has in the General Regulations” substitute “means a person by whom the child has been or is to be adopted”;
  - (b) after the definition of “the General Regulations”, 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 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;
    - “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;”.
  - (c) for the definition of “statutory paternity pay (birth)” and “statutory paternity pay (adoption)” substitute—
    - “statutory paternity pay (adoption)” means statutory paternity pay payable in accordance with the provisions of Part 12ZA of the Act, where the conditions specified in section 171ZB(2) of the Act are satisfied;”.
- (3) For regulation 1(3), substitute—
- “(3) References in these Regulations to provisions of Parts 12ZA and 12ZB of the 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 5(2) (entitlement to statutory paternity pay (adoption))—
- (a) in the first line, after “and who” insert “, in the week in which the adopter receives an official notification or completes 26 weeks’ continuous employment with his employer, whichever is the later”; and
  - (b) in sub-paragraph (a) omit the words “in the week in which the adopter is notified of being matched with the child for the purposes of adoption”.
- (5) In regulation 6 (entitlement to statutory adoption pay)—
- (a) in the first line, after “and who” insert “, in the week in which he receives an official notification or completes 26 weeks’ continuous employment with his employer, whichever is the later”; and
  - (b) in paragraph (a) omit the words “in the week in which he is notified that he has been matched with the child for the purposes of adoption”.

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

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

15th April 2003

We concur in the making of these Regulations.

*Nick Ainger,*  
*John Heppell,*

28th April 2003

Two of the Lords Commissioners of Her Majesty’s Treasury

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

This instrument contains only regulations made by virtue of sections 2 and 4 of the Employment Act 2002, which came into force on 8th December 2002. The instrument is made before the end of the period of 6 months beginning with the coming into force of those provisions. The regulations in it are therefore exempted by section 173(5)(b) of the Social Security Administration Act 1992 from the requirement under section 172 of that Act to refer the proposals to make the regulations to the Social Security Advisory Committee and they are made without reference to the Committee.

These Regulations modify the application of the Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations 2002 in their application to adoptions from overseas. The 2002 Regulations provide for entitlement to statutory paternity pay (adoption) and statutory adoption pay to be conditional upon employment with an employer in Great Britain in the week in which the adopter is notified of being matched with a child for the purposes of adoption. The amendments take account of the fact that there is no “matching” in the case of adoptions from overseas; accordingly they substitute a reference to the adopter’s receipt of an official notification or the completion of 26 weeks’ of continuous employment with the employer whichever is the later.

An official notification is defined as a written notification, issued by or on behalf of the relevant domestic authority, that the authority is either prepared to issue a certificate to the overseas authority concerned with the adoption of the child, or has issued a 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. The relevant domestic authority is generally the Secretary of State but, if the adopter is habitually resident in Wales or Scotland, the authority may be the National Assembly for Wales or the Scottish Ministers.

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