

SCHEDULE 2

Amendments to subordinate legislation consequential on the coming into force of section 54A of the Human Fertilisation and Embryology Act 2008

Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations 2014

7.—(1) The Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations 2014(1) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the appropriate place, insert—

““intended parent”, in relation to a child, means a person who, on the day of the child’s birth—

(a) applies, or intends to apply during the period of 6 months beginning with that day—

(i) with another person for an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of the child; or

(ii) as the sole applicant for an order under section 54A of that Act in respect of the child; and

(b) expects the court to make such an order in respect of the child;”;

““section 54 parental order parent” means a person—

(a) on whose application the court has made an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of a child; or

(b) who is an intended parent of a child by reference to an application or intended application for such an order;

“section 54A parental order parent” means a person—

(a) on whose application the court has made an order under section 54A of the Human Fertilisation and Embryology Act 2008 in respect of a child; or

(b) who is an intended parent of a child by reference to an application or intended application for such an order.”; and

(b) omit the definition of “parental order parent”.

(3) In regulation 6 (application of the Pay Regulations to intended parents and parental order parents) for paragraph (1) substitute—

“(1) The provisions of the Pay Regulations, in so far as they apply to statutory paternity pay (adoption), shall apply to a section 54 parental order parent with the modifications set out in this Part of these Regulations.

(1A) The provisions of the Pay Regulations, in so far as they apply to statutory adoption pay, shall apply to—

(a) a section 54 parental order parent; and

(b) a section 54A parental order parent,

with the modifications set out in this Part of these Regulations.”.

(4) In regulation 7 (application of regulation 2 of the Pay Regulations)—

(a) in paragraph (a)(ii)—

(1) [S.I. 2014/2934](#).

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- (i) in the appropriate place, insert—
 - ““intended parent”, in relation to a child, means a person who, on the day of the child’s birth—
 - (a) applies, or intends to apply during the period of 6 months beginning with that day—
 - (i) with another person for an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of the child; or
 - (ii) as the sole applicant for an order under section 54A of that Act in respect of the child; and
 - (b) expects the court to make such an order in respect of the child;”;
 - (ii) in the definition of “Parent A”, for “the intended parent or parental order parent” substitute “the section 54 parental order parent”;
 - (iii) omit the definition of “parental order parent”; and
 - (iv) in the appropriate place, insert—
 - ““section 54 parental order parent” means a person—
 - (a) on whose application the court has made an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of a child; or
 - (b) who is an intended parent of a child by reference to an application or intended application for such an order;
 - “section 54A parental order parent” means a person—
 - (a) on whose application the court has made an order under section 54A of the Human Fertilisation and Embryology Act 2008 in respect of a child; or
 - (b) who is an intended parent of a child by reference to an application or intended application for such an order;”;
- (b) in paragraph (b), in the substituted paragraph (2), for—
 - (i) “An intended parent or parental order parent” substitute “A section 54 parental order parent”; and
 - (ii) “the other intended parent or parental order parent” substitute “the other section 54 parental order parent”.
- (5) In regulation 8 (application of regulation 3 of the Pay Regulations), for “as they apply an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent”.
- (6) After regulation 8 insert—
 - “**8A.** Regulation 3 (application) of the Pay Regulations as they apply to a section 54A parental order parent shall read as if—
 - (a) paragraph (1) were omitted; and
 - (b) for paragraph (2) there were substituted—
 - “(2) Subject to the provisions of Part 12ZB of the Act (statutory adoption pay) and of these Regulations, there is entitlement to statutory adoption pay in respect of children whose expected week of birth begins on or after the day which follows the last day of the period of 120 days beginning with the day on which the Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 comes into force.””

- (7) In regulation 9 (application of regulation 11 of the Pay Regulations)—
- (a) for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent”; and
 - (b) in paragraph (a), in the inserted sub-paragraph (a), for “an intended parent or” substitute “a section 54”.

(8) In regulation 10 (application of regulation 11A of the Pay Regulations) for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent”.

(9) In regulation 11 (application of regulation 12 of the Pay Regulations), for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent”.

(10) In regulation 12 (application of regulation 13 of the Pay Regulations), for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent”.

(11) In regulation 13 (application of regulation 14 of the Pay Regulations), for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent”.

(12) In regulation 14 (application of regulation 15 of the Pay Regulations), for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent”.

(13) In regulation 15 (application of regulation 16 of the Pay Regulations), for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent”.

(14) In regulation 16 (application of regulation 20 of the Pay Regulations), for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent”.

(15) In regulation 17 (application of regulation 21 of the Pay Regulations), for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent or a section 54A parental order parent”.

- (16) In regulation 18 (application of regulation 22 of the Pay Regulations)—
- (a) for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent”;
 - (b) in paragraph (a), for paragraph (b) of the substituted paragraph (1) substitute—
 - “(b) the section 54 parental order parent who is entitled to statutory adoption pay does not apply for an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of the child within the time limit set by subsection (3) of that section;”;
 - (c) in paragraph (a), in paragraph (c) of the substituted paragraph (1), for “a parental order” substitute “an order under that section”;
 - (d) in paragraph (b)(ii), in the substituted sub-paragraph (b), for “a parental order” substitute “an order under that section”; and
 - (e) in paragraph (b)(iii), in the substituted sub-paragraph (c), for “a parental order” substitute “an order under that section”.

(17) After regulation 18, insert—

“**18A.** In regulation 22 (adoption pay period in cases where adoption is disrupted) of the Pay Regulations as they apply to a section 54A parental order parent—

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- (a) paragraph (1) shall apply as if that paragraph read—
- “(1) The adoption pay period shall terminate in accordance with the provisions of paragraph (2) where—
- (a) the child dies;
 - (b) the section 54A parental order parent does not apply for an order under section 54A of the Human Fertilisation and Embryology Act 2008 in respect of the child within the time limit set by subsection (2) of that section; or
 - (c) the section 54A parental order parent’s application for an order under that section in respect of the child is refused, withdrawn or otherwise terminated and any time limit for an appeal or a new application has expired.”; and
- (b) in paragraph (3)—
- (i) sub-paragraph (a) shall apply as if the reference to paragraph (1)(a)(i) were a reference to paragraph (1)(a);
 - (ii) sub-paragraph (b) shall apply as if that sub-paragraph read—

“(b) in a case falling within paragraph (1)(b) the week during which the time limit in section 54A(2) of the Human Fertilisation and Embryology Act 2008 for an application for an order under that section for the child expires;” and
 - (iii) sub-paragraph (c) shall apply as if that sub-paragraph read—

“(c) in a case falling within paragraph (1)(c) the week during which the section 54A parental order parent’s application for an order under that section is refused, withdrawn or otherwise terminated without the order being granted.””
- (18) In regulation 19 (application of regulation 23 of the Pay Regulations), for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent or a section 54A parental order parent”.
- (19) In regulation 20 (application of regulation 24 of the Pay Regulations)—
- (a) for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent”; and
 - (b) in paragraph (b)—
 - (i) in paragraph (a) of the substituted paragraph (2), for “parental order” substitute “an order under that section”; and
 - (ii) in paragraph (b) of the substituted paragraph (2), for “parental order” substitute “an order under that section”.
- (20) After regulation 20, insert—
- “20A.** In regulation 24 (evidence of entitlement to statutory adoption pay) of the Pay Regulations as they apply to a section 54A parental order parent—
- “**24.**—(1) A section 54A parental order parent shall provide evidence of his or her entitlement to statutory adoption pay by providing to the person who will be liable to pay it (“E”) a statutory declaration specified in paragraph (2) where E requests it in accordance with paragraph (3).
 - (2) The statutory declaration referred to in paragraph (1) is a statutory declaration stating that the person making the declaration—

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- (a) has applied, or intends to apply, under section 54A of the Human Fertilisation and Embryology Act 2008 for an order under that section in respect of the child within the time limit for making such an application; and
- (b) expects the court to make an order under that section on that application in respect of the child.

(3) The declaration referred to in paragraph (1) shall be provided to E within 14 days of E requesting that declaration where E requests it within 14 days of receiving the notice under section 171ZL(6) of the Act.”.”.

(21) In regulation 21 (application of regulation 25 of the Pay Regulations), for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent or a section 54A parental order parent”.

(22) In regulation 22 (application of regulation 29 of the Pay Regulations), for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent or a section 54A parental order parent”.

(23) In regulation 23 (application of regulation 30 of the Pay Regulations), for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent or a section 54A parental order parent”.

(24) In regulation 24 (application of regulation 40 of the Pay Regulations) for “as they apply to an intended parent or a parental order parent” substitute “as they apply to a section 54 parental order parent or a section 54A parental order parent”.

(25) In regulation 26 (modification of the Administration Regulations in Parental Order cases), for “as those sections apply to an intended parent or to a parental order parent” substitute “as those sections apply to a section 54 parental order parent or a section 54A parental order parent”.