
DRAFT STATUTORY INSTRUMENTS

2014 No.

**The Paternity, Adoption and Shared Parental
Leave (Parental Order Cases) Regulations 2014**

PART 4

PARENTAL ORDER PARENTS: SHARED PARENTAL LEAVE

- 20.** In regulation 2 (application) of the SPL Regulations as they apply to parental order parents—
- (a) paragraph (1) is omitted;
 - (b) paragraph (2) shall read as if the words in that paragraph were—
 - (c) “The provisions relating to shared parental leave in Part 3 have effect only in relation to children whose expected week of birth begins on or after 5th April 2015.”.
- 21.** Regulation 3 (interpretation) of the SPL Regulations as they apply to parental order parents shall read as if in paragraph (1)—
- (a) the definition of “A” read—

“means in relation to C, the parental order parent of C who has elected be Parent A in respect of C in accordance with regulation 2(4) of the Paternity and Adoption Leave Regulations 2002 (1);”;
 - (b) the definition of “AP” read—

“means the parental order parent of C who at the date of C’s birth is married to, or the civil partner or the partner of, A;”;
 - (c) there were, in the appropriate places alphabetically, the following definitions—

““parental order parent” means a person—

 - (a) on whose application the court has made a parental order⁽²⁾ in respect of the child, or
 - (b) who is an intended parent⁽³⁾ of a child;

“parental statutory declaration” means a statutory declaration stating that the person making the declaration—

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

(1) Regulation 2(4) as modified by regulation 6 of these Regulations.

(2) “parental order” is defined in section 75G(6A) of the Employment Rights Act 1996 (c.18) as modified by S.I. 2014/[].

(3) “intended parent” is defined in section 75G(6A) of the Employment Rights Act 1996 (c.18) as modified by S.I. 2014/[].

Shared Parental Leave (Adoption)

22. In regulation 20 (adopter’s entitlement to shared parental leave) of the SPL Regulations as they apply to parental order parents—

- (a) paragraphs (2)(b) and (3)(b) shall read as if the words “at the date of the placement for adoption of C” were “at the date of C’s birth”;
- (b) paragraph (4) shall read as if the words of that paragraph were—
“Entitlement under paragraph (1) is not affected by the number of children born or expected as a result of the same pregnancy.”.

23. In regulation 21 (adopter’s partner’s entitlement to shared parental leave) of the SPL Regulations as they apply to parental order parents—

- (a) paragraphs (2)(b) and (3)(b) shall read as if the words “at the date of the placement for adoption of C” were “at the date of C’s birth”;
- (b) paragraph (4) shall read as if the words of that paragraph were—
“Entitlement under paragraph (1) is not affected by the number of children born or expected as a result of the same pregnancy.”.

24. Regulation 23 (periods when shared parental leave may be taken (adoption)) of the SPL Regulations as they apply to parental order parents shall read as if the words of paragraph (1) were—

“Shared parental leave may be taken at any time within the period which begins on the date C is born (or where more than one child is born as a result of the same pregnancy, the date on which the first child is born) and ends on the day before C’s first birthday.”.

25. In regulation 24 (adopter’s notice of entitlement and intention to take shared parental leave) of the SPL Regulations as they apply to parental order parents—

- (a) paragraph (2) shall read as if—
 - (i) the words of sub-paragraph (c) were—
“the expected week of birth for C and C’s date of birth (except as provided for in paragraph (5));”;
 - (ii) the words of sub-paragraph (d) were—
“if the parental order has been granted, the date on which it was granted”;
- (b) paragraph (3) shall read as if there were inserted after sub-paragraph (b)—
“(c) a parental statutory declaration signed by A.”;
- (c) paragraph (5) shall read as if the words in that paragraph were—
“(5) Where a notice is given under paragraph (1) before C is born, A must give notice of C’s date of birth as soon as reasonably practicable after the birth of C and in any event before the first period of shared parental leave to be taken by A.”;
- (d) it shall read as if after paragraph (6) there were inserted—
“(7) A is only required to supply a parental statutory declaration in accordance with paragraph (3)(c) if—
 - (a) A has not obtained a parental order for C, and
 - (b) A has not already supplied such a declaration to his employer.”.

26. In regulation 25 (adopter’s partner’s notice of entitlement and intention to take shared parental leave) of the SPL Regulations, as they apply to parental order parents—

- (a) paragraph (2) shall read as if—
 - (i) the words in sub-paragraph (c) were—

“C’s expected week of birth and, where known, C’s date of birth (except as provided for in paragraph (4));”;

(ii) the words of sub-paragraph (d) were—

“if the parental order has been granted, the date on which it was granted”;

(b) paragraph (3) shall read as if there were inserted after sub-paragraph (a)(iv)—

“(v) A and AP are the parental order parents of the child”;

(c) paragraph (4) shall read as if the words of that paragraph were—

“(4) Where a notice is given under paragraph (1) before C is born, AP must give C’s date of birth to AP’s employer as soon as reasonably practicable after the birth of C and, in any event, before the first period of shared parental leave to be taken by AP.”.

27. In regulation 26 (supplementary evidence (adoption)) of the SPL Regulations as they apply to parental order parents—

(a) paragraph (1)(a) shall read as if the words in that paragraph were replaced by—

“if available, evidence in the form of a parental order;”;

(b) paragraph (2)(a) shall read as if the words of that paragraph were replaced by—

“if available, evidence in the form of a parental order;”;

28. In regulation 28 (period of leave notice (adoption)) of the SPL Regulations as they apply to parental order parents, paragraph (4)(c) shall read as if the words in that paragraph were—

“if given before C is born—

(i) contain a start date for the leave which is the day on which C is born or which is expressed as a number of days following the date of C’s birth;

(ii) contain an end date expressed as a number of days following the date of C’s birth.”.

29. In regulation 32 (limit on number of period of leave notices or variations (adoption)) of the SPL Regulations as they apply to parental order parents, paragraph (2)(b) shall read as if the words “being placed earlier or later than the date expected” in that paragraph were “being born earlier or later than the expected week of birth”.

30. In regulation 34 (entitlement to shared parental leave in the event of a disrupted placement or the death of adopter, adopter’s partner or child) of the SPL Regulations as they apply to parental order parents—

(a) paragraph (a) shall read as if the word “or” were omitted;

(b) paragraph (b) shall read as if the words of that paragraph were—

“A and AP do not apply for a parental order for C within the time limit in section 54(3) of the Human Fertilisation and Embryology Act 2008 for making such an application;”;

(c) it shall read as if after paragraph (b) there were inserted—

“or

(c) A and AP’s application for a parental order for C is refused, withdrawn or otherwise terminated without the order being granted and any time limit for an appeal or new application has expired.”.

31. In regulation 35 (continuity of employment test) of the SPL Regulations as they apply to parental order parents—

(a) shall read as if after paragraph (2) there were inserted—

“(2A) Where Part 3 applies and C is born earlier than the relevant week and an employee would have satisfied the condition in sub-paragraph (a) of paragraph (1) if the employee’s employment had continued until the end of the week immediately preceding that week, the employee must be treated as having satisfied that condition.”;

(b) paragraph (3) shall read as if the words of that paragraph were—

“In this regulation “relevant week” means the week immediately preceding the 14th week before the expected week of birth.”.

32. Regulation 36 (employment and earnings test) of the SPL Regulations as they apply to parental order parents shall read as if the definition of “calculation week” in paragraph (5) were—

““calculation week” means the expected week of birth.”.

33. In the Schedule (shared parental leave in special circumstances) of the SPL Regulations as they apply to parental order parents—

(a) paragraph 10 (entitlement to shared parental leave in the event of a disrupted placement or the death of a child) shall read as if—

(i) in sub-paragraphs (1) and (2) the words “is returned after being placed for adoption” were “the parental order does not proceed”;

(ii) the words “C’s return or” were omitted;

(iii) in the amendment of regulation 32(1) set out in paragraph (6), the words “is returned after being placed for adoption” were replaced by “the parental order does not proceed”;

(b) it shall read as if after paragraph (6) there is inserted—

“(6A) In this paragraph a parental order does not proceed if—

(a) A and AP have not made an application for a parental order for C within the time limit for such an application under section 54(3) of the Human Fertilisation and Embryology Act 2008; or

(b) an application made for a parental order in respect of C is refused, withdrawn or otherwise terminated and any time limit for an appeal or new application has expired.”;

(c) paragraph (7) shall read as if the words of that sub-paragraph were—

“Where more than one child is born of the same pregnancy, a reference in this paragraph relating to the death of C must be construed as a reference to the last of those children to die.”.