

SCHEDULE 2

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

Paternity, Adoption and Shared Parental Leave (Parental Order Cases) Regulations (Northern Ireland) 2015

13.—(1) The Paternity, Adoption and Shared Parental Leave (Parental Order Cases) Regulations (Northern Ireland) 2015(1) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) for the definition of “intended parent” substitute—

““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;”;

(b) omit the definition of “parental order”;

(c) omit the definition of “parental order parent”;

(d) 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;”.

(3) For regulation 3 (application of the Leave Regulations to parental order parents), substitute—

“**3.**—(1) The provisions of the Leave Regulations, in so far as they apply to paternity leave (adoption) apply to section 54 parental order parents with the modifications set out in Part 2 of these Regulations.

(2) The provisions of the Leave Regulations, in so far as they apply to statutory adoption leave, apply to—

(a) section 54 parental order parents; and

(b) section 54A parental order parents,

with the modifications set out in Part 2 of these Regulations.”.

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(4) In regulation 4 (application of the Curtailment Regulations to Parental Order Parents), after the second occasion the words “apply to” appear, insert “section 54”.

(5) In regulation 5 (application of the SPL Regulations to Parental Order Parents), after the second occasion the words “apply to” appear, insert “section 54”.

(6) In regulation 6 (application of regulation 2 of the Leave Regulations)—

(a) for “parental order parents” substitute “section 54 parental order parents and section 54A parental order parents”;

(b) in paragraph (a)(iii)—

(i) for the definition of “intended parent”, substitute—

““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” after “means the” insert “section 54”;

(iii) omit the definitions of “parental order” and “parental order parent”;

(iv) in the relevant 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.”; and

(v) for the definition of “parental statutory declaration”, substitute—

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

(a) has applied, or intends to apply—

(i) under section 54 of the Human Fertilisation and Embryology Act 2008 with another person; or

(ii) under section 54A of that Act, alone,

for a parental 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;”; and

- (c) in paragraph (c), before the words “parental order parent” on each occasion they appear, insert “section 54”.
- (7) In regulation 7 (application of regulation 3 of the Leave Regulations) after “apply to” insert “section 54”.
- (8) After regulation 7, insert—
 - “**7A.** Regulation 3 (application) of the Leave Regulations as they apply to section 54A parental order parents shall read as if—
 - (a) paragraph (1) were omitted;
 - (b) the words of paragraph (2) were—
 - “The provisions in relation to adoption leave under regulation 15 have effect in relation to children whose expected week of birth begins on or after 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.”; and
 - (c) in paragraphs (3) and (6), the words “8th December 2002” were “on or after the day on which the Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 comes into force”.
- (9) In regulation 8 (application of regulation 4 of the Leave Regulations), after “apply to” insert “section 54”.
- (10) In regulation 9 (application of regulation 8 of the Leave Regulations)—
 - (a) after “apply to” insert “section 54”; and
 - (b) in paragraph (d)(iii), in the substituted paragraph (d), for “is a parental order parent” substitute “is a section 54 parental order parent”.
- (11) In regulation 10 (application of regulation 9 of the Leave Regulations), after “apply to” insert “section 54”.
- (12) In regulation 11 (application of regulation 10 of the Leave Regulations)—
 - (a) after “apply to” insert “section 54”; and
 - (b) in paragraph (3)(c) of the substituted regulation 10, before “parental order” insert “section 54”.
- (13) In regulation 12 (application of regulation 11 of the Leave Regulations), after “apply to” insert “section 54”.
- (14) In regulation 13 (application of regulation 15 of the Leave Regulations)—
 - (a) after “apply to” insert “section 54”; and
 - (b) in paragraph (a), in the substituted paragraph (2)(a), before “parental order” insert “section 54”.
- (15) After regulation 13, insert—
 - “**13A.** In regulation 15 (entitlement to ordinary adoption leave) of the Leave Regulations, as they apply to section 54A parental order parents—
 - (a) paragraph (1)(a) shall read as if the word “conditions” were “condition”;
 - (b) paragraph (2) shall read as if the words of that paragraph were—
 - “The condition referred to in paragraph (1) is that the employee is a child’s section 54A parental order parent.”; and
 - (c) paragraph (4) shall read as if the words of that paragraph were—

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“An employee’s entitlement to leave under this regulation shall not be affected by the birth or expected birth of more than one child as a result of the same pregnancy.””

(16) In regulation 14 (application of regulations 16 and 17 of the Leave Regulations), for “parental order parents” substitute “section 54 parental order parents and section 54A parental order parents”.

(17) In regulation 15 (application of regulation 18 of the leave regulations), for “parental order parents” substitute “section 54 parental order parents and section 54A parental order parents”.

(18) In regulation 16 (application of regulation 20 of the Leave Regulations), after “apply to” insert “section 54”.

(19) After regulation 16, insert—

“**16A.** In regulation 20 (additional adoption leave: entitlement duration and commencement) of the Leave Regulations as they apply to section 54A parental order parents, paragraph (1)(a) shall read as if the words of that sub-paragraph were “the employee is a section 54A parental order parent in respect of that child.””.

(20) In regulation 17 (application of regulation 22 of the Leave Regulations)—

(a) after “apply to” insert “section 54”;

(b) in paragraph (a) in the substituted paragraph (1) for sub-paragraphs (a) to (c) substitute—

“(a) the employee does not apply for an order under section 54 of the Human Fertilisation and Embryology Act 2008 within the time limit set by subsection (3) of that section; and

(b) the employee’s application for an order under that section for the child is refused, withdrawn or otherwise terminated without the order being granted and any time for an appeal or a new application has expired; or

(c) the child dies.”;

(c) in paragraph (b)(i) for “a parental order” substitute “an order under that section”; and

(d) in paragraph (b)(ii) for “a parental order” substitute “an order under that section”.

(21) After regulation 17, insert—

“**17A.** In regulation 22 (disrupted placement in the course of adoption leave) of the Leave Regulations as they apply to section 54A parental order parents—

(a) paragraph (1) shall read as if the words of that paragraph were—

“This regulation applies where—

(a) the employee does not apply for an order under section 54A of the Human Fertilisation and Embryology Act 1998 within the time limit set by subsection (2) of that section,

(b) the employee’s application for an order under that section for the child is refused, withdrawn or otherwise terminated without the order being granted and any time limit for an appeal or new application has expired; or

(c) the child dies.”;

(b) paragraph (3) shall read as if—

(i) in paragraph (a), the words from “the person with whom” to the end were “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.”;

- (ii) in paragraph (b), the words “paragraph (1)(b)(i)” to the end were “paragraph (1)(b), the week in which the employee’s application for an order under that section is refused, withdrawn or otherwise terminated without the order being granted;”;
 - (iii) in paragraph (c), the words “paragraph (1)(b)(ii)” to the end were “paragraph (1)(c), the week during which the child dies”; and
- (c) paragraph (3A) shall be treated as omitted.”.
- (22) In regulation 18 (application of regulation 2 of the Curtailment Regulations) after “apply to” insert “section 54”.
- (23) In regulation 19 (application of regulation 3 of the Curtailment Regulations) after “apply to” insert “section 54”.
- (24) In regulation 20 (application of regulation 2 of the SPL Regulations) after “apply to” insert “section 54”.
- (25) In regulation 21 (application of regulation 3 of the SPL Regulations)—
- (a) after “apply to” insert “section 54”; and
 - (b) in paragraph (c) 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, with another person for a parental order in respect of the child; and
 - (b) expects the court to make a parental order on that application in respect of the child;”;
 - ““parental order” means an order under section 54(1) of the Human Fertilisation and Embryology Act 2008;”.
- (26) In regulation 22 (application of regulation 20 of the SPL Regulations), after “apply to” insert “section 54”.
- (27) In regulation 23 (application of regulation 21 of the SPL Regulations), after “apply to” insert “section 54”.
- (28) In regulation 24 (application of regulation 23 of the SPL Regulations), after “apply to” insert “section 54”.
- (29) In regulation 25 (application of regulation 24 of the SPL Regulations), after “apply to” insert “section 54”.
- (30) In regulation 26 (application of regulation 25 of the SPL Regulations) after “apply to” insert “section 54”.
- (31) In regulation 27 (application of regulation 26 of the SPL Regulations), for the first occasion that the words “parental order” appear, substitute “section 54 parental order”.
- (32) In regulation 28 (application of regulation 28 of the SPL Regulations), after “apply to” insert “section 54”.
- (33) In regulation 29 (application of regulation 32 of the SPL Regulations), after “apply to” insert “section 54”.
- (34) In regulation 30 (application of regulation 34 of the SPL Regulations), after “apply to” insert “section 54”.
- (35) In regulation 31 (application of regulation 35 of the SPL Regulations), after “apply to” insert “section 54”.

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(36) In regulation 32 (application of regulation 36 of the SPL Regulations), after “apply to” insert “section 54”.

(37) In regulation 33 (application of the Schedule to the SPL Regulations), after “apply to” insert “section 54”.