STATUTORY RULES OF NORTHERN IRELAND

2015 No. 101

EMPLOYMENT

WORK AND FAMILIES

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

Made - - - -	*2nd March 2015*
Coming into operation-	*15th March 2015*

The Department for Employment and Learning makes the following Regulations in exercise of the powers conferred by Articles 70C(2) [F1],107A(1), (2), (2A), (2B), (3), (6), and (7), 107B(1), (2), (3), (3A), (4), (7) and (8), 107C(1) and (2), 107D [F2], 107G(1) to (6), 107I(1), (4), (7) to (14) and (16), 107J(2) and (3), 107K(1), (4) and (5), 107L, 107M(1) [F3], 112A(5)(aa), 112B(1), (2), (4A) and (5), 112C(1) and (6), 112D(1), 112E [F4] and 131 [F5] of the Employment Rights (Northern Ireland) Order 1996 [F6].

F1 S.I. 1996/1919 (N.I. 16). Article 70C was inserted by the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9)), **Schedule 4**, paragraph 3. Sub-paragraphs (ba) and (ca) were inserted into Article 70C(2) by the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)), **Schedule 2**, paragraphs 6 and 7, and sub-paragraph (ca) was substituted by the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)), **Schedule 1**, paragraph 29, and amended by the Work and Families Act (Northern Ireland) 2015 (c. 1 (N.I.)), **Schedule 1**, paragraph 4(5). Sub-paragraph (bb) was inserted into Article 70C(2) by 2015 c. 1 (N.I.), **Schedule 1**, paragraph 4(5). There are other amendments which are not relevant.

F2 Articles 107A to 107D were inserted by S.I. 2002/2836 (N.I. 2), **Article 3**. Article 107A(2A) was inserted by S.I. 2006/1947 (N.I. 16), **Schedule 1**, paragraph 32. Article 107A(2A) was amended by, and Article 107A(2B) was inserted by, 2015 c. 1 (N.I.), **section 3(4)**. There are other amendments which are not relevant. Article 107B(3) was substituted by S.I. 2006/1947 (N.I. 16), **Schedule 1**, paragraph 33 and amended by 2015 c. 1 (N.I.), **section 3(5)**. Articles 107A and 107B are applied to parental order parents and modified by S.R. 2015 No.100. Article 107D(1A) was inserted by 2015 c. 1 (N.I.), **section 10(4)**.

F3 Articles 107G to 107M were inserted by 2015 c. 1 (N.I.), **section 2**. Articles 107G and 107I are applied to parental order parents and modified by S.R. 2015 No.100.

F4 Articles 112A to 112E were inserted by S.I. 2002/2836 (N.I. 2), **Article 4**. Article 112B(4A) was inserted by 2015 c. 1 (N.I.), **section 3(7)**. Articles 112A and 112B are applied to parental order parents and modified by S.R. 2015 No. 97.

F5 Article 131 was substituted by S.I. 1996/1919 (N.I. 16), **Schedule 4**, paragraph 8. Paragraph (3)(aa) was inserted by 2015 c. 1 (N.I.), **section 15(5)**. Sub-paragraphs (ba) and (ca) were inserted into Article 131(3) by S.I. 2002/2836 (N.I. 2), **Schedule 2**, paragraph 4(13) and (14), and sub-paragraph (ca) was substituted by S.I. 2006/1947 (N.I. 16), **Schedule 1**, paragraph 40, and amended by 2015 c. 1 (N.I.), **Schedule 1**, paragraph 4(16)(b). Sub-paragraph (bb) was inserted into Article 131(3) by 2015 c. 1 (N.I.), **Schedule 1**, paragraph 4(16)(a).

F6 S.I. 1996/1919 (N.I. 16).

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Paternity, Adoption and Shared Parental Leave (Parental Order Cases) Regulations (Northern Ireland) 2015 and come into operation on 15th March 2015.

Interpretation

2. In these Regulations—

"Curtailment Regulations" means the Maternity and Adoption Leave (Curtailment of Statutory Rights to Leave) Regulations (Northern Ireland) 2015 [F7];

[[F8]"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;**]**

"Leave Regulations" means the Paternity and Adoption Leave Regulations (Northern Ireland) 2002 [F9];

[F10]...

[F11]...

"paternity leave (adoption)" means paternity leave under regulation 8 of the Leave Regulations;

[[F12]"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;**]**

"statutory adoption leave" means ordinary adoption leave under Article 107A of the Employment Rights (Northern Ireland) Order 1996 or additional adoption leave under Article 107B of that Order;

"SPL Regulations" means the Shared Parental Leave Regulations (Northern Ireland) 2015 [F13].

F7 S.R. 2015 No.95.
F8 Words in reg. 2 substituted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(2)(a)**
F9 S.R. 2002 No.377; as amended by S.R. 2005 No. 48 (C. 5); S.R. 2005 No. 520; S.R. 2006 No. 373; S.R. 2008 No. 374; S.I. 2011/1740; and S.R. 2015 No.87.
F10 Words in reg. 2 omitted (3.1.2019) by virtue of The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(2)(b)**
F11 Words in reg. 2 omitted (3.1.2019) by virtue of The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(2)(c)**
F12 Words in reg. 2 inserted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(2)(d)**
F13 S.R. 2015 No.93.

Application of the Leave Regulations to parental order parents

[F14 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.**]**

F14 Reg. 3 substituted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(3)**

Application of the Curtailment Regulations to parental order parents

4. The provisions of the Curtailment Regulations, in so far as they apply to the curtailment of statutory adoption leave, apply to **[**F15section 54**]** parental order parents with the modifications set out in Part 3.

F15 Words in reg. 4 inserted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(4)**

Application of the SPL Regulations to Parental Order Parents

5. The provisions of the SPL Regulations, in so far as they apply to shared parental leave (adoption), apply to **[**F16section 54**]** parental order parents with the modifications set out in Part 4.

F16 Words in reg. 5 inserted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(5)**

PART 2

PARENTAL ORDER PARENTS: PATERNITY AND ADOPTION LEAVE

6. Regulation 2 (interpretation) of the Leave Regulations as they apply to **[**F17section 54 parental order parents and section 54A parental order parents**]** shall read as if—

(a) in paragraph (1)—

(i) the definitions of "adopter" and "child" were omitted;

(ii) in the definition of "partner", "Parent A" were substituted (in each case) for the words "a child's mother or adopter", "the mother or adopter" and "the mother or the adopter";

(iii) there were, in the appropriate places alphabetically, the following definitions—

[F18""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;"**]**;

""Parent A", in relation to a child, means the **[**F19section 54**]** parental order parent who has elected to be Parent A;";

F20"…";

F20"…"

[F21""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;"**]**

[F22""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 (2)—

(i) the words “a child's mother or adopter” were “Parent A”;

(ii) the words “the mother's or adopter's” were “Parent A's”;

(c) the words of paragraph (4) were—

“A **[**F23section 54**]** parental order parent elects to be Parent A in relation to a child if he agrees with the other **[**F23section 54**]** parental order parent of the child that he, and not the other **[**F23section 54**]** parental order parent, will be Parent A.”.

F17 Words in reg. 6 substituted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(6)(a)**

F18 Words in reg. 6(a)(iii) substituted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(6)(b)(i)**

F19 Words in reg. 6(a)(iii) inserted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(6)(b)(ii)**

F20 Words in reg. 6(a)(iii) omitted (3.1.2019) by virtue of The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(6)(b)(iii)**

F21 Words in reg. 6(a)(iii) substituted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(6)(b)(v)**

F22 Words in reg. 6(a)(iii) inserted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(6)(b)(iv)**

F23 Words in reg. 6(c) inserted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(6)(c)**

7. Regulation 3 (application) of the Leave Regulations as they apply to **[**F24section 54**]** parental order parents shall read as if—

(a) paragraph (1) were omitted;

(b) the words of paragraph (2) were—

“The provisions in relation to paternity leave under regulation 8 and in relation to adoption leave under regulation 15 have effect in relation to children whose expected week of birth begins on or after 5th April 2015.”;

(c) in paragraphs (3) and (6), the words “8th December 2002” were “15th March 2015”.

F24 Words in reg. 7 inserted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 13(7)**

[F25**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