
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 100

EMPLOYMENT
WORK AND FAMILIES

The Employment Rights (Northern Ireland)
Order 1996 (Application of Articles 107A, 107B,
107G, 107I, 112A and 112B to Parental Order
Cases) Regulations (Northern Ireland) 2015

Made - - - - 2nd March 2015

Coming into operation 15th March 2015

Approved by resolution of the Assembly on 12th May 2015

The Department for Employment and Learning makes the following Regulations in exercise of the powers conferred by Articles 107AC, 107BA, 107J(2), 112BAA and 251(6) of the Employment Rights (Northern Ireland) Order 1996(1).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Employment Rights (Northern Ireland) Order 1996 (Application of Articles 107A, 107B, 107G, 107I, 112A and 112B to Parental Order Cases) Regulations (Northern Ireland) 2015 and come into operation on 15 March 2015.

(2) In these Regulations—

“the Order” means the Employment Rights (Northern Ireland) Order 1996;

“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(2); and

“parental order parent” means a person—

(c) on whose application the court has made a parental order in respect of a child; or

(d) who is an intended parent of a child.

(1) [S.I. 1996/1919 \(N.I. 16\)](#); Articles 107AC, 107BA, 107J and 112BAA were inserted, respectively, by the Work and Families Act (Northern Ireland) 2015 (c. 1), sections 10(2), 10(3), 2(2) and 10(5).

(2) [2008 c.22](#).

Application of Articles 107A and 107B of the Order to parental order parents

2. Articles 107A and 107B of the Order(3) have effect in relation to parental order parents.

Application of Articles 107G and 107I of the Order to parental order parents

3. Articles 107G and 107I of the Order(4) have effect in relation to parental order parents with the modifications specified in the second column of Schedule 1.

Application of Articles 112A and 112B of the Order to parental order parents

4. Articles 112A and 112B of the Order(5) have effect in relation to parental order parents with the modifications specified in the second column of Schedule 2.

Sealed with the Official Seal of the Department for Employment and Learning on 2nd March 2015.



Dr Stephen Farry
Minister for Employment and Learning

(3) Articles 107A and 107B were inserted by the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2), Article 3.
(4) Articles 107G and 107I were inserted by 2015 c. 1 (N.I.), section 2.
(5) Articles 112A and 112B were inserted by S.I. 2002/2836 (N.I. 2), Article 4.

SCHEDULE 1

Regulation 3

<i>Provision</i>	<i>Modification</i>
Article 107G	<p>For sub-paragraph (b) of paragraph (1) substitute—</p> <p style="padding-left: 40px;">“(b) as to being a person—</p> <p style="padding-left: 80px;">(i) on whose application the court has made a parental order in respect of a child, or</p> <p style="padding-left: 80px;">(ii) who is an intended parent of a child.”.</p> <p>For sub-paragraph (b) of paragraph (4) substitute—</p> <p style="padding-left: 40px;">“(b) as to being a person—</p> <p style="padding-left: 80px;">(i) on whose application the court has made a parental order in respect of a child, or</p> <p style="padding-left: 80px;">(ii) who is an intended parent of a child,</p> <p style="padding-left: 40px;">(ba) as to relationship with the other person (“A”) on whose application the parental order was made or who is an intended parent of the child.”.</p> <p>After paragraph (6) insert—</p> <p style="padding-left: 40px;">“(7) In this Article and Article 107I—</p> <p style="padding-left: 80px;">“intended parent”, in relation to a child, means a person who, on the day of the child’s birth—</p> <p style="padding-left: 40px;">(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</p> <p style="padding-left: 40px;">(b) expects the court to make a parental order on that application in respect of the child; and</p> <p style="padding-left: 80px;">“parental order” means an order under section 54(1) of the Human Fertilisation and Embryology Act 2008.”.</p>
Article 107I	<p>In sub-paragraph (a) of paragraph (2), for “with whom the child is, or is expected to be placed for adoption” substitute “on whose application the court has made a parental order in respect of the child or who is an intended parent of the child”.</p> <p>In sub-paragraph (b) of paragraph (2), for “with whom the child is, or is expected to be placed for adoption” substitute “on whose application the</p>

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<i>Provision</i>	<i>Modification</i>
	<p>court has made a parental order in respect of the child or who is an intended parent of the child”.</p> <p>In sub-paragraph (b) of paragraph (14), for “placed for adoption as part of the same arrangement” substitute “born as a result of the same pregnancy”.</p>

SCHEDULE 2

Regulation 4

<i>Provision</i>	<i>Modification</i>
Article 112A	<p>After sub-paragraph (a) in paragraph (5) insert—</p> <p>“(aa) make provision excluding the right to be absent on leave under this Article in the case of an employee who satisfies—</p> <ul style="list-style-type: none"> (i) the conditions specified in regulations under Article 107A(1) or 112B(1), or (ii) such of those conditions as are specified in regulations under paragraph (1);”.
Article 112B	<p>For sub-paragraph (b) of paragraph (1) (and the following “and”) substitute—</p> <p>“(b) as to being a person—</p> <ul style="list-style-type: none"> (i) on whose application the court has made a parental order in respect of a child, or (ii) who is an intended parent of a child, and”. <p>For sub-paragraph (c) of paragraph (1) substitute—</p> <p>“(c) as to relationship with the other person on whose application the parental order was made or who is an intended parent of the child;”.</p> <p>In paragraph (4), for “placement for adoption” substitute “birth”.</p> <p>In sub-paragraph (a) of paragraph (5), for “a person with whom a child is placed for adoption” substitute “the other person on whose application the court has made a parental order in respect of a child or who is an intended parent of a child”.</p>

<i>Provision</i>	<i>Modification</i>
	Omit sub-paragraph (aa) of paragraph (5)(6).
	In sub-paragraph (c) of paragraph (5), for “placed for adoption as part of the same arrangement” substitute “born as a result of the same pregnancy”.
	For paragraph (6) substitute— “(6) Where more than one child is born as a result of the same pregnancy, the reference in paragraph (4) to the date of the child’s birth shall be read as a reference to the date of birth of the first child born as a result of the pregnancy.”
	After paragraph (7) insert— “(7A) In this Article— “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; and “parental order” means an order under section 54(1) of the Human Fertilisation and Embryology Act 2008.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

Articles 107A and 107B of the Employment Rights (Northern Ireland) Order 1996 (“the Order”) give employees who satisfy prescribed conditions the right to take ordinary adoption leave and additional adoption leave. They also allow an employee who is entitled to ordinary or additional adoption leave to curtail that leave to access shared parental leave. These Regulations provide that those Articles have effect in relation to parental order parents. A parental order parent is a person who has applied, or intends to apply, with another person, under section 54 of the Human Fertilisation and Embryology Act 2008 for a parental order in respect of a child or someone who has such an order.

Articles 107G and 107I of the Order contain powers to make regulations entitling an employee who is adopting a child under the law of any part of the United Kingdom, or has a specified

(6) Article 112B(5)(aa) was inserted by 2015 c. 1 (N.I.), section 8(4).

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relationship with such an adopter, to take shared parental leave. These Regulations make the necessary modifications to those Articles to provide for them to have effect in relation to parental order parents.

Article 112B of the Order confers power to make regulations entitling an employee who satisfies specified conditions to avail of paternity leave. These Regulations make the necessary modifications to Article 112B to provide for it to have effect in relation to parental order parents. In addition, these Regulations modify Article 112A of the Order to allow the making of regulations which provide that an employee does not have an entitlement to paternity leave under that Article where the employee has the right to paternity leave under Article 112B or to adoption leave under Article 107A of the Order.

An impact assessment has not been prepared for these Regulations. These Regulations are part of a package of legislative measures and the relevant impacts were assessed within the document ‘Sharing parental rights, extending flexibility at work – public consultation’, published in May 2013 (www.delni.gov.uk/index/consultation-zone/archived-consultations/archived-consultations-2013/working-parents-rights.htm), and supplemented by a further publication in April 2014 (www.delni.gov.uk/index/publications/equality-good-relations/shared-parental-leave-and-pay.htm).