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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 101**

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

**PART 2**

**PARENTAL ORDER PARENTS: PATERNITY AND ADOPTION LEAVE**

**6.** Regulation 2 (interpretation) of the Leave Regulations as they apply to 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—

““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;”;

““Parent A”, in relation to a child, means the parental order parent who has elected to be Parent A;”;

““parental order” means an order under section 54(1) of the Human Fertilisation and Embryology Act 2008;”;

““parental order parent” means a person—

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

(b) who is an intended parent of the child;” and

““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;”.

- (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 parental order parent elects to be Parent A in relation to a child if he agrees with the other parental order parent of the child that he, and not the other parental order parent, will be Parent A.”.
- 7.** Regulation 3 (application) of the Leave Regulations as they apply to 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”.
- 8.** In regulation 4 (entitlement to paternity leave: birth), paragraph (1A)(1) of the Leave Regulations, as they apply to parental order parents, shall read as if the words of that paragraph were—
- “An employee is not entitled to be absent from work under paragraph (1) if the employee—
- (a) has taken any shared parental leave in respect of the child;
  - (b) meets the criteria for entitlement to paternity leave under regulation 8; or
  - (c) meets the criteria for entitlement to adoption leave under regulation 15.”.
- 9.** In regulation 8 (entitlement to paternity leave: adoption) of the Leave Regulations as they apply to parental order parents—
- (a) paragraph (1) shall read as if the words “the child’s adopter” were “Parent A”;
  - (b) paragraph (2)(a) shall read as if the words after “the week” to the end were “immediately preceding the 14th week before the expected week of the child’s birth”;
  - (c) paragraph (2)(b) shall read as if—
    - (i) the words “the child’s adopter” were “Parent A”;
    - (ii) for “, and” there was substituted a semi-colon;
  - (d) paragraph (2)(c) shall read as if—
    - (i) the words “the adopter” were “Parent A”;
    - (ii) the full stop were omitted;
    - (iii) there were inserted after sub-paragraph (c)—
 

“; and

      - (d) is a parental order parent of the child.”;
  - (e) paragraph (4) shall read as if the words of that paragraph were—
 

“An employee shall be treated as having satisfied the condition in paragraph (2)(b) if he would have satisfied it but for the fact that Parent A has died.”;
  - (f) paragraph (5) shall read as if the words of that paragraph were—

“An employee shall be treated as having satisfied the condition in paragraph (2)(c) if he would have satisfied it but for the fact that the child was stillborn after 24 weeks of pregnancy or has died.”;

(g) paragraph (6) shall read as if the words of that paragraph were—

“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.”;

(h) it shall read as if the following paragraph were inserted after paragraph (6)—

“(7) An employee shall be treated as having satisfied the condition in paragraph (2) (a) on the date of the child’s birth notwithstanding the fact that he has not then been continuously employed for a period of not less than 26 weeks, where—

(a) the date on which the child is born is earlier than the 14th week before the week in which its birth is expected, and

(b) the employee would have been continuously employed for such a period if his employment had continued until that 14th week.”.

**10.** In regulation 9 (options in respect of leave under regulation 8) of the Leave Regulations as they apply to parental order parents—

(a) paragraph (2) shall read as if the words “the child is placed with the adopter” were “the child is born”;

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

“Subject to paragraph (2), an employee may choose to begin a period of leave under regulation 8 on—

(a) the date on which the child is born;

(b) the date falling such number of days after the date on which the child is born as the employee may specify in a notice under regulation 10; or

(c) a predetermined date, specified in a notice under that regulation, which is later than the first day of the expected week of the child’s birth.”.

**11.** Regulation 10 (notice and evidential requirements for leave under regulation 8) of the Leave Regulations as they apply to parental order parents shall read as if the words of that regulation were—

“**10.**—(1) An employee must give his employer notice of his intention to take leave in respect of a child under regulation 8, specifying—

(a) the expected week of the child’s birth;

(b) the length of the period of leave that the employee has chosen to take in accordance with regulation 9(1); and

(c) the date on which, in accordance with regulation 9(3), the employee has chosen as the date on which the period of paternity leave should begin.

(2) The notice provided for in paragraph (1) must be given to the employer in or before the 15th week before the expected week of the child’s birth.

(3) Where the employer requests it, an employee must give the employer, within 14 days of receipt of a request, a written declaration, signed by the employee, to the effect that—

(a) the purpose of the employee’s absence from work will be that specified in regulation 8(1);

(b) the employee satisfies the conditions of entitlement in sub-paragraphs (b) and (c) of regulation 8(2); and

(c) the employee and Parent A are the parental order parents of the child.

(4) An employee who has given notice under paragraph (1) may vary the date chosen as the date on which the period of leave will begin provided that the employee has given the employer notice of the variation—

- (a) where the variation is to provide for the employee’s period of leave to begin on the date on which the child is born, at least 28 days before the first day of the expected week of the child’s birth;
- (b) where the variation is to provide for the employee’s period of leave to begin on the date that is a specified number of days (or a different specified number of days), after the date on which the child is born, at least 28 days before that date falling that number of days after the first day of the expected week of the child’s birth;
- (c) where the variation is to provide for the employee’s period of leave to begin on a predetermined date (or a different predetermined date) at least 28 days before that date.

(5) The employee must vary the choice of date by substituting a later predetermined date or exercising an alternative option under paragraph (3)(a) or (3)(b) of regulation 9 in a case where—

- (a) the employee has chosen to begin the period of leave on a particular predetermined date, and
- (b) the child is not born on or before that date.

(6) Where an employee varies the date on which the period of paternity leave is to begin in accordance with paragraph (5) the employee must give the employer notice of the variation as soon as is reasonably practicable.

(7) An employee must give his employer a further notice, as soon as reasonably practicable after the child’s birth, of the date on which the child was born.

(8) Any notice under paragraph (1), (4), (6) or (7) must be given in writing, if the employer so requests.”.

**12.** In regulation 11 (commencement of leave under regulation 8) of the Leave Regulations, as they apply to parental order parents—

- (a) paragraph (1) shall read as if the words “10(4) or (6)” were “10(4) or (5)”; and
- (b) paragraph (2)(a) shall read as if the words “the child is placed with the adopter” were “the child is born”.

**13.** In regulation 15 (entitlement to ordinary adoption leave) of the Leave Regulations, as they apply to parental order parents—

- (a) paragraph (2) shall read as if the words of that paragraph were—
  - “The conditions referred to in paragraph (1) are that the employee—
  - (a) is one of the child’s parental order parents; and
  - (b) has elected to be Parent A.”;
- (b) paragraph (4) shall read as if the words of that paragraph were—
  - “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.”.

**14.** Regulations 16 (options in respect of ordinary adoption leave) and 17 (notice and evidential requirements for ordinary adoption leave) of the Leave Regulations as they apply to parental order parents shall read as if the wording of those regulations were—

**“Commencement of ordinary adoption leave**

**16.**—(1) Except in a case referred to in paragraph (2), an employee’s period of ordinary adoption leave begins on the day on which the child is born.

(2) In a case where the employee is at work on the date on which the child is born the employee’s leave begins on the day after that date.

**Notice and evidential requirements for ordinary adoption leave**

**17.**—(1) An employee must give the employer notice of their intention to take ordinary adoption leave in respect of a child specifying the expected week of the child’s birth.

(2) The notice provided for in paragraph (1) must be given to the employer in or before the 15th week before the expected week of the child’s birth.

(3) Where an employer requests it, an employee must also provide the employer with a parental statutory declaration.

(4) An employer who is given notice under paragraph (1) of the employee’s intention to take ordinary adoption leave must notify the employee within 28 days of the receipt of the notice of the date on which the period of additional adoption leave to which the employee will be entitled (if the employee satisfies the conditions in regulation 20(1)) after the employee’s period of ordinary adoption leave ends.

(5) The notification provided for in paragraph (4) must be given to the employee within 28 days of the date on which the employer received that notice.

(6) An employee must give the employer a further notice, as soon as reasonably practicable after the child’s birth, of the date on which the child was born.

(7) Notices under paragraphs (1) and (6) must be given in writing, if the employer so requests.”.

**15.** In regulation 18 (duration and commencement of ordinary adoption leave) of the Leave Regulations as they apply to parental order parents, it shall read as if—

- (a) in the heading, the words “and commencement” were omitted;
- (b) paragraph (1) was unnumbered; and
- (c) paragraphs (2) and (3) were omitted.

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

**17.** In regulation 22 (disrupted placement in the course of adoption leave) of the Leave Regulations as they apply to 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 a parental order within the time limit set in section 54(3) of the Human Fertilisation and Embryology Act 2008, or
- (b) the employee’s application for a parental order 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 54(3) of the Human Fertilisation and Embryology Act 2008 for an application for a parental order 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 a parental order 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.”;
- (c) paragraph (3A) is omitted in relation to any time on or after the date on which that paragraph comes into operation<sup>(2)</sup>.

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(2) Paragraph (3A) was inserted by [S.R. 2015 No.87](#).