

SCHEDULE 1

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

Employment Rights (Northern Ireland) Order 1996

13.—(1) The Employment Rights (Northern Ireland) Order 1996⁽¹⁾ is amended as follows.

(2) Article 85ZE (right to time off to accompany to ante-natal appointments)⁽²⁾ is amended as follows.

(3) Omit the “or” before paragraph (7)(e).

(4) At the end of paragraph (7)(e) insert—

“or

(f) the person is a potential applicant for a parental order under section 54A of that Act in respect of the expected child.”.

(5) After paragraph (10) insert—

“(10A) For the purposes of paragraph (7)(f) a person is a potential applicant for a parental order under section 54A of the Human Fertilisation and Embryology Act 2008 in respect of an expected child only if—

(a) the person intends to apply for such an order in respect of the expected child within the time allowed by subsection (2) of that section,

(b) the expected child is being carried by the pregnant woman as a result of such procedure as is described in subsection (1)(a) of that section,

(c) the requirement in subsection (1)(b) of that section is satisfied by reference to the person, and

(d) the person expects that he or she will satisfy the conditions in subsections (3), (4) and (7) of that section as regards the intended application.”.

(6) Article 85ZG (right to time off to accompany to ante-natal appointments: agency workers)⁽³⁾ is amended as follows.

(7) Omit the “or” before paragraph (7)(e).

(8) At the end of paragraph (7)(e) insert—

“, or

(f) the person is a potential applicant for a parental order under section 54A of that Act in respect of the expected child.”.

(9) After paragraph (10) insert—

“(10A) For the purposes of paragraph (7)(f) a person is a potential applicant for a parental order under section 54A of the Human Fertilisation and Embryology Act 2008 in respect of an expected child only if—

(a) the person intends to apply for such an order in respect of the expected child within the time allowed by subsection (2) of that section,

(b) the expected child is being carried by the pregnant woman as a result of such procedure as is described in subsection (1)(a) of that section,

⁽¹⁾ S.I. 1996/1919 (N.I. 16).

⁽²⁾ Article 87ZE was inserted by section 15(2) of the Work and Families Act (Northern Ireland) 2015 (c. 1).

⁽³⁾ Article 87ZG was inserted by section 15(2) of the Work and Families Act (Northern Ireland) 2015 (c. 1).

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- (c) the requirement in subsection (1)(b) of that section is satisfied by reference to the person, and
 - (d) the person expects that he or she will satisfy the conditions in subsections (3), (4) and (7) of that section as regards the intended application.”.
- (10) For Article 107AC (ordinary adoption leave: power to apply to other cases)(4) substitute—

“107AC Power to apply Article 107A to other cases

The Department may by regulations provide for Article 107A to have effect, with such modifications as may be prescribed, in relation to—

- (a) cases which involve an employee who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order,
 - (b) cases which involve an employee who has applied, or intends to apply, for a parental order under section 54A of that Act and a child who is, or will be, the subject of the order.”.
- (11) For Article 107BA (additional adoption leave: power to apply to other cases) substitute—

“107BA Power to apply Article 107B to other cases

The Department may by regulations provide for Article 107B(5) to have effect, with such modifications as may be prescribed, in relation to—

- (a) cases which involve an employee who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order,
 - (b) cases which involve an employee who has applied, or intends to apply, for a parental order under section 54A of that Act and a child who is, or will be, the subject of the order.”.
- (12) In article 107D(1A)(a) (supplemental provision) after “order” insert “under section 54 or 54A of the Human Fertilisation and Embryology Act 2008”.

(4) Article 107AC was inserted by section 10(2) of the Work and Families Act (Northern Ireland) 2015 (c. 1).
(5) Article 107A was applied with modifications by 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 (S.R. 2015/100).