

## SCHEDULE 1

Article 3(1)

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

#### Senior Courts Act 1981

1. In paragraph 3(f)(iv) of Schedule 1 to the Senior Courts Act 1981(1) (assignment of business of High Court to the Family Division) after “section 54” insert “or 54A”.

#### Social Security Act 1989

2. In Schedule 5 to the Social Security Act 1989(2) (employment-related schemes for pensions or other benefits: equal treatment for men and women), in paragraph 5B(8)(b)(3) after “section 54” insert “or 54A”.

#### Social Security (Northern Ireland) Order 1989

3. In Schedule 5 to the Social Security (Northern Ireland) Order 1989(4) (employment-related schemes for pensions or other benefits: equal treatment for men and women), in paragraph 5B(8)(b)(5) after “section 54” insert “or 54A”.

#### Human Fertilisation and Embryology Act 1990

4.—(1) The Human Fertilisation and Embryology Act 1990(6) is amended as follows.

(2) In section 33A(2)(q)(7) (disapplication of prohibition on disclosing information) after “section 54” insert “or subsection (1) of section 54A”.

(3) In section 35A(2)(b)(8) (power to provide for provisions about parental orders to have effect in cases of mitochondrial donation) for “section 54” substitute “sections 54 and 54A”.

#### Child Support Act 1991

5. In section 26(2) of the Child Support Act 1991(9) (cases in which assumptions may be made about a child’s parentage), in Case B, after “section 54” insert “or 54A”.

#### Child Support (Northern Ireland) Order 1991

6. In article 27(2) of the Child Support (Northern Ireland) Order 1991(10) (cases in which assumptions may be made about a child’s parentage), in Case B, after “section 54” insert “or 54A”.

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- (1) 1981 c. 54. Sub-paragraph (f) was inserted by S.I. 1991/1201, and paragraph (iv) was amended by paragraph 21 of Schedule 6 to the Human Fertilisation and Embryology Act 2008. Other amendments have been made to sub-paragraph (f) which are not relevant to this Order.
- (2) 1989 c. 24.
- (3) Paragraph 5B was inserted by section 265(1) of the Pensions Act 2004 (c. 35) and amended by paragraph 3 of Schedule 7 to the Children and Families Act 2014 (c. 6) and S.I. 2016/413.
- (4) S.I. 1989/1342 (N.I. 13).
- (5) Paragraph 5B was inserted by Article 242 of the Pensions (Northern Ireland) Order 2005 (N.I. 1) and amended by paragraph 1(3) of Schedule 1 to the Work and Families Act (Northern Ireland) 2015 (c. 1).
- (6) 1990 c. 37.
- (7) Section 33A was inserted by section 25 of the Human Fertilisation and Embryology Act 2008 (c. 22).
- (8) Section 35A was inserted by section 26 of the Human Fertilisation and Embryology Act 2008.
- (9) 1991 c. 48; Cases B and B1 were substituted by paragraph 36 of Schedule 6 to the Human Fertilisation and Embryology Act 2008. Other amendments were made to section 26, which are not relevant to this Order.
- (10) S.I. 1991/2628 (N.I. 23); article 27 was amended by paragraph 17 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4).

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### **Social Security Contributions and Benefits Act 1992**

7.—(1) In section 171ZT (power to apply Part 12ZB) of the Social Security Contributions and Benefits Act 1992(11), for subsection (2) substitute—

“(2) The Secretary of State may by regulations provide for this Part to have effect, with such modifications as the regulations may prescribe, in relation to—

- (a) cases which involve a person 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 a person 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.”.

(2) In subsection (3)(a) of that section, after “order” insert “under section 54 or 54A of the Human Fertilisation and Embryology Act 2008”.

### **Social Security Contributions and Benefits (Northern Ireland) Act 1992**

8.—(1) In section 167ZT (power to apply Part 12ZB) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(12), for subsection (2) substitute—

“(2) The Department may by regulations provide for this Part to have effect, with such modifications as may be prescribed, in relation to—

- (a) cases which involve a person 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 a person 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.”.

(2) In subsection (3)(a) of that section after “order” insert “under section 54 or 54A of the Human Fertilisation and Embryology Act 2008”.

### **Children (Scotland) Act 1995**

9. In section 11(4)(c) of the Children (Scotland) Act 1995(13) (cases in which court orders may not be made) after “section 54” insert “or 54A”.

### **Children (Northern Ireland) Order 1995**

10. In article 8(4)(g) of the Children (Northern Ireland) Order 1995(14) (interpretation) after “section 54” insert “or “54A”.

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(11) 1992 c. 4; section 171ZT was inserted by section 4 of the Employment Act 2002 (c. 22) and amended by section 122(6) of the Children and Families Act 2014 (c. 6).

(12) 1992 c. 7; Part 12ZB was inserted by the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)); Part 12ZB has been applied with modification to parental order cases by the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Application of Parts 12ZA, 12ZB and 12ZC to Parental Order Cases) Regulations (Northern Ireland) 2015 (S.I. 2015/90).

(13) 1995 c. 36; section 11(4) was amended by paragraph 9(2) of Schedule 2, and Schedule 3 to the Adoption and Children (Scotland) Act 2007 (asp 4) and paragraph 52 of Schedule 6 to the Human Fertilisation and Embryology Act 2008 (c. 22).

(14) S.I. 1995/755 (N.I. 2); article 8(4)(g) was substituted by paragraph 73 of Schedule 6 to the Human Fertilisation and Embryology Act 2008 (c. 22).

## Employment Rights Act 1996

11.—(1) The Employment Rights Act 1996(15) is amended as follows.

(2) Section 57ZE (right to time off to accompany to ante-natal appointment)(16) is amended as follows.

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

(4) After subsection (7)(e) insert—

“or

(f) the person is a potential applicant for a parental order under section 54A of the Human Fertilisation and Embryology Act 2008 in respect of the expected child.”.

(5) After subsection (10) insert—

“(10A) For the purposes of subsection (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 section 54A(2),
- (b) the expected child is being carried by the pregnant woman as a result of such procedure as is described in section 54A(1)(a),
- (c) the requirement in section 54A(1)(b) is satisfied by reference to the person, and
- (d) the person expects that he or she will satisfy the conditions in section 54A(3), (4) and (7) as regards the intended application.”.

(6) Section 57ZG (right to time off to accompany to ante-natal appointment: agency workers)(17) is amended as follows.

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

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

“, or

(f) the person is a potential applicant for a parental order under section 54A of the Human Fertilisation and Embryology Act 2008 in respect of the expected child.”.

(9) After subsection (10) insert—

“(10A) For the purposes of subsection (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 section 54A(2),
- (b) the expected child is being carried by the pregnant woman as a result of such procedure as is described in section 54A(1)(a),
- (c) the requirement in section 54A(1)(b) is satisfied by reference to the person, and
- (d) the person expects that he or she will satisfy the conditions in section 54A(3), (4) and (7) as regards the intended application.”.

(15) 1996 c. 18. Section 11(4)(c) was amended by paragraph 52(2) of Schedule 6 to the Human Fertilisation and Embryology Act 2008 (c. 22).

(16) Section 57ZE was inserted by section 127(1) of the Children and Families Act 2014 (c. 6).

(17) Section 57ZG was inserted by section 127(1) of the Children and Families Act 2014 (c. 6).

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(10) In section 75A (ordinary adoption leave)(**18**) for subsection (8) substitute—

“(8) The Secretary of State may by regulations provide for this section to have effect, with such modifications as the regulations may prescribe, 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) In section 75B (additional adoption leave)(**19**) for subsection (9) substitute—

“(9) The Secretary of State may by regulations provide for this section to have effect, with such modifications as the regulations may prescribe, 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 section 75D(1A)(a) (supplemental)(**20**) after “order” insert “under section 54 or 54A of the Human Fertilisation and Embryology Act 2008”.

### **Family Law Act 1996**

**12.** In section 63(2)(h) of the Family Law Act 1996 (interpretation)(**21**) for “section 54” substitute “sections 54 and 54A”.

### **Employment Rights (Northern Ireland) Order 1996**

**13.**—(1) The Employment Rights (Northern Ireland) Order 1996(**22**) is amended as follows.

(2) Article 85ZE (right to time off to accompany to ante-natal appointments)(**23**) 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—

(18) Section 75A was inserted by section 3 of the Employment Act 2002 (c. 22) and amended by paragraph 33 of Schedule 1 to the Work and Families Act 2006 (c. 18); sections 118, 121(1) and 122(1) of the Children and Families Act 2014 (c. 6); S.I. 2016/413; and applied with modifications by S.I. 2014/3095.

(19) Section 75B was inserted by section 3 of the Employment Act 2002 (c. 22) and amended by paragraph 34 of Schedule 1 to the Work and Families Act 2006 (c. 18); section 118(1) and (5) and 122(2) of the Children and Families Act 2014 (c. 6); and applied with modifications by S.I. 2014/3095.

(20) Section 75D was inserted by section 3 of the Employment Act 2002 (c. 22) and amended by section 122(3) of the Children and Families Act 2014 (c. 6).

(21) 1996 c. 27. Subsection (2)(h) of section 63 was substituted by paragraph 37 of Schedule 6 to the Human Fertilisation and Embryology Act 2008; other amendments have been made to section 63, which are not relevant to this Order.

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

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

“(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)(**24**) 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,
- (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)(**25**) 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—

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

(25) Article 107AC was inserted by section 10(2) of the Work and Families Act (Northern Ireland) 2015 (c. 1).

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

The Department may by regulations provide for Article 107B(26) 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”.

#### **Family Homes and Domestic Violence (Northern Ireland) Order 1998**

14. In article 2(3)(f) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (interpretation)(27) for “section 54” substitute “sections 54 and 54A”.

#### **Legal Aid, Sentencing and Punishment of Offenders Act 2012**

15. In paragraph 12(9) of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (services which are civil legal services)(28), in paragraph (o) of the definition of “family enactment”, for “section 54” substitute “sections 54 and 54A”.

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(26) 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).

(27) S.I. 1998/1071 (N.I. 6); article 2(3)(f) was amended by paragraph 79 of Schedule 6 to the Human Fertilisation and Embryology Act 2008 (c. 22); there are other amendments to that article which are not relevant to this Order.

(28) 2012 c. 10; there are amendments to paragraph 12 of Schedule 1 which are not relevant to this Order.