

## 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 Act 1996**

**11.**—(1) The Employment Rights Act 1996<sup>(1)</sup> is amended as follows.

(2) Section 57ZE (right to time off to accompany to ante-natal appointment)<sup>(2)</sup> 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)<sup>(3)</sup> 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

(1) 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).

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

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

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- (d) the person expects that he or she will satisfy the conditions in section 54A(3), (4) and (7) as regards the intended application.”.
- (10) In section 75A (ordinary adoption leave)(4) 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)(5) 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)(6) after “order” insert “under section 54 or 54A of the Human Fertilisation and Embryology Act 2008”.

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(4) 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.

(5) 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.

(6) 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).