Changes to legislation: *Adoption (Hague Convention) Act (Northern Ireland) 1969 is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Adoption (Hague Convention) Act (Northern Ireland) 1969

1969 CHAPTER 22

An Act to make provision for extending the powers of the court to make orders with respect to the adoption of children; for enabling effect to be given in Northern Ireland to adoptions effected in other countries and to determinations of authorities in other countries with respect to adoptions; and for purposes connected with the matters aforesaid. [11th November 1969]

FURTHER PROVISION FOR ADOPTION IN NORTHERN IRELAND

[F1 1 Convention adoption orders.

(1) An adoption order shall be made as a convention adoption order if the application is for a convention adoption order and the following conditions are satisfied both at the time of the application and when the order is made.

(2) The child—

(a) must be a United Kingdom national or a national of a convention country, and

(b) must reside in British territory or a convention country.

(3) The applicant or applicants and the child must not all be United Kingdom nationals living in British territory.

(4) If the application is by a F2... couple, either—

(a) each must be a United Kingdom national or a national of a convention country, and both must reside in Northern Ireland, or

(b) both must be United Kingdom nationals, and each must reside in British territory or a convention country,

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and if the applicants are nationals of the same convention country the adoption must not be prohibited by a specified provision (as defined in subsection (8)) of the internal law of that country.

(5) If the application is by one person, either—

(a) he must be a national of a convention country, and must reside in Northern Ireland, or

(b) he must be a United Kingdom national, and must reside in British territory or a convention country,

and if he is a national of a convention country the adoption must not be prohibited by a specified provision (as defined in subsection (8)) of the internal law of that country.

(6) If the child is not a United Kingdom national the order shall not be made—

(a) except in accordance with the provisions, if any, relating to consents and consultations of the internal law relating to adoption of the convention country of which the child is a national, and

(b) unless the court is satisfied that each person who consents to the order in accordance with that internal law does so with full understanding of what is involved.

(7) The reference to consents and consultations in subsection (6) does not include a reference to consent by and consultation with the applicant and members of the applicant's family (including his or her spouse **[**F3or civil partner**]**), and for the purposes of subsection (6) consents may be proved in the manner prescribed by rules and the court shall be treated as the authority by whom, under the law mentioned in subsection (6), consents may be dispensed with and the adoption in question may be effected; and where the provisions there mentioned require the attendance before that authority of any person who does not reside in Northern Ireland, that requirement shall be treated as satisfied for the purposes of subsection (6) if—

(a) that person has been given a reasonable opportunity of communicating his opinion on the adoption in question to the proper officer or clerk of the court, or to an appropriate authority of the country in question, for transmission to the court; and

(b) where he has availed himself of that opportunity, his opinion has been transmitted to the court.

(8) In subsections (4) and (5) "specified provision" means a provision specified in an order under section 17(8) of the Adoption Act 1976 as one notified to the Government of the United Kingdom in pursuance of the provisions of the Convention which relate to prohibitions on an adoption contained in the national law of the convention country in question.**]**

[F4(9) In subsection (4) "couple" has the same meaning as in the Order of 1987 (see Article 2 of that Order).**]**

F1 1987 NI 22

F2 Word in s. 1(4) omitted (13.1.2020) by virtue of The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **29(2)(a)** (with regs. 6-9)

F3 Words in s. 1(7) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **29(2)(b)** (with regs. 6-9)

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F4 S. 1(9) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **29(2)(c)** (with regs. 6-9)

2 Application of Order of 1987 to convention adoption orders.

The Order of 1987 shall have effect in relation to an adoption order to be made as a convention adoption order subject to the following modifications—

(a) in Article **[**F5 14(4) (adoption by couples)**]** , at the end there shall be added " or the application is for a convention adoption order and section 1 of the Adoption (Hague Convention) Act (Northern Ireland) 1969 is complied with ";

(b) in Article 15(2) (adoption by one person), at the end there shall be added " or the application is for a convention adoption order and section 1 of the Adoption (Hague Convention) Act (Northern Ireland) 1969 is complied with ";

(c) in Article 16(2) (parental agreement) at the end there shall be inserted —

"(2A) Paragraph (1) does not apply in any case where the child is not a United Kingdom national and the application for the adoption order is for a convention adoption order."

F5 Words in s. 2(a) substituted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **29(3)** (with regs. 6-9)

RECOGNITION OF FOREIGN ADOPTIONS AND ADOPTION PROCEEDINGS

4 Extension of enactments to certain foreign adoptions.

Subs. (1),(2) rep. by 1987 NI 22

(3) In this Act "foreign adoption" means an adoption specified by an order made under**[**F6 section 72(2) of the Adoption Act 1976**]** and evidence of a foreign adoption may be given in the manner provided by the order.

F6 1995 NI 2

5 Recognition of foreign determinations in adoption proceedings.

(1) Where an authority of a convention country**[**F7 or any British territory**[**F8 outside the United Kingdom**]** having power under the law of that country or territory**]**

(a) to authorise or review the authorisation of a foreign convention adoption**F9**. . . ; or

(b) to give or review a decision revoking or annulling a foreign convention adoption,**F9**. . . or a convention adoption order;

makes a determination in the exercise of that power, then, subject to section 6 of this Act and any subsequent determination having effect under this subsection, the determination shall have effect in Northern Ireland for the purpose of effecting,

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confirming or terminating the adoption in question or confirming its termination, as the case may be.

(2) In this Act "foreign convention adoption" means a foreign adoption of a description designated by an order made under**[**F8 section 72(2) of the Adoption Act 1976**]** as that of an adoption regulated by the Convention.

F7 1987 NI 22
F8 1995 NI 2
F9 2001 c. 11 (NI)

6 Annulment etc., of certain foreign adoptions and determinations.

(1) The court may, upon an application under this subsection, by order annul [F10 an adoption effected by a foreign convention order or] a foreign convention adoption—

(a) on the ground that at the relevant time the adoption was prohibited by a notified provision, if under the internal law then in force in the country of which the adopter was then a national or the adopters were then nationals the adoption could have been impugned on that ground;

(b) on the ground that at the relevant time the adoption contravened provisions relating to consents of the internal law relating to adoption of the country of which the adopted person was then a national, if under that law the adoption could then have been impugned on that ground;

(c) on any other ground on which the adoption can be impugned under the law for the time being in force in the country in which the adoption was effected.

(2) Where a person adopted by his father or mother alone by virtue of a foreign convention adoption has subsequently become a legitimated person on the marriage of **[**F11, or formation of a civil partnership by,**]** his father and mother, the court may, upon an application under this subsection by the parties concerned, by order revoke the adoption.

(3) The court may, upon an application under this subsection—

(a) order that a foreign adoption or a determination shall cease to be valid in Northern Ireland on the ground that the adoption or determination is contrary to public policy or that the authority which purported to authorise the adoption or make the determination was not competent to entertain the case;

(b) decide the extent, if any, to which a determination has been affected by a subsequent determination.

(4) Except as provided by this section, the validity of a foreign adoption or a determination shall not be impugned in proceedings in any court in Northern Ireland.

F10 1978 c.22
F11 Words in s. 6(2) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), **regs. 1(2)**, 29(4) (with regs. 6-9)

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7 Provisions supplementary to section 6.

(1) Any application for an order under section 6 or a decision under section 6(3)(*b*) shall be made in the prescribed manner and within such period, if any, as may be prescribed.

(2) No application shall be made under subsection (1) or (2) of section 6 …[F12] unless immediately before the application is made the person adopted or the adopter resides in Northern Ireland or, as the case may be, both adopters reside there.

(3) In deciding in pursuance of section 6 whether such an authority as is mentioned in section 5(1) was competent to entertain a particular case, the court shall be bound by any finding of fact made by the authority and stated by the authority to be so made for the purpose of determining whether the authority was competent to entertain the case.

(4) In section 6 and this section—

"determination" means such a determination as is mentioned in section 5(1);

"notified provision" means a provision specified in an order made under**[**[F13] section 54(4) of the Adoption Act 1976**]**; and

"relevant time" means the time when the adoption in question purported to take effect under the law of the country in which it purports to have been effected.

F12 1978 c.22
F13 1995 NI 2

MISCELLANEOUS AND GENERAL

8 Registration.

Para. (1) rep. by 2001 c. 11 (NI)

(2) If the Registrar General is satisfied that an entry in the Register of Births relates to a person adopted under a foreign adoption and that he has sufficient particulars relating to that person to enable an entry in the form set out in**[**[F14] Schedule 2 to the Order of 1987**]**, as modified by this subsection, to be made in the Adopted Children Register in respect of that person, he shall—

(a) make such an entry in the Adopted Children Register; and

(b) if there is a previous entry in respect of that person in that register, mark the entry (or if there is more than one such entry the last of them) with the word "Re-adopted" followed by the name in brackets of the country in which the adoption was effected; and

(c) unless the entry in the Register of Births is already marked with the word "Adopted" (whether or not followed by other words), mark the entry with that word followed by the name in brackets of the country aforesaid;

and for the purposes of this subsection the said**[**[F14] Schedule 2**]** shall have effect as if column 6 were headed " Date and place of adoption " .

(3) If the Registrar General is satisfied—

(a) that a convention adoption order or a foreign adoption has ceased to have effect, whether on annulment or otherwise; or

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(b) that any entry or mark was erroneously made in pursuance of subsection (2) in any register mentioned in that subsection;

he may cause such alterations to be made in any such register as he considers are required in consequence of the cesser or to correct the error; and where an entry in such a register is amended in pursuance of this subsection, any copy or extract of the entry shall be deemed to be accurate if and only if it shows the entry as amended but without indicating that it has been amended.

(4) Without prejudice to subsection (3), where an entry in the Register of Births is marked in pursuance of subsection (2) and the birth in question is subsequently re-registered under**[**F15 Article 19 of the Births and Deaths Registration (Northern Ireland) Order 1976**]** (which provides for the re-registration of the birth of a legitimated person) the entry made on re-registration shall be marked in the like manner.

F14 1987 NI 22
F15 1995 NI 2

9 Nationality.

(1) If by an order under**[**F16 section 70(1) of the Adoption Act 1976**]** it is declared that a description of persons specified in the order has, in pursuance of the Convention, been notified to the Government of the United Kingdom as the description of persons who are deemed to possess the nationality of a particular convention country, persons of that description shall, subject to the following provisions of this section, be treated for the purposes of this Act as nationals of that country.

(2) Subject to section 7(3) and subsection (3), where it appears to the court in any proceedings under this Act that a person is or was at a particular time a national of two or more countries, then—

(a) if it appears to the court that he is or was then a United Kingdom national, he shall be treated for the purposes of those proceedings as if he were or had then been a United Kingdom national only;

(b) if, in a case if not falling within paragraph (*a*) above, it appears to the court that one only of those countries is or was then a convention country, he shall be treated for those purposes as if he were or had then been a national of that country only;

(c) if, in a case not falling within paragraph (*a*) above, it appears to the court that two or more of those countries are or were then convention countries, he shall be treated for those purposes as if he were or had been then a national of such one of those convention countries as the court considers is the country with which he is or was then most closely connected;

(d) in any other case, he shall be treated for those purposes as if he were or had then been a national of such one only of those countries as the court considers is the country with which he is or was then most closely connected.

(3) In any proceedings brought in pursuance of section**[**F17 1 or 6**]** the court shall be entitled to disregard the provisions of subsection (2) in so far as it appears to the court appropriate to do so for the purposes of those proceedings; but nothing in this subsection shall be construed as prejudicing the provisions of section 7(3).

(4) Where, after such enquiries as it considers appropriate, it appears to the court in any proceedings under this Act that a person has no nationality or no ascertainable

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nationality, he shall be treated for the purposes of those proceedings as a national of the country in which he resides or where that country is one of two or more countries having the same law of nationality, as a national of those countries.

F16 1995 NI 2
F17 1987 NI 22

10 Supplemental.

(1) In any case where the internal law of a country falls to be ascertained for the purposes of this Act by the court and there are in force in that country two or more systems of internal law, the relevant system shall be ascertained in accordance with any rule in force throughout that country indicating which of the systems is relevant in the case in question or, if there is no such rule, shall be the system appearing to the court to be most closely connected with the case.

Subs. (2)-(4) rep. by 1987 NI 22

11 Rules

(1) Provision in regard to any matter to be prescribed under this Act,[F18]. . . , and dealing generally with all matters of procedure and incidental matters arising out of this Act[F18]. . . and for carrying this Act[F18]. . . into effect shall be made by rules of court.

(2) Without prejudice to section 21 of the Interpretation Act (Northern Ireland) 1954 rules of court may provide—

(a) for applications for convention adoption orders to be heard and determined otherwise than in open court;

(b) for excluding or restricting the jurisdiction of any court where an application for a convention adoption order[F18]. . . or an adoption order[F18]. . . has been refused by that or any other court.

(3) The Lord Chief Justice may make rules with respect to any matter (not being a matter prescribed by rules under subsection (1) or (2)) with respect to which it appears to him to be necessary or expedient to make rules for giving due effect to the provisions of this Act.

F18 1987 NI 22

12 Interpretation.

In this Act—

Definition rep. by 1987 NI 22

[[F19]"adoption order" means an order under Article 12(1) of the Order of 1987;

"British territory" means, for the purposes of any provision of this Act, any of the following countries, that is to say, Northern Ireland, Great Britain, the Channel Islands, the Isle of Man and a colony, which is a British territory for the purposes of any corresponding provision of the Adoption Act 1976;**]**

"the Convention" means the Convention mentioned in the preamble;

Definition rep. by 1987 NI 22

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[[F19]"convention adoption order" means an adoption order made in accordance with section 1(1);**]**

"convention country" means any country**[**[F19] outside British territory, being a country for the time being designated by an order made under section 72(1) of the Adoption Act 1976**]** as a country in which the Convention is in force;

"the court" means the High Court;

"internal law" in relation to any country means the law applicable in a case where no question arises as to the law in force in any other country;

"foreign adoption" has the meaning assigned to it by section 4(3);

"foreign convention adoption" has the meaning assigned to it by section 5(2);

[[F19]"the Order of 1987" means the Adoption (Northern Ireland) Order 1987;**]**

"prescribed" means prescribed by rules;

Definitions rep. by 1987 NI 22

"reside" means habitually reside;

"rules" means rules made under section 11;

Definition rep. by 1987 NI 22

[[F19]"specified order" means any provision for the adoption of a child effected under enactments similar to Article 12(1) of the Order of 1987 and section 1 of this act in force in[F20]. . . any British territory outside the United Kingdom;**]**

"United Kingdom national" means, for the purposes of any provision of this Act, a citizen of the United Kingdom and Colonies satisfying such conditions, if any, as may be specified by an order made under**[**[F20] section 72(1) of the Adoption Act 1976**]** for the purposes of any corresponding provision of that Act.

F19 1987 NI 22
F20 1995 NI 2

13 Short title and commencement.

(1) This Act may be cited as the Adoption (Hague Convention) Act (Northern Ireland) 1969.

(2) *Commencement*

Changes to legislation:
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View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

– Act repealed by 2022 c. 18 (N.I.) Sch. 5