



## 2001 CHAPTER 11

### *Convention adoptions*

#### **Convention adoption orders**

3. After Article 16 of the 1987 Order (parental agreement) there shall be inserted the following Article—

#### **“Convention adoption orders**

16A. An adoption order shall be made as a Convention adoption order if—

- (a) the application is for a Convention adoption order; and
- (b) any prescribed requirements are complied with.”.

#### **Effect of Convention adoptions**

4.—(1) In paragraph (1) of Article 39 of the 1987 Order (meaning of “adoption” for purposes of provisions relating to status of adopted children), after sub-paragraph (c) there shall be inserted the following sub-paragraph—

“(cc) which is a Convention adoption; or” .

(2) In paragraph (2) of Article 40 of that Order (status conferred by adoption), for the words “paragraph (3)” there shall be substituted the words “paragraphs (3) and (3A)”.

(3) After paragraph (3) of that Article there shall be inserted the following paragraphs—

“(3A) Where, in the case of a Convention adoption, the High Court is satisfied, on an application under this paragraph—

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- (a) that under the law of the country in which the adoption was effected the adoption is not a full adoption;
- (b) that the consents referred to in Article 4(c) and (d) of the Convention have not been given for a full adoption, or that the United Kingdom is not the receiving State (within the meaning of Article 2 of the Convention); and
- (c) that it would be more favourable to the adopted child for a direction to be given under this paragraph,

the High Court may direct that paragraph (2) shall not apply, or shall not apply to such extent as may be specified in the direction.

(3B) In paragraph (3A) “full adoption” means an adoption by virtue of which the adopted child falls to be treated in law as if he were not the child of any person other than the adopters or adopter.

(3C) The following provisions of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (NI 4)—

- (a) Article 35 (provisions relating to the Attorney-General); and
- (b) Article 36 (supplementary provisions as to declarations),

shall apply in relation to, and to an application for, a direction under paragraph (3A) as they apply in relation to, and to an application for, a declaration under Part V of that Order.” .

### **Annulment, etc., of Convention adoptions, etc.**

5. After Article 55 of the 1987 Order (revocation of adoptions on legitimation) there shall be inserted the following Articles—

#### **“Annulment etc. of overseas adoptions**

**55A.—**(1) The High Court may, on an application under this paragraph, by order annul a Convention adoption or a Convention adoption order on the ground that the adoption or order is contrary to public policy.

(2) The High Court may, on an application under this paragraph—

- (a) order that an overseas 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.

(3) Except as provided by this Article the validity of a Convention adoption, a Convention adoption order, an overseas adoption or a

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determination shall not be impugned in proceedings in any court in Northern Ireland.

### **Provisions supplementary to Article 55A**

**55B.**—(1) Any application for an order under Article 55A or a decision under paragraph (2)(b) of that Article shall be made in the prescribed manner and within such period, if any, as may be prescribed.

(2) No application shall be made under Article 55A(1) unless immediately before the application is made the person adopted or the adopter habitually resides in Northern Ireland or, as the case may be, both adopters habitually reside there.

(3) In deciding in pursuance of Article 55A whether such an authority as is mentioned in Article 58ZB 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 Article 55A “determination” means such a determination as is mentioned in Article 58ZB.”.

### **Meaning of “Convention adoption” and related expressions in 1987 Order**

**6.** In Article 2(2) of the 1987 Order (interpretation), after the definition of “child” there shall be inserted the following definitions—

““the Convention” means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993;

“Convention adoption” means an adoption effected under the law of a Convention country outside the United Kingdom, the Channel Islands and the Isle of Man and certified in pursuance of Article 23(1) of the Convention;

“Convention adoption order” means an adoption order made in accordance with Article 16A;

“Convention country” means any country or territory in which the Convention is in force;” .

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