

*Status: This version of this chapter contains provisions that are prospective.*  
**Changes to legislation:** *Adoption and Children Act (Northern Ireland) 2022, CHAPTER 7 is up to date with all changes known to be in force on or before 24 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*



## 2022 CHAPTER 18

### PART 1

#### Adoption

PROSPECTIVE

#### CHAPTER 7

##### Miscellaneous

##### *Restrictions*

#### **Restriction on arranging adoptions etc.**

**96.**—(1) A person who is neither an adoption agency nor acting in pursuance of an order of the High Court must not take any of the steps mentioned in subsection (2).

(2) The steps are—

- (a) asking a person other than an adoption agency to provide a child for adoption;
- (b) asking a person other than an adoption agency to provide prospective adopters for a child;
- (c) offering to find a child for adoption;
- (d) offering a child for adoption to a person other than an adoption agency;
- (e) handing over a child to any person other than an adoption agency with a view to the child's adoption by that or another person;

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- (f) receiving a child handed over to the person in contravention of paragraph (e);
- (g) entering into an agreement with any person for the adoption of a child, or for the purpose of facilitating the adoption of a child, where no adoption agency is acting on behalf of the child in the adoption;
- (h) initiating or taking part in negotiations of which the purpose is the conclusion of an agreement within paragraph (g);
- (i) causing another person to take any of the steps mentioned in paragraphs (a) to (h).

(3) Subsection (1) does not apply to a person taking any of the steps mentioned in paragraphs (d), (e), (g), (h) and (i) of subsection (2) if the following condition is met.

(4) The condition is that—

- (a) the prospective adopters are parents, relatives or guardians of the child (or one of them is); or
- (b) the prospective adopter is the partner of a parent of the child.

(5) References to an adoption agency in subsection (2) include a prescribed person outside the United Kingdom exercising functions corresponding to those of an adoption agency, if the functions are being exercised in prescribed circumstances in respect of the child in question.

(6) The Department may by order make any amendments of subsections (1) to (4), and any consequential amendments of this Act, which the Department considers necessary or expedient.

(7) In this section “agreement” includes an arrangement (whether or not enforceable).

#### **Commencement Information**

**II** S. 96 not in operation at Royal Assent, see [s. 160\(1\)](#)

#### **Offence of breaching restrictions under section 96**

**97.—(1)** A person who contravenes section 96(1) is guilty of an offence; and, if that person is an adoption society, the person who manages the society is also guilty of the offence.

(2) A person (“P”) is not guilty of an offence under subsection (1) of taking the step mentioned in paragraph (f) of section 96(2) unless it is proved that P knew or had reason to suspect that the child was handed over to the person in contravention of paragraph (e) of that subsection.

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(3) A person (“P”) is not guilty of an offence under subsection (1) of causing a person to take any of the steps mentioned in paragraphs (a) to (h) of section 96(2) unless it is proved that P knew or had reason to suspect that the step taken would contravene the paragraph in question.

(4) But subsections (2) and (3) only apply if sufficient evidence is adduced to raise an issue as to whether the person had the knowledge or reason mentioned.

(5) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding £10,000, or both.

#### Commencement Information

**I2** S. 97 not in operation at Royal Assent, see [s. 160\(1\)](#)

#### Restriction on reports

**98.**—(1) A person who is not within a prescribed description may not, in any prescribed circumstances, prepare a report for any person about the suitability of a child for adoption or of a person to adopt a child or about the adoption, or placement for adoption, of a child.

(2) If a person (“P”)—

- (a) contravenes subsection (1); or
- (b) causes a person to prepare a report, or submits to any person a report which has been prepared, in contravention of that subsection,

P is guilty of an offence.

(3) If a person who works for an appropriate voluntary organisation—

- (a) contravenes subsection (1); or
- (b) causes a person to prepare a report, or submits to any person a report which has been prepared, in contravention of that subsection,

the person who manages the appropriate voluntary organisation is also guilty of the offence.

(4) A person (“P”) is not guilty of an offence under subsection (2)(b) unless it is proved that P knew or had reason to suspect that the report would be, or had been, prepared in contravention of subsection (1); but this subsection only applies if sufficient evidence is adduced to raise an issue as to whether P had the knowledge or reason mentioned.

(5) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

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#### Commencement Information

**I3** S. 98 not in operation at Royal Assent, see [s. 160\(1\)](#)

#### Prohibition of certain payments

**99.**—(1) This section applies to any payment (other than an excepted payment) which is made for or in consideration of—

- (a) the adoption of a child;
- (b) giving any consent required in connection with the adoption of a child;
- (c) removing from the United Kingdom a child who is a Commonwealth citizen, or is habitually resident in the United Kingdom, to a place outside the United Kingdom, the Channel Islands and the Isle of Man for the purpose of adoption;
- (d) a person (who is neither an adoption agency nor acting in pursuance of an order of the High Court) taking any step mentioned in section 96(2);
- (e) preparing, causing to be prepared or submitting a report the preparation of which contravenes section 98(1).

(2) In this section and section 100, removing a child from the United Kingdom has the same meaning as in section 84.

(3) Any person who—

- (a) makes any payment to which this section applies;
- (b) agrees or offers to make any such payment; or
- (c) receives or agrees to receive or attempts to obtain any such payment,

is guilty of an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding £10,000, or both.

#### Commencement Information

**I4** S. 99 not in operation at Royal Assent, see [s. 160\(1\)](#)

#### Excepted payments

**100.**—(1) A payment is an excepted payment if it is made by virtue of, or in accordance with provision made by or under this Act, the Adoption and Children Act 2002 or the Adoption and Children (Scotland) Act 2007.

(2) A payment is an excepted payment if it is made to an adoption agency by—

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- (a) a parent or guardian of a child; or
- (b) a person who adopts or proposes to adopt a child;

in respect of expenses reasonably incurred by the adoption agency in connection with the adoption or proposed adoption of the child.

(3) A payment is an excepted payment if it is made in respect of any legal or medical expenses incurred or to be incurred by any person in connection with an application to a court which the person has made or proposes to make for an adoption order, a placement order, or an order under section 23, 49 or 83.

(4) A payment made as mentioned in section 99(1)(c) is an excepted payment if—

- (a) the condition in section 84(2) is met; and
- (b) the payment is made in respect of the travel and accommodation expenses reasonably incurred in removing the child from the United Kingdom for the purpose of adoption.

#### Commencement Information

**I5** S. 100 not in operation at Royal Assent, see [s. 160\(1\)](#)

### Sections 96 to 100: interpretation

**101.** In sections 96 to 100—

“adoption agency” includes an adoption agency in Great Britain;

“payment” includes reward; and

references to adoption are to the adoption of persons, wherever they may be habitually resident, effected under the law of any country or territory, whether within or outside the United Kingdom, the Channel Islands and the Isle of Man.

#### Commencement Information

**I6** S. 101 not in operation at Royal Assent, see [s. 160\(1\)](#)

### Information

### Pre-commencement adoptions: information

**102.—**(1) Regulations under section 9 may make provision for the purpose of—

- (a) assisting persons adopted before the appointed day who have attained the age of 18 to obtain information in relation to their adoption;

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- (b) assisting a natural parent of a person referred to in paragraph (a) to obtain information in relation to that person's adoption; and
- (c) facilitating contact between persons referred to in paragraph (a) and their relatives.

(2) Regulations under section 9 may make provision for the purpose of facilitating contact between persons with a prescribed relationship to a person adopted before the appointed day and that person's relatives.

(3) Regulations under section 9 may make provision for the purpose of authorising or requiring adoption agencies in prescribed circumstances to disclose or provide access to prescribed information relating to the adoption of a person adopted before the appointed day who has attained the age of 18.

(4) For a purpose within subsection (1) or (2) the regulations may confer functions on—

- (a) adoption agencies; and
- (b) the Registrar General.

(5) For a purpose within subsection (1) or (2) the regulations may—

- (a) authorise or require any person mentioned in subsection (4) to disclose information;
- (b) authorise or require the disclosure of information contained in records of any court kept under the Public Records Act (Northern Ireland) 1923.

(6) For a purpose within subsection (1), (2) or (3) the regulations may impose conditions on the disclosure of information, including conditions restricting its further disclosure.

(7) The regulations may authorise the charging of prescribed fees by any person mentioned in subsection (3) or (4) or in respect of the disclosure of information under subsection (5)(b); but an adopted person ("A") may not be required to pay any fee in respect of any information disclosed to A or to which A was provided access.

(8) An authorisation or requirement to disclose information by virtue of subsection (3) or (5)(a) has effect in spite of any restriction on the disclosure of information in Chapter 5.

(9) The making of regulations by virtue of subsections (4) to (7) which relate to the Registrar General requires the approval of the Department of Finance.

(10) In this section—

“appointed day” means the day appointed for the commencement of sections 55 to 64;

“prescribed” means prescribed by regulations under section 9;

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“relative”, in relation to an adopted person (“A”), means any person who (but for A’s adoption) would be related to A by blood (including half-blood), marriage or civil partnership.

**Commencement Information**

**I7** S. 102 not in operation at Royal Assent, see [s. 160\(1\)](#)

*Proceedings*

**Proceedings for offences**

**103.** Proceedings for an offence by virtue of section 9 or 58 may not, without the consent of the Director of Public Prosecutions for Northern Ireland, be taken by any person other than the RQIA.

**Commencement Information**

**I8** S. 103 not in operation at Royal Assent, see [s. 160\(1\)](#)

**Appeals**

**104.—(1)** An appeal lies to the High Court against—

- (a) the making by a county court of any order under this Act; or
- (b) any refusal by a county court to make such an order,

as if the decision had been made in the exercise of the jurisdiction conferred by Part 3 of the County Courts (Northern Ireland) Order 1980 (original civil jurisdiction) and the appeal were brought under Article 60 of that Order (ordinary appeals in civil cases).

(2) On an appeal under subsection (1), the High Court may make such orders as may be necessary to give effect to its determination of the appeal.

(3) Where an order is made under subsection (2), the High Court may also make such incidental or consequential orders as appear to it to be just.

(4) Any order of the High Court made on an appeal under subsection (1) (other than one directing that an application be re-heard by the county court) is to be treated, for the purposes of—

- (a) the enforcement of the order; and
- (b) any power to vary, revive or discharge orders,

as if it were an order of the county court from which the appeal was brought and not an order of the High Court.

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(5) Subsections (1) to (4) are subject to paragraphs (14) and (15) of Article 166 of the Children Order.

#### Commencement Information

**I9** S. 104 not in operation at Royal Assent, see [s. 160\(1\)](#)

### Privacy

**105.**—(1) Rules of court may make provision for the court to sit in private in any proceedings under this Act.

(2) In Schedule 2 to the Administration of Justice Act 1960, in subparagraph (1) of the entry relating to section 12, in subsection (1)(a)(ii) after “1995” insert “or the Adoption and Children Act (Northern Ireland) 2022”.

(3) Paragraphs (2) to (9A) of Article 170 of the Children Order have effect for the purposes of this Act as if references in those paragraphs to that Order included references to this Act.

(4) This section is without prejudice to—

- (a) the generality of any other power to make rules of court; or
- (b) any other power of the court to sit in private.

#### Commencement Information

**I10** S. 105 not in operation at Royal Assent, see [s. 160\(1\)](#)

### *Children’s court guardians*

### Children’s court guardians

**106.**—(1) Rules of court must provide for the appointment in prescribed cases of a children’s court guardian for the purposes of any relevant application.

(2) Rules of court may provide for the children’s court guardian—

- (a) to act on behalf of the child upon the hearing of any relevant application, with the duty of safeguarding the interests of the child in the prescribed manner;
- (b) where the court so requests, to prepare a report on matters relating to the welfare of the child in question;
- (c) to perform prescribed functions.

(3) A report prepared in pursuance of the rules of court on matters relating to the welfare of a child must—



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- (a) deal with prescribed matters (unless the court orders otherwise); and
- (b) be made in the manner required by the court.

(4) A person who—

- (a) in the case of an application for the making, varying or revocation of a placement order, is employed by the adoption authority which made the application;
- (b) in the case of an application for an adoption order in respect of a child who was placed for adoption, is employed by the adoption agency which placed the child; or
- (c) is within a prescribed description,

is not to be appointed under subsection (1).

(5) In this section, “relevant application” means an application for—

- (a) the making, varying or revocation of a placement order;
- (b) the making of an order under section 23, or the varying or revocation of such an order;
- (c) the making of an adoption order, or
- (d) the making of an order under section 83.

(6) Rules may make provision as to the assistance which the court may require a children’s court guardian to give to it.

(7) In subsections (1) to (4) “prescribed” means prescribed by rules of court.

(8) The Department may by regulations provide that children’s court guardians appointed under this section must be selected from persons employed or approved for that purpose by such special agency or other public body as may be prescribed.

(9) Subsection (8) is not to be taken to prejudice the power of the Lord Chief Justice to confer or impose duties on the Official Solicitor under section 75(2) of the Judicature (Northern Ireland) Act 1978.

(10) The regulations may, in particular, make provision—

- (a) for the employment or approval of persons for the purposes of this section by such special agency or other public body as may be prescribed;
- (b) as to the qualifications for appointment as a children’s court guardian;
- (c) as to the training to be given to children’s court guardians or to persons with a view to their appointment as children’s court guardians; and
- (d) for monitoring the work of children’s court guardians.

(11) The Department may, with the approval of the Department of Finance, make such grants as the Department considers appropriate with respect to expenditure incurred under regulations made under subsection (8).

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#### Commencement Information

I11 S. 106 not in operation at Royal Assent, see [s. 160\(1\)](#)

### Right of access to adoption agency records

**107.**—(1) Where a children’s court guardian has been appointed to act under section 106(1), the children’s court guardian has the right at all reasonable times to examine and take copies of any records of, or held by, an adoption agency which were compiled in connection with the making, or proposed making, by any person of any application under this Part in respect of the child concerned.

(2) Where a children’s court guardian takes a copy of any record which the children’s court guardian is entitled to examine under this section, that copy or any part of it is admissible as evidence of any matter referred to in any—

- (a) report which the children’s court guardian makes to the court in the proceedings in question; or
- (b) evidence which the children’s court guardian gives in those proceedings.

(3) Subsection (2) has effect regardless of any statutory provision or rule of law which would otherwise prevent the record in question being admissible in evidence.

#### Commencement Information

I12 S. 107 not in operation at Royal Assent, see [s. 160\(1\)](#)

### *Evidence*

#### Evidence of consent

**108.**—(1) If a document signifying any consent which is required by this Part to be given is witnessed in accordance with rules of court, it is to be admissible in evidence without further proof of the signature of the person by whom it was executed.

(2) A document signifying any such consent which purports to be witnessed in accordance with rules of court is to be presumed to be so witnessed, and to have been executed and witnessed on the date and at the place specified in the document, unless the contrary is proved.

#### Commencement Information

I13 S. 108 not in operation at Royal Assent, see [s. 160\(1\)](#)

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### *Orders made in Great Britain, etc.*

#### **Effect of certain Scottish orders and provisions**

**109.—**(1) A Scottish adoption order has effect in Northern Ireland as it has in Scotland, but as if references to the parental responsibilities and the parental rights in relation to a child were to parental responsibility for the child.

(2) A Scottish permanence order which includes provision granting authority for the child to be adopted has the same effect in Northern Ireland as it has in Scotland, but as if references to the parental responsibilities and the parental rights in relation to a child were to parental responsibility for the child.

(3) Any person who contravenes any of the provisions of the Adoption and Children (Scotland) Act 2007 mentioned in subsection (4) is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale or both.

(4) The provisions are—

- (a) section 20 (restrictions on removal: child placed for adoption);
- (b) section 21 (restrictions on removal: notice of intention to adopt given);
- (c) section 22 (restrictions on removal: application for adoption order pending).

(5) Orders made under section 24 of the Adoption and Children (Scotland) Act 2007 (return of child removed in breach of certain provisions) are to have effect in Northern Ireland as if they were orders of the High Court under section 38 of this Act.

(6) In this section—

“Scottish adoption order” includes an order under section 25 of the Adoption (Scotland) Act 1978 (interim adoption orders);

“Scottish permanence order” means a permanence order under section 80 of the [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#) (including a deemed permanence order having effect by virtue of article 13(1), 14(2), 17(1) or 19(2) of the Adoption and Children (Scotland) Act 2007 (Commencement No. 4, Transitional and Savings Provisions) Order 2009).

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#### **Commencement Information**

**I14** S. 109 not in operation at Royal Assent, see [s. 160\(1\)](#)

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### **Effect of certain orders made in England and Wales**

**110.**—(1) The following have effect in Northern Ireland as they have effect in England and Wales—

- (a) an adoption order within the meaning of section 46(1) of the Adoption and Children Act 2002;
- (b) an order made under section 21 of that Act (placement orders), and the variation or revocation of such an order under section 23 or 24 of that Act;
- (c) an order under section 26 of that Act (contact);
- (d) an order under section 41 of that Act (recovery orders).

(2) Any person who contravenes any of the provisions of the Adoption and Children Act 2002 mentioned in subsection (3) is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale or both.

(3) The provisions are—

- (a) section 30 (general prohibitions on removal);
- (b) section 34 (placement orders: prohibitions on removal);
- (c) section 36 (restrictions on removal).

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#### **Commencement Information**

**I15** S. 110 not in operation at Royal Assent, see [s. 160\(1\)](#)

### **Use of adoption records from Great Britain, etc.**

**111.** Any document which is receivable as evidence of any matter—

- (a) in Scotland under section 56(1) or (2) of the Adoption and Children (Scotland) Act 2007;
- (b) in England and Wales under section 77(4) and (5) of the Adoption and Children Act 2002; or
- (c) in the Isle of Man or any of the Channel Islands under a statutory provision corresponding to section 76(3) of this Act,

is also receivable as evidence of that matter in Northern Ireland.

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#### **Commencement Information**

**I16** S. 111 not in operation at Royal Assent, see [s. 160\(1\)](#)

### **Channel Islands and the Isle of Man**

**112.**—(1) Regulations may provide—

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- (a) for a reference in any provision of this Act to an order of a court to include an order of a court in the Isle of Man or any of the Channel Islands which appears to the Department to correspond in its effect to the order in question;
- (b) for a reference in any provision of this Act to an adoption agency to include a person who appears to the Department to exercise functions under the law of the Isle of Man or any of the Channel Islands which correspond to those of an adoption agency and for any reference in any provision of this Act to a child placed for adoption by an adoption agency to be read accordingly;
- (c) for a reference in any provision of this Act to a statutory provision (including a provision contained in this Act) to include a provision of the law of the Isle of Man or any of the Channel Islands which appears to the Department to correspond in its effect to that statutory provision;
- (d) for any reference in any provision of this Act to the United Kingdom or to Great Britain to include the Isle of Man or any of the Channel Islands.

(2) Regulations may modify any provision of this Act, as it applies to any order made, or other thing done, under the law of the Isle of Man or any of the Channel Islands.

#### Commencement Information

**117** S. 112 not in operation at Royal Assent, see [s. 160\(1\)](#)

### General

#### Avoiding delay

**113.**—(1) In proceedings in which a question may arise as to whether an adoption order or placement order should be made, or any other question with respect to such an order, the court must (in the light of any rules made by virtue of subsection (2))—

- (a) draw up a timetable with a view to determining such a question without delay; and
- (b) give such directions as it considers appropriate for the purpose of ensuring that the timetable is adhered to.

(2) Rules of court may—

- (a) prescribe periods within which prescribed steps must be taken in relation to such proceedings; and
- (b) make other provision with respect to such proceedings for the purpose of ensuring that such questions are determined without delay.

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#### Commencement Information

**I18** S. 113 not in operation at Royal Assent, see [s. 160\(1\)](#)

#### Service of notices etc.

**114.**—(1) Any notice or information required to be given by virtue of this Act may be given by post.

(2) Section 24 of the Interpretation Act (Northern Ireland) 1954 has effect in relation to this Act as if in subsection (1) the word “registering” were omitted.

#### Commencement Information

**I19** S. 114 not in operation at Royal Assent, see [s. 160\(1\)](#)

#### Jurisdiction of courts

**115.**—(1) In this Act “the court” means the High Court or a county court.

(2) Subsection (1) is subject to any provision made by or under subsection (4) or Schedule 7 to the Children Order.

(3) In paragraphs 1 and 2 of Schedule 7 to the Children Order, after “this Order” in each place where it occurs insert “or the Adoption and Children Act (Northern Ireland) 2022”.

(4) The Department of Justice may, after consulting the Lord Chief Justice, by order provide for courts of summary jurisdiction to be included among the courts who may hear proceedings under this Part.

(5) Any power to make an order under subsection (4) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under this Act or any other statutory provision.

#### Commencement Information

**I20** S. 115 not in operation at Royal Assent, see [s. 160\(1\)](#)

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

- Act applied (with modifications) by S.I. 2018/412, Sch. 3 (as substituted) by [2022 c. 18 \(N.I.\) Sch. 3 para. 83](#)