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## STATUTORY INSTRUMENTS

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# 1987 No. 2203

## The Adoption (Northern Ireland) Order 1987

### PART I

#### INTRODUCTORY

##### Title and commencement

1.—(1) This Order may be cited as the Adoption (Northern Ireland) Order 1987.

(2) This Order shall come into operation on such day or days as the Head of the Department of Health and Social Services may by order appoint<sup>F1</sup>.

**F1** fully exercised by SR 1989/252

##### Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>F2</sup> shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

*Definition rep. by 1995 NI 2*

“adoption agency” shall be construed in accordance with Article 3(3); and for the purposes of Articles 11<sup>F3</sup>, 13, 17 to 22, 24 and 28 to 32] includes an adoption agency within the meaning of section 1 of the Adoption Act 1976<sup>F4</sup> (adoption agencies in England and Wales) and <sup>F5</sup>section 119(1)(a) of the Adoption and Children (Scotland) Act 2007 (interpretation)];

<sup>F6</sup>“adoption order”

(a) means an order under Article 12(1);

(b) in Articles 12(3) and (4), 17 to 20, 25(3), 28, 29 and 31 to 33 includes an order under section 12 of the Adoption Act 1976 or <sup>F7</sup>section 29 or 30 of the Adoption and Children (Scotland) Act 2007] (adoption orders in England and Wales and Scotland);

(c) in Articles 28, 29 and 31 to 33 includes an order under Article 57, section 55 of the Adoption Act 1976 or <sup>F8</sup>section 59 of the Adoption and Children (Scotland) Act 2007] (adoption by persons domiciled outside Northern Ireland or England and Wales or Scotland);]

“adoption society” means a body of persons whose functions consist of or include the making of arrangements for the adoption of children;

“adoption rules” means rules of court and county court rules;

<sup>F9</sup>“ appropriate voluntary organisation ” means a voluntary organisation which is an adoption society in respect of which a person is registered under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003; ]

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- “authorised court”, as respects an application for an order relating to a child, means—
- (a) in the case of an application for an adoption order or for an order freeing a child for adoption where the child is not in Northern Ireland when the application is made, the High Court;
  - (b) in the case of an application under Article 30—
    - (i) where there is pending in respect of the child an application for an adoption order or an order freeing him for adoption, the court in which that application is pending;
    - (ii) in any other case, the High Court or the county court <sup>F10</sup> ...;
  - (c) in any other case where the child is in Northern Ireland when the application is made—
    - (i) the High Court;
    - (ii) [<sup>F11</sup>the county court;]

<sup>F12</sup> ...

“child”, except where used to express a relationship, means a person who has not attained the age of 18 years;

[<sup>F13c</sup>“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;]

“the Department” means the Department of Health and Social Services;

“existing”, in relation to a statutory provision or other instrument, means one passed or made at any time before the commencement of Part V;

[<sup>F14c</sup>“guardian” has the same meaning as in the Children (Northern Ireland) Order 1995;]

[<sup>F15c</sup> [<sup>F16</sup>HSC trust]] shall be construed in accordance with paragraph (2A);]

“notice” means a notice in writing;

[<sup>F17c</sup>“order freeing a child for adoption” means an order under Article 17(1) or 18(1) and in Articles 28(2) and 58A(1) includes an order under section 18 of the Adoption Act 1976 [<sup>F18</sup>a Scottish permanence order which includes provision granting authority for the child to be adopted];]

[<sup>F13c</sup>“overseas adoption” means an adoption which is an overseas adoption for the purposes of the Adoption Act 1976 or [<sup>F19</sup>section 67(1) of the Adoption and Children (Scotland) Act 2007];]

[<sup>F20c</sup>“parent” means, in relation to a child, any parent who has parental responsibility for the child under the Children (Northern Ireland) Order 1995;

“parental responsibility” and “parental responsibility agreement” have the same meaning as in the Children (Northern Ireland) Order 1995;]

*Definition rep. by 1995 NI 2*

[<sup>F21c</sup>“prescribed” in Articles 4, [<sup>F13</sup> 16A, 58ZA] 33 and 59 means prescribed by regulations made by the Department, in [<sup>F22</sup> Articles [<sup>F23</sup>50(4) and (6),] 53(3B) and (3D), 54] and 54A means prescribed by regulations made by the Department of Finance and Personnel and elsewhere means prescribed by adoption rules;]

<sup>F24</sup>

“registration district” means the local government district or, where a birth took place before the 1st October 1973, the district of the Superintendent Registrar and Registrar of Births and Deaths within the meaning of the Births and Deaths Registration Act (Northern Ireland) 1967<sup>F25</sup>;

*Definition rep. by SR 1993/494*

“relative” in relation to a child means a grandparent, brother, sister, uncle or aunt, whether of the full blood or half-blood or by<sup>F26</sup> marriage or civil partnership] and includes,<sup>F27</sup> . . . any person who would be a relative within the meaning of this definition if<sup>F27</sup> Article 155 of the Children (Northern Ireland) Order 1995 applied to this definition];

<sup>F28</sup> “ Scottish permanence order ” means a permanence order under section 80 of the Adoption and Children (Scotland) Act 2007 (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 ( S.S.I. 2009/267));  
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“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954<sup>F29</sup>;

<sup>F30</sup>“upbringing” has the same meaning as in the Children (Northern Ireland) Order 1995;]

“voluntary organisation” means a body other than a public or local authority the activities of which are not carried on for profit.

<sup>F15</sup>(2A) A reference to any provision of this Order to an “ <sup>F16</sup>HSC trust]” is a reference to a <sup>F31</sup>Health and Social Care trust]<sup>F32</sup>that is exercising social care and children functions within the meaning of Article 10A of the Health and Personal Social Services (Northern Ireland) Order 1991.]

(2B) In paragraph (2A) “ <sup>F31</sup>Health and Social Care trust]” means a body established under Article 10(1) of the Health and Personal Social Services (Northern Ireland) Order 1991.

(2C) A reference in this Order to the area of an <sup>F16</sup>HSC trust] is a reference to the operational area of that trust as defined in Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972

<sup>F33</sup>(2D)] . . . . .

(3) For the purposes of this Order, a person shall be deemed to make arrangements for the adoption of a child or to take part in arrangements for<sup>F34</sup> placing a child with] a person if—

- (a) he enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the child by any other person, whether the adoption is effected, or is intended to be effected, in pursuance of an adoption order, an order under Article 57 or otherwise; or
- (b) he enters into or makes any agreement or arrangement for, or facilitates, the<sup>F35</sup> placing of the child with] that other person;

or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, or if he causes another person to do so.

<sup>F13</sup>(3A) In this Order, in relation to the proposed adoption of a child resident outside the United Kingdom, the Channel Islands and the Isle of Man, references to arrangements for the adoption of a child include references to arrangements for an assessment for the purpose of indicating whether a person is suitable to adopt a child or not.

(3B) In this Order, in relation to—

- (a) an adoption proposed to be effected by a Convention adoption order; or

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- (b) an adoption of a child habitually resident outside the United Kingdom, the Channel Islands and the Isle of Man which is proposed to be effected by an adoption order other than a Convention adoption order,

references to a child placed with any persons by an adoption agency include references to a child who, in pursuance of arrangements made by such an agency, has been adopted by or placed with those persons under the law of a country or territory outside the United Kingdom, the Channel Islands and the Isle of Man.]

[<sup>F36</sup>(4) In this Order, in determining what person, or where, a child has his home, any absence of the child at a hospital or at a school providing accommodation for him and any other temporary absence shall be disregarded.

(5) In this Order references to a child who is in the care of or looked after by [<sup>F37</sup>an][<sup>F16</sup>HSC trust] have the same meaning as in the Children (Northern Ireland) Order 1995.]

[<sup>F38</sup>(6) In this Order “a couple” means—

- (a) a married couple,
- (b) two people who are civil partners of each other, or
- (c) two people (whether of different sexes or the same sex) living as partners in an enduring family relationship.

(7) Paragraph (6)(c) does not include two people one of whom is the other’s parent, grandparent, sister, brother, aunt or uncle.

(8) References to relationships in paragraph (7)—

- (a) are to relationships of the full blood or half blood or, in the case of an adopted person, such of those relationships as would exist but for adoption, and
- (b) include the relationship of a child with the child’s adoptive, or former adoptive, parents,

but do not include any other adoptive relationships.]

**F2** 1954 c. 33 (NI)

**F3** 1995 NI 2

**F4** 1976 c. 36

**F5** Art. 2(2): words in the definition of "adoption agency" substituted (15.7.2011) by [Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), arts. 1(2), 2, **Sch. 1 para. 11(2)(a)**

**F6** 1995 NI 2

**F7** Art. 2(2): words in the definition of "adoption order" substituted (15.7.2011) by [Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), arts. 1(2), 2, **Sch. 1 para. 11(2)(b)(i)**

**F8** Art. 2(2): words in the definition of "adoption order" substituted (15.7.2011) by [Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), arts. 1(2), 2, **Sch. 1 para. 11(2)(b)(ii)**

**F9** Art. 2(2): definition of "appropriate voluntary organisation" inserted (29.10.2010) by [Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003 \(S.I. 2003/431 \(N.I. 9\)\)](#), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, **art. 3**, Sch. 1

**F10** Words in art. 2(2) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), Sch. 1 para. 95(1)(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F11** Words in art. 2(2) substituted (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 1 para. 95(1)(b)** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)

**F12** Word in art. 2(2) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), **Sch. 1 para. 103(2)**; S.R. 2022/102, art. 2(b)

**F13** 2001 c. 11 (NI)

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- F14** 1995 NI 2
- F15** 1994 NI 2
- F16** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F17** 1995 NI 2
- F18** Art. 2(2): words in the definition of "order freeing a child for adoption" substituted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(2)(c)**
- F19** Art. 2(2): words in the definition of "overseas adoption" substituted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(2)(d)**
- F20** 1995 NI 2
- F21** 1995 NI 2
- F22** 2002 c. 38
- F23** Words in definition of "prescribed" in art. 2(2) inserted (16.11.2012) by Civil Registration Act (Northern Ireland) 2011 (c. 20), **ss. 25(2)**, 34; S.R. 2012/406, art. 2, **Sch.**
- F24** Art. 2(2): definition of "registered adoption society" repealed (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), arts. 1(3), 50(2), **Sch. 5**; S.R. 2010/288, **art. 3**, **Sch. 1**
- F25** 1967 c. 25 (NI)
- F26** 2004 c.33
- F27** 1995 NI 2
- F28** Art. 2(2): definition of "Scottish permanence order" inserted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(2)(e)**
- F29** 1954 c. 33 (NI)
- F30** 1995 NI 2
- F31** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(c)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F32** Words in art. 2(2A) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 103(3)**; S.R. 2022/102, art. 2(b)
- F33** Art. 2(2D) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 103(4)**; S.R. 2022/102, art. 2(b)
- F34** 1995 NI 2
- F35** 1995 NI 2
- F36** 1995 NI 2
- F37** Word in art. 2(5) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 103(5)**; S.R. 2022/102, art. 2(b)
- F38** Art. 2(6)-(8) 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), **30(2)** (with regs. 6-9)

#### Modifications etc. (not altering text)

- C1** Art. 2(2): definition of "order freeing a child for adoption" modified (temp. from 2.11.2010 to 2.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Provisions) Order 2010 (S.I. 2010/2469), **arts. 5(a)**, 6
- C2** Art. 2(1)-(2D) applied (with modifications) (6.4.2010) by Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), reg. 3, **Sch. 2**
- C3** Art. 2(4) applied (with modifications) (6.4.2010) by Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), reg. 3, **Sch. 2**

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## PART II ARRANGEMENTS FOR ADOPTION

### *The Adoption Service*

#### **The Adoption Service**

3.—(1) <sup>F39</sup>It shall be the duty of—

(aa) an <sup>F40</sup>HSC trust] in relation to its area;

<sup>F41</sup>(bb) . . . . .

to establish and maintain] a service designed to meet the needs, in relation to adoption, of—

- (a) children who have been or may be adopted;
- (b) parents and guardians of such children; and
- (c) persons who have adopted or may adopt a child,

and for that purpose<sup>F39</sup> to provide] the requisite facilities, or secure that they are provided by<sup>F42</sup>appropriate voluntary organisations].

(2) The facilities to be provided as part of the service maintained under paragraph (1) include—

- (a) temporary board and lodging where needed by pregnant women, mothers or children;
- (b) arrangements for assessing children and prospective adopters, and placing children for adoption;
- (c) counselling for persons with problems relating to adoption.

<sup>F43</sup>(2A) In this Part references to adoption are to the adoption of children, 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.]

(3) The service maintained<sup>F44</sup>. . . under paragraph (1) may be collectively referred to as “the Adoption Service”, and <sup>F45</sup>...<sup>F39</sup> an <sup>F40</sup>HSC trust]] or<sup>F46</sup>an appropriate voluntary organisation] may be referred to as an adoption agency.

<b>F39</b>	1994 NI 2
<b>F40</b>	Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), <b>Sch. 6 para. 1(1)(d)</b> (with Sch. 6 para. 1(3)); S.R. 2009/114, <b>art. 2</b>
<b>F41</b>	Art. 3(1)(bb) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), <b>Sch. 1 para. 104(2)</b> ; S.R. 2022/102, art. 2(b)
<b>F42</b>	Words in art. 3(1) substituted (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, <b>art. 3</b> , Sch. 1
<b>F43</b>	2001 c. 11 (NI)
<b>F44</b>	1994 NI 2
<b>F45</b>	Words in art. 3(3) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), <b>Sch. 1 para. 104(3)</b> ; S.R. 2022/102, art. 2(b)
<b>F46</b>	Words in art. 3(3) substituted (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, <b>art. 3</b> , Sch. 1

## Adoption societies

### Registration of adoption societies

#### 4. <sup>F47</sup> .....

**F47** Art. 4 repealed (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), arts. 1(3), 50(2), Sch. 5; S.R. 2010/288, **art. 3**, Sch. 1 (with arts. 4, 5)

### Cancellation of registration

#### 5.—(1) <sup>F48</sup> .....

(2) [<sup>F49</sup>Where, by virtue of the cancellation of the registration of any person under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003, a body has ceased to be an appropriate voluntary organisation], the Department may direct the body<sup>F50</sup>. . . to make such arrangements as to children who are in its care and other transitional matters as seem to the Department expedient.

**F48** Art. 5(1) repealed (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431), arts. 1(3), 50(2), Sch. 5; S.R. 2010/288, **art. 3**, Sch. 1

**F49** Words in art. 5(2) substituted (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, **art. 3**, Sch. 1

**F50** Word in art. 5(2) repealed (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431), arts. 1(3), 50(2), Sch. 5; S.R. 2010/288, **art. 3**, Sch. 1

### Procedure and right of appeal where registration refused or cancelled

#### 6. <sup>F51</sup> .....

**F51** Art. 6 repealed (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431), arts. 1(3), 50(2), Sch. 5; S.R. 2010/288, **art. 3**, Sch. 1

### Inspection of books, etc., of registered adoption societies

#### 7. <sup>F52</sup> .....

**F52** Art. 7 repealed (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431), arts. 1(3), 50(2), Sch. 5; S.R. 2010/288, **art. 3**, Sch. 1

### Inactive or defunct adoption societies

8.—(1) If it appears to the Department that a [<sup>F53</sup>body which is or has been an appropriate voluntary organisation] is inactive or defunct, the Department may, in relation to any child who is or

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was in the care of the<sup>F54</sup>organisation], direct<sup>F55</sup> an<sup>F56</sup> HSC trust] to take such action as might have been taken by the<sup>F54</sup>organisation] or by the<sup>F54</sup>organisation] jointly with some other body (including<sup>F55</sup> an<sup>F56</sup> HSC trust]).

(2) Before giving a direction under paragraph (1), the Department shall, if practicable, consult both the<sup>F54</sup>organisation] and the<sup>F57</sup> ... <sup>F56</sup>HSC trust].

- F53** Words in art. 8(1) substituted (29.10.2010) by [Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003 \(S.I. 2003/431 \(N.I. 9\)\)](#), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, [art. 3](#), Sch. 1
- F54** Word in art. 8 substituted (29.10.2010) by [Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003 \(S.I. 2003/431 \(N.I. 9\)\)](#), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, [art. 3](#), Sch. 1
- F55** Word in art. 8(1) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 105\(2\)](#); S.R. 2022/102, art. 2(b)
- F56** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)
- F57** Words in art. 8(2) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 105\(3\)](#); S.R. 2022/102, art. 2(b)

### *Welfare of children*

#### **Duty to promote welfare of child**

**9.** In deciding on any course of action in relation to the adoption of a child, a court or adoption agency shall regard the welfare of the child as the most important consideration and shall—

- (a) have regard to all the circumstances, full consideration being given to—
- (i) the need to be satisfied that adoption, or adoption by a particular person or persons, will be in the best interests of the child; and
  - (ii) the need to safeguard and promote the welfare of the child throughout his childhood; and
  - (iii) the importance of providing the child with a stable and harmonious home; and
- (b) so far as practicable, first ascertain the wishes and feelings of the child regarding the decision and give due consideration to them, having regard to his age and understanding.

#### **Modifications etc. (not altering text)**

- C4** [Art. 9](#) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, [Sch. 2](#)

### *Supplemental*

#### **Regulation of adoption agencies**

**10.—(1)** Regulations may make provision for any purpose relating to the exercise by adoption agencies of their functions in connection with the adoption of children.

<sup>F58</sup>(1A) Regulations under paragraph (1) may in particular make, in relation to an appropriate voluntary organisation any provision which regulations under Article 23(2) or (7) of the Health and



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Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 may make in relation to a fostering agency (within the meaning of that Order).]

(2) Regulations may make the contravention of any regulation an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale.

**F58** Art. 10(1A) inserted (3.9.2010 for certain purposes otherwise 29.10.2010) by [Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003 \(S.I. 2003/431\)](#), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, **arts. 2, 3**, Schs. 1, 2 (with arts. 4, 5)

### Restriction on arranging adoptions and placing children

**11.**—(1) A person other than an adoption agency shall not make arrangements for the adoption of a child, or place a child for adoption, unless—

- (a) he is a parent of the child and the proposed adopter, or one of the proposed adopters, is a relative of the child; or
- (b) he is acting in pursuance of an order of the High Court.

(2) An adoption society approved as respects England and Wales<sup>F59</sup> under section 3 of the Adoption Act 1976 or as respects Scotland [F60] a registered adoption service provided as mentioned in paragraph 8(1) of schedule 12 to the Public Services Reform (Scotland) Act 2010 and registered under Part 5 of that Act], but which is not[F61]an appropriate voluntary organisation] , shall not act as an adoption society in Northern Ireland except to the extent that [F62]it] considers it necessary to do so in the interests of a person mentioned in section 1 of that Act of 1976 or, as the case may be, [F63]section 1(3) of the Adoption and Children (Scotland) Act 2007].

(3) A person who—

- (a) takes part in the management or control of a body of persons which exists wholly or partly for the purpose of making arrangements for the adoption of children and[F64] which is not—
  - (i) [F65]an]HSS trust; or
  - (ii) a voluntary adoption agency within the meaning of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 in respect of which he is registered;]

; or

- (b) contravenes paragraph (1); or
- (c) receives a child placed with him in contravention of paragraph (1);

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

(4) In any proceedings for an offence under paragraph (2)(a) proof of things done or of words written, spoken, or published (whether or not in the presence of any party to the proceedings) by any person taking part in the management or control of a body of persons, or in making arrangements for the adoption of children on behalf of the body, shall be admissible as evidence of the purpose for which that body exists.

*Para. (5) rep by 1995 NI 2*

**F59** 1976 c 36

**F60** Words in art. 11(2) substituted (15.7.2011) by [Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), arts. 1(2), 2, **Sch. 1 para. 11(3)(a)**

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- F61** Words in art. 11(2) substituted (29.10.2010) by virtue of Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, **art. 3**, Sch. 1
- F62** Words in art. 11(2) substituted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(3)(b)**
- F63** Words in art. 11(2) substituted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(3)(c)**
- F64** Words in art. 11(3)(a) substituted (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, **art. 3**, Sch. 1
- F65** Word in art. 11(3)(a)(i) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 106**; S.R. 2022/102, art. 2(b)

## PART III

### ADOPTION ORDERS

#### *The making of adoption orders*

#### **Adoption orders**

**12** <sup>F66</sup>.—<sup>F67</sup>(1) An adoption order is an order giving parental responsibility for a child to the adopters, and such an order may be made by an authorised court on the application of the adopters.

(2) The order does not affect parental responsibility so far as it relates to any period before the making of the order.

(3) The making of an adoption order operates to extinguish—

- (a) the parental responsibility which any person has for the child immediately before the making of the order;
- (b) any order of a court under the Children (Northern Ireland) Order 1995;
- (c) any duty arising by virtue of an agreement or the order of a court to make payments, so far as the payments are in respect of the child's maintenance or upbringing for any period after the making of the order.]

(4) Paragraph<sup>F68</sup> (3)(c)] does not apply to a duty arising by virtue of an agreement—

- (a) which constitutes a trust, or
- (b) which expressly provides that the duty is not to be extinguished by the making of an adoption order.

(5) An adoption order may not be made in relation to a child who is or has been married<sup>F69</sup> or who is or has been a civil partner].

(6) An adoption order may contain such terms and conditions as the court thinks fit.

(7) An adoption order may be made notwithstanding that the child is already an adopted child.

**F66** mod. by SR 2003/16

**F67** 1995 NI 2

**F68** 1995 NI 2

**F69** 2004 c.33

**Modifications etc. (not altering text)**

- C5 Art. 12(1)-(4) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

**Child to live with adopters before order made**

13.—(1) Where—

- (a) the applicant, or one of the applicants, is a parent, step-parent or relative of the child, or
- (b) the child was placed with the applicants by an adoption agency or in pursuance of an order of the High Court,

an adoption order shall not be made unless the child is at least 19 weeks old and at all times during the preceding 13 weeks had his home with the applicants or one of them.

(2) Where paragraph (1) does not apply, an adoption order shall not be made unless the child is at least 12 months old and at all times during the preceding 12 months had his home with the applicants or one of them.

(3) An adoption order shall not be made unless the court is satisfied that sufficient opportunities to see the child with the applicant or, in the case of an application by a <sup>F70</sup>... couple, both applicants together in the home environment have been afforded—

- (a) where the child was placed with the applicant by an adoption agency, to that agency, or
- (b) in any other case, to the <sup>F71</sup>... [<sup>F72</sup>HSC trust] within whose area the home is.

[<sup>F73</sup>(4) In relation to—

- (a) an adoption proposed to be effected by a Convention adoption order; or
- (b) an adoption of a child habitually resident outside the United Kingdom, the Channel Islands and the Isle of Man which is proposed to be effected by an adoption order other than a Convention adoption order,

paragraph (1) shall have effect as if the reference to the preceding 13 weeks were a reference to the preceding 6 months.]

**F70** Word in art. 13(3) 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), **30(3)** (with regs. 6-9)

**F71** Words in art. 13(3)(b) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), **Sch. 1 para. 107**; S.R. 2022/102, art. 2(b)

**F72** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**F73** 2001 c. 11 (NI)

[<sup>F74</sup>**Adoption by** <sup>F75</sup>... couple

14.—(1) An adoption order shall not be made on the application of more than one person except in the circumstances specified in paragraphs (2) and (3).

(2) An adoption order may be made on the application of a [<sup>F76</sup>couple where both of them] have attained the age of 21 years.

(3) An adoption order may be made on the application of a <sup>F77</sup>... couple where—

- (a) [<sup>F78</sup>one of the couple] —

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- (i) is the father or mother of the child; and
  - (ii) has attained the age of 18 years;
- and

- (b) [<sup>F79</sup>the other] has attained the age of 21 years.

(4) An adoption order shall not be made on the application of a <sup>F80</sup>... couple unless at least one of them is domiciled in a part of the United Kingdom, or in any of the Channel Islands or in the Isle of Man.]

- F74** 1995 NI 2
- F75** Word in art. 14 heading 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), **30(4)(a)** (with regs. 6-9)
- F76** Words in art. 14(2) 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), **30(4)(b)** (with regs. 6-9)
- F77** Word in art. 14(3) 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), **30(4)(c)(i)** (with regs. 6-9)
- F78** Words in art. 14(3)(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), **30(4)(c)(ii)** (with regs. 6-9)
- F79** Words in art. 14(3)(b) 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), **30(4)(c)(iii)** (with regs. 6-9)
- F80** Word in art. 14(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), **30(4)(d)** (with regs. 6-9)

#### Modifications etc. (not altering text)

- C6** Art. 14(2) amendment earlier affecting provision 1969 c. 22 (NI) s. 2(a) (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)

### Adoption by one person

**15.—(1)** An adoption order may be made on the application of one person where he has attained the age of 21 years and—

- (a) is not married [<sup>F81</sup> or a civil partner], or
- (b) is married and the court is satisfied that—
  - (i) his spouse cannot be found, or
  - (ii) the spouses have separated and are living apart, and the separation is likely to be permanent, or
  - (ii) his spouse is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order
- [<sup>F82</sup>, or
- (c) is a civil partner and the court is satisfied—
  - (i) the person's civil partner cannot be found, or

- (ii) the civil partners have separated and are living apart, and the separation is likely to be permanent, or
- (iii) the person's civil partner is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order, or
- (d) the court is satisfied—
  - (i) the person, and a parent of the child, are a couple, and
  - (ii) the person is not the child's parent.]

(2) An adoption order shall not be made on the application of one person unless he is domiciled in a part of the United Kingdom, or in any of the Channel Islands or in the Isle of Man.

(3) An adoption order shall not be made on the application of the mother or father of the child alone unless the court is satisfied that—

- (a) the other natural parent is dead or cannot be found<sup>[F83]</sup> or, by virtue of the provisions specified in paragraph (3A), there is no other parent], or
- (b) there is some other reason justifying the exclusion of the other natural parent,

and where such an order is made the reason justifying the exclusion of the other natural parent shall be recorded by the court.

<sup>[F84]</sup>(3A) The provisions referred to in paragraph (3)(a) are—

- (a) section 28 of the Human Fertilisation and Embryology Act 1990 (disregarding subsections (5A) to (5I) of that section), or
- (b) sections 34 to 47 of the Human Fertilisation and Embryology Act 2008 (disregarding sections 39, 40 and 46 of that Act).]

*Para. (4) rep. by 1995 NI 2*

**F81** 2004 c.33

**F82** Art. 15(1)(c)(d) and preceding word 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), **30(5)** (with regs. 6-9)

**F83** Words in art. 15(3)(a) substituted (6.4.2009 for certain purposes, otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 68(2), **Sch. 6 para. 68(2)**; S.I. 2009/479, **art. 6(1)(e)(f)(2)** (with art. 7(1), Sch. 1) (as amended by S.I. 2009/2232, art. 3)

**F84** Art. 15(3A) inserted (6.4.2009 for certain purposes, otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 68(2), **Sch. 6 para. 68(3)**; S.I. 2009/479, **art. 6(1)(e)(f)(2)** (with art. 7(1), Sch. 1) (as amended by S.I. 2009/2232, art. 3)

## Parental agreement

**16**<sup>F85</sup>—(1) An adoption order shall not be made unless—

- (a) the child is free for adoption by virtue of an order made in Northern Ireland under Article 17(1) or 18(1), made in England and Wales under section 18 of the Adoption Act 1976<sup>F86</sup> (freeing children for adoption in England and Wales)<sup>F87</sup> . . . ; or

<sup>[F88]</sup>(aa) the child is the subject of a Scottish permanence order which includes provision granting authority for the child to be adopted; or]

- (b) in the case of each parent or guardian of the child the court is satisfied that—
  - (i) he freely, and with full understanding of what is involved, agrees—

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- (aa) either generally in respect of the adoption of the child or only in respect of the adoption of the child by a specified person, and
- (ab) either unconditionally or subject only to a condition with respect to the religious persuasion in which the child is to be brought up,
- to the making of an adoption order; or
- (ii) his agreement to the making of the adoption order should be dispensed with on a ground specified in paragraph (2).
- (2) The grounds mentioned in paragraph (1)(b)(ii) are that the parent or guardian—
- (a) cannot be found or is incapable of giving agreement;
  - (b) is withholding his agreement unreasonably;
  - (c) has persistently failed without reasonable cause to discharge<sup>F89</sup> his parental responsibility for] the child;
  - (d) has abandoned or neglected the child;
  - (e) has persistently ill-treated the child;
  - (f) has seriously ill-treated the child (subject to paragraph (4)).
- (3) Agreement by the mother of the child is ineffective for the purposes of paragraph (2)(b)(i) if given less than 6 weeks after the child's birth.
- (4) Paragraph (2)(f) does not apply unless (because of the ill-treatment or for other reasons) the rehabilitation of the child within the household of the parent or guardian is unlikely.
- (5) The reference in paragraph (1)(b) to a parent of a child does not include a reference to any person having<sup>F90</sup> parental responsibility for] the child by virtue of—
- <sup>F91</sup>(a) Article 53 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (which relates to parental responsibility for children ordered to be sent to juvenile justice centres);]
- Sub#para. (b) rep. by 1995 NI 2*

**F85** mod. by SR 2003/16

**F86** 1976 c. 36

**F87** Words in art. 16(1)(a) repealed (15.7.2011) by [Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), arts. 1(2), 2, **Sch. 1 Pt. 3**

**F88** Art. 16(1)(aa) inserted (15.7.2011) by [Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), arts. 1(2), 2, **Sch. 1 para. 11(4)**

**F89** 1995 NI 2

**F90** 1995 NI 2

**F91** 1998 NI 9

**Modifications etc. (not altering text)**

**C7** [Art. 16\(1\)\(a\)](#) modified (temp. from 2.11.2010 to 2.7.2011) by [Adoption and Children \(Scotland\) Act 2007 \(Consequential Provisions\) Order 2010 \(S.I. 2010/2469\)](#), **arts. 5(b), 6**

**<sup>F92</sup>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.]

**F92** 2001 c. 11 (NI)

*Freeing for adoption*

**Freeing child for adoption with parental agreement**

17.—<sup>F93</sup>(1) Subject to paragraph (2), where, on the joint application of the parents or guardian of the child and an adoption agency, an authorised court is satisfied in the case of each parent or guardian that he freely, and with full understanding of what is involved, agrees—

- (a) generally, and
- (b) either unconditionally or subject only to a condition with respect to the religious persuasion in which the child is to be brought up,

to the making of an adoption order, the court shall make an order declaring the child free for adoption.]

(2) Where, on an application for an order under paragraph (1) in relation to a child, the mother of the child satisfies the court that her spouse <sup>F94</sup>or civil partner] is not the father of the child, the court may make the order on the joint application of the mother and the adoption agency.

<sup>F95</sup>(3) On the making of an order under paragraph (1), parental responsibility for the child is given to the adoption agency, and paragraphs (2) to (4) of Article 12 shall apply as if the order were an adoption order and the agency were the adopters.]

(4) Agreement by the mother of the child is ineffective for the purposes of this Article if given less than 6 weeks after the child's birth.

(5) Before making an order under paragraph (1), the court shall satisfy itself, in relation to each parent or guardian of the child who can be found, that he has been given an opportunity of making, if he so wishes, a declaration that he prefers not to be involved in future questions concerning the adoption of the child; and any such declaration shall be recorded by the court.

<sup>F96</sup>(6) Before making an adoption order or <sup>F96</sup>an order under paragraph (1) in the case of a child whose father does not have parental responsibility for him, the court shall satisfy itself in relation to any person claiming to be the father that—

- (a) he has no intention of applying for—
  - (i) an order under Article 7(1) of the Children (Northern Ireland) Order 1995, or
  - (ii) a residence order under Article 10 of that Order, or
- (b) if he did make any such application, it would be likely to be refused.

(7) Paragraphs (5) and (7) of Article 12 shall apply in relation to the making of an order under this Article as they apply in relation to the making of an order under Article 12.]

**F93** 1995 NI 2

**F94** Words in art. 17(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), **30(6)** (with regs. 6-9)

**F95** 1995 NI 2

**F96** 1995 NI 2



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### Freeing child for adoption without parental agreement

**18.**—(1) Where, on an application by an adoption agency, an authorised court is satisfied in the case of each parent or guardian of a child that his agreement to the making of an adoption order should be dispensed with on a ground specified in Article 16(2) the court shall make an order declaring the child free for adoption.

(2) No application shall be made under paragraph (1) unless—

- (a) the child is in the care of the adoption agency; and
- (b) the child is already placed for adoption or the court is satisfied that it is likely that the child will be placed for adoption.

[<sup>F97</sup>(2A) For the purposes of paragraph (2) a child is in the care of an adoption agency if the adoption agency is [<sup>F98</sup>an][<sup>F99</sup>HSC trust] and he is in its care.]

(3) Paragraphs (3), [<sup>F97</sup> and (5) to (7)] of Article 17 shall apply to an order made by a court under paragraph (1) as they apply to an order made by a court under Article 17(1).

**F97** 1995 NI 2

**F98** Word in [art. 18\(2A\)](#) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 108](#); S.R. 2022/102, art. 2(b)

**F99** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

### Progress reports to former parent

**19.**—(1) This Article and Article 20 apply to any person (“the former parent”) who was required to be given an opportunity of making a declaration under Article 17(5) or by virtue of Article 18(3) but did not do so.

(2) If at any time the former parent by notice makes a declaration to the adoption agency that he prefers not to be involved in future questions concerning the adoption of the child—

- (a) the agency shall secure that the declaration is recorded by the court which made the order freeing the child for adoption, and
- (b) paragraphs (3) and (4) and Article 20 shall not apply as respects that former parent.

(3) Within the 14 days following the date 12 months after the making of the order freeing the child for adoption the adoption agency [<sup>F100</sup> to which parental responsibility was given] on the making of the order, unless it has previously by notice to the former parent informed him that an adoption order has been made in respect of the child, shall by notice to the former parent inform him—

- (a) whether an adoption order has been made in respect of the child, and (if not)
- (b) whether the child has his home with a person with whom he has been placed for adoption.

(4) If at the time when the former parent is given notice under paragraph (3) an adoption order has not been made in respect of the child, the adoption agency shall give notice to the former parent of the making of an adoption order (if and when made), and meanwhile shall give the former parent notice whenever the child is placed for adoption or ceases to have his home with a person with whom he has been placed for adoption.

**F100** 1995 NI 2



## Revocation of order freeing child for adoption

**20.**—(1) The former parent, at any time more than 12 months after the making of the order freeing the child for adoption when—

- (a) no adoption order has been made in respect of the child, and
- (b) the child does not have his home with a person with whom he has been placed for adoption,

may apply to the court which made the order for a further order revoking it on the ground that he wishes to resume<sup>[F101]</sup> parental responsibility for the child].

(2) While the application is pending the adoption agency having<sup>[F101]</sup> parental responsibility] shall not place the child for adoption without the leave of the court.

<sup>[F101]</sup>(3) The revocation of an order under Article 17(1) or 18(1) (“a freeing order”) operates—

- (a) to extinguish the parental responsibility given to the adoption agency under the freeing order;
- (b) to give parental responsibility for the child to—
  - (i) the child's mother; and
  - (ii) where the child's father and mother were married to <sup>[F102]</sup>, or civil partners of,] each other at the time of his birth, the father; and
- (c) to revive—
  - (i) any parental responsibility agreement,
  - (ii) any order under Article <sup>[F103]</sup>7] of the Children (Northern Ireland) Order 1995, and
  - (iii) any appointment of a guardian in respect of the child (whether made by a court or otherwise),

extinguished by the making of a freeing order.

(3A) Subject to paragraph (3)(c), the revocation does not—

- (a) operate to revive—
  - (i) any order under the Children (Northern Ireland) Order 1995,
  - or
  - (ii) any duty referred to in Article 12(3)(c),

extinguished by the making of the freeing order; or

- (b) affect any person's parental responsibility so far as it relates to the period between the making of the freeing order and the date of revocation of that order.]

(4) Subject to paragraph (5), if the application is dismissed on the ground that to allow it would contravene the principle embodied in Article 9—

- (a) the former parent who made the application shall not be entitled to make any further application under paragraph (1) in respect of the child, and
- (b) the adoption agency is released from the duty of complying further with Article 19(3) as respects that parent.

(5) Paragraph (4)(a) shall not apply where the court which dismissed the application gives leave to the former parent to make a further application under paragraph (1), but such leave shall not be given unless it appears to the court that because of a change in circumstances or for any other reason it is proper to allow the application to be made.

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- F102** Words in art. 20(3)(b)(ii) 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), [30\(7\)\(a\)](#) (with regs. 6-9)
- F103** Word in art. 20(3)(c)(ii) 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), [30\(7\)\(b\)](#) (with regs. 6-9)

**[F104]Variation of order under Article 17(1) or 18(1) so as to substitute one adoption agency for another**

**21.—(1)** On an application to which this Article applies, an authorised court may vary an order under Article 17(1) or 18(1) so as to give parental responsibility for the child to another adoption agency (“the substitute agency”) in place of the agency for the time being having parental responsibility for the child under the order (“the existing agency”).

- (2) This Article applies to any application made jointly by—
  - (a) the existing agency; and
  - (b) the would#be substitute agency.

(3) Where an order under Article 17(1) or 18(1) is varied under this Article, Article 19 shall apply as if the substitute agency had been given responsibility for the child on the making of the order.]

**F104** [1995 NI 2](#)

*Supplemental*

**Notification to [F105]HSC trust] of adoption application, where child not placed by adoption agency**

**22** <sup>F106</sup>.—(1) An adoption order shall not be made in respect of a child who was not placed with the applicant by an adoption agency unless the applicant has, at least 3 months before the date of the order, served notice on the <sup>F107</sup>... [F108]HSC trust] within whose area he has his home of his intention to apply for the adoption order.

[F109(1A) An application for such an adoption order shall not be made unless the person wishing to make the application has, within the period of two years preceding the making of the application, given notice as mentioned in paragraph (1).

(1B) In paragraphs (1) and (1A) the references to the area in which the applicant or person has his home are references to the area in which he has his home at the time of giving the notice.]

(2) On receipt of such a notice the <sup>F110</sup>... [F108]HSC trust] shall investigate the matter and submit to the court a report of its investigation and shall assist the court in any manner the court may direct.

- (3) Under paragraph (2), the <sup>F111</sup>... [F108]HSC trust] shall in particular investigate,—
  - (a) so far as is practicable, the suitability of the applicant, and any other matters relevant to the operation of Article 9 in relation to the application; and
  - (b) whether the child was placed with the applicant in contravention of Article 11.

<sup>F112</sup>(4) .....

[F113(5) An [F108]HSC trust] which receives notice under paragraph (1) in respect of a child whom the trust knows to be[F109] looked after by] another [F108]HSC trust][F114]... shall, not more than 7 days

after the receipt of the notice, inform that other [<sup>F108</sup>HSC trust]<sup>F114</sup> ... in writing, that it has received the notice.]

- F105** Words in art. 22 heading substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 109(5)**; S.R. 2022/102, art. 2(b)
- F106** mod. by SR 2003/16
- F107** Words in art. 22(1) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 109(2)**; S.R. 2022/102, art. 2(b)
- F108** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F109** 1995 NI 2
- F110** Words in art. 22(2) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 109(2)**; S.R. 2022/102, art. 2(b)
- F111** Words in art. 22(3) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 109(2)**; S.R. 2022/102, art. 2(b)
- F112** Art. 22(4) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 109(3)**; S.R. 2022/102, art. 2(b)
- F113** 1994 NI 2
- F114** Words in art. 22(5) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 109(4)**; S.R. 2022/102, art. 2(b)

### Enquiries to be made of [<sup>F115</sup>HSC trust] , where child is to be placed by registered adoption society

23. Where [<sup>F116</sup>an appropriate voluntary organisation] is considering the placement of a child with any person for adoption, [<sup>F117</sup>the organisation] shall make enquiries of the <sup>F118</sup>... [<sup>F119</sup>HSC trust] in whose area that person's place of residence is situated so that the <sup>F118</sup>... [<sup>F119</sup>HSC trust] may inform [<sup>F117</sup>the organisation] whether or not there is any reason to believe that the proposed adoption would be detrimental to the child.

- F115** Words in art. 23 heading substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 110(3)**; S.R. 2022/102, art. 2(b)
- F116** Words in art. 23 substituted (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, **art. 3**, Sch. 1
- F117** Words in art. 23 substituted (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, **art. 3**, Sch. 1
- F118** Words in art. 23 omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 110(2)**; S.R. 2022/102, art. 2(b)
- F119** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

### Reports to court where child placed by agency

24.—(1) Where an application for an adoption order relates to a child placed by an adoption agency, the agency shall submit to the court a report on the suitability of the applicants and any other matters relevant to the operation of Article 9 and shall assist the court in any manner the court may direct.

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(2) Arrangements may be made by an adoption agency which has placed a child for its functions in relation to that child with respect to the report on the suitability of the applicants for adoption and any other matters relevant to the operation of Article 9 to be discharged by another adoption agency where unforeseen and exceptional circumstances make such an arrangement necessary.

### Restrictions on making adoption orders

**25.**—(1) The court shall not proceed to hear an application for an adoption order in relation to a child where a previous application for a British adoption order made in relation to the child by the same persons was refused by any court unless—

- (a) in refusing the previous application the court directed that this paragraph should not apply, or
- (b) it appears to the court that because of a change in circumstances or for any other reason it is proper to proceed with the application.

(2) The court shall not make an adoption order in relation to a child unless it is satisfied that the applicants have not, as respects the child, contravened Article 59.

[<sup>F120</sup>(3) In this Article “British adoption order” means—

- (a) an adoption order or an order under the Adoption Act (Northern Ireland) 1967; or
- (b) an order under any provision for the adoption of a child effected under the law of any of the following countries, that is to say, the Channel Islands, the Isle of Man and a colony, which is a British territory for the purposes of section 24 of the Adoption Act 1976.]

**F120** 1995 NI 2

#### Modifications etc. (not altering text)

**C8** Art. 25(1) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

### Interim orders

**26.**—(1) Where on an application for an adoption order the requirements of Articles 16(1) and 22(1) are complied with, the court may postpone the determination of the application and make an order<sup>F121</sup> giving parental responsibility for the child to] the applicants for a probationary period not exceeding 2 years upon such terms for the maintenance of the child and otherwise as the court thinks fit.

(2) Where the probationary period specified in an order under paragraph (1) is less than 2 years, the court may by a further order extend the period to a duration not exceeding 2 years in all.

**F121** 1995 NI 2

*Art. 27. rep. by 1995 NI 2*

## PART IV

### CARE AND PROTECTION OF CHILDREN AWAITING ADOPTION

#### *Restrictions on removal of children*

#### **Restrictions on removal where adoption agreed or application made under Article 17(1) or 18(1)**

**28** <sup>F122</sup>.—(1) While an application for an adoption order is pending—

- (a) where a parent or guardian of the child has agreed to the making of the adoption order (whether or not he knows the identity of the applicant), the parent or guardian;
- (b) any person or body, other than a parent or guardian;

is not entitled, against the will of the person with whom the child has his home, to remove the child from the<sup>F123</sup> home] of that person except with the leave of the court.

(2) While an application is pending for an order freeing a child for adoption and—

- (a) the child is in the care of the adoption agency making the application, and
- (b) the application was not made with the consent of each parent or guardian of the child,

no parent or guardian of the child is entitled, against the will of the person with whom the child has his home, to remove the child from the<sup>F123</sup> home] of that person except with the leave of the court.

<sup>F123</sup>(2A) For the purposes of paragraph (2) a child is in the care of an adoption agency if the adoption agency is [<sup>F124</sup>an]<sup>F125</sup>HSC trust] and he is in its care.]

(3) Any person who contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

**F122** mod. by SR 2003/16

**F123** 1995 NI 2

**F124** Word in art. 28(2A) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 111](#); S.R. 2022/102, art. 2(b)

**F125** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

#### **Modifications etc. (not altering text)**

**C9** [Art. 28\(1\)](#) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, [Sch. 2](#)

**C10** [Art. 28\(3\)](#) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, [Sch. 2](#)

#### **Restrictions on removal where applicant has provided home for 5 years**

**29.**—(1) While an application for an adoption order in respect of a child made by the person with whom the child has had his home for the 5 years preceding the application is pending, no person is entitled, against the will of the applicant, to remove the child from the applicant's<sup>F126</sup> home] except with the leave of the court or under authority conferred by any enactment or on the arrest of the child.

(2) Where a person (“the prospective adopter”) gives notice to the <sup>F127</sup>... [<sup>F128</sup>HSC trust] within whose area he has his home that he intends to apply for an adoption order in respect of a child who

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for the preceding 5 years has had his home with the prospective adopter, no person is entitled, against the will of the prospective adopter, to remove the child from the prospective adopter's<sup>F126</sup> home], except with the leave of a court or under authority conferred by any enactment or on the arrest of the child, before—

(a) the prospective adopter applies for the adoption order, or

(b) the period of 3 months from the receipt of the notice by the<sup>F127</sup> ... [F128HSC trust] expires, whichever occurs first.

<sup>F126</sup>(2A) In paragraphs (1) and (2) “any enactment” does not include Article 22(2) of the Children (Northern Ireland) Order 1995.]

<sup>F126</sup>(3) In any case where paragraph (1) or (2) applies and—

(a) the child was being looked after by [F129an][F128HSC trust] before he began to have his home with the applicant or, as the case may be, the prospective adopter, and

(b) the child is still being looked after by the<sup>F130</sup> ... [F128HSC trust],

the<sup>F131</sup> ... [F128HSC trust] shall not remove him from the home of the applicant or the prospective adopter except in accordance with Article 31 or 32 or with the leave of a court.]

(4) In paragraphs (2) and (3) “a court” means a court with jurisdiction to make adoption orders.

<sup>F132</sup>(5) .....

<sup>F133</sup>(5A) An [F128HSC trust] which receives such notice as is mentioned in paragraph (2) in respect of a child whom the [F128HSC trust] knows to be<sup>F126</sup> looked after by another [F128HSC trust]<sup>F134</sup> ... or to be provided with accommodation by a voluntary organisation] shall, not more than 7 days after the receipt of the notice, inform that other [F128HSC trust] or that<sup>F135</sup> ... organisation, in writing, that it has received the notice.]

(6) Paragraph (2) does not apply to any further notice served by the prospective adopter on any<sup>F136</sup> ... [F128HSC trust] in respect of the same child during the period referred to in sub-paragraph (b) of that paragraph or within 28 days after its expiry.

(7) Any person who contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

(8) The Department may by order made subject to affirmative resolution amend paragraph (1) or (2) to substitute for the period of 5 years mentioned in that paragraph such other period as may be specified in the order.

**F126** 1995 NI 2

**F127** Words in art. 29(2) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 112(2)**; S.R. 2022/102, art. 2(b)

**F128** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**F129** Word in art. 29(3)(a) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 112(3)(a)**; S.R. 2022/102, art. 2(b)

**F130** Words in art. 29(3)(b) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 112(3)(b)**; S.R. 2022/102, art. 2(b)

**F131** Words in art. 29(3) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 112(3)(b)**; S.R. 2022/102, art. 2(b)

**F132** Art. 29(5) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 112(4)**; S.R. 2022/102, art. 2(b)

**F133** 1994 NI 2



**F134** Words in art. 29(5A) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 112(5)(a)**; S.R. 2022/102, art. 2(b)

**F135** Words in art. 29(5A) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 112(5)(b)**; S.R. 2022/102, art. 2(b)

**F136** Words in art. 29(6) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 112(6)**; S.R. 2022/102, art. 2(b)

## Return of child taken away in breach of Article 28 or 29

**30.**—<sup>[F137]</sup>(1) An authorised court may, on the application of a person from whose home a child has been removed in breach of—

(a) Article 28 or 29;

(b) section 27 or 28 of the Adoption Act 1976; or

<sup>[F138]</sup>(c) section 20, 21 or 22 of the Adoption and Children (Scotland) Act 2007,]

order the person who has so removed the child to return the child to the applicant.

(2) An authorised court may, on the application of a person who has reasonable grounds for believing that another person is intending to remove a child from his home in breach of—

(a) Article 28 or 29;

(b) section 27 or 28 of the Adoption Act 1976; or

<sup>[F139]</sup>(c) section 20, 21 or 22 of the Adoption and Children (Scotland) Act 2007,]

by order direct that other person not to remove the child from the applicant's home in breach of any of those provisions.]

(3) If, in the case of an order made by the High Court under paragraph (1), the High Court or, in the case of an order made by a county court under paragraph (1), a county court is satisfied that the child has not been returned to the applicant, the court may make an order authorising a constable to search such premises as may be specified in the order for the child and, if a constable acting in pursuance of the order finds the child, to return the child to the applicant.

(4) If a justice of the peace is satisfied by complaint on oath that there are reasonable grounds for believing that a child to whom an order under paragraph (1) relates is in premises specified in the complaint, he may issue a search warrant authorising a constable to search the premises for the child, and if a constable acting in pursuance of the warrant finds the child, he shall return the child to the person on whose application the order under paragraph (1) was made.

(5) An order under paragraph (3) may be enforced in like manner as a warrant of commitment.

**F137** 1995 NI 2

**F138** Art. 30(1)(c) substituted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(5)**

**F139** Art. 30(2)(c) substituted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(5)**

### Modifications etc. (not altering text)

**C11** Art. 30 applied (with modifications) (6.4.2010) by Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), reg. 3, **Sch. 2**

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### Return of children placed for adoption by adoption agencies

**31**<sup>F140</sup>.—(1) Subject to paragraph (2), at any time after a child has been<sup>F141</sup> placed with] any person in pursuance of arrangements made by an adoption agency for the adoption of the child by that person, and before an adoption order has been made on the application of that person in respect of the child,—

- (a) that person may serve notice on the agency of his intention not to<sup>F141</sup> give the child a home]; or
- (b) the agency may cause notice to be served on that person of their intention not to allow the child to remain in his<sup>F141</sup> home].

(2) A notice under paragraph (1)(b) shall not be served in respect of a child in relation to whom an application has been made for an adoption order except with the leave of the court to which the application has been made.

(3) Where a notice is served on an adoption agency by any person or by an adoption agency on any person under paragraph (1), or where an application for an adoption order made by any person in respect of a child placed<sup>F141</sup> with him] by an adoption agency is refused<sup>F141</sup> by the court or withdrawn, that person shall, within 7 days after the date on which notice was served or the application refused or withdrawn, as the case may be, cause the child to be returned to the agency, who shall receive the child.

(4) Where the period specified in an interim order made under Article 26 (whether as originally made or as extended under paragraph (2) of that Article) expires without an adoption order having been made in respect of the child, paragraph (3) shall apply as if the application for an adoption order upon which the interim order was made, had been refused at the expiration of that period.

(5) It shall be sufficient compliance with the requirements of paragraph (3) if the child is delivered to, and is received by, a suitable person nominated for the purpose by the adoption agency.

(6) Where an application for an adoption order is refused the court may, if it thinks fit at any time before the expiry of the period of 7 days mentioned in paragraph (3), order that period to be extended to a duration, not exceeding 6 weeks, specified in the order.

(7) Any person who contravenes the provisions of this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both; and the court by which the offender is convicted may order the child in respect of whom the offence is committed to be returned to his parent or guardian or to the adoption agency which made the arrangements referred to in paragraph (1).

**F140** mod. by SR 2003/16

**F141** 1995 NI 2

### <sup>F142</sup>Application of Article 31 where child not placed for adoption

**32**<sup>F143</sup>.—(1) Where a person serves a notice in pursuance of Article 22(1) on the<sup>F144</sup> ...<sup>F145</sup>HSC trust] within whose area he has his home of his intention to apply for an adoption order in respect of a child—

- (a) who is (when the notice is given) being looked after by <sup>F146</sup>an]<sup>F145</sup>HSC trust]; but
- (b) who was placed with that person otherwise than in pursuance of such arrangements as are mentioned in Article 31(1),

Article 31 shall apply as if the child had been placed in pursuance of such arrangements, except that where the application is refused by the court or withdrawn the child need not be returned to the<sup>F144</sup> ...<sup>F145</sup>HSC trust] in whose care he is unless the<sup>F144</sup> ...<sup>F145</sup>HSC trust] so requires.



(2) Where notice of intention is served as described in paragraph (1) in respect of any child who is (when the notice is given) being looked after by <sup>F147</sup>an<sup>F145</sup>[<sup>F145</sup>HSC trust] then, until the application for an adoption order has been made and disposed of, any right of the <sup>F148</sup>...<sup>F145</sup>[<sup>F145</sup>HSC trust] to require the child to be returned to it otherwise than in pursuance of Article 31 shall be suspended.

(3) While the child has his home with the person by whom the notice is served no contribution shall be payable (whether under a contribution order or otherwise) in respect of the child by any person liable under Articles 38 to 43 of the Children (Northern Ireland) Order 1995 to make contributions in respect of him (but without prejudice to the recovery of any sum due at the time the notice is served), unless 12 weeks have elapsed since the service of the notice without the application being made or the application has been refused by the court or withdrawn.

(4) Nothing in this Article affects the right of any person who has parental responsibility for a child to remove him under Article 22(2) of the Children (Northern Ireland) Order 1995.]

- F142** 1995 NI 2
- F143** mod. by SR 2003/16
- F144** Words in art. 32(1) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), [Sch. 1 para. 113\(2\)\(a\)](#); S.R. 2022/102, art. 2(b)
- F145** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)
- F146** Word in art. 32(1)(a) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), [Sch. 1 para. 113\(2\)\(b\)](#); S.R. 2022/102, art. 2(b)
- F147** Word in art. 32(2) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), [Sch. 1 para. 113\(3\)\(a\)](#); S.R. 2022/102, art. 2(b)
- F148** Words in art. 32(2) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), [Sch. 1 para. 113\(3\)\(b\)](#); S.R. 2022/102, art. 2(b)

### *Protected children*

#### **Meaning of “protected child”**

**33.**—(1) Where a person gives notice in pursuance of Article 22(1) to the <sup>F149</sup>... <sup>F150</sup>[<sup>F150</sup>HSC trust] within whose area he lives of his intention to apply for an adoption order in respect of a child, the child is for the purposes of this Part a protected child while he has his home with that person.

<sup>F151</sup>(1A) A child shall be deemed to be a protected child for the purposes of this Part if he is a protected child within the meaning of—

- (a) section 32 of the Adoption Act 1976; <sup>F152</sup> . . .
- (b) <sup>F152</sup> . . . . . ]

(2) A child is not a protected child by reason of any such notice as is mentioned in paragraph (1) while—

- (a) he is in the care of any person in—
  - <sup>F151</sup>(i) any school in which he is receiving full#time education;
  - (ii) any<sup>F153</sup> children's home in respect of which a person is registered under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003];
  - (iii) any hospital;
  - (iv) any home or institution not specified in heads (i) to (iii) but provided by the Secretary of State, a government department or a prescribed public body; or]

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- (b) he is resident in a residential home for persons suffering from mental disorder within the meaning of Article 3(1) of the Mental Health (Northern Ireland) Order 1986<sup>F154</sup>; or
- (c) he is liable to be detained or is subject to guardianship under that Order of 1986.

[<sup>F151</sup>(2A) Paragraph (2)(a) shall be construed in accordance with Article 2(2) of the Children (Northern Ireland) Order 1995 (interpretation).]

[<sup>F151</sup>(3) A protected child ceases to be a protected child—

- (a) on the grant or refusal of the application for an adoption order;
- (b) on the notification to the <sup>F155</sup>... [<sup>F150</sup>HSC trust] for the area where the child has his home that the application for an adoption order has been withdrawn;
- (c) in a case where no application is made for an adoption order, on the expiry of the period of two years from the giving of the notice;
- (d) on the making of a residence order, a care order or a supervision order under the Children (Northern Ireland) Order 1995 in respect of the child;
- (e) on the appointment of a guardian for him under that Order;
- (f) on his attaining the age of 18 years; or
- (g) on his marriage<sup>F156</sup> or forming a civil partnership],

whichever first occurs.

(4) In paragraph (3)(d) the references to a care order and a supervision order do not include references to an interim care order or interim supervision order.]

**F149** Words in art. 33(1) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 114**; S.R. 2022/102, art. 2(b)

**F150** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**F151** 1995 NI 2

**F152** Art. 33(1A)(b) and preceding word repealed (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 Pt. 3**

**F153** 2003 NI 9

**F154** 1986 NI 4

**F155** Words in art. 33(3)(b) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 114**; S.R. 2022/102, art. 2(b)

**F156** 2004 c.33

### Duty of [<sup>F157</sup>HSC trusts] to secure well-being of protected children

**34.—**(1) Every <sup>F158</sup>... [<sup>F159</sup>HSC trust] shall secure that protected children within its area are visited from time to time by officers of the <sup>F158</sup>... [<sup>F159</sup>HSC trust], who shall satisfy themselves as to the well-being of the children and give such advice as to their care and maintenance as may appear to be needed.

(2) Any officer of [<sup>F160</sup>an][<sup>F159</sup>HSC trust] authorised to visit protected children may, after producing, if asked to do so, some duly authenticated document showing that he is so authorised, inspect any premises in the area of the <sup>F161</sup>... [<sup>F159</sup>HSC trust] in which such children are to be or are being kept.

**F157** Words in art. 34 heading substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 115(4)**; S.R. 2022/102, art. 2(b)

- F158** Words in art. 34(1) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 115(2)**; S.R. 2022/102, art. 2(b)
- F159** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F160** Word in art. 34(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 115(3)(a)**; S.R. 2022/102, art. 2(b)
- F161** Words in art. 34(2) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 115(3)(b)**; S.R. 2022/102, art. 2(b)

*Art. 35 rep. with saving by 1995 NI 2*

### Notices and information to be given to <sup>F162</sup>HSC trusts]

**36.—**(1) Where a person<sup>F163</sup> with whom a protected child has his home] changes his permanent address he shall not less than 2 weeks before the change, or, if the change is made in an emergency, not later than 1 week after the change, serve a notice specifying the new address on the <sup>F164</sup>... [<sup>F165</sup>HSC trust] in whose area his permanent address is before the change, and if the new address is in the area of another <sup>F164</sup>... [<sup>F165</sup>HSC trust], the <sup>F164</sup>... [<sup>F165</sup>HSC trust] on whom the notice is served shall inform that other Board<sup>F166</sup> or [<sup>F165</sup>HSC trust]] and give it such of the following particulars as are known to it, that is to say—

- (a) the name, sex and date and place of birth of the child;
- (b) the name and address of every person who is a parent or guardian or acts as a guardian of the child or from whom the child was received.

(2) If a protected child dies, the person<sup>F163</sup> with whom he had his home] at his death shall within 48 hours serve notice of the child's death on the Board<sup>F166</sup> or [<sup>F165</sup>HSC trust]] .

- F162** Words in art. 36 heading substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 116(3)**; S.R. 2022/102, art. 2(b)
- F163** 1995 NI 2
- F164** Words in art. 36 omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 116(2)**; S.R. 2022/102, art. 2(b)
- F165** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F166** 1994 NI 2

### Offences relating to protected children

**37.—**(1) A person shall be guilty of an offence if—

- (a) being required, under Article 36 to serve any notice or give any information, he fails to serve the notice within the time specified in that provision or fails to give the information within a reasonable time, or knowingly makes or causes or procures another person to make any false or misleading statement in the notice or information;
- (b) he refuses to allow the visiting of a protected child by a duly authorised officer of [<sup>F167</sup>an][<sup>F168</sup>HSC trust] or the inspection, under the power conferred by Article 34(2) of any premises;

*Sub#para. (c) rep. by 1995 NI 2*

(2) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

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**F167** Word in art. 37(1)(b) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 117**; S.R. 2022/102, art. 2(b)

**F168** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

### Miscellaneous provisions relating to protected children

*Para. (1) rep. 1995 NI 2*

(2) A person who maintains a protected child shall be deemed for the purposes of the Life Assurance Act 1774<sup>F169</sup> as extended by the Life Insurance (Ireland) Act 1866<sup>F170</sup> to have no interest in the life of the child.

*Para. (3) rep. 1995 NI 2*

**F169** 1774 c. 48

**F170** 1866 c. 42

## PART V

### STATUS OF ADOPTED CHILDREN

#### Meaning of “adoption” in Part V

**39.**—(1) In this Part “adoption” means adoption—

- (a) by an adoption order;
- (b) by an order made under the Adoption Act (Northern Ireland) 1967<sup>F171</sup>, the Adoption of Children Act (Northern Ireland) 1950<sup>F172</sup> or the Adoption of Children Act (Northern Ireland) 1929<sup>F173</sup>;
- (c) by an order made in England and Wales, Scotland, the Isle of Man or in any of the Channel Islands;<sup>F174</sup> . . .

[<sup>F174</sup>(cc) which is a Convention adoption; or]

- (d) which is an adoption recognised by the law of Northern Ireland and effected under the law of any other country,

and cognate expressions shall be construed accordingly.

(2) The definition of adoption includes, where the context admits, an adoption effected before the commencement of this Part, and the date of an adoption effected by an order is the date of the making of the order.

**F171** 1967 c. 35 (NI)

**F172** 1950 c. 6 (NI)

**F173** 1929 c. 15 (NI)

**F174** 2001 c. 11 (NI)

#### Status conferred by adoption

**40.**—(1) An adopted child shall be treated in law—

- (a) where the adopters are a married couple, as if he had been born as a child of the marriage (whether or not he was in fact born after the marriage was solemnized);
  - [<sup>F175</sup>(aa) where the adopters are two people who are civil partners of each other, as if the child had been born as a child of the civil partnership (whether or not the child was in fact born after the formation of the civil partnership);]
  - (b) in any other case, as if he had been born to the [<sup>F176</sup>adopters or] adopter in wedlock (but not as a child of any actual marriage of the [<sup>F176</sup>adopters or] adopter).
- (2) An adopted child shall, subject to [<sup>F177</sup> paragraphs (3) and (3A)], be treated in law as if he were not the child of any person other than the adopters or adopter.
- (3) Paragraph (2)—
- (a) does not apply for the purposes of the Table in Article 18(1) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984<sup>F178</sup>[<sup>F179</sup> or for the purposes of Schedule 12 to the Civil Partnership Act 2004] (prohibited degrees of relationship); and
  - (b) in the case of a child adopted by one of its natural parents as sole adoptive parent, has no effect as respects entitlement to property depending on relationship to that parent, or as respects anything else depending on that relationship.
- [<sup>F177</sup>(3A) Where, in the case of a Convention adoption, the High Court is satisfied, on an application under this paragraph—
- (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.]
- (4) It is hereby declared that this Article prevents an adopted child from being illegitimate.
- (5) This Article has effect—
- (a) in the case of an adoption before the commencement of this Part from that time, and
  - (b) in the case of any other adoption, from the date of the adoption.
- [<sup>F180</sup>(5A) But paragraph (1)(aa) applies only as from 13th January 2020, even in the case of an adoption before that date.]
- (6) Subject to the provisions of this Part, this Article—
- (a) applies for the construction of statutory provisions or instruments passed or made before the adoption or later, and so applies subject to any contrary indication; and

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(b) has effect as respects things done, or events occurring, after the adoption, or after the commencement of this Part, whichever is the later.

[<sup>F181</sup>(7) For the purposes of the application of paragraph (6) in a case within paragraph (1)(aa), the reference in paragraph (6)(b) to the commencement of this Part is to be read as a reference to 12th January 2020.]

- F175** Art. 40(1)(aa) 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), **30(8)(a)** (with regs. 6-9)
- F176** Words in art. 40(1)(b) 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), **30(8)(b)** (with regs. 6-9)
- F177** 2001 c. 11 (NI)
- F178** 1984 NI 14
- F179** 2004 c.33
- F180** Art. 40(5A) 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), **30(8)(c)** (with regs. 6-9)
- F181** Art. 40(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), **30(8)(d)** (with regs. 6-9)

**Modifications etc. (not altering text)**

- C12** Art. 40(1)(a) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**
- C13** Art. 40(2)(3)(4) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**
- C14** Art. 40(6) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

**Adoptive relatives**

**41** .—[<sup>F182</sup>(1)] A relationship existing by virtue of Article 40 may be referred to as an adoptive relationship, and

- (a) a male adopter may be referred to as the adoptive father;
- (b) a female adopter may be referred to as the adoptive mother;
- (c) any other relative of any degree under an adoptive relationship may be referred to as an adoptive relative of that degree,

but this Article does not prevent the term “parent”, or any other term not qualified by the word “adoptive”, being treated as including an adoptive relative.

[<sup>F183</sup>(2) A reference (however expressed) to the adoptive mother and father of a child adopted by—

- (a) a couple of the same sex, or
- (b) a partner of the child’s parent, where the couple are of the same sex,

is to be read as a reference to the child’s adoptive parents.]

**F182** Art. 41(1): art. 41 renumbered as art. 41(1) (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), **30(9)(a)** (with regs. 6-9)

**F183** Art. 41(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), **30(9)(b)** (with regs. 6-9)

### Rules of construction for instruments concerning property

**42.**—(1) Subject to any contrary indication, the rules of construction contained in this Article apply to any instrument, other than an existing instrument, so far as it contains a disposition of property.

(2) In applying Article 40(1) to a disposition which depends on the date of birth of a child or children of the adoptive parent or parents, the disposition shall be construed as if—

- (a) the adopted child had been born on the date of adoption,
- (b) two or more children adopted on the same date had been born on that date in the order of their actual births,

but this does not affect any reference to the age of a child.

(3) Examples of phrases in wills on which paragraph (2) can operate are—

- (1) Children of A “living at my death or born afterwards”.
- (2) Children of A “living at my death or born afterwards before any one of such children for the time being in existence attains a vested interest and who attain the age of 21 years”.
- (3) As in example 1 or 2, but referring to grandchildren of A instead of children of A.
- (4) A for life “until he has a child”, and then to his child or children.

Note. Paragraph (2) will not affect the reference to the age of 21 years in example 2.

(4) Article 40(2) does not prejudice any interest vested in possession in the adopted child before the adoption, or any interest expectant (whether immediately or not) upon an interest so vested.

(5) Where it is necessary to determine for the purposes of a disposition of property effected by an instrument whether a woman can have a child, it shall be presumed that once a woman has attained the age of 55 years she will not adopt a child after execution of the instrument, and, notwithstanding Article 40, if she does so that child shall not be treated as her child or <sup>F184</sup>(if she does so as one of a couple) as the child of the other one of the couple] for the purposes of the instrument.

(6) In this Article, “instrument” includes a private Act or Measure settling property, but not any other statutory provision.

**F184** Words in art. 42(5) 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), **30(10)** (with regs. 6-9, 30(11))

### Modifications etc. (not altering text)

**C15** Art. 42 applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

### Dispositions depending on date of birth

**43.**—(1) Where a disposition depends on the date of birth of a child who was born illegitimate and who is adopted by one of the natural parents as sole adoptive parent, Article 42(2) does not



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affect entitlement under Part II of the Family Law Reform (Northern Ireland) Order 1977<sup>F185</sup>[<sup>F186</sup> or Article 22 of the Wills and Administration Proceedings (Northern Ireland) Order 1994] (illegitimate children).

(2) Paragraph (1) applies for example where—

- (a) a testator dies in 1986 bequeathing a legacy to his eldest grandchild living at a specified time,
- (b) his daughter has an illegitimate child in 1987 who is the first grandchild,
- (c) his married son has a child in 1988,
- (d) subsequently the illegitimate child is adopted by the mother as sole adoptive parent,

and in all those cases the daughter's child remains the eldest grandchild of the testator throughout.

**F185** 1977 NI 17

**F186** 1994 NI 13

### Property devolving with peerages, etc.

44.—(1) An adoption does not affect the descent of any peerage or dignity or title of honour.

(2) An adoption shall not affect the devolution of any property limited (expressly or not) to devolve (as nearly as the law permits) along with any peerage or dignity or title of honour.

(3) Paragraph (2) applies only if and so far as a contrary intention is not expressed in the instrument, and shall have effect subject to the terms of the instrument.

#### Modifications etc. (not altering text)

**C16** Art. 44 applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

### Protection of trustees and personal representatives

45.—(1) A trustee or personal representative is not under a duty, by virtue of the law relating to trusts or the administration of estates, to enquire, before conveying or distributing any property, whether any adoption has been effected or revoked if that fact could affect entitlement to the property.

(2) A trustee or personal representative shall not be liable to any person by reason of a conveyance or distribution of the property made without regard to any such fact if he has not received notice of the fact before the conveyance or distribution.

(3) This Article does not prejudice the right of a person to follow the property, or any property representing it, into the hands of another person, other than a purchaser, who has received it.

#### Modifications etc. (not altering text)

**C17** Art. 45 applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

### Meaning of “disposition”

46.—(1) In this Part, unless the context otherwise requires,—



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“disposition” includes the conferring of a power of appointment and any other disposition of an interest in or right over property;

“power of appointment” includes any discretionary power to transfer a beneficial interest in property without the furnishing of valuable consideration.

(2) This Part applies to an oral disposition as if contained in an instrument made when the disposition was made.

(3) For the purposes of this Part, the death of the testator is the date at which a will or codicil is to be regarded as made.

(4) For the purposes of this Part, provisions of the law of intestate succession applicable to the estate of a deceased person shall be treated as if contained in an instrument executed by him (while of full capacity) immediately before his death.

(5) It is hereby declared that references in this Part to dispositions of property include references to a disposition by the creation of an entailed interest.

**Modifications etc. (not altering text)**

**C18** Art. 46 applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

**Miscellaneous**

**47.**—(1) Article 40 does not apply for the purposes of [<sup>F187</sup>Articles 68 and 69 of the Sexual Offences (Northern Ireland) Order 2008 (sex with an adult relative); but nothing in this paragraph is to be read as preventing the application of Article 40 for the purposes of Article 68(3)(a) or (b) or 69(3)(a) or (b) of that Order] (incest).

(2) Article 40 does not apply for any purpose relating to nationality or immigration.  
*Para. (3) rep. 1988 NI 2*

(4) The revocation of an adoption order under Article 55 does not affect any right to property under an instrument executed before the date of revocation.

**F187** Words in art. 47(1) substituted (2.2.2009) by [Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(3), 81, **Sch. 1 para. 19**; S.R. 2008/510, **art. 2**

**Modifications etc. (not altering text)**

**C19** Art. 47(1)(2) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

**Pensions**

**48.** Article 40(2) does not affect entitlement to a pension which is payable to or for the benefit of a child and is in payment at the time of his adoption.

**Insurance**

**49.** Where a child is adopted whose natural parent has effected an insurance with a friendly society or a collecting society or an industrial insurance company for the payment on the death of the child of money for funeral expenses, the rights and liabilities under the policy shall by virtue of the adoption be transferred to the adoptive parents who shall for the purposes of the enactments relating to such societies and companies be treated as the person who took out the policy.

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## PART VI <sup>F188</sup>

### REGISTRATION, AMENDMENT AND REVOCATION OF ADOPTION ORDERS

**F188** functions transf. by SR 1993/494

#### *The Adopted Children Register*

#### **Adopted Children Register**

- 50.**—(1) The Registrar General for Northern Ireland ( “the Registrar General”) shall—
- (a) maintain at the General Register Office a register to be called the Adopted Children Register, in which<sup>F189</sup> such entries as may be—
    - (i) directed to be made in it by adoption orders, or
    - (ii) required to be made under Article 53,
 and no other entries, shall be made];
  - (b) cause an index of the Adopted Children Register to be made and kept in the General Register Office; and
  - (c) keep such other registers and books, and make such entries therein, as may be necessary to record and make traceable the connection between any entry in the Register of Births which has been marked “Adopted” pursuant to Article 51 or any statutory provision at the time in force, and any corresponding entry in the Adopted Children Register.
- (2) Every person shall be entitled to search the index mentioned in paragraph (1)(b) and to have a certified copy of any entry in the Adopted Children Register in all respects upon and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the Births and Deaths Registration (Northern Ireland) Order 1976<sup>F190</sup> in respect of searches in other indexes kept in the General Register Office and in respect of the supply from that Office of certified copies of entries in the Registers of Births and Deaths.
- (3) The Registers and books kept under paragraph (1)(c) shall not be, nor shall any index thereof be, open to public inspection or search, and the Registrar General shall not furnish any person with any information contained in or with any copy or extract from any such registers or books except in accordance with Article 54 or under an order of any of the following courts, that is to say—
- (a) the High Court;
  - (b) the court by which an adoption order was made in respect of the person to whom the information, copy or extract relates; and
  - (c) any prescribed county court.
- <sup>F191</sup>(4) The Department of Finance and Personnel may by regulations make provision for any person to have access, on payment of the prescribed fee, to any information contained in the Adopted Children Register.
- (5) Regulations under paragraph (4) may provide that the relevant period must have expired in relation to the information.
- (6) In paragraph (5) “ the relevant period ” in relation to the adoption of a child means the expiration of the period of 100 years from the date of the child's birth or such other period as may be prescribed.
- (7) Regulations under paragraph (4) may provide for the Registrar General—

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- (a) to make arrangements with any person for the purpose of providing access to information as mentioned in that paragraph; and
- (b) for that purpose to transfer information to that person subject to conditions (including conditions as to the making of payments by that person to the Registrar General).]

**F189** 2001 c. 11 (NI)

**F190** 1976 NI 14

**F191** Art. 50(4)-(7) added (16.11.2012) by [Civil Registration Act \(Northern Ireland\) 2011 \(c. 20\)](#), **ss. 25(3)**, 34; S.R. 2012/406, art. 2, Sch.

**Modifications etc. (not altering text)**

**C20** Art. 50 applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

### Registration of adoption orders

**51.**—(1) Every adoption order shall contain a direction to the Registrar General to make in the Adopted Children Register an entry in the form set out in Schedule 2, and (subject to paragraph (2)) shall specify the particulars to be entered under the headings in columns 2 to 6 of that Schedule.

(2) For the purposes of compliance with the requirements of paragraph (1)—

- (a) where the precise date of the child's birth is not proved to the satisfaction of the court, the court shall determine the probable date of his birth and the date so determined shall be specified in the order as the date of his birth;
- (b) where the country of birth of the child is not proved to the satisfaction of the court, then, if it appears probable that the child was born within the United Kingdom, the Channel Islands or the Isle of Man, he shall be treated as having been born in Northern Ireland, and in any other case the particulars of the country of birth may be omitted from the order and from the entry in the Adopted Children Register; and
- (c) the names to be specified in the order as the name and surname of the child shall be the name or names and surname stated in that behalf in the application for the adoption order, or, if no name or surname is so stated, the original name or names of the child and the surname of the applicant.

(3) The particulars to be entered in the Adopted Children Register under the heading in column 2 of Schedule 2 shall include—

- (a) in the case of a child born in Northern Ireland, the registration district in which the birth took place; and
- (b) where the child was born in Northern Ireland but the registration district in which the birth took place is not proved to the satisfaction of the court, or where the child is treated by virtue of paragraph (2)(b) as born in Northern Ireland, he shall be treated for the purposes of this paragraph as born in the registration district in which the court sits.

(4) Where upon any application for an adoption order in respect of a child born in Northern Ireland (not being a child who has previously been the subject of an adoption order made by a court in Northern Ireland under this Order or any statutory provision at the time in force) there is proved to the satisfaction of the court the identity of the child with a child to whom an entry in the Register of Births relates, any adoption order made in pursuance of the application shall contain a direction to the Registrar General to cause the entry in the Register of Births to be marked with the word “Adopted”.

(5) Where an adoption order is made in respect of a child who has previously been the subject of an adoption order made by a court in Northern Ireland under this Order or any statutory provision

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at the time in force, the order shall contain a direction to the Registrar General to cause the previous entry in the Adopted Children Register to be marked with the word “Re-adopted”.

(6) The prescribed officer of the court which made an adoption order shall cause the adoption order to be communicated in the prescribed manner to the Registrar General, and upon receipt of the communication the Registrar General shall cause compliance to be made with the directions contained in the order.

(7) Where an adoption order is communicated to the Registrar General in accordance with paragraph (6), and the country of birth of the child or the country in which the child was previously adopted is shown therein as being England or Wales, Scotland, the Isle of Man or any of the Channel Islands, the Registrar General shall cause a notification giving particulars of the entry to be marked and a statement that an adoption order has been granted in respect of the child, to be transmitted to the authority maintaining the Register of Births or the Adopted Children Register or any corresponding register of adoptions, as the case may be, in that country.

#### **Modifications etc. (not altering text)**

- C21** Art. 51(1) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**
- C22** Art. 51(3)(4) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**
- C23** Art. 51(6)(7) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

#### **Amendment of orders and rectification of Registers**

**52.**—(1) The court by which an adoption order has been made (or, where that court was a county court, [<sup>F192</sup>any other county court] ) may, on the application of the adopter or of the adopted person, amend the order by the correction of any error in the particulars contained therein, and may—

- (a) if satisfied on the application of the adopter or of the adopted person that within 1 year beginning with the date of the order any new name or names has or have been given to the adopted person (whether in baptism or otherwise), or taken by him, either in lieu of or in addition to a name or names specified in the particulars required to be entered in the Adopted Children Register in pursuance of the order, amend the order by substituting or adding that name or names in those particulars, as the case may require;
- (b) if satisfied on the application of any person concerned that a direction for the marking of an entry in the Register of Births or the Adopted Children Register included in the order in pursuance of Article 51(4) or (5) was wrongly so included, revoke that direction.

(2) Where an adoption order is amended or a direction revoked under paragraph (1), the prescribed officer of the court shall cause the amendment to be communicated in the prescribed manner to the Registrar General who shall, as the case may require,—

- (a) cause the entry in the Adopted Children Register to be amended accordingly; or
- (b) cause the marking of the entry in the Register of Births or the Adopted Children Register to be cancelled.

(3) Where an adoption order is quashed or an appeal against an adoption order is allowed by any court, the court shall give direction to the Registrar General to cancel any entry in the Adopted Children Register and any marking of an entry in that Register or the Register of Births which was effected in pursuance of the order.

(4) Where an adoption order has been amended, any certified copy of the relevant entry in the Adopted Children Register which may be issued pursuant to Article 50(2) shall be a copy of the

entry as amended, without the reproduction of any note or marking relating to the amendment or of any matter cancelled pursuant thereto; and a copy or extract of an entry in any register, being an entry the marking of which has been cancelled, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

(5) Without prejudice to Article 55 where, after an entry in the Register of Births has been marked with the word “Adopted”, the birth is re-registered under Article 19 of the Births and Deaths Registration (Northern Ireland) Order 1976<sup>F193</sup> (which provides for the re-registration of the birth of legitimated persons) the entry made on the re-registration shall be marked in the like manner.

(6) Where the Registrar General has, in accordance with Article 51(7), caused a notification of any particulars to be transmitted to any authority maintaining a Register of Births or an Adopted Children Register or any corresponding register of adoptions in England and Wales, Scotland, the Isle of Man or any of the Channel Islands, and any of those particulars are amended, revoked or cancelled under this Article, the Registrar General shall cause a notification of such amendment, revocation or cancellation to be transmitted to that authority.

**F192** Words in art. 52(1) substituted (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 1 para. 95\(2\)](#) (with [Sch. 8 para. 1](#)); [S.R. 2016/387, art. 2\(k\)](#) (with art. 3)

**F193** 1976 NI 14

**Modifications etc. (not altering text)**

**C24** Art. 52(1)-(4) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\), reg. 3, Sch. 2](#)

**C25** Art. 52(6) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\), reg. 3, Sch. 2](#)

### Registration of adoptions made outside Northern Ireland

53.—(1) Where the Registrar General is notified by the authority maintaining a register of adoptions in England or Wales, Scotland, the Isle of Man or any of the Channel Islands that an order has been made in that country authorising the adoption of a child to whom an entry in the Register of Births or the Adopted Children Register relates, he shall cause the entry to be marked with the word “Adopted” or “Re-adopted” as the case may require, followed by the name, in brackets, of the country in which the order was made.

(2) Where, after an entry has been so marked, the Registrar General is notified as aforesaid that the order has been quashed, that an appeal against the order has been allowed or that the order has been revoked, he shall cause the marking to be cancelled; and a copy or extract of an entry in any register, being an entry the marking of which is cancelled under this paragraph, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

(3) The preceding provisions of this Article shall apply in relation to orders corresponding to orders under Article 57 as they apply in relation to orders authorising the adoption of a child; but any marking of any entry required by virtue of this paragraph shall consist of the words “Proposed foreign adoption” or as the case may require, “Proposed foreign re-adoption” followed by the name in brackets of the country in which the order was made.

[<sup>F194</sup>(3A) If the Registrar General is satisfied, on an application under this paragraph, that he has sufficient particulars relating to a child adopted under a registrable foreign adoption to enable an entry in the form set out in Schedule 2 to be made in the Adopted Children Register for the child—

- (a) he shall make the entry accordingly; and
- (b) if he is also satisfied that an entry in the Register of Births relates to the child, he shall mark the entry “Adopted” or “Re-adopted”, as the case may be, followed by the name in brackets of the country in which the adoption was effected.

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(3B) An application under paragraph (3A) shall be made, in the prescribed manner, by a prescribed person and give the prescribed particulars.

(3C) If the Registrar General is satisfied—

- (a) that a Convention adoption, a Convention adoption order or an overseas adoption has ceased to have effect, whether on annulment or otherwise; or
- (b) that any entry or mark was erroneously made in pursuance of paragraph (3A) in any register mentioned in that paragraph,

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 paragraph, 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.

(3D) In this Article “registrable foreign adoption” means a Convention or overseas adoption which satisfies prescribed requirements.]

(4) Without prejudice to paragraphs (2)[<sup>F194</sup>, (3) and (3C)] or Article 55, where after an entry in the Register of Births has been marked in accordance with this Article the birth is re-registered under Article 19 of the Births and Deaths Registration (Northern Ireland) Order 1976, the entry made on the re-registration shall be marked in the like manner.

**F194** 2001 c. 11 (NI)

**Modifications etc. (not altering text)**

**C26** Art. 53(1)(2) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

*Disclosure of records*

**Disclosure of birth records of adopted children**

54.—(1) Subject to [<sup>F195</sup> the provisions of this Article], the Registrar General shall, on an application made in the prescribed manner by an adopted person a record of whose birth is kept by the Registrar General and who has attained the age of 18 years, supply to that person on payment of the prescribed fee (if any) such information as is necessary to enable that person to obtain a certified copy of the record of his birth.

(2) On an application made in the prescribed manner by an adopted person under the age of 18 years, a record of whose birth is kept by the Registrar General and who is intending to be married [<sup>F196</sup> or to form a civil partnership], and on payment of the prescribed fee (if any), the Registrar General shall inform the applicant whether or not it appears from information contained in the registers of live births or other records that the applicant and [<sup>F196</sup> the intended spouse or civil partner] may be within the prohibited degrees of relationship for the purposes of Article 18(1) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984<sup>F197</sup> [<sup>F196</sup> or Schedule 12 to the Civil Partnership Act 2004].

[<sup>F195</sup>(3) Before supplying any information to an applicant under paragraph (1), the Registrar General shall inform the applicant that counselling services are available to him—

(a) if he is in Northern Ireland—

- (i) from the <sup>F198</sup>... [<sup>F199</sup>HSC trust] in whose area he is living;
- (ii) where the adoption order relating to him was made in Northern Ireland, from the <sup>F198</sup>... [<sup>F199</sup>HSC trust] in whose area the court which made the order sat; or

- (iii) from any other <sup>F198</sup>...<sup>F199</sup>HSC trust];
- (b) if he is in England and Wales—
  - (i) at the General Register Office;
  - (ii) from the local authority in whose area he is living;
  - (iii) where the adoption order relating to him was made in England and Wales, from the local authority in whose area the court which made the order sat; or
  - (iv) from any other local authority;
- (c) if he is in Scotland—
  - (i) from the regional or islands council in whose area he is living;
  - (ii) where the adoption order relating to him was made in Scotland, from the council in whose area the court which made the order sat; or
  - (iii) from any other regional or islands council;
- (d) if he is in the United Kingdom and his adoption was arranged by an adoption society—
  - (i) [<sup>F200</sup>being an appropriate voluntary organisation]; or
  - (ii) approved under section 3 of the Adoption Act 1976; <sup>F201</sup> . . .
  - (iii) <sup>F201</sup> . . . . .from that society.

<sup>F202</sup>(e) [ if he is in the United Kingdom and his adoption was arranged by a registered adoption service provided as mentioned in paragraph 8(1) of schedule 12 to the Public Services Reform (Scotland) Act 2010 and registered under Part 5 of that Act.]

- (4) Where an adopted person who is in Northern Ireland—
  - (a) applies for information under—
    - (i) paragraph (1), or
    - (ii) section 51 of the Adoption Act 1976, or
  - (b) is supplied with information under [<sup>F203</sup>section 55(4)(b) of the Adoption and Children (Scotland) Act 2007],

it shall be the duty of any body mentioned in paragraph (5) to provide counselling for him if asked by him to do so.

- (5) The bodies are—
  - (a) any <sup>F204</sup>...<sup>F199</sup>HSC trust]; and
  - (b) any adoption society falling within paragraph (3)(d) in so far as it is acting as an adoption society in Northern Ireland.

(6) If the applicant chooses to receive counselling from a body falling within paragraph (3), the Registrar General shall send to the body the information to which to which the applicant is entitled under paragraph (1).

- (7) Where a person—
  - (a) was adopted before 18th December 1987, and
  - (b) applies for information under paragraph (1),

the Registrar General shall not supply the information to him unless he has attended an interview with a counsellor arranged by a body from whom counselling services are available as mentioned in paragraph (3).



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- (8) Where the Registrar General is prevented by paragraph (7) from supplying information to a person who is not living in the United Kingdom, he may supply the information to any body which—
- (a) the Registrar General is satisfied is suitable to provide counselling to that person, and
  - (b) has notified the Registrar General that it is prepared to provide such counselling.]

- F195** 1995 NI 2  
**F196** 2004 c.33  
**F197** 1984 NI 14  
**F198** Words in art. 54(3) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 118**; S.R. 2022/102, art. 2(b)  
**F199** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**  
**F200** Words in art. 54(3)(d)(i) substituted (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, **art. 3**, Sch. 1  
**F201** Art. 54(3)(d)(iii) and preceding word repealed (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 Pt. 3**  
**F202** Art. 54(3)(e) inserted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(6)(a)**  
**F203** Words in art. 54(4)(b) substituted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(6)(b)**  
**F204** Words in art. 54(5) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 118**; S.R. 2022/102, art. 2(b)

**Modifications etc. (not altering text)**

- C27** Art. 54(1)(2) applied (with modifications) (6.4.2010) by Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), reg. 3, **Sch. 2**  
**C28** Art. 54(4)(5) applied (with modifications) (6.4.2010) by Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), reg. 3, **Sch. 2**

**[<sup>F205</sup> Adoption Contact Register**

**54A.**—(1) The Registrar General shall maintain at the General Register Office a register to be called the Adoption Contact Register.

(2) The register shall be in two parts—

- (a) Part I: Adopted Persons; and
- (b) Part II; Relatives.

(3) The Registrar General shall, on payment of such fee as may be prescribed, enter in Part I of the register the name and address of any adopted person who fulfils the conditions in paragraph (4) and who gives notice that he wishes to contact any relative of his.

(4) The conditions are that—

- (a) a record of the adopted person's birth is kept by the Registrar General; and
- (b) the adopted person has attained the age of 18 years and—
  - (i) has been supplied by the Registrar General with information under Article 54; or
  - (ii) has satisfied the Registrar General that he has such information as is necessary to enable him to obtain a certified copy of the record of his birth.



(5) The Registrar General shall, on payment of such fee as may be prescribed, enter in Part II of the register the name and address of any person who fulfils the conditions in paragraph (6) and who gives notice that he wishes to contact an adopted person.

(6) The conditions are—

- (a) that a record of the adopted person's birth is kept by the Registrar General; and
- (b) that the person giving notice under paragraph (5) has attained the age of 18 years and has satisfied the Registrar General that—
  - (i) he is a relative of the adopted person; and
  - (ii) he has such information as is necessary to enable him to obtain a certified copy of the record of the adopted person's birth.

(7) The Registrar General shall, on receiving notice from any person named in an entry in the register that he wishes the entry to be cancelled, cancel the entry.

(8) Any notice given under this Article must be in such a form as may be determined by the Registrar General.

(9) The Registrar General shall transmit to an adopted person whose name is entered in Part I of the register the name and address of any relative in respect of whom there is an entry in Part II of the register.

(10) Any entry cancelled under paragraph (7) ceases from the time of cancellation to be an entry for the purposes of paragraph (9).

(11) The register shall not be open to public inspection or search and the Registrar General shall not supply any person with information entered in the register (whether in an uncanceled or a cancelled entry) except in accordance with this Article.

(12) The register may be kept by means of a computer.

(13) In this Article—

- (a) “relative” means any person (other than an adoptive relative) who is related to the adopted person by blood (including half#blood)<sup>[F206]</sup>, marriage or civil partnership]; and
- (b) “address” includes any address at or through which the person concerned may be contacted.]

**F205** 1995 NI 2

**F206** 2004 c.33

### *Revocation of certain adoptions*

#### **Revocation of adoptions on legitimation**

**55.**—(1) Where any person adopted by his father or mother alone has subsequently become a legitimated person on the marriage of <sup>[F207]</sup>, or formation of a civil partnership by,] his father and mother, the court by which the adoption order was made may, on the application of any of the parties concerned, revoke that order.

(2) Where any person legitimated by virtue of section 1 of the Legitimacy Act (Northern Ireland) 1961<sup>F208</sup> had been adopted by his father and mother before 1st September 1961, the court by which the adoption order was made may, on the application of any of the parties concerned, revoke that order.

(3) In relation to an adoption order made by a county court, the reference in paragraphs (1) and (2) to the court by which the order was made includes a reference to <sup>[F209]</sup>any other county court] .

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(4) Where an adoption order is revoked under paragraph (1) or (2) the prescribed officer of the court shall cause the revocation to be communicated in the prescribed manner to the Registrar General who shall cause to be cancelled—

- (a) the entry in the Adopted Children Register relating to the adopted person; and
  - (b) the marking with the word “Adopted” of any entry relating to him in the Register of Births;
- and a copy or extract of an entry in any register, being an entry the marking of which is cancelled under this paragraph, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

**F207** Words in art. 55(1) 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), **30(12)** (with regs. 6-9)

**F208** 1961 c. 5 (NI)

**F209** Words in art. 55(3) substituted (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 1 para. 95\(3\)](#) (with [Sch. 8 para. 1](#)); S.R. 2016/387, art. 2(k) (with art. 3)

#### [<sup>F210</sup> **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 determination shall not be impugned in proceedings in any court in Northern Ireland.]

**F210** 2001 c. 11 (NI)

#### **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.

## Regulations

### Regulations for purposes of Part VI

**56.** Regulations made under the Births and Deaths Registration (Northern Ireland) Order 1976<sup>F211</sup> may make provision about the duties to be performed by registrars of births and deaths in the execution of this Part.

F211 1976 NI 14

## PART VII

### MISCELLANEOUS AND SUPPLEMENTAL

#### Miscellaneous provisions

#### Adoption by persons domiciled outside Northern Ireland

**57.**—<sup>F212</sup>(1) Where on an application made in respect of a child by a person who is not domiciled in Northern Ireland or England and Wales or Scotland an authorised court is satisfied that he intends to adopt the child under the law of or within the country in which the applicant is domiciled, the court may, subject to the provisions of this Article, make an order giving him parental responsibility for the child.]

(2) The provisions of Part III relating to adoption orders, except Articles 12(1),<sup>F212</sup> 14(4), 15(2), 17 to 21 and 26, shall apply in relation to an order under this Article as they apply in relation to adoption orders subject to the modification that in Article 13(1) for “19” and “13” there are substituted “ 32 ” and “ 26 ” respectively.

(3) Articles 50, 51(1), 53(1) and 54 shall apply in relation to an order under this Article, except that any entry in the Register of Births or in the Adopted Children Register which is required to be marked in consequence of the making of an order under this Article shall, in lieu of being marked with the word “Adopted” or “Re-adopted” be marked with the words “ Proposed foreign adoption ” or “ Proposed foreign re-adoption ”, as the case may require.

*Para. (4) rep. by 1995 NI 2*

F212 1995 NI 2

#### Restriction on removal of children for adoption outside Northern Ireland

**58.**—(1) Except under the authority of an order under Article 57<sup>F213</sup>, section 55 of the Adoption Act 1976 or <sup>F214</sup>section 59 of the Adoption and Children (Scotland) Act 2007]] it shall not be lawful for any person to take or send a child who is a British subject or a citizen of the Republic of Ireland out of Northern Ireland to any place outside the British Islands with a view to the adoption of the child by any person not being a parent or guardian or relative of the child; and any person who takes or sends a child out of Northern Ireland to any place in contravention of this paragraph, or makes or takes part in any arrangements for<sup>F213</sup> placing a child with] any person for that purpose, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

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(2) In any proceedings under this Article, a report by a British consular officer or a deposition made before a British consular officer and authenticated under the signature of that officer shall, upon proof that the officer or the deponent cannot be found in the United Kingdom, be admissible as evidence of the matters stated therein, and it shall not be necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.

(3) In this Article “the British Islands” means the United Kingdom, the Channel Islands and the Isle of Man.

**F213** 1995 NI 2

**F214** Words in art. 58(1) substituted (15.7.2011) by [Adoption and Children \(Scotland\) Act 2007](#) (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(7)**

### [<sup>F215</sup>Restriction on bringing children into the United Kingdom for adoption

**58ZA.**—(1) A person habitually resident in the British Islands who at any time brings into the United Kingdom for the purpose of adoption a child who is habitually resident outside those Islands shall be guilty of an offence unless such requirements as may be prescribed are satisfied either—

- (a) before that time; or
- (b) within such period beginning with that time as may be prescribed.

(2) Paragraph (1) does not apply where the child is brought into the United Kingdom for the purpose of adoption by a parent, guardian or relative.

(3) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

(4) Proceedings for an offence under this Article may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the prosecution to warrant the proceedings came to its knowledge; but no such proceedings shall be brought by virtue of this paragraph more than 3 years after the commission of the offence.

(5) In this Article “the British Islands” means the United Kingdom, the Channel Islands and the Isle of Man.]

**F215** 2001 c. 11 (NI)

### [<sup>F216</sup>Effect of determinations in Convention countries, etc.

**58ZB.** Where—

- (a) an authority of a Convention country (other than the United Kingdom) having power under the law of that country—
  - (i) to authorise, or review the authorisation of, a Convention adoption; or
  - (ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order; or
- (b) an authority of any of the Channel Islands, the Isle of Man or any colony having power under the law of that territory—
  - (i) to authorise, or review the authorisation of, a Convention adoption or an adoption effected in that territory; or
  - (ii) to give or review a decision revoking or annulling such an adoption or a Convention adoption order,

makes a determination in the exercise of that power, then, subject to Article 55A and any subsequent determination having effect under this Article, the determination shall have effect in Northern Ireland for the purpose of effecting, confirming or terminating the adoption in question or confirming its termination as the case may be.]

**F216** [2001 c. 11 \(NI\)](#)

### [<sup>F217</sup> **Orders made in adoption proceedings outside Northern Ireland**

**58A.**—(1) Paragraphs (2) to (4) of Article 12 shall apply in relation to an order freeing a child for adoption (other than an order under Article 17(1) or 18 (1)) as if it were an adoption order; and, on the revocation in England and Wales or Scotland of an order freeing a child for adoption, paragraphs (3) and (3A) of Article 20 shall apply as if the order had been revoked under that Article.

(2) Articles 12(3) and (4) and 49 shall apply in relation to a child who is the subject to an order which is similar to an order under Article 57 and is made in any part of Great Britain or the Channel Islands or in the Isle of Man, as they apply in relation to a child who is the subject of an adoption order.]

**F217** [1995 NI 2](#)

### **Prohibition on certain payments**

**59.**—(1) Subject to the provisions of this Article[<sup>F218</sup> and Article 59A] it shall not be lawful for any person to make or give any payment or reward whatsoever in consideration of or in connection with the adoption of any child.

(2) Paragraph (1) shall not apply to—

- (a) any payment made to or received by an adoption agency in connection with the adoption of a child being a payment in respect of expenses reasonably incurred by the agency in connection with the adoption of the child;
- (b) any payment or reward the receipt or making of which is authorised by the court to which an application is made for an adoption order in respect of a child, or pursuant to any agreement, whether entered into before or after the making of the application, with respect to the receipt or making of any such payment or reward as may be so authorised;
- (c) any payment made by or on behalf of a registered adoption society in respect of the maintenance of a child who has been placed at the disposition of the society;
- (d) any payment made to a registered adoption society by the parent or guardian of a child or by any other person in respect of the maintenance of the child so long as the child is not[<sup>F218</sup> with] an adopter, being a payment made weekly and at a rate not exceeding such rate as may be prescribed.

(3) Any person who makes or gives, or agrees or offers to make or give, any payment or reward prohibited by this Article, or who receives or agrees to receive or attempts to obtain any such payment or reward, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both,<sup>F218</sup> . . .

*Paras. (4)#(11) rep. by 1995 NI 2*

**F218** [1995 NI 2](#)

### [<sup>F219</sup> Permitted allowances

**59A.**—(1) The Department may make regulations for the purpose of enabling adoption agencies to pay allowances to persons who have adopted, or intend to adopt, children in pursuance of arrangements made by the agencies.

(2) Article 59(1) shall not apply to any payment made by an adoption agency in accordance with the regulations.

(3) The regulations may, in particular, make provision as to—

- (a) the procedure to be followed by an agency in determining whether a person should be paid an allowance;
- (b) the circumstances in which an allowance may be paid;
- (c) the factors to be taken into account in determining the amount of an allowance;
- (d) the procedure for review, variation and termination of allowances; and
- (e) the information about allowances to be supplied by an agency to any person who is intending to adopt a child.

(4) Any scheme approved under Article 59(4) shall be revoked as from the commencement of this Article.

(5) Article 59(1) shall not apply in relation to any payment made—

- (a) in accordance with a scheme revoked under paragraph (4) or Article 59(5)(b); and
- (b) to a person to whom such payments were made before the revocation of the scheme.

(6) Paragraph (5) shall not apply where any person to whom any payments may lawfully be made by virtue of paragraph (5) agrees to receive (instead of such payments) payments complying with regulations made under this Article.]

**F219** 1995 NI 2

### Restriction on advertisements

**60.**—(1) It shall not be lawful for any advertisement to be published indicating—

- (a) that the parent or guardian of a child desires to cause a child to be adopted; or
- (b) that a person desires to adopt a child; or
- (c) that any person (not being an adoption agency) is willing to make arrangements for the adoption of a child.

(2) Any person who causes to be published or knowingly publishes an advertisement in contravention of the provisions of this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### Prohibition of wrongful disclosure of information

**61.** Any person who, being or having been—

- (a) a member of, or of a committee of, an adoption agency, or
- (b) employed by, or by a committee of, an adoption agency,

publishes or communicates whether directly or indirectly, otherwise than in the ordinary course of duty, to any person without lawful authority any information obtained in the course of his membership or employment relating to the adoption or intended or proposed adoption of any child shall (without prejudice to any right of any such body to dismiss on the ground of misconduct

such a person who makes such publication or communication while in their employment) be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### *Evidence and procedure*

#### **Evidence of agreement and consent**

**62.**—(1) Any agreement or consent which is required by this Order to be given to the making of an order or application for an order may be given in writing, and, if the document signifying the agreement or consent is witnessed in accordance with adoption rules, it shall be admissible in evidence without further proof of the signature of the person by whom it was executed.

(2) A document signifying such agreement or consent which purports to be witnessed in accordance with adoption rules shall 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.

#### **Modifications etc. (not altering text)**

**C29** Art. 62(1) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

#### **Evidence of adoptions, etc.**

**63.**—(1) A certified copy of any entry in the Adopted Children Register, if purporting to be sealed or stamped with the seal of the General Register Office, shall—

- (a) without any further or other proof of that entry, be received as evidence of the adoption to which it relates; and
- (b) where the entry contains a record of the date of the birth of the adopted person or of the country or the registration district in which he was born, be also received as evidence of that date or country or district.

(2) Any document which under section 50(2) of the Adoption Act 1976<sup>F220</sup> or [F221 section 56 of the Adoption and Children (Scotland) Act 2007] or any corresponding provision of any other Act is receivable as evidence of any matter in any part of Great Britain shall also be so receivable in Northern Ireland.

(3) An adoption, other than one to which paragraph (1) or (2) relates, may be proved by the production of any document which is receivable as evidence of the adoption in the country under whose law the adoption was made.

**F220** 1976 c. 36

**F221** Words in art. 63(2) substituted (15.7.2011) by [Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), arts. 1(2), 2, **Sch. 1 para. 11(8)**

#### **Modifications etc. (not altering text)**

**C30** Art. 63(1)(2) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**



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## Removal of proceedings and appeals

**64.**—(1) <sup>F222</sup> . . . where any application is made under this Order to a county court, the High Court may, at the instance of any party to the application, order the application to be removed to the High Court and there proceeded with on such terms as to costs as it thinks proper.

(2) <sup>F222</sup> . . . where an application is made under this Order to a county court and the court considers that the matter is one which would more conveniently be dealt with by the High Court, the county court shall refuse to make an order, and in that case no appeal shall lie under paragraph (3).

(3) Subject to [<sup>F222</sup> paragraph (2)] and without prejudice to Articles 61 and 65 of the County Courts (Northern Ireland) Order 1980<sup>F223</sup> any person aggrieved with a decision of a county court on an application made to it under this Order may appeal from that decision as if the decision had been made in exercise of the jurisdiction conferred by Part III of the County Courts (Northern Ireland) Order 1980 and the appeal were brought under Article 60 of that Order.

*Para. (4) rep. by 1995 NI 2*

**F222** 1995 NI 2

**F223** 1980 NI 3

### Modifications etc. (not altering text)

**C31** Art. 64(3) applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

## Proceedings to be in private

**65.** Proceedings under Part III, Article 30 and Article 57—

- (a) in the High Court, may be disposed of in chambers;
- (b) in a county court, shall be heard and determined in chambers.

### Modifications etc. (not altering text)

**C32** Art. 65 applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

## [<sup>F224</sup>Guardians ad litem

**66.**—(1) For the purpose of any application for an adoption order or an order freeing a child for adoption or an order under Article 20 or 57, an authorised court shall appoint a guardian ad litem for the child concerned.

(2) The guardian ad litem—

- (a) shall be appointed in accordance with adoption rules; and
- (b) shall be under a duty to safeguard the interests of the child in the prescribed manner.]

**F224** 1995 NI 2

### Modifications etc. (not altering text)

**C33** Art. 66 applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

## Panels for selection of guardians ad litem

**66A.**—(1) The Department may by regulations provide for the establishment of panels of persons from whom guardians ad litem appointed under Article 66 must be selected.

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

- (a) for the constitution, administration and procedures of panels and for the appointment of panel managers;
- (b) for the defrayment of expenses and for the payment of fees and allowances;
- (c) as to the qualifications for appointment as a guardian ad litem;
- (d) as to the training to be given to guardians ad litem or to persons with a view to their appointment as guardians ad litem; and
- (e) for monitoring the work of guardians ad litem.

(3) Adoption rules may make provision as to the assistance which any guardian ad litem may be required by the court to give to it.

(4) The Department may, with the approval of the Department of Finance and Personnel, make such grants as the Department considers appropriate with respect to expenditure incurred under regulations made under this Article.

## Adoption rules

**67.**—(1) In the case of—

- (a) an application for an adoption order in relation to a child who is not free for adoption;
- (b) an application for an order freeing a child for adoption;

rules shall require every person who can be found and whose agreement or consent to the making of the order is required under this order to be notified of a date and place where he will be heard on the application and of the fact that, unless he wishes or the court requires, he need not attend.

(2) In the case of an application under Article 57, rules shall require every parent and guardian of the child who can be found to be notified as aforesaid.

## *Supplemental*

## Regulations

**68.** Regulations<sup>F225</sup> under this Order] shall be subject to negative resolution.

**F225** SR 1993/494

### **Modifications etc. (not altering text)**

**C34** Art. 68 applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

*Art. 69 rep. by 2005 c. 12*

## Power of Department to conduct or assist research

**70.** The Department with the approval of the Department of Finance and Personnel may conduct or promote or assist (by grants or otherwise) any person in conducting research or investigations into any matter connected with the functions of the Department or of any <sup>F226</sup>... [<sup>F227</sup>HSC trust] under this Order or any matter connected with the adoption of children.

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**F226** Words in art. 70 omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), [Sch. 1 para. 119](#); S.R. 2022/102, art. 2(b)

**F227** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

## Inspection

**71.**—(1) The Department may appoint or designate an officer or other person (an “inspector”) to inspect and report to the Department concerning any institution, premises or other place whatsoever where any child is kept in respect of whom—

- (a) an application has been made under Article 17(1) or 18(1) for an order declaring him free for adoption;
- (b) notice of an intended application for his adoption has been served on [<sup>F228</sup>an][<sup>F229</sup>HSC trust] under Article 22;
- (c) enquiries have been made of [<sup>F230</sup>an][<sup>F229</sup>HSC trust] under Article 23;
- (d) an interim order is in force under Article 26; or
- (e) an application has been made under Article 57.

(2) An inspector (on production, if so required, of his credentials) may—

- (a) at any time enter any institution, premises or place which by virtue of paragraph (1) he is authorised or required to inspect; and
- (b) require the person who at that time has control or management of any place to be inspected to furnish such information as the inspector may reasonably require.

(3) The Department may pay to an inspector who is not an officer of the Department such sum by way of salary or fees and such sum for expenses as it may determine with the approval of the Department of Finance and Personnel.

**F228** Word in art. 71(1)(b) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), [Sch. 1 para. 120](#); S.R. 2022/102, art. 2(b)

**F229** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

**F230** Word in art. 71(1)(c) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), [Sch. 1 para. 120](#); S.R. 2022/102, art. 2(b)

## Transitional provisions, savings, amendments and repeals

**72.**—(1) The transitional and saving provisions contained in Schedule 3 shall have effect.

*Para. (2)—Amendments*

*Para. (3)—Repeals*

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Pt. 2-4 repealed by [2022 c. 18 \(N.I.\) Sch. 5](#)
- Pt. 6 repealed by [2022 c. 18 \(N.I.\) Sch. 5](#)
- Sch. 2 repealed by [2022 c. 18 \(N.I.\) Sch. 5](#)
- Sch.4 para.1 rev. (prosp.) by [1998 c. 47 s.100\(2\)Sch.15](#)
- Sch. 5 repealed by [2022 c. 18 \(N.I.\) Sch. 5](#)
- art. 29(3)(a) word substituted by [2022 c. 3 \(N.I.\) Sch. 1 para. 112\(30\(a\)\)](#)
- art. 39(2) words inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 9](#)
- art. 57-71 repealed by [2022 c. 18 \(N.I.\) Sch. 5](#)
- Art. 59(1) restricted by [2022 c. 18 \(N.I.\) Sch. 4 para. 1\(4\)](#)
- art. 60(2) words substituted by [2022 c. 18 \(N.I.\) Sch. 4 para. 6\(b\)](#)
- art. 72(3) repealed by [2022 c. 18 \(N.I.\) Sch. 5](#)

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

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- s. 6(2) words inserted by [S.I. 2019/1514 reg. 29\(4\)](#)
- art. 60(1A) inserted by [2022 c. 18 \(N.I.\) Sch. 4 para. 6\(a\)](#)