
STATUTORY INSTRUMENTS

1987 No. 2203

The Adoption (Northern Ireland) Order 1987

PART IV

CARE AND PROTECTION OF CHILDREN AWAITING ADOPTION

Protected children

Meaning of “protected child”

33.—(1) Where a person gives notice in pursuance of Article 22(1) to the Board 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.

(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—
 - (i) any school within the meaning of the Education and Libraries (Northern Ireland) Order 1986(1),
 - (ii) any voluntary home within the meaning of section 126 of the Children and Young Persons Act (Northern Ireland) 1968,
 - (iii) any home or institution maintained by a government department or public body; or
 - (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(2); or
 - (c) he is liable to be detained or is subject to guardianship under that Order of 1986.
- (3) A protected child ceases to be a protected child—
- (a) on the appointment of a guardian for him under the Guardianship of Infants Act 1886(3);
 - (b) on the notification to the Board for the area where the child has his home that the application for an adoption order has been withdrawn;
 - (c) on the making of any of the following orders in respect of the child—
 - (i) an adoption order;
 - (ii) an order under Article 27;
 - (iii) an order under Article 45, 46 or 47 of the Matrimonial Causes (Northern Ireland) Order 1978(4);

(1) 1986 NI 3
(2) 1986 NI 4
(3) 1886 c. 27
(4) 1978 NI 15

(iv) an order under Article 10, 11 or 12 of the Domestic Proceedings (Northern Ireland) Order 1980⁽⁵⁾; or

(d) on his attaining the age of 18 years,

whichever first occurs.

Duty of Boards to secure well-being of protected children

34.—(1) Every Board shall secure that protected children within its area are visited from time to time by officers of the Board, 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 a Board 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 Board in which such children are to be or are being kept.

Removal of protected children from unsuitable surroundings

35.—(1) If a juvenile court is satisfied, on the complaint of a Board under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981⁽⁶⁾, that a protected child is being kept or is about to be received by any person who is unfit to have his care or in any premises or any environment detrimental or likely to be detrimental to him, the court may make an order for his removal to a place of safety until he can be restored to a parent, relative or guardian of his, or until other arrangements can be made with respect to him; and on proof that there is imminent danger to the health or well-being of the child the power to make an order under this Article may be exercised by a justice of the peace acting on the complaint of an officer authorised to visit protected children.

(2) An order under this Article may be executed by any officer authorised to visit protected children or by any constable and, notwithstanding anything in section 7 of the Sunday Observance Act (Ireland) 1965⁽⁷⁾, may be executed on a Sunday.

(3) The Department may receive into its care under section 103 of the Children and Young Persons Act (Northern Ireland) 1968⁽⁸⁾ any child removed under this Article, whether or not the circumstances of the child are such that they fall within paragraphs (a) and (b) of subsection (1) of that section and notwithstanding that he may appear to the Department to be over the age of 17 years.

(4) Where a child is removed under this Article the Board shall, if practicable, inform a parent or guardian of the child, or any person who acts as his guardian.

Notices and information to be given to Boards

36.—(1) Where a person who has a protected child in his actual custody 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 Board in whose area his permanent address is before the change, and if the new address is in the area of another Board, the Board on whom the notice is served shall inform that other Board 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.

(5) 1980 NI 5

(6) 1981 NI 26

(7) 1965 c. 17 (I)

(8) 1968 c. 34 (N.I.)

(2) If a protected child dies, the person in whose actual custody he was at his death shall within 48 hours serve notice of the child's death on the Board.

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 a Board or the inspection, under the power conferred by Article 34(2) of any premises;
- (c) he refuses to comply with an order under Article 35 for the removal of any child or obstructs any person in the execution of such an order.

(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.

Miscellaneous provisions relating to protected children

38.—(1) For the purposes of section 32 of the Children and Young Persons Act (Northern Ireland) 1968⁽⁹⁾, under which a warrant authorising the search for and removal of a child may be issued on suspicion of unnecessary suffering caused to, or certain offences committed against, the child, any refusal to allow the visiting of a protected child or the inspection of any premises by a person authorised to do so under Article 34 shall be treated as giving reasonable cause for such a suspicion.

(2) A person who maintains a protected child shall be deemed for the purposes of the Life Assurance Act 1774⁽¹⁰⁾ as extended by the Life Insurance (Ireland) Act 1866⁽¹¹⁾ to have no interest in the life of the child.

(3) Subsection (2) of section 65 of the Children and Young Persons Act (Northern Ireland) 1968 (which restricts the time and place at which a sitting of a juvenile court may be held and the persons who may be present at such a sitting) shall not apply to any sitting of a juvenile court in any proceedings under Article 35.

⁽⁹⁾ 1968 c. 34 (N.I.)

⁽¹⁰⁾ 1774 c. 48

⁽¹¹⁾ 1866 c. 42