

---

STATUTORY INSTRUMENTS

---

**1987 No. 2203**

**The Adoption (Northern Ireland) Order 1987**

**PART VII**

**MISCELLANEOUS AND SUPPLEMENTAL**

*Miscellaneous provisions*

**Adoption by persons domiciled outside Northern Ireland**

**57.**—(1) Where on an application made in respect of a child by a person who is not domiciled in Northern Ireland 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, and for that purpose desires to remove the child from Northern Ireland either immediately or after an interval, the court may, subject to the provisions of this Article, make an order vesting in him the parental rights and duties relating to the child.

(2) The provisions of Part III relating to adoption orders, except Articles 12(1), 14(2), 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.

(4) References in Articles 28, 29, 31, 32 and 33 to an adoption order include references to an order under this Article.

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

**58.**—(1) Except under the authority of an order under Article 57 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 transferring the actual custody of a child to 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.

(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.

### **Prohibition on certain payments**

**59.**—(1) Subject to the provisions of this Article 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 in the actual custody of 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; and the court may order any child in respect of whom the offence was committed to be removed to a place of safety until he can be restored to his parents or guardian or until other arrangements can be made for him.

(4) If an adoption agency submits to the Department a scheme for the payment by the agency of allowances to persons who have adopted or intend to adopt a child where arrangements for the adoption were made, or are to be made, by that agency, and the Department approves the scheme, this Article shall not apply to any payment made in accordance with the scheme.

(5) The Department, in the case of a scheme approved by it under paragraph (4), may—

- (a) make, or approve the making by the agency of, alterations to the scheme;
- (b) revoke the scheme.

(6) The Department shall within 7 years of the commencement date and, thereafter, every 5 years, publish a report on the operation of the schemes since that time or since the publication of the last report.

(7) Subject to paragraph (8), paragraph (4) shall expire on the seventh anniversary of the commencement date.

(8) The Department may by order made subject to affirmative resolution at any time before the said anniversary repeal paragraph (7).

(9) An order under paragraph (8) shall not be made unless a report has been published under paragraph (6).

(10) Notwithstanding the expiry of paragraph (4) or the revocation of a scheme approved under this Article, paragraph (1) shall not apply in relation to any payment made, whether before or after

the expiry of paragraph (4) or the revocation of the scheme, in accordance with a scheme which was approved under this Article to a person to whom such payments were made—

- (a) where the scheme was not revoked, before the expiry of paragraph (4), or
- (b) if the scheme was revoked, before the date of its revocation.

(11) In this Article “commencement date” means the day appointed under Article 1(2) for the coming into operation of this Article.

### **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.

#### **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>(1)</sup> or section 45(2) of the Adoption (Scotland) Act 1978<sup>(2)</sup> 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.

### **Removal of proceedings and appeals**

64.—(1) Subject to paragraph (4), 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) Subject to paragraph (4), 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 paragraphs (2) and (4) and without prejudice to Articles 61 and 65 of the County Courts (Northern Ireland) Order 1980<sup>(3)</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.

(4) No appeal shall lie under paragraph (3) against an order made under Article 35.

### **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.

### **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, adoption rules shall appoint—

- (a) an officer of a Board; or
- (b) a person employed by such other organisation as the Department may approve;

to be guardian ad litem of the child concerned upon the hearing of the application.

(2) Subject to adoption rules, it shall be the duty of the guardian ad litem to safeguard the interests of the child concerned.

### **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;

---

(1) 1976 c. 36  
(2) 1978 c. 28  
(3) 1980 NI 3

(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 made by the Department shall be subject to negative resolution.

#### **Inquiries**

69. For the purposes of this Order the Department may cause local or other inquiries to be held or investigations to be made.

#### **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 Board under this Order or any matter connected with the adoption of children.

#### **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 a Board under Article 22;
- (c) enquiries have been made of a Board 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.

#### **Transitional provisions, savings, amendments and repeals**

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

(2) The statutory provisions specified in Schedule 4 shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Order.

(3) The statutory provisions specified in Schedule 5 are hereby repealed to the extent specified in column 3 of that Schedule (but subject to any provision in that Schedule about the effect of the repeals).