

## SCHEDULES

### SCHEDULE 4

Article 72(2)

#### AMENDMENTS

#### **Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965 (c. 18)**

1. In section 9(2) for “, a step-child or an adopted child” substitute “or a step-child”.

#### **Children and Young Persons Act (Northern Ireland) 1968 (c. 34)**

2. At the end of section 10(2) insert—  
“; or  
(e) a child who is placed with a person by an adoption agency within the meaning of the Adoption (Northern Ireland) Order 1987 with a view to his adoption by that person”.
3. In section 100(1)(d) for “section 14 of the Adoption Act (Northern Ireland) 1967” substitute “Article 35 of the Adoption (Northern Ireland) Order 1987”.
4. In section 151(1) for “the Adoption Act (Northern Ireland) 1967” substitute “the Adoption (Northern Ireland) Order 1987”.
5. In section 165—
  - (a) in subsection (1) for “Part II of the Adoption Act (Northern Ireland) 1967” substitute “Part IV of the Adoption (Northern Ireland) Order 1987”;
  - (b) in subsection (3) for “Act of 1967” substitute “Order of 1987”.

#### **Adoption (Hague Convention) Act (Northern Ireland) 1969 (c. 22)**

6. For sections 1 to 3 substitute—  
**“1 Convention adoption orders.**  
(1) An adoption order shall be made as a convention adoption order if the application is for a convention adoption order and the following conditions are satisfied both at the time of the application and when the order is made.  
(2) The child—
  - (a) must be a United Kingdom national or a national of a convention country, and
  - (b) must reside in British territory or a convention country.  
(3) The applicant or applicants and the child must not all be United Kingdom nationals living in British territory.  
(4) If the application is by a married couple, either—
  - (a) each must be a United Kingdom national or a national of a convention country, and both must reside in Northern Ireland, or

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- (b) both must be United Kingdom nationals, and each must reside in British territory or a convention country,

and if the applicants are nationals of the same convention country the adoption must not be prohibited by a specified provision (as defined in subsection (8)) of the internal law of that country.

- (5) If the application is by one person, either—

- (a) he must be a national of a convention country, and must reside in Northern Ireland, or
- (b) he must be a United Kingdom national, and must reside in British territory or a convention country,

and if he is a national of a convention country the adoption must not be prohibited by a specified provision (as defined in subsection (8)) of the internal law of that country.

- (6) If the child is not a United Kingdom national the order shall not be made—

- (a) except in accordance with the provisions, if any, relating to consents and consultations of the internal law relating to adoption of the convention country of which the child is a national, and
- (b) unless the court is satisfied that each person who consents to the order in accordance with that internal law does so with full understanding of what is involved.

(7) The reference to consents and consultations in subsection (6) does not include a reference to consent by and consultation with the applicant and members of the applicant's family (including his or her spouse), and for the purposes of subsection (6) consents may be proved in the manner prescribed by rules and the court shall be treated as the authority by whom, under the law mentioned in subsection (6), consents may be dispensed with and the adoption in question may be effected; and where the provisions there mentioned require the attendance before that authority of any person who does not reside in Northern Ireland, that requirement shall be treated as satisfied for the purposes of subsection (6) if—

- (a) that person has been given a reasonable opportunity of communicating his opinion on the adoption in question to the proper officer or clerk of the court, or to an appropriate authority of the country in question, for transmission to the court; and
- (b) where he has availed himself of that opportunity, his opinion has been transmitted to the court.

(8) In subsections (4) and (5) "specified provision" means a provision specified in an order under section 17(8) of the Adoption Act 1976 as one notified to the Government of the United Kingdom in pursuance of the provisions of the Convention which relate to prohibitions on an adoption contained in the national law of the convention country in question.

## **2 Application of Order of 1987 to convention adoption orders.**

2. The Order of 1987 shall have effect in relation to an adoption order to be made as a convention adoption order subject to the following modifications—

- (a) in Article 14(2) (adoption by married couples), at the end there shall be added "or the application is for a convention adoption order and section 1 of the Adoption (Hague Convention) Act (Northern Ireland) 1969 is complied with";
- (b) in Article 15(2) (adoption by one person), at the end there shall be added "or the application is for a convention adoption order and section 1 of the Adoption (Hague Convention) Act (Northern Ireland) 1969 is complied with";

(c) in Article 16(2) (parental agreement) at the end there shall be inserted—

“(2A) Paragraph (1) does not apply in any case where the child is not a United Kingdom national and the application for the adoption order is for a convention adoption order.”

7. In section 5(1) for “or a specified country having power under the law of that country” substitute “or any British territory other than Northern Ireland having power under the law of that country or territory”.

8. In section 8—

(a) in subsection (1) for “section 24 of the Act of 1967” substitute “Article 51 of the Order of 1987”;

(b) in subsection (2) for “Schedule 1 to the Act of 1967” substitute “Schedule 2 to the Order of 1987” and for “Schedule 1” substitute “Schedule 2”.

9. In section 9(3) for “6” substitute “1 or 6”.

10. In section 12—

(a) insert the following definitions—

“adoption order” means an order under Article 12(1) of the Order of 1987;

“British territory” means, for the purposes of any provision of this Act, any of the following countries, that is to say, Northern Ireland, Great Britain, the Channel Islands, the Isle of Man and a colony, which is a British territory for the purposes of any corresponding provision of the Adoption Act 1976;

“convention adoption order” means an adoption order made in accordance with section 1(1);

“the Order of 1987” means the Adoption (Northern Ireland) Order 1987;

“specified order” means any provision for the adoption of a child effected under enactments similar to Article 12(1) of the Order of 1987 and section 1 of this Act in force in Great Britain or any British territory outside the United Kingdom;

(b) in the definition of “convention country” for the words from “(excluding” to “1968” substitute “outside British territory, being a country for the time being designated by an order made under section 72(1) of the Adoption Act 1976”.

#### **Health and Personal Social Services (Northern Ireland) Order 1972 (1972 NI 14)**

11. After Article 17(1)(c) insert—

“(cc) exercise the functions (including functions imposed under an order of any court) conferred on them by the Adoption (Northern Ireland) Order 1987”.

12. After Article 87(2) insert—

“(2A) There shall be paid by the Department to the Health and Social Services Boards such sums as may be necessary to defray the expenditure of those Boards in connection with the exercise of their functions under the Adoption (Northern Ireland) Order 1987.”

#### **Births and Deaths Registration (Northern Ireland) Order 1976 (1976 NI 14)**

13. In Article 2(2) insert the following definitions at the appropriate points in alphabetical order—

““father”, in relation to an adopted child, means the child’s natural father,”

““mother”, in relation to an adopted child, means the child’s natural mother;”

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14. In Article 37(1) for “section 25 of the Adoption Act (Northern Ireland) 1967” substitute “Article 52(1)(a) of the Adoption (Northern Ireland) Order 1987” and for “section 23 of that Act” substitute “Article 50 of that Order”.

#### **Family Law Reform (Northern Ireland) Order 1977 (1977 NI 17)**

15. In Article 4(7) for “sections 18 and 19 of the Adoption Act (Northern Ireland) 1967” substitute “Articles 42, 43 and 46 of the Adoption (Northern Ireland) Order 1987”.

#### **Housing (Northern Ireland) Order 1981 (1981 NI 3)**

16. In Article 2(5) for “any illegitimate son or daughter, and any adopted son or daughter,” substitute “and any illegitimate son or daughter”.

#### **Child Absuction (Northern Ireland) Order 1985 (1985 NI 17)**

17. In the Schedule—

(a) after paragraph 2(1)(b) add “or

(c) Article 35 of the Adoption (Northern Ireland) Order 1987.”;

(b) in paragraph 3—

(i) for sub-paragraph (1)(a) substitute—

“(a) who is the subject of an order under Article 17 or 18 of the Adoption (Northern Ireland) Order 1987 freeing him for adoption; or

(aa) who is the subject of a pending application for such an order; or

(aaa) who is the subject of a pending application for an adoption order; or”;

(ii) in sub-paragraph (1)(b) after “under” insert “Article 57 of the Adoption (Northern Ireland) Order 1987 or”;

(iii) for sub-paragraph (2)(a)(i) substitute—

“(i) in a case within sub-paragraph (1)(a), to the consent of the adoption agency which made the application for the order or, if the parental rights and duties in respect of the child have been transferred from that agency to another agency by an order under Article 21 of the Adoption (Northern Ireland) Order 1987, to the consent of that other agency;

(ia) in a case within sub-paragraph (1)(aa) or (aaa), to the leave of the court to which the application was made; and”;

(iv) for sub-paragraph (3) substitute—

“(3) In this paragraph—

(a) “adoption agency” has the same meaning as in Article 3 of the Adoption (Northern Ireland) Order 1987; and

(b) “adoption order” means an order under Article 12(1) of that Order.”.