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STATUTORY INSTRUMENTS

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**1995 No. 755**

**The Children (Northern Ireland) Order 1995**

**PART III**

**ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS**

*General*

**Power of court to make Article 8 orders**

**10.**—(1) In any family proceedings in which a question arises with respect to the welfare of any child, the court may make an Article 8 order with respect to the child if—

- (a) an application for the order has been made by a person who—
  - (i) is entitled to apply for an Article 8 order with respect to the child; or
  - (ii) has obtained the leave of the court to make the application; or
- (b) the court considers that the order should be made even though no such application has been made.

(2) The court may also make an Article 8 order with respect to any child on the application of a person who—

- (a) is entitled to apply for an Article 8 order with respect to the child; or
- (b) has obtained the leave of the court to make the application.

(3) This Article is subject to the restrictions imposed by Article 9.

(4) The following persons are entitled to apply to the court for any Article 8 order with respect to a child—

- (a) any parent or guardian of the child;
- (b) any person in whose favour a residence order is in force with respect to the child.

(5) The following persons are entitled to apply for a residence or contact order with respect to a child—

- (a) any party to a marriage (whether or not subsisting) in relation to whom the child is a child of the family;
- (b) any person with whom the child has lived for a period of at least three years;
- (c) any person who—
  - (i) in any case where a residence order is in force with respect to the child, has the consent of each of the persons in whose favour the order was made;
  - (ii) in any case where the child is in the care of an authority, has the consent of that authority; or
  - (iii) in any other case, has the consent of each of those (if any) who have parental responsibility for the child.

(6) A person who would not otherwise be entitled (under paragraphs (1) to (5)) to apply for the variation or discharge of an Article 8 order shall be entitled to do so if—

- (a) the order was made on his application; or
- (b) in the case of a contact order, he is named in the order.

(7) Any person who falls within a category of person prescribed by rules of court is entitled to apply for any such Article 8 order as may be so prescribed in relation to that category of person.

(8) Where the person applying for leave to make an application for an Article 8 order is the child concerned, the court may only grant leave if it is satisfied that he has sufficient understanding to make the proposed application for the Article 8 order.

(9) Where the person applying for leave to make an application for an Article 8 order is not the child concerned, the court shall, in deciding whether or not to grant leave, have particular regard to—

- (a) the nature of the proposed application for the Article 8 order;
- (b) the applicant's connection with the child;
- (c) any risk there might be of that proposed application disrupting the child's life to such an extent that he would be harmed by it; and
- (d) where the child is being looked after by an authority—
  - (i) the authority's plans for the child's future; and
  - (ii) the wishes and feelings of the child's parents.

(10) The period of three years mentioned in paragraph (5)(b) need not be continuous but must not have begun more than five years before, or ended more than three months before, the making of the application.