

SCHEDULES

SCHEDULE 9

Article 185(1).

AMENDMENTS

The Offences Against the Person Act 1861 (c. 100)

1. In section 53 (abduction with intent of girl under 18 from parent or person having lawful care or charge of her), for “the lawful care or charge of” substitute “parental responsibility for or care of”.
2. In section 55 (abduction of girl under 16 from parent or person having lawful care or charge of her), for “the lawful care or charge of” substitute “parental responsibility for or care of”.

The Criminal Law Amendment Act 1885 (c. 69)

3. In section 7 (abduction with intent of girl under 18 from parent or person having lawful care or charge of her), for “the lawful care or charge of” substitute “parental responsibility for or care of”.
4. In section 10 (power of search for woman or girl detained for immoral purposes)—
 - (a) for “, relative, or guardian” in the first place where it occurs substitute “or relative, or any other person having parental responsibility for or care”;
 - (b) for “guardians” substitute “any other person having parental responsibility for or care of her”;
 - (c) for “the lawful care or charge” substitute “parental responsibility for or care”.

The Maintenance Orders (Facilities for Enforcement) Act 1920 (c. 33)

5. In section 4A(3) (variation and revocation of maintenance orders)—
 - (a) for “defendant to a complaint” substitute “respondent to an application”;
 - (b) for “the complaint” substitute “the application (where it would not have such jurisdiction apart from this subsection)”;
 - (c) for “defendant” in the second place where it occurs substitute “respondent”.
6. In section 11 (application to Ireland)—
 - (a) immediately before paragraph (a) insert the following paragraph—

“(za) In section 3(1), (3) and (6) for the words “England and Wales” there shall be substituted the words “Northern Ireland” and for subsection (7) of that section there shall be substituted the following subsection—

“(7) Where paragraph (1) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 (revocation, variation, etc., of orders for periodical payment) applies in relation to an order made under this section which has been confirmed, that paragraph shall have effect as if for the words “by order on complaint” there were substituted the words “on an application being made, by order”.”;
 - (b) in paragraph (b), immediately before paragraph (a) of subsection (6A) of section 4 there shall be inserted in that subsection the following paragraph—

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- “(za) as if in paragraph (1) for the words “by order on complaint” there were substituted “on an application being made, by order”.”;
- (c) for paragraph (c) substitute the following paragraphs—
- “(c) In section 6 (mode of enforcing orders), in the proviso to subsection (2), for the words from “in like manner” to the end substitute “as an order to which Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 applies, the order shall be so enforceable subject to the modifications of that Article specified in subsection (3ZA) of section 18 of the Maintenance Orders Act 1950 (enforcement of registered orders)”;
- (cc) In section 7 (application of Summary Jurisdiction Acts), after subsection (2) there shall be added the following subsection—
- “(3) Without prejudice to the generality of the power to make rules under Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 (magistrates' courts rules), for the purpose of giving effect to this Act such rules may make, in relation to any proceedings brought under or by virtue of this Act, any provision which—
- (a) falls within paragraph (2) of Article 165 of the Children (Northern Ireland) Order 1995, and
- (b) may be made in relation to relevant proceedings under that Article.”.”.

The Employment of Women, Young Persons, and Children Act 1920 (c. 65)

7. In section 1(6)(a) (restrictions on employment in industrial undertakings)—
- (a) for sub-paragraph (iii) substitute the following sub-paragraph—
- “(iii) Articles 146(1) and (3), 147(1), (5), (6) and (9) and 148(1) and (2) of the Children (Northern Ireland) Order 1995.”; and
- (b) for “Part III of that Act of 1968” substitute “Part XII of that Order of 1994”.

The Legitimacy Act (Northern Ireland) 1928 (c. 5)

8. After section 8 (provisions as to persons legitimated by extraneous law) insert the following section—

“Legitimation of adopted child.

8A.—(1) Article 40 of the Adoption (Northern Ireland) Order 1987 does not prevent an adopted child being legitimated under section 1 or 8 if either natural parent is the sole adoptive parent.

- (2) Where an adopted child (with a sole adoptive parent) is legitimated—
- (a) paragraph (2) of Article 40 shall not apply after the legitimation to the natural relationship with the other natural parent; and
- (b) revocation of the adoption order in consequence of the legitimation shall not affect Articles 40 to 42 as they apply to any instrument made before the date of legitimation.”.

The Children and Young Persons Act (Northern Ireland) 1950 (c. 5)

9. In section 13(3) (amendments of the Criminal Law Amendment Act 1885), after “six” insert “and”.

The Marriages Act (Northern Ireland) 1954 (c. 21)

- 10.** In section 1 (consent to marriage of minors)—
- (a) in subsection (1)—
 - (i) for “minor” substitute “child”;
 - (ii) for “the Schedule to this Act” substitute “subsection (1A) of this section”;
 - (b) after subsection (1) insert the following subsection—

“(1A) The consents are—

 - (a) subject to paragraphs (b) to (d) of this subsection, the consent of—
 - (i) each parent (if any) of the child who has parental responsibility for him; and
 - (ii) each guardian (if any) of the child;
 - (b) where a residence order is in force with respect to the child, the consent of the person or persons with whom he lives, or is to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection);
 - (c) where a care order is in force with respect to the child, the consent of the Health and Social Services Board or Health and Social Services trust designated in the order (in addition to the consents mentioned in paragraph (a) of this subsection);
 - (d) where neither paragraph (b) nor paragraph (c) of this subsection applies but a residence order was in force with respect to the child immediately before he reached the age of 16, the consent of the person or persons with whom he lived, or was to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection).”.
- 11.** In section 2 (order dispensing with consent)—
- (a) for “minor” wherever it occurs substitute “child”;
 - (b) in subsection (1), for paragraphs (a) to (c) substitute the following paragraphs—
 - “(a) it is not reasonably practicable to obtain the consent of any person whose consent is required; or
 - (b) any person whose consent is required withholds or refuses his consent; or”.
- 12.** In section 6 (interpretation)—
- (a) in subsection (1), insert before the definition of “contravention” the following definition—

““child” means a person over the age of 16, and under the age of 18, years;”;
 - (b) after subsection (1), insert the following subsection—

“(1A) In this Act “care order”, “guardian of a child”, “Health and Social Services trust”, “parental responsibility” and “residence order” have the same meaning as in the Children (Northern Ireland) Order 1995.”.

The Administration of Justice Act 1960 (c. 65)

- 13.** In Schedule 2, in the entry relating to section 12, for “For paragraph (b) of subsection (1)” substitute the following—
- “(1) For paragraph (a) of subsection (1) there shall be substituted the following paragraph:—
- (a) where the proceedings—
 - (i) relate to the exercise of the inherent jurisdiction of the High Court with respect to minors;

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- (ii) are brought under the Children (Northern Ireland) Order 1995; or
 - (iii) otherwise relate wholly or mainly to the maintenance or upbringing of a minor.
- (2) For paragraph (b) of that subsection”.

The Legitimacy Act (Northern Ireland) 1961 (c. 5)

14.—(1) In subsection (1) of section 2 (legitimacy of children of certain void marriages), for “act of intercourse resulting in the birth” substitute “insemination resulting in the birth or, where there was no such insemination, the child’s conception”.

(2) After subsection (2) insert the following subsections—

“(2A) Without prejudice to the generality of subsection (1), that subsection applies notwithstanding that the belief that the marriage was valid was due to a mistake of law.

(2B) In relation to a child born after the commencement of paragraph 14 of Schedule 9 to the Children (Northern Ireland) Order 1995, it shall be presumed for the purposes of subsection (1), unless the contrary is shown, that one of the parties to the void marriage reasonably believed at the time of the insemination resulting in the birth or, where there was no such insemination, the child’s conception (or at the time of the celebration of the marriage if later) that the marriage was valid.”.

The Factories Act (Northern Ireland) 1965 (c. 20)

15. In section 176(1) (interpretation), in the definition of “parent”, for the words from “or guardian” to “young person” where it first occurs substitute “of a child or young person or any person who is not a parent of his but who has parental responsibility for him (within the meaning of the Children (Northern Ireland) Order 1995)”.

The Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (c. 35)

16. In section 10(2) (orders to which Part II applies), after paragraph (g) insert the following paragraph—

“(h) Article 41 of, or Schedule 1 to, the Children (Northern Ireland) Order 1995;”.

17. In section 13 (variation of orders), for subsection (3) substitute the following subsection—

“(3) Article 165 of the Children (Northern Ireland) Order 1995 shall apply for the purposes of giving effect to this section as it applies for the purposes of giving effect to that Order, except that in the application of that Article by virtue of this subsection “relevant proceedings” means any application made under subsection (2).”.

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

18. In section 20 (cruelty to persons under 16)—

- (a) in subsection (1), for “the custody, charge or care of” substitute “responsibility for”;
- (b) in subsection (2)(a), after “young person” insert “, or the legal guardian of a child or young person”.

19. In section 21(1) (causing or encouraging seduction or prostitution of girl under 17), for “the custody, charge or care of” substitute “responsibility for”.

20. In section 23 (allowing children or young persons to be in brothels), for “the custody, charge or care of” substitute “responsibility for”.

21. In section 24 (causing or allowing persons under 16 to be used for begging)—
- (a) in subsection (1), for “the custody, charge or care of” substitute “responsibility for”;
 - (b) in subsection (2), for “the custody, charge or care of” substitute “responsibility for”.
22. In section 29(1) (exposing children under 12 to risk of burning), for “the custody, charge or care of” substitute “responsibility for”.
23. In section 33(2) (mode of charging offences), for the words from the beginning to “charge him” where it first occurs substitute “The same complaint or summons may charge any person”.
24. For section 35 (notification of Department as to proceedings under Part II) substitute the following section—

“35 Notification as to proceedings under Part II

- (1) Where on the complaint of any person charging an offence under this Part with respect to a child or young person a summons or warrant is issued, the complainant shall as soon as reasonably practicable notify to the appropriate authority—
- (a) the nature of the charge, and
 - (b) the name and address of the child, so far as known to the complainant.
- (2) Subsection (1) shall not apply where the complainant is the appropriate authority.
- (3) In this section “the appropriate authority” means the authority within whose area the child’s address is or, if that is not known, the authority within whose area the offence is alleged to have been committed, and “authority” and “area” have the same meaning as in the Children Order.”.
25. For section 36 (interpretation of Part II) substitute the following section—

“36 Interpretation of Part II.

- (1) For the purposes of this Part, the following shall be presumed to have responsibility for a child or young person—
- (a) any person who—
 - (i) has parental responsibility for him (within the meaning of the Children Order); or
 - (ii) is otherwise legally liable to maintain him; and
 - (b) any person who has care of him.
- (2) 6A person who is presumed to be responsible for a child or young person by virtue of subsection (1)(a) shall not be taken to have ceased to be responsible for him by reason only that he does not have care of him.”.
26. In section 48 (general considerations), for the words from “, either as” to “, otherwise,” substitute “in any proceedings against him or any other person for any offence”.
27. In section 52 (attendance at court of parents of child or young person brought before court)—
- (a) in subsection (1) for the words from “charged” to “before a court” substitute “is brought before a court in any proceedings against him or any other person for any offence”;
 - (b) in subsection (7) after the words “supervision order” insert “(including a supervision order under Part V of the Children Order)”;
 - (c) after subsection (7) insert the following subsection—

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“(7A) If it appears that at the time of his arrest the child or young person is being provided with accommodation by or on behalf of a Board or HSS trust under Article 21 of the Children Order, that Board or HSS trust shall also be informed as described in subsection (3) as soon as it is reasonably practicable to do so.”.

28. For section 53 (notices of charges against and applications relating to children and young persons) substitute the following section—

“53 Notices of charges against children and young persons.

(1) Where a child or young person is to be brought before a court in respect of an offence alleged to have been committed by him, the complainant shall as soon as reasonably practicable notify the day and hour when, and the nature of the charge on which, the child or young person is to be brought before the court—

- (a) to a probation officer appointed for or assigned to the petty sessions district in which the court will sit; and
- (b) to the appropriate authority.

(2) Subsection (1)(b) shall not apply where the complainant is the appropriate authority.

(3) Where the appropriate authority receives a notification under subsection (1) or itself charges any child or young person with any offence, it shall, except in cases which appear to it to be of a trivial nature, make such investigations and render available to the court such information as to the home surroundings, school record, physical and mental health and character of the child or young person and, in proper cases, as to the availability of accommodation at training schools, as appears to the authority to be likely to assist the court.

(4) The appropriate authority shall be under no obligation under subsection (3) to make investigations as to the home surroundings of children or young persons in any petty sessions district in which arrangements have been made for such investigations to be made by a probation officer.

(5) In this section “the appropriate authority” means the authority within whose area the child or young person is ordinarily resident or, if that is not known, the authority within whose area the child or young person is, and “authority” and “area” have the same meaning as in the Children Order.”.

29. In section 55(1) (power to clear court while child or young person is giving evidence in certain cases), for “proceedings” substitute “criminal proceedings”.

30. In section 56 (form of oath for use in juvenile courts and by children and young persons in other courts)—

- (a) in subsection (1), for “subsection (2)” substitute “subsections (2) and (3)”;
- (b) after subsection (2) add the following subsection—

“(3) This section shall not apply in proceedings to which Article 169 of the Children Order applies (civil proceedings).”.

31. In section 59(1) (power to prohibit publication of certain matter in newspapers and broadcasts), for “proceedings” where it first occurs substitute “criminal proceedings”.

32. In section 68 (restrictions on newspaper and broadcast reports of proceedings in juvenile courts and on appeal therefrom)—

- (a) in subsection (1)(a), for “proceedings” where it first occurs substitute “criminal proceedings”;

- (b) in subsection (4), for “as they apply in relation to” substitute “in criminal proceedings as they apply in relation to such”.
- 33.** In section 81 (general provisions as to supervision orders), for subsection (4) substitute the following subsection—
- “(4) An officer or a member of a Board or HSS trust or an education and library board shall not be appointed under subsection (1) in his capacity as such an officer or member.”.
- 34.** In section 88(3) (conveyance of children or young persons to training school)—
- (a) for “Ministry” substitute “Secretary of State”;
- (b) for “Parliament” substitute “the Parliament of the United Kingdom”.
- 35.** In section 89 (supervision and recall after expiration of order)—
- (a) in subsection (3), for “Minister” wherever it occurs substitute “Secretary of State”;
- (b) in subsection (4)(a), for “Minister” substitute “Secretary of State”;
- (c) in subsection (5), for “Ministry” in both places where it occurs and “Minister's” substitute in each case “Secretary of State”.
- 36.** In section 90 (extension of period of detention in training schools)—
- (a) in subsection (1), for “Minister” substitute “Secretary of State”;
- (b) in subsection (2), for “Minister” substitute “Secretary of State”.
- 37.** In section 91(4) (provisions as to making, duration and effect of fit person orders) for “the same rights and powers” substitute “parental responsibility for him”.
- 38.** For section 96(1) (powers of other courts), substitute the following subsections—
- “(1) Where it appears to any court by or before which a person is convicted of having committed in respect of a child or young person any of the offences mentioned in Schedule 1 (not being an offence which resulted in the death of the child or young person) that it may be appropriate for a care or supervision order to be made with respect to him under the Children Order, the court may direct the appropriate Board or HSS trust to undertake an investigation of the child’s circumstances.
- (1A) Paragraphs (2) to (6) of Article 56 of the Children Order (power of court in family proceedings to direct investigation into child’s circumstances) shall have effect where the court gives a direction under this section as they have effect where a court gives a direction under that Article.”.
- 39.** For section 97(3) (power of probation officer, etc., to bring child or young person before court) substitute the following subsection—
- “(3) The Magistrates' Courts (Northern Ireland) Order 1981 shall apply in relation to recognizances under subsection (2)(b) as it applies in relation to recognizances to be of good behaviour, and where such a recognizance is ordered to be estreated, the court, instead of ordering the person bound by the recognizance to pay the sum in which he is bound or part of the sum, may remit payment of it.”.
- 40.** In section 101(3) (provisions supplemental to section 100) for “or justice of the peace who” substitute “which”.
- 41.** After section 132 (provision of remand homes) insert the following section—

“Appeals.

132A.—(1) Where under subsection (5) of section 132 it is proposed to remove a remand home from the register, the person having charge of or control over the premises may within

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twenty-eight days from the service of the notice under that subsection appeal to a tribunal (in this section called “an Appeal Tribunal”) constituted in accordance with the provisions of Schedule 4 against the proposal; and the home shall not be removed from the register before the determination of the appeal.

(2) An appeal under this section shall be brought by notice served on the Secretary of State requiring him to refer the proposal to an Appeal Tribunal.

(3) On an appeal under this section an Appeal Tribunal may—

- (a) confirm the proposal, or
- (b) direct that the home shall be registered,

and the Secretary of State shall comply with the direction.

(4) The Secretary of State may—

- (a) pay to members of Appeal Tribunals such fees and allowances as he, with the approval of the Treasury, may determine;
- (b) defray the expenses of such tribunals up to such amount as he, with the approval of the Treasury, may determine.

(5) An Appeal Tribunal may—

- (a) by summons require any person to attend, at such time and place as is set forth in the summons, to give evidence or to produce any documents or articles in his custody or under his control which relate to any appeal or other matter pending before the Tribunal;
- (b) hear, receive and examine evidence on oath and for that purpose may administer oaths, or instead of administering an oath require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined; and
- (c) also exercise the powers conferred by Schedule 4.

(6) Every person who—

- (a) refuses or wilfully neglects to attend in obedience to a summons issued under subsection (5) or to give evidence; or
- (b) wilfully alters, suppresses, cancels or destroys or refuses to produce any document or article which he may be required to produce by virtue of that subsection,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding six months or to both.

(7) Any person entitled to appeal to an Appeal Tribunal may appear and be heard on any such appeal either in person or by counsel or solicitor.”

42. In section 137 (approval of training schools), after subsection (5) add the following subsections—

“(6) At the request of the managers of a training school, the Secretary of State shall amend the certificate of approval of the school to exclude any premises on which it is proposed to carry on a voluntary home, and the amendment shall take effect on the date of the registration of the home under the Children Order or on such other date as the Secretary of State may specify.

(7) Nothing in any statutory provision or any deed or other instrument passed or made before the making of the Children Order shall prevent the managers of a training school from carrying on a voluntary home.”

43. In section 141 (effect of training school order where certain other orders are in force), for subsections (2) and (3) substitute the following subsections—

“(2) Where a person is subject to a care order under the Children Order and while the care order is in force a training school order is made with respect to that person, the care order shall be of no effect while he is under the care of the managers of the training school.

(3) Where a person has ceased to be in the care of a Board or HSS trust by virtue of subsection (1) or (2), the Board or HSS trust may, while the person is under the care of the managers of the training school but not out under supervision, cause him to be visited and befriended, and may, in exceptional circumstances, make payments for his welfare.”.

44. In section 142 (general provisions as to children and young persons committed to the care of fit persons)—

(a) in subsection (2), for “Ministry” substitute “Secretary of State”;

(b) in subsection (3)—

(i) for the words from the beginning to “think fit” substitute “The Secretary of State may board out children and young persons committed to his care for such periods and on such terms as to payment and otherwise as he thinks fit”;

(ii) in paragraph (b), for “the Ministry of Home Affairs” substitute “the Secretary of State”;

(c) in subsection (4), for “the Ministry of Home Affairs” and “the Ministry” substitute in each case “the Secretary of State”.

45. In section 143 (variation and discharge of orders committing children and young persons to care)—

(a) in subsection (1), for “Minister” substitute “Secretary of State”;

(b) in subsection (2), for “Minister” in each place where it occurs substitute “Secretary of State”;

(c) in subsection (6)—

(i) for “The Ministry of Home Affairs who are” substitute “The Secretary of State, if he is”;

(ii) for “their” substitute “his”;

(iii) for “his interests” substitute “the interests of the child or young person”;

(d) for subsection (7) substitute the following subsection—

“(7) Sections 99 to 101 shall apply where an application with respect to a child or young person is or is about to be made to a juvenile court under subsection (4) or (6) as they apply where a person is or is about to be brought before a juvenile court under section 97 and as if the references in sections 99 and 101(1) to section 97 were references to subsection (4) or (6).”.

46. In section 144(2) (escapes from care of fit persons)—

(a) for “the Ministry of Home Affairs” substitute “the Secretary of State”;

(b) for “he” substitute “the child or young person”;

(c) for “the Ministry direct” substitute “the Secretary of State directs”.

47. In section 145 (return to family of persons committed to care of Department or Secretary of State)—

(a) in subsection (1)—

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- (i) for “the Ministry of Home Affairs” and in each place where it occurs “the Ministry” substitute “the Secretary of State”;
- (ii) for “they otherwise determine” substitute “he otherwise determines”;
- (b) in subsection (2), for “the Ministry of Home Affairs” and in each place where it occurs “the Ministry” substitute “the Secretary of State”;
- (c) in subsection (3), for “the Ministry of Home Affairs” and “the Ministry” substitute “the Secretary of State”;
- (d) in subsection (4)—
 - (i) in paragraph (a), for “the Ministry of Home Affairs” and “the Ministry” substitute “the Secretary of State”;
 - (ii) in paragraph (b), for “the Ministry at any time determine under subsection (1) that he” substitute “the Secretary of State at any time determines under subsection (1) that the first-mentioned person”;
 - (iii) in paragraph (c), for “the Ministry with respect to his return to the Ministry” substitute “the Secretary of State with respect to the return of the first-mentioned person to the Secretary of State”;
 - (iv) for “the Ministry” in the last place where it occurs substitute “the Secretary of State”.

48. For section 147 (acquisition of land) and section 147A (power to enter on lands) substitute the following sections—

“147 Acquisition of land.

(1) For the purposes of this Act the Secretary of State may acquire land by agreement or compulsorily.

(2) Where the Secretary of State desires to acquire land compulsorily the provisions of Article 48 of and Schedule 7 to the Health and Personal Social Services (Northern Ireland) Order 1972 with respect to the acquisition of land shall apply as if any reference to the Department of Health and Social Services were a reference to the Secretary of State and as if any reference to that Order were a reference to this Act.

147A Power to enter on lands.

147A. Article 49 of the Health and Personal Social Services (Northern Ireland) Order 1972 shall apply for the purposes of this Act as if any reference to the Department of Health and Social Services were a reference to the Secretary of State and as if any reference to that Order were a reference to this Act.”.

49. In section 148 (expenses)—

- (a) for “Parliament” substitute “the Parliament of the United Kingdom”;
- (b) for “Ministry” in both places where it occurs substitute “Secretary of State”.

50. In section 151 (grants for training in child care)—

- (a) in subsection (1), for “Ministry with the consent of the Ministry of Finance” and “the Ministry” substitute respectively “Secretary of State with the consent of the Treasury” and “him”;
- (b) in subsection (2), for “Ministry” where it first occurs and “it may with the consent of the Ministry of Finance” substitute respectively “Secretary of State” and “he may with the consent of the Treasury”.

- 51.** In section 163 (duty of police to notify Department in certain circumstances)—
- (a) in subsection (1) for “the Ministry of Home Affairs” substitute “the appropriate authority”;
 - (b) for subsection (2) substitute the following subsections—

“(2) Where an authority is notified under subsection (1) that a child or young person may be in need of advice, guidance or assistance, it shall make or cause to be made such enquiries as it considers necessary to enable it to decide whether it should take any action to safeguard or promote the child’s welfare.

(3) In this section “the appropriate authority” means the authority within whose area the child is ordinarily resident or, if that is not known, the authority within whose area the child is, and “authority” and “area” have the same meaning as in the Children Order.”.

- 52.** For section 167 (inquiries and investigations) and section 168 (power of inspection) substitute the following sections—

“167 Inquiries and investigations.

167. The Secretary of State may cause an inquiry to be held or an investigation to be made in any case where it appears to him advisable to do so in connection with any matter arising under this Act.

168 Power of inspection.

(1) An authorised person may, on production of his credentials, at any reasonable time enter any premises in which a person under the age of eighteen is maintained under this Act and—

- (a) inspect the premises; and
- (b) make such examination into the state and management of the premises and the condition and treatment of such persons there as he thinks requisite.

(2) A person who wilfully obstructs an authorised person in the execution of his duties under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) In this section “an authorised person” means a person authorised by the Secretary of State.”.

- 53.** In section 180(1) (interpretation)—

- (a) after the definition of “the Act of 1950” insert the following definition—

““Board” means a Health and Social Services Board;”;
- (b) for the definition of “child” substitute the following definitions—

““child” means a person under the age of fourteen;

“Children Order” means the Children (Northern Ireland) Order 1995;”;
- (c) in the definition of “guardian”, for “charge of or control over” substitute “care of”;
- (d) for the definition of “HSS home” and “HSS trust” substitute the following definition—

““HSS trust” means a Health and Social Services trust established under the Health and Personal Social Services (Northern Ireland) Order 1991;”;
- (e) in the definition of “legal guardian”, for the words from “a person” to “his guardian” substitute “a guardian of a child as defined in the Children Order”;
- (f) for the definition of “parental rights order” substitute the following definition—

““parental responsibility” has the same meaning as in the Children Order;”;

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(g) after the definition of “remand home” insert the following definition—

““responsibility” shall be construed in accordance with section 36;”.

54. In Schedule 1 (offences against children and young persons with respect to which special provisions of the Act apply)—

(a) in the entry relating to sections 20, 21, 22, 23, 24, 29 and 42 of the Act for “, 29 and 42” substitute “and 29”;

(b) at the end add the following entry—

“Any offence under Article 147(2) of the Children Order in respect of a contravention of Article 141 of that Order.”.

55. In Schedule 3 (supervision orders), at the end of paragraph 3 add the following sub-paragraph—

“(3) Without prejudice to its power under sub-paragraph (1), where the person under supervision is subject to a care order under Part V of the Children Order, the juvenile court may discharge the supervision order on the application of a Board or HSS trust or, where the care order is revoked, without any application.”.

56. In Schedule 4 (Appeal Tribunals)—

(a) in paragraph 1 for “Minister” substitute “Secretary of State”;

(b) renumber paragraph 2 as paragraph 2(1) and at the end add the following sub-paragraph—

“(2) In this paragraph “government department” includes a department of the Government of the United Kingdom.”;

(c) in paragraph 5 for “Ministry” and “its” substitute “Secretary of State” and “his”;

(d) in paragraph 6 for “Ministry” in each place where it occurs substitute “Secretary of State”.

57. In Schedule 5 (provisions as to administration of training schools and treatment of persons sent there), in paragraph 14, for sub-paragraph (1) substitute the following sub-paragraphs—

“(1) While a person is under the care of the managers of a training school they shall—

(a) have parental responsibility for him; and

(b) have the power (subject to sub-paragraph (1A)) to determine the extent to which a parent of that person may meet his parental responsibility for him.

(1A) The managers may only exercise the power in sub-paragraph (1)(b) where—

(a) a person out under supervision from a training school is lawfully living with his parents or either of them; and

(b) the managers are satisfied that it is necessary to exercise the power in order to safeguard or promote the welfare of that person.”.

The Mines Act (Northern Ireland) 1969 (c. 6)

58. In section 158(1) (interpretation), in the definition of “parent”, for the words from “or guardian” to “young person” where it first occurs substitute “of a young person or any person who is not a parent of his but who has parental responsibility for him (within the meaning of the Children (Northern Ireland) Order 1995)”.

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

59. In section 4(3) (definition of “foreign adoption”), for “section 4(3) of the Adoption Act 1968” substitute “section 72(2) of the Adoption Act 1976”.

- 60.** In section 5 (recognition of foreign determinations in adoption proceedings)—
- (a) in subsection (1) for “other than Northern Ireland” substitute “outside the United Kingdom”;
 - (b) in subsection (2) for “section 4(3) of the Adoption Act 1968” substitute “section 72(2) of the Adoption Act 1976”.

61. In section 7(4) (certain supplementary provisions), in the definition of “notified provision” for “section 7(4) of the Adoption Act 1968” substitute “section 54(4) of the Adoption Act 1976”.

62. In section 8(4) (registration), for “section 30 of the Births and Deaths Registration Act (Northern Ireland) 1967” substitute “Article 19 of the Births and Deaths Registration (Northern Ireland) Order 1976”.

63. In section 9(1) (nationality), for “section 9(1) of the Adoption Act 1968” substitute “section 70(1) of the Adoption Act 1976”.

64. In section 12 (interpretation), in the definition of “United Kingdom national” for “section 11(1) of the Adoption Act 1968” substitute “section 72(1) of the Adoption Act 1976”.

The Civil Evidence Act (Northern Ireland) 1971 (c. 36)

65.—(1) Section 8 (which relates to the admissibility in civil proceedings of the fact that a person has been adjudged to be the father of a child in affiliation proceedings) shall be amended as provided by sub-paragraphs (2) to (4).

(2) In subsection (1), for paragraph (b) substitute the following paragraph—

“(b) the fact that a person has been found to be the father of a child in relevant proceedings before any court in Northern Ireland or England and Wales or has been adjudged to be the father of a child in affiliation proceedings before any court in the United Kingdom;”.

(3) In subsection (2)—

(a) for “to have been adjudged” substitute “to have been found or adjudged”;

(b) for “matrimonial or affiliation proceedings” substitute “other proceedings”.

(4) In subsection (3), after “matrimonial” insert “or relevant”.

(5) In subsection (5), after the definition of “matrimonial proceedings” insert the following definition—

““relevant proceedings” means—

(a) proceedings under Article 101 of the Health and Personal Social Services (Northern Ireland) Order 1972 or section 101 of the Social Security Administration (Northern Ireland) Act 1992;

(b) proceedings under Article 28 of the Child Support (Northern Ireland) Order 1991;

(c) proceedings under the Children (Northern Ireland) Order 1995;

(d) proceedings under section 5A of the Guardianship of Infants Act 1886 or section 27 of the Judicature (Northern Ireland) Act 1978;

(e) proceedings which are relevant proceedings as defined in section 12(5) of the Civil Evidence Act 1968;”.

The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)

66. In section 3 (power to make provisional maintenance order), for subsection (7) substitute the following subsection—

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“(7) In the application of this section to Northern Ireland—

(a) for subsection (1) there shall be substituted—

“(1) Where an application is made to a magistrates' court against a person residing in a reciprocating country and the court would have jurisdiction to determine the application under the Domestic Proceedings (Northern Ireland) Order 1980 or the Children (Northern Ireland) Order 1995 if that person—

(a) were residing in Northern Ireland, and

(b) received reasonable notice of the date of the hearing of the application, the court shall (subject to subsection (2) below) have jurisdiction to determine the application.”;

(b) in subsection (4), for references to the High Court there shall be substituted references to the High Court of Justice in Northern Ireland.”.

67. In section 5 (variation and revocation of maintenance order made in United Kingdom) after subsection (3A) insert the following subsection—

“(3B) Where paragraph (1) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 applies in relation to a maintenance order to which this section applies, that paragraph shall have effect as if for the words “by order on complaint,” there were substituted “on an application being made, by order”.”

68. In section 8 (enforcement of maintenance order registered in United Kingdom court), in subsection (4) for the words from “if it were” to “any Act” substitute “an order made by that court to which that Article applies”.

69. In section 9 (variation and revocation of maintenance order registered in United Kingdom court), immediately before subsection (1ZB)(a) insert the following paragraph—

“(za) as if in paragraph (1) for the words “by order on complaint,” there were substituted “on an application being made, by order”.”.

70. In section 17 (proceedings in magistrates' courts), for subsection (6) substitute the following subsection—

“(6) Where the respondent to an application for the variation or revocation of—

(a) a maintenance order made by a magistrates' court in Northern Ireland, being an order to which section 5 of this Act applies; or

(b) a registered order which is registered in such a court,

is residing in a reciprocating country, a magistrates' court in Northern Ireland shall have jurisdiction to hear the application (where it would not have jurisdiction apart from this subsection) if it would have had jurisdiction to hear it had the respondent been residing in Northern Ireland.”.

71. In section 18 (magistrates' courts rules), after subsection (2) insert the following subsection—

“(2A) For the purpose of giving effect to this Part of this Act, rules made in accordance with Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 may make, in relation to any proceedings brought under or by virtue of this Part of this Act, any provision not covered by subsection (2) above which—

(a) falls within paragraph (2) of Article 165 of the Children (Northern Ireland) Order 1995, and

(b) may be made in relation to relevant proceedings under that Article.”.

72. For sections 28C, 29 and 29A substitute the following sections—

“28C Applications for recovery of maintenance in Northern Ireland.

- (1) This section applies to any application which—
 - (a) is received by the Lord Chancellor from the appropriate authority in a convention country, and
 - (b) is an application by a person in that country for the recovery of maintenance from another person who is for the time being residing in Northern Ireland.

(2) Subject to sections 28D to 29B of this Act, an application to which this section applies shall be treated for the purposes of any enactment as if it were an application for a maintenance order under the relevant Order, made at the time when the application was received by the Lord Chancellor.

(3) In the case of an application for maintenance for a child (or children) alone, the relevant Order is the Children (Northern Ireland) Order 1995.

(4) In any other case, the relevant Order is the Domestic Proceedings (Northern Ireland) Order 1980.

(5) In subsection (3) above, “child” means the same as in Schedule 1 to the Children (Northern Ireland) Order 1995.

28D Sending application to the appropriate magistrates' court.

(1) On receipt of an application to which section 28C of this Act applies, the Lord Chancellor shall send it, together with any accompanying documents, to the clerk of a magistrates' court acting for the petty sessions district in which the respondent is residing.

(2) Subject to subsection (4) below, if notice of the hearing of the application by a magistrates' court having jurisdiction to hear it cannot be duly served on the respondent, the clerk of the court shall return the application and the accompanying documents to the Lord Chancellor with a statement giving such information as he possesses as to the whereabouts of the respondent.

(3) If the application is returned to the Lord Chancellor under subsection (2) above, then, unless he is satisfied that the respondent is not residing in the United Kingdom, he shall deal with it in accordance with subsection (1) above or section 27B of this Act or send it to the Secretary of State to be dealt with in accordance with section 31 of this Act (as the circumstances of the case require).

(4) If the clerk of a court to whom the application is sent under this section is satisfied that the respondent is residing within the petty sessions district for which another magistrates' court acts, he shall send the application and accompanying documents to the clerk of that other court and shall inform the Lord Chancellor that he has done so.

(5) If the application is sent to the clerk of a court under subsection (4) above, he shall proceed as if it had been sent to him under subsection (1) above.

Applications to which section 28C applies: general.

(28E) This section applies where a magistrates' court makes an order on an application to which section 28C of this Act applies.

(2) Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (“the 1981 Order”) (orders for periodical payment: means of payment) shall not apply.

(3) The court shall, at the same time that it makes the order, exercise one of its powers under subsection (4) below.

- (4) Those powers are—

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- (a) the power to order that payments under the order be made directly to the collecting officer;
- (b) the power to order that payments under the order be made to the collecting officer, by such method of payment falling within Article 85(7) of the 1981 Order (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under Part IX of the 1981 Order to secure payments under the order;

and in this subsection “collecting officer” means the officer mentioned in Article 85(4) of the 1981 Order.

(5) In deciding which of the powers under subsection (4) above it is to exercise, the court shall have regard to any representations made by the person liable to make payments under the order.

(6) Paragraph (5) of Article 85 of the 1981 Order (power of court to require debtor to open account) shall apply for the purposes of subsection (4) above as it applies for the purposes of that Article, but as if for sub-paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 28E(4) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, and”.

(7) The clerk of the court shall register the order in the prescribed manner in the court.

29 Applications by spouses under the Domestic Proceedings (Northern Ireland) Order 1980.

(1) The magistrates' court hearing an application which by virtue of section 28C of this Act is to be treated as if it were an application for a maintenance order under the Domestic Proceedings (Northern Ireland) Order 1980 may make any order on the application which it has power to make under Article 4 or 20(1) of that Order.

(2) That Order shall apply in relation to such an application, and to any order made on such an application, with the following omissions—

- (a) Articles 8 to 10, 18, 19, 21, 22A, 25(1), 27 to 29 and 30(1A),
- (b) in Article 32(1) the words “either the applicant or”, and
- (c) Article 36(1).

(3) Subsections (1) and (2) above do not apply where section 29A of this Act applies.

29A Applications by former spouses under the Domestic Proceedings (Northern Ireland) Order 1980.

(1) This section applies where in the case of any application which by virtue of section 28C of this Act is to be treated as if it were an application for a maintenance order under the Domestic Proceedings (Northern Ireland) Order 1980 (“the 1980 Order”)—

- (a) the applicant and respondent were formerly married,
- (b) their marriage was dissolved or annulled in a country or territory outside the United Kingdom by a divorce or annulment which is recognised as valid by the law of Northern Ireland;
- (c) an order for the payment of maintenance for the benefit of the applicant or a child of the family has, by reason of the divorce or annulment, been made by a court in a convention country, and

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(d) where the order for the payment of maintenance was made by a court of a different country from that in which the divorce or annulment was obtained, either the applicant or the respondent was resident in the convention country whose court made that order at the time that order was applied for.

(2) Any magistrates' court that would have jurisdiction to hear the application under Article 32 of the 1980 Order (as modified in accordance with subsection (6) below) if the applicant and the respondent were still married shall have jurisdiction to hear it notwithstanding the dissolution or annulment of the marriage.

(3) If the magistrates' court hearing the application is satisfied that the respondent has failed to comply with the provisions of any order such as is mentioned in subsection (1)(c) above, it may (subject to subsections (4) and (5) below) make any order which it has power to make under Article 4 or 20(1) of the 1980 Order.

(4) The court shall not make an order for the making of periodical payments for the benefit of the applicant or any child of the family unless the order made in the convention country provides for the making of periodical payments for the benefit of the applicant or, as the case may be, that child.

(5) The court shall not make an order for the payment of a lump sum for the benefit of the applicant or any child of the family unless the order made in the convention country provides for the payment of a lump sum to the applicant or, as the case may be, to that child.

(6) The 1980 Order shall apply in relation to the application, and to any order made on the application, with the following modifications—

- (a) Article 3 shall be omitted,
- (b) for the reference in Article 4(1) to any ground mentioned in Article 3 there shall be substituted a reference to non-compliance with any such order as is mentioned in subsection (1)(c) of this section,
- (c) for the references in Article 5(2) and (3) to the occurrence of the conduct which is alleged as the ground of the application there shall be substituted references to the breakdown of the marriage,
- (d) the reference in Article 6(2) to the subsequent dissolution or annulment of the marriage of the parties affected by the order shall be omitted,
- (e) Articles 8 to 10, 18, 19, 21, 22A, 25(1) and 27 to 30 shall be omitted,
- (f) in Article 32(1), the words “either the applicant or” shall be omitted, and
- (g) Article 36(1) shall be omitted.

(7) A divorce or annulment obtained in a country or territory outside the United Kingdom shall be presumed for the purposes of this section to be one the validity of which is recognised by the law of Northern Ireland, unless the contrary is proved by the respondent.

(8) In this section “child of the family” has the meaning given in Article 2(2) of the 1980 Order.

29B Applications under the Children (Northern Ireland) Order 1995.

29B. No provision of an order made under Schedule 7 to the Children (Northern Ireland) Order 1995 requiring or enabling a court to transfer proceedings from a magistrates' court to a county court or the High Court shall apply in relation to an application which by virtue of section 28C of this Act is to be treated as if it were an application for a maintenance order under that Order.”.

73. In section 33 (enforcement of orders), in subsection (3) for the words from “if it were” to “any Act” substitute “an order made by that court to which that Article applies”.

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74.—(1) In section 34 (variation and revocation of orders), in subsection (1) after “Subject to” insert “subsection (3B) below and”.

(2) After subsection (3A) insert the following subsection—

“(3B) Where paragraph (1) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 (revocation, variation etc. of orders for periodical payment) applies in relation to a registered order, that paragraph shall have effect as if for the words “by order on complaint,” there were substituted “on an application being made, by order.”

75. For section 35A substitute the following section—

“35A Further provisions with respect to variation etc. of orders by magistrates' courts in Northern Ireland.

(1) Notwithstanding anything in section 29(2) or 29A(6)(e) of this Act, a magistrates' court in Northern Ireland shall have jurisdiction to hear an application—

(a) for the variation or revocation of a registered order registered in that court, and

(b) made by the person against whom or on whose application the order was made, notwithstanding that the person by or against whom the application is made is residing outside Northern Ireland.

(2) None of the powers of the court, or of the clerk, under section 34B of this Act shall be exercisable in relation to such an application.

(3) Where the respondent to an application for the variation or revocation of a registered order which is registered in a magistrates' court in Northern Ireland does not appear at the time and place appointed for the hearing of the application, but the court is satisfied—

(a) that the respondent is residing outside Northern Ireland, and

(b) that the prescribed notice of the making of the application and of the time and place appointed for the hearing has been given to the respondent in the prescribed manner,

the court may proceed to hear and determine the application at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the respondent had appeared at that time and place.”

76. In section 36 (admissibility of evidence given in convention country), in subsection (1) for “received by the Lord Chancellor as mentioned in section 28C(1) of this Act” substitute “to which section 28C(1) of this Act applies”.

77.—(1) In section 38A, after subsection (3) add the following subsection—

“(4) For the purpose of giving effect to this Part of this Act, rules made under Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 may make, in relation to any proceedings brought under or by virtue of this Part of this Act, any provision not covered by subsection (1) above which—

(a) falls within paragraph (2) of Article 165 of the Children (Northern Ireland) Order 1995, and

(b) may be made in relation to relevant proceedings under that Article.”

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

78. In Article 2(2) (interpretation)—

- (a) in the definition of “parent”, for the words from “the guardian” to “custody” substitute “any person who has parental responsibility for or care”;
- (b) after that definition insert the following definition—

““parental responsibility” has the same meaning as in the Children (Northern Ireland) Order 1995;”;
- (c) in the definition of “personal social services”, for the words from “including” to “Article 72” substitute “(including services provided under the Adoption (Northern Ireland) Order 1987 or the Children (Northern Ireland) Order 1995)”.

79. In Article 52 (powers of Department in emergency), for paragraph (2) substitute the following paragraph—

“(2) In this Article and Article 53 “the health and personal social services legislation” means—

- (a) this Order;
- (b) the Adoption (Northern Ireland) Order 1987;
- (c) the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990;
- (d) the 1991 Order;
- (e) the Health and Personal Social Services (Northern Ireland) Order 1994; and
- (f) the Children (Northern Ireland) Order 1995.”

80. In Article 54 (inquiries), for “the health and personal social services legislation” substitute “any Order specified in sub-paragraph (a), (c), (d) or (e) of Article 52(2)”.

81. In Article 87 (expenses of Boards, etc.), for paragraphs (2) and (2A) substitute the following paragraph—

“(2) In relation to expenditure under the Adoption (Northern Ireland) Order 1987 or the Children (Northern Ireland) Order 1995, paragraph (1) shall have effect with the omission of the words “being expenditure approved by the Ministry”.”.

82. In Article 100 (liability to maintain spouse and children), for paragraph (2) substitute the following paragraph—

“(2) Any reference in paragraph (1) to a person’s children shall be construed in accordance with Article 155 of the Children (Northern Ireland) Order 1995.”.

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

83. In Article 2 (interpretation)—

- (a) in paragraph (2), after the definition of “occupier” insert—

““parental responsibility” and “parental responsibility agreement” have the same meanings as in the Children (Northern Ireland) Order 1995;”;
- (b) after that paragraph insert the following paragraph—

“(2A) Any reference in this Order to a child whose father and mother were or were not married to each other at the time of his birth shall be construed in accordance with Article 155 of the Children (Northern Ireland) Order 1995.”.

84. For Article 14 substitute the following Article—

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“Registration of father where parents not married

14.—(1) This Article applies in the case of a child whose father and mother were not married to each other at the time of his birth.

(2) The father of the child shall not as such be under any duty to give any information under this Part concerning the birth of the child.

(3) A registrar shall not enter the name of any person as the father of the child in such a case unless—

- (a) the mother and the person stating himself to be the father of the child jointly request him to do so and in that event the mother and that person shall sign the register in the presence of each other; or
- (b) the mother requests him to do so and produces—
 - (i) a declaration in the prescribed form made by her stating that that person is the father of the child; and
 - (ii) a statutory declaration made by that person stating himself to be the father of the child; or
- (c) that person requests him to do so and produces—
 - (i) a declaration in the prescribed form by that person stating himself to be the father of the child; and
 - (ii) a statutory declaration made by the mother stating that that person is the father of the child; or
- (d) the mother or that person requests him to do so and produces—
 - (i) a copy of a parental responsibility agreement made between them in relation to the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the agreement was made in compliance with Article 7 of the Children (Northern Ireland) Order 1995 and has not been brought to an end by an order of a court; or
- (e) the mother or that person requests him to do so and produces—
 - (i) a certified copy of an order under Article 7 of the Children (Northern Ireland) Order 1995 giving that person parental responsibility for the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been brought to an end by an order of a court; or
- (f) the mother or that person requests him to do so and produces—
 - (i) a certified copy of an order under paragraph 2 of Schedule 1 to the Children (Northern Ireland) Order 1995 which requires that person to make any financial provision for the child and which is not an order falling within paragraph 5(3) of that Schedule; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been discharged by an order of a court; or
- (g) the mother or that person requests him to do so and produces—
 - (i) a certified copy of any of the orders which are mentioned in paragraph (4) which has been made in relation to the child; and

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- (ii) a declaration in the prescribed form by the person making the request stating that the order has not been brought to an end or discharged by an order of a court.
- (4) The orders are—
 - (a) an order under section 5A of the Guardianship of Infants Act 1886 giving that person custody of the child;
 - (b) an order under the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924 adjudging that person to be the putative father of the child.
- (5) Where a person stating himself to be the father of the child makes a request to the registrar in accordance with any of sub-paragraphs (c) to (g) of paragraph (3)—
 - (a) that person shall be treated as a qualified informant concerning the birth of the child for the purposes of this Part; and
 - (b) on the giving of the required information concerning the birth of the child by that person and the signing of the register by him in the presence of the registrar every other qualified informant shall cease to be under the duty imposed by Article 10(4).”
- 85.** In Article 18 (re-registration of births)—
 - (a) in paragraph (1), for the words from “(b)” to “Article 14(3)” substitute the following sub-paragraph—
 - “(b) in the case of a child whose parents were not married to each other at the time of his birth—
 - (i) the birth was registered as if they were so married; or
 - (ii) no particulars relating to his father have been entered in the register.”;
 - (b) after paragraph (1) insert the following paragraph—
 - “(1A) Re-registration under sub-paragraph (b)(ii) shall not be authorised otherwise than in accordance with Article 14(3).”
- 86.** In Article 19(3)(c) (re-registration of births of legitimated persons), after “1868” insert “or Article 32 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989”.
- 87.** After Article 19 insert the following Article—

“Re-registration after declaration of parentage

- 19A.**—(1) Where, in the case of a person whose birth has been registered under this Order (or any earlier statutory provision referred to in Article 19(1))—
 - (a) the Registrar General receives, by virtue of Article 32(4) of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989, a notification of the making of a declaration of parentage in respect of that person; and
 - (b) it appears to him that the birth of that person should be re-registered,he shall give his written authority for the re-registration of the birth of that person.
- (2) Any re-registration under paragraph (1) shall be effected in the prescribed manner and at such place as may be prescribed.
- (3) This Article shall apply with such modifications as the Department may, by regulations made subject to affirmative resolution, prescribe in relation to births at sea of which the Registrar General receives a return under any statutory provision.”

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88. In Article 37(7) (qualified applicant for registration or alteration of child’s name), for sub-paragraphs (a) to (d) substitute the following sub-paragraphs—

- “(a) the father and mother of the child if—
 - (i) they were married to each other at the time of his birth; or
 - (ii) they were not married to each other at the time of his birth but the father has parental responsibility for the child;
- (b) the mother of the child if his parents were not married to each other at the time of his birth and the father does not have parental responsibility for the child;
- (c) the surviving parent if either of the parents of the child is deceased and the surviving parent has parental responsibility for the child;
- (d) the guardian of the child or any other person who has parental responsibility for him if—
 - (i) both his parents are deceased; or
 - (ii) either of his parents is deceased and the surviving parent does not have parental responsibility for him;”.

The Family Law Reform (Northern Ireland) Order 1977 (NI 17)

89. In Article 8 (power of court to require use of tests to determine paternity), after paragraph (1) insert the following paragraphs—

- “(1A) An application for a direction under this Article shall specify who is to carry out the tests.
- (1B) A direction under this Article shall—
 - (a) specify, as the person who is to carry out the tests, the person specified in the application; or
 - (b) where the court considers that it would be inappropriate to specify that person (whether because to specify him would be incompatible with any provision made by or under Article 10 or for any other reason), decline to give the direction applied for.”.

The Judicature (Northern Ireland) Act 1978 (c. 23)

90. In section 26 (wards of court), after subsection (2) insert the following subsection—

“(2A) Subsection (2) does not apply with respect to a child who is the subject of a care order (as defined by Article 2(2) of the Children (Northern Ireland) Order 1995).”.

91. In section 29(2)(c) (co-ordination of exercise of jurisdiction in relation to persons under disability), for “care, custody or control” substitute “upbringing”.

92. In section 35(2)(g)(i) (leave not required for appeal to Court of Appeal where liberty of subject or custody of minors concerned), for “custody of” substitute “residence of, or contact with,”.

The Matrimonial Causes (Northern Ireland) Order 1978 (NI 15)

93. In Article 2(2) (interpretation)—

- (a) in the definition of “child”, for the words from “an illegitimate” to “both parties” substitute “a child whose father and mother were not married to each other at the time of his birth within the meaning of Article 155 of the Children (Northern Ireland) Order 1995”;

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- (b) in the definition of “child of the family”, for “has been boarded-out with those parties by or on behalf of the Department of Health and Social Services” substitute “is placed with those parties as foster parents by an authority within the meaning of the Children (Northern Ireland) Order 1995”.

94. In Article 29 (financial provision orders in case of neglect by party to marriage to maintain other party or child of the family), for paragraph (8) substitute the following paragraph—

“(8) Where a periodical payments order made under this Article in favour of a child ceases to have effect on the date on which the child attains the age of 16, or at any time after that date but before or on the date on which he attains the age of 18, then if, on an application made to the court for an order under this paragraph, it appears to the court that—

- (a) the child is, or will be, or if an order were made under this paragraph would be, receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he is, will be or would be, also in gainful employment; or
- (b) there are special circumstances which justify the making of an order under this paragraph,

the court shall have power by order to revive the first-mentioned order from such date as the court may specify, not being earlier than the date of the making of the application, and to exercise its powers under Article 33 in relation to any order so revived.”.

95. For Article 44 (restrictions on decrees for dissolution, annulment or separation affecting children) substitute the following Article—

“Restrictions on decrees for dissolution, annulment or separation affecting children

44.—(1) In any proceedings for a decree of divorce or nullity of marriage, or a decree of judicial separation, the court shall consider—

- (a) whether there are any children of the family to whom this Article applies; and
- (b) where there are any such children, whether (in the light of the arrangements which have been, or are proposed to be, made for their upbringing and welfare) it should exercise any of its powers under the Children (Northern Ireland) Order 1995 with respect to any of them.

(2) Where, in any case to which this Article applies, it appears to the court that—

- (a) the circumstances of the case require it, or are likely to require it, to exercise any of its powers under the Children (Northern Ireland) Order 1995 with respect to any such child;
- (b) it is not in a position to exercise that power or (as the case may be) those powers without giving further consideration to the case; and
- (c) there are exceptional circumstances which make it desirable in the interests of the child that the court should give a direction under this Article,

it may direct that the decree of divorce or nullity is not to be made absolute, or that the decree of judicial separation is not to be granted, until the court orders otherwise.

(3) This Article applies to—

- (a) any child of the family who has not attained the age of 16 at the date when the court considers the case in accordance with the requirements of this Article; and
- (b) any child of the family who has attained that age at that date and in relation to whom the court directs that this Article shall apply.”.

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96. In Article 48(9) (provision for appeals to Court of Appeal), after “40)” insert “or of the Children (Northern Ireland) Order 1995”.

97. In Schedule 1 (proceedings in divorce, etc., stayed by reference to proceedings in another jurisdiction), in paragraph 11(1)—

- (a) at the end of the definition of “lump sum” add “or an order made in equivalent circumstances under Schedule 1 to the Children (Northern Ireland) Order 1995 and of a kind mentioned in paragraph 2(2)(c) of that Schedule”;
- (b) in the definition of “relevant order”—
 - (i) at the end of paragraph (b) add “or an order made in equivalent circumstances under Schedule 1 to the Children (Northern Ireland) Order 1995 and of a kind mentioned in paragraph 2(2)(a) or (b) of that Schedule”;
 - (ii) in paragraph (c), after “children)” insert “or an Article 8 order under the Children (Northern Ireland) Order 1995”;
 - (iii) in paragraph (d), for “custody, care or control” substitute “care”.

98. In paragraph 11(3) of that Schedule, for “the custody of a child and the education of a child” substitute “or any provision which could be made by an Article 8 order under the Children (Northern Ireland) Order 1995”.

The Rehabilitation of Offenders (Northern Ireland) Order 1978 (NI 27)

99. In Article 6(11)(b) (rehabilitation periods for particular sentences), for “care order in England and Wales” substitute “supervision order imposing a residence requirement as mentioned in section 12AA of that Act”.

100. In Article 8(2) (limitations on rehabilitation under that Order), for sub-paragraph (c) substitute the following sub-paragraphs—

- “(c) in any proceedings relating to adoption, the marriage of any minor, the exercise of the inherent jurisdiction of the High Court with respect to minors or the provision by any person of accommodation, care or schooling for minors;
- (cc) in any proceedings brought under the Children (Northern Ireland) Order 1995;”.

The Domestic Proceedings (Northern Ireland) Order 1980 (NI 5)

101. In Article 2(2) (interpretation)—

- (a) in the definition of “child”, for the words from “an illegitimate” to “both parties” substitute “a child whose father and mother were not married to each other at the time of his birth within the meaning of Article 155 of the Children (Northern Ireland) Order 1995”;
- (b) in the definition of “child of the family”, for “being boarded out with those parties by the Department” substitute “placed with those parties as foster parents by an authority within the meaning of the Children (Northern Ireland) Order 1995”.

102. For Article 10 (orders for the custody of, or access to, children) substitute the following Article—

“Restrictions on making of orders: welfare of children

10. Where an application is made by a party to a marriage for an order under Article 4, 8 or 9, then, if there is a child of the family who is under the age of 18, the court shall not dismiss or make a final order on the application until it has decided whether to exercise any of its powers under the Children (Northern Ireland) Order 1995 with respect to the child.”.

103. In Article 20(3A)(b) (interim maintenance orders, etc.), for “paragraphs (2) and” substitute “paragraph”.

104. In Article 22 (variation, revival and revocation of orders for periodical payments), for paragraph (12) substitute the following paragraph—

“(12) An application under this Article may be made—

- (a) where it is for the variation or revocation of an order under Article 4, 8, 9 or 20 for periodical payments, by either party to the marriage in question; and
- (b) where it is for the variation of an order made under Article 4(1)(c), 8 or 9 for periodical payments to or in respect of a child, also by the child himself, if he has attained the age of 16.”.

105. After Article 22A insert the following Article—

“Revival of orders for periodical payments

22B.—(1) Where an order made by the court under this Order for the making of periodical payments to or in respect of a child (other than an interim maintenance order) ceases to have effect—

- (a) on the date on which the child attains the age of 16, or
- (b) at any time after that date but before or on the date on which he attains the age of 18,

the child may apply to the court for an order for its revival.

(2) If on such an application it appears to the court that—

- (a) the child is, will be or (if an order were made under this paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment, or
- (b) there are special circumstances which justify the making of an order under this paragraph,

the court shall have power by order to revive the order from such date as the court may specify, not being earlier than the date of the making of the application.

(3) Any order revived under this Article may be varied or revoked under Article 22 in the same way as it could have been varied or revoked had it continued in being.”.

106. In Article 25(1) (supplementary provisions with respect to variation and revocation of orders)—

- (a) for “16(3), 22 or 23” substitute “22”;
- (b) for “Article 22” substitute “that Article”.

107.—(1) In Article 27 (effect on certain orders of parties living together), in paragraph (1), for “, 8 or 13(2)” substitute “or 8”.

(2) In paragraph (2) of that Article—

- (a) in sub-paragraph (a), for “, 8 or 13(2)” substitute “or 8”;
- (b) at the end of that sub-paragraph, add “or”.

108. In Article 31(5) (appeals), for “Articles 16(3), 22 and 23” substitute “Article 22”.

“(1) Article 165 of the Children (Northern Ireland) Order 1995 (provision which may be made by magistrates' courts rules, etc.) shall apply for the purpose of giving effect to this Order as it applies for the purpose of giving effect to that Order, except that in the application

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of that Article by virtue of this paragraph “relevant proceedings” means any application made, or proceedings brought, under this Order and any part of such proceedings.”.

110. In Article 39 (provisions as to payments required to be made to a child, etc.)—

- (a) in paragraph (2) for “22(10)” substitute “22B”;
- (b) in paragraph (5) for “in the care of the Department, the Department” substitute “looked after by an authority (within the meaning of the Children (Northern Ireland) Order 1995), that authority”.

The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8)

111. In Schedule 1 (proceedings for which legal aid may be given under Part II of that Order), in Part I, in paragraph 3 (proceedings in court of summary jurisdiction) for sub-paragraph (f) substitute the following sub-paragraph—

- “(f) proceedings under sections 97, 143 and 144(1) of the Children and Young Persons Act (Northern Ireland) 1968 and the Children (Northern Ireland) Order 1995;”.

The Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)

112. In Article 85 (orders for periodical payment: means of payment), in paragraph (8)—

- (a) in sub-paragraph (a), after “1980” insert “; or under, or having effect as if made under, Schedule 1 to the Children (Northern Ireland) Order 1995”;
- (b) in sub-paragraph (b), for “that Order” substitute “those Orders”.

113. In Article 88 (nature of domestic proceedings), after paragraph (de) insert the following paragraph—

- “(df) under the Children (Northern Ireland) Order 1995;”.

114. In Article 98(11) (enforcement of orders for the periodical payment of money)—

- (a) after sub-paragraph (f) insert the following sub-paragraph—
 - “(ff) orders registered in a court of summary jurisdiction under Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972;”;
- (b) after sub-paragraph (i) insert the following sub-paragraph—
 - “(j) contribution orders under Article 41(2) of the Children (Northern Ireland) Order 1995;”;
- (c) for “(a), (b) or (d)” substitute “(a), (b), (d) or (ff)”.

115. In Article 101 (attachment of earnings order), in paragraph (2) after “be” insert “made”.

The Civil Jurisdiction and Judgments Act 1982 (c. 27)

116. In section 5 (recognition and enforcement of maintenance orders), in subsection (6) for the words from “in the same manner” to “that court” substitute “as an order made by that court to which that Article applies”.

117.—(1) In section 36 (registration of maintenance orders), in subsection (5) for “a complaint” in both places where it occurs and “the complaint” substitute “an application” and “the application” respectively.

(2) After subsection (5) insert the following subsection—

“(5A) Article 165 of the Children (Northern Ireland) Order 1995 (provision which may be made by magistrates' courts rules, etc.) shall apply for the purpose of giving effect to subsection (5) above as it applies for the purpose of giving effect to that Order, except that in the application of that Article by virtue of this subsection “relevant proceedings” means any application made, or proceedings brought, by virtue of that subsection and any part of such proceedings.”.

The Fines and Penalties (Northern Ireland) Order 1984 (NI 3)

118. In Schedule 2 (provisions creating offences for which fine is not increased), in paragraph 5 for “Sections 111(4), 146(4) and 157(5)” substitute “Section 146(4)”.

The Surrogacy Arrangements Act 1985 (c. 49)

119. In section 1(2)(b) (meaning of “surrogate mother”, etc.), for “the parental rights being exercised” substitute “parental responsibility being met”.

The Child Abduction (Northern Ireland) Order 1985 (NI 17)

120. In Article 2(2) (interpretation), at the end of sub-paragraph (c) add—

“and

(d) references to a child’s parents and to a child whose parents were (or were not) married to each other at the time of his birth shall be construed in accordance with Article 155 of the Children (Northern Ireland) Order 1995 (which extends their meaning)”.

121.—(1) Article 3 (offence of abduction of child by parent, etc.) shall be amended as follows.

(2) In paragraph (1), for “(3)” substitute “(2A) to (3A)”.

(3) For paragraph (2) substitute the following paragraphs—

“(2) A person is connected with a child for the purposes of this Article if—

(a) he is a parent of the child; or

(b) in the case of a child whose parents were not married to each other at the time of his birth, there are reasonable grounds for believing that he is the father of the child; or

(c) he is a guardian of the child; or

(d) he is a person in whose favour a residence order is in force with respect to the child; or

(e) he has custody of the child.

(2A) A person does not commit an offence under this Article by taking or sending a child out of the United Kingdom without obtaining the appropriate consent if—

(a) he is a person in whose favour there is a residence order in force with respect to the child, and

(b) he takes or sends him out of the United Kingdom for a period of less than one month.

(2B) Paragraph (2A) does not apply if the person taking or sending the child out of the United Kingdom does so in breach of an order under Part III of the Children (Northern Ireland) Order 1995.”.

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(4) For the words in paragraph (3) from “but sub-paragraph (c)” to “1886” substitute the following paragraph—

“(3A) Paragraph (3)(c) does not apply if—

- (a) the person who refused to consent is a person—
 - (i) in whose favour there is a residence order in force with respect to the child; or
 - (ii) who has custody of the child; or
- (b) the person taking or sending the child out of the United Kingdom is, by so acting, in breach of an order made by a court in the United Kingdom.”.

(5) For paragraphs (5) and (6) substitute the following paragraph—

“(5) In this Article—

“the appropriate consent”, in relation to a child, means—

- (a) the consent of each of the following—
 - (i) the child’s mother;
 - (ii) the child’s father, if he has parental responsibility for him;
 - (iii) any guardian of the child;
 - (iv) any person in whose favour a residence order is in force with respect to the child;
 - (v) any person who has custody of the child; or
- (b) the leave of the court granted under any provision of Part III of the Children (Northern Ireland) Order 1995; or
- (c) if any person has custody of the child, the leave of the court which awarded custody to him;

“guardian of a child”, “residence order” and “parental responsibility” have the same meaning as in the Children (Northern Ireland) Order 1995;

and for the purposes of this Article a person shall be treated as having custody of a child if there is in force an order of a court in the United Kingdom awarding him (whether solely or jointly with another person) custody, legal custody or care and control of a child.”.

(6) In paragraph (7), for “received into or committed to the care of the Department of Health and Social Services” substitute “in the care of an authority (within the meaning of the Children (Northern Ireland) Order 1995)”.

122.—(1) Article 4 (offence of abduction of child by other persons) shall be amended as follows.

(2) In paragraph (1), for “paragraph (2), a person not falling within Article 3(2)(a) or (b)” substitute “paragraph (3), a person, other than one mentioned in paragraph (2),”.

(3) For paragraph (2) substitute the following paragraphs—

“(2) The persons are—

- (a) where the father and mother of the child in question were married to each other at the time of his birth, the child’s father and mother;
- (b) where the father and mother of the child in question were not married to each other at the time of his birth, the child’s mother; and
- (c) any other person mentioned in sub-paragraphs (c) to (e) of Article 3(2).

(3) In proceedings against any person for an offence under this Article, it shall be a defence for that person to prove—

- (a) where the father and mother of the child in question were not married to each other at the time of his birth—

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- (i) that he is the child’s father; or
- (ii) that, at the time of the alleged offence, he believed, on reasonable grounds, that he was the child’s father; or
- (b) that, at the time of the alleged offence, he believed that the child had attained the age of 16.”.

123.—(1) The Schedule (modifications of Article 3 for children in certain cases) shall be amended as follows.

(2) In the cross-heading immediately preceding paragraph 1, for the words from “received into” to “Social Services” substitute “in the care of an authority”.

(3) In paragraph 1—

- (a) in sub-paragraph (1), for the words from “received into” to “Social Services” substitute “in the care of an authority (within the meaning of the Children (Northern Ireland) Order 1995)”;
- (b) in sub-paragraph (2)(a), for “Department of Health and Social Services” substitute “authority”;
- (c) in sub-paragraph (2)(b), for “(3), (4) and (6)” substitute “(2A) to (4)”.

(4) In paragraph 2(2)(b), for “(3), (4) and (6)” substitute “(2A) to (4)”.

(5) In paragraph 3(2)—

- (a) in head (a), for the words from “parental rights and duties” to “1987” substitute “order has been varied under Article 21 of the Adoption (Northern Ireland) Order 1987 so as to give parental responsibility to another agency”;
- (b) in head (b) for “(3), (4) and (6)” substitute “(2A) to (4)”.

(6) In paragraph 4(2)(b), for “(3), (4) and (6)” substitute “(2A) to (4)”.

The Family Law Act 1986 (c. 55)

124. For section 19 (jurisdiction in cases other than divorce, etc.) substitute the following sections—

“19 Jurisdiction: general.

(1) A court in Northern Ireland shall not have jurisdiction to make a section 1(1)(c) order with respect to a child in or in connection with matrimonial proceedings in Northern Ireland unless the condition in section 19A of this Act is satisfied.

(2) A court in Northern Ireland shall not have jurisdiction to make a section 1(1)(c) order in a non-matrimonial case (that is to say, where the condition in section 19A is not satisfied) unless the condition in section 20 of this Act is satisfied.

(3) A court in Northern Ireland shall not have jurisdiction to make a section 1(1)(e) order unless—

- (a) the condition in section 20 of this Act is satisfied, or
- (b) the child concerned is present in Northern Ireland on the relevant date and the court considers that the immediate exercise of its powers is necessary for his protection.

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19A Jurisdiction in or in connection with matrimonial proceedings.

(1) The condition referred to in section 19(1) of this Act is that the matrimonial proceedings are proceedings in respect of the marriage of the parents of the child concerned and—

- (a) the proceedings—
 - (i) are proceedings for divorce or nullity of marriage, and
 - (ii) are continuing;
- (b) the proceedings—
 - (i) are proceedings for judicial separation,
 - (ii) are continuing,
 and the jurisdiction of the court is not excluded by subsection (2) below; or
- (c) the proceedings have been dismissed after the beginning of the trial but—
 - (i) the section 1(1)(c) order is being made forthwith, or
 - (ii) the application for the order was made on or before the dismissal.

For the purposes of subsection (1)(b) above, the jurisdiction of the court is excluded if, after the grant of a decree of judicial separation, on the relevant date, proceedings for divorce or nullity in respect of the marriage are continuing in England and Wales or Scotland.

(3) Subsection (2) above shall not apply if the court in which the other proceedings there referred to are continuing has made—

- (a) an order under section 2A(4) or 13(6) of this Act (not being an order made by virtue of section 13(6)(a)(i)), or
 - (b) an order under section 5(2) or 14(2) of this Act which is recorded as being made for the purpose of enabling Part I proceedings to be taken in Northern Ireland with respect to the child concerned.
- (4) Where a court—
- (a) has jurisdiction to make a section 1(1)(c) order in or in connection with matrimonial proceedings, but
 - (b) considers that it would be more appropriate for Part I matters relating to the child to be determined outside Northern Ireland,

the court may by order direct that, while the order under this subsection is in force, no section 1(1)(c) order shall be made by any court in or in connection with those proceedings.”.

125. In section 20 (habitual residence or presence of child concerned)—

- (a) in subsection (1), for “section 19” substitute “section 19(2)”;
- (b) in subsection (2), for “proceedings for divorce, nullity or judicial separation” substitute “matrimonial proceedings”.

126.—(1) Section 23 (duration and variation of Part I orders) shall be amended as follows.

(2) For subsection (3) substitute the following subsections—

“(3) A court in Northern Ireland shall not have jurisdiction to vary a Part I order if, on the relevant date, matrimonial proceedings are continuing in England and Wales or Scotland in respect of the marriage of the parents of the child concerned.

(3A) Subsection (3) above shall not apply if—

- (a) the Part I order was made in or in connection with proceedings for divorce or nullity in Northern Ireland in respect of the marriage of the parents of the child concerned; and
 - (b) those proceedings are continuing.
- (3B) Subsection (3) above shall not apply if—
- (a) the Part I order was made in or in connection with proceedings for judicial separation in Northern Ireland;
 - (b) those proceedings are continuing; and
 - (c) the decree of judicial separation has not yet been granted.”.
- (3) In subsection (5), for the words from “variation of” to “if the ward” substitute “variation of a section 1(1)(e) order if the child concerned”.
- (4) For subsections (6) and (7) substitute the following subsections—
- “(6) Subsection (7) below applies where a Part I order which is—
- (a) a residence order (within the meaning of the Children (Northern Ireland) Order 1995) in favour of a person with respect to a child,
 - (b) an order made in the exercise of the High Court’s inherent jurisdiction with respect to children by virtue of which a person has care of a child, or
 - (c) an order—
 - (i) of a kind mentioned in section 1(3)(a) of this Act,
 - (ii) under which a person is entitled to the actual possession of a child,
- ceases to have effect in relation to that person by virtue of subsection (1) above.
- (7) Where this subsection applies, any family assistance order made under Article 16 of the Children (Northern Ireland) Order 1995 with respect to the child shall also cease to have effect.
- (8) For the purposes of subsection (7) above the reference to a family assistance order under Article 16 of the Children (Northern Ireland) Order 1995 shall be deemed to include a reference to an order for the supervision of a child made under—
- (a) Article 47 of the Matrimonial Causes (Northern Ireland) Order 1978, or
 - (b) Article 11 of the Domestic Proceedings (Northern Ireland) Order 1980;
- but this subsection shall cease to have effect once all such orders for the supervision of children have ceased to have effect in accordance with Schedule 8 to the Children (Northern Ireland) Order 1995.”.

127. For section 24 (interpretation of Chapter IV) substitute the following section—

“24 Interpretation of Chapter IV.

24. In this Chapter—

- (a) “child” means a person who has not attained the age of eighteen;
- (b) “matrimonial proceedings” means proceedings for divorce, nullity of marriage or judicial separation;
- (c) “the relevant date” means, in relation to the making or variation of an order—
 - (i) where an application is made for an order to be made or varied, the date of the application (or first application, if two or more are determined together), and

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- (ii) where no such application is made, the date on which the court is considering whether to make or, as the case may be, vary the order; and
- (d) “section 1(1)(c) order” and “section 1(1)(e) order” mean orders falling within section 1(1)(c) and (e) of this Act respectively.”.

The Education and Libraries (Northern Ireland) Order 1986 (NI 3)

128. In Article 2 (interpretation)—

- (a) in paragraph (2), for the definition of “parent” substitute the following definition—
 - ““parent” shall be construed subject to paragraphs (2D) to (2F);”;
- (b) after paragraph (2C) insert the following paragraphs—
 - “(2D) In the Education Orders “parent”, in relation to a child or young person, includes any person—
 - (a) who is not a parent of his but who has parental responsibility for him, or
 - (b) who has care of him,except for the purposes of the provisions specified in paragraph (2E) where it only includes such a person if he is an individual.
 - (2E) The provisions referred to in paragraph (2D) are—
 - (a) Article 13 and Schedules 4 to 8;
 - (b) Articles 69, 70 and 126 of, and Schedule 5 to, the 1989 Order.
 - (2F) For the purposes of paragraph (2D)—
 - (a) “parental responsibility” has the same meaning as in the Children (Northern Ireland) Order 1995; and
 - (b) in determining whether an individual has care of a child or young person any absence of the child or young person at a hospital or boarding school and any other temporary absence shall be disregarded.”.

129. In Article 39(1) (complaints), after sub-paragraph (d) insert the following sub-paragraph—

- “(e) that there has been a failure, in relation to a child provided with accommodation by the school, to comply with the duty imposed by Article 176 of the Children (Northern Ireland) Order 1995 (welfare of children accommodated in schools);”.

130. In paragraph 5 of Schedule 13—

- (a) for sub-paragraph (1) (duty to institute proceedings under paragraph 4(1)) substitute the following sub-paragraph—
 - “(1) Before instituting proceedings against a parent for an offence under paragraph 4(1) a board shall consider whether it would be appropriate, instead of or as well as instituting the proceedings, to apply for an education supervision order with respect to the child.”;
- (b) in sub-paragraph (3) (power to bring child before juvenile court to secure efficient full-time education), for “bring the child before a juvenile court” substitute “apply for an education supervision order”;
- (c) after that sub-paragraph add the following sub-paragraph—
 - “(4) In this Schedule “education supervision order” means an education supervision order under the Children (Northern Ireland) Order 1995.”.

131. For paragraph 6 of Schedule 13 substitute the following paragraph—

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“6.—(1) The court before which a prosecution is brought for an offence under paragraph 4 may direct the board to apply for an education supervision order unless the board, having consulted the appropriate authority, decides that the child’s welfare will be satisfactorily safeguarded even though no education supervision order is made.

(2) Where, following such a direction, the board decides not to apply for an education supervision order, the board shall inform the court of its reasons for the decision.

(3) Unless the court directs otherwise, the board shall so inform the court within eight weeks from the date on which the direction was given.

(4) Where—

(a) a board applies for an education supervision order with respect to a child who is the subject of a school attendance order; and

(b) the court decides that Article 55(2) of the Children (Northern Ireland) Order 1995 prevents it from making the order,

the court may direct that the school attendance order shall cease to have effect.

(5) In sub-paragraph (1) “the appropriate authority” means the appropriate authority within the meaning of paragraph 9 of Schedule 4 to the Children (Northern Ireland) Order 1995.”.

The Mental Health (Northern Ireland) Order 1986 (NI 4)

132. In Article 32(2) (definition of “nearest relative”), for “his mother” substitute

“—

(a) his mother, and

(b) if his father has parental responsibility for him within the meaning of the Children (Northern Ireland) Order 1995, his father”.

133. For Article 33 (children and young persons in care of Department) substitute the following Article—

“Children and young persons in care

33. Where a patient who is a child or young person is in the care of a Board or HSS trust by virtue of a care order within the meaning of the Children (Northern Ireland) Order 1995, the Board or trust shall be deemed to be the nearest relative of the patient in preference to any person except the patient’s husband or wife (if any).”.

134. In Article 34 (nearest relative of minor under guardianship, etc.)—

(a) for paragraph (1) substitute the following paragraph—

“(1) Where—

(a) a guardian has been appointed for a person who has not attained the age of 18 years; or

(b) a residence order (as defined by Article 8 of the Children (Northern Ireland) Order 1995) is in force with respect to such a person,

the guardian (or guardians, where there is more than one) or the person named in the residence order shall, to the exclusion of any other person, be deemed to be his nearest relative.”;

(b) for paragraph (3) substitute the following paragraph—

“(3) In this Article “guardian” does not include a guardian under this Part.”.

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135. In Article 86(8) (functions of the Mental Health Commission), for “section 126 of the Children and Young Persons Act (Northern Ireland) 1968” substitute “Article 74 of the Children (Northern Ireland) Order 1995”.

136. In Article 122(1)(e) (protection of women suffering from severe mental handicap), for “the lawful care or charge of” substitute “parental responsibility for or care of”.

137. In Article 127(2) (voluntary use of services by minor who is 16 or over), for “notwithstanding any right of custody or control vested by law in his parent or guardian” substitute “even though there are one or more persons who have parental responsibility for him (within the meaning of the Children (Northern Ireland) Order 1995)”.

The Adoption (Northern Ireland) Order 1987 (NI 22)

138.—(1) Article 2(2) (interpretation) shall be amended in accordance with the following provisions of this paragraph.

(2) In the definition of “adoption agency” (which includes for the purposes of Articles 11 and 21 adoption agencies in England and Wales and Scotland), for the words “and 21” substitute “, 13, 17 to 22, 24 and 28 to 32”.

(3) For the definition of “adoption order” substitute the following definition—

““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 section 12 of the Adoption (Scotland) Act 1978 (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 section 49 of the Adoption (Scotland) Act 1978 (adoption by persons domiciled outside Northern Ireland or England and Wales or Scotland);”.

(4) For the definition of “guardian” substitute the following definition—

““guardian” has the same meaning as in the Children (Northern Ireland) Order 1995;”.

(5) For the definition of “order freeing a child for adoption” substitute the following definition—

““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 or section 18 of the Adoption (Scotland) Act 1978;”.

(6) For the definition of “the parental rights and duties” substitute the following definitions—

““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;”.

(7) For the definition of “prescribed” substitute the following definition—

““prescribed” in Articles 4, 33 and 59 means prescribed by regulations made by the Department, in Articles 54 and 54A means prescribed by regulations made by the Department of Finance and Personnel and elsewhere means prescribed by adoption rules;”.

(8) In the definition of “relative” omit “, where the child is illegitimate, the father of the child and” and for “the child were the legitimate child of his mother and father” substitute “Article 155 of the Children (Northern Ireland) Order 1995 applied to this definition”.

(9) After the definition of “statutory provision” insert the following definition—

““upbringing” has the same meaning as in the Children (Northern Ireland) Order 1995;”.

139.—(1) In Article 2(3)—

- (a) for “transferring the actual custody of a child to” substitute “placing a child with”;
- (b) in sub-paragraph (b) for “transfer of the child to the actual custody of” substitute “placing of the child with”.

(2) After paragraph (3) add the following paragraphs—

“(4) In this Order, in determining with 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 a Board or HSS trust have the same meaning as in the Children (Northern Ireland) Order 1995.”.

140.—(1) In Article 12 (adoption orders), for paragraphs (1) to (3) substitute the following paragraphs—

“(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.”.

(2) In paragraph (4) for “(3)(b)” substitute “(3)(c)”.

141. For Article 14 (adoption by married couple) substitute the following Article—

“Adoption by married 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 married couple where both the husband and the wife have attained the age of 21 years.

(3) An adoption order may be made on the application of a married couple where—

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

and

- (b) his or her spouse has attained the age of 21 years.

(4) An adoption order shall not be made on the application of a married 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.”.

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142. In Article 16 (parental agreement)—

- (a) in paragraph (2)(c), for “the parental duties in relation to” substitute “his parental responsibility for”;
- (b) in paragraph (5), for “the rights and powers of a parent of” and “the exercise of parental rights in respect of” substitute in each case “parental responsibility for”.

143.—(1) In Article 17 (freeing child for adoption with parental agreement), for paragraph (1) substitute the following paragraph—

“(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) For paragraph (3) (effect of order) substitute the following paragraph—

“(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.”.

(3) For paragraph (6) substitute the following paragraphs—

“(6) Before making an adoption order or 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.”.

144.—(1) In Article 18 (freeing child for adoption without parental agreement), after paragraph (2) insert the following paragraph—

“(2A) For the purposes of paragraph (2) a child is in the care of an adoption agency if the adoption agency is a Board or HSS trust and he is in its care.”.

(2) In paragraph (3) (application of provisions of Article 17), for “(5) and (6)” substitute “and (5) to (7)”.

145. In Article 19(3) (progress reports to former parent), for “in which the parental rights and duties were vested” substitute “to which parental responsibility was given”.

146.—(1) In Article 20 (revocation of order freeing child for adoption), in paragraph (1), for “the parental rights and duties” substitute “parental responsibility for the child”.

- (2) In paragraph (2), for “the parental rights and duties” substitute “parental responsibility”.
- (3) For paragraph (3) (effect of revocation) substitute the following paragraphs—

“(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 each other at the time of his birth, the father; and
- (c) to revive—
 - (i) any parental responsibility agreement,
 - (ii) any order under Article 7(1) 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 the 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.”.

147. For Article 21 (transfer of parental rights and duties between adoption agencies) substitute the following Article—

“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.”.

148.—(1) In Article 22 (notification to Board or HSS trust of adoption application, where child not placed by adoption agency), after paragraph (1) insert the following paragraphs—

“(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).

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(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) In paragraphs (4) and (5) for “in the care of” substitute “looked after by”.

149. In Article 25 (restrictions on making adoption orders), for paragraph (3) (definition of “British adoption order”) substitute the following paragraph—

“(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.”.

150. In Article 26(1) (interim orders) for “vesting the legal custody of the child in” substitute “giving parental responsibility for the child to”.

151.—(1) In Article 28 (restrictions on removal where adoption agreed or application made under Article 17(1) or 18(1)), in paragraphs (1) and (2) for “actual custody” substitute “home”.

(2) After paragraph (2) insert the following paragraph—

“(2A) For the purposes of paragraph (2) a child is in the care of an adoption agency if the adoption agency is a Board or HSS trust and he is in its care.”.

152.—(1) In Article 29 (restrictions on removal where applicant has provided home for five years), in paragraphs (1) and (2) for “actual custody” substitute “home”.

(2) After paragraph (2) there shall be inserted the following paragraph—

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

(3) For paragraph (3) substitute the following paragraph—

“(3) In any case where paragraph (1) or (2) applies and—

- (a) the child was being looked after by a Board or HSS 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 Board or HSS trust,

the Board or HSS 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 paragraph (5) for “in the care of an another Board or of an HSS trust or a voluntary organisation” substitute “looked after by another Board or an HSS trust or to be provided with accommodation by a voluntary organisation”.

(5) In paragraph (5A) for “in the care of another HSS trust or of a Board or voluntary organisation” substitute “looked after by another HSS trust or a Board or to be provided with accommodation by a voluntary organisation”.

153. In Article 30 (return of child taken away in breach of Article 28 or 29), for paragraphs (1) and (2) substitute the following paragraphs—

“(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

(c) section 27 or 28 of the Adoption (Scotland) Act 1978,
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
- (c) section 27 or 28 of the Adoption (Scotland) Act 1978,

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

154.—(1) In Article 31 (return of children placed for adoption by adoption agencies), in paragraph (1)—

- (a) for “delivered into the actual custody of” substitute “placed with”;
- (b) in sub-paragraph (a), for “retain the actual custody of the child” substitute “give the child a home”;
- (c) in sub-paragraph (b), for “actual custody” substitute “home”.

(2) In paragraph (3), for “in his actual custody” substitute “with him”.

155. For Article 32 (application of Article 31 where child not placed for adoption) substitute the following Article—

“Application of Article 31 where child not placed for adoption

32.—(1) Where a person serves a notice in pursuance of Article 22(1) on the Board or HSS 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 a Board or HSS 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 Board or HSS trust in whose care he is unless the Board or HSS 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 a Board or HSS trust then, until the application for an adoption order has been made and disposed of, any right of the Board or HSS 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.”.

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156.—(1) In Article 33 (meaning of “protected child”), after paragraph (1) insert the following paragraph—

“(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; or
- (b) section 32 of the Adoption (Scotland) Act 1978.”.

(2) In paragraph (2)(a), for heads (i) to (iii) substitute the following heads—

- “(i) any school in which he is receiving full-time education;
- (ii) any children’s home or voluntary home;
- (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”.

(3) After paragraph (2) insert the following paragraph—

“(2A) Paragraph (2)(a) shall be construed in accordance with Article 2(2) of the Children (Northern Ireland) Order 1995 (interpretation).”.

(4) For paragraph (3) substitute the following paragraphs—

- “(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 Board or HSS 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,

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.”.

157.—(1) In Article 36 (notices and information to be given to Boards or Health and Social Services trusts), in paragraph (1) for “who has a protected child in his actual custody” substitute “with whom a protected child has his home”.

(2) In paragraph (2) for “in whose actual custody he was” substitute “with whom he had his home”.

158.—(1) In Article 54 (disclosure of birth records of adopted children), in paragraph (1) for “paragraphs (4) to (6)” substitute “the provisions of this Article”.

(2) For paragraphs (3) to (6) substitute the following paragraphs—

“(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 Board or HSS trust in whose area he is living;

- (ii) where the adoption order relating to him was made in Northern Ireland, from the Board or HSS trust in whose area the court which made the order sat; or
 - (iii) from any other Board or HSS 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) registered under Article 4; or
 - (ii) approved under section 3 of the Adoption Act 1976; or
 - (iii) approved under section 3 of the Adoption (Scotland) Act 1978, from that society.
- (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 section 45 of the Adoption (Scotland) Act 1978,
- 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 Board or HSS 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 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.”.

159. After Article 54 insert the following Article—

“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 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 canceled 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) or marriage; and

(b) “address” includes any address at or through which the person concerned may be contacted.”.

160.—(1) In Article 57 (adoption by persons domiciled outside Northern Ireland), for paragraph (1) substitute the following paragraph—

“(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) In paragraph (2) for “14(2)” substitute “14(4)”.

161. In Article 58(1) (restriction on removal of children for adoption outside Northern Ireland)—

(a) after “Article 57” insert “, section 55 of the Adoption Act 1976 or section 49 of the Adoption (Scotland) Act 1978”;

(b) for “transferring the actual custody of a child to” substitute “placing a child with”.

162. After Article 58 insert the following Article—

“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 of 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.”.

163.—(1) In Article 59 (prohibition on certain payments), in paragraph (1), after “this Article” insert “and Article 59A”.

(2) In paragraph (2)(d) for “in the actual custody of” substitute “with”.

164. After Article 59 insert the following Article—

“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.

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- (3) The regulations may, in particular, make provision as to—
 - (a) the procedure to be followed by any 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 any 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.”.

165. In Article 64(3) (appeal from county court), for “paragraphs (2) and (4)” substitute “paragraph (2)”.

166. For Article 66 (guardians ad litem) substitute the following Articles—

“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.

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.”.

167. In paragraph 1 of Schedule 1 (membership of Appeal Tribunals)—

- (a) after “barrister-at-law” insert “or solicitor”;
- (b) for “Lord Chief Justice” substitute “Lord Chancellor”.

The Disabled Persons (Northern Ireland) Act 1989 (c. 10)

168. In section 1(3)(b) (circumstances in which regulations may provide for the appointment of authorised representatives of disabled persons), for “in the care of the Department to be made by a” substitute “looked after by a relevant authority to be made by the”.

169. In section 2(5) (places where authorised representative may visit disabled person if he is residing there), for paragraph (e) substitute the following paragraph—

- “(e) in accommodation provided by or on behalf of a relevant authority under Part IV of the Children (Northern Ireland) Order 1995 or by a voluntary organisation or other person in accordance with arrangements made by a relevant authority under Article 18 of that Order, or”.

170.—(1) In section 11(1) (interpretation)—

- (a) in the definition of “parent”, for the words from “includes” to “child” substitute “in relation to a disabled person under the age of 16, includes a person who is not a parent of his but who has parental responsibility for him (within the meaning of the Children (Northern Ireland) Order 1995)”;
- (b) in the definition of “personal social services”, after the words “1978 Act” add “or under Part IV of the Children (Northern Ireland) Order 1995”.

(2) After that subsection insert the following subsection—

“(1A) In this Act any reference to a child who is looked after by a relevant authority has the same meaning as in the Children (Northern Ireland) Order 1995.”.

The Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (NI 4)

171. For Article 32 (declarations of legitimacy or legitimation) substitute the following Article—

“Declaration of parentage, legitimacy or legitimation

32.—(1) Any person may apply to the court for a declaration—

- (a) that a person named in the application is or was his parent; or
- (b) that he is the legitimate child of his parents.

(2) Any person may apply to the court for one (or for one or, in the alternative, the other) of the following declarations, that is to say—

- (a) a declaration that he has become a legitimated person;
- (b) a declaration that he has not become a legitimated person.

(3) A court shall have jurisdiction to entertain an application under this Article if (and only if) the applicant—

- (a) is domiciled in Northern Ireland on the date of the application; or

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(b) has been habitually resident in Northern Ireland throughout the period of one year ending with that date.

(4) Where a declaration is made on an application under paragraph (1), the prescribed officer of the court shall notify the Registrar General, in such a manner and within such period as may be prescribed, of the making of that declaration.

(5) In this Article—

“legitimated person” means a person legitimated or recognised as legitimated—

(a) under section 1 or 8 of the Legitimacy Act (Northern Ireland) 1928; or

(b) by a legitimation (whether or not by virtue of the subsequent marriage of his parents) recognised by the law of Northern Ireland and effected under the law of another country;

“prescribed” means prescribed by rules of court;

“Registrar General” has the same meaning as in the Births and Deaths Registration (Northern Ireland) Order 1976;

“rules of court” has the same meaning as that given in Article 36(5).”.

172. In Article 36 (supplementary provisions as to declarations), in paragraph (2), at the end of sub-paragraph (c) add “and on persons who may be affected by any declaration applied for”.

The Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)

173. In Article 2(2) (interpretation), in the definition of “parent or guardian”, in paragraph (b) after “Board” in both places where it occurs insert “or Health and Social Services trust”.

174. In Article 38(13)(a) (duties of custody officer before charge), after “1968” insert “or Article 49(1) of the Children (Northern Ireland) Order 1995”.

The Insolvency (Northern Ireland) Order 1989 (NI 19)

175. In Article 255(8) (effect of discharge of bankrupt), for the definition of “family proceedings” substitute the following definition—

““family proceedings” has the meaning given by Article 12(5) of the Family Law (Northern Ireland) Order 1993;”.

The Horses (Protective Headgear for Young Riders) (Northern Ireland) Order 1990 (NI 16)

176. In Article 3(2)(a) (causing or permitting child under 14 to ride on road without protective headgear), for “custody, charge or care of” substitute “responsibility for”.

The Access to Personal Files and Medical Reports (Northern Ireland) Order 1991 (NI 14)

177. In the Schedule (accessible personal information), in paragraph 1, after paragraph (e) of the entry relating to a Health and Social Services Board add the following—

“(f) the Children (Northern Ireland) Order 1995”.

The Child Support (Northern Ireland) Order 1991 (NI 23)

178. In Article 2(2) (interpretation), in the definition of “parental responsibility”, for the words from “, as respects” to the end substitute “has the same meaning as in the Children (Northern Ireland) Order 1995”.

179. In Article 4(4)(c) (meaning of certain other terms), for the words from “having” to “court” substitute “in whose favour residence orders under Article 8 of the Children (Northern Ireland) Order 1995 are in force”.

180. In Article 10(11) (definition of “maintenance order”), after sub-paragraph (d) insert the following sub-paragraph—

“(dd) Schedule 1 to the Children (Northern Ireland) Order 1995; or”.

181. In Article 27(2) (disputes about parentage)—

(a) in Case C, in paragraph (a)(i) after “under” insert “Article 32 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 or”;

(b) in Case E—

(i) after “England and Wales” insert “or Northern Ireland”;

(ii) after “1968” insert “or section 8 of the Civil Evidence Act (Northern Ireland) 1971”.

182. In Article 28 (reference to court for declaration of parentage)—

(a) in paragraph (1) for “a court of summary jurisdiction” substitute “the court”;

(b) after paragraph (3) add the following paragraph—

“(4) In this Article “the court” means, subject to any provision made under Schedule 7 to the Children (Northern Ireland) Order 1995, the High Court, a county court or a court of summary jurisdiction.”.

183. In Article 42(2) (jurisdiction of courts in certain proceedings), after “means” insert “, subject to any provision made under Schedule 7 to the Children (Northern Ireland) Order 1995,”.

The Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 (NI 25)

184. In Article 6(1)(a) (enforcement action by district councils), after “4” insert “and 5”.

The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

185. In section 139 (meaning of “person responsible for child”), in subsection (3)(c) after “1972” add “or under the Children (Northern Ireland) Order 1995”.

The Social Security Administration (Northern Ireland) Act 1992 (c. 8)

186. In section 74 (recovery of social fund awards), for subsection (7) substitute the following subsection—

“(7) Any reference in subsection (6) to children of whom the man or the woman is the father or the mother shall be construed in accordance with Article 155 of the Children (Northern Ireland) Order 1995.”.

The Housing (Northern Ireland) Order 1992 (NI 15)

187. In Article 52(6) (definition of “disabled person”), at the end of sub-paragraph (b) add—

“and

(c) any person who for the purposes of Part IV of the Children (Northern Ireland) Order 1995 is a child in need by virtue of Article 17(c) of that Order (disabled children)”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The Registered Homes (Northern Ireland) Order 1992 (NI 20)

188. In Article 3(2) (exclusions from definition of “residential care home”), for sub-paragraph (d) substitute the following sub-paragraph—

“(d) any voluntary or children’s home within the meaning of the Children (Northern Ireland) Order 1995 or any home provided under Part VII of that Order;”.

189. In Article 16(2) (exclusions from definition of “nursing home”), for sub-paragraph (d) substitute the following sub-paragraph—

“(d) any voluntary or children’s home within the meaning of the Children (Northern Ireland) Order 1995 or any home provided under Part VII of that Order;”.

190. In Article 30(1) (constitution of Registered Homes Tribunals), after “27” insert “or under Part VIII or IX of the Children (Northern Ireland) Order 1995”.

The Access to Health Records (Northern Ireland) Order 1993 (NI 4)

191. In Article 2(2) (interpretation), in the definition of “parental responsibility” for “Child Support (Northern Ireland) Order 1991” substitute “Children (Northern Ireland) Order 1995”.