

SCHEDULES

SCHEDULE 1

Article 15(1).

FINANCIAL PROVISION FOR CHILDREN

Interpretation

1.—(1) In this Schedule “child” includes, in any case where an application is made under paragraph 3 or 7 in relation to a person who has reached the age of 18, that person.

(2) In this Schedule, except paragraphs 3 and 17, “parent” includes any party to a marriage (whether or not subsisting) in relation to whom the child concerned is a child of the family; and for this purpose any reference to either parent or both parents shall be construed as references to any parent of his and to all of his parents.

(3) In this Schedule “maintenance assessment” means an assessment of maintenance made under the Child Support (Northern Ireland) Order 1991(1) and includes, except in circumstances prescribed for the purposes of the definition of that expression in Article 2(2) of that Order, an interim maintenance assessment within the meaning of that Order.

Orders for financial relief against parents

2.—(1) On an application made by a parent or guardian of a child, or by any person in whose favour a residence order is in force with respect to a child, the court may—

- (a) if it is the High Court or a county court, make one or more of the orders mentioned in sub-paragraph (2);
- (b) if it is a court of summary jurisdiction, make one or both of the orders mentioned in heads (a) and (c) of that sub-paragraph.

(2) The orders referred to in sub-paragraph (1) are—

- (a) an order requiring either or both parents of a child—
 - (i) to make to the applicant for the benefit of the child; or
 - (ii) to make to the child himself,such periodical payments, for such term, as may be specified in the order;
- (b) an order requiring either or both parents of a child—
 - (i) to secure to the applicant for the benefit of the child; or
 - (ii) to secure to the child himself,such periodical payments, for such term, as may be so specified;
- (c) an order requiring either or both parents of a child—
 - (i) to pay to the applicant for the benefit of the child; or
 - (ii) to pay to the child himself,

(1) 1991 NI 23

Status: This is the original version (as it was originally made).

- such lump sum as may be so specified;
- (d) an order requiring a settlement to be made for the benefit of the child, and to the satisfaction of the court, of property—
 - (i) to which either parent is entitled (either in possession or in reversion); and
 - (ii) which is specified in the order;
 - (e) an order requiring either or both parents of a child—
 - (i) to transfer to the applicant, for the benefit of the child; or
 - (ii) to transfer to the child himself,such property to which the parent is, or the parents are, entitled (either in possession or in reversion) as may be specified in the order.
- (3) The powers conferred by this paragraph may be exercised at any time.
- (4) An order under sub-paragraph (2)(a) or (b) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.
- (5) Where a court makes an order under this paragraph—
- (a) it may at any time make a further such order under sub-paragraph (2)(a), (b) or (c) with respect to the child concerned if he has not reached the age of 18;
 - (b) it may not make more than one order under sub-paragraph (2)(d) or (e) against the same person in respect of the same child.
- (6) On making, varying or discharging a residence order the court may exercise any of its powers under this Schedule even though no application has been made to it under this Schedule.
- (7) Where a child is a ward of court, the High Court may exercise any of its powers under this Schedule even though no application has been made to it.

Orders for financial relief for persons over 18

- 3.—(1) If, on an application by a person who has reached the age of 18, it appears to the court—
- (a) that the applicant 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) that there are special circumstances which justify the making of an order under this paragraph,
- the court may make one or both of the orders mentioned in sub-paragraph (2).
- (2) The orders are—
- (a) an order requiring either or both of the applicant's parents to pay to the applicant such periodical payments, for such term, as may be specified in the order;
 - (b) an order requiring either or both of the applicant's parents to pay to the applicant such lump sum as may be so specified.
- (3) An application may not be made under this paragraph by any person if, immediately before he reached the age of 16, a periodical payments order was in force with respect to him.
- (4) No order shall be made under this paragraph at a time when the parents of the applicant are living with each other in the same household.

(5) An order under sub-paragraph (2)(a) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.

(6) In sub-paragraph (3) “periodical payments order” means an order made under—

- (a) this Schedule;
- (b) Article 25 or 29 of the Matrimonial Causes (Northern Ireland) Order 1978⁽²⁾; or
- (c) the Domestic Proceedings (Northern Ireland) Order 1980⁽³⁾;

for the making or securing of periodical payments.

(7) The powers conferred by this paragraph shall be exercisable at any time.

(8) Where the court makes an order under this paragraph it may while that order remains in force make further such orders.

Duration of orders for financial relief

4.—(1) The term to be specified in an order for periodical payments made under paragraph 2(2)(a) or (b) in favour of a child may begin with the date of the making of an application for the order in question or any later date or a date ascertained in accordance with sub-paragraph (8) or (10) but—

- (a) shall not in the first instance extend beyond the child’s seventeenth birthday unless the court thinks it right in the circumstances of the case to specify a later date; and
- (b) shall not in any event extend beyond the child’s eighteenth birthday.

(2) Head (b) of sub-paragraph (1) shall not apply in the case of a child if it appears to the court that—

- (a) the child is, or will be or (if an order were made without complying with that head) 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 without complying with that head.

(3) An order for periodical payments made under paragraph 2(2)(a) or 3(2)(a) shall, notwithstanding anything in the order, cease to have effect on the death of the person liable to make payments under the order.

(4) Where an order is made under paragraph 2(2)(a) or (b) requiring periodical payments to be made or secured to the parent of a child, the order shall cease to have effect if—

- (a) any parent making or securing the payments; and
- (b) any parent to whom the payments are made or secured,

live together for a period of more than six months.

(5) An order for periodical payments made under paragraph 2(2)(a) or (b) in favour of a child to whom head (a) of sub-paragraph (2) applies shall cease to have effect in the event of his ceasing to receive instruction or undergo training as mentioned in that head.

(6) An order for periodical payments made under paragraph 3(2)(a) in favour of an applicant to whom head (a) of paragraph 3(1) applies shall cease to have effect in the event of his ceasing to receive instruction or undergo training as mentioned in that head.

(7) Where an order for periodical payments made under paragraph 2(2)(a) or (b) or paragraph 3(2)(a) ceases to have effect by virtue of sub-paragraph (5) or (6), the person to whom the periodical

(2) 1978 NI 15

(3) 1980 NI 5

Status: This is the original version (as it was originally made).

payments are directed by the order to be made shall give notice of the event mentioned in sub-paragraph (5) or (6) to the court; and any person failing without reasonable excuse to give such a notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(8) Where—

- (a) a maintenance assessment (“the current assessment”) is in force with respect to a child; and
- (b) before the end of the period of six months beginning with the date on which the current assessment was made, an application is made for an order under paragraph 2(2)(a) or (b) for periodical payments in favour of that child,

the term to be specified in any such order made on that application may be expressed to begin on, or at any time after, the earliest permitted date.

(9) For the purposes of sub-paragraph (8) “the earliest permitted date” is whichever is the later of—

- (a) the date six months before the application for the order was made; or
- (b) the date on which the current assessment took effect or, where successive maintenance assessments have been continuously in force with respect to that child, the first of those assessments took effect.

(10) Where—

- (a) a maintenance assessment ceases to have effect or is cancelled by or under any provision of the Child Support (Northern Ireland) Order 1991(4); and
- (b) before the end of the period of six months beginning with the relevant date, an application is made for an order for periodical payments under paragraph 2(2)(a) or (b) in favour of a child with respect to whom that maintenance assessment was in force immediately before it ceased to have effect or was cancelled,

the term to be specified in any such order, or in any interim order under paragraph 11, made on that application may begin with the relevant date or any later date.

(11) In sub-paragraph (10)(b) “the relevant date” means—

- (a) where the maintenance assessment ceased to have effect, the date on which it so ceased; and
- (b) where the maintenance assessment was cancelled, the later of—
 - (i) the date on which the person who cancelled it did so; or
 - (ii) the date from which the cancellation first had effect.

Matters to which court is to have regard in making orders for financial relief

5.—(1) In deciding whether to exercise its powers under paragraph 2 or 3, and if so in what manner, the court shall have regard to all the circumstances including—

- (a) the income, earning capacity, property and other financial resources which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;
- (b) the financial needs, obligations and responsibilities which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;
- (c) the financial needs of the child;
- (d) the income, earning capacity (if any), property and other financial resources of the child;

(4) 1991 NI 23

- (e) any physical or mental disability of the child;
 - (f) the manner in which the child was being, or was expected to be, educated or trained.
- (2) In deciding whether to exercise its powers under paragraph 2 against a person who is not the mother or father of the child, and if so in what manner, the court shall in addition have regard to—
- (a) whether that person had assumed responsibility for the maintenance of the child and, if so, the extent to which and basis on which he assumed that responsibility and the length of the period during which he met that responsibility;
 - (b) whether he did so knowing that the child was not his child;
 - (c) the liability of any other person to maintain the child.
- (3) Where the court makes an order under paragraph 2 against a person on the basis that he is not the father of the child, it shall record in the order that the order is made on that basis.
- (4) The persons referred to in sub-paragraph (1) are—
- (a) in relation to a decision whether to exercise its powers under paragraph 2, any parent of the child;
 - (b) in relation to a decision whether to exercise its powers under paragraph 3, the mother and father of the child;
 - (c) the applicant for the order;
 - (d) any other person in whose favour the court proposes to make the order.

Provisions relating to lump sums

6.—(1) Without prejudice to the generality of paragraph 2, an order under that paragraph for the payment of a lump sum may be made for the purpose of enabling any liabilities or expenses—

- (a) incurred in connection with the birth of the child or in maintaining the child; and
- (b) reasonably incurred before the making of the order,

to be met.

(2) The amount of any lump sum required to be paid by an order made by a court of summary jurisdiction under paragraph 2 or 3 shall not exceed £1000 or such larger amount as the Lord Chancellor may by order fix for the purposes of this sub-paragraph.

(3) The power of the court under paragraph 2 or 3 to vary or discharge an order for the making or securing of periodical payments by a parent shall include power to make an order under that provision for the payment of a lump sum by that parent.

(4) The amount of any lump sum which a parent may be required to pay by virtue of sub-paragraph (3) shall not, in the case of an order made by a court of summary jurisdiction, exceed the maximum amount that may at the time of the making of the order be required to be paid under sub-paragraph (2), but a court of summary jurisdiction may make an order for the payment of a lump sum not exceeding that amount even though the parent was required to pay a lump sum by a previous order under this Order.

(5) An order made under paragraph 2 or 3 for the payment of a lump sum may provide for the payment of that sum by instalments.

(6) Where the court provides for the payment of a lump sum by instalments the court, on an application made either by the person liable to pay or the person entitled to receive that sum, shall have power to vary that order by varying—

- (a) the number of instalments payable;
- (b) the amount of any instalment payable;

Status: This is the original version (as it was originally made).

- (c) the date on which any instalment becomes payable.

Variation, etc., of orders for periodical payments

7.—(1) In exercising its powers under paragraph 2 or 3 to vary or discharge an order for the making or securing of periodical payments the court shall have regard to all the circumstances, including any change in any of the matters to which the court was required to have regard when making the order.

(2) The power of the court under paragraph 2 or 3 to vary an order for the making or securing of periodical payments shall include power to suspend any provision of the order temporarily and to revive any provision so suspended.

(3) Where on an application under paragraph 2 or 3 for the variation or discharge of an order for the making or securing of periodical payments the court varies the payments required to be made under that order, the court may provide that the payments as so varied shall be made from such date as the court may specify, except that, subject to sub-paragraph (11), the date shall not be earlier than the date of the making of the application.

(4) An application for the variation of an order made under paragraph 2 for the making or securing of periodical payments to or for the benefit of a child may, if the child has reached the age of 16, be made by the child himself.

(5) Where an order for the making or securing of periodical payments made under paragraph 2 ceases to have effect on the date on which the child reaches the age of 16, or at any time after that date but before or on the date on which he reaches the age of 18, the child may apply to the court which made the order for an order for its revival.

(6) 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 sub-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 sub-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.

(7) Any order which is revived by an order under sub-paragraph (6) may be varied or discharged under that sub-paragraph on the application of any person by whom or to whom payments are required to be made under the revived order.

(8) An order for the making or securing of periodical payments made under paragraph 2 may be varied or discharged, after the death of either parent, on the application of a guardian of the child concerned.

(9) An order for the making or securing of periodical payments made under paragraph 2 which is revived under sub-paragraph (6) in favour of a child to whom head (a) of that sub-paragraph applies shall cease to have effect in the event of his ceasing to receive instruction or undergo training as mentioned in that head.

(10) Where an order for the making or securing of periodical payments made under paragraph 2 ceases to have effect by virtue of sub-paragraph (9), the person to whom the periodical payments are directed by the order to be made shall give notice of the event mentioned in that sub-paragraph to the court; and any person failing without reasonable excuse to give such a notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(11) Sub-paragraph (12) applies where—

- (a) an order under paragraph 2(2)(a) or (b) for the making or securing of periodical payments in favour of more than one child (“the order”) is in force;
- (b) the order requires payments specified in it to be made to or for the benefit of more than one child without apportioning those payments between them;
- (c) a maintenance assessment (“the assessment”) is made with respect to one or more, but not all, of the children in whose favour those payments are to be made; and
- (d) an application is made, before the end of the period of six months beginning with the date on which the assessment was made, for the variation or discharge of the order.

(12) Where this sub-paragraph applies, the court may, in exercise of its powers under paragraph 2 to vary or discharge the order, direct that the variation or discharge shall take effect from the date on which the assessment took effect or any later date.

Variation of orders for periodical payments etc. made by court of summary jurisdiction

8.—(1) Subject to sub-paragraphs (7) and (8), the power of a court of summary jurisdiction—

- (a) under paragraph 2 or 3 to vary an order for the making of periodical payments, or
- (b) under paragraph 6(6) to vary an order for the payment of a lump sum by instalments,

shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under sub-paragraphs (a) to (d) of Article 85(3) of the Magistrates' Courts (Northern Ireland) Order 1981(5).

(2) In any case where—

- (a) a court of summary jurisdiction has made an order under this Schedule for the making of periodical payments or for the payment of a lump sum by instalments, and
- (b) payments under the order are required to be made by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.),

any person entitled to make an application under this Schedule for the variation of the order (in this paragraph referred to as “the applicant”) may apply to the clerk of petty sessions for the order to be varied as mentioned in sub-paragraph (3).

(3) Subject to sub-paragraph (5), where an application is made under sub-paragraph (2), the clerk, after serving written notice of the application on any interested party and allowing that party, within the period of 14 days from the date of the serving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made to the collecting officer.

(4) The clerk may proceed with an application under sub-paragraph (2) notwithstanding that any such interested party as is referred to in sub-paragraph (3) has not received written notice of the application.

(5) Where an application has been made under sub-paragraph (2), the clerk may, if he considers it inappropriate to exercise his power under sub-paragraph (3), refer the matter to the court which, subject to sub-paragraphs (7) and (8), may vary the order by exercising one of its powers under sub-paragraphs (a) to (d) of Article 85(3) of the Magistrates' Courts (Northern Ireland) Order 1981.

(6) Paragraph (5) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of court to order that account be opened) shall apply for the purposes of sub-paragraphs (1) and (5) as it applies for the purposes of that Article.

Status: This is the original version (as it was originally made).

(7) Before varying the order by exercising one of its powers under sub-paragraphs (a) to (d) of Article 85(3) of the Magistrates' Courts (Northern Ireland) Order 1981, the court shall have regard to any representations made by the parties to the application.

(8) If the court does not propose to exercise its power under sub-paragraph (c) or (d) of paragraph (3) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981, the court shall, unless upon representations expressly made in that behalf by the applicant for the order it is satisfied that it is undesirable to do so, exercise its power under sub-paragraph (b) of that paragraph.

(9) None of the powers of the court, or of the clerk of petty sessions, conferred by this paragraph shall be exercisable in relation to an order under this Schedule for the making of periodical payments, or for the payment of a lump sum by instalments, which is not a qualifying maintenance order (within the meaning of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981).

(10) In sub-paragraphs (3) and (4) “interested party”, in relation to an application made by the applicant under sub-paragraph (2), means a person who would be entitled to be a party to an application for the variation of the order made by the applicant under any other provision of this Schedule if such an application were made.

Variation of orders for secured periodical payments after death of parent

9.—(1) Where the parent liable to make payments under a secured periodical payments order has died, the persons who may apply for the variation or discharge of the order shall include the personal representatives of the deceased parent.

(2) No application for the variation of the order shall, except with the permission of the court, be made after the end of the period of six months from the date on which representation in regard to the estate of that parent is first taken out.

(3) The personal representatives of a deceased person against whom a secured periodical payments order was made shall not be liable for having distributed any part of the estate of the deceased after the end of the period of six months referred to in sub-paragraph (2) on the ground that they ought to have taken into account the possibility that the court might permit an application for variation to be made after that period by the person entitled to payments under the order.

(4) Sub-paragraph (3) shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the variation of an order in accordance with this paragraph.

(5) Where an application to vary a secured periodical payments order is made after the death of the parent liable to make payments under the order, the circumstances to which the court is required to have regard under paragraph 7(1) shall include the changed circumstances resulting from the death of the parent.

(6) In considering for the purposes of sub-paragraph (2) the question when representation was first taken out, a grant limited to part of the estate of the deceased shall be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

(7) In this paragraph “secured periodical payments order” means an order for secured periodical payments under paragraph 2(2)(b).

Financial relief under other statutory provisions

10.—(1) This paragraph applies where a residence order is made with respect to a child at a time when there is in force an order (“the financial relief order”) made under any statutory provision other than this Order and requiring a person to contribute to the child’s maintenance.

(2) Where this paragraph applies, the court may, on the application of—

(a) any person required by the financial relief order to contribute to the child’s maintenance; or

(b) any person in whose favour a residence order with respect to the child is in force, make an order revoking the financial relief order, or varying it by altering the amount of any sum payable under that order or by substituting the applicant for the person to whom any such sum is otherwise payable under that order.

Interim orders

11.—(1) Where an application is made under paragraph 2 or 3 the court may, at any time before it disposes of the application, make an interim order—

- (a) requiring either or both parents to make such periodical payments, at such times and for such term as the court thinks fit; and
- (b) giving any direction which the court thinks fit.

(2) An interim order made under this paragraph may provide for payments to be made from such date as the court may specify, except that, subject to paragraph 4(8) and (10), the date shall not be earlier than the date of the making of the application under paragraph 2 or 3.

(3) An interim order made under this paragraph shall cease to have effect when the application is disposed of or, if earlier, on the date specified for the purposes of this paragraph in the interim order.

(4) An interim order in which a date has been specified for the purposes of sub-paragraph (3) may be varied by substituting a later date.

Alteration of maintenance agreements

12.—(1) In this paragraph and in paragraph 13 “maintenance agreement” means any agreement in writing made with respect to a child (including an agreement made before the commencement of this paragraph) which—

- (a) is or was made between the father and mother of the child; and
- (b) contains provision with respect to the making or securing of payments, or the disposition or use of any property, for the maintenance or education of the child,

and any such provisions are in this paragraph and paragraph 13 referred to as “financial arrangements”.

(2) Where a maintenance agreement is for the time being subsisting and each of the parties to the agreement is for the time being either domiciled or resident in Northern Ireland, then either party may apply to the court for an order under this paragraph.

(3) If the court to which the application is made is satisfied either—

- (a) that, by reason of a change in the circumstances in the light of which any financial arrangements contained in the agreement were made (including a change foreseen by the parties when making the agreement), the agreement should be altered so as to make different financial arrangements; or
- (b) that the agreement does not contain proper financial arrangements with respect to the child,

then that court may by order make such alterations in the agreement by varying or revoking any financial arrangements contained in it as may appear to the court to be just having regard to all the circumstances.

(4) If the maintenance agreement is altered by an order under this paragraph, the agreement shall have effect thereafter as if the alteration had been made by agreement between the parties and for valuable consideration.

Status: This is the original version (as it was originally made).

(5) Where a court decides to make an order under this paragraph altering the maintenance agreement—

- (a) by inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of the child; or
- (b) by increasing the rate of periodical payments required to be made or secured by one of the parties for the maintenance of the child,

then, in deciding the term for which under the agreement as altered by the order the payments or (as the case may be) the additional payments attributable to the increase are to be made or secured for the benefit of the child, the court shall apply the provisions of sub-paragraphs (1) and (2) of paragraph 4 as if the order were an order under paragraph 2(2)(a) or (b).

(6) A court of summary jurisdiction shall not entertain an application under sub-paragraph (2) unless both the parties to the agreement are resident in Northern Ireland and at least one of the parties is resident within the county court division which includes the petty sessions district for which the court sits, and shall not have power to make any order on such an application except—

- (a) in a case where the agreement contains no provision for periodical payments by either of the parties, an order inserting provision for the making by one of the parties of periodical payments for the maintenance of the child;
- (b) in a case where the agreement includes provision for the making by one of the parties of periodical payments, an order increasing or reducing the rate of, or terminating, any of those payments.

(7) Nothing in this paragraph affects any power of a court before which any proceedings between the parties to a maintenance agreement are brought under any other statutory provision to make an order containing financial arrangements or any right of either party to apply for such an order in such proceedings.

13.—(1) Where a maintenance agreement provides for the continuation, after the death of one of the parties, of payments for the maintenance of a child and that party dies domiciled in Northern Ireland, the surviving party or the personal representatives of the deceased party may apply to the High Court or a county court for an order under paragraph 12.

(2) If a maintenance agreement is altered by a court on an application under this paragraph, the agreement shall have effect thereafter as if the alteration had been made, immediately before the death, by agreement between the parties and for valuable consideration.

(3) An application under this paragraph shall not, except with leave of the High Court or a county court, be made after the end of the period of six months from the day on which representation in regard to the estate of the deceased is first taken out.

(4) In considering for the purposes of sub-paragraph (3) the question when representation was first taken out, a grant limited to part of the estate of the deceased shall be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

(5) A county court shall not entertain an application under this paragraph, or an application for leave to make an application under this paragraph, unless it would have jurisdiction to hear and determine proceedings for an order under Article 4 of the Inheritance (Provision for Family and Dependents) (Northern Ireland) Order 1979(6) in relation to the deceased's estate by virtue of Article 24 of that Order.

(6) The provisions of this paragraph shall not render the personal representatives of the deceased liable for having distributed any part of the estate of the deceased after the expiry of the period of six months referred to in sub-paragraph (3) on the ground that they ought to have taken into account the

(6) 1979 NI 8

possibility that a court might grant leave for an application by virtue of this paragraph to be made by the surviving party after that period.

(7) Sub-paragraph (6) shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this paragraph.

Notice of change of address

14.—(1) Any person for the time being under an obligation to make payments in pursuance of any order for the payment of money made by a court of summary jurisdiction under this Schedule shall give notice of any change of address to such person (if any) as may be specified in the order.

(2) Any person failing without reasonable excuse to give such a notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Direction for settlement of instrument by conveyancing counsel

15. Where the High Court or a county court decides to make an order under this Schedule for the securing of periodical payments or for the transfer or settlement of property, it may direct that the matter be referred to a conveyancing counsel appointed by the court to settle a proper instrument to be executed by all necessary parties.

Financial provision for child resident in country outside Northern Ireland

16.—(1) Where one parent of a child lives in Northern Ireland and the child lives outside Northern Ireland with—

- (a) another parent of his;
- (b) a guardian of his; or
- (c) a person in whose favour a residence order is in force with respect to the child,

the court shall have power, on an application made by any of the persons mentioned in heads (a) to (c), to make one or both of the orders mentioned in paragraph 2(2)(a) and (b) against the parent living in Northern Ireland.

(2) Any reference in this Order to the powers of the court under paragraph 2(2) or to an order made under paragraph 2(2) shall include a reference to the powers which the court has by virtue of sub-paragraph (1) or (as the case may be) to an order made by virtue of sub-paragraph (1).

Contribution by an authority to child's maintenance

17.—(1) Where a child lives, or is to live, with a person as the result of a residence order, an authority may make contributions to that person towards the cost of the accommodation and maintenance of the child.

(2) Sub-paragraph (1) does not apply where the person with whom the child lives, or is to live, is a parent of the child or the husband or wife of a parent of the child.

SCHEDULE 2

Article 18(2).

PROVISION OF SERVICES FOR FAMILIES: SPECIFIC POWERS AND DUTIES

Identification of children in need

1. Every authority shall take reasonable steps to identify the extent to which there are children in need within the authority's area.

Provision of information

2.—(1) Every authority shall publish information—

- (a) about services provided by the authority under Articles 18, 19, 21, 35 and 36; and
- (b) where the authority considers it appropriate, about the provision by others (including, in particular, voluntary organisations) of services which the authority has power to provide under those Articles.

(2) Every authority shall take such steps as are reasonably practicable to ensure that those who might benefit from the services receive the information relevant to them.

Maintenance of register of disabled children

3.—(1) Every authority shall open and maintain a register of disabled children within the authority's area.

(2) The register may be kept by means of a computer.

Assessment of children's needs

4. Where it appears to an authority that a child within the authority's area is in need, the authority may assess his needs for the purposes of this Order at the same time as any assessment of his needs is made under—

- (a) the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978(7);
- (b) the Education and Libraries (Northern Ireland) Order 1986(8);
- (c) the Disabled Persons (Northern Ireland) Act 1989(9); or
- (d) any other statutory provision.

Prevention of neglect and abuse

5.—(1) Every authority shall take reasonable steps, through the provision of services under Part IV, to prevent children within the authority's area suffering ill-treatment or neglect.

(2) Where an authority believes that a child who is at any time within the authority's area—

- (a) is likely to suffer harm; but
- (b) lives or proposes to live in the area of another authority,

the authority shall inform that other authority.

(3) When informing that other authority the authority shall specify—

(7) 1978 c. 53
(8) 1986 NI 3
(9) 1989 c. 10

- (a) the harm that it believes the child is likely to suffer; and
- (b) (if it can) where the child lives or proposes to live.

Provision of accommodation for another person to protect child

6.—(1) Where—

- (a) it appears to an authority that a child who is living on particular premises is suffering, or is likely to suffer, ill-treatment at the hands of another person who is living on those premises; and
- (b) that other person proposes to move from the premises,

the authority may assist that other person to obtain alternative accommodation.

(2) Assistance given under this paragraph may be in cash.

(3) Paragraphs (7) to (9) of Article 18 shall apply in relation to assistance given under this paragraph as they apply in relation to assistance given under that Article.

Services for disabled children

7. Every authority shall provide services designed—

- (a) to minimise the effect on disabled children within the authority's area of their disabilities; and
- (b) to give such children the opportunity to lead lives which are as normal as possible.

Steps to reduce need for care proceedings, etc.

8. Every authority shall take reasonable steps designed—

- (a) to reduce the need to bring—
 - (i) proceedings for care or supervision orders with respect to children within the authority's area;
 - (ii) criminal proceedings against such children;
 - (iii) any family or other proceedings with respect to such children which might lead to them being placed in the authority's care; or
 - (iv) proceedings under the inherent jurisdiction of the High Court with respect to children;
- (b) to encourage children within the authority's area not to commit criminal offences; and
- (c) to avoid the need for children within the authority's area to be placed in secure accommodation.

Provision for children living with their families

9. Every authority shall make such provision as the authority considers appropriate for the following services to be available with respect to children in need within the authority's area while they are living with their families—

- (a) advice, guidance and counselling;
- (b) occupational, social, cultural or recreational activities;
- (c) home help (which may include laundry facilities);

Status: This is the original version (as it was originally made).

- (d) facilities for, or assistance with, travelling to and from home for the purpose of taking advantage of any other service provided under this Order or of any similar service;
- (e) assistance to enable the child concerned and his family to have a holiday.

Family centres

10.—(1) Every authority shall provide such family centres as the authority considers appropriate in relation to children within its area.

(2) “Family centre” means a centre at which any of the persons mentioned in sub-paragraph (3) may—

- (a) attend for occupational, social, cultural or recreational activities;
- (b) attend for advice, guidance or counselling; or
- (c) be provided with accommodation while he is receiving advice, guidance or counselling.

(3) The persons are—

- (a) a child;
- (b) his parents;
- (c) any person who is not a parent of his but who has parental responsibility for him;
- (d) any other person who is looking after him.

Maintenance of the family home

11. Every authority shall take such steps as are reasonably practicable, where any child within the authority’s area who is in need and whom the authority is not looking after is living apart from his family—

- (a) to enable him to live with his family; or
- (b) to promote contact between him and his family,

if, in the opinion of the authority, it is necessary to do so in order to safeguard or promote his welfare.

Duty to consider racial groups to which children in need belong

12. Every authority shall, in making any arrangements—

- (a) for the provision of day care within the authority’s area; or
- (b) designed to encourage persons to act as authority foster parents,

have regard to the different racial groups to which children within the authority’s area who are in need belong.

SCHEDULE 3

Article 54(2).

SUPERVISION ORDERS

Meaning of “responsible person”

1. In this Schedule, “the responsible person”, in relation to a supervised child, means—

- (a) any person who has parental responsibility for the child; and

- (b) any other person with whom the child is living.

Power of supervisor to give directions to supervised child

2.—(1) A supervision order may require the supervised child to comply with any directions given by the supervisor which require him to do all or any of the following things—

- (a) to live at any place specified in the directions for any period so specified;
- (b) to present himself to any person specified in the directions at any place and on any day so specified;
- (c) to participate in activities specified in the directions on any day so specified.

(2) It shall be for the supervisor to decide whether, and when, and to what extent, he exercises his power to give directions and to decide the form of any directions which he gives.

(3) Sub-paragraph (1) does not confer on a supervisor power to give directions in respect of any medical or psychiatric examination or treatment (which are matters dealt with in paragraphs 4 and 5).

Imposition of obligations on responsible person

3.—(1) With the consent of any responsible person, a supervision order may include a requirement—

- (a) that he take all reasonable steps to ensure that the supervised child complies with any direction given by the supervisor under paragraph 2;
- (b) that he take all reasonable steps to ensure that the supervised child complies with any requirement included in the order under paragraph 4 or 5;
- (c) that he comply with any directions given by the supervisor requiring him to attend at a place specified in the directions for the purpose of taking part in activities so specified.

(2) A direction given under sub-paragraph (1)(c) may specify the time at which the responsible person is to attend and whether or not the supervised child is required to attend with him.

(3) A supervision order may require any person who is a responsible person in relation to the supervised child to keep the supervisor informed of his address, if it differs from the child's.

Psychiatric and medical examinations

4.—(1) A supervision order may require the supervised child—

- (a) to submit to a medical or psychiatric examination; or
- (b) to submit to any such examination as directed by the supervisor.

(2) Any such examination shall be required to be conducted—

- (a) by, or under the direction of, such medical practitioner as may be specified in the order;
- (b) at a place specified in the order and at which the supervised child is to attend as a non-resident patient; or
- (c) at a hospital at which the supervised child is, or is to attend as, a resident patient.

(3) A requirement of a kind mentioned in sub-paragraph (2)(c) shall not be included unless the court is satisfied, on the evidence of a medical practitioner, that—

- (a) the child may be suffering from a physical or mental condition that requires, and may be susceptible to, treatment; and
- (b) a period as a resident patient is necessary if the examination is to be carried out properly.

Status: This is the original version (as it was originally made).

(4) No court shall include a requirement under this paragraph in a supervision order unless it is satisfied—

- (a) where the child has sufficient understanding to make an informed decision, that he consents to its inclusion; and
- (b) that satisfactory arrangements have been, or can be, made for the examination.

(5) In this paragraph and paragraph 5 “hospital” does not include special accommodation within the meaning of the Mental Health (Northern Ireland) Order 1986(10).

Psychiatric and medical treatment

5.—(1) Where a court which proposes to make or vary a supervision order is satisfied, on the evidence of a medical practitioner appointed for the purposes of Part II of the Mental Health (Northern Ireland) Order 1986, that the mental condition of the supervised child—

- (a) is such as requires, and may be susceptible to, treatment; but
- (b) is not such as to warrant his detention in pursuance of a hospital order under Part III of that Order,

the court may include in the order a requirement that the supervised child shall, for a period specified in the order, submit to such treatment as is so specified.

(2) The treatment specified in accordance with sub-paragraph (1) must be—

- (a) by, or under the direction of, such medical practitioner as may be specified in the order;
- (b) as a non-resident patient at such a place as may be so specified; or
- (c) as a resident patient in a hospital.

(3) Where a court which proposes to make or vary a supervision order is satisfied, on the evidence of a medical practitioner, that the physical condition of the supervised child is such as requires, and may be susceptible to, treatment, the court may include in the order a requirement that the supervised child shall, for a period specified in the order, submit to such treatment as is so specified.

(4) The treatment specified in accordance with sub-paragraph (3) must be—

- (a) by, or under the direction of, such medical practitioner as may be specified in the order;
- (b) as a non-resident patient at such place as may be so specified; or
- (c) as a resident patient in a hospital.

(5) No court shall include a requirement under this paragraph in a supervision order unless it is satisfied—

- (a) where the child has sufficient understanding to make an informed decision, that he consents to its inclusion; and
- (b) that satisfactory arrangements have been, or can be, made for the treatment.

(6) If a medical practitioner by whom or under whose direction a supervised child is being treated in pursuance of a requirement included in a supervision order by virtue of this paragraph is unwilling to continue to treat or direct the treatment of the supervised child or is of the opinion that—

- (a) the treatment should be continued beyond the period specified in the order;
- (b) the supervised child needs different treatment;
- (c) he is not susceptible to treatment; or
- (d) he does not require further treatment,

(10) 1986 NI 4

the practitioner shall make a report in writing to that effect to the supervisor.

(7) On receiving a report under this paragraph the supervisor shall refer it to the court, and on such a reference the court may make an order cancelling or varying the requirement.

Life of supervision order

6.—(1) Subject to sub-paragraph (2) and Article 179 (effect and duration of orders, etc.), a supervision order shall cease to have effect at the end of the period of one year beginning with the date on which it was made.

(2) A supervision order shall also cease to have effect if an event mentioned in section 25(1) (a) or (b) of the Child Abduction and Custody Act 1985(**11**) (termination of existing orders) occurs with respect to the child.

(3) Where the supervisor applies to the court to extend, or further extend, a supervision order the court may extend the order for such period as it may specify.

(4) A supervision order may not be extended so as to run beyond the end of the period of three years beginning with the date on which it was made.

Information to be given to supervisor, etc.

7.—(1) A supervision order may require the supervised child—

- (a) to keep the supervisor informed of any change in his address; and
- (b) to allow the supervisor to visit him at the place where he is living.

(2) The responsible person in relation to any child with respect to whom a supervision order is made shall—

- (a) if asked by the supervisor, inform him of the child's address (if it is known to him); and
- (b) if he is living with the child, allow the supervisor reasonable contact with the child.

Selection of supervisor

8. A supervision order shall not designate an authority as the supervisor unless—

- (a) the authority agrees; or
- (b) the supervised child lives or will live within the authority's area.

Effect of supervision order on earlier orders

9. The making of a supervision order with respect to any child brings to an end any earlier care or supervision order which—

- (a) was made with respect to that child; and
- (b) would otherwise continue in force.

Regulations

10. The Department may make regulations with respect to the exercise by an authority of its functions where a child has been placed under its supervision by a supervision order.

(11) 1985 c. 60

SCHEDULE 4

Article 55(8).

EDUCATION SUPERVISION ORDERS

Interpretation

1. In this Schedule—

“1986 Order” means the Education and Libraries (Northern Ireland) Order 1986(12);

“parent” has the meaning assigned to it by Article 2(2D) of the 1986 Order.

Effect of orders

2.—(1) Where an education supervision order is in force with respect to a child, it shall be the duty of the supervisor—

(a) to advise, assist and befriend, and give directions to—

(i) the supervised child; and

(ii) his parents,

in such a way as will, in the opinion of the supervisor, secure that he is properly educated;

(b) where any such directions given to—

(i) the supervised child; or

(ii) a parent of his,

have not been complied with, to consider what further steps to take in the exercise of the supervisor’s powers under this Order.

(2) Before giving any directions under sub-paragraph (1) the supervisor shall, so far as is reasonably practicable, ascertain the wishes and feelings of—

(a) the child; and

(b) his parents,

including, in particular, their wishes as to the place at which the child should be educated.

(3) When settling the terms of any such directions, the supervisor shall give due consideration—

(a) having regard to the child’s age and understanding, to such wishes and feelings of his as the supervisor has been able to ascertain; and

(b) to such wishes and feelings of the child’s parents as he has been able to ascertain.

(4) Directions may be given under this paragraph at any time while the education supervision order is in force.

3.—(1) Where an education supervision order is in force with respect to a child, the duties of the child’s parents under Article 45 of, and Schedule 13 to, the 1986 Order (duty to secure education of children and to secure regular attendance of registered pupils) shall be superseded by their duty to comply with any directions in force under the education supervision order.

(2) Where an education supervision order is made with respect to a child—

(a) any school attendance order—

(i) served under paragraph 1(2) of Schedule 13 to the 1986 Order with respect to the child; and

- (ii) in force immediately before the making of the education supervision order, shall cease to have effect; and
- (b) while the education supervision order remains in force, the following provisions shall not apply with respect to the child—
 - (i) Article 44 of the 1986 Order (pupils to be educated in accordance with wishes of their parents);
 - (ii) Part I of Schedule 13 to the 1986 Order (school attendance orders);
 - (iii) Articles 36 and 37 of the Education Reform (Northern Ireland) Order 1989⁽¹³⁾ (parental preference and appeals against admission decisions);
- (c) a probation order made with respect to the child, while the education supervision order is in force, may not include any requirement relating to the child's attendance at school;
- (d) any such requirement which was in force with respect to the child immediately before the making of the education supervision order shall cease to have effect.

Effect where child also subject to other orders

- 4.—(1) This paragraph applies where—
- (a) an education supervision order; and
 - (b) a supervision order, a probation order or an order under section 74(1)(c) of the Children and Young Persons Act (Northern Ireland) 1968⁽¹⁴⁾ (power of court to make supervision order on finding of guilt),

are in force at the same time with respect to the same child.

(2) Any failure to comply with a direction given by the supervisor under the education supervision order shall be disregarded if it would not have been reasonably practicable to comply with it without failing to comply with a direction given under the other order.

Duration of orders

5.—(1) An education supervision order shall have effect for a period of one year, beginning with the date on which it is made.

(2) An education supervision order shall not expire if, before it would otherwise have expired, the court has (on the application of the education and library board in whose favour the order was made) extended the period during which it is in force.

(3) Such an application may not be made earlier than three months before the date on which the order would otherwise expire.

(4) The period during which an education supervision order is in force may be extended under sub-paragraph (2) on more than one occasion.

(5) No one extension may be for a period of more than three years.

(6) An education supervision order shall cease to have effect on—

- (a) the child's ceasing to be of compulsory school age; or
- (b) the making of a care order with respect to the child;

and sub-paragraphs (1) to (4) are subject to this sub-paragraph.

⁽¹³⁾ 1989 NI 20

⁽¹⁴⁾ 1968 c. 34 (N.I.)

Status: This is the original version (as it was originally made).

Information to be given to supervisor, etc.

- 6.—(1) An education supervision order may require the child—
- (a) to keep the supervisor informed of any change in his address; and
 - (b) to allow the supervisor to visit him at the place where he is living.
- (2) A person who is the parent of a child with respect to whom an education supervision order has been made shall—
- (a) if asked by the supervisor, inform him of the child's address (if it is known to him); and
 - (b) if he is living with the child, allow the supervisor reasonable contact with the child.

Discharge of orders

- 7.—(1) The court may discharge any education supervision order on the application of—
- (a) the child concerned;
 - (b) a parent of his; or
 - (c) the education and library board concerned.
- (2) On discharging an education supervision order, the court may direct the authority within whose area the child lives, or will live, to investigate the circumstances of the child.

Offences

- 8.—(1) If a parent of a child with respect to whom an education supervision order is in force persistently fails to comply with a direction given under the order he shall be guilty of an offence.
- (2) It shall be a defence for any person charged with such an offence to prove that—
- (a) he took all reasonable steps to ensure that the direction was complied with;
 - (b) the direction was unreasonable; or
 - (c) he had complied with—
 - (i) a requirement included in a supervision order made with respect to the child; or
 - (ii) directions given under such a requirement,and that it was not reasonably practicable to comply both with the direction and with the requirement or directions mentioned in this paragraph.
- (3) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Persistent failure of child to comply with directions

- 9.—(1) Where a child with respect to whom an education supervision order is in force persistently fails to comply with any direction given under the order, the education and library board concerned shall notify the appropriate authority.
- (2) Where an authority has been notified under sub-paragraph (1) it shall investigate the circumstances of the child.
- (3) In this paragraph “the appropriate authority” means—
- (a) in the case of a child who is being provided with accommodation by or on behalf of an authority, that authority;

- (b) in any other case, the authority in whose area the child lives, or will live.

SCHEDULE 5

Article 91(4).

FOSTER PARENTS: LIMITS ON NUMBER OF FOSTER CHILDREN

Interpretation

1. For the purposes of this Schedule, a person fosters a child if—
 - (a) he is an authority foster parent in relation to the child;
 - (b) he is a foster parent with whom the child has been placed by a voluntary organisation; or
 - (c) he fosters the child privately.

The usual fostering limit

2. Subject to what follows, a person shall not foster more than three children (“the usual fostering limit”).

Siblings

3. A person may exceed the usual fostering limit if the children concerned are all siblings with respect to each other.

Exemption by an authority

- 4.—(1) A person may exceed the usual fostering limit if he is exempted from it by the authority within whose area he lives.

- (2) In considering whether to exempt a person, an authority shall have regard, in particular, to—
 - (a) the number of children whom the person proposes to foster;
 - (b) the arrangements which the person proposes for the care and accommodation of the fostered children;
 - (c) the intended and likely relationship between the person and the fostered children;
 - (d) the period of time for which he proposes to foster the children; and
 - (e) whether the welfare of the fostered children (and of any other children who are or will be living in the accommodation) will be safeguarded and promoted.
- (3) Where an authority exempts a person, the authority shall inform him by notice in writing—
 - (a) that he is so exempted;
 - (b) of the children, described by name, whom he may foster; and
 - (c) of any condition to which the exemption is subject.
- (4) An authority may at any time by notice in writing—
 - (a) vary or cancel an exemption; or
 - (b) impose, vary or cancel a condition to which the exemption is subject,

and, in considering whether to do so, the authority shall have regard in particular to the considerations mentioned in sub-paragraph (2).

Status: This is the original version (as it was originally made).

(5) The Department may make regulations amplifying or modifying the provisions of this paragraph in order to provide for cases where children need to be placed with foster parents as a matter of urgency.

Effects of exceeding fostering limit

5.—(1) A person shall cease to be treated as fostering and shall be treated as carrying on a children's home if—

- (a) he exceeds the usual fostering limit; or
- (b) where he is exempted under paragraph 4—
 - (i) he fosters any child not named in the exemption; and
 - (ii) in so doing, he exceeds the usual fostering limit.

(2) Sub-paragraph (1) shall not apply if the children concerned are all siblings in respect of each other.

Complaints, etc.

6.—(1) Every authority shall establish a procedure for considering any representations (including any complaint) made to the authority about the discharge of its functions under paragraph 4 by a person exempted or seeking to be exempted under that paragraph.

(2) In carrying out any consideration of representations under sub-paragraph (1), an authority shall comply with any regulations made by the Department for the purposes of this paragraph.

SCHEDULE 6

Article 157.

PROPERTY RIGHTS WHERE PARENTS NOT MARRIED TO EACH OTHER

Succession on intestacy

1.—(1) In Part II of the Administration of Estates Act (Northern Ireland) 1955(15) (which deals with the distribution of the estate of an intestate), references (however expressed) to any relationship between two persons shall be construed in accordance with Article 155.

(2) For the purposes of sub-paragraph (1) and that Part of that Act, a person whose father and mother were not married to each other at the time of his birth shall be presumed not to have been survived by his father, or by any person related to him only through his father, unless the contrary is shown.

(3) In section 19(1) of that Act (which relates to the construction of documents), the reference to Part II of that Act, or to the foregoing provisions of that Part, shall in relation to an instrument inter vivos made, or a will coming into operation, after the commencement of this paragraph (but not in relation to instruments inter vivos made or wills coming into operation earlier) be construed as including references to this paragraph.

(4) This paragraph does not affect any rights under the intestacy of a person dying before the commencement of this paragraph.

(15) 1955 c. 24 (N.I.)

Dispositions of property

2.—(1) In the following dispositions, namely—

- (a) dispositions inter vivos made after the commencement of this paragraph; and
- (b) dispositions by will where the will is made after the commencement of this paragraph,

references (whether express or implied) to any relationship between two persons shall be construed in accordance with Article 155.

(2) The use, without more, of the word “heir” or “heirs” or any expression which is used to create an entailed interest in real or personal property does not show a contrary intention for the purposes of Article 155 as applied by sub-paragraph (1).

(3) In relation to the dispositions mentioned in sub-paragraph (1), section 34 of the Trustee Act (Northern Ireland) 1958⁽¹⁶⁾ (which specifies the trust implied by a direction that income is to be held on protective trusts for the benefit of any person) shall have effect as if any reference (however expressed) to any relationship between two persons were construed in accordance with Article 155.

(4) Where under any disposition of real or personal property, any interest in such property is limited (whether subject to any preceding limitation or charge or not) in such a way that it would, apart from this paragraph, devolve (as nearly as the law permits) along with a dignity or title of honour, then—

- (a) whether or not the disposition contains an express reference to the dignity or title of honour; and
- (b) whether or not the property or some interest in the property may in some event become severed from it,

nothing in this paragraph shall operate to sever the property or any interest in it from the dignity or title, but the property or interest shall devolve in all respects as if this paragraph had not come into operation.

(5) This paragraph is without prejudice to Article 42 of the Adoption Order (construction of dispositions in cases of adoption).

(6) In this paragraph “disposition” means a disposition, including an oral disposition, of real or personal property whether inter vivos or by will.

(7) Notwithstanding any rule of law, a disposition made by will executed before the date on which this paragraph comes into operation shall not be treated for the purposes of this paragraph as made on or after that date by reason only that the will is confirmed by a codicil executed on or after that date.

No special protection for trustees and personal representatives

3. Article 6 of the Family Law Reform (Northern Ireland) Order 1977⁽¹⁷⁾ (which enables trustees and personal representatives to distribute property without having ascertained that no person whose parents were not married to each other at the time of his birth, or who claims through such a person, is or may be entitled to an interest in the property) shall cease to have effect.

Entitlement to grant of probate, etc.

4.—(1) For the purpose of determining the person or persons who would in accordance with rules of court be entitled to a grant of probate or administration in respect of the estate of a deceased person, the deceased shall be presumed, unless the contrary is shown, not to have been survived—

⁽¹⁶⁾ 1958 c. 23 (N.I.)

⁽¹⁷⁾ 1977 NI 17

Status: This is the original version (as it was originally made).

- (a) by any person related to him whose father and mother were not married to each other at the time of his birth; or
 - (b) by any person whose relationship with him is deduced through such a person as is mentioned in head (a).
- (2) This paragraph does not apply in relation to the estate of a person dying before the commencement of this paragraph.

SCHEDULE 7

Article 164(5).

JURISDICTION

Commencement of proceedings

1.—(1) The Lord Chancellor may by order specify proceedings under this Order which may only be commenced in—

- (a) a specified level of court;
- (b) a court which falls within a specified class of court; or
- (c) a particular court determined in accordance with, or specified in, the order.

(2) The Lord Chancellor may by order specify circumstances in which specified proceedings under this Order (which might otherwise be commenced elsewhere) may only be commenced in—

- (a) a specified level of court;
- (b) a court which falls within a specified class of court; or
- (c) a particular court determined in accordance with, or specified in, the order.

(3) Sub-paragraphs (1) and (2) shall also apply in relation to proceedings—

- (a) under Article 28 of the Child Support (Northern Ireland) Order 1991⁽¹⁸⁾ (reference to court for declaration of parentage); or
- (b) which are to be dealt with in accordance with an order made under Article 42 of that Order (jurisdiction of courts in certain proceedings under that Order).

(4) The Lord Chancellor may by order make provision by virtue of which, where specified proceedings with respect to a child under—

- (a) this Order;
- (b) Article 22 (appeals) or 28 (reference to court for declaration of parentage) of the Child Support (Northern Ireland) Order 1991; or
- (c) the High Court's inherent jurisdiction with respect to children,

have been commenced in or transferred to any court (whether or not by virtue of an order under this Schedule), any other specified family proceedings which may affect, or are otherwise connected with, the child may, in specified circumstances, only be commenced in that court.

(5) A class of court specified in an order under this Schedule may be described by reference to a description of proceedings and may include different levels of court.

⁽¹⁸⁾ 1991 NI 23

Transfer of proceedings

2.—(1) The Lord Chancellor may by order provide that in specified circumstances the whole, or any specified part of, specified proceedings to which this paragraph applies shall be transferred to—

- (a) a specified level of court;
- (b) a court which falls within a specified class of court; or
- (c) a particular court determined in accordance with, or specified in, the order.

(2) Any order under this paragraph may provide for the transfer to be made at any stage, or specified stage, of the proceedings and whether or not the proceedings, or any part of them, have already been transferred.

(3) The proceedings to which this paragraph applies are—

- (a) any proceedings under this Order;
- (b) any proceedings under Article 22 (appeals) or 28 (reference to court for declaration of parentage) of the Child Support (Northern Ireland) Order 1991;
- (c) any other proceedings which—
 - (i) are family proceedings for the purposes of this Order, other than proceedings under the inherent jurisdiction of the High Court; and
 - (ii) may affect, or are otherwise connected with, the child concerned.

(4) Proceedings to which this paragraph applies by virtue of sub-paragraph (3)(c) may only be transferred in accordance with the provisions of an order made under this paragraph for the purpose of consolidating them with proceedings under—

- (a) this Order; or
- (b) the High Court's inherent jurisdiction with respect to children.

(5) An order under this paragraph may make such provision as the Lord Chancellor thinks appropriate for excluding proceedings to which this paragraph applies from the operation of any statutory provision which would otherwise govern the transfer of those proceedings, or any part of them.

Emergency protection orders

3. In such circumstances as the Lord Chancellor may by order specify, the jurisdiction of a court of summary jurisdiction to make an emergency protection order may be exercised by a resident magistrate or a member of a juvenile court panel.

General

4.—(1) For the purposes of this Schedule—

- (a) the commencement of proceedings under this Order includes the making of any application under this Order in the course of proceedings (whether or not those proceedings are proceedings under this Order); and
- (b) there are three levels of court, that is to say the High Court, a county court and a court of summary jurisdiction.

(2) In this Schedule “specified” means specified by an order made under this Schedule.

(3) Any order under paragraph 1 may make provision as to the effect of commencing proceedings in contravention of any of the provisions of the order.

(4) The Lord Chancellor may by order specify county courts for the purposes of Article 166(4).

Status: This is the original version (as it was originally made).

(5) An order under paragraph 2 may make provision as to the effect of a failure to comply with any of the provisions of the order.

(6) An order under this Schedule may—

(a) make such consequential, incidental or transitional provision as the Lord Chancellor considers expedient, including provision amending any other statutory provision so far as it concerns the jurisdiction of any court or person exercising the powers of a court under any statutory provision;

(b) make provision for treating proceedings which are—

(i) in part proceedings of a kind mentioned in head (a) of paragraph 2(3); and

(ii) in part proceedings of a kind mentioned in head (b) of paragraph 2(3),

as consisting entirely of proceedings of one or other of those kinds, for the purposes of the application of any order made under paragraph 2.

(7) Except to the extent that the Lord Chancellor by order otherwise provides, the jurisdiction of any specified county court under this Order shall be exercisable throughout Northern Ireland (and accordingly Article 3(3)(b) of the County Courts (Northern Ireland) Order 1980⁽¹⁹⁾ (jurisdiction exercisable throughout county court division) shall not apply).

SCHEDULE 8

Article 184(1).

TRANSITIONALS AND SAVINGS

Pending proceedings, etc.

1.—(1) Subject to sub-paragraphs (2) and (5), nothing in any provision of this Order (other than the repeals mentioned in sub-paragraph (3)) shall affect any proceedings which are pending immediately before the commencement of that provision.

(2) Proceedings in the exercise of the High Court's inherent jurisdiction with respect to children which are pending in relation to a child who has been placed or allowed to remain in the care of the Department or an authority shall not be treated as pending proceedings after the expiration of one year from the commencement of this sub-paragraph if no final order has been made by then in the exercise of the High Court's inherent jurisdiction in respect of the child's care.

(3) The repeals are those of—

(a) Article 45(3) of the Matrimonial Causes (Northern Ireland) Order 1978⁽²⁰⁾ (declaration by court that party to marriage unfit to have custody of children of family);

(b) section 12 of the Criminal Law Amendment Act 1885⁽²¹⁾ (power to divest person of authority over girl in cases of seduction or prostitution);

(c) section 1(4) of the Punishment of Incest Act 1908⁽²²⁾ (power to divest person of authority over girl in cases of incest).

(4) For the purposes of the following provisions of this Schedule, any reference to an order in force immediately before the commencement of a provision of this Order shall be construed as including a reference to an order made after that commencement in proceedings pending before that commencement.

⁽¹⁹⁾ 1980 NI 3

⁽²⁰⁾ 1978 NI 15

⁽²¹⁾ 1885 c. 69

⁽²²⁾ 1908 c. 45

(5) Sub-paragraph (4) is not to be read as making the order in question have effect from a date earlier than that on which it was made.

(6) An order under Article 169(5) (orders for admissibility of hearsay) may make such provision with respect to the application of the order in relation to proceedings which are pending when the order comes into operation as the Lord Chancellor considers appropriate.

2. Where, immediately before the commencement of Part V, there was in force an order under section 94(4) of the Children and Young Persons Act (Northern Ireland) 1968(23) (order directing the Department to bring a child or young person before a juvenile court under subsection (1) of that section), the order shall cease to have effect on the commencement of that Part.

CUSTODY ORDERS, ETC.

Cessation of declarations of unfitness, etc.

3. Where, immediately before the commencement of Parts II and III, there was in force—

- (a) a declaration under Article 45(3) of the Matrimonial Causes (Northern Ireland) Order 1978(24) (declaration by court that party to marriage unfit to have custody of children of family); or
- (b) an order under section 12 of the Criminal Law Amendment Act 1885(25) or section 1(4) of the Punishment of Incest Act 1908(26) divesting a person of authority over a girl;

the declaration or, as the case may be, the order shall cease to have effect on the commencement of those Parts.

Orders to which paragraphs 5 to 10 apply

4.—(1) In paragraphs 5 to 10 “an existing order” means any order which—

- (a) is in force immediately before the commencement of Parts II and III;
- (b) was made under any statutory provision mentioned in sub-paragraph (2);
- (c) determines all or any of the following—
 - (i) who is to have custody of a child;
 - (ii) who is to have care and control of a child;
 - (iii) who is to have access to a child;
 - (iv) any matter with respect to a child’s education or upbringing; and
- (d) is not an order of a kind mentioned in paragraph 11(3).

(2) The statutory provisions are—

- (a) the Domestic Proceedings (Northern Ireland) Order 1980(27);
- (b) the Matrimonial Causes (Northern Ireland) Order 1978;
- (c) the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945(28);
- (d) the Matrimonial Causes Act (Northern Ireland) 1939(29);

(23) 1968 c. 34 (N.I.)

(24) 1978 NI 15

(25) 1885 c. 69

(26) 1908 c. 45

(27) 1980 NI 5

(28) 1945 c. 14 (N.I.)

(29) 1939 c. 13 (N.I.)

(e) the Guardianship of Infants Act 1886(30).

(3) For the purposes of this paragraph and paragraphs 5 to 10 “custody” includes legal custody, joint as well as sole custody, and parental rights and duties retained under an order under Article 10(4) of the Domestic Proceedings (Northern Ireland) Order 1980, but does not include access.

Parental responsibility of parents

5.—(1) Where—

- (a) a child’s father and mother were married to each other at the time of his birth; and
- (b) there is an existing order with respect to the child,

each parent shall have parental responsibility for the child in accordance with Article 5 as modified by sub-paragraph (3).

(2) Where—

- (a) a child’s father and mother were not married to each other at the time of his birth; and
- (b) there is an existing order with respect to the child,

Article 5 shall apply as modified by sub-paragraphs (3) and (4).

(3) The modification is that for Article 5(7) there shall be substituted—

“(7) The fact that a person has parental responsibility for a child does not entitle him to act in a way which would be incompatible with any existing order or any order made under this Order with respect to the child.”.

(4) The modifications are that—

- (a) for the purposes of Article 5(2), where the father has custody or care and control of the child by virtue of any existing order, the court shall be deemed to have made (at the commencement of that Article) an order under Article 7(1) giving him parental responsibility for the child; and
- (b) where by virtue of head (a) a court is deemed to have made an order under Article 7(1) in favour of a father who has care and control of a child by virtue of an existing order, the court shall not bring the order under Article 7(1) to an end at any time while he has care and control of the child by virtue of the order.

Persons who are not parents but who have custody or care and control

6.—(1) Where a person who is not the parent or guardian of a child has custody or care and control of him by virtue of an existing order, that person shall have parental responsibility for him so long as he continues to have that custody or care and control by virtue of the order.

(2) Where sub-paragraph (1) applies, Parts II, III and V shall have effect as modified by this paragraph.

(3) The modifications are that—

- (a) for Article 5(7) there shall be substituted—

“(7) The fact that a person has parental responsibility for a child does not entitle him to act in a way which would be incompatible with any existing order or with any order made under this Order with respect to the child.”;

- (b) at the end of Article 10(4) there shall be inserted—

(30) 1886 c. 27

- “(c) any person who has custody or care and control of a child by virtue of any existing order”; and
- (c) at the end of Article 53(1)(c) there shall be inserted—
 - “(cc) where immediately before the care order was made there was an existing order by virtue of which a person had custody or care and control of the child, that person;”.

Persons who have care and control

7.—(1) Sub-paragraphs (2) to (6) apply where a person has care and control of a child by virtue of an existing order, but they shall cease to apply when that order ceases to have effect.

- (2) Article 10 shall have effect as if for paragraph (5)(c)(i) there were substituted—
 - “(i) in any case where by virtue of an existing order any person or persons has or have care and control of the child, has the consent of that person or each of those persons;”.
- (3) Article 22 shall have effect as if for paragraph (3)(a) there were substituted—
 - “(a) who has care and control of the child by virtue of an existing order; or”.
- (4) Article 27 shall have effect as if for paragraph (4)(c) there were substituted—
 - “(c) where the child is in care and immediately before the care order was made there was an existing order by virtue of which a person had care and control of the child, that person.”.
- (5) Articles 159 and 160 shall have effect as if—
 - (a) for any reference to a residence order in favour of a parent or guardian there were substituted a reference to any existing order by virtue of which the parent or guardian has care and control of the child;
 - (b) for Article 159(3) there were substituted—
 - “(3) Paragraph (1) shall not apply if the existing order referred to in sub-paragraph (b) of that paragraph was one by virtue of which a surviving parent of the child also had care and control of him.”;
 - (c) for Article 160(7) there were substituted—
 - “(7) Paragraph (5) shall not apply if the existing order referred to in sub-paragraph (b) of that paragraph was one by virtue of which a surviving parent also had care and control of him.”.

(6) In Schedule 1, paragraphs 2(1) and 16(1) shall have effect as if for the words “in whose favour a residence order is in force with respect to the child” there were substituted the words “who has been given care and control of the child by virtue of an existing order”.

Persons who have access

- 8.—(1) Sub-paragraphs (2) to (4) apply where a person has access by virtue of an existing order.
- (2) Article 10 shall have effect as if after paragraph (5) there were inserted—
 - “(5A) Any person who has access to a child by virtue of an existing order is entitled to apply for a contact order.”.
- (3) Article 16(2) shall have effect as if after sub-paragraph (b) there were inserted—
 - “(bb) any person who has access to the child by virtue of an existing order;”.

(4) Articles 62(11), 63(13) and 65(10) shall have effect as if in each case after sub-paragraph (d) there were inserted—

“(dd) any person who has been given access to him by virtue of an existing order;”.

Enforcement of certain existing orders

9.—(1) Sub-paragraph (2) applies in relation to any existing order which, but for the repeal by this Order of Article 37 of the Domestic Proceedings (Northern Ireland) Order 1980⁽³¹⁾ (enforcement of custody orders) might have been enforced as if it were an order requiring a person to give up a child to another person.

(2) Where this sub-paragraph applies, the existing order may, after the repeal mentioned in sub-paragraph (1), be enforced under Article 14 as if—

- (a) any reference to a residence order were a reference to the existing order; and
- (b) any reference to a person in whose favour the residence order is in force were a reference to a person to whom actual custody of the child is given by an existing order which is in force.

(3) In sub-paragraph (2) “actual custody”, in relation to a child, means the actual possession of his person.

Discharge of existing orders

10.—(1) The making of a residence order or care order with respect to a child who is the subject of an existing order discharges the existing order.

(2) Where the court makes any Article 8 order (other than a residence order) with respect to a child with respect to whom any existing order is in force, the existing order shall have effect subject to the Article 8 order.

(3) The court may discharge an existing order which is in force with respect to a child—

- (a) in any family proceedings relating to the child or in which any question arises with respect to the child’s welfare; or
- (b) on the application of—
 - (i) any parent or guardian of the child;
 - (ii) the child himself; or
 - (iii) any person named in the order.

(4) A child may not apply for the discharge of an existing order except with the leave of the court.

(5) The power in sub-paragraph (3) to discharge an existing order includes the power to discharge any part of the order.

(6) In considering whether to discharge an order under the power conferred by sub-paragraph (3) the court shall, if the discharge of the order is opposed by any party to the proceedings, have regard in particular to the matters mentioned in Article 3(3).

CHILDREN IN CARE

Children in compulsory care

11.—(1) Sub-paragraph (2) applies where, immediately before the commencement of Part V—

(31) 1980 NI 5

- (a) a person is in the care of the Department or an authority by virtue of any order mentioned in sub-paragraph (3); or
 - (b) there is in force a parental rights order under section 104 of the Children and Young Persons Act (Northern Ireland) 1968⁽³²⁾ with respect to a person.
- (2) Where this sub-paragraph applies, then, on and after the commencement of Part V—
- (a) the order in question shall be deemed to be a care order;
 - (b) if the person was in the care of an authority immediately before that commencement, that authority shall be deemed to be the authority designated in that deemed care order, or if the person was in the care of the Department, the authority in whose area he is immediately before that commencement shall be deemed to be the authority designated in that deemed care order; and
 - (c) any reference to a child in the care of an authority shall include a reference to a person who is the subject of such a deemed care order,

and the provisions of this Order shall apply accordingly, subject to paragraph 12.

- (3) The orders referred to in sub-paragraph (1)(a) are—
- (a) an order committing a person to the care of a fit person under section 66, 74, 95, 96, 97, 143 or 144 of the Children and Young Persons Act (Northern Ireland) 1968;
 - (b) an order which by virtue of regulations under section 101 of the Children Act 1989⁽³³⁾ has effect as if it were an order under section 95(1)(b) of the Children and Young Persons Act (Northern Ireland) 1968 committing a person to the care of an authority;
 - (c) an order under—
 - (i) section 74 of the Social Work (Scotland) Act 1968⁽³⁴⁾;
 - (ii) section 25 of the Children and Young Persons Act 1969⁽³⁵⁾;
 - (d) an order under—
 - (i) Article 46 of the Matrimonial Causes (Northern Ireland) Order 1978⁽³⁶⁾;
 - (ii) Article 12 of the Domestic Proceedings (Northern Ireland) Order 1980⁽³⁷⁾;
 - (iii) Article 27(1)(b) of the Adoption Order;
 - (e) an order of the High Court in the exercise of its inherent jurisdiction with respect to children.

12.—(1) This sub-paragraph applies to a child who has been placed or allowed to remain in the care of the Department or an authority in the exercise of the High Court’s inherent jurisdiction and who immediately before the expiration of one year from the commencement of paragraph 1(2) is still in the care of the Department or an authority.

(2) Where in respect of a child to whom sub-paragraph (1) applies proceedings have ceased by virtue of paragraph 1(2) to be treated as pending, paragraph 11(2) shall apply on the expiration of one year from the commencement of paragraph 1(2) as if the child was in care pursuant to an order specified in paragraph 11(3)(e).

(3) Sub-paragraphs (4) and (5) only apply where a child who is the subject of a care order by virtue of paragraph 11(2) is a person falling within sub-paragraph (3)(d) or (e) of that paragraph.

⁽³²⁾ 1968 c. 34 (N.I.)

⁽³³⁾ 1989 c. 41

⁽³⁴⁾ 1968 c. 49

⁽³⁵⁾ 1969 c. 54

⁽³⁶⁾ 1978 NI 15

⁽³⁷⁾ 1980 NI 5

Status: This is the original version (as it was originally made).

(4) Subject to sub-paragraph (5), where a court, on making the order, or at any time thereafter, gave directions under—

- (a) Article 46(5)(a) of the Matrimonial Causes (Northern Ireland) Order 1978⁽³⁸⁾; or
- (b) in the exercise of the High Court’s inherent jurisdiction with respect to children,

as to the exercise by the Department or an authority of any powers, those directions shall, subject to the provisions of Article 44 and regulations made under that Article, continue to have effect (regardless of any conflicting provision in this Order other than Article 44 or in such regulations) until varied or discharged by a court under this sub-paragraph.

(5) Where directions referred to in sub-paragraph (4) are to the effect that a child be placed in accommodation provided for the purpose of restricting liberty, then the directions shall cease to have effect upon the expiry of the maximum period specified by regulations under Article 44(3)(a) in relation to children of his description, calculated from the commencement of that Article.

Cessation of wardship where child is in care

13.—(1) Where a child who is a ward of court is in the care of the Department or an authority by virtue of an order made in the exercise of the High Court’s inherent jurisdiction with respect to children, he shall, on the commencement of Part V, cease to be a ward of court.

(2) Where immediately before the commencement of Part V a child was in the care of the Department or an authority and as a result of an order made in the exercise of the High Court’s inherent jurisdiction with respect to children continued to be in the care of the Department or an authority and was made a ward of court, he shall, on the commencement of Part V, cease to be a ward of court.

(3) Sub-paragraphs (1) and (2) do not apply in proceedings which are pending.

Children placed with parent, etc., while in compulsory care

14.—(1) This paragraph applies where a child is deemed by paragraph 11 to be in the care of the Department or an authority under an order which is deemed by that paragraph to be a care order.

(2) If, immediately before the commencement of Part IV, the child was allowed to be under the control of—

- (a) a parent or guardian under section 105(3) or 145(1) of the Children and Young Persons Act (Northern Ireland) 1968;⁽³⁹⁾ or
- (b) a person who, before the child was in the care of the Department or an authority, had care and control of the child by virtue of an order falling within paragraph 4,

on and after that commencement the provision made by and under Article 27(5) shall apply as if the child had been placed with the person in question in accordance with that provision.

Children in voluntary care

15.—(1) This paragraph applies where, immediately before the commencement of Part IV, a child—

- (a) was in the care of the Department or an authority under section 103 of the Children and Young Persons Act (Northern Ireland) 1968; or

⁽³⁸⁾ 1978 NI 15

⁽³⁹⁾ 1968 c. 34 (N.I.)

(b) was deemed by virtue of subsection (7) of that section to have come within the care of the Department or an authority.

(2) Where this paragraph applies, the child shall, after the commencement of Part IV, be treated for the purposes of this Order as a child who is provided with accommodation under Part IV, but he shall cease to be so treated once he ceases to be so accommodated in accordance with the provisions of that Part.

Boarded out children

16.—(1) Where, immediately before the commencement of Part IV, a child in the care of the Department or an authority—

(a) was—

(i) boarded out with a person under section 114(1)(a) of the Children and Young Persons Act (Northern Ireland) 1968; or

(ii) allowed to be under the control of a person under section 105(3) or 145(1) of that Act; and

(b) the person with whom he was boarded out or, as the case may be, under whose control he was allowed to be was not a person falling within paragraph 14(2)(a) or (b),

after the commencement of that Part, he shall be treated (subject to sub-paragraph (2)) as having been placed with an authority foster parent and shall cease to be so treated when he ceases to be placed with that person in accordance with the provisions of this Order.

(2) Regulations made under Article 27(2)(a) shall not apply in relation to a person who is an authority foster parent by virtue of sub-paragraph (1) before the end of the period of twelve months beginning with the commencement of Part IV and accordingly that person, if the child was boarded out with him as mentioned in sub-paragraph (1)(a)(i), shall for that period be subject to terms and regulations mentioned in section 114(1)(a) of the Children and Young Persons Act (Northern Ireland) 1968 as if that section had not been repealed by this Order.

Children in care to qualify for advice and assistance

17. Any reference in Part IV to a person qualifying for advice and assistance shall be construed as including a reference to a person within the area of the authority in question who is under 21 and who was, at any time after reaching the age of 16 but while still a child a person falling within paragraph 11(1), 15(1) or 30(1).

Emigration of children in care

18. Where the Head of the Department is considering whether to give his consent under section 118 of the Children and Young Persons Act (Northern Ireland) 1968 to arrangements for the emigration of a child in the care of the Department but immediately before the repeal of that section by this Order he has not decided whether to give his consent, that section shall continue to apply (regardless of that repeal) until the Head of the Department has determined whether to give his consent.

Contributions for maintenance of children in care

19.—(1) Where, immediately before the commencement of Part IV, there was in force an order made (or having effect as if made) under any of the provisions mentioned in sub-paragraph (2), then, after the commencement of that Part—

Status: This is the original version (as it was originally made).

- (a) the order shall have effect as if made under Article 41(2) against a person liable to contribute; and
 - (b) Articles 38 to 43 shall apply to the order, subject to the modifications in sub-paragraph (3).
- (2) The provisions referred to in sub-paragraph (1) are—
- (a) Article 13(4) of the Domestic Proceedings (Northern Ireland) Order 1980;
 - (b) Article 27(2) of the Adoption Order;
 - (c) section 156 of the Children and Young Persons Act (Northern Ireland) 1968,
- (provisions empowering the court to make an order requiring a person to make periodical payments to the Department or an authority in respect of a child in care).
- (3) The modifications are that in Article 41—
- (a) in paragraph (4), sub-paragraph (a) shall be omitted;
 - (b) for paragraph (6) there shall be substituted—
 - “(6) Where—
 - (a) a contribution order is in force;
 - (b) the authority serves a contribution notice under Article 40; and
 - (c) the contributor and the authority reach an agreement under Article 40(7) in respect of the contribution notice,the effect of the agreement shall be to discharge the order from the date on which it is agreed that the agreement shall take effect.”; and
 - (c) at the end of paragraph (10) there shall be inserted—
 - “and
 - (c) where the order is against a person who is not a parent of the child, shall be made with due regard to—
 - (i) whether that person had assumed responsibility for the maintenance of the child, and, if so, the extent to which and basis on which he assumed that responsibility and the length of the period during which he met that responsibility;
 - (ii) whether he did so knowing that the child was not his child;
 - (iii) the liability of any other person to maintain the child.”.

Supervision orders

Orders under the 1968 Act

- 20.**—(1) This paragraph applies to any supervision order made under the Children and Young Persons Act (Northern Ireland) 1968—
- (a) which places a child under the supervision of the Department or an authority; and
 - (b) which is in force immediately before the commencement of Part V.
- (2) On and after the commencement of Part V, the order shall be deemed to be a supervision order made under Article 50 and—
- (a) any requirement of the order that the child reside with a named individual shall continue to have effect while the order remains in force, unless the court otherwise directs;
 - (b) any other requirement imposed by the court, or directions given by the supervisor, shall be deemed to have been imposed or given under the appropriate provisions of Schedule 3.

(3) Where, immediately before the commencement of Part V, the order had been in force for a period of more than six months, it shall cease to have effect at the end of the period of six months from the commencement of that Part unless—

- (a) the court directs that it shall cease to have effect at the end of a different period (which shall not exceed three years);
- (b) it ceases to have effect earlier in accordance with Article 179 (effect and duration of orders, etc.); or
- (c) it would have ceased to have had effect earlier had this Order not been made.

(4) Where sub-paragraph (3) applies, paragraph 6 of Schedule 3 shall not apply.

(5) Where, immediately before the commencement of Part V, the order had been in force for a period of six months or less it shall cease to have effect in accordance with Article 179 (effect and duration of orders, etc.) and paragraph 6 of Schedule 3 unless—

- (a) the court directs that it shall cease to have effect at the end of a different period (which shall not exceed three years); or
- (b) it would have ceased to have had effect earlier had this Order not been made.

21.—(1) This paragraph applies to any supervision order made under the Children and Young Persons Act (Northern Ireland) 1968—

- (a) which places a child under the supervision of an education and library board; and
- (b) which is in force immediately before the commencement of Part V.

(2) On and after the commencement of Part V, the order shall be deemed to be an education supervision order made under Article 55 and—

- (a) any requirement of the order that the child reside with a named individual shall continue to have effect while the order remains in force, unless the court otherwise directs;
- (b) any other requirement imposed by the court, or directions given by the supervisor, shall be deemed to be directions under Schedule 4.

(3) Where, immediately before the commencement of Part V, the order had been in force for a period of more than six months, it shall continue to have effect until the end of the period of six months from the commencement of that Part unless—

- (a) the court directs that it shall continue to have effect until a different date (which shall not be later than either the date on which the child ceases to be of compulsory school age or the end of the period of three years from the making of the order);
- (b) it ceases to have effect earlier in accordance with sub-paragraph (4); or
- (c) it would have ceased to have effect earlier had this Order not been made.

(4) The order shall cease to have effect on the making of a care order.

(5) Where sub-paragraph (3) applies, paragraph 5 of Schedule 4 shall not apply.

(6) Where, immediately before the commencement of Part V, the order had been in force for a period of six months or less, it shall cease to have effect in accordance with paragraph 5 of Schedule 4 unless—

- (a) the court directs that it shall continue to have effect until a different date (which shall not be later than either the date on which the child ceases to be of compulsory school age or the end of the period of three years from the making of the order);
- (b) it would have ceased to have effect earlier had this Order not been made.

Other supervision orders

22.—(1) This paragraph applies to any order for the supervision of a child which was in force immediately before the commencement of Part V and was made under—

- (a) Article 47 of the Matrimonial Causes (Northern Ireland) Order 1978⁽⁴⁰⁾;
- (b) Article 11 of the Domestic Proceedings (Northern Ireland) Order 1980⁽⁴¹⁾;
- (c) Article 27(1)(a) of the Adoption Order.

(2) The order shall not be deemed to be a supervision order made under any provision of this Order but shall nevertheless continue in force for a period of one year from the commencement of Part V unless—

- (a) the court directs that it shall cease to have effect at the end of a lesser period, or
- (b) it would have ceased to have had effect earlier had this Order not been made.

Place of safety orders

23.—(1) This paragraph applies to—

- (a) any order or warrant authorising the taking or removal of a child to a place of safety which—
 - (i) was made, or issued, under any of the provisions mentioned in sub-paragraph (2); and
 - (ii) was in force immediately before the commencement of Part V; and
- (b) any interim order made under section 101(1) of the Children and Young Persons Act (Northern Ireland) 1968⁽⁴²⁾.

(2) The provisions referred to in sub-paragraph (1)(a)(i) are—

- (a) section 8 of the Children and Young Persons Act (Northern Ireland) 1968 (children improperly kept);
- (b) section 18(1) of that Act (detention of child in place of safety);
- (c) section 32 of that Act (warrant to search for or remove child);
- (d) Article 35 of the Adoption Order (removal of protected child from unsuitable surroundings).

(3) The order or warrant shall continue to have effect as if this Order were not in operation.

(4) Any statutory provision repealed by this Order shall continue to have effect in relation to the order or warrant so far as is necessary for the purposes of securing that the effect of the order is what it would have been if this Order were not in operation.

(5) Sub-paragraph (4) does not apply to the power to make an interim order or further interim order given by section 101 of the Children and Young Persons Act (Northern Ireland) 1968.

(6) Where, immediately before section 32 or 99 of the Children and Young Persons Act (Northern Ireland) 1968 is wholly or partly repealed by this Order, a child is being detained under the powers granted by that section, he may continue to be detained in accordance with that section.

⁽⁴⁰⁾ 1978 NI 15

⁽⁴¹⁾ 1980 NI 5

⁽⁴²⁾ 1968 c. 34 (N.I.)

Voluntary homes

24.—(1) This paragraph applies to a voluntary home which is registered in the register kept for the purposes of section 127 of the Children and Young Persons Act (Northern Ireland) 1968 by the Department.

(2) Where a voluntary home to which this paragraph applies is being carried on immediately before the commencement of Part VIII, that home shall be deemed to have been registered under that Part by the authority in whose area the home is situated on the last anniversary of the original registration to fall before the commencement of that Part.

Foster children

25.—(1) This paragraph applies where—

- (a) immediately before the commencement of Part IX, a person is providing a child to whom section 1 of the Children and Young Persons Act (Northern Ireland) 1968 applies with care and maintenance; and
- (b) the circumstances of the case are such that, had Parts IX and X then been in operation, he would have been treated for the purposes of this Order as a child who was being provided with accommodation in a children's home and not as a child who was being privately fostered.

(2) If the child continues to be cared for and maintained as before, Article 95(1) and (3) shall not apply in relation to him if—

- (a) an application for registration of the home in question is made under Article 96 before the end of the period of three months beginning with the day on which Part IX comes into operation; and
- (b) the application has not been refused or, if it has been refused—
 - (i) the period for an appeal against the decision has not expired; or
 - (ii) an appeal against the refusal has been made but has not been determined or abandoned.

(3) While Article 95(1) and (3) do not apply, the child shall be treated as a privately fostered child for the purposes of Part X.

Child minders

26.—(1) Sub-paragraph (2) applies where, immediately before the commencement of Part XI, any premises are registered under section 11 of the Children and Young Persons Act (Northern Ireland) 1968 (registration of premises of child minders).

(2) During the transitional period, the provisions of that Act shall continue to have effect with respect to those premises to the exclusion of Part XI.

(3) Nothing in sub-paragraph (2) shall prevent an authority from registering any person under Part XI with respect to the premises.

(4) In this paragraph “the transitional period” means the period ending with—

- (a) the first anniversary of the commencement of Part XI; or
- (b) if earlier, the date on which an authority registers any person under Part XI with respect to the premises.

Status: This is the original version (as it was originally made).

Guardians

Existing guardians to be guardians under this Order

- 27.**—(1) Any appointment of a person as guardian for a child which—
- (a) was made—
 - (i) under section 3 or 6 of the Guardianship of Infants Act 1886⁽⁴³⁾;
 - (ii) under section 12 of the Criminal Law Amendment Act 1885⁽⁴⁴⁾;
 - (iii) section 6 of the Tenures Abolition Act (Ireland) 1662⁽⁴⁵⁾; or
 - (iv) under the High Court’s inherent jurisdiction with respect to children; and
 - (b) has taken effect before the commencement of Part XV,

shall (subject to sub-paragraph (2)) be deemed, after the commencement of that Part, to be an appointment made and having effect under Article 159 or 160 as the case may be.

(2) Where an appointment of a person as guardian of a child has effect under that Part by virtue of sub-paragraph (1)(a)(ii), the appointment shall not have effect for a period which is longer than any period directed by the court.

Appointment of guardian not yet in effect

- 28.** Any appointment of a person to be a guardian of a child—
- (a) which was made as mentioned in paragraph 27(1)(a)(i) or (iii); but
 - (b) which, immediately before the commencement of Part XV, had not taken effect,
- shall take effect in accordance with that Part (as modified, where it applies, by paragraph 7(5)).

Children accommodated in certain establishments

29. In calculating, for the purposes of Article 174(1)(a) or (2)(a) or Article 175(1)(a) or 177(1)(a) the period of time for which a child has been accommodated any part of that period which fell before commencement of that Article shall be disregarded.

Training school orders

30.—(1) This paragraph applies where, immediately before the commencement of Part V, a person was under the care of the managers of a training school by virtue of a training school order under section 95, 108(a) or 143(6)(b) of the Children and Young Persons Act (Northern Ireland) 1968.

(2) If, on the commencement of Part V, the person has reached the age of 18, the training school order shall cease to have effect.

(3) If, on the commencement of Part V, the person has not reached the age of 18, then, on and after the commencement of that Part—

- (a) the training school order shall be deemed to be a care order;
- (b) the authority in whose area the person is ordinarily resident shall be deemed to be the authority designated in that deemed care order; and

⁽⁴³⁾ 1886 c. 27

⁽⁴⁴⁾ 1885 c. 69

⁽⁴⁵⁾ 1662 c. 19

(c) any reference to a child in the care of an authority shall include a reference to a person who is the subject of such a deemed care order,

and the provisions of this Order shall apply accordingly, subject to sub-paragraphs (4) and (5).

(4) The deemed care order shall not continue to have effect beyond the date on which the training school order would have ceased to have effect by virtue of section 87(1) of the Children and Young Persons Act (Northern Ireland) 1968.

(5) Before the expiration of the period of six months beginning with the commencement of Part V, the authority referred to in sub-paragraph (3)(b) shall review the case of any person in relation to whom it is the authority designated in the deemed care order in accordance with Article 45 (reviews where child is looked after by an authority).

Miscellaneous

Marriage consents

31.—(1) In the circumstances mentioned in sub-paragraph (2), section 1 of, and the Schedule to, the Marriages Act (Northern Ireland) 1954⁽⁴⁶⁾ (consent to marriage of minors) shall continue to have effect regardless of the amendments and repeals of provisions of that Act contained in Schedules 9 and 10.

(2) The circumstances are that—

- (a) immediately before the commencement of paragraph 10 of Schedule 9 there is in force—
 - (i) an existing order, as defined in paragraph 4(1); or
 - (ii) an order of a kind mentioned in paragraph 11(1)(b) or (3); and
- (b) section 1 of, and the Schedule to, the Marriages Act (Northern Ireland) 1954 would, but for this Order, have applied to the marriage of the child who is the subject of the order.

Affiliation orders, etc.

32.—(1) This paragraph applies to the following orders—

- (a) any affiliation order in force immediately before the commencement of Article 158;
- (b) any order which is enforceable in like manner as an affiliation order and is in force immediately before the commencement of Article 158;
- (c) any order made in relation to an order described in head (a) or (b).

(2) The repeal by this Order of any statutory provision relating to affiliation orders shall not affect any order to which this paragraph applies.

(3) Where—

- (a) an application is made to the High Court or a county court for an order under paragraph 2 of Schedule 1 in respect of a child whose parents were not married to each other at the time of his birth; and
- (b) an affiliation order providing for periodical payments is in force in respect of the child by virtue of this Schedule,

the court may direct that the affiliation order shall cease to have effect on such date as may be specified in the direction.

⁽⁴⁶⁾ 1954 c. 21 (N.I.)

Status: This is the original version (as it was originally made).

Property rights where parents not married to each other

33.—(1) In this paragraph “the 1977 Order” means the Family Law Reform (Northern Ireland) Order 1977(47).

(2) The repeal by this Order of Article 3 of the 1977 Order (rights on intestacy) shall not affect any rights arising under the intestacy of a person who dies before the repeal comes into operation.

(3) The repeal by this Order of Article 4 of the 1977 Order (presumption in dispositions of property) shall not affect, or affect the operation of section 3 of the Legitimacy Act (Northern Ireland) 1928(48) or section 34 of the Trustee Act (Northern Ireland) 1958(49) in relation to—

- (a) any disposition inter vivos made before the date on which the repeal comes into operation; or
- (b) any disposition by will executed before that date.

(4) The repeal by this Order of Article 6 of the 1977 Order shall not affect the liability of trustees or personal representatives in respect of any conveyance or distribution made before the repeal comes into operation.

Attendance of child before court

34. Section 170 of the Children and Young Persons Act (Northern Ireland) 1968 (power to enforce attendance of child before court) shall apply in relation to any provision of that Act repealed by this Order as if this Order had not been made.

Employment of children

35.—(1) This paragraph (which in effect re-enacts a saving relating to section 37(2)(a) of the Children and Young Persons Act (Northern Ireland) 1968 in Part I of Schedule 2 to the Manual Handling Operations Regulations (Northern Ireland) 1992)(50) applies only in relation to such employment as is permitted under section 1(2) of the Employment of Women, Young Persons and Children Act 1920(51).

(2) Article 135 (general restrictions on the employment of children) shall have effect as if for paragraphs (2) and (3) there were substituted the following paragraphs—

“(2) No child shall be employed—

- (a) to lift, carry or move anything so heavy as to be likely to cause injury to the child; or
- (b) in any occupation likely to be injurious to his life, limb, health or education, regard being had to his physical condition.

(3) If any education and library board serves on the employer of any child a copy of a certificate signed by a medical practitioner—

- (a) that the lifting, carrying or moving of any specified weight is likely to cause injury to the child; or
- (b) that any specified occupation is likely to be injurious to the life, limb, health or education of the child,

(47) 1977 NI 17
(48) 1928 c. 5 (N.I.)
(49) 1958 c. 23 (N.I.)
(50) S.R. 1992 No. 535
(51) 1920 c. 65

the certificate shall be admissible as evidence in any subsequent proceedings against the employer in respect of the employment of the child.”.

Saving for certain amendments of 1968 Act

36. Notwithstanding the repeal by this Order of Part I of Schedule 16 to the Health and Personal Social Services (Northern Ireland) Order 1972(52), the Children and Young Persons Act (Northern Ireland) 1968 shall continue to have effect subject to the amendments made by paragraphs 2, 4, 7 and 13 of that Schedule.

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—

Status: This is the original version (as it was originally made).

- “(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—
- “(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.”.

Status: This is the original version (as it was originally made).

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;

(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) A 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”.

Status: This is the original version (as it was originally made).

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—

“(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—

Status: This is the original version (as it was originally made).

“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 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”.

Status: This is the original version (as it was originally made).

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

- (a) in subsection (1)—
 - (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;”;

Status: This is the original version (as it was originally made).

- (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;”;
- (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—

“(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.

Status: This is the original version (as it was originally made).

(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—

- (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
- (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”.

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—

Status: This is the original version (as it was originally made).

“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

- (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.”.

Status: This is the original version (as it was originally made).

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”;

- (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.”.

Status: This is the original version (as it was originally made).

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

Status: This is the original version (as it was originally made).

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.”.

Status: This is the original version (as it was originally made).

(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—

- (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.

Status: This is the original version (as it was originally made).

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

Status: This is the original version (as it was originally made).

- (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—

“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.”.

Status: This is the original version (as it was originally made).

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.”.

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).

(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.”.

Status: This is the original version (as it was originally made).

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).

Status: This is the original version (as it was originally made).

(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.

Status: This is the original version (as it was originally made).

- (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

Status: This is the original version (as it was originally made).

(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).

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”.

SCHEDULE 10

Article 185(2).

REPEALS

Chapter or Number	Short Title	Extent of Repeal
1662 c. 19 (Ir.).	The Tenures Abolition Act (Ireland) 1662.	Sections 6, 7, 15 and 16.
1873 c. 12.	The Custody of Infants Act 1873.	The whole Act.
1885 c. 69.	The Criminal Law Amendment Act 1885.	In section 10, in the proviso the words “, or guardian”. Section 12.
1886 c. 27.	The Guardianship of Infants Act 1886.	The whole Act.
1891 c. 3.	The Custody of Children Act 1891.	The whole Act.
1908 c. 45.	The Punishment of Incest Act 1908.	Section 1(4).
1920 c. 33.	The Maintenance Orders (Facilities for Enforcement) Act 1920.	Section 4A(5)(a) and (b). Section 11(d).
1924 c. 27 (N.I.).	The Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924.	The whole Act.
1950 c. 5 (N.I.).	The Children and Young Persons Act (Northern Ireland) 1950.	In section 13(3) the words from “and in section twelve” to “circumstances”.

Chapter or Number	Short Title	Extent of Repeal
		In Schedule 6, the entry relating to the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924.
1951 c. 25 (N.I.).	The Age of Marriage Act (Northern Ireland) 1951.	Section 2.
1954 c. 21 (N.I.).	The Marriages Act (Northern Ireland) 1954.	In section 6(1), the definition of “minor”.
		The Schedule.
1955 c. 18.	The Army Act 1955.	In section 150(5), the words from “references to a sum” to the end.
		Section 215(6).
1955 c. 19.	The Air Force Act 1955.	In section 150(5), the words from “references to a sum” to the end.
		Section 213(6).
1957 c. 53.	The Naval Discipline Act 1957.	In section 101(5), the words from “and includes” to the end.
		Section 124(5).
1966 c. 35 (N.I.).	The Maintenance and Affiliation Orders Act (Northern Ireland) 1966.	Sections 1, 3 to 5, 20, 21, 23 and the Schedule.
1968 c. 34 (N.I.).	The Children and Young Persons Act (Northern Ireland) 1968.	Part I. Sections 27 and 28. Section 32. Part III. In section 50(2) the words from “so however that” to the end. In section 51— (a) in subsection (1) paragraph (b) and the immediately preceding “or”, in paragraph (i) the words “or (b)” and paragraph (ii) and the immediately preceding “and”;

Status: This is the original version (as it was originally made).

Chapter or Number	Short Title	Extent of Repeal
		(b) in subsection (2) the words “or (b)”.
		Section 52(8)(a).
		In section 66(3) the word “108”.
		Section 85(4).
		Section 92.
		Sections 93 to 95.
		Section 96(2) and (3).
		In section 97(2) the words from “, and upon such revocation” to the end.
		Section 98.
		In section 99 the words from “any child or young person in respect of whom” to “committed, or”, the words “94, 96 or” and the words “, and any child or young person who has taken refuge in a place of safety,”.
		In section 100—
		(a) in subsection (1) paragraphs (a) and (b), paragraph (d) and the immediately preceding “or”, the words “removed or” in both places where they occur and the words from “or received” to the end;
		(b) subsections (3) and (4);
		(c) in subsection (5) the words “or justice of the peace is under the age of five or” and the words “or justice” in the second and third places where they occur.
		In section 101—

Chapter or Number	Short Title	Extent of Repeal
		<p>(a) in subsection (1) the words “or a justice of the peace”, the words “or (3)”, the words “or justice of the peace”, the words “or justice” in the second place where they occur, the words “95 or”, and the words “, or the justice.”;</p> <p>(b) in subsection (3) the words from “or any other justice” to “absence of the child”;</p> <p>(c) in subsection (4) the words “or has taken refuge in a place of safety” and the words “or (3)”.</p>
		<p>In section 102(1) the words “or justice of the peace” and the words “or justice” in the second and third places where they occur.</p>
		<p>Parts VI to VIII.</p>
		<p>Section 132(6).</p>
		<p>Section 133(4).</p>
		<p>Section 149(3).</p>
		<p>In section 151(1) the words “, or of the Adoption (Northern Ireland) Order 1987.”.</p>
		<p>Section 152.</p>
		<p>Sections 154 to 160.</p>
		<p>Section 162.</p>
		<p>Sections 164 and 165.</p>
		<p>Section 169.</p>
		<p>In section 170(2) the words “105(8) or (9)”.</p>
		<p>Section 172(1).</p>

Status: This is the original version (as it was originally made).

Chapter or Number	Short Title	Extent of Repeal
		In section 173, in subsection (1) paragraphs (b) and (c), and subsections (2), (5) and (6).
		Section 175.
		In section 177(1) paragraphs (e) to (g).
		In section 180(1) the definitions of “broadcast” and “in need of care, protection and control”, in the definition of “place of safety” the words from “any home” to “Part VII”, and the definition of “special reception centre”.
		In Schedule 3 paragraph 2A.
		In Schedule 6 paragraphs 3, 4 and 6.
		In Schedule 7 paragraphs 4, 10, 38, 40 and 41.
1969 c. 22 (N.I.).	The Adoption (Hague Convention) Act (Northern Ireland) 1969.	In section 12, in the definition of “specified order” the words “Great Britain or”.
1969 c. 28 (N.I.).	The Age of Majority Act (Northern Ireland) 1969.	In Part I of Schedule 1 the entries relating to the Tenures Abolition Act (Ireland) 1662, the Criminal Law Amendment Act 1885, the Punishment of Incest Act 1908, the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924 and the Marriages Act (Northern Ireland) 1954.
1972 c. 18.	The Maintenance Orders (Reciprocal Enforcement) Act 1972.	Section 3(3). Section 7(8). Section 17(5) and (7A). Section 30(3), (4) and (5). Section 38A(3)(b).

Chapter or Number	Short Title	Extent of Repeal
1972 c. 49.	The Affiliation Proceedings (Amendment) Act 1972.	Section 2(2). In section 4(2) the words from “, except” to “1972,”.
1972 NI 14.	The Health and Personal Social Services (Northern Ireland) Order 1972.	Article 17(1)(c) and (cc). Articles 72 and 73. In Article 87(1) the words from “other than” to “paragraph (2)”. Article 102. In Schedule 16, Part I. In Schedule 17, paragraph 9.
1977 NI 17.	The Family Law Reform (Northern Ireland) Order 1977.	Articles 3 and 4. Article 6. Article 15.
1978 c. 23.	The Judicature (Northern Ireland) Act 1978.	Section 27. In Part II of Schedule 5, in the entries relating to the Children and Young Persons Act (Northern Ireland) 1968, in the entry relating to sections 67(b) and 101(3) the words “and 101(3)” and the entry relating to section 156(7).
1978 NI 15.	The Matrimonial Causes (Northern Ireland) Order 1978.	In Article 2(2), the definition of “custody”. Article 43(1)(ii), (2) and (3). Articles 45 to 47. In Schedule 1, in paragraph 11, in sub-paragraph (1), the definitions of “custody” and “education” and in sub-paragraph (3) the word “four”.
1980 c. 25.	The Insurance Companies Act 1980.	In Schedule 3 paragraph 4.
1980 NI 5.	The Domestic Proceedings (Northern Ireland) Order 1980.	In Article 2—

Status: This is the original version (as it was originally made).

Chapter or Number	Short Title	Extent of Repeal
		<p>(a) in paragraph (2), the definition of “actual custody”;</p> <p>(b) paragraph (3).</p>
		Articles 11 to 17.
		In Article 20—
		<p>(a) in paragraph (1), the words “the following powers, that is to say” and sub-paragraph (ii);</p> <p>(b) paragraphs (2) and (4);</p> <p>(c) in paragraph (7), the words “and one interim custody order”;</p> <p>(d) in paragraph (8), the words “or 23”.</p>
		In Article 22—
		<p>(a) paragraph (4);</p> <p>(b) in paragraph (9), the words “, subject to the provisions of Article 13(8),”;</p> <p>(c) paragraphs (10) and (13).</p>
		Article 23.
		Articles 25(1) and 26.
		In Article 27—
		<p>(a) in paragraph (1), sub-paragraph (b) and the immediately preceding “or”;</p> <p>(b) in paragraph (2), sub-paragraphs (c) and (d).</p>
		In Article 31(1), the words “or interim custody order”.
		Articles 32(2) and (3).
		Article 33(2).
		Articles 37 and 38.
		In Article 39(5), the words “Notwithstanding Article 2(3),”.

Chapter or Number	Short Title	Extent of Repeal
		In Schedule 2— (a) paragraph 1; (b) in paragraph 2, sub-paragraphs (c) and (d); (c) paragraphs 4 and 6.
		In Schedule 3, paragraphs 9, 11 and 15.
1981 NI 8.	The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.	In Part I of Schedule 1, in paragraph 3, sub-paragraph (a) and in sub-paragraph (d) the words “(a) or”.
1981 NI 26.	The Magistrates' Courts (Northern Ireland) Order 1981.	Article 85(8)(a)(i). In Article 100(2), the definition of “prescribed person”. Article 101(3)(b)(ii). In Article 108(6) the words “, the prescribed person”.
		In Schedule 6 paragraphs 76, 88 to 91, 94, 95, 103, 104, 106, 107, 110 to 112, 152 and 162.
1982 c. 50.	The Insurance Companies Act 1982.	In Schedule 5 paragraph 7.
1984 c. 42.	The Matrimonial and Family Proceedings Act 1984.	Section 45. In section 48(2), the words from “and section 45” to the end.
1984 c. 46.	The Cable and Broadcasting Act 1984.	In Schedule 5 paragraph 24.
1984 NI 3.	The Fines and Penalties (Northern Ireland) Order 1984.	In Schedule 2, paragraph 13.
1985 NI 17.	The Child Abduction (Northern Ireland) Order 1985.	In Article 2(2), the word “and” immediately preceding sub-paragraph (c). In the Schedule, in paragraph 2(1)— (a) head (a); (b) in head (b) the words from “8(1)” to “32(1),”; (c) head (c).
1986 c. 55.	The Family Law Act 1986.	In section 20, subsections (4) to (6).

Status: This is the original version (as it was originally made).

Chapter or Number	Short Title	Extent of Repeal
		Section 21.
		In section 35, subsection (2).
		Section 66.
		In section 69(7) the words “section 66;”.
		In Schedule 1, paragraphs 2, 32 and 33.
1986 NI 3.	The Education and Libraries (Northern Ireland) Order 1986.	<p>In Schedule 13—</p> <p>(a) in paragraph 4(2) the words from “or to imprisonment” to the end;</p> <p>(b) paragraph 5, subparagraph (2) and in subparagraph (3) the words from the beginning to “1968;”;</p> <p>(c) paragraphs 7 and 9;</p> <p>(d) in paragraph 10(2), in head (a) the words “(2) or” and in head (b) the words from “and conduct” to “juvenile court”.</p> <p>In Schedule 18 the amendments of sections 27(1), 37(1)(a) and (4)(a)(i), 40(6), 85(4), 149 and 173(1)(b) of the Children and Young Persons Act (Northern Ireland) 1968 and of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.</p>
1986 NI 4.	The Mental Health (Northern Ireland) Order 1986.	<p>In Article 32(4) subparagraph (d) and the immediately preceding word “or”.</p> <p>Article 34(4).</p> <p>In Part II of Schedule 5, the amendments of the Marriages Act (Northern Ireland) 1954 and the amendments of sections 95, 110 and 126 of the</p>

Chapter or Number	Short Title	Extent of Repeal
		Children and Young Persons Act (Northern Ireland) 1968.
1986 NI 18.	The Social Security (Northern Ireland) Order 1986.	Article 26. In Schedule 9, paragraph 66.
1987 NI 22.	The Adoption (Northern Ireland) Order 1987.	In Article 2(2)— (a) the definition of “actual custody”; (b) the definition of “place of safety”. Article 11(5). Article 15(4). Article 16(5)(b). Article 27. Article 35. Article 37(1)(c). Article 38(1) and (3). Article 57(4). In Article 59— (a) in paragraph (3) the words from “and the court” to the end; (b) paragraphs (4) to (11). In Article 64— (a) in paragraph (1) the words “Subject to paragraph (4),”; (b) in paragraph (2) the words “Subject to paragraph (4),”; (c) paragraph (4). In Schedule 3, paragraph 2(1). In Schedule 4 paragraphs 2 to 5, 11, 12 and 15.
1989 c. 10.	The Disabled Persons (Northern Ireland) Act 1989.	In section 11(1), the definition of “guardian”.

Status: This is the original version (as it was originally made).

Chapter or Number	Short Title	Extent of Repeal
1989 c. 41.	The Children Act 1989.	In Schedule 13, paragraph 69(a).
1989 NI 4.	The Matrimonial and Family Proceedings (Northern Ireland) Order 1989.	In Schedule 2, paragraphs 11 and 21.
1989 NI 12.	The Police and Criminal Evidence (Northern Ireland) Order 1989.	In Article 2(2), in the definition of “parent or guardian” paragraph (a). In Schedule 2 the entry relating to section 16 of the Child Care Act 1980.
1990 NI 2.	The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990.	In Schedule 6 paragraph 6(1). In Parts II and III of Schedule 3 the entries relating to the Children and Young Persons Act (Northern Ireland) 1968.
1990 c. 42.	The Broadcasting Act 1990.	In Schedule 20 paragraph 15(1) and (2). In Schedule 22, in paragraph 4 the word “24,”.
1991 NI 1.	The Health and Personal Social Services (Northern Ireland) Order 1991.	In Part II of Schedule 5 the amendments of the Children and Young Persons Act (Northern Ireland) 1968.
1991 NI 23.	The Child Support (Northern Ireland) Order 1991.	In Article 10(11) subparagraph (a) and in subparagraph (d) the word “or”.
1991 NI 25.	The Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991.	In Article 6(1)(a) the words “3 and”.
1992 c. 8.	The Social Security Administration (Northern Ireland) Act 1992.	Section 101(2) and (3).
1992 c. 9.	The Social Security (Consequential Provisions) (Northern Ireland) Act 1992.	In Schedule 2, paragraph 32(5) and (6).
1992 c. 56.	The Maintenance Orders (Reciprocal Enforcement) Act 1992.	In Schedule 1, paragraph 14. In Schedule 2, paragraph 2.

Chapter or Number	Short Title	Extent of Repeal
1992 NI 15.	The Housing (Northern Ireland) Order 1992.	In Article 52(6), the word “or” immediately preceding subparagraph (b).
1993 NI 6.	The Family Law (Northern Ireland) Order 1993.	In Schedule 1, paragraphs 10 to 12 and 15. In Schedule 5 the entry relating to section 27(9) of the Maintenance Orders (Reciprocal Enforcement) Act 1972.
1994 NI 2.	The Health and Personal Social Services (Northern Ireland) Order 1994.	In Schedule 1 the entry relating to Article 52(2) of the Health and Personal Social Services (Northern Ireland) Order 1972 and the entries relating to Article 27 and Article 35 of the Adoption (Northern Ireland) Order 1987.