Changes to legislation: *The Adoption (Northern Ireland) Order 1987 is up to date with all changes known to be in force on or before 08 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1987 No. 2203 (N.I. 22)

The Adoption (Northern Ireland) Order 1987

- - - - - - *18th December 1987*

Modifications etc. (not altering text)

C1 Order applied (with modifications) (21.12.2018) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2018 (S.I. 2018/1412), **Sch. 3**

C2 Order power to modify conferred (1.10.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), **ss. 55**, 68(2); S.I. 2009/2232, **art. 2(q)**

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Adoption (Northern Ireland) Order 1987.

(2) This Order shall come into operation on such day or days as the Head of the Department of Health and Social Services may by order appoint[F1].

F1 fully exercised by SR 1989/252

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F2] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

Definition rep. by 1995 NI 2

"adoption agency" shall be construed in accordance with Article 3(3); and for the purposes of Articles 11**[**[F3],13, 17 to 22, 24 and 28 to 32**]** includes an adoption agency within the meaning of section 1 of the Adoption Act 1976[F4] (adoption agencies in England and Wales) and **[**[F5]section 119(1)(a) of the Adoption and Children (Scotland) Act 2007 (interpretation)**]**;

[[F6]"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 **[**F7section 29 or 30 of the Adoption and Children (Scotland) Act 2007**]** (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 **[**F8section 59 of the Adoption and Children (Scotland) Act 2007**]** (adoption by persons domiciled outside Northern Ireland or England and Wales or Scotland);**]**

"adoption society" means a body of persons whose functions consist of or include the making of arrangements for the adoption of children;

"adoption rules" means rules of court and county court rules;

[F9 " appropriate voluntary organisation " means a voluntary organisation which is an adoption society in respect of which a person is registered under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003; **]**

"authorised court", as respects an application for an order relating to a child, means—

(a) in the case of an application for an adoption order or for an order freeing a child for adoption where the child is not in Northern Ireland when the application is made, the High Court;

(b) in the case of an application under Article 30—

(i) where there is pending in respect of the child an application for an adoption order or an order freeing him for adoption, the court in which that application is pending;

(ii) in any other case, the High Court or the county court F10...;

(c) in any other case where the child is in Northern Ireland when the application is made—

(i) the High Court;

(ii) **[**F11the county court;**]**

"Board" means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972F12;

"child", except where used to express a relationship, means a person who has not attained the age of 18 years;

[F13"the Convention" means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993;

"Convention adoption" means an adoption effected under the law of a Convention country outside the United Kingdom, the Channel Islands and the Isle of Man and certified in pursuance of Article 23(1) of the Convention;

"Convention adoption order" means an adoption order made in accordance with Article 16A;

"Convention country" means any country or territory in which the Convention is in force;**]**

"the Department" means the Department of Health and Social Services;

"existing", in relation to a statutory provision or other instrument, means one passed or made at any time before the commencement of Part V;

[F14"guardian" has the same meaning as in the Children (Northern Ireland) Order 1995;**]**

[F15" **[**F16HSC trust**]**" shall be construed in accordance with paragraph (2A);**]**

"notice" means a notice in writing;

[F17"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 **[**F18a

Scottish permanence order which includes provision granting authority for the child to be adopted**]**;**]**

[F13"overseas adoption" means an adoption which is an overseas adoption for the purposes of the Adoption Act 1976 or **[**F19section 67(1) of the Adoption and Children (Scotland) Act 2007**]**;**]**

[F20"parent" means, in relation to a child, any parent who has parental responsibility for the child under the Children (Northern Ireand) Order 1995;

"parental responsibility" and "parental responsibility agreement" have the same meaning as in the Children (Northern Ireland) Order 1995;**]**

Definition rep. by 1995 NI 2

[F21"prescribed" in Articles 4,**[**F13 16A, 58ZA**]** 33 and 59 means prescribed by regulations made by the Department, in**[**F22 Articles**[**F23 50(4) and (6),**]** 53(3B) and (3D), 54**]** and 54A means prescribed by regulations made by the Department of Finance and Personnel and elsewhere means prescribed by adoption rules;**]**

F24 . . . . . .

"registration district" means the local government district or, where a birth took place before the 1st October 1973, the district of the Superintendent Registrar and Registrar of Births and Deaths within the meaning of the Births and Deaths Registration Act (Northern Ireland) 1967F25;

Definition rep. by SR 1993/494

"relative" in relation to a child means a grandparent, brother, sister, uncle or aunt, whether of the full blood or half-blood or by**[**F26 marriage or civil partnership**]** and includes,F27. . . any person who would be a relative within the meaning of this definition if**[**F27 Article 155 of the Children (Northern Ireland) Order 1995 applied to this definition**]**;

[F28 " Scottish permanence order " means a permanence order under section 80 of the Adoption and Children (Scotland) Act 2007 (including a deemed permanence order having effect by virtue of article 13(1), 14(2), 17(1) or 19(2) of the Adoption and Children (Scotland) Act 2007 (Commencement No. 4, Transitional and Savings Provisions) Order 2009 (S.S.I. 2009/267)); **]**

"statutory provision" has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954F29;

[F30"upbringing" has the same meaning as in the Children (Northern Ireland) Order 1995;**]**

"voluntary organisation" means a body other than a public or local authority the activities of which are not carried on for profit.

[F15(2A) A reference to any provision of this Order to an " **[**F16HSC trust**]**" is a reference to a **[**F31Health and Social Care trust**]** by which functions under that provision are exercisable by virtue of an authorisation for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994.

(2B) In paragraph (2A) " **[**F31Health and Social Care trust**]**" means a body established under Article 10(1) of the Health and Personal Social Services (Northern Ireland) Order 1991.

(2C) A reference in this Order to the area of an **[**F16HSC trust**]** is a reference to the operational area of that trust as defined in Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972

(2D) For the purposes of any provision of this Order a person shall not be taken to be, or to reside or have his home, within the area of a Health and Social Services Board if he is, or (as the case may be) resides or has his home, within the area of an **[**F16HSC trust**]** by which functions

under that provision are exercisable by an **[**F16HSC trust**]** by virtue of an authorisation mentioned in paragraph (2A).**]**

(3) For the purposes of this Order, a person shall be deemed to make arrangements for the adoption of a child or to take part in arrangements for**[**F32 placing a child with**]** a person if—

(a) he enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the child by any other person, whether the adoption is effected, or is intended to be effected, in pursuance of an adoption order, an order under Article 57 or otherwise; or

(b) he enters into or makes any agreement or arrangement for, or facilitates, the**[**F33 placing of the child with**]** that other person;

or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, or if he causes another person to do so.

[F13(3A) In this Order, in relation to the proposed adoption of a child resident outside the United Kingdom, the Channel Islands and the Isle of Man, references to arrangements for the adoption of a child include references to arrangements for an assessment for the purpose of indicating whether a person is suitable to adopt a child or not.

(3B) In this Order, in relation to—

(a) an adoption proposed to be effected by a Convention adoption order; or

(b) an adoption of a child habitually resident outside the United Kingdom, the Channel Islands and the Isle of Man which is proposed to be effected by an adoption order other than a Convention adoption order,

references to a child placed with any persons by an adoption agency include references to a child who, in pursuance of arrangements made by such an agency, has been adopted by or placed with those persons under the law of a country or territory outside the United Kingdom, the Channel Islands and the Isle of Man.**]**

[F34(4) In this Order, in determining 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 **[**F16HSC trust**]** have the same meaning as in the Children (Northern Ireland) Order 1995.**]**

[F35(6) In this Order "a couple" means—

(a) a married couple,

(b) two people who are civil partners of each other, or

(c) two people (whether of different sexes or the same sex) living as partners in an enduring family relationship.

(7) Paragraph (6)(c) does not include two people one of whom is the other's parent, grandparent, sister, brother, aunt or uncle.

(8) References to relationships in paragraph (7)—

(a) are to relationships of the full blood or half blood or, in the case of an adopted person, such of those relationships as would exist but for adoption, and

(b) include the relationship of a child with the child's adoptive, or former adoptive, parents,

but do not include any other adoptive relationships.**]**

F2 1954 c. 33 (NI)
F3 1995 NI 2
F4 1976 c. 36

F5 Art. 2(2): words in the definition of "adoption agency" substituted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(2)(a)**

F6 1995 NI 2

F7 Art. 2(2): words in the definition of "adoption order" substituted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(2)(b)(i)**

F8 Art. 2(2): words in the definition of "adoption order" substituted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(2)(b)(ii)**

F9 Art. 2(2): definition of "appropriate voluntary organisation" inserted (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), arts. 1(3), 50(1), Sch. 4; S.R. 2010/288, **art. 3**, Sch. 1

F10 Words in art. 2(2) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 95(1)(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

F11 Words in art. 2(2) substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 1 para. 95(1)(b)** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)

F12 1972 NI 14

F13 2001 c. 11 (NI)

F14 1995 NI 2

F15 1994 NI 2

F16 Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

F17 1995 NI 2

F18 Art. 2(2): words in the definition of "order freeing a child for adoption" substituted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(2)(c)**

F19 Art. 2(2): words in the definition of "overseas adoption" substituted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(2)(d)**

F20 1995 NI 2

F21 1995 NI 2

F22 2002 c. 38

F23 Words in definition of "prescribed" in art. 2(2) inserted (16.11.2012) by Civil Registration Act (Northern Ireland) 2011 (c. 20), **ss. 25(2)**, 34; S.R. 2012/406, art. 2, Sch.

F24 Art. 2(2): definition of "registered adoption society" repealed (29.10.2010) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), arts. 1(3), 50(2), Sch. 5; S.R. 2010/288, **art. 3**, Sch. 1

F25 1967 c. 25 (NI)

F26 2004 c.33

F27 1995 NI 2

F28 Art. 2(2): definition of "Scottish permanence order" inserted (15.7.2011) by Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), arts. 1(2), 2, **Sch. 1 para. 11(2)(e)**

F29 1954 c. 33 (NI)

F30 1995 NI 2

F31 Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(c)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

F32 1995 NI 2

F33 1995 NI 2

F34 1995 NI 2