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## STATUTORY INSTRUMENTS

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# 1995 No. 755

## The Children (Northern Ireland) Order 1995

### PART II

### GENERAL

#### *Parental responsibility*

#### **Parental responsibility for children**

5.—(1) Where a child's father and mother were married to [<sup>F1</sup>, or civil partners of,] each other at the time of his birth, they shall each have parental responsibility for the child.

[<sup>F2</sup>(1A) Where a child—

- (a) has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008; or
- (b) has a parent by virtue of section 43 of that Act and is a person to whom Article 155(3) applies,

the child's mother and the other parent shall each have parental responsibility for the child.]

(2) Where a child's father and mother were not married to [<sup>F3</sup>, or civil partners of,] each other at the time of his birth—

- (a) the mother shall have parental responsibility for the child;
- (b) the father[<sup>F4</sup> shall have parental responsibility for the child if he has acquired it (and has not ceased to have it)] in accordance with the provisions of this Order.

[<sup>F5</sup>(2A) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom Article 155(3) applies—

- (a) the mother shall have parental responsibility for the child;
- (b) the other parent shall have parental responsibility for the child if she has acquired it (and has not ceased to have it) in accordance with the provisions of this Order.]

(3) The rule of law that a father is the natural guardian of his legitimate child is abolished.

(4) More than one person may have parental responsibility for the same child at the same time.

(5) A person who has parental responsibility for a child at any time shall not cease to have that responsibility solely because some other person subsequently acquires parental responsibility for the child.

(6) Where more than one person has parental responsibility for a child, each of them may act alone and without the other (or others) in meeting that responsibility; but nothing in this Part shall be taken to affect the operation of any statutory provision which requires the consent of more than one person in a matter affecting the child.

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

(8) A person who has parental responsibility for a child may not surrender or transfer any part of that responsibility to another but may arrange for some or all of it to be met by one or more persons acting on his behalf.

(9) The person with whom any such arrangement is made may himself be a person who already has parental responsibility for the child concerned.

(10) The making of any such arrangement shall not affect any liability of the person making it which may arise from any failure to meet any part of his parental responsibility for the child concerned.

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|-----------|---|
| <b>F1</b> | Words in <a href="#">art. 5(1)</a> inserted (13.1.2020) by <a href="#">The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514)</a> , regs. 1(2), <b>27(3)</b> (with regs. 6-9)  |
| <b>F2</b> | Art. 5(1A) inserted (6.4.2009 for certain purposes otherwise 1.9.2009) by <a href="#">Human Fertilisation and Embryology Act 2008 (c. 22)</a> , ss. 56, 68(2), <b>Sch. 6 para. 71(2)</b> ; S.I. 2009/479, <b>art. 6(1)(e)(f)(2)</b> (with transitional provisions in <a href="#">art. 7</a> , Sch. 1) |
| <b>F3</b> | Words in <a href="#">art. 5(2)</a> inserted (13.1.2020) by <a href="#">The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514)</a> , regs. 1(2), <b>27(4)</b> (with regs. 6-9)  |
| <b>F4</b> | 2001 c. 12 (NI)   |
| <b>F5</b> | Art. 5(2A) inserted (6.4.2009 for certain purposes otherwise 1.9.2009) by <a href="#">Human Fertilisation and Embryology Act 2008 (c. 22)</a> , ss. 56, 68(2), <b>Sch. 6 para. 71(3)</b> ; S.I. 2009/479, <b>art. 6(1)(e)(f)(2)</b> (with transitional provisions in <a href="#">art. 7</a> , Sch. 1) |

### Meaning of “parental responsibility”

6.—(1) In this Order “parental responsibility” means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property.

(2) It also includes the rights, powers and duties which a guardian of the child's fortune or estate (appointed, before the commencement of Part XV (guardians), to act generally) would have had in relation to the child and his property.

(3) The rights referred to in paragraph (2) include, in particular, the right of the guardian to receive or recover in his own name, for the benefit of the child, property of whatever description and wherever situated which the child is entitled to receive or recover.

(4) The fact that a person has, or does not have, parental responsibility for a child shall not affect—

- (a) any obligation which he may have in relation to the child (such as a statutory duty to maintain the child); or
- (b) any rights which, in the event of the child's death, he (or any other person) may have in relation to the child's property.

(5) A person who—

- (a) does not have parental responsibility for a particular child; but
- (b) has care of the child,

may (subject to the provisions of this Order) do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare.

## Acquisition of parental responsibility

7.—(1) Where a child's father and mother were not married to <sup>F6</sup>, or civil partners of,] each other at the time of his birth<sup>F7</sup>, the father shall acquire parental responsibility for the child if—

- (a) he becomes registered as the child's father;
- (b) he and the child's mother make an agreement<sup>F8</sup>. . . . . providing for him to have parental responsibility for the child; or
- (c) the court, on his application, orders that he shall have parental responsibility for the child].

<sup>F9</sup>(1ZA) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom Article 155(3) applies, that parent shall acquire parental responsibility for the child if—

- (a) she becomes registered as a parent of the child;
- (b) she and the child's mother make an agreement providing for her to have parental responsibility for the child; or
- (c) the court, on her application, orders that she shall have parental responsibility for the child.

(1ZB) An agreement under paragraph (1)(b) <sup>F10</sup>, (1ZA)(b) or (1A)(b)] is known as a “parental responsibility agreement”.]

<sup>F7</sup>(1A) A child's step-parent shall acquire parental responsibility for the child if<sup>F11</sup>—

- (a)] the court, on the application of the step-parent, orders that he shall have parental responsibility for the child<sup>F12</sup>; or
- (b) the step-parent, and—
  - (i) the parent of the child who is the spouse or civil partner of the step-parent, or
  - (ii) if the other parent of the child also has parental responsibility for the child, both parents,make an agreement providing for the step-parent to have parental responsibility for the child.]

(1B) Where a person has parental responsibility for a child as a result of paragraph (1A), he shall not have the right—

- (a) to consent, or refuse to consent, to the making of an application with respect to the child under Article 17 of the Adoption Order;
- (b) to agree, or refuse to agree, to the making of an adoption order, or an order under Article 57 of the Adoption Order, with respect to the child; or
- (c) to appoint a guardian for the child.

(1C) In paragraph (1A) “step-parent” means a person who is married to<sup>F13</sup>, or a civil partner of,] a child's parent who has parental responsibility for the child.]

(2) No parental responsibility agreement shall have effect for the purposes of this Order unless—

- (a) it is made in the prescribed form; and
- (b) it has been recorded in the prescribed manner (if any).

<sup>F14</sup>(2A) In paragraph (1)(a) “registered” means registered under—

- (a) Article 14(3)(a), (b) or (c) of the Births and Deaths Registration (Northern Ireland) Order 1976;
- (b) paragraph (a), (b) or (c) of section 10(1) or 10A(1) of the Births and Deaths Registration Act 1953; or

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(c) paragraph (a), (b)(i) or (c) of section 18(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965.

(2B) In paragraph (1ZA)(a) “registered” means registered under—

- (a) Article 14ZA(3)(a), (b) or (c) of the Births and Deaths Registration (Northern Ireland) Order 1976;
- (b) paragraph (a), (b) or (c) of section 10(1B) and of section 10A(1B) of the Births and Deaths Registration Act 1953; or
- (c) paragraph (a), (b) or (d) of section 18B(1) of, or sections 18B(3)(a) and 20(1)(a) of, the Registration of Births, Deaths and Marriages (Scotland) Act 1965.]

(3) In this Article “prescribed” means prescribed by regulations made by the Department of Finance and Personnel

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[<sup>F7</sup>(3A) A person who has acquired parental responsibility under paragraph (1) [<sup>F16</sup>, (1ZA)] or (1A) shall cease to have that responsibility if the court so orders.

(4) The court may make an order under paragraph (3A) on the application—

- (a) of any person who has parental responsibility for the child; or
- (b) with leave of the court, of the child himself,

subject, in the case of parental responsibility acquired by [<sup>F17</sup>a parent] of the child under paragraph (1) (c) [<sup>F18</sup>or (1ZA)(c)], to Article 12(4) (residence orders and parental responsibility).]

(5) The court may only grant leave under paragraph (4)(b) if it is satisfied that the child has sufficient understanding to make the proposed application.

- F6** Words in art. 7(1) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **27(4)** (with regs. 6-9)
- F7** 2001 c. 12 (NI)
- F8** Words in art. 7(1)(b) revoked (6.4.2009 for certain purposes otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 66, 68(2), Sch. 6 para. 72(2), **Sch. 8 Pt. 2**; S.I. 2009/479, **art. 6(1)(e)(f)(2)(3)** (with transitional provisions in art.7, Sch. 1)
- F9** Art. 7(1ZA)(1ZB) inserted (6.4.2009 for certain purposes otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 68(2), **Sch. 6 para. 72(3)**; S.I. 2009/479, **art. 6(1)(e)(f)(2)** (with transitional provisions in art.7, Sch. 1)
- F10** Words in art. 7(1ZB) substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **27(5)** (with regs. 6-9)
- F11** Word in art. 7(1A)(a) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **27(6)(a)** (with regs. 6-9)
- F12** Art. 7(1A)(b) and word inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **27(6)(b)** (with regs. 6-9)
- F13** 2004 c. 33
- F14** Art. 7(2A)(2B) inserted (6.4.2009 for certain purposes otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 68(2), **Sch. 6 para. 72(4)**; S.I. 2009/479, **art. 6(1)(e)(f)(2)** (with transitional provisions in art.7, Sch. 1)
- F15** Words in art. 7(3) revoked (6.4.2009 for certain purposes otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 66, 68(2), Sch. 6 para. 72(5), **Sch. 8 Pt. 2**; S.I. 2009/479, **art. 6(1)(e)(f)(2)(3)** (with transitional provisions in art.7, Sch. 1)

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- F16** Words in art. 7(3A) inserted (6.4.2009 for certain purposes otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\), ss. 56, 68\(2\), Sch. 6 para. 72\(6\)](#); S.I. 2009/479, [art. 6\(1\)\(e\)\(f\)\(2\)](#) (with transitional provisions in [art.7, Sch. 1](#))
- F17** Words in art. 7(4) substituted (6.4.2009 for certain purposes otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\), ss. 56, 68\(2\), Sch. 6 para. 72\(7\)\(a\)](#); S.I. 2009/479, [art. 6\(1\)\(e\)\(f\)\(2\)](#) (with transitional provisions in [art.7, Sch. 1](#))
- F18** Words in art. 7(4) inserted (6.4.2009 for certain purposes otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\), ss. 56, 68\(2\), Sch. 6 para. 72\(7\)\(b\)](#); S.I. 2009/479, [art. 6\(1\)\(e\)\(f\)\(2\)](#) (with transitional provisions in [art.7, Sch. 1](#))

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 45(2)(e) words repealed by 2022 c. 18 (N.I.) Sch. 5
- art. 7(2A)(ba) substituted for word by 2009 c. 24 Sch. 6 para. 26(2)
- art. 7(2B)(ba) substituted for word by 2009 c. 24 Sch. 6 para. 26(3)
- art. 10(5A) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 26(b)
- art. 10(7A) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 26(c)
- art. 14A?-14F and cross-heading inserted by 2022 c. 18 (N.I.) s. 119(1)
- art. 14A(7) applied (with modifications) for specified purposes by 2022 c. 18 (N.I.) s. 26(6)
- art. 14C(1)(b) applied (with modifications) for specified purposes by 2022 c. 18 (N.I.) s. 26(7)(a)
- art. 14C(3)(4) excluded by 2022 c. 18 (N.I.) s. 26(7)(b)
- art. 18(6)-(6C) substituted for art. 18(6) by 2022 c. 18 (N.I.) s. 121(1)
- art. 22(3)(aa) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 29
- art. 26(1A) inserted by 2022 c. 18 (N.I.) s. 122(1)
- art. 26A inserted by 2022 c. 18 (N.I.) s. 123
- art. 27(7A) inserted by 2022 c. 18 (N.I.) s. 125(3)
- art. 27(8)(c) and word added by 2022 c. 18 (N.I.) s. 122(2)(b)
- art. 27(9A)-(9D) inserted by 2022 c. 18 (N.I.) s. 124
- art. 28(4) inserted by 2022 c. 18 (N.I.) s. 125(4)
- art. 28A inserted by 2022 c. 18 (N.I.) s. 126
- art. 28B inserted by 2022 c. 18 (N.I.) s. 127
- art. 33(9) added by 2022 c. 18 (N.I.) Sch. 3 para. 31(c)
- art. 34E(1)(d) and word inserted by 2022 c. 18 (N.I.) Sch. 3 para. 32(a)(iii)
- art. 34E(3)(4) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 32(b)
- art. 34F(1)(aa) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 33(a)(i)
- art. 34F(1A)-(1D) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 33(b)
- art. 34G inserted by 2022 c. 18 (N.I.) s. 129
- art. 34AA inserted by 2022 c. 18 (N.I.) s. 128(1)
- art. 34DA inserted by 2022 c. 18 (N.I.) s. 128(2)
- art. 34DB34DC inserted by 2022 c. 18 (N.I.) s. 128(3)
- art. 35(1)-(1B) substituted for art. 35(1) by 2022 c. 18 (N.I.) Sch. 3 para. 34(a)
- art. 35(5)(za) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 34(c)
- art. 35D(1)(aa)(ab) inserted by 2022 c. 18 (N.I.) s. 128(4)
- art. 35D(1A) inserted by 2022 c. 18 (N.I.) s. 130(1)
- art. 45(2)(e)(i)(ii) inserted by 2022 c. 18 (N.I.) s. 131(a)
- art. 45(2)(f)(i)-(iii) inserted by 2022 c. 18 (N.I.) s. 131(b)
- art. 45(3A)-(3C) inserted by 2022 c. 18 (N.I.) s. 130(4)
- art. 45(4A) inserted by 2022 c. 18 (N.I.) s. 130(6)
- art. 45(5A) inserted by 2022 c. 18 (N.I.) s. 130(7)
- art. 45A?? inserted by 2022 c. 18 (N.I.) s. 132
- art. 50A?? inserted by 2022 c. 18 (N.I.) s. 134(1)
- art. 53(1)(ba) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 38(b)
- art. 53(6A) inserted by 2022 c. 18 (N.I.) s. 135(3)
- art. 53(8)(za) inserted by 2022 c. 18 (N.I.) s. 135(4)
- art. 57(3A) inserted by 2022 c. 18 (N.I.) s. 119(3)
- art. 60(6)(ha) inserted by 2022 c. 18 (N.I.) s. 138

- art. 107(7)(c) added by 2022 c. 18 (N.I.) s. 139(4)
- art. 108(2A) inserted by 2022 c. 18 (N.I.) s. 140(3)
- art. 108(3)(c) and word added by 2022 c. 18 (N.I.) s. 140(4)(c)
- art. 112A inserted by 2022 c. 18 (N.I.) s. 141
- art. 159(1)(c) and word added by 2022 c. 18 (N.I.) s. 119(4)(b)
- art. 165(2)(k) inserted by 2011 c. 24 (N.I.) s. 95(3)
- art. 170(2)-(9A) modified by 2022 c. 18 (N.I.) s. 105(3)
- art. 170(9A) inserted by 2022 c. 18 (N.I.) s. 142
- art. 179(5A) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 42
- art. 181(1) art. 181 renumbered as art. 181 (1) by 2022 c. 18 (N.I.) s, 143(3)
- art. 183(2A) inserted by 2022 c. 18 (N.I.) s. 130(8)