

These notes refer to the Adoption (Intercountry Aspects) (Northern Ireland) 2001 (c.11) which received Royal Assent on 2 July 2001

Adoption (Intercountry Aspects) (Northern Ireland) 2001

EXPLANATORY NOTES

INTERCOUNTRY ADOPTIONS - SECTIONS 7 TO 11

Section 7 - Adoption service to include intercountry adoptions etc

30. **Section 7** provides for a new paragraph (2A) to be added to Article 3 of the 1987 Order. Article 3 requires each HSS Trust to maintain an Adoption Service for its area. The amendment provides that the adoption service shall include the adoption of children wherever they may be habitually resident and effected under the law of any country or territory. This amendment makes clear that the adoption service is a comprehensive service which is intended to include both domestic and intercountry adoption.

Section 8 - Registration of adoption societies to provide intercountry adoption services

31. **Section 8** amends Article 4 of the 1987 Order (registration of adoption societies). The amendments provide that a voluntary adoption society may be approved to act as an adoption agency in relation either to adoptions which are not intercountry adoptions, or to all adoptions including intercountry adoptions.

Section 9 - Six months residence required for certain intercountry adoptions

32. **Section 9** inserts a new paragraph in Article 13 of the 1987 Order (child to live with adopters before order is made). It provides that where a child habitually resident outside the United Kingdom, the Channel Islands and the Isle of Man is to be adopted in Northern Ireland by an adoption order or a Convention adoption order, the child is required to have had his home with the prospective adopters for a period of at least six months before an adoption order may be made. The period of six months is only to apply to those cases where the placement of the child was made by an adoption agency.
33. In those cases where a child has been brought to the United Kingdom for the purposes of adoption and the arrangements for adoption were not made by an adoption agency, the current provisions of the 1987 Order, concerning the period before an adoption order may be made, will remain at 12 months. The

effect of this amendment is therefore to reduce the period of residence from 12 to six months in cases dealt with by adoption agencies.

Section 10 - Registration of certain intercountry adoptions

34. **Section 10** makes provision for the Registrar General to keep records of certain intercountry adoptions. Subsection (1) provides for an amendment to Article 50 of the 1987 Order (Adopted Children Register) which, in addition to entries currently made pursuant to adoption orders, will require the Registrar General to make such entries in the Adopted Children Register as may be required under Article 53 of the Order as amended by clause 10(2). A new paragraph (3A) sets out the conditions to be met and the procedure to be followed before the Registrar is able to make an entry of a registerable foreign adoption in the Adopted Children Register.
35. Under the 1987 Order an adoption order made in Northern Ireland should include a direction to the Registrar to make an entry in the Adopted Children Register. The new paragraph (3A) has the effect of modifying the duty imposed upon the Registrar to include an entry in the Adopted Children Register of an adoption order made under the Convention or an adoption order made overseas which meets criteria to be set out in Regulations. Requests for entry in the Register for these adoption orders will be made by application to the Registrar. Power has been taken to set out in regulations the form, content and persons by whom application may be made. The Registrar will be required to make the entry if he is satisfied that he has sufficient particulars to enable an entry to be made.
36. **Section 10** also provides that the Registrar General may alter or amend the Register to take account of errors and Convention adoptions, Convention adoption orders and overseas adoptions which have ceased to have effect.

Section 11 - Construction of certain references

37. **Section 11** inserts two new paragraphs in Article 2 of the 1987 Order. New paragraph (3A) extends the interpretation in the 1987 Order relating to arrangements for adoption. It provides that, 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 or not a person is suitable to adopt a child.
38. Article 11 of the 1987 Order provides that arrangements for the adoption of a child can only be carried out by an adoption agency (except for certain exemptions for relatives and cases where a person is acting under the authority of the High Court). The effect of the new paragraph (3A) is to make clear that in intercountry cases, a home study assessment report for the purposes of adoption must be prepared by, or on behalf of, an adoption agency.

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39. New paragraph (3B) extends the interpretation to be given to placing a child for adoption to include placing for adoption children habitually resident outside the United Kingdom, the Channel Islands and the Isle of Man.
40. The effect of the new paragraph (3B) is to provide that where an adoption agency has made arrangements for the adoption of a child from overseas, the placement will be deemed to be an agency placement. This will be the case even though the agency is not directly involved in those stages of the process (such as the “matching” of the child with the adopters or the actual placing of the child with them) which take place in the child’s country of origin. When the child is brought to Northern Ireland, the adoption agency’s duties as regards, for example, supervision and reports, will be equivalent to those of an adoption agency placing a child for adoption in non-intercountry cases.