

*These notes refer to the Adoption and Children Act (Northern Ireland) 2022 (c.18) which received Royal Assent on 27 April 2022*

# Adoption and Children Act (Northern Ireland) 2022

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1 - Adoption**

#### ***Chapter 3 - Placement for Adoption and Adoption Orders***

#### ***Section 25: Further consequences of placement***

Section 25 makes further provision as to the consequences of placement. Where a child is placed for adoption, or an adoption agency is authorised to place a child for adoption under section 16 (placement with consent), a parent or guardian cannot apply for a residence order unless an application for a final adoption order has been made and the parent or guardian has obtained the leave of the court under section 44(3) or (5) to oppose the making of the adoption order (*subsection (1)(a)*). This is to allow competing applications for residence orders from parents at contested final adoption order hearings. Where a child is placed for adoption, or an adoption agency is authorised to place a child for adoption under section 16 and an application has been made for an adoption order, a guardian of the child may not apply for a special guardianship order unless the guardian has obtained the leave of the court under section 44(3) or (5) (*subsection (1)(b)*).

*Subsections (2) to (4)* provide that where an adoption agency is authorised to place a child for adoption (whether or not the child is placed) a person cannot remove him from the United Kingdom (whether or not the child is in Northern Ireland (*subsection (10)*)) except with the leave of the court or if each parent or guardian gives written consent. However this would not prevent the removal of the child from the United Kingdom for up to a month by a person who provides the child's home.

*Subsection (5)* provides that a child may not be known by a new surname, without the leave of the court, or each parent or guardian or the adoption agency giving written consent. If the adoption agency intends to give its authorisation, it can only do so if it has given at least 14 days' notice to every person with parental responsibility for the child, or the child itself if the agency feels the child has sufficient understanding (*subsection (6)*). *Subsection (5)* is subject

to any direction of the court (*subsection (7)*). The court may vary or revoke such a direction at any time on the application of any person having parental responsibility for the child; the adoption agency; or the child, if the court feels that the child has sufficient understanding (*subsection (8)(a)*). The court may also make, vary or revoke such a direction in any family proceedings in which a question arises in relation to the welfare of the child and the court considers that the direction should be given even though no such application has been made (*subsection (8)(b)*). *Subsection (9)* provides that “family proceedings” has the same meaning as in the Children Order.