

*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 44: Conditions for making adoption orders***

Section 44 sets out the conditions which must be satisfied before an adoption order can be made where a child has a parent or guardian. One of three conditions must be satisfied. The first condition is that the court is satisfied that each parent or guardian consents to the making of the adoption order or has given advance consent to the making of the adoption order under section 17 (and has not withdrawn that consent) and does not oppose the making of an adoption order or that the parent's or guardian's consent should be dispensed with (*subsection (2)*). Where the parent has given advance consent to the adoption under section 17, he or she may only oppose the making of the adoption order with the leave of the court (*subsection (3)*). This provision includes a parent or guardian who has consented under section 17 (advanced consent to adoption) or section 20 of the Adoption and Children Act 2002 or section 31(2) of the Adoption and Children (Scotland) Act 2007 regarding consent.

The second condition is that the child has been placed for adoption by an adoption agency with the prospective adopters who are applying for the order and either the child was placed for adoption with the consent of each parent or guardian and the consent of the mother was given when the child was at least 6 weeks old or under a placement order and no parent or guardian opposes the making of the adoption order (*subsection (4)*). A parent may not oppose the making of the adoption order under the second condition without the leave of the court (*subsection (5)*).

The third condition is that an adoption agency is authorised to place the child for adoption by virtue of section 19 of the Adoption and Children Act 2002, or is subject to a placement order under section 21 of that Act, or the child is the subject of a Scottish permanence order which includes provision granting authority for the child to be adopted (*subsection (6)*).

*Subsection (7)* provides that the court cannot give leave under subsection (3) or (5) for a parent or guardian to oppose the making of the adoption order unless it is satisfied that there has been a change in circumstances since the consent was given or the placement order was made. For example, in a case where a placement order was made on the grounds of the child's welfare because of parental drug or alcohol abuse, such a change in circumstances might include proven, sustained and successful rehabilitation. Where a mother consented to placement before her baby was 6 weeks old, and did not subsequently confirm that consent, she does not need the leave of the court to oppose the adoption order.

An adoption order may not be made in relation to a person who is, or has been, married or a civil partner, or who has attained the age of 19 (*subsection (8)*).